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Commentary
Practice
Review

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In my last editorial I foreshadowed publication of a special issue of the journal to include papers and other presentations from the 2009 Commonwealth local Government Conference and Research Colloquium. Unfortunately that has been delayed due to editing requirements and production difficulties; however, it will appear early in 2010 before our next scheduled issue in May.



The contributions to this fourth issue are again diverse, but with some interesting common threads, especially the scope and need to capitalise on the potential of local government to address critical developmental issues.

Chris Stoney and Robert Hilton discuss the failure of successive Canadian governments to take adequate steps towards creating more sustainable cities, notwithstanding avowed policies in favour of doing so. They argue that many of the road blocks, missed opportunities and mistakes that have limited progress can be traced back to the failure of national government to empower local municipal governments, as originally advocated by the

Brundtland report and subsequent international initiatives: “The top-down approach favoured by Canada’s federal and provincial governments has proved to be unresponsive and largely ineffective... If Canada is to respond effectively to the urban challenges ahead then local government will have a crucial role to play and, as recognised in Brundtland and Agenda 21, this means they must be afforded the power, resources and responsibility to pursue sustainable urban growth.”

In a similar vein, Borhan Uddin Khan and Muhammad Mahbubur Rahman propose an expanded charter for local government-based adjudication bodies (courts) as a means to promote a model of restorative justice for children who come into contact or conflict with the law in Bangladesh. They see the village courts in rural Bangladesh and conciliation boards in urban areas as potentially viable alternatives to formal juvenile courts in protecting the best interests of children. This reflects their informal style and greater capacity to involve families and communities both in the adjudication process and in promoting rehabilitation of offenders, as well as better care and supervision of children in general. The procedures of the local government-based bodies already accord with a fundamental principle of restorative justice, namely that crime is not only a violation of penal laws, but also of people and relationships. Therefore an essential element of the response to crime must be to repair the harm caused.

Callistus Mahama also looks to strengthen local government, but in this case the focus is on its relationship with traditional authorities in Ghana. He identifies this as a major challenge still facing Ghana’s drive for decentralisation, which began more than 20 years ago. There are significant weaknesses in existing links between local governments and traditional authorities as a result of both constitutional and legislative ambiguity. This has led all too often to a nebulous and competitive relationship, to the detriment of local development. Mahama argues that traditional leaders command respect and authority in their areas, and there are clearly opportunities to harmonize their activities with local government to achieve more effective local governance. However, legislative reform and clear guidelines are needed to achieve better outcomes.

Two contributions focus on the issue of gender equity and again reflect on the actual or potential value of the work of local governments. Ron McGill and colleagues propose an explicit human rights framework for the United Nations Gender Equitable Local Development program. They argue that realising human rights means giving priority to the most marginalized – the poorest – in a society, that women in all communities are disproportionately represented among the poor, and hence that human rights necessarily have gender equity as a central focus. These linkages, and that with the Millennium Development Goals, are explored in some detail. The paper then turns to the need for local government to be more involved in implementing a human rights based approach to development. Amongst other things, local governments know better than national governments who are the poorest and most marginalized in different localities; they are best placed to assess the role of discrimination in poverty; and they can engage the community more effectively. However, improved public sector budgeting and expenditure management are essential: there must be a much stronger focus on the needs of women in setting budget priorities and designing and monitoring expenditure programs.

Nupur Tiwari outlines the implementation and successes of the *Kudumbashree* poverty eradication program in Kerala, India. This program targets women and children below the poverty line and seeks to advance their empowerment and standard of living by promoting savings, mutual credit and micro-enterprises. It operates through neighbourhood groups of adult women that are progressively federated into Community Development Societies that operate at the level of local government areas. A distinguishing feature of *Kudumbashree* is that its members and groups have close working links with local governments and participate in local forums and planning processes. Tiwari concludes that this is one of the keys to the program's success.

Two further papers explore aspects of decentralisation and poverty reduction in India.

Deepak Gopinath discusses differences between 'regionalism' and 'localism' as a means of interpreting the implementation of decentralisation policies in India, again focusing on the experience of the state of Kerala. He traces the twists and turns of decentralisation policies at both state and national levels, and contrasts the locally-focused 'grassroots' approach of Kerala's People's Plan Campaign with the more regionally-focused and 'scientific'

(technocratic) process of the state's Integrated District Development Plans. He also highlights the critical role played by the national government in advancing decentralisation, whilst concluding that more authority needs to be given to local governments as part of the decentralisation strategy.

Polly Datta examines the operation of the National Rural Employment Guarantee Act, introduced in stages from 2006 to 2008, which ensures that adult members of a rural household willing to do any public-related unskilled manual work at the statutory minimum wage are guaranteed 100 days of employment each financial year. Datta argues that this scheme has enormous potential to build or upgrade much-needed rural infrastructure across India. However, it should be positioned not as an old style welfare programme, but rather as a development initiative. This in turn requires a 'convergence' model under which projects are planned, financed and implemented jointly with related programs of other national agencies to make the best use of available resources. Otherwise funds will be wasted on low-value and often poorly executed works designed primarily to maximise the use of manual labour.

Desirable action to strengthen local government is also at the heart of the practice notes by Tim Kehoe, Chris Champion, and Siew Nooi Phang and Loo Sze Wei. Kehoe discusses the work of the Capacity and Institution Building Working Group of United Cities and Local Governments (UCLG). This supports capacity building of local government associations and municipal international cooperation as means to advancing development. Five Commonwealth countries are members of the Working Group – Kenya, South Africa, Pakistan, United Kingdom and Canada (the Federation of Canadian Municipalities is Vice-Chair). The Group is undertaking a major project in Ghana, and is working with the Commonwealth Local Government Forum in Zimbabwe.

Chris Champion reports on the recent release of the *Australian Infrastructure Financial Management Guidelines*. The Guidelines assist local councils to link the technical (engineering) and financial aspects of managing infrastructure and services, as well as to develop sustainable long-term asset and financial management plans. Their preparation follows a number of studies of local government over recent years that have shown serious

deficiencies in service planning, asset management planning, long-term financial planning and financial reporting. A 2006 report concluded that around 35% of Australian councils are not financially sustainable and that local government faced a national infrastructure renewal backlog of nearly AU\$15 billion. This has prompted coordinated national action led by the federal government, to which the new guidelines are a contribution.

Siew Nooi Phang and Sze Wei Loo outline the efforts of the Open University Malaysia to deliver education and training programs to local government (and the community at large), and to promote cooperative research, using a range of information technologies and distance learning techniques. They argue that local government needs to become a more knowledge-intensive and professional entity that can deliver services more efficiently, and must therefore ensure that its workforce is given the support required to enhance the quality and relevance of people's skills. However, given the dispersed nature of the local government workforce, using only conventional and existing educational structures may limit the effectiveness and increase the cost of training – hence the potential value of much greater use of open and distance learning.

This issue again includes two book reviews. Brian Dollery considers *Financing Local Government*, written by Nick Devas with several collaborators, and published by the Commonwealth Secretariat in its Local Government Reform Series. He assesses the book in context of a broad discussion of the problems of financial distress facing many local government systems, especially amongst rural municipalities.

Jaap de Visser reviews *Improving Local Government* by PS Reddy, MS de Vries and MS Haque. This covers a broad range of themes including metropolitan governance, the role of community leadership, the value of best practice as an administrative technique, indigenous knowledge, intergovernmental relations, public-private partnerships and local management. De Visser highlights the need for a firm conceptual basis for local government, and suggests that the book makes an important contribution in that regard.



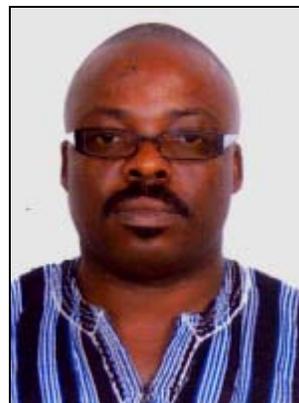
In concluding this editorial it is particularly pleasing to report that Australia now has a new Centre of Excellence for Local Government, largely funded by the federal government and operated by a consortium led by my own Centre. The consortium also includes the University of Canberra, Australia and New Zealand School of Government, Local Government Managers Australia, and the Institute of Public Works Engineering Australia. A progress report will appear in the May 2010 issue.

Local Government and Traditional Authorities in Ghana: Towards a More Productive Relationship

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Abstract

Ghana embarked on decentralisation in 1988 as a way of bringing decision-making closer to the people. Since then, there have been several reforms aimed at strengthening local governance. This article identifies a major challenge still facing Ghana's decentralisation: partnership between local government and traditional authorities. The paper discusses complexities in the relationship between local governments and traditional authorities as a result of constitutional and legislative ambiguity. Traditional authorities perform important functions in the country, albeit their roles have waned since independence. Yet current legal provisions for local government have not sufficiently clarified their role in local administration. This has led to a murky and competing relationship between traditional authorities and local governments. In localities where an effective relationship exists, it is mainly as a result of the personalities involved and this has had a positive effect on the development of the area. The paper concludes by advocating measures that among others

include a re-enactment of legislation that will define the working relationship between traditional authorities and local government.

Keywords: Local government; traditional authority; partnership; decentralisation

1. Introduction

Ghana is one of the few African countries to have embarked early on political decentralization. As far back as 1988 through the PNDC¹ Law 207, local government authorities were established and empowered as the main political and planning authorities for local areas. Then when the country embarked on democratic government through the promulgation of the 1992 Constitution, a new Local Government Act, Act 462 of 1993 came into effect. This essentially embodied most of the provisions of Law 207.

The 1988 Law had established 110 local government units (Metropolitan, Municipal and District Assemblies); this number increased to 170 by 2008. The rationale behind their creation was to devolve power to the local and community levels to enable people to participate in governance, including decision-making that shapes their very lives and livelihoods. In furtherance of this objective, local governing units were tasked under the Republican Constitution of 1992 and subsequently by the 1993 Act as the political and planning authority in their areas of jurisdiction, and specifically to be responsible for the overall development of their localities (section 10 of Act 462).

Traditional authorities² have played and continue to play an important role in the politico-socio-economic development of Ghana. Before the advent of Europeans on Ghanaian soil, chiefs were responsible for the day-to-day administration of their people, albeit along ethnic lines³. Chiefs in Ghana are by tradition and culture representatives of their people and symbolize the community of which they are the leaders⁴. As traditional leaders and representatives, they engage in various functions aimed at bringing about improvements in

¹ Provisional National Defence Council was a military government.

² The term refers to all players such as Chiefs, Queen Mothers and other recognised structures within the traditional governance structure.

³ Such as the Asante Kingdom, Gonja Kingdom, Dagomba Kingdom, Akyem Kingdom, etc.

⁴ There are still more than fifty of these ethnic groups in Ghana.

the lives of their people and the area of their jurisdiction. To do this, they make and enforce customs, adjudicate disputes to ensure peace and stability in their area, and manage community resources. They are generally regarded as custodians of land in most areas of the country. In these ways, one can say that chiefs are agents of development in their local areas of jurisdiction.

As a result, the colonial administration used traditional authorities as a means to implement its policy of indirect rule in the country. Indirect rule empowered chiefs with authority to engage in activities in line with their administrative and adjudicative roles, and as managers of community resources, through various forms of legislative and institutional support from the colonial administration. For example, chiefs were enabled to rule by allowing them to apply the customary laws of their respective areas. Native courts were established in which chiefs adjudicated various cases, e.g. land and property, inheritance, violence, matrimonial cases, although the British had a supervisory role on high crimes such as murder (Rathbone, 2000; Firmin-Sellers, 1996).

However, in reality, the system weakened chieftaincy, in that chiefs were now ‘messengers’ of the colonial administration since they had no authority of their own except in compliance with that of the British. From the perspective of the subject community, chiefs had become agents of colonialism. Their involvement in colonial administration and the authority derived from same was strongly opposed, especially by the educated elite.

Following the 1948 riots in the Gold Coast (until 1957, Ghana was referred to as the Gold Coast) and subsequent investigations, the Coussey Commission in 1949 recommended a more democratized system of administration in which chiefs were to be integrated into local government so that they could contribute their local expertise for national benefit. The reforms that took place in local government during this pre-independence era took cognizance of the role that traditional authorities can play in local administration. However, the politics of the time did not favour traditional authorities making significant contributions to the country. This was because after the Convention Peoples’ Party, led by Dr. Kwame Nkrumah, won the 1951 elections it pursued policies that sought to curtail the powers of chiefs who were largely thought to have been political opponents to the party. From this

period up till the late 1960s, the institution of chieftaincy saw its role in national as well as local development greatly diminished through the enactments of various laws that sought to regulate its powers and authority. Thus, historically, there has been very little consistency in the roles carved for traditional leaders in local administration. Several pieces of legislation were passed to regulate this once-powerful institution. For instance, chiefs were integrated in the reforms of the local government by the Local Government Ordinance 1951, regulated by the Chieftaincy Act of 1961 and controlled by the Minister of Local Government (Dunn and Robertson, 1975). This amounted to central government's attempt at regulating the functions and structures of chieftaincy in the country in a uniform manner for administrative convenience. Under the Fourth Republican Constitution, traditional authorities have been prohibited from engaging in active politics with a view to preserving their unifying position. This prohibition necessarily excludes them from direct election to District Assemblies and membership of any political party.

Notwithstanding the moves made by the state to harness the potential of traditional authorities, concerns have been expressed about challenges emanating from the co-existence of the traditional authorities and local governments. These concerns have largely been informed by the continuing lack of clarity in the roles of traditional authorities. For instance, the African Peer Review Mechanism (2005) and the Ghana Poverty Reduction Strategy raise serious concerns about the ill-defined role of traditional authorities in local governance in the areas of:

- Protocol at the local level and issues of precedence
- Representation of traditional authorities on Metropolitan, Municipal and District Assemblies (MMDAs)
- Relations between traditional authorities, unit committees and other local government sub-structures
- Platforms of engagement between local authorities and traditional authorities
- Infrastructure management, monitoring and evaluation
- Peace-building, security and conflict prevention
- Natural resource management
- Internal revenue mobilization

- Human rights observance and reduction of negative socio-cultural practices
- Capacity building and knowledge for traditional authorities.

Therefore, to gain the potential advantages of effective collaboration for planning, accountability to the people, effective community mobilization and optimum use of local resources, the relationship between local government and traditional authorities needs to be streamlined and harmonised. It is against this background that a study on partnership modalities between MMDAs and traditional authorities is being undertaken.

This paper explores and documents lessons learned from those partnerships between MMDAs and TAs which have been accepted by both parties as best practice. It reviews available literature and then complements that with primary information from a case study of the Savelugu District Assembly and the Savelugu TA in the northern region of Ghana.

2. Role Of Traditional Authorities

A traditional authority is composed of the Chief and the Elders. The chief is at the apex of the hierarchy. Elders include the Chief Priest and the ‘Magazia’⁵. The hierarchy of TAs is not homogenous since every locality has its peculiar structure due to varied culture and traditions. For instance, chieftaincy in the north of Ghana is ascribed. This means the chief who must necessarily be a male must hail from a royal family and must be duly selected and appropriately en-skinned.

In particular, a chief is supposed to help “fulfill the hopes and aspirations of the community” (Dankwa III, 2004). These hopes and aspirations of the community over which a person is a chief, in simple terms, is development, and it has been found that the success of a chief is judged on performance in terms of the level of development they are able to bring to their area (Dunn and Robertson, 1975; Oomen, 2005). Therefore embedded in the chief must be wisdom, authority, dynamism and respect to be able to be the agent of development that his

⁵ A magazia is a leader of women in a traditional area in Northern Ghana. It can be equated to the position of the queen mother except that ascension to this position is not exclusive to the royal family. In fact, in most cases the royal families are excluded from this position.

community expects. Chiefs pursue grassroots mobilization of community labour to bring about holistic change in their localities.

To engender the desired development in communities while avoiding abuse of powers by the TAs, “the roles of the government and the governed in the traditional society were thus clearly defined... and maintain strict accountability to ensure sound government” (Dankwa III, 2004). Therefore, the TA (whether in northern or southern Ghana) has to perform for and on behalf of its subjects the following roles and responsibilities (among others):

- Exercise the people’s mandate (those on whose behalf the chief rules) to settle disputes of all kinds, and most particularly land disputes among his subjects⁶
- Make and enforce customary by-laws and punish offenders of the laws
- Preside over the stool lands and permit settlers and other investment partners including the Assembly to acquire land
- Discuss, initiate and monitor community development projects.

These roles above and many others make every TA concerned with “qualitative and quantitative development of their communities” (Ayee, 2006). This concern makes every chief seek to collaborate with other development partners in and around their localities in order to reap the benefits of partnerships. One such partner are the MMDAs.

Contemporary Roles of Traditional Authorities in Ghana

In the decentralized system of governance, some traditional leaders continue to be agents of development in their communities and areas through mobilizing human and material resources for development projects. They also ensure that peace and tranquility prevail in their areas of authority. Without peace and social order, there cannot be development. One way of ensuring this is through avoiding and settling quickly all chieftaincy disputes which tend to divide the people. Most traditional leaders today are development oriented and are hence very active in mobilizing their people to initiate and implement self-help projects, as well as facilitating the implementation of projects emanating from the District Assemblies. At times on their own accord, they initiate development projects and spearhead fund raising

⁶ This is permissible under the laws of Ghana under customary arbitration.

activities for implementation. One good example is the Okyehene's environmental project that has led to the establishment of a university college. Thus, TAs continue to form important links between the government and the people, acting as channels of communication and disseminating government policy and decisions. In this way, they participate in local government and thereby help to bring government closer to the people. Moreover, in recent times quite a number of TAs have been able to mobilize their citizens living away or abroad to contribute in cash and in kind to development projects at home. Some communities have fairly active associations of non-resident citizens.

3. Metropolitan, Municipal And District Assemblies

Chapter 20 of the 1992 Constitution of the Republic of Ghana provides the institutional and policy framework for decentralization and local government. As noted earlier, this was given legal effect by the 1993 Local Government Act (Act 462). The main objective of these provisions was to "promote popular participation by shifting the process of governance from command to consultative processes" (Johnson, 2000). MMDAs are to seek the involvement of all persons including opinion leaders, TAs⁷ and the grassroots in the development planning processes and through to implementation and evaluation.

Article 241 (3) of the 1992 Constitution of the Republic of Ghana describes a DA⁸ as "the highest political authority in the district, and shall have deliberative, legislative and executive powers", while Article 242 spells out the composition of a DA: a person from each electoral area, Members of Parliament (MPs) in the district, the District Chief Executive (DCE) and other members appointed by the President, constitute not more than 30% of the total.

Metropolitan, Municipal and District Assemblies have the same composition and functions, but different population sizes: 250,000, 95,000 and 75,000 respectively. MMDAs are the hubs around which not only administrative but also economic activities take place, whose central thrust is to contribute to national development. The MMDAs are supposed to be agents of change at the local level and must try to harness all efforts within localities and to harmonize them into the national development strategy.

⁷ Traditional authorities

⁸ District Assembly. Here the term is used in a generic sense for MMDAs

4. Partnership Between MMDAs and TAs

As discussed earlier, an examination of the Constitution and local government laws shows that there is intent to incorporate traditional leaders in the local government system but that their role now is vague. Article 272(a) of the Constitution states that: “The National House of Traditional leaders shall...advise any person or authority charged with any responsibility under this constitution or any other law for any matter relating to or affecting chieftaincy”. Section 5(1)(d) of the Local Government Act states that a DA shall include: “other persons not exceeding 30% of the total membership of the Assembly appointed by the President in consultation with the traditional authorities and other interested groups in the district” (Ferrazzi, 2006).

A cursory look at the roles and responsibilities of TAs and MMDAs suggests that they constitute different components of the same agenda – local community development and poverty reduction at large. However, neither the Constitution nor the Local Government Act has provided for institutional representation of chiefs in either the District Assembly or sub-district structures, or spelt out what kind of relationship should exist between the MMDAs and the TAs (chiefs). This silence makes some MMDAs avoid contact with TAs, although others forge informal but cordial relationships and partnerships with TAs in their localities in order to facilitate the execution of their development agenda, especially in revenue or resource mobilization.

Not only does the 1992 Constitution fail to not provide for any formal partnership, or even institutional representation of TAs within the DA structure, but also Article 276(1) prevents chiefs from playing an active role in politics. Also, legislative Instrument 1589 of 1994 makes no provision for the inclusion of TAs in sub-district structures⁹ Metropolitan, Municipal and District Chief Executives are required to consult traditional leaders in the appointment of five persons ordinarily resident in the urban area, zone, town or unit to be members of such structures, but there are also other interest groups that have to be consulted.

⁹ These are local government structures established by Legislative Instrument 1589. They are the lower structures immediately below the District Assemblies and are essentially consultative bodies with no taxing powers. They include the sub-metropolitan, Zonal Urban, Area and Town Councils and Unit Committees.

It is in light of this that Ayee (2006) argues that: “the lack of institutional representation of chiefs in the District Assemblies and the sub-district structures has led to not only misgivings by most chiefs on the operations and performance of the District Assemblies but also a position of non-cooperation adopted by either some chiefs or some officials of the District Assemblies especially the District Chief Executive (DCE)”.

On the other hand, some others have argued that the exclusion of traditional leaders is in the right direction as it ensures that they remain politically neutral and able to command the respect of all irrespective of their political persuasion. Being repositories of knowledge, and revered by their subjects as such, traditional leaders are also expected in the name of democracy, local development, democratic consolidation etc., to be bold and forthright in championing the rights of individuals. This necessarily includes the ability to speak out against local government excesses capable of derailing fragile democratic dispensation and thereby undermining national development.

Nonetheless, some TAs and MMDAs do have informal partnerships which according to Seini (2006) represent a cooperative relationship. For instance, chiefs facilitate access to land for DAs to undertake projects, and organize communal labour or financial resources for the implementation of projects (Ayee, 2006). Ayee further argues that in Ghana, when one talks about grassroots democracy, the chief or the TA invariably is involved because one “could not realistically implement successfully a programme of empowerment without involvement of chiefs” (ibid). From these perspectives, the chief as the leader of the TA is a facilitator of every development course. The chief’s involvement in any development project is paramount if it is to succeed. These arguments suggest that chieftaincy is an indispensable institution in Ghana’s developmental efforts. It is on this basis that Seini (2006) argues that grassroots participation in planning and implementation of development process is weak and advocates the involvement of TAs in the development of their communities.

International Comparison

The fusion of traditional authorities and local government has not been a straightforward activity. Different countries accommodate TAs in different ways, as shown below. The table

was adapted from a technical report prepared for the Local Governance and Poverty Reduction Support Programme (Ferrazzi, 2006)

Country	Involvement of Traditional Leaders
South Africa	<ul style="list-style-type: none"> ▪ General consultation ▪ Consultation in preparation of Integrated Development Plans ▪ Provide services as required
Philippines	<ul style="list-style-type: none"> ▪ A seat on local authority councils at various levels is reserved for a member of 'indigenous cultural communities' ▪ Barangays (villages) can be established so as to be coterminous with an 'indigenous community' ▪ Dispute resolution mechanisms used by local authorities can be those of the indigenous community
Indonesia	<ul style="list-style-type: none"> ▪ Election of village head in accordance with traditional method ▪ Local authority's regulations must respect traditional custom

5. Savelugu-Nanton District Assembly And The Savelugu Traditional Authority- A Case Study

The Savelugu-Nanton District was carved out of the erstwhile Western Dagomba District Council, which comprised Tamale, Tolon and Savelugu. The district shares boundaries with West Mamprusi to the North, Tolon/Kumbugu District to the West, Yendi District to the Southeast and Tamale Municipality to the South. The Savelugu Naa¹⁰ is a sub-chief within the Dagbon Traditional Council¹¹.

The partnership between the DA and the TA is an informal recognition of their importance in the development of the area. The general areas of consultation between the two authorities include land for development, communal labour, enforcing law and order, protection of traditional values and customs and revenue generation. Even though chiefs are not part of the DA, they are regularly consulted in the areas of tax collection, security, land acquisition for development projects, presidential appointments to the assembly, etc.

¹⁰ Chief of Savelugu

¹¹ Traditional Council of the Dagomba people

Collaboration

Community involvement is the key to success for every development project in a district. Communities are headed by chiefs as traditional leaders while the District Assembly is the agent of the national government at the local level. Development is the prime goal of both the DA and the TA. To achieve the envisioned goals of the DAs and TAs, then, the two development agents need to partner each other in their functions and responsibilities. Consultations and collaboration with the TAs ensures community involvement in the planning stage of projects and through to implementation. Another issue is in the area of security. The area is one of the many in the Northern Region affected by the Dagbon chieftaincy crisis¹². There is a district security committee meeting every month to discuss the peace of the area. Key traditional authorities have been co-opted as members, while the TA has also played a leading role in maintaining peace and security. At the traditional level, the TAs have constantly involved household heads in their deliberations.

A good example of collaboration is the building of the Savelugu Naa's Palace. At the initial stages, the responsibilities of each partner were clearly defined. First, ownership was in the hands of the TA and the community. They contributed money, technical expertise (e.g. masons, foodstuffs, labour) while the DA provided funds to finish the project. This project was particularly successful because the DA, the TA, and the community, were involved together from the initiation to the implementation stages. Therefore, one good practice is to clearly define roles and responsibilities in any partnership between DAs and TAs.

In addition, in the area's guinea worm eradication, there was a multi-partnership between the DAs, TAs and the Ministry of Health. This collaboration helped reduce the rate of guinea worm infection, such that until recently was leading in guinea worm cases countrywide.

Two other major areas in which the two authorities have worked closely to harness the area's potential are tourism and investment. Major tourist attractions have been identified and competitively developed. Earnings from this sector have boosted the revenue of the

¹² Dagbon is one of the many ethnic groups in the Northern Region of Ghana. Since 2003, there have been intermittent intra ethnic wars surrounding the status of their chief. This led to the murder of the chief of the area. No substantive chief has been installed since.

assembly. The DA and TA of Savelugu have also collaborated very well in the area of revenue (tax) mobilization. In the last two years, internally generated revenue has gone up by 23%. The TA has also contributed land to government and donor programs. A good example was the land provided for mango plantations under the millennium development project. In addition, the TA has regularly invited the Town and Country Department, Office of the Administrator of Stool Lands (OASL) and the Regional Lands Commission to participate in the Savelugu land committee meetings, and it has a policy to make land available for projects that will benefit the entire community. However, a major challenge lies in record-keeping.

There are no formal structures for mutual accountability between the two authorities: the DAs does not account to the TA and vice versa. However, the DA, being a local government unit, has a certain obligation to account to the community through the general assembly of the District Assembly. At the same time, there are regular interactions between household heads and the TA on matters affecting the community. Some of these meetings include youth leaders and ethnic minorities. They are used as a platform to inform the community about the TA's activities.

Challenges

Party politics and the Dagbon chieftaincy crisis are now affecting the once-vibrant partnership. TAs have expressed reservations about their exclusion from monitoring programs undertaken by the DA. Indigenous knowledge is often crucial to the success of projects whether they be governmental or traditional. Many projects have failed in the past apparently as a result of exclusion of the community.

A major deficiency of the TAs lies in their limited capacity to plan and monitor projects. This has undermined their ability to engage effectively with the DA. A programme designed to improve such capacity could greatly enhance their contribution to the overall development of the area.

6. Which Way Forward?

In broad terms, the literature and practical experience indicate two types of partnerships between local government and traditional authorities: the cat or the ostrich.

The 'Cat' Partnership

This is where the legal provision for the inclusion of traditional authorities in local government and their relationship is clearly defined. The cat is a smart animal, it knows its environments well, when it leaves home it can always come back, it stays focused in its pursuit. It is not a burden. In Ghana, this type of partnership existed during the colonial era and immediately after independence. For instance, the 1957 Constitution saw fit to reserve one-third membership of local government units for traditional leaders. The 1969 Constitution also reserved one-third of the membership of District Councils for traditional leaders. Additionally, a provision was made for the inclusion of not more than two traditional leaders from the Regional House of Traditional leaders in the Regional Council. This was maintained under the 1979 Constitution.

The major advantages of this type of arrangement appear to be (but are not limited to):

- effective collaboration
- harnessing of local resources
- common and shared vision for development
- effective use of resources
- effective community planning
- transparent and equitable distribution of resources.

Disadvantages may include:

- accountability on the part of TAs for use of public resources
- possible petty squabbles between TAs and government officials over ultimate responsibility
- chieftaincy disputes may stall the work of the local authority
- lack of genuine representation from other acephalous minority tribes.

The 'Ostrich' Partnership

In this arrangement, although TAs are acknowledged to play a key role in development, no lucid legislative arrangements exist for their inclusion in the DAs except for consultation. It may be described as an ostrich partnership because it avoids the challenge of the often

controversial and delicate fusion of TAs into local administration. Yet, there is overwhelming evidence of the importance of TAs in their various localities.

In this form of ‘partnership’ there is no express working relationship between the two bodies. DAs and TAs may only meet when they cannot avoid each other. Each pursues its line of work without adequately involving the other. Consultation is ad hoc and, except where mandatory, may hardly occur.

This is the system in play in the current system of decentralized governance in Ghana, except for the provisions of article 242(d) of the 1992 Constitution and section 5(d) of the 1993 Local Government Act which enable two traditional leaders from the Regional House of Traditional Leaders¹³ (elected at a meeting of the House) to serve on their respective Regional Coordinating Councils¹⁴.

Possible advantages of this system include:

- the democratic nature of local government is maintained with no ‘free ticket’ given to traditional authorities
- TAs are free to initiate their own development projects along side the DAs
- TAs can complement DAs in the mobilization of local resources
- TAs remain non-partisan and serve as a unifying entity.

Criticisms are that:

- TAs have been alienated from active involvement in development and this has affected the ability of the DAs to mobilize local resources
- localities become polarized between DAs and the TAs, resulting in the inability of DAs to undertake serious development.

¹³ This is a regional body whose membership is made up of all the traditional authorities in the region. There are ten regions across the country. The Regional Houses are established by the Constitution and assigned mainly judicial functions by an Act of Parliament to adjudicate chieftaincy disputes. They are responsible to the National House of Chiefs.

¹⁴ This is a central government deconcentrated administrative body responsible for co-ordinating, supervising and harmonizing the activities of all the local governments in the region. The country has been divided into ten regions with each region under a RCC.

Traditional Authorities and Local Government in Concert

Public opinion in Ghana is pressing for further democratization of MMDAs with 100% elected members and locally elected District Chief Executives. This would totally exclude traditional leaders as they could not stand for election. The difficulty here is that traditional leaders are bound to represent their communities; their presence as formal representatives would exacerbate the existing difficulties, which Assemblies have in developing a sense of collective agreement around the distribution of scarce resources amongst competing communities (Crook, 2005).

However, in both rural and urban areas, traditional leaders still in practice control allocations of customary land under various forms of tenure, including what are in effect leasehold sales at market rates for residential and commercial building plots. In addition, the ineffectiveness of government land agencies means that building developments are in practice sanctioned by traditional authorities.

Public discourse on this role poses two key questions:

- How accountable are traditional leaders to their own communities for the ‘drink money’ they receive from sales of land and building plots, and from the rents and royalties (including forestry and mining concessions) re-distributed by the Office of the Administrator of Stool Lands? (Crook, 2005)
- What is the assurance that the current state of confusion and land disputes would not stall the progress of local government if TAs were integrated into the DA system?

In spite of these questions, there is an evident need for national dialogue towards more formal recognition of the major role, which traditional authorities play in the management of their local areas. We would argue that when it comes to the composition of the local government system, there are viable options for inclusion of TAs based on both experience in Ghana and the other country examples cited above.

First, we could maintain the current system where traditional leaders have a merely consultative role. Where this is the case, an obligation must be imposed on the local

administrators to consult the traditional authorities on all-important issues. The difficulty here is what may be termed ‘important’. Guidelines may be necessary. For instance, we could specifically demand that local authorities must consult traditional leaders in the preparation of development plans for the area. The loophole is of course that consultation is merely asking for an input or opinion or being advised about certain issues or directions with no guarantee the views of those consulted will be taken into account. To what extent would the views of the traditional authorities be binding? What will be the outcome if the views of chiefs do not have the effect they desire? There must be clear and structured arrangements for this form of partnership.

Another option for consideration is the institutionalization of participation of traditional leaders. That is, there should be automatic inclusion of traditional authorities at all levels of representation. For example, a certain number of places could be reserved from the 30% of DA members appointed by the President. Here appointment of the traditional leader would not be as an individual but as a formal representative of the traditional authority. The danger, however, is that we must be careful not to create parallel power structures in the assemblies. Should this option be pursued, then it would be important to find a way of building the capacity of the traditional authorities where necessary. The introduction of the Royal College¹⁵ may go a long way to improve the performance of chiefs in local governance, especially in land management. The college is intended to be a training institution solely for building the capacity of traditional authorities in different aspects of governance.

At the sub-district level, the failure of the Unit Committees¹⁶ suggests that institutional forms need to be found which are in harmony with the realities of community. Consideration could be given to reviving the Village and Town Development Committees that formed part of the official local government system in the 1960s and 1970s. These had a good record, perhaps because their composition reflected the grain of different local societies, and encouraged cooperation between traditional leaders and elected representatives (Crook, 2005).

¹⁵ This is a proposed training college that will be responsible for educating and teaching traditional authorities in various disciplines.

¹⁶ Unit Committees are the lowest unit in the hierarchy of local government structures established by LI 1589.

Local Government administration could make use of traditional authorities in some of the services they provide. For instance, they could involve the traditional authorities as a form of alternative dispute resolution, as occurs in the case of the Philippines. After all, chiefs played this role comfortably before modern day governance, and this constitutes an area in which the proposed Royal College could build their capacity. Though the 1992 Constitution makes provision for the integration of customary laws and adjudication mechanisms, conflict resolution by TAs has not yet been mainstreamed in the judicial system of Ghana.

7. Conclusions

Without doubt, the role of traditional authorities in development and management of local affairs is well established. Both the community and the DAs acknowledge this, and therefore the relevance of TAs in modern day governance is not in question.

Nevertheless, debates continue about the role of traditional authorities in local government. TAs command respect and authority in their areas, and clearly, there are opportunities to harmonize their activities with local government to achieve more effective governance of localities. However, at present, there is no clear framework for the involvement of TAs and their links with the MMDAs remain nebulous. The degree of collaboration between DAs and TAs varies depending on the personalities of the local chief executives and chiefs.

In moving forward, we need to weigh up the relative merits of the ‘cat’ and ‘ostrich’ relationships outlined earlier. While formal integration of TAs into the local government system could bring significant benefits, there are some important issues that need to be considered first. These include the undemocratic nature of TAs and their lack of accountability (including for management of public money); continuing chieftaincy disputes and lack of codification of customary laws; the risk of creating competing power structures; and the capacity of TAs themselves to take on this new role. In this regard, the proposed establishment of the Royal College is a step in the right direction, as it should enhance the capacity for TAs to perform their functions effectively.

On balance, it may be preferable to adopt a middle course between the ‘cat’ and the ‘ostrich’ whereby TAs play a stronger policy advisory and consultative role without being fully integrated into government. Guidelines could be developed for closer engagement between TAs and local government, and TAs could be co-opted to serve on the sub-committees of Assemblies. In this way, the important role of the traditional system of governance would be recognized, and it could continue to contribute significantly to the socio-economic development of Ghana.

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Appendix 1: *List of Abbreviations*

ADR	Alternative Dispute Resolution
DCE	District Chief Executive
TA	Traditional Authority
MMDAs	Metropolitan, Municipal and District Assemblies
DA(s)	District Assembly (ies)
OASL	Office of the Administrator of Stool Lands
GDP	Gross Domestic Product

Local Government Level Restorative Adjudication: An Alternative Model of Justice for Children in Bangladesh

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Abstract

Keeping the best interests of children in mind, this paper examines the prevailing restorative model of justice at the local government level in Bangladesh and argues that this model, if adequately activated and reformed, can be a desirable alternative to the formal system of justice for children who come into contact or conflict with the law. In doing so, the paper outlines the historical development of local government adjudication mechanisms, analyzes the existing norms and procedures of such adjudication, outlines the potential of such adjudication bodies as viable alternatives to juvenile courts in

protecting the best interests of children, sets out the shortcomings of the local government bodies and the challenges involved in capturing their potential, and finally suggests a number of ways in which the model could be improved.

Keywords: Juvenile justice; restorative justice; local government level adjudication; village courts

1. Introduction

A large number of children in Bangladesh are vulnerable to different forms of abuse. This vulnerability is particularly striking for children facing the adult world of law, detention and criminal justice. In fact, the prevailing justice norms and practices of Bangladesh constitute one of the most prominent areas where children are easy victims of frequent abuses (Khan and Rahman 2008, p. iii). The formal justice¹ mechanism for children operates in accordance with the Children Act, 1974 (Act No. XXXIX of 1974) and the Children Rules, 1976 (S.R.O. 103-L/76). The Act establishes juvenile courts as formal adjudication bodies, although the functioning of these courts is prescribed to be very informal and child-friendly. Juvenile courts are statutorily empowered to deal with children who are in conflict with the law, children who are victims of any offence and neglected children.² But, for many years, the true spirit of the Act was largely overlooked. True it is that, over the last few years, the judiciary seems more sensitized to the rights of such children,³ but the full realization of their rights is still a daunting challenge. Despite recent positive trends within the existing formal child justice system, the efficacy of the model is not beyond question. There are concerns, for example, about the need for societal care and protection, diversion and rehabilitation. The focus of these concerns is not to scrap the current system but to search for viable alternatives.

¹ In the context of this paper, the word 'justice' is meant to include not only penal justice delivered by courts to children in conflict of the law but also the care and protection offered through justice mechanisms for children in contact with the law, particularly children who are victims of any offence and neglected children. At present, the juvenile courts are empowered to deliver justice in favour of victimized and neglected children. See the Children Act 1974 (Act No. XXXIX of 1974) sections 32-33.

² Children's contact with the law is multi-dimensional. Children come in *conflict* with the law when they are accused of committing an offence. On the other hand, a child may come in *contact* with the law either as a victim or as a witness or due to some other circumstance. For more details see, Malik 2004: 1-2.

³ On pro-child judicial interventions during recent years, see Khan and Rahman 2008: 113-116.

In this context, restorative justice⁴ as dispensed by local government adjudication bodies can be a good alternative that may minimize many of the concerns stated above and advance the best interests of children.⁵ Restorative justice, which includes the rehabilitation of offenders, is more consistent with the philosophy of the juvenile court than with the retributive philosophy that guides the criminal justice processing of adult offenders (Rodriguez 2007, p. 356). The combination of certain formal principles of the state legal system with a more informal approach to handling disputes places these local government adjudication bodies halfway between the fully-fledged judicial institutions of the state and other entities that flourish under the auspices of communities themselves without the aid of state law (Galanter and Baxi 1979). This paper argues that local government adjudication bodies can be resorted to as alternative forums to the formal courts and thereby the rights and interests of children can be adequately safeguarded. However, the paper is not confined to substantiating the rationale for this proposition. In addition, the existing mechanisms of justice in the local government bodies are examined to identify their shortcomings and challenges with a view to finding workable solutions. In doing so, we encountered great difficulties in collecting data regarding the actual functioning of justice mechanisms at the various levels of local government in Bangladesh. There is a dearth of empirical research. Although there are some studies on village courts (World Bank 2008; Ameen 2005; Khan 1992; UNDP 2002, pp. 91-100; Rahman 1985), most of them do not present any national data. Moreover, there is hardly any study on the functioning of local government adjudication bodies in urban areas. Within these constraints, the present study, which also did not involve any field investigations, seeks to substantiate the proposition and examine the issues as stated above.

⁴ Restorative justice is a way of looking at behavior that harms through a different lens. Instead of viewing it from the traditional retributive justice perspective, the new lens focuses on the harm to the victim and how to repair that harm. The offender takes responsibility for the harm he/she caused and makes amends. The community supports the victim while holding the offender accountable for the harm. Communities examine the conditions that might have caused the harm and then find ways to change those conditions so that the likelihood of harm is reduced in the future (Zehr 1990; Johnstone 2003; McLaughlin *et al.* 2003; McEvoy and Newburn 2003; Weitekamp and Kerner 2002).

⁵ On the principle of 'best interests of children', see, Alston and Walsh 1996; Alston 1994; Walker 1998.

2. History of Local Government Adjudication

Although during recent years restorative justice has become a truly global concept, its efficacy in a particular jurisdiction depends on many local factors, notably public awareness. In fact, lack of familiarity may impede public acceptance of restorative justice (Roberts and Stalans 2004, p. 318). In this respect, Bangladesh is well-placed: the history of local government adjudication bodies conveys a clear message that the system of local adjudication outside the fully-fledged formal court structure is not a novel concept in Bangladesh and already enjoys public acceptance.

Bangladesh has a long history of informal dispute resolution mechanisms. Throughout the ages, these mechanisms were not statutorily recognized. However, the introduction of local government bodies paved the way for a statutory form of quasi-formal adjudication. The Village Chaukidari Act, 1870 (Bengal Act 6 of 1870) was the first Act to introduce a local institution at the village level in Bengal (Bari 1996, p. 3). It empowered the District Magistrate to appoint a *panchayat* consisting of three to five nominated members for each village (section 3). Although this institution was not empowered to adjudicate any dispute, petty cases could be settled by it with the mutual consent of the parties involved (Wahhab 2009, p. 19). The first proposal for establishment of village level courts on a legal basis was made by the Fraser Commission Report, 1902-03. Later on, the Hobhouse Commission of 1907-09 and Levinge Committee of 1913 proposed creation of village level courts to handle minor cases amongst the village people (Ameen 2005, p. 110). Accordingly, the Bengal Village Self-Government Act, 1919 (Bengal Act V of 1919) was passed. This was the first law to empower a local government body to adjudicate criminal cases (Rahman 1985, p. 175). The Act established a 'union bench', corresponding to the present day village court, with concurrent jurisdiction⁶ with formal criminal courts for trying petty criminal cases.

On the other hand, in urban areas no clear pattern of municipal administration emerged until the 1840s (Siddiqui 1995, p. 146). Act X of 1842 established the first formal municipal organization. Under this Act, a town committee could be set up, upon application by two-thirds of the townspeople, by the District Magistrate. However, no

⁶ For constitution and jurisdiction of union bench, see sections 65-66.

such committee was set up in the areas now comprising Bangladesh.⁷ Later on, experiments were carried out through Act XXVI of 1850, and the Bengal Municipal Acts of 1864 and 1876. As a result, by the 1870s every important town of Bengal had become a municipality.⁸ However, there was no popular representation in these municipalities. Such representation was introduced, although on a limited scale, for the first time by the Bengal Municipal Act, 1884. By the 1890s, administration by elected committees came to be regarded as the natural form of municipal government (Siddiqui 1995, p. 146). In 1920, the government set up the Simon Commission to look into the affairs of urban local government. On the basis of recommendations made by this Commission, the Bengal Municipal Act, 1932 (Bengal Act XV of 1932) was enacted as a comprehensive code for municipal bodies. However, during British rule, urban local government bodies were not given the power to adjudicate any criminal case.

During the Pakistan period, the then existing local government structures and powers were not substantially altered until 1959. The Bengal Village Self-Government Act, 1919 (Bengal Act V of 1919) was repealed by the Basic Democracies Order, 1959 (P.O. No. 18 of 1959). Thus the local government level adjudication mechanism introduced by the 1919 Act was abolished. In 1961, the Conciliation Courts Ordinance (Ordinance No. XLIV of 1961) was promulgated. This Ordinance empowered the 'union council' (local government) to deal with minor cognizable offences (section 3). The definition of 'union council' as prescribed by this Ordinance included both union (rural) committees and town committees.⁹ Accordingly, a local government level adjudication system was introduced in urban areas.

The local government level adjudication system established by the 1961 Ordinance continued until the promulgation of the Village Courts Ordinance, 1976 (Ordinance No. LXI of 1976), which repealed the 1961 Ordinance (section 20). Although the Village Courts Ordinance established village courts for rural areas, the need for such a mechanism in urban areas was ignored. Subsequently, however, the enactment of the Conciliation of Disputes (Municipal Area) Ordinance, 1979 (Ordinance No. V of 1979),

⁷ Under this Act, a town committee was set up only in Serampore. But the townspeople protested it and successfully sued the District Magistrate in the court for damages. See Siddiqui 1995: 146.

⁸ The earliest municipalities of Bangladesh were Nasirabad (1856), Sherpore (1861), Dhaka (1864), Chittagong (1864) and Brahmanbaria (1868). See Siddiqui 1995: 146.

⁹ For definition of 'union council' see section 2 (i).

did establish an urban counterpart of village courts. Later, the Village Courts Ordinance of 1976 and the Conciliation of Disputes (Municipal Area) Ordinance of 1979 were repealed and replaced by the Village Courts Act, 2006 (Act No. 19 of 2006) and the Disputes Conciliation (Municipal Areas) Board Act, 2004 (Act No. 12 of 2004) respectively.

3. Justice Mechanisms within Local Government Bodies: Existing Norms and Procedures

Today, the law recognizes two forums within local government that can adjudicate criminal cases. These are (a) village courts for rural areas which are within the limits of a union parishad¹⁰; and (b) dispute conciliation boards for municipal areas which are within the limits of a paurashava.¹¹ Legally mandated, these mechanisms are headed by local government personnel who dispense justice with the aid of nominees of the parties to the dispute (Khair 2008, p. 104). This section provides a brief overview of the existing norms and procedures of the two mechanisms, and then these norms and procedures are analyzed against the basic principles of the concept of restorative justice.

Village Courts

The village court is an *ad hoc* forum for adjudicating minor disputes or conflicts in rural areas. The Village Courts Act, 2006 (Act No. 19 of 2006) and the Village Courts Rules, 1976¹² regulate the formation, jurisdiction and functioning of this forum. On application of any party to any dispute or conflict, the chairman of the union parishad concerned can form a village court (section 4(1)). A village court is composed of the chairman of the union parishad and four representatives – two from each party, one of them being a member of the parishad (section 5(1)). Ordinarily, the chairman of the union parishad acts as the chairman of the court, but where he is, for any reason, unable to act or his

¹⁰ Union Parishad is the local government institution in rural areas, established by the Local Government (Union Parishads) Ordinance, 1983 (Ordinance No. LI of 1983)

¹¹ Paurashava is the local government institution in urban areas, established by the Paurashava Ordinance, 1977 (Ordinance No. XXVI of 1977)

¹² S.R.O. 352-L/76 dated 15th December 1976. This was a delegated legislation made by the President of Bangladesh in exercise of the powers conferred by section 19 of the Village Courts Ordinance, 1976 (Ordinance No. LXI of 1976). Although the 1976 Ordinance is repealed by the Village Court Act, 2006 (Act No. 19 of 2006), this piece of delegated legislation is saved and accordingly operative until new Rules are made under the 2006 Act. See, The Village Court Act, 2006 (Act No. 19 of 2006), section 21 (2) (b).

impartiality is questioned by any party to the dispute, any member of the parishad can act as chairman (section 5(2)).

Village courts have exclusive jurisdiction to try all disputes that are enumerated in a schedule to the Act (section 3(1)). Accordingly, taking cognizance or holding a trial of any of these offences by any criminal court is illegal and without jurisdiction. Even when the parties to a dispute seek to have one of these offences tried by a criminal court and thus bypass the village court, the criminal court cannot assume jurisdiction. However, if the chief judicial magistrate in the district is of opinion that a case triable by and pending before a village court should be tried in a criminal court in the public interest and that of justice, he may withdraw that case from the village court (section 16(1)). Similarly, a village court may forward a case to the criminal court for trial and disposal if it is of the opinion that the accused deserves punishment in the interests of justice (section 16(2)).

While village courts are a formally constituted judicial forum, their functioning is only semi-formal since the technical rules of procedure, as prescribed by the Code of Criminal Procedure (Act V of 1898) and the Evidence Act (Act I of 1872) are not applicable (section 13(1)). Moreover, the whole procedure is conducted without any legal practitioners (section 14).

The only adjudication option open for village courts is to order compensation of an amount not exceeding 25,000 taka (about US \$360), payable to an aggrieved person (section 7(1)). If the decision of a village court is unanimous or by a majority of 4:1 (or 3:1 if the decision is reached in the presence of only four members of the court), the decision shall be binding on the parties (section 8(1)). But, if the decision is by a majority of 3:2, any party to the dispute may, within thirty days of the decision, appeal to any judicial magistrate of the first class having jurisdiction over the case (section 8(2)(a)). The said magistrate may, if satisfied that the village court failed to render justice, set aside or modify the decision or refer the case back to the village court for reconsideration (section 8(3)).

Dispute Conciliation Boards

In every paurashava, there is a dispute conciliation board. The Disputes Conciliation (Municipal Areas) Board Act, 2004 (Act No. 12 of 2004) regulates the formation, jurisdiction and functioning of this adjudication body. The boards are structured and

operate in the same way as village courts, and have exclusive jurisdiction to try all disputes specified in the schedule to the Act (section 4(1)). The list of offences is the same as that triable by village courts. However, commission of any of these offences by a person who had earlier been convicted for any cognizable offence falls outside the jurisdiction of the boards (section 4(2)(a)). Also, if an offence amenable to the jurisdiction of a board is committed along with another offence not amenable to its jurisdiction and joint trial becomes necessary, the board shall not exercise its jurisdiction to try the offence (section 5(1)). As in the case of village courts, the boards cannot pass any order of imprisonment or fine. The only adjudication option is the order of compensation (section 9(1)).

Restorative Elements in Village Courts and Dispute Conciliation Boards

Although the essential components of restorative justice are yet to be universally agreed, there are some basic principles and assumptions upon which the concept is built. One of the most fundamental of these principles and assumptions is that crime is not only a violation of penal laws, but also a violation of people and relationships (Zehr 1990). The most appropriate response to crimes, therefore, is not to punish the offender but to repair the harm caused by crimes (Latimer *et al* 2005, p. 128). This need for repairing the harm demands an active voice, not merely as a witness, for those most closely affected by crimes – the victims, the community, and even the offenders. Based on these premises, the concept of restorative justice seeks to create opportunities for victims, offenders and community members to meet and discuss the crime and its aftermath (Shekhar 2002, p. 60).

Existing norms and procedures of justice mechanisms within local government bodies in Bangladesh, as outlined above, largely reflect this fundamental principle of restorative justice. The rules regarding the constitution of village courts and dispute conciliation boards mean that justice is delivered in these forums by community members, not professional judges. The victims and offenders have an active role and right to participate in the choice of the adjudicators, since the parties themselves nominate four out of the five members of these forums. Also, the rules regarding decision-making mean that a decision against a party cannot be conclusive and remains open to appeal unless at least one of the two adjudicators nominated by him pronounces a verdict against him. This aspect of the adjudication is intended to infuse a sense of ownership of the parties in the

decision-making process. Non-application of technical laws of procedure and evidence, and the absence of professional lawyers, also create a space for the community to apply, to a great extent, community sentiments and values in the adjudication process. The most obvious reflection of the concept of restorative justice in these mechanisms is its sole adjudication option – the order of compensation, not even a ‘fine’ let alone imprisonment.

4. Local Government Bodies as Alternatives to Juvenile Courts

The evidence suggests that a restorative model of justice works better for juveniles than it does in the case of adult offenders and provides an appropriate alternative to existing mechanisms found within the juvenile court system (Miers 2004, p. 23; Braithwaite 1999; Bazemore and Umbreit 1995; Umbreit and Coates 1992). Keeping this empirical finding in mind, if the local government bodies are reasonably empowered to deal with cases concerning children in conflict or contact with the law, and the existing mechanisms are suitably activated and reformed, there could be significant advantages over current practices. The following paragraphs elaborate these advantages.

Minimizing Evil Effects of Traditional Shalish

Traditionally, people in Bangladesh settle a good number of offences through the non-formal method of *shalish*,¹³ which is more accessible in our social context and plays a central role in conflict resolution, particularly in rural areas. The positive aspect of this conflict resolution mechanism is that it involves the community in the process and very often ends in reconciliation.

However, its traditional working has been changed over the years on various socio-economic and religious grounds. In the absence of specified law, process and accountability, *shalish* has become a vehicle for imposing subjective justice by the socially, economically or religiously powerful (Biswas 2008). Sometimes, persons found ‘guilty’ are inflicted with humiliating, degrading or inhuman punishments. Risks are

¹³ *Shalish* is a social system for informal adjudication of petty disputes, both civil and criminal, by local notables such as *matbars* (leaders) or *shalishkars* (adjudicators). It may involve voluntary submission to arbitration (which involves the parties agreeing to submit to the judgment of a *shalish* panel), mediation (in which the panel helps the disputants to try to devise a settlement themselves) or a blend of the two. In a harsh, extreme version of its traditional form, however, *shalish* instead constitutes a *de facto* criminal court that inflicts trial and punishment on individuals who have not consented to its jurisdiction.

higher if the victim of such punishments is a child. Although inflicting punishment by way of *shalish* is unlawful, it cannot be uprooted overnight. Since *shalish* is popular for easy access and community involvement, it can only be replaced by a semi-formal legally recognized mechanism having similar advantages. In this regard, village courts or dispute reconciliation boards can be good alternatives. But unless these local bodies are empowered to deal with minor disputes to a greater extent, informal *shalish* is likely to extend beyond the legally specified realm and expose its evil effects.

Involving the Community in Child Justice

In many parts of the world, involvement of the community in child justice has demonstrated positive results (O'Brien 2009; Roberts 2005, pp. 147-162; Morris and Maxwell 2003; McCold 2001; McGarrell 2000; Shoemaker 1996). Unless such involvement is ensured, the existing children's justice system of Bangladesh may be viewed negatively. People at large may think that the justice system is unduly compromising public safety in the name of protecting children's interests. Such an impression, in the long run, will hinder the sustainable child-friendly development of our formal justice system. On the other hand, community participation in handling children in conflict with the law may substantially reduce the number of such children.¹⁴ If the village courts or dispute conciliation boards are empowered and activated to deal with such children, local people could be expected to render service towards the children similar to the role of probation officers.

By actively involving families and communities in the process of adjudication, village courts or dispute conciliation boards can also successfully address the underlying problems that emerge as crime, rather than continuing the criminal justice system's focus on the offenders only.¹⁵ Recourse to these bodies for dealing with children in conflict or contact with the law further ensures that the values of the community are taken into consideration when addressing a particular social problem. This infuses in the minds of the people a sense of ownership, not only in respect of the adjudication process but also in respect of the children dealt with by the process. Moreover, adjudication by these

¹⁴ There are a good number of studies finding that restorative justice decreases the problem of recidivism (Latimer *et al* 2005; Hayes and Daly 2003; Maxwell and Morris 2001; Sherman *et al* 2000).

¹⁵ On how this aspect of restorative justice can lead to community development on a number of levels, see Ness 1999: 264.

bodies ensures that such children are kept close to their families and consequently the chances for their re-integration into society are enhanced.

Promoting Diversion and Rehabilitation

Entry into the formal justice system can be traumatic and can stigmatize an adolescent. It should therefore be avoided whenever the matter can be adequately dealt with in a less formal way (UNICEF 2004, p. 130). Instead of depriving children of liberty, the Convention on the Rights of the Child (G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989)) urges States to “seek to promote ... measures for dealing with such children without resorting to judicial proceedings” (Article 40(3)(b)). But in Bangladesh we have no nation-wide programme to divert children away from the formal court system, either at the time of arrest or during the early stages of the court process. Institutionalization, both in law and in practice, is the primary tool used to rehabilitate children in conflict with the law, regardless of the seriousness of the offence committed (Khan and Rahman 2008, p. 129).

It appears, however, that there are three discretionary options of diversion in the existing child justice system. Firstly, the police as well as the court can grant bail in favour of a child accused. Secondly, at the adjudication stage, the court can pass an order of admonition or probation under section 53(1) of the Children Act.¹⁶ Thirdly, at the post-trial institutionalisation stage, the government can order early release of children detained under section 67(1) of the Children Act.¹⁷ It is true that during recent years children in conflict with the law have been graced with bail in greater numbers than before. But there is no record of passing orders of admonition or probation. The power of the government under section 67(1) is also hardly exercised. So far, only three children have been released under this section. This being the scenario, securing the best interests of children alleged to have committed an offence is a challenging issue under the existing

¹⁶ Section 53 (1) of the Children Act 1974 (Act No. XXXIX of 1974) reads: “A Court may, if it thinks fit, instead of directing any youthful offender to be detained in a certified institute under section 52, order him to be (a) discharged after due admonition, or (b) released on probation of good conduct and committed to the care of his parent or guardian or other adult relative or other fit person on such parent, guardian, relative or person executing a bond, with or without sureties, as the Court may require, to be responsible for the good behaviour of the youthful offender for any period not exceeding three years, and the Court may also order that the youthful offender be placed under the supervision of a Probation Officer.

formal justice mechanism. Hence, we should look forward not only to better use of diversion options available under the Children Act 1974 but also to going beyond these limited prescriptions, especially for children accused of minor offences.

Although there has been much talk about reducing reliance on institutionalization, to date there has been limited investment in developing the necessary alternatives. This is because at all stages institutionalization is the easiest option (Khan and Rahman 2008, p. 130). Consequently, in our formal justice practices, recourse to deprivation of the liberty of children is too frequent an occurrence. Children committed to institutions established by both government and non-government organizations are not receiving mainstream education. Moreover, the training imparted to them has no market value. Therefore institutionalization is not supportive for children, rather this practice is contributing to the growth of a huge unproductive mass that will ultimately transform into a major burden for society. To overturn this situation, we need diversion and rehabilitation through community based adjudication bodies. Such a movement towards diversion and rehabilitation is likely to be more successful under local government elected bodies, since in village courts or dispute conciliation boards the community leadership role of the adjudicators can be expected to guide them to realize that their function is not only to punish the child offenders, but also to assist them in the re-integration process.

Ensuring Better Parental Care

Lack of parental care leads many children to be in conflict with the law. Moreover, a good number of children are abandoned or become victims of offences perpetrated by adults only because they fail to receive proper parental care. To prosecute any child who is in conflict with the law due to lack of parental care through the formal justice mechanism is to ignore the need to protect the 'best interests' of children. Since formal justice adjudication usually focuses on acquittal or conviction, the issue of parental care is largely ignored. In this context, adjudication by local government bodies can be a good option to explore. Village courts or dispute conciliation boards cannot pass any sentence. They can, at most, order the payment of compensation to an aggrieved party. Therefore, if a child in conflict with the law is tried before these forums, parents, being the guardian of child, have to face the risk of paying compensation. This aspect of adjudication may

¹⁷ Section 67(1) of the Children Act 1974 (Act No. XXXIX of 1974) reads: "The Government may, at any time, order a child or youthful offender to be discharged from a certified institute or

make them more cautious in preventing their children from being in conflict with the law. Similarly, if these local bodies were equipped with a care and protection mechanism for children in contact with the law, accountability of parents could be guaranteed more effectively since local adjudicators are more able to judge the level of care and protection a child receives from his/her parents. Moreover, local government level adjudication has the potential to engender community pressure to ensure better parental care that will not only keep children away from conflict or contact with the law but also ensure better care and protection of such children in their family environment.¹⁸

Ensuring Speedy Delivery of Cost-effective Justice

As stated earlier, empirical research on local government adjudication bodies in Bangladesh is insufficient to draw any confident conclusion about the practical realities of their operations. However, research carried out in other jurisdictions in respect of similar adjudication bodies suggests that, compared with traditional formal courts, they can provide immediate resolution and cost effective justice (Sivakumar 2003; Klock 2001; Mathur 1997). Studies, although very few in number, carried out so far on the functioning of village courts in Bangladesh endorse this suggestion. One such study concludes that village courts settle disputes at minimum cost and trouble (Rahman 1985; Solaiman 1981). Another reveals that village courts save people from harassment by the *touts* and the cost of legal practitioners (Khan 1992). These findings regarding village courts indicate that people have better access to justice before local government adjudication bodies – they get cost effective justice and quick resolution before petty disputes turn into bigger problems (Wahhab 2009, p. 24).

5. Potential Shortcomings and Challenges

As outlined above, the existing norms and procedures of local government adjudication bodies reveal some positive aspects that can be beneficial for children. However, despite these child-friendly attributes, both legal standards and aspects of practice suggest some shortcomings and pose some challenges that must be properly addressed if children are to be dealt with by local government adjudication bodies in greater number and with proper care and protection.

approved home, either absolutely or on such condition as the Government may specify.”

¹⁸ In fact, any sensitive restorative approach can give families an opportunity to take and share responsibility with and for their young people and to do something positive about offending. See, Whyte 2004: 6.

Limited Coverage

At present, only two types of local government adjudication bodies are legally authorized to deliver restorative justice: village courts within the limits of union parishad and dispute conciliation boards within the limits of paurashava. Areas covered by city corporations and cantonment boards are outside the purview of local government adjudication.

Limited Jurisdiction

The list of offences currently subject to the jurisdiction of village courts and dispute conciliation boards is unreasonably short. Moreover, the choice of offences reflects no rational basis. It contains several cognizable offences, some of which are of a serious nature, but fails to contain many non-cognizable petty offences. This anomaly needs to be rectified. Further, section 16 of the Village Courts Act, 2006 as well as section 5(2) of the Dispute Conciliation (Municipal Areas) Board Act, 2004 allow transfer of cases from local government adjudication bodies to the formal criminal courts in the 'interests of justice'. Any such transfer of a case wherein a child is accused can cause double trouble to the accused and thus jeopardize the 'interests of children'. Another area of concern is joinder of offences in a case. The Dispute Conciliation (Municipal Areas) Board Act of 2004 expressly provides that if an offence amenable to the jurisdiction of the board is committed along with another offence not amenable to its jurisdiction and joint trial becomes necessary, the board shall not exercise its jurisdiction to try the offence (section 5(1)). Although the Village Courts Act of 2006 does not contain any such provision, it has been held by the highest court of the country that if in a case, an offence triable by the village court is joined with an offence triable by the magistrate, the case shall be tried by the magistrate and not by the village court (Abul Kalam and others, vs. Abu Daud and another, 4 MLR (AD) (1999) 414 = 5 BLC (AD) (2000) 19). Thus a child committing any offence within the jurisdiction of local government adjudication bodies can easily be forced to face formal courts by mere allegation of another offence outside those bodies' jurisdiction.

Power of the Police to Investigate Cognizable Offences

As note above, village courts and dispute conciliation boards are authorized to deal with some cognizable offences.¹⁹ In the case of these offences, police retain the power to investigate (The Village Court Act, 2006 (Act No. 19 of 2006), section 17; The Disputes Conciliation (Municipal Areas) Board Act, 2004 (Act No. 12 of 2004), section 18). Therefore, since the power of investigation, so far as cognizable offences are concerned, includes the power to arrest an accused without the authorization of any court (Code of Criminal Procedure 1898 (Act V of 1898), section 156), there is the possibility that a child accused of any of those offences can be arrested by the police.

No Special Treatment for Children

One of the shortcomings of the Village Courts Act 2006 and Dispute Conciliation (Municipal Areas) Board Act, 2004 is that these two Acts do not differentiate a child accused from an adult accused in terms of their treatment. The union bench established by the Bengal Village Self-Government Act, 1919 was authorized to release an offender after due admonition or on probation considering his conviction record, age, character, and antecedents (section 72A). Also, a child, if tried or dealt with by the formal courts in accordance with the Children Act, 1974, can be released after due admonition or on probation (section 53(1)). But these two adjudication options, admonition and probation, are not available to local government bodies.

Care and Protection of Destitute and Neglected Children

Part V of the Children Act, 1974 (Act No. XXXIX 1974) empowers the juvenile courts to take necessary measures in respect of destitute and neglected children (sections 32-33). However, this jurisdiction of the juvenile courts is rarely exercised. In fact, societal aspects of the issue of care or protection of destitute and neglected children are not easy matters for the formal courts to address in a successful manner. As an alternative, therefore, vesting this power in the local government adjudication bodies could be a good option. However, at present these adjudication bodies are not so empowered.

¹⁹ For definition and categorization of ‘cognizable offence’, see The Code of Criminal Procedure, 1898 (Act V of 1898), section 4(1)(n) read with column 3, schedule II. Cognizable offences amenable to the jurisdiction of village courts and dispute conciliation boards are the offences that are punishable under sections 143, 147, 341, 342, 379, 380, 381, 406, 420, 428, 429, and 447 of the Penal Code, 1860 (Act XLV of 1860)

Malfunctioning and Non-functioning

The preoccupation of local government bodies with issues other than dispute resolution, especially service delivery, has gradually diverted their focus from dispensing justice (Khair 2001). Consequently, village courts have now in most cases disappeared. This leaves the traditional informal *shalish* as the dominant means of adjudication for small-scale civil and criminal disputes (Lewis and Hossain 2005, pp. 19-20). An opinion survey²⁰ conducted by Democracywatch reveals that regarding village courts, only 6.8% of the respondents said they were functioning, 71.0% said they were beset with favouritism, and 22.2% said they were inactive (People's Reporting Centre 2007). Research carried out in three districts²¹ found that village courts started functioning only when the Madaripur Legal Aid Association (MLAA), a non-government organisation, stepped in as facilitator (Ameen 2005, p. 116). It is widely held that, outside of MLAA's coverage area, village courts are largely defunct (Hassan 2006; Lewis and Hossain 2005; Bode 2002).

Similarly, village courts do not appear to have attracted significant community support (Khair 2008, p. 127). One study on several village courts found that only twenty percent of cases within their jurisdiction actually reach these courts (Quader 2005, p. 23), while findings from a participatory rural appraisal conducted under a UNDP study in a village in Tangail district revealed a strong preference for *shalish* compared to the village court (UNDP 2002).

The fact that village courts or conciliation boards are expected to discharge judicial functions and administer justice in accordance with law requires that personnel serving on the adjudication panel have basic legal training. However, at least one study shows that village court functionaries lack knowledge about the procedure and norms prescribed for village courts (Khan 1992). It also found that the casual nature of *shalish*, which had been followed for many years, is still being practiced (Ameen 2005, p. 117). Another study shows that the village court functionaries are not serious about the working of the village courts (Khan 1992).

²⁰ Under this survey, opinion of 2500 people from 28 unions were taken.

²¹ Madaripur, Shariatpur and Gopalganj.

6. Conclusion

Restorative justice can be seen as a 'care' (or feminine) response to crime in comparison to a 'justice' (or masculine) response. This is why this form of justice, particularly for dealing with children, is gaining increasing acceptability in different jurisdictions. Since the local government level adjudication bodies in Bangladesh have been designed to render restorative justice, making greater use of them should prove conducive to ensuring the best interests of children. True it is that for serious criminal matters, recourse to formal courts is the only available option. But for many offences, the reactivating of the judicial functions of the village court and the conciliation board could provide local communities with a viable alternative for dispute resolution (Khair 2004, p. 92). Similarly, empowerment of these local bodies could, to a large extent, mitigate the suffering of children in need of care and protection. However, engaging and empowering local government level adjudication bodies to deal with cases concerning children, as advocated in this paper, cannot be successful in isolation. It must be seen as a part of broader societal response to the need for child protection.

The local government level restorative adjudication system has been largely overlooked for many years. To make it a truly workable alternative model of justice for children in conflict or contact with the law, consideration would need to be given to a number of improvements. These would include extending the system to areas within the limits of city corporations and cantonment boards; giving local government level adjudication bodies the power to release a child offender after admonition or on probation, if necessary; expanding the list of offences under their jurisdiction so that, so far as accused children are concerned, they can deal with all offences punishable with imprisonment not exceeding five years; and increasing awareness and understanding amongst the relevant authorities across the country about the value of quasi-formal local government level adjudication in general, and the rights of children in conflict or contact with the law in particular.

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Sustainable Cities: Canadian Reality or Urban Myth?

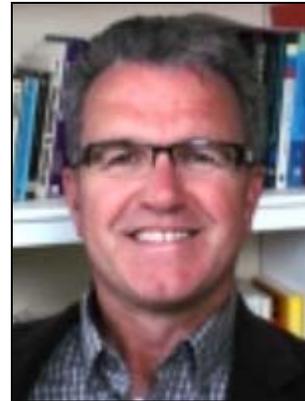
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Abstract

Although it is now over two decades since the Brundtland Commission report (1987) put sustainable development on the political map, concern continues in Canada that the federal government is failing to adequately implement its own commitments to tackling the ecological challenges posed by rapid urban expansion. Our analysis identifies a number of road blocks, missed opportunities and mistakes that have limited progress and many of these

are traced back to the failure of national government to empower local municipal governments, as advocated by Brundtland and subsequent international initiatives, in particular 'Agenda 21' which we revisit in some detail as a basis for analysis. As well as reviewing the federal government's role in Canada, the paper explores the potential for more sustainable urban growth in the context of broader reforms.

Keywords: Sustainable development; governance; urban growth; Canada; cities; Canadian federal government

1. Introduction

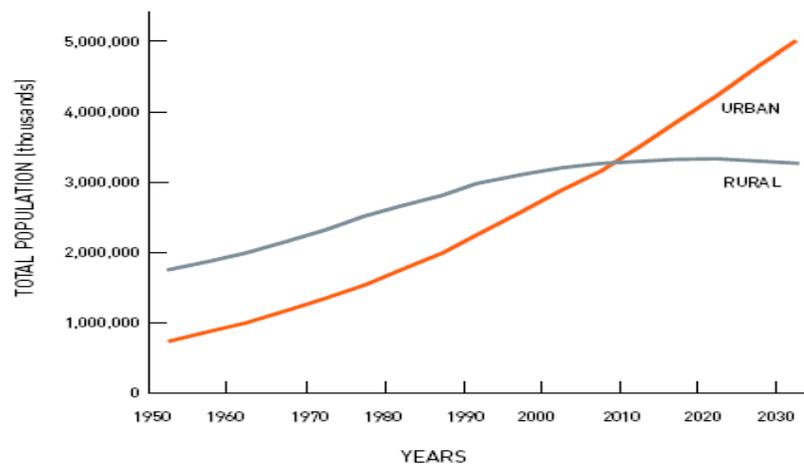
In late 2007, the authors took part in a conference in Ottawa *Facing Forward-Looking Back*, which invited participants to reflect on the progress made with respect to sustainable development in the two decades since the launch of the Brundtland Commission and its subsequent report (1987). In addition to a retrospective analysis, participants were also invited to propose policies and actions that would accelerate progress towards the kind of sustainable future envisioned by the Brundtland Commission. There was general consensus amongst participants that, in the decades since the report's launch, progress has been disappointing and, consequently, we wanted to identify the specific factors that have impeded sustainable development in Canadian cities as well as suggest areas of continued research that could help to produce more sustainable urban growth over the next two decades and beyond. Our focus is on the federal government of Canada and not the provincial level of government. It was the government of Canada that committed the nation to endorse and implement the principles outlined in Agenda 21 and, to our knowledge, there has been little written specifically about its role.

While the paper focuses on the Canadian context, we believe its findings are relevant to many Commonwealth countries, especially those with federal systems. Our analysis identifies a number of road blocks, missed opportunities and mistakes that have limited progress, and many of these are traced back to the failure of national government to provide adequate support to local governments, as advocated by Brundtland and subsequent

international initiatives such as ‘Local Agenda 21’ and the International Council for Local Environmental Initiatives (ICLEI). As well as offering an analysis of the federal government’s role in Canada, the paper provides an overview of these initiatives and the potential they provide for more sustainable urban growth.

If sustainability is defined as ‘living within the Earth’s limits’ then it could be argued that the term ‘sustainable cities’ is an oxymoron. As models of human settlement, cities can be inherently unsustainable black holes of consumption and waste production, with an ecological footprint that far surpasses their geographic parameters. In Canada and around the globe, human settlement patterns are following a powerful trend: for the first time in history those who live in urban centres outnumber rural dwellers. Urban living is now becoming the norm for human habitation with this trend forecast to continue (Fig 1.1).

FIGURE 1.1 **World population growth 1950-2020**



Source: www.humansecurity-cities.org

When the Brundtland report *Our Common Future* was written, a little over twenty years ago, the effects caused by what it termed ‘the urban revolution’ were very apparent: “[t]he future will be predominantly urban, and the most immediate environmental concerns of most people will be urban ones” (Brundtland Commission 1987:9.61). Urban regions were already seen as the locus of rapid population and economic growth that was responsible for generating increasing levels of air and water pollution spread far beyond their geographic

boundaries. Agricultural land was being converted to suburbia, transformed in order to accommodate the housing needs of city workers. With increased demands on the highways and roads from commuting citizens and growth in commercial traffic, snarled transportation systems contributed to increased levels of greenhouse gases and diminished air quality. Solid waste was being transported to neighbouring communities whose land was transformed into 'urban dumps' – landfills that became toxic sources polluting groundwater and the air. Urban regions were consuming ever-increasing quantities of fossil fuels, particularly in order to support transportation and energy generation.

While Brundtland¹ was able to put sustainable development on the political map – championing the idea of a collective or shared search for a sustainable development path based on multilateralism and the interdependence of nations – its messages were delivered in broad principles rather than specifics. As the authors admitted: “We do not offer a detailed blueprint for action, but instead a pathway by which the peoples of the world may enlarge their spheres of cooperation” (ibid., Intro (4)). However, the Brundtland report was a catalyst that launched a wide range of further international initiatives that called for actions beyond the endorsement of broad principles, including the 1992 UN ‘Earth Summit’ – the Conference on Environment and Development – held in Rio de Janeiro. The Conference launched the Framework Convention on Climate Change, which led to the subsequent Kyoto Protocol on Climate Change. The Rio Summit also created an agenda for the 21st Century that was endorsed by 179 nations. ‘Agenda 21’ was the UN’s blueprint for global transformation that would put nations on the path towards sustainable development, focussing on explicit courses of action needed to cut emissions, limit environmental degradation and transform societies in pursuit of more sustainable development. As well, the International Council for Local Environmental Initiatives (ICLEI), launched in 1990 at the *World Congress of Local Governments for a Sustainable Future*, focused on the role of local governments in taking action at the municipal level, including the reduction of greenhouse gases and the mitigation of environmental damage that was leading to climate change.

It was through initiatives such as these, rather than Brundtland *per se*, that concrete actions

¹ In this paper, “Brundtland” will be used interchangeably to refer both to the Commission established by the UN as well as the report that was published.

from nation states were sought to move towards more sustainable cities. These initiatives also recognized that neighbourhoods and citizens would need to play a more active role in developing 'resilient' communities through participation and engagement. In this paper we examine what expectations were established in the international community with respect to making cities more sustainable (the intention) and what actions were and were not taken in Canada as a result (the reality). Finally, we look at the implications for local government and propose some areas where more work needs to be done (the future).

2. The Intention

Brundtland: a promising start

Brundtland was given the mandate by the UN to find practical ways of addressing the environmental and developmental problems of the world, focusing on three key objectives: 1) examining the critical environmental and development issues and formulating realistic proposals for dealing with them; 2) identifying and proposing new forms of international co-operation on these issues that would influence policies and events in the direction of needed changes; and 3) raising the levels of understanding and commitment to action of individuals, voluntary organisations, businesses, institutes, and governments.

In its proposals to address the environmental and developmental challenges found in "the natural evolution of the network of settlements," Brundtland outlined five general lessons learned about spatial strategies for urban development (Brundtland Commission 1987, 9.25). However, the report was cautious about imposing a standardized approach:

Urban development cannot be based on standardized models, imported or indigenous. Development possibilities are particular to each city and must be assessed with the context of its own region. What works in one city may be totally inappropriate in another (Brundtland Commission 1987, 9.36).

However, Brundtland did call for efforts to strengthen the capacity of local governments to deal with the forces of development:

...Local governments have not been given the political power, decision-making capacity, and access to revenues needed to carry out their functions. This leads to frustration, to continuing criticism of local governments for insufficient and ineffective services, and to a downward spiral of weakness feeding on frustration ... To become key

agents of development, city governments need enhanced political, institutional, and financial capacity, notably access to more of the wealth generated in the city. Only in this way can cities adapt and deploy some of the vast array of tools available to address urban problems ...” (Brundtland Commission 1987, 9.36, 9.39).

In addition to calling for a greater empowerment of local governments, Brundtland recognized that national governments had a role in developing “an explicit national settlements strategy and policies within which innovative and effective local solutions to urban problems can evolve and flourish”(Brundtland Commission 1987, 9.31). While acknowledging that governments usually have some form of “implied urban strategy” – described as “implicit in a range of macroeconomic, fiscal, budget energy and agricultural policies” – Brundtland observed that these policies tended to be reactive rather than proactive, often conflicting with each other. Brundtland called for the development of “a national urban strategy [in order to] provide an explicit set of goals and priorities for the development of a nation’s urban system and the large, intermediate, and small centres within it” (Brundtland Commission 1987, 9.31). Brundtland also cautioned that “such a strategy must go beyond physical or spatial planning, [and that] it requires that governments take a much broader view of urban policy than has been traditional” (Brundtland Commission 1987, 9.31).

Agenda 21

Shortly after Brundtland, the Rio Summit in 1992 created an agenda for sustainable development for the 21st Century. Agenda 21 was created as the UN’s blueprint for global transformation, a plan to put nations on the path towards sustainable development. Going beyond the broad concepts presented in the Brundtland Report, it introduced detailed expectations of what was involved, “address[ing] the pressing problems of today and also aim[ing] at preparing the world for the challenges of the next century” (Agenda 21 1992, 1.3). While the stark economic and social disparities between ‘have’ and ‘have not’ nations was a common theme in its developmental and environmental objectives (à la Brundtland), Agenda 21 pointed out that industrialized countries and those in the developing world both faced environmental challenges, although from different perspectives.

The consumption patterns of cities in industrialized countries were severely stressing the global ecosystem, whereas settlements in the developing world needed more raw material, energy, and economic development simply to overcome basic economic and social problems. Accordingly, Agenda 21 called on *all countries* to identify the environmental implications of

urban development and to address these in an 'integrated fashion'.

Agenda 21's comprehensive plan of action to create 'sustainable societies' was multi-tiered – international, national and local – and covered a broad range of issues, from combating poverty and changing consumption patterns to combating deforestation and managing fragile ecosystems. The basis for action, objectives, activities and means of implementation for each of these areas included social and economic dimensions, the required conservation and management of resources for development, as well as the steps needed to strengthen the role of major groups. All these actions were to take place within the construct of a 'new global partnership.'

...[The] integration of environment and development concerns and greater attention to them will lead to the fulfilment of basic needs, improved living standards for all, better protected and managed ecosystems and a safer, more prosperous future. No nation can achieve this on its own; but together we can - in a global partnership for sustainable development (Agenda 21 1992, 1.1).

While Agenda 21 reflected "a global consensus and political commitment at the highest level on development and environment cooperation," (Agenda 21 1992, 1.3) it recognized that successful implementation was "first and foremost the responsibility of Governments." (Agenda 21 1992, 1.3). As a global contract meant to bind governments around the world to make fundamental changes to follow sustainable development paths, it depended on the signatories to follow through with the required actions to put in place "national strategies, plans, policies and processes." (Agenda 21 1992, 1.3)

Agenda 21 recognized the significant role played by local authorities in making sustainable development happen. National plans, strategies and processes relied on both the willingness and the capacity of local governments to implement them:

Because so many of the problems and solutions being addressed by Agenda 21 have their roots in local activities, the participation and cooperation of local authorities will be a determining factor in fulfilling its objectives. Local authorities construct, operate and maintain economic, social and environmental infrastructure, oversee planning processes, establish local environmental policies and regulations, and assist in implementing national and subnational environmental policies. *As the level of governance closest to the people, they play a vital role in educating, mobilizing and responding to the public to promote sustainable development ...*Each local authority

should enter into a dialogue with its citizens, local organizations, and private enterprises and adopt a local Agenda 21 (Agenda 21 1992, 28.1-28.3, emphasis added).

All cities were asked to “develop and strengthen programmes aimed at ...guiding their development along a sustainable path” (Agenda 21 1992, 7.20). The steps needed to follow a sustainable path at the local level were outlined in the chapter “Promoting Sustainable Human Settlement Development” (Agenda 21 1992, 7). The human settlement objective called for improvement “to the social, economic and environmental quality of human settlements and the living and working environments of all people, in particular the urban and rural poor” (ibid., 7.4). It recommended improvements based on “technical cooperation activities, partnerships among the public, private and community sectors and participation in the decision-making process by community groups and special interest groups ...” (Agenda 21 1992, 7.4).

The specific areas to be addressed in promoting sustainable human settlement development included a number of infrastructure-related issues: the provision of adequate shelter; sustainable land-use planning and management; integrated provision of environmental infrastructure (water, sanitation, drainage and solid-waste management); sustainable energy and transport systems; sustainable construction industry activities; and human resource development and capacity-building for human settlement development.

Towards the aim of making improvements in urban areas, Agenda 21 called on all countries to improve the management of human settlement by “adopting and applying urban management guidelines in the areas of land management, urban environmental management, infrastructure management and municipal finance and administration” (Agenda 21 1992, 7.16a). All countries were encouraged to “adopt innovative city planning strategies to address environmental and social issues ... developing local strategies for improving the quality of life and the environment, integrating decisions on land use and land management, investing in the public and private sectors and mobilizing human and material resources, thereby promoting employment generation that is environmentally sound and protective of human health” (Agenda 21 1992, 7.16d).

The steps required to promote sustainable human settlement development were a significant

challenge for local governments. Accordingly, Agenda 21 called on all countries to “*strengthen the capacities of their local governing bodies* to deal more effectively with the broad range of developmental and environmental challenges associated with rapid and sound urban growth through comprehensive approaches to planning that recognize the individual needs of cities and are based on ecologically sound urban design practices” (Agenda 21 1992, 7.20c, emphasis added).

In addition, countries were asked to assess the environmental suitability of infrastructure in human settlements and to “develop national goals for sustainable management of waste, and implement environmentally sound technology to ensure that the environment, human health and quality of life are protected” (Agenda 21 1992, 7.39). Towards this aim:

...Settlement infrastructure and environmental programmes designed to promote an integrated human settlements approach to the planning, development, maintenance and management of environmental infrastructure (water supply, sanitation, drainage, solid-waste management) should be strengthened with the assistance of bilateral and multilateral agencies (Agenda 21 1992, 7.39).

Agenda 21 acknowledged that each country’s ability to make the necessary changes was “determined to a large extent by the capacity of its people and its institutions as well as by its ecological and geographical conditions” (Agenda 21 1992, 37.1). Therefore, the need for capacity building featured prominently as the underpinning of efforts to make sustainable development happen:

... Capacity building encompasses the country's human, scientific, technological, organizational, institutional and resource capabilities. A fundamental goal of capacity-building is to enhance the ability to evaluate and address the crucial questions related to policy choices and modes of implementation among development options, based on an understanding of environmental potentials and limits and of needs as perceived by the people of the country concerned. As a result, the need to strengthen national capacities is shared by all countries (Agenda 21 1992, 37.1).

As a signatory to Agenda 21, Canada had committed to implementing national policies that were needed to support sustainable development. It was expected “to complete, as soon as practicable, if possible by 1994, a review of capacity- and capability-building requirements for devising national sustainable development strategies, including those for generating and implementing its own Agenda 21 action programme” (Agenda 21 1992, 37.4). As will be

evident in the next section, while the federal government provided some funding for environmental issues there was a noticeable absence of an overall policy framework to guide it.

3. The Canadian Reality

The top-down approach: business as usual

Many of the issues dealing with the implementation of activities in support of sustainable development touch on the responsibilities of local governments, which in Canada fall under provincial/territorial jurisdiction. As Richard and Susan Tindal point out, making a community sustainable involves a significant change management process to reduce the community's impact on the bioregion, "shrinking the size of [its] ecological footprint" (2004, p. 81). Towards this aim, the national government needed to "deploy a host of policy instruments and fiscal incentives to embed ecological factors into the decision making processes of citizens and governments" (Tindal and Tindal 2004, p. 81).

Agenda 21 called for action in several areas of responsibility that are specific to local government and to certain sectors of business (such as manufacturing) that have a significant impact on the environment. These responsibilities include: promoting sustainable human settlement development; integrating environment and development in decision-making; integrating the planning and management of land resources; protecting the quality and supply of freshwater resources (applying integrated approaches to the development, management and use of water resources); promoting environmentally sound management of solid wastes and sewage-related issues; protecting the atmosphere; strengthening the role of non-governmental organizations (partners for sustainable development); and strengthening the role of business and industry.

To achieve improvements in all of these areas, the federal government needed to create appropriate policy instruments as well as the right financial incentives. When Agenda 21 was signed in June 1992, however, the fiscal capacity of the federal government was under severe pressure and, as the Canadian economy slid into a recession, the federal deficit started to balloon out of control.

Following the election of the Liberals in 1993, the immediate focus of the government was to stimulate the economy. The Federation of Canadian Municipalities (FCM) had lobbied diligently for federal government funding for municipal infrastructure and the Liberals added this to their election platform. They delivered on the commitment shortly after they assumed power. In 1994: a total of \$2 billion in new federal spending (increased by another \$400M in 1997) was allocated to the provinces and territories as contributions to help ‘modernize’ municipal infrastructure.² The federal government shared (usually one-third) the cost of infrastructure projects that created jobs in the construction sector. The principal driver for investments in municipal infrastructure, however, was founded on Keynesian economics – stimulating the economy in communities across the country - rather than focussing on investments needed to support Agenda 21.

As noted above, Agenda 21 recognized the importance of local governments in building sustainable societies and called on all countries to strengthen the capacities of their local governing bodies to deal more effectively with the broad range of developmental and environmental challenges. While the Canadian government made a commitment in the Speech from the Throne³ in 1994 to “promote sustainable development as an integral component of decision making at all levels of our society,” this was largely rhetoric: it emerged that sustainable development was not really a priority issue for the federal government. By the end of 1994, it began to initiate several expenditure reductions resulting from its Program Review to address the \$40+ billion deficit. As the Minister of Finance admitted in his Budget Speech, the red ink had to be staunch: it was “crucial that government get its own house in order” (Canada Budget Speech 1995, p. 7). Major budget reductions severely curbed Canada’s capacity to meet its domestic and international commitments, including those related to the implementation of sustainable development.

As Gilles Paquet and Robert Shepherd note in their critique of the federal government’s belt-tightening exercise: “What was originally envisaged as a rethinking and reforming of the role of the state within Canada’s governance system and the role of the federal government

² The Canada Infrastructure Works Program (CIWP) consisted of two phases of funding over five years.

³ Traditionally read out by the Governor General, the Speech from the Throne is prepared by the newly elected federal government and sets out its main priorities for the coming parliamentary term.

within it was already dwarfed by the end of 1994 to an exercise of federal expenditure reduction, and by the end of 1995 to an efficiency-seeking exercise” (1996, p. 32).

In the mid 1990’s, the federal government launched its Foreign Policy Review – *Canada in the World* – that called for the promotion of such ‘Canadian values’ as “respect for democracy, the rule of law, human rights and the environment” (1995, s.2). The new foreign policy trumpeted the need to export or ‘project’ these values abroad as a means of achieving “prosperity within Canada and ... the protection of global security” (Foreign Affairs 1995, s.5). The federal government presented sustainable development as “a global concern ...[to which] Canada is committed [including] its interdependent objectives: protecting the environment, social development and economic well-being.” (Foreign Affairs 1995, s. 5). Sustainable development was touted as “a *central component of the Canadian value system* ...a matter of both common security and good economics” (ibid., emphasis added). As part of its effort to ‘brand’ Canada through its new foreign policy, the federal government marketed sustainable development not as a goal, but as distinctly *Canadian* value.⁴

However, while the federal government was making pronouncements that sustainable development was “a central component of the Canadian value system,” new capital spending was anathema to the ‘small is better government’ mantra. The commitment to sustainable development thus appeared to be an expression without substance – a promise bereft of required policy and funding. The ‘Canadian values’ portrayed in *Canada in the World* were more simulacrum than reality.

‘Sustainable development’ was not part of the federal government’s vocabulary in either its domestic policy or fiscal frameworks during the 1990s. The 1995-1999 budgets tabled in Parliament made no reference to ‘sustainable development.’ References to the environment involved support for businesses involved in creating environmental technologies through government programs such as Technology Partnership Canada. Even the rationale for the creation of a new foundation – the Canada Foundation for Innovation (CFI), which had an initial contribution of \$800 million – was focused on the need to support economic growth. CFI would support the efforts of post-secondary institutions and research hospitals in

⁴ The phenomenon of nation states ‘branding’ themselves is explored by Peter van Ham in his paper, “The Rise of the Brand State – The Postmodern Politics of Image and Reputation.”

modernizing research infrastructure (Canada Budget Speech 1997, p. 15). CFI's activities focused on health, the environment, science and engineering, but there was no mention of how these activities would address sustainable development. In the words of the Minister of Finance, the future was all about growing the economy:

The Canada Foundation for Innovation is about looking forward. It is about our children. It is about education. In short, it is about investing in the future growth of our economy, making a down payment today for much greater reward tomorrow (Canada Budget Speech 1997, p. 16).

The federal government's agenda with respect to the environment changed significantly as a result of a wave of international pressure to address Climate Change. The Kyoto Protocol on Climate Change required industrialized countries to reduce their collective emissions of greenhouse gases.⁵ In the 1999 Speech from the Throne, the federal government committed to "place greater emphasis on sustainable development in government decision making" (Canada Speech from the Throne 1999, s.6).

With the federal deficit eliminated, the purse strings were loosened in Budget 2000. In the Minister of Finance's speech to the House of Commons, he included nineteen references to the environment. He made the commitment that: "protecting the environment is not an option – it is something that we simply must do. It is a fundamental value – beyond debate, beyond discussion" (Canada Budget Speech 2000, p. 13). The federal government's newfound interest and concern for the environment heralded a big spending spree.

Support for climate change saw the federal government commit \$210 million over three years for the Climate Change Action Fund (CCAF) and other federal energy efficiency and renewable energy programs. As well, \$60 million (subsequently increased by another \$50 million in 2003) was used to create the Canadian Foundation for Climate and Atmospheric Sciences (CFCAS), which became the main funding body for university-based research on climate, atmospheric and related oceanic work in Canada.⁶

⁵ Under the Kyoto Protocol, Canada agreed to reduce annual emissions over the period 2008-2012 to a level 6 percent below actual emissions in 1990. As the Minister of the Environment Stéphane Dion admitted in 2005, however: "Canada is indeed far behind but Canada is not giving up." (Dion 2005).

⁶ Established as an autonomous foundation, the Canadian Foundation for Climate and Atmospheric Sciences is "a network of institutes which will link researchers from across the country in order, for

The Federation of Municipalities as well as La Coalition pour le renouvellement des infrastructures du Québec had again lobbied successfully for more funding from the federal government for municipal infrastructure. Budget 2000 committed over \$2 billion to “strengthen the basic physical infrastructure which underpins so much of the economic activity of both rural and urban Canada” (Canada Budget Speech 2000, p. 16). Unlike the earlier Canada Infrastructure Works Program, however, there was now a call for a new focus on ‘green infrastructure.’⁷ Program funding would result in the “enhancement of the quality of the environment, support long-term economic growth, improve community infrastructure, increase innovation and use of new approaches and best practices [and make] more efficient use of existing infrastructure.”⁸ With regards to the latter, \$12.5 million in funding from the program was directed to create the *National Guide to Sustainable Municipal Infrastructure: Innovations and Best Practices*, involving a partnership between the federal government and the Federation of Canadian Municipalities. This unique initiative represented a step towards the community capacity building called for by Agenda 21, although the federal government’s rationale for committing the funding made no reference to that proposal. The project ran until 2006 when a request for further funding from the federal government was denied by the Harper Conservatives.

The federal government also committed \$600 million from Budget 2000 for improvements to provincial highways. The objective of the new program – the Strategic Highways Infrastructure Program (SHIP) – was to “improve the quality of life of Canadians by promoting safer and more environmentally sustainable transportation ... [and] make the Canadian surface transportation system more reliable, efficient, competitive, integrated, and sustainable” (Transport Canada 2007). Transport Canada defined ‘sustainable transportation’ as: “ ...one that is safe, efficient and environmentally friendly ... a transportation system that respects the natural environment” (2009). However, beyond the broad principle that

instance, to further our understanding of the impact of climate change and air pollution on human health.” (Canada Budget Speech, 2000).

⁷ While Budget 2000 provided the funding there was no clear definition as to what ‘green’ meant at the time. The policy, as such, came later. The Infrastructure Canada Program that flowed the funds eventually used the definition that ‘green municipal infrastructure’ would apply to those projects that “improve the quality of our environment and contribute to our national goals of clean air and water.”

⁸ Program details are available at <http://www.infrastructure.gc.ca/icp/>

“governments, industry and individuals must work together to integrate economic, social and environmental considerations into decisions affecting transportation activity” (2009), Transport Canada does not have a policy framework to explain what this means nor has it explained how miles of new asphalt could be ‘environmentally friendly’. This is not surprising given the Auditor General’s criticism of the federal government for its failure to have a highway policy and for the practice of committing significant amounts of money to highway projects in a ‘vacuum’ (Auditor General of Canada 1998).

While interest in the environment featured prominently in Budget 2000, the major reason driving this interest was based in economics. As the Minister of Finance observed:

...Those nations which demonstrate how to truly integrate environmental and economic concerns will forge new tools and develop new technologies that others will have to adopt. Tremendous rewards await those nations that get there first, for those which do it best ... Technology is key (Canada Budget Speech 2000, p. 13).

Under Budget 2000, the federal government pursued this theme aggressively, providing an additional \$900 million in funding for the Canada Foundation for Innovation. It identified CFI as “one of the cornerstones of our plan to support the new economy” (*ibid.*, p. 12). As an independent corporation, CFI operates at arm’s length from the government under the guidance of an independent board of directors, much to the chagrin of the Auditor General.⁹ The federal government made further increases to CFI’s operating capital, raising its total funding to \$3.65 billion, which allowed it to expand financial support for the scientific and technological communities (CFI 2005). In Budget 2007, the Harper Government added another \$510 million to CFI.

CFI’s mandate is to fund research infrastructure needed to carry out research that creates “the necessary conditions for sustainable, long-term economic growth—including the creation of spin-off ventures and the commercialization of discoveries” (CFI 2005, p. 4). The CFI recognizes the importance played by research in creating a sustainable environment, providing funding for research in areas such as solid waste, water supply, transport systems,

⁹ The Auditor General has sharply criticised the federal government’s practice of creating and funding entities outside the reach of her oversight. She has raised the issue in several reports (see OAG 2002:ch.1, and OAG 2005b:ch. 4).

renewable energy sources, recycling, rational utilization of energy, protection of soil and groundwater, pollution and protection of the environment, infrastructure and general planning of land-use. These areas of research have a potential significant impact on local governments, although this is not acknowledged in CFI's literature. The opportunity to tie this research to the aims of Brundtland and Agenda 21 would appear to have been lost to the pursuit of economic growth.

The mandate of CFI is clearly focused on building research capacity "to ensure our international competitiveness in those domains in which Canada is, or has the potential to be, the world leader ... [and] translating the knowledge and ideas being generated by the research enterprise into new products and services that will enhance prosperity and our quality of life" (ibid., p. 3). While CFI claims that it has funded infrastructure projects in sixty-two municipalities across Canada that have "contributed to the development of community based technology clusters and to the transfer of new knowledge and ideas to industry" (CFI 2005, p. 3), it remains unclear as to how these results have contributed to sustainable development in Canada and we know of no independent or government-led attempts to measure outcomes in these specific areas. Any such measurement would be difficult to undertake and would, ideally, require non-CFI funded research.

In its 2004-2005 annual report, CFI set an objective to "ensure benefits to Canada (by) promot[ing] networking, collaboration, and multidisciplinary approaches and collaborating with other funding agencies and provincial governments to optimize the impact of research investments, and identify longer-term needs" (CFI 2005, p. 25). As well, CFI intends to "demonstrate the value of investments [by] examin[ing] the impacts of CFI-funded projects in different parts of Canada ... [and to] partner with other funding agencies within the federal and provincial governments to ensure that good and relevant information is being collected in evaluation and outcome assessment of CFI-funded projects" (CFI 2005, p. 25). While CFI's preoccupation with economic prosperity and ensuring that Canada is "internationally competitive in research and innovation" is important, so too is determining how past results have contributed to sustainable development.

In Budget 2000, the federal government created another foundation – Sustainable

Development Technology Canada (SDTC) – to “foster innovation by helping companies develop new technologies and bring them to market in areas such as clean burning coal and new fuel cell developments” (Canada Budget Speech 2000, p. 14). Registered as a not-for-profit, non-share Capital Corporation under the Canada Business Corporations Act, SDTC began operations in November 2001 with an initial funding allocation of \$100 million. SDTC’s mission is “to act as the primary catalyst in building a sustainable development technology infrastructure in Canada ...contribut[ing] measurably to the federal government’s goals for reducing emissions and improving air quality while at the same time fostering technologies that advance the competitive position of Canadian companies in the global marketplace” (SDTC 2004, p. 1).

SDTC bridges the funding gap in the innovation chain for the development of sustainable development technologies, filling the gap that the private equity community has not addressed: “historically, SD technologies were considered to be more capital-intensive with longer development cycles than other technologies” (SDTC 2008a). SDTC applies its funding to support the development of new technologies in several areas: energy exploration, production, transmission and distribution; power generation; energy utilization (industrial, commercial and residential sectors); buildings and processes; transportation; forestry; agriculture; waste management; emission controls and enabling technologies. In 2004, the federal government expanded the Foundation’s mandate to include soil and water technologies and increased its total funding to \$550 million.

To be consistent with its nomenclature, SDTC claims that all projects that are funded support the goals of sustainable development: “ensuring that resources are not consumed faster than they can be replenished, supporting prosperity and growth and respecting the values, culture and human needs of communities” (SDTC 2008b). At the same time, however, SDTC acknowledges in its 2004 Annual Report that its contributions to the development and demonstration of technologies do not have proven but rather “*potential* returns [that] can be measured in terms of environmental, economic and social benefits” (SDTC 2004, p.12, emphasis added).

While an in-depth study of SDTC is beyond the scope of this paper, it would again appear

that the primary focus of its funding is to spur economic growth: “fostering technologies that advance the competitive position of Canadian companies in the global marketplace”(SDTC 2004, p. 1). The federal government’s rationale for creating SDTC is reminiscent of Paul Hawken et al, who champion the idea of “exploring the lucrative opportunities for businesses in an era of approaching environmental limits ... It is about the possibilities that will arise from the birth of a new type of industrialism ... [under which] society will be able to create a vital economy that uses radically less material and energy” (2000, p. 2). These observations closely resemble those made by the Minister of Finance during his Budget Speech in 2000 (cited earlier) when he stated: “[t]remendous rewards await those nations that get there first, for those which do it best ... Technology is key” (Op. cit.).

SDTC promotes its many successes in contributing to the development of new technology: reducing development, market and financial risk; building private sector partnerships and leveraging funding; helping to build a critical mass of sustainable development technology developers; and increasing the pool of available sustainable development technologies. However, it needs to find ways of marketing these technologies and has recognized its shortcomings in this regard. SDTC has set out to “increase the number and rate of uptake of SD technologies into the marketplace across Canada, providing national benefits.” (SDTC 2007, p. 4). While SDTC funded projects could provide positive benefits for local communities in Canada, these benefits could only accrue through their timely diffusion in the market place. One potential means of accomplishing this is through the Green Municipal Fund (GMF), another arms-length financing initiative created by the federal government in 2000.

As noted earlier, in the time leading up to Budget 2000, the Federation of Canadian Municipalities and La Coalition pour le renouvellement des infrastructures du Québec lobbied the federal government for funding to help local communities use innovative technology – ‘green infrastructure’ – that would generate measurable environmental, economic, and social benefits in addressing their environmental challenges. The federal government agreed to provide \$125 million as an endowment to the FCM to encourage local governments to apply new technologies in energy and water savings, urban transit, waste

diversion and renewable energy. The federal government doubled its funding for GMF in 2001 and increased it by another \$300 million in 2005. This arrangement is significant because it involves direct funding by the federal government for the FCM through the establishment of an endowment fund. By becoming involved in the delivery of a federal program, the FCM, a representative association of local governments, may run the risk of compromising its independent platform from which to assess and, if necessary, criticize federal policy.

Whither a national urban strategy?

As long as the federal government continues to pour billions of dollars into various municipal infrastructure programs, it seems remarkable that its approach is devoid of a strategy to support municipal governments in the long-term. While Brundtland called on nations to develop a national urban strategy and Agenda 21 called on all countries to identify the environmental implications of urban development and to address these in an integrated fashion, the federal government's investments in municipalities focus on growth, jobs and economic stimulation in the absence of a strategy for sustainable approaches to growth. It operates with a decades-old National Highway Transportation Policy and there is no national transit strategy. As a report commissioned for the federal government observed:

...The major infrastructure investments in cities are fragmented amongst various departments with little co-ordination ... At present, there are no mechanisms in place to ensure that federal infrastructure investments are not working at cross-purposes with one another, or to systematically make informed decisions based on a comprehensive understanding of the economic and environmental implications of an investment decision (Toronto Star 2004).

The Federation of Canadian Municipalities (FCM), which has lobbied hard for decades for funding assistance from the federal government to deal with the local 'infrastructure deficit', has also concluded that transfer programs are not the answer:

...While ad hoc contributions from the federal government have been useful, they have not provided the long term structural solution needed to address the infrastructure deficit for good (FCM 2006, p. 38).

In the next section of the paper, we consider the implications of the development of a national strategy and what could be done to promote the sustainable agenda by the local and

upper tier governments in Canada.

4. The Future

As the last 20 years have shown, the federal government's rhetoric in support for sustainable development has largely failed to translate into action sufficient to allow the country to achieve the kinds of reforms required by Brundtland and Agenda 21. If Canadian cities are to become more sustainable, a number of issues will need to be addressed. While we cannot pursue each of these in detail, we believe that further research and initiatives in the following areas can help to promote sustainable urban development.

Municipal Revenues

Both Brundtland and Agenda 21 argued that local governments have a significant role in dealing with the forces of growth and in making the changes necessary to implement decision-making that supports sustainable development. Creating access to more of the wealth that is generated to deal with these challenges is a major component of capacity building. However, while Brundtland called for national governments to strengthen the capacity of local governments to deal with the forces of development – enhancing political, institutional, and financial capacity, notably though access to more of the wealth generated in the city – Canada's larger cities continue to be the engines of wealth creation but remain excluded from the significant sources of government revenues that are generated.

As Tindal and Tindal observe: "As long as municipalities must continue to rely on the property tax as their main source of revenue, it is inevitable that they will devote considerable effort to attracting growth and development and this expanding their tax base" (2004:166). Municipal governments are grossly under-funded, which is reflected in their continuing dependency on increasing revenues through sprawl development and relying on servicing this development through road building rather than developing progressive public transportation alternatives. Evidence of deferred maintenance for public assets and resulting decaying infrastructure is found in all Canadian cities. The fiscal revenues shared by municipalities require root and branch reform to reduce dependency on property tax and developer fees. In addition to the regressive nature of property taxes, developer charges do not fully reflect the life-cycle costs of infrastructure, requiring municipalities to assume a liability disproportionate to the contribution calculated in the developer fee.

Until 2009, the federal government enjoyed many years of healthy surpluses (e.g. nearly \$14 billion in 2006-7), in contrast to the fiscal challenges facing the large urban centres of the country¹⁰. Rather than providing transfers to local governments, a structural solution that re-balances the revenues available to them is required. While municipal governments were once able to rely on revenues from personal and corporate income taxes, they suddenly and permanently lost access to them during World War II. Under the Wartime Tax Rental Agreement with the federal government, the provinces – as well as municipal governments – temporarily renounced their rights under the Constitution to collect personal and corporate income taxes and succession duties.

In 1962, the provinces ended the practice of renting out their taxing powers and in 1967 resumed collecting their own taxes (La Forest 1981, pp. 31-32). However, at the end of the tax rental agreements with the federal government, the authority to levy income tax was never reinstated for municipal governments. As Kitchen observed, “[s]ince the signing of the first agreement, no municipality in Canada has levied a municipal income tax... [i]n indeed, current provincial legislation states that local governments *cannot* implement a municipal income tax” (1982, p. 781).

The federal government has the opportunity to make a lasting solution to address the ‘vertical imbalance’ in the fiscal framework. There is clearly a need for a permanent injection of capital that grows with the economy, particularly for cities and city-regions. Rather than continuing temporary ‘revenue transfers,’ the federal government could offer a transfer of tax points¹¹ as a percentage of income tax to those municipalities identified in provincial legislation as bone fide recipients of this revenue. With provincial consent, municipal governments could ‘piggyback’ the administration of municipal income taxes onto

¹⁰ According to the FCM, the ‘infrastructure gap’ is estimated to be \$123bn and the share of total tax revenues taken by municipalities is only 8% compared to 42% raised by provincial governments and 50% raised by the Federal Government.

¹¹ A tax point has been used as a permanent transfer of income taxing capacity from the federal government to the provincial governments. The federal government reduces its basic tax rate by a specific percentage and the provinces increase theirs by an equivalent amount, thereby leaving total federal and provincial tax unaffected. Tax points can be applied to personal income tax (PIT) or to corporate income tax (CIT).

the existing provincial income tax system¹².

While advocating the restoration of municipal income tax, however, we are not calling for a pan-Canadian, universal approach. As Slack, Bourne and Gertler have argued:

It is not appropriate to give more taxing authority to all municipal jurisdictions in the province. Large cities and city-regions are best suited to take advantage of new taxing authority; smaller cities are unlikely to be able to raise sufficient revenues from some of these sources to make the effort worthwhile” (2003, p. 42, emphasis added).

Land use

Since Confederation, Canada has grown by giving away land for settlement. Land was viewed as a cheap commodity to entice immigrants to the country, particularly in opening up the west to development. Canada’s huge land mass has contributed to the myth-like sense that land is and always will be plentiful. As Jennifer Reid notes, “[t]he task of constructing identity is ... given form within any people’s mythology; for myths are those articulations that express how any particular reality has come into being” (Mircea Eliade 1963, cited in Reid 1997, p. 3). The development of the country continues to be served by the myth that ‘high density living’ is both unnecessary and counter cultural.

Canadians have been slow to change their attitude and behaviour in this regard. Like most developed countries, Canada’s economy is based on continued accumulation and expansion, but it is facing specific challenges and barriers. As Canadian cities become urban centres and then urban regions, their ecological footprints continue to expand significantly. The Calgary Foundation reported recently in its first Vital Signs report card that this is particularly evident in cities such as Calgary:

Calgary’s ecological footprint is one of the world’s largest being unsustainable at 9.86 hectares per person – if people around the world had our ecological footprint, it would take five earth-sized planets to sustain us all (Calgary Foundation 2007).

In spite of some notable provincial efforts to contain sprawl¹³, land use planning in Canada continues to be based on the model of market driven peripheral growth, although this form of

¹² Income taxes could also be used in conjunction with revenues from sales taxation and user fees for services such as water and garbage collection.

destructive development can be curbed through financial disincentives (realistic pricing) placed on greenfield development beyond the urban boundary. When municipal revenues are no longer dependent upon opening up green space for development (reducing what Pierre Filion refers to as “fiscal dependence on growth” and the “attentiveness” of municipal politicians and officials to requests from developers) incentives can be shifted to higher density development (Filion 2002, cited in Bradford 2004, p.76). Incentives for reclaiming brownfield sites would also reinforce these trends.

Do we really need to move people?

Despite the forecasts made about the impact of the knowledge based economy and its influence in contributing to the “death of distance” as described by Frances Cairncross (1997) reference needed, our cities remain locked in promoting an elaborate system of transportation infrastructure that moves people – some over fairly large distances – from home to work. This model is based on an approach from the late 19th and 20th centuries that saw the development of streetcar systems, buses, subways, light rail and – predominantly – the construction of roads and highways. In addition to being choked with single-occupancy vehicles, the latter are also being burdened by commercial traffic. The cost to build and operate the infrastructure related to moving people is unsustainable. The amount of energy consumed in moving people is staggering. As GreenApple Canada recently reported: “Greenhouse gas emissions from transport are growing faster than any other sector and may have pushed Kyoto targets out of reach for many cities” (2007, p. iii).

While not all sectors of the economy can operate without having workers in conventional work places (the hospitality and service industry, retail, and emergency services to name a few) there are potential opportunities for employers to allow ‘knowledge employees’ to telework, thereby reducing the need for commuting and for contributing to congestion in the transportation system. However, telework need not be limited to working at home. There are opportunities for municipalities to work in partnership with the private sector that would allow employees to work closer to home in community owned and operated facilities – such

¹³ For example, the Ontario Government’s ‘Places to Grow’ Act (2005) and the Greenbelt Act (2005); development charges levied on a development by development basis as in municipalities in BC and parts of Ontario (e.g. Markham).

as libraries – that are equipped as ‘information portals’. Through leasing arrangements, it would be possible for municipal governments to develop combined library and community recreation facilities which offer space on site to allow employees to access teleconferencing and other on line services. In spite of the existence of the necessary technology, the scope to reduce the need to move people has not been fully exploited.

In Ottawa, the federal government has recently begun to locate some of its departments and offices in different parts of the city. As the city’s major employer, it is expected this policy will reduce the pressure on the downtown and save money on rental space as well. This initiative makes economic and environmental sense and, in many cases, the private sector could follow this example, further incentivised by lower rents and perhaps lower property taxes on businesses, although this would increase the need for alternative forms of municipal funding as discussed earlier.

Strategic infrastructure use

Too often local ‘parochial’ interests dominate urban planning instead of focusing on the broader needs of the city. Municipal amalgamation appears to have increased these tensions by combining rural and urban wards. Rural voters are often reluctant to see their taxes go to urban capital projects such as light rail transit. With the exception of Vancouver, where councillors are elected citywide, metropolitan councillors in Canada are elected by ward and, as a result, tend to focus on ward-specific rather than citywide issues and interests.

The tendency for ‘log rolling’ behaviour among municipal politicians, whereby votes are exchanged in return for political favour or support for specific projects, can also undermine the development of solutions that would better suit broader public interest in spending public money more prudently and strategically. Rather than capital accumulation, whereby municipal services are expanded through the development of more public assets, there may be opportunities to explore solutions that offer multiple purposes and benefits. For example, as mentioned above, the development of mixed-use facilities that combine a public need (libraries) with a business need (portal services for teleworking) offer new ways of achieving multiple goals. Other examples include the development of public spaces (libraries,

recreation and community centres) within buildings that offer both commercial and residential space, thereby achieving a higher density for public infrastructure.

Reporting Progress

In spite of some progress, comprehensive measures and reporting of urban sustainable development have not been established on a Canada-wide basis. Rather, measures of effectiveness remain firmly entrenched with the bottom line. As a consequence, progress is not transparent to the public. It is also impossible for politicians to be held accountable for the performance of their cities with respect of sustainable development. The application of cost benefit analysis, which includes full environmental impacts and costs, is not well developed in Canada.

The application of standard reporting measures would be a welcome addition. The recent GreenApple Canada report awarded Ottawa-Gatineau a 'B' grade, lauding the City of Ottawa's 2020 Official Plan and planning undertaken in support of the estimated population increase. Unfortunately, the good grade ignores the subsequently elected council's short-term thinking that undermines Ottawa 2020 and the demise of a light rail transit project.¹⁴ There is an urgent need to develop measures that are founded on credible evidence and allow comparisons to be made between cities (Portland, 2003, *c.f.*, ch. 2).

Governance

As cities morph into city regions governance becomes increasingly difficult to coordinate. No single level of government appears to have adequate powers to provide integrated thinking on issues such as transportation and pollution prevention. While there are valid concerns about 'multiple-tier' governance and the risk of confused accountability (from the taxpayers' perspective), there needs to be a broader discussion about the governance of urban regions to ensure that decision making better incorporates the principles of sustainable development. For example, the loss of agricultural lands adjacent to urban centres as a result of creeping exo-urban settlements (suburbia) can only be arrested through a broad form of

¹⁴ See for example, Stoney and Hilton (2007) 'Ottawa's LRT System: Dreams, Delusions and Deceptions', *Revue Gouvernance*, June 2007 Spring 2007, Vol.4, Issue 1, pp. 2-22, [Hhttp://www.revuegouvernance.ca/index.php](http://www.revuegouvernance.ca/index.php)

governance that sees beyond municipal boundaries and incorporates a regional perspective. While Toronto and Vancouver, notably, have experimented with regional government it is still the exception rather than the norm in Canadian cities¹⁵.

Public Engagement

Agenda 21 observed that, as the level of governance closest to the people, local governments play a vital role in educating, mobilizing and responding to the public to promote sustainable development. Accordingly, it called for each local authority to enter into a dialogue with its citizens, local organizations, and private enterprises and adopt a local Agenda 21. In spite of some municipal experimentation, however, governance in Canada remains top down with little emphasis on public participation and neighbourhood planning (Harcourt *et al* 2007, Milroy, 2002, Hamel 2002). While many Canadians are genuinely committed to making their cities more sustainable, there is little scope for community priorities to be expressed or to influence the traditional model of market driven growth. Infrastructure Canada is currently funding research into neighbourhood planning and community engagement at the municipal level, and with the ‘gas tax’ transfers from federal to local governments for major infrastructure investment facilitating increased local discretion, now may be an ideal time for the federal government to promote and facilitate local participation in place-based decision-making (Bradford 2004, 2004a).

5. Conclusion

In this paper we have examined the expectations that were established in the international community with respect to making cities more sustainable, what actions were taken in Canada as a result, and some areas where more work needs to be done if urban sustainability is to be seriously pursued. Overall, we conclude that many of the actions that were needed to make our cities more sustainable have either not been taken or were not well executed. As Johanne Gélinas, Canada’s former Commissioner of the Environment and Sustainable Development, stated in her Office of the Auditor General of Canada (OAG) status report to the House of Commons in 2005: “...the government continues to talk a good line about

¹⁵ We have recently written a conference paper examining Metrolinx in Toronto and Translink in Vancouver: ‘Canada’s City Regions’ Time to Rethink Local Governance’. A draft can be found at <https://conference.cbs.dk/index.php/irspm/irspm2009/paper/view/256/146>

sustainable development and sometimes commits financial resources, but often fails to adequately implement its own commitments” (OAG 2005a, s.6). We feel this statement provides an accurate and succinct summary for Canada, some twenty years after Brundtland.

If this is to change twenty years from now, then many of the reforms we have proposed will need to be implemented. The reforms needed are major and so the political, cultural and economic barriers to change will remain significant. However, other countries have demonstrated that urban sustainability can be vigorously pursued and Brundtland, Agenda 21 and numerous reports since, have provided an excellent blueprint for how to proceed. As Canadians come to appreciate the full consequences of not pursuing urban sustainability, the prospects for meaningful change are enhanced, but the next decade will be crucial. If Canadian cities continue to grow in an unsustainable manner the constraints imposed by existing forms of development or ‘path dependency’ will rule out many options for achieving sustainability in the future.

The top-down approach favoured by Canada’s federal and provincial governments has proved to be unresponsive and largely ineffective in the pursuit of sustainable development in our urban centres. The status quo, as described in the paper, will ensure that Canadian cities continue to develop in line with the traditional North American model based on sprawl and high-energy use. If Canada is to respond effectively to the urban challenges ahead then local government will have a crucial role to play and, as recognised in Brundtland and Agenda 21, this means they must be afforded the power, resources and responsibility to pursue sustainable urban growth.

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A Human Rights Approach To Localising The 'MDGs' Through Gender Equitable Local Development

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1. Introduction

Until now, the United Nations Capital Development Fund's (UNCDF) Gender Equitable Local Development (GELD) programme has not been presented within an explicit human rights framework. This is strange given that the human rights based approach to development (HRBAD) aims to ensure that all human beings can live their lives fully and with dignity. HRBAD is fundamentally about the healthy and full development of individuals and communities. In addition, one of human rights' central concerns is that people have equal access to the benefits of society. Initiatives to realize human rights therefore give priority to

¹ The original version of this paper was prepared by Ann Blyberg of the Institute for International Education, for UNCDF's planned Global Forum on Local Development. It was then revised, extensively in parts, by Ronald McGill (then) of the United Nations Capital Development Fund in New York, supported with specialist human rights inputs, by Verena Lahousen of UNCDF, Ethiopia. The opinions expressed are the aggregation of these authors and do not, at this stage, represent official UNCDF policy. Final editing was completed by Ronald McGill in November 2009. He is now the performance budget adviser to Ethiopia's Ministry of Finance and Economic Development (MoFED).

the most marginalized - the poorest - in a society. It is those individuals who have most difficulty in securing the basics that are essential to living their lives with dignity. Women in all communities are disproportionately represented among the poor. Thus, human rights have gender equity as a central focus. Put another way, we are dealing with the feminization of poverty. We are dealing with the concept of equal access (to development). In short, we are dealing with those who need (and deserve) greater priority in access to infrastructure and supporting services in order to reach a point of equality.

As such, three layers of analysis are required in order to give this paper meaning. First, is an understanding of HRBAD. Second, is the notion of equal access to development; a meaningless concept until standards are applied – suggesting either internationally accepted legally defined norms or a commonly held set of standards; the obvious being the Millennium Development Goals (MDGs). Third, is the concept of equitable interventions in order to bring the poorest sectors of the community to a point of equality; again, to reach the MDGs - the principle underpinning the GELD programme.

This paper is therefore concerned with the principles of HRBAD - their application through the filter of the MDGs, and the challenge of achieving the MDGs at the local level, through local government and public expenditure management (PEM) – the key to GELD.

2. Human Right Based Approach To Development (HRBAD)

Key principles in HRBAD

The international community has developed standards related to a wide range of civil, political, economic, social and cultural rights. These standards, which are legally binding on governments that have ratified the relevant treaties, can, when taken together, provide governments with valuable guidance in developing policies, making choices with regard to allocations and expenditure in a budget, and assessing budgetary impact. At the same time, using a human rights approach to GELD, for example, underscores the fact that governments have legal obligations to realize gender-equitable development. Looking at government a little more closely, two ideas are sacrosanct in HRBAD. The first is that of *standards*; the second, *principles*.

Human rights *standards* refer to the minimum acceptable level of standards for the achievement of a discernible impact – such as universal basic education, access to water and access to social justice; where these impacts are defined, ultimately, in terms of quantifiable targets. Human rights *principles*, such as participation, non-discrimination and accountability, specify conditions for a legitimate and accountable process for achieving those impacts. Hence HRBAD means the simultaneous, gradual achievement of human rights standards through processes that adhere to human rights principles (HRDG, 2009).

The Office of the UN High Commissioner for Human Rights (OHCHR) has said that, from a human rights perspective:

... Poverty can be described as the denial of a person's rights to a range of basic capabilities... one may say that a person living in poverty is one for whom a number of human rights remain unfulfilled – such as the right to food, health, political participation and so on.

Here, there is a mixture between standards or ends (food and health) and processes or means (political participation). It is crucial that this differentiation is kept in mind throughout this text.

Basic capabilities for development

From this 'key principles' perspective, working to ensure that people enjoy the full range of their human rights is, at the same time, working to combat poverty. The OHCHR² has suggested the following as the most common, basic capabilities that poverty undermines:

- being adequately nourished
- being able to earn a livelihood
- avoiding preventable diseases and premature mortality
- having basic education
- being adequately sheltered
- being able to ensure personal security

² OHCHR recognizes that capabilities missing in situations of poverty may vary from country to country and locality to locality, and in any event, should be defined by communities themselves.

- having equitable access to justice
- being able to take part in the life of the community.

By taking the 'standards-processes' argument a little further, we can see that apart from the last bullet above (which is entirely concerned with process), each of the other capabilities has both a process and a standards dimension. Each has to be analysed in terms of both. This is important and needs to be understood a little further in terms of specific 'capabilities', each referring to a human right for development.

In all cases, initiatives to realize people's human rights, through ensuring that they have certain basic capabilities, must be built on a sound understanding of the capabilities they currently lack and the reasons they lack them. Women often lack more and/or different capabilities than do men, or they lack them for different reasons. To address their specific situations, it is necessary to consider the specific obstacles that women face in trying to realize their capabilities. Some examples follow:

Capability	Examples of specific obstacles faced by women in achieving the capability
Being adequately nourished	Custom may dictate that women and girls eat after men and boys, and may consequently go hungry. In addition, water is essential to nourishment, and women often have the task of securing water for the household, which can require long trips to the local water source.
Being able to earn a livelihood	Women are often limited to taking care of the household and any children, thereby being unable to or discouraged from earning an independent livelihood.
Avoiding preventable diseases and premature mortality	One of the principal risks to women is pregnancy and childbirth.
Having basic education	Because of cultural norms, girls may be less likely to attend school than boys. Alternatively, walking long distances to school may put girls at risk in a way that boys do not experience.
Being adequately sheltered	Because of discrimination against women in landholding/owning, as well as inheritance, women's security of tenure is at greater risk than is men's.

Being able to ensure personal security	Women are often subject to sexual assault, including rape. Poor women who are homeless are particularly vulnerable
Having equitable access to justice	The poor have difficulty securing necessary legal services, and poor women typically have the least financial resources. Alternatively, customary dispute resolution systems may discriminate against women.
Being able to take part in the life of the community	Women are often prevented by cultural norms or family responsibilities from participating on an equal basis with men in public discussions.

International human rights law (as well as many national, constitutional provisions) guarantees people these basic capabilities. It also recognizes groups vulnerable to the fulfillment of their basic capabilities. Women face particular, and often very difficult, obstacles to achieving their basic capabilities. This recognition is reflected in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). CEDAW does not create specific substantive rights guarantees but builds on existing international human rights guarantees. It is a non-discrimination treaty, providing useful detail on how to advance women's equality in the process of guaranteeing the rights detailed in other human rights treaties.

Obligation to fulfill: government's minimum core obligations towards GELD

With respect to GELD, economic, social and cultural (ESC) rights are the core rights or standards to be achieved. They also reflect guaranteeing the basic capabilities discussed above to overcome poverty. The application and implications of these rights need to be brought down to the local level.

The International Covenant on Economic, Social and Cultural Rights (ICESCR)³ is the lead framework, from which governments have three obligations:

- The obligation to protect – preventing violence and other HR violations (e.g. safe access to school for children)

³ The International Covenant on Economic, Social and Cultural Rights (ICESCR) is the principal international human rights treaty that addresses rights in the economic, social and cultural spheres. The body established to oversee implementation of the treaty is the Committee on Economic, Social and Cultural Rights (CESCR).

- The obligation to respect – abstaining from interfering within the guaranteed rights and freedoms (e.g. freedom of information; freedom to own property)
- The obligation to fulfill – intervening to provide basic infrastructure and services to support economic and social development.

In particular, the obligation to fulfill is spelled out in article 2(1) of ICESCR:

Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the *maximum of its available resources*, with a view to *achieving progressively* the full realization of the rights recognized in the present Covenant by all appropriate means, *including particularly the adoption of legislative measures*.

The italicised phrases are of particular importance. '*Maximum of its available resources*': this obligation means that governments must prioritize human rights when they make decisions on the allocation of resources. Moreover, even when a government's resources are very limited, it has an obligation to use those resources in a way that will have the maximum impact on the enjoyment of human rights, for example through performance budgeting.

'*Achieving progressively*': governments not only have the obligation to move consistently from year to year to expand the enjoyment of ESC rights, but they must not take any backward steps ('retrogression'). Adequate government statistics are relevant to this obligation, as they can be essential to determining the extent to which rights are being realized over time. To determine, for example, whether girl-child enrolment in primary school is increasing over time, it is essential to have sex-disaggregated data on primary school enrolment over the same period.

'*Adoption of legislative measures*': even when government resources are limited, the government must demonstrate its seriousness with regard to human rights through adopting appropriate laws, policies and plans. Looking at such obligations from a basic or minimalist perspective, for example to track progress in localizing the MDGs, suggests a requirement in international law.

International human rights law reflects the understanding that it is not possible for governments to realize their people's rights in a short time frame. One of the principal constraints, of course, is budgetary. Even when there is the political will, there may simply be too few financial resources in a country to fully realize the whole range of human rights. The UN body charged with overseeing implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Committee on Economic, Social and Cultural Rights (CESCR), has stated clearly that despite these inevitable limitations, there are certain fundamental things that all governments, regardless of resources, must do. These are called a government's 'minimum core obligations'. They are often spelled out in the General Comments produced by the CESCR about a particular right. Here are three examples:

The right to education: (General Comments 11 and 13)

- Guarantee access to public educational institutions and programmes on a non-discriminatory basis
- Ensure that education conforms to the objectives set out in article 13 (1) of the ICESCR
- Guarantee compulsory and free primary education for all
- Adopt and implement a national educational strategy
- Ensure free choice of education without interference from the State or third parties, subject to conformity with 'minimum educational standards'.

The right to health: (General Comment 14)

- Ensure the right of access to health facilities, goods and services on a non-discriminatory basis
- Ensure access to the minimum essential food
- Ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water
- Provide essential drugs
- Ensure equitable distribution of all health facilities, goods and services
- Adopt and implement a national public health strategy and plan of action
- Ensure reproductive, maternal and child health care
- Provide immunization against the major infectious diseases
- Take measures to prevent, treat and control epidemic and endemic diseases
- Provide education and access to information concerning the main health problems in the community
- Provide appropriate training for health personnel.

The right to water: (General Comment 15)

- Ensure access to the minimum essential amount of safe water

- Ensure the right of access to water on a non-discriminatory basis
- Ensure physical access to water facilities
- Ensure personal security is not threatened when having to physically access water
- Ensure equitable distribution of all available water facilities and services
- Adopt and implement a national water strategy and plan of action
- Monitor the extent of the realization of the right to water
- Adopt relatively low-cost targeted water programmes to protect vulnerable and marginalized groups.

The stated minimum core obligations of various rights can be helpful to government bodies charged with developing policies, plans and budgets in key areas such as education, health and water. When faced with having to make decisions among competing claims, knowledge of the minimum core obligations can inform choices made.

It is essential to ensure that whatever government is doing to meet its obligations, the citizen has access to information. International human rights law guarantees people access to information (UDHR). This includes information about government policies, plans, programmes and budgets (UDHR 2). Access to information facilitates transparency and accountability, and is fundamental to meaningful participation in public affairs (Government of Ethiopia, 2009)⁴.

Encouraging and facilitating people's participation, and particularly women's participation, in public affairs is not just sound development policy. The right to information clearly concerns processes. Where the targets above include such things as (a) guarantee compulsory and free primary education for all; (b) adopt and implement a national public health strategy and plan of action; and (c) ensure access to the minimum essential amount of safe water, one recognizes that these are sound intentions but without quantification. The universal targets have already been set – the MDGs. We must therefore carry HRBAD into the MDG challenge, with an eye to achieving the MDGs at the local government level.

⁴ See section 7 for the regional level and section 8 for the district level; both entitled Opportunities for Citizens to Offer Input to Budget Preparation.

3. HRBAD To Achieve Millennium Development Goals (MDGs)

This section distinguishes between HRBAD and the MDGs. It then presents some of the MDGs and their supporting quantification. It closes by outlining the notion of localizing the MDGs through HRBAD.

HRBAD and MDGs

Achieving an MDG could be an important step towards realizing a related right. For example, eradicating hunger (Goal 1) would be an important step towards realizing the right to food. However, it is important to be clear on the differences between HRBAD and the MDGs. These include:

- The content of specific rights extends beyond those elements identified in the MDGs. For example, legal provisions related to the right to food speak not just about hunger, but also agrarian reform.
- Efforts to realize rights will and must continue beyond 2015. MDGs can be seen as benchmarks in the process of striving towards realization of specific rights. Even if a government achieves an MDG before 2015, it remains obligated to reach beyond the benchmark to achieve progressively full enjoyment of the related right.
- MDGs are not legally binding on governments, whereas human rights commitments made in the Universal Declaration of Human Rights and in relevant ratified treaties are. In addition, individuals may seek a remedy for a government's failure to meet its human rights obligations, but have no such redress with regard to failure to achieve an MDG.
- MDGs do not address the processes by which MDGs are to be achieved. Process is an important element of a human rights approach in any area. This includes rights to participation and people's access to relevant information.

In this light, it is crucial to understand what the quantified MDGs are because they establish the internationally agreed standards to be achieved by all governments in developing countries by 2015. They also start giving practical meaning to the challenge of how to achieve them through the public expenditure management system (PEM); the topic for the last section of this paper.

Three MDGS are highlighted here to give weight to this. They concern education, health and water.

EDUCATION	HEALTH goals 4 and 5 only (not 6)	HEALTH goals 4 and 5 only (not 6)	WATER
Goal 2: Achieve Universal Primary Education	Goal 4: Reduce Child Mortality	Goal 5: Improve Maternal Health	Goal 7: Ensure Environmental Sustainability
Target 3. Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling	Target 5. Reduce by two-thirds, between 1990 and 2015, the under-five mortality rate	Target 6. Reduce by three-quarters, between 1990 and 2015, the maternal mortality ratio	Target 10. Halve, by 2015, the proportion of people without sustainable access to safe drinking water and basic sanitation
Indicators 6. Net enrolment ratio in primary education (UNESCO) 7. Proportion of pupils starting grade 1 who reach grade 5 (UNESCO) 8. Literacy rate of 15-24 year-olds (UNESCO)	Indicators 13. Under-five mortality rate (UNICEF-WHO) 14. Infant mortality rate (UNICEF-WHO) 15. Proportion of 1 year-old children immunized against measles (UNICEF-WHO)	Indicators 16. Maternal mortality ratio (UNICEF-WHO) 17. Proportion of births attended by skilled health personnel (UNICEF-WHO)	Indicators 30. Proportion of population with sustainable access to an improved water source, urban and rural (UNICEF-WHO) 31. Proportion of population with access to improved sanitation, urban and rural (UNICEF-WHO)

While the goals themselves are not quantified and represent qualitative intentions, each goal has one or several quantified targets to be achieved by 2015. In terms of performance budgeting (an analytical underpinning for gender-responsive budgeting – see Sharpe, 2003 and McGill, 2006), this is essential and needs to be reinforced. UNIFEM has affirmed that:

...Gender-sensitive indicators can be introduced within budget frameworks, especially those following performance-based formats, which are being adopted in many developing countries as part of their fiscal reform strategies. Performance-based budgeting provides opportunities to incorporate gender-sensitive indicators in budget performance indicators.

This issue is revisited in the final section.

The missing indicator here concerns the goal of achieving equality between women and men, girls and boys. It is as follows:

Goal 3: Promote Gender Equality and Empower Women

Target 4. Eliminate gender disparity in primary and secondary education, preferably by 2005, and in all levels of education no later than 2015

Indicators

- 9.** Ratio of girls to boys in primary, secondary and tertiary education (UNESCO)
- 10.** Ratio of literate women to men, 15-24 years old (UNESCO)
- 11.** Share of women in wage employment in the non-agricultural sector (ILO)
- 12.** Proportion of seats held by women in national parliament (IPU)

Here, the indicators become important because they go further than the target concerning education. They extend to employment and political representation, though in the case of the latter, lamentably, only at the national level!

To meet the MDGs goals, one must look at both standards and processes. For standards, one has all four goals' targets and indicators. For processes, we need to ensure provision of full information to citizens and the resulting ability for communities to participate in the development process. For UNCDF, this is fundamental to the achievement of development at the local level through (ultimately) vibrant local governments with the energy and capability to be their location's local development agency.

Localising the MDGs Through HRBAD

This challenge – essentially that of localizing the MDGs through HRBAD principles – is the core issue of this paper. As a preliminary to the final section therefore, it is important to understand the concept of localising the MDGs from UNCDF's perspective.

There is an increasing recognition that to localise the MDGs means to deliver the necessary infrastructure and supporting services through the local government system – the institutional development focus of the UNCDF local development practice area. The first concern is therefore to build the local government system to be able to perform. This is the institutional development model (McGill, 1999). The result of this capacity building is to see *equitable* development proposals for infrastructure and services, delivered *economically*, *efficiently* and *effectively*: the 4 Es!

A key point here is to understand the concept of leverage of local development funds (LDF). UNCDF takes pride in securing partner contributions to programmes it has designed or been influential in designing. It reports explicitly on all such funding partnerships. What it does not do is to report on the leveraged result of LDF investments themselves. The principle is that every asset created by LDF investment must generate a commitment from government to provide and/or maintain the resulting service. Thus, if a health clinic is provided, central and/or local government must commit (on project approval) to providing the resulting service (on project completion). The same applies to schools, water systems, roads and so on. The concept here is that LDF is securing the provision of a reasonable service by providing the capital asset from which that service can be delivered. Recurrent funding for service provision is leveraged from mainstream budget sources.

This highlights the vital role of effective public expenditure management systems (PEM) to 'unblock the blockages' to local development. This brings the paper to its final theme – that of HRBAD and localizing the MDGs through PEM: the key to GELD.

4. HRBAD and Localising the MDGs Through GELD

This last section presents HRBAD in relation to poverty reduction and government policy reduction strategy papers (PRSPs). It then outlines the role of local government in HRBAD. Finally, it reinforces the application of HRBAD through performance budgeting.

Poverty Reduction and PRSPs

Government policies should reflect a society's priorities, and enabling people to enjoy their human rights should be a top priority. Consequently, a government's policies should reflect its human rights commitments and obligations. Human rights standards, among other things:

- Speak to *what* the policies and plans should be concerned about (provisions related to the rights to food, education, health, water, access to justice, and so on) – the challenge of standards
- Address *how* they are developed, implemented and monitored (the right to participation and access to information; the obligation of non-discrimination) – the challenge of processes.

For both, governments now produce PRSPs. A human rights approach would add important dimensions to discussions and decisions, but unfortunately, in developing their PRSPs, most governments do not use a human rights approach. The OHCHR has developed 'Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies', which are useful for a government wanting to ensure that its PRSP is compatible with its human rights obligations. The OHCHR sets out seven steps for the process of formulating, implementing and monitoring a human rights-based poverty reduction strategy. Three are offered below:

1. In developing the PRSP, the State should identify its national, (global) regional and international human rights commitments. International human rights standards related to specific rights are essential in developing the sectoral strategies in the PRSP (e.g. education, health, water), including defining the non-negotiable features. This comes down to *standards* that, at present, are acknowledged through the MDGs.

2. A human rights approach stresses the importance of participation by the poor at four stages: in expressing what they would like to see as the objectives of the PRSP; in the policy formulation itself; in implementation of the policy; and in its monitoring and assessment. In addition, article 7 of CEDAW obligates governments to take all appropriate measure to ensure that women participate on equal terms with men in the formulation and implementation of government policies. This comes down to *processes*.
3. Monitoring and accountability should take place at all levels of implementation. Monitoring can involve government agencies, including through the production of relevant disaggregated statistics. At the local level, where much of the service delivery actually occurs, civil society organizations and communities can be involved. This combines standards and processes because one is attempting to establish not only what has been achieved (the standards and their targets) but also, how they have been achieved (the transparent processes).

The inexplicable exclusion in the third statement is that of local government and its role as the 'binding address' in the local development process.

Local Government and HRBAD

Local government has a key role to play in advancing the enjoyment of human rights. Indeed, the principles and guidelines set forth by the OHCHR for the development of PRSPs, if appropriately adapted, can apply to local governments in developing institutionally integrated local development plans and institutionally specific strategies and budgets.⁵ OHCHR guidelines suggest, among other things:

⁵ The institutionally integrated development plan means that the specific local government is responsible for ensuring the preparation of a spatially defined development plan, to which all 'players' – the private, including community sector; central government, including its parastatals; and local government itself, whether single or two tier – come to an agreement as to what is best for the community. This is where development (i.e. investment) is – or should be – allocated *equitably*, so that poorer localities and groups get more, in order to bring them to a level of equality in terms of the MDGs. Each organization, including local government, then prepares

- Identify the poor: local government knows better than the national government who in its locality are the poorest and most marginalized. These populations often differ from overall national characteristics of the poor.
- Local governments need to know and can make use of national, (global) regional and international human rights standards (including CEDAW) in developing their strategy, and monitoring implementation of the same to assess their impact on substantive equality.
- Local government is best able to assess the role of discrimination in poverty in its locality.
- Just as with the national government, trade-offs and prioritisations made by the local government in its strategies and plans need to be in keeping with human rights norms.
- Participation is as important at the local level as at the national level (and in many respects, more feasible with regard to budget matters).
- Local governments have an obligation to establish effective monitoring and accountability mechanisms over the areas in which they have primary responsibility.

The key is to relate the entire planning and budgeting process to that of the MDGs and, in terms of this paper, its gender-based dimensions. In general, gender budgeting has “primarily been concerned with making gender visible in budgetary policies and processes...” (Elson, 2006) A human rights approach adds the following:

- Bringing international human rights standards into budgeting strengthens the legitimacy of concern for gender sensitivity in budgets, because human rights norms are law and accepted as such by governments.
- Incorporating substantive rights (e.g. right to health, education, and water) and standards into the budget process also allows for a systematic consideration of a range of issues of central concern to women.
- The complex understanding of equality and non-discrimination reflected in CEDAW, as well as the General Recommendations and reports coming from the CEDAW

its strategy and budget for the things it is directly responsible for, to ensure the provision of infrastructure and resulting services, *economically, efficiently and effectively*.

Committee, can inform and enhance the analysis of budget allocations, expenditure and impact.

- Applying normative rights once again legitimizes the importance of women's informed participation in the budget process.

If the question is: how does one give practical meaning to everything advocated so far? Then the answer is through the planning, budgeting, implementation and review process – generically defined as public expenditure management (PEM). This is because *everything* boils down to the raising and spending of money to achieve things. Or put more eloquently:

The budget is the most important economic policy instrument of government and as such, can be a powerful tool in transforming (any country) to meet the needs of the poorest (Budlender, 2006).

The key phrase here is 'policy instrument'. To cite the argument for local government:

All local government is locked into the annual budget cycle. The process of budget setting is the opportunity for strategic issues to be identified and acted upon. This is the policy development process. 'Experienced officials know that expenditure is policy; policy is expenditure. They are so intermeshed that any either/or answer about causation is foolish.' (McGill, 1988).

HRBAD Through Performance Budgeting

For this paper, the starting point is in performance budgeting. Its key principles can be found in McGill (2001). A human rights based approach can inform and reinforce performance budgeting in important ways.

- Both the human rights approach to budgeting and performance budgeting stress the central role of participation in the process, whether that participation is by community groups, civil society organizations or others.
- A government's human rights obligations should be central in developing the strategic framework and objectives analysis for a performance budget. These should reflect the overall priority that must be given to realizing human rights as well as the importance of equality and non-discrimination.

- The programmes and targets specified in performance budgeting can be (and in many cases should be) developed on the basis of an analysis of the current level of enjoyment of specific human rights, such as the right to education, health or food, with targets designed to help achieve a fuller realization of the specific rights. They should also reflect awareness of the government's minimum core obligations with respect to relevant rights, as well as its obligation to advance substantive equality.
- Activities and inputs would similarly be designed and implemented with human rights norms in mind, including non-discrimination and use of maximum available resources (recalling the relationship of this obligation to the economy of inputs).

Thus, the budget process must respond to the government's human rights responsibilities with regard to people's right of access to information and to participate in public affairs. Information on the budget should be readily accessible. This means not only that information must be available to people, but should be presented in a form that is accessible and understandable. This is perhaps easier to do at the local level than at the national level, but efforts should be made at all levels (Open Budget Initiative 02009).

In addition, a human rights approach means that people's participation should be facilitated at all stages of the budget process; through formulation, enactment, implementation and audit. With regard to GELD, this, of course, means particularly women's participation. Article 7 of CEDAW guarantees women equality with men in the rights:

- (a) To ... be eligible for election to all publicly elected bodies
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform public functions at all levels of government...

A human rights approach asks about the presence of women in government and their role in the formulation of the budget, as well as about women in the legislature and their role in its enactment. Are they adequately represented, and how actively are they involved in budget decisions? What is the role of women in the implementation and audit of the budget? This is

taken to mean *all* levels of government; not just the MDGs indicator concerning national parliamentary representation.

International human rights law stresses that the primary responsibility of a government is the advancement of the human rights of its people. If the government has ratified the ICESCR, it also has an obligation to use the maximum of available resources to advance economic, social and cultural rights. The overall composition of a budget should thus reflect a prioritization of areas related to human rights. In the context of local development, this would mean, for example, a prioritization of the areas of work, education, health, food, water, and housing. What share of the government's budget is directed to education; to basic health services; to ensuring access to drinkable water? Are other, non-essential, areas of the economy and society being allocated funds that should more properly be directed to these key areas? (UNDP 2005 and Government of Ethiopia 2009).⁶

Beyond questions about the overall composition of the budget, sectoral budgets should conform with human rights standards related to the specific sector. Particular attention should be paid to the minimum core obligations in each area as well as the requirements related to equality and non-discrimination, including those set out in CEDAW. For example:

- In the area of education, is universal primary education prioritized in the education budget? (Relevant CEDAW article: 10)

⁶ There is no hard and fast rule for how much of overall allocations should be directed to human rights-related areas, although the UNDP public expenditure benchmarks or the 20% guideline established in the 20/20 initiative coming out of the 1995 World Summit on Social Development have been used as guidelines. The Government of Ethiopia has allocated increasing proportions of its national budget to those sectors having a direct impact on poverty alleviation. Of the total expenditure budget (from all sources) of 52,459 million Birr, about 31,584.6 million Birr (60.2%) was budgeted for poverty-oriented sectors: Agriculture & Food Security, Education, Health, Roads, Water and Sanitation. The expenditure budgeted for poverty-oriented sectors was higher than the budget for the preceding fiscal year (2006/07) by 26.5% (of which recurrent increased by 34.6% while capital increased by 22.8%). (Plan for the Accelerated and Sustainable Development to end Poverty - PASDEP Annual Progress Report 2006/07, MoFED, Ethiopia, December 2007, p. 52) In particular, the largest sectoral outlays under PASDEP are in education (19%), health (19%), agriculture (14%), roads (13%), water (12%), energy (12%), housing (5%) and telecommunications (5%). (Country Report, Ethiopia, Economist Intelligence Unit, May 2009, p.25).

- In the area of health, is primary health care given a priority in the budget? Is immunization against major diseases prioritized? (Relevant CEDAW articles: 11(f), 12 and 14(b))
- With regard to water, are the funds allocated in such a way as to prioritise programmes designed to guarantee that every person has access to sufficient potable water? (Article 14(h) of CEDAW)

In addition to the obligation of non-discrimination, other government obligations should also play a role in shaping sectoral budgets. For example, allocations from year to year should reflect the obligation to *progressively achieve* the realization of a right. In the area of education, for example, this would mean that an increasing number of children should have access to primary education, and that the quality of the education should also be improving, regularly.

The obligation to use the *maximum of available resources* is particularly relevant to expenditures. Two examples illustrate:

- A national government budget may contain an adequate allocation in education funds, with most of those funds intended for local governments, where they are to be spent on teacher salaries, to buy books and so on. However, if the full funding does not reach local government due to leakage at various points along the way, then questions arise not simply about good governance, but about the national government's compliance with its obligation to use the maximum of its available resources to advance the right to education.
- Economy in the use of inputs is also essential. Waste or corruption, for example in procurement of textbooks or school equipment, is a also failure by the government to use the maximum of available resources to advance the right to education.

Economy of inputs and efficiency of outputs (or ensuring that the government uses the maximum of its available resources for human rights concerns) is greatly facilitated by citizen participation in expenditure tracking. The right to participate is an essential foundation for such initiatives in a number of countries. For example, the Civil Society

Coalition for Quality Basic Education (CSCQBE) in Malawi, which includes close to seventy civil society groups, is focused on the right to quality basic education and Malawi's progress in achieving 'Education for All' goals as well as MDGs. The coalition began its work when there was little visible improvement in education, despite increased national government allocations to basic education.

CEDAW's obligations to ensure non-discrimination and substantive equality with regard to gender apply to expenditures in a number of often complex ways. Some questions would be, for example:

- Are funds allocated for programmes targeting women being fully expended? If not, why not? If there is no sound reason, then there would appear to be discrimination in the failure to use the maximum of available resources.
- With regard to programmes that are not specifically directed to women, do the laws governing access to these programmes directly or indirectly discriminate on the basis of gender? This is often the case, for example, with regard to income transfer programmes, health insurance or social security benefits, where the laws confer the benefits on 'breadwinners'. This term effectively means the men in a household, as the women are often not in the formal workplace. If there is discrimination in allowing access to such programmes, then related expenditures would fail to comply with the obligations of non-discrimination and substantive equality set out in CEDAW.
- Even where the *laws* governing access to specific programmes (such as poverty-alleviation, education and employment creation) do not discriminate, are the *funds* being expended by those responsible in a non-discriminatory way, and in a way that advances substantive equality? To assess whether this is happening will likely require sex-disaggregated data about program beneficiaries.

The right to participate is important with regard to each of these situations, just as it is with regard to all government expenditure. The point about performance budgeting is that not only is participation embedded in its analytical and reporting processes but also, it compels standards to be set in terms of infrastructure and service targets. Ethiopia now makes these matters a little more explicit (Government of Ethiopia 2009). While some of the impact

assessment will depend on government information (e.g. gender-gap data), it is also possible for women's groups and other civil society organizations to be involved in 'citizen report cards' and other methods that can actually assist governments in assessing people's satisfaction with the impact of government expenditure.

5. Conclusion

Local development is a complex and challenging process; one that requires sensitivity to local concerns and contexts. Recognizing this, human rights do not dictate the adoption of specific strategies, policies or budgets. They do, however, set out essential goals and objectives (one of which is substantive gender equality) towards which governments must aim in their development efforts.

From the perspective of HRBAD, the ultimate test of the efficacy of a government's budget – and whether the government has fulfilled its minimum core obligations – is the budget's impact on the enjoyment of human rights. In this context, relevant questions include:

- Has the impact of the government's budget been one that has *protected* people's human rights? For instance, with regard to the right to safe working conditions, have the funds that the government has directed to regulating working conditions in a factory had the effect of improving the working environment?
- Have the increasing funds that a government has directed to specific sectors or programmes had the effect of *progressively achieving* people's enjoyment of the related human rights? For instance, have increased funds directed to local health clinics had the effect of enhancing people's enjoyment of their right to health by decreasing maternal mortality or infant mortality?

With regard to gender equity and obligations under CEDAW, the relevant question would be: has the government budget had the effect of advancing substantive equality with regard to the enjoyment of particular rights? The impact on gender equality can be assessed in a number of ways, including interviews with beneficiaries (e.g. did a poverty-alleviation scheme actually increase women's income?) and use of gender-sensitive indicators (female-specific indicators, e.g. maternal mortality rate, or gender gap indicators, such as the ratio of

female literacy to male literacy). If the results of such interviews or data analyses are that women's substantive equality has not been advanced in the particular areas, then the government is failing to live up to its obligations.

The goals and objectives of human rights are in many regards similar to the goals and objectives of current initiatives designed to further GELD. Human rights, however, can "add value" to initiatives to further GELD by:

- Mandating the prioritization in government policies and budgets of the poorest and most marginalized. Such a prioritization helps ensure that women, who are disproportionately poor, become more visible.
- Mandating a comprehensive consideration of the situation of women because human rights guarantee the full range of human concerns. These include food, health, housing, education, access to justice, personal security, and so on.
- Directing governments through CEDAW to analyse gender-blind language and laws to discern whether women's substantive equality is actually being furthered.
- Through minimum core obligations, obliging governments to fulfill internationally recognized standards. These compel choices to be made in favour of advancing human rights when developing policies and budgets in the face of serious constraints in resources.

In conclusion, gender-equitable local development can benefit significantly by using the internationally agreed legal framework of human rights; a framework that is, after all, rooted in the same concern that motivates GELD – ultimately that of human dignity.

Human rights are so often viewed as an abstract or political concept, disconnected from development in general and local development in particular. The motivation for this paper has been a recognition that to ignore human rights in development should simply not be permitted. In short, it is a plea for people to care about women's roles in their local communities and in society at large.

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Decentralisation in India: Towards 'localism' or 'regionalism'?

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This paper offers a commentary on what decentralisation has come to mean in India, based on recent research conducted in Kerala, one of the southern states. In particular, the paper discusses the tensions between 'regionalism' and 'localism'. It begins with a brief outline of how decentralisation is conceived within the broad literature. This is followed by a case study, where the shifts in forms of decentralisation adopted by the Kerala state government are examined. The paper concludes with key findings that underpin an understanding of decentralisation within the Indian context.

Understanding decentralisation

Broadly, decentralisation may be described in three ways (see Figure 1): *Administrative decentralisation*, *political decentralisation*, and *fiscal decentralisation* (Rondinelli et al. 1984). There is also a fourth description, market decentralisation or deregulation (Basta 1999; Bennett 1994). Market decentralisation, although interesting, falls outside the scope of this discussion because it examines how authority has been transferred from public sector undertakings (such as railways or telecommunications) to the private sector, rather than decentralisation within the system of government.

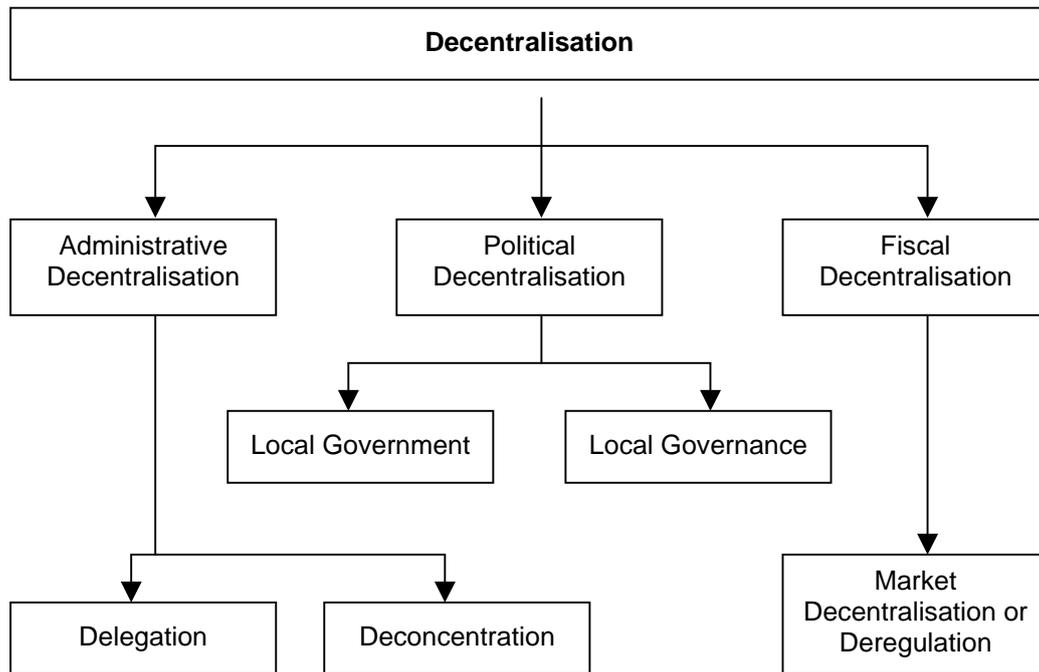


Figure 1. Types of decentralisation (Basta 1999; Bennett 1994; Rondinelli et al. 1984; Shah and Shah 2006)

Administrative decentralisation focuses on the different responsibilities that might be transferred from central (national or provincial/state) government bureaucracies to actors within smaller political units. These responsibilities often include the administration and delivery of social services such as education, health and social welfare. When such responsibilities are transferred to local or regional offices of central government agencies, this is termed 'deconcentration' (Manor 1999). For instance, the town planning department of a state government in India, situated in the state's capital, might allocate responsibilities to regional offices located within each district or administrative subdivisions of the state. In other cases, functions and responsibilities may be transferred to semi-autonomous institutions that are not directly controlled by central governments. This form of administrative decentralisation is known as 'delegation' (Gaiha and Kulkarni 2002). For instance, in Delhi, the capital city of India, the task of planning the development of urban areas has been entrusted to a semi-autonomous organisation, the Delhi Development Authority.

Political decentralisation transfers electoral capacities or political authority to sub-national and/or local governments (Falletti 2005). This is usually accompanied by

constitutional amendments and/or electoral reforms. In some cases though not always, political decentralisation involves describing the legislative powers of sub-national/local governments and how they can raise revenue for their day-to-day functions. Within the descriptions of political decentralisation, Shah and Shah (2006) note a distinction between local or regional *government* and local or regional *governance*. Through the former arrangement, the intention is to create state-centric forms of governance through devolution of power to lower forms of government, and other actors beyond the state are not involved directly in the policy process. In the latter description, the purpose is to create a facilitating environment for the active involvement of different actors including citizens and civil society actors (such as non-governmental organisations) in decision-making. The framework proposed by Shah and Shah (2006) will be used later to position the nature of political decentralisation in India.

In *fiscal decentralisation*, central governments transfer influence over budgets and other financial powers either to local governments or to their own regional/local offices (Manor 1999). In the former case, where budgetary powers are transferred to local governments, Bird and Vaillancourt (1999) discuss two further possibilities: First, where local authorities act on behalf of central governments in implementing revenue and expenditure policies; and secondly, where local authorities have considerable authority to decide the rates of some taxes.

These different forms of decentralisation will now be explored in the Indian context, particularly in the case of Kerala.

Decentralisation in Kerala

The state of Kerala is one of the 28 states in India (see Figure 2) that was formed in 1957, with a land area of 38,863 square kilometres and a total population of 31.8 million (Office of the Registrar General 2001). It is recognised for its high levels of social development (Anand and Sen 1992; Gopinath 2006; Parayil and Sreekumar 2003; United Nations and Centre for Development Studies 1975). The head of state is the Governor, who is appointed by the President of India. Kerala's legislature is made up of the Governor and the Legislative Assembly (Niyamasabha). The Assembly consists of members (referred to as Member of the Legislative Assembly or MLA) who are directly elected once every five years by eligible voters aged 18 years and over. The leader of the

political party with the greatest number of seats in the Legislative Assembly, the Chief Minister, forms the government, and is also the head of the Executive. The Chief Minister generally appoints MLAs from his/her political party to create a Council of Ministers of the Executive. There are 18 ministries in the current Congress-led United Democratic Front government that took office in 2006.

The key function of the Legislative Assembly is to pass laws on those subjects that have been allocated by the Constitution of India. These subjects are mentioned under the State List in the Seventh Schedule of the Constitution. Legislation on the powers and responsibilities of local governments in a State is one of these subjects, and States may enact legislation regarding what local governments can or cannot do. However, the right of local governments to exist as self-governing institutions is one of the principles in the Indian Constitution, drawing on which the national government can also legislate for local government – this was the basis for the 73rd and 74th Constitutional Amendment Acts of 1992 put forward by national government. This will be examined in detail in a later section.



Figure 2. Location Map of Kerala (Wilkinson 2005)

Administratively, Kerala state is divided into 14 districts or regions and a District Collector or Deputy Commissioner heads the government administration in each district. District Collectors are officers of the Indian Administrative Service and are in charge of maintaining law and order, revenue collection, taxation, and handling of natural and man-made emergencies. The general public approach the Collectorate (office of the

District Collector) to obtain a range of certificates, permits and other important documents including those related to domicile, nationality, caste, age verification etc. Although the District Collector is a national government appointee, he/she is attached to the General Administration Department of the respective state government. Local governments in Kerala are organised within districts or regions and total 1215 in number. These include 14 District Panchayats, 152 Block Panchayats, 991 Grama Panchayats, 53 Municipalities and 5 Municipal Corporations (see Figure 3).¹

Attempts at political decentralisation: 1950s

The first Communist party-led government that came to power in 1957 in Kerala attempted to introduce political decentralisation through the constitution of elected district governments, the district, or regional councils. The intention was that districts would emerge as both administrative and political units within the state. This was based on the *Report of the Administrative Reforms Committee* (1958) that had argued for a two-tier local government structure for Kerala – Panchayats (rural local governments) and Municipalities (urban local government) at the local level, and District Councils at the district level. The District Council Bill set out to transfer certain powers and responsibilities from the state government to elected representatives of a district (the administrative region of the state). However, the Bill could not be passed, as there were widespread protests against the Communist proposed reforms. The Congress-led national government dismissed the Communist administration in 1959 on account of the latter's alleged inability to govern the state, resulting in the failure of this early move towards regionalism.

Administrative decentralisation: 1970s and 1980s

In the early 1970s, District Planning Offices were established in the various regions of Kerala by the Congress-led administration in order to decentralise the technical division of the State Planning Board (the department of the state government that is responsible for economic planning). However, being outposts of the State Planning Board, the District Planning Offices merely employed a technical approach to policy making and did not attempt to involve communities and non-state actors in the policy process. Although 'regionalism' was seen as important, there was merely a decentralisation of the state government's administration in the various regions of the state.

¹ Panchayats are rural local governments.

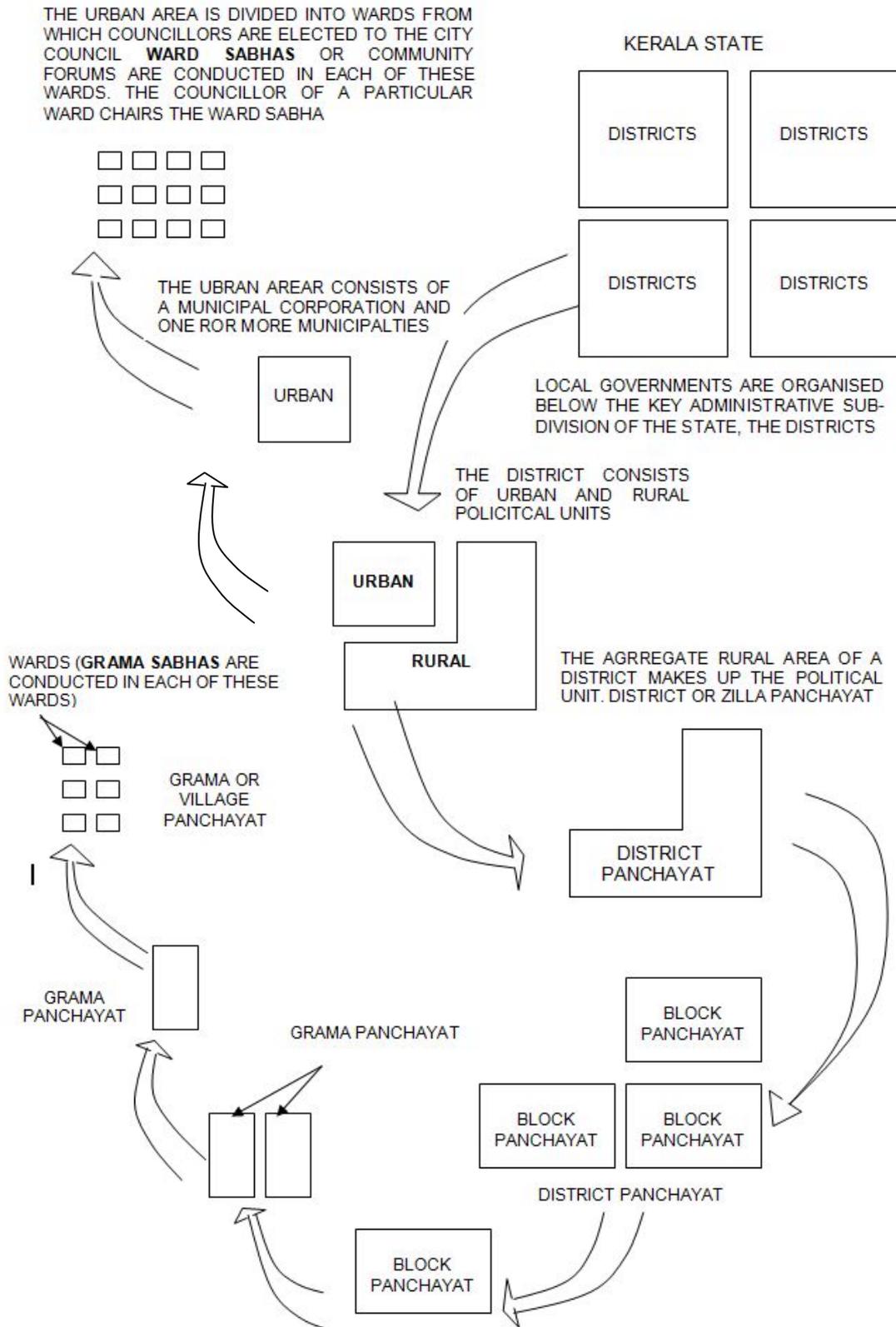


Figure 3: Administrative and political structure in Kerala.

Renewed attempts at political decentralisation: 1990-1992

In 1990, the Communist party-led Left Democratic Front (LDF) government took steps to re-establish district or regional councils across the state. The LDF administration introduced the concept of a 'District Council' to devolve the powers and functions of the State Planning Board. District Council covering both urban and rural areas in a district were conceived to function as autonomous bodies, chaired by the District Collector and with a town planner as a member and secretary. The LDF administration allocated 24 percent of the state budget to the District Councils to prepare district-level schemes. In addition, 5 percent of the state budget was transferred to District Councils on the condition that funded programmes could be implemented only with the involvement of local governments within the district. However, when the new Congress-led United Democratic Front (UDF) government came to power in 1992, the District Councils were abolished and the power to decide on district projects was reallocated to state government departments within each district.

Mandatory political decentralisation under national legislation: 1992

Governance became an interesting discussion in the Indian context following the calls of the Indian central government in 1992 to legitimise the existence of local governments that could then engage with state governments in policy making. Rather than conceiving district governments with jurisdiction over rural and urban areas (Isaac and Franke 2000), such as those involved in previous attempts at political decentralisation Kerala, the national government strategy envisaged a three-tier local government structure for rural areas and a single tier structure for urban areas throughout India.

This was an interesting turn in Indian politics marking a departure from a centralised governance strategy and moving towards an agenda of 'localism'. The central government made amendments to the Indian constitution in 1992 through the 73rd and 74th Constitutional Amendment Acts to facilitate the proposed new structures. These were, however, limited to a reconfiguration of what Shah and Shah (2006) refer to as state-centric forms. Responsibilities were shifted between different actors within the state, while actors beyond the state are not seen as significant in the policy process. Mandatory provisions included that: (a) every state should constitute local governments at the village, intermediate and district levels through periodic and direct elections; (b) some of the positions to be filled in local governments through direct election are to be

reserved for individuals belonging to identified categories (such as the Scheduled Castes and Tribes, women etc.); (c) every state should constitute a finance commission from time to time to review the financial position of local governments; (d) every state should ensure that these mandatory provisions are incorporated into state legislation (Ministry of Law and Justice 1993a, b).

While the mandatory provisions were designed to set up uniformly 'democratic' and 'decentralised' institutions in every state in India (through regular and direct elections to local governments etc.), further optional provisions were aimed at strengthening local institutions in responding to contextual needs and priorities within each state. The manner in which such institutions were to be strengthened in responding to contextual needs and priorities was left to the discretion of respective state governments. Thus, the optional provisions provided an opportunity for state governments to decide on how to delegate powers to local governments so as to enable them to function as institutions of self-government including the authority to prepare plans for development; to formulate principles for governing the distribution of financial resources between state and local governments; and to provide experts for representation in local governments (Ministry of Law and Justice 1993a, b).

It was on the basis of these optional provisions that the state of Kerala – which was already at the centre of attention for its progressive approaches to achieving high levels of social development – put forward steps to initiate *political* and *fiscal decentralisation*. This started with the People's Plan Campaign (PPC) in 1996 and later with the Integrated District Development Plan (IDDP) in 2001. To understand the nature of political decentralisation initiated in Kerala, it is useful to introduce the framework advanced by Shah and Shah (2006) and discussed earlier. While the nature of political decentralisation envisaged by the central government (through the constitutional reforms of 1992) was about creating local *government*, the initiatives taken in Kerala in the form of the PPC and the IDDP were focussed on political decentralisation as local *governance*. This was seen as a radical shift in an understanding of decentralisation in India given that the central government strategy set out in 1992 does not talk about involving communities or non-state actors. In addition, the state government of Kerala, through both the PPC and the IDDP implemented *fiscal decentralisation* by transferring one-third of the state

government's budget to local governments. These shifts in the forms of decentralisation adopted over several decades in Kerala are illustrated in Table 1.

Table 1: Shifts in decentralised governance in Kerala.

Year	Political Party	Type of Decentralisation	Outcome	
1957	CPM	Political decentralisation (proposed)	District Councils as an intermediate form of government between local government and Kerala state government – 'regionalism'	
1977	INC	Administrative decentralisation	District Planning Offices as purely technical divisions within the State Planning Board – 'deconcentration'	
1987	LDF	Political	District Councils – 'regionalism'	
1991	UDF	Administrative	District Planning Offices – 'deconcentration'	
1992	National governance strategy	Mandatory, national directives for implementing political decentralisation backed by constitutional amendments and electoral reforms Nature of political authority and/or administrative/fiscal powers to be transferred to local governments to be decided by respective state governments	Three-tier structure of local government in rural areas, and single-tier structure of local government in urban areas, in every state in India – 'localism' Individual states are constitutionally empowered to decide on the nature of authority to be transferred through political decentralisation, depending on local circumstances	
			Shifts in who should decide and how, following political decentralisation	Administrative and fiscal decentralisation
1996	LDF	Political decentralisation People's Plan Campaign	A 'grassroots' process of involvement of communities and non-state actors in the preparation of local plans, starting at the Grama/Ward Sabha, a local discussion forum – 'localism'	Transfer of authority to a key district level actor, the District Planning Committee (comprising elected representatives of local governments in the district, officer of District Planning Office, District Collector etc.), to coordinate the preparation of local government plans within a district Transfer of administrative responsibility of certain state government-run departments such as health, education to local governments
2001	UDF	Political decentralisation Integrated District Development Plan	A 'scientific' approach to involvement of communities and non-state actors in the preparation of local government plans, that takes into consideration both local and regional priorities – 'regionalism'	Transfer of fixed amounts of state government revenues to local governments as part of fiscal decentralisation

Conclusion

The literature on decentralisation in Kerala has been fragmented – advocates of the People's Plan Campaign (Heller et al. 2007; Isaac and Franke 2000; Veron 2001) and the Integrated District Development Plan (Easow and Thomas 2005; Karunakaran 2006) each argue that decentralisation is best understood through their respective strategy. What is missing within these debates is a broader understanding of decentralisation strategies within the Indian context, and particularly how they relate to questions of 'regionalism' and 'localism'.

This discussion has highlighted the application of three different approaches to decentralisation. *Administrative decentralisation* has been a longstanding dimension of decentralisation in the Indian context. In the case of Kerala, starting from the 1970s there have been efforts in deconcentration of state government departments, but for many years political decentralisation was a non-starter. However, with the national constitutional reforms of 1992, *political* and *fiscal decentralisation* have emerged as additional dimensions.

By unpacking what decentralisation has come to mean in the Indian context, the Kerala study points to two interesting findings. Firstly, that a decentralisation strategy is a reflection of the socio-political context of different states. It reflects both the approaches taken by individual state governments to decentralise or devolve decision making (in the case of Kerala, early attempts to introduce district or regional councils to bring about 'regionalism'), and central-state government relationships (for instance, the 73rd and 74th Constitutional Amendment Acts 1992 with their focus on 'localism').

Secondly, while both the PPC and the IDDP advanced 'local governance' through *political* and *fiscal decentralisation*, the PPC was in fact more interested in 'localism' (for instance, by facilitating community forums in localities to discuss the local government budget), whereas the IDDP was focussed on 'regionalism' (for instance, in how the district or regional councils were seen as necessary to mediate local and regional priorities).

This commentary has thus sought to provide a description of the various forms of decentralisation that co-exist and/or compete in the Indian context; and an examination

of how there remains a contest between 'regionalism' and 'localism' within the Indian states. A decentralisation strategy merely provides a clearer account of that struggle. It is in this context that further research needs to be carried out, particularly into the role of national government in shaping decentralisation strategies in state governments. A primary concern is whether this is desirable. An equally important issue that is particularly relevant in a federal structure is according constitutional status to local governments – not merely legitimising their right to existence but also by giving them powers to legislate. Just as there are subjects in the Union List and the State List, drawing on which national and state governments can legislate, so too there should be a 'Local List' describing areas in which local governments can legislate – otherwise local governments will remain simply 'creatures' of central and state governments.

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The Capacity and Institution Building Working Group of United Cities and Local Governments: Towards Improving Aid Effectiveness in the Local Government Sector¹

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The United Cities and Local Governments (UCLG) Capacity and Institution Building (CIB) Working Group gather together professional practitioners of local government associations (LGAs) and individual local governments active in international cooperation, with the overall objective to improve the quality, coordination and alignment of their development cooperation interventions.

The Working Group is the successor of the CIB Platform, which existed for many years within the former International Union of Local Authorities (IULA) as an informal gathering of staff members of local government associations (LGAs) involved in the field of municipal international cooperation (MIC) and association capacity building (ACB). In addition to information exchange, the CIB Platform undertook specific

¹ This paper is a modified version of a case study published in the *UCLG Position Paper on Aid Effectiveness in Local Government: Understanding the Link between Governance and Development*, United Cities and Local Governments: Barcelona, November 2009 and was adopted at the UCLG World Council meeting in Guangzhou, China on November 13, 2009.

initiatives such as a World Bank-funded program supporting ACB in several countries. In May 2004, the CIB was integrated into the structures of the newly-founded UCLG organisation, and its membership was expanded to also include staff members of international departments of cities active in international cooperation.

In 2007, the CIB members decided to bring greater structure and rigor to the group's work in order to ensure concrete results and increased aid effectiveness through better harmonization of the initiatives of local governments and their national associations. Terms of reference and a three-year work plan were adopted, and a project officer position was established in UCLG's World Secretariat in Barcelona.

The CIB set out to tackle four main areas: (1) exchange of experiences, best practices and work methods; (2) program coordination to harmonize interventions and promote collaboration among LGA implementing agencies working in the same southern country or region; (3) preparation of technical papers to inform UCLG policy related to MIC and ACB and its advocacy with multilateral donor institutions; and (4) development of an international professional code for local government organizations involved in development cooperation.

The Chair of the Working Group is the Netherlands LGA's international arm, VNG International, with the Federation of Canadian Municipalities (FCM) as Vice-Chair.

Information Sharing

In the Working Group's annual meetings, members noted that a lack of information on each other's work in municipal international cooperation (MIC) and association capacity building (ACB) had led to duplication or overlap in programming. For example, two or more northern LGAs would be working in a given country with a southern LGA partner on the same topic without even being aware of the other's work. This, of course, has led to inefficiencies such as separate workshops being organized with the same partners around the same dates.

As an important first step towards harmonization of efforts, a CIB website was designed to foster information exchange and to identify opportunities for collaboration (United Cities and Local Governments 2009). The CIB website tracks "who is doing what and where" in terms of municipal development programmes (i.e. association capacity

building, decentralized cooperation and municipal international cooperation) and maps the interventions of all CIB members and their main publications and tools. Within the website, a membership-only area has been created to enable online discussions and exchange of more sensitive documents, i.e. monitoring and evaluation tools, impact indicators, financial information and contact details.

Program Coordination – Concrete Examples

In addition to the regular exchange of information, the Working Group has selected five pilot countries in which CIB members have agreed to pay special attention to harmonizing their ACB and MIC programmes. In these countries (Mali, Ghana, Nicaragua, Burkina Faso and Zimbabwe), one CIB member together with the partner country LGA serve as the focal point for strengthening coordination and harmonization (Cites Unies France, Mali; VNG International, Ghana; Federation of Canadian Municipalities, Nicaragua; Union des Villes et Cites de Wallonie, Burkina Faso; Local Government Association (England and Wales), Zimbabwe). It was further agreed that the partners would work within program coordination guidelines adopted by the CIB at its annual meeting in July 2008. These guidelines outline a continuum of options ranging from straightforward documentation and sharing of information on each other's programs, to eliminating overlaps, identifying concrete opportunities for collaboration, and organizing with the southern LGA partner a formal table for dialogue with donors and implementing organisations. This could lead to using the outcome of projects of one organisation as the starting point for the project of another organisation, pooling expertise and financial resources for the technical assistance offered to the partner organisation(s), pooling local human resources, co-organising of workshops, development of joint information material, joint approaches to donor organisations, and so on.

Program coordination in the five pilot countries begins with the identification of possible overlap or duplication of activities. The lead CIB partner, together with the partner country LGA, assembles information on ACB and MIC activities and identifies opportunities for collaboration. The objective of these exchanges – mainly through coordination sheets and regular contact – is to be able to pool expertise and financial resources for technical assistance, local human resources, and the co-organization of workshops. For example, in Ghana, VNG International and the National Association of Local Authorities of Ghana (NALAG) undertook an analysis of current cooperation with

its northern partners. Upon learning of the multiple interventions related to waste management in Ghana, VNG International, the German aid agency GTZ, and NALAG have harmonized their efforts such that they are enlarging the local tax base, while improving municipal waste management services.

Waste collection falls under the jurisdiction of District Assemblies in Ghana, yet despite many donor interventions over several years, collecting waste remained a challenge for the Districts. NALAG, along with four District Assemblies with a longstanding relationship with four local governments in the Netherlands, decided to work towards fee collection for refuse removal. They harmonized their efforts with GTZ, which was supporting a project to install District Database Systems across the country. Through their collaboration these systems were designed to support information requirements for the fee collection for refuse removal, such as data related to the amount of refuse that could be expected, and mapping of areas to be served. All parties have been working together on other elements of the program as well, such as capacity development, revenue generation, and awareness raising among local elected officials and staff (United Cities and Local Governments 2009, p. 43).

Zimbabwe has also recently become a pilot country for program coordination, whereby a number of CIB partners, along with the Commonwealth Local Government Forum (CLGF), are working towards an international local government response to support the sector in Zimbabwe. Local government in Zimbabwe received an overwhelming democratic mandate in the 2008 local elections and there is, therefore, a strong case that it should be viewed as separate from central government and be accorded proper legitimacy and support from donors in line with its democratic mandate so as to maintain the grassroots momentum for democratic change.

The CIB working group has agreed that the Local Government Association of England and Wales (LGA), working with CLGF, should take the lead in coordinating wider international support, notably with the Dutch VNG, the Swedish SKF, and the Canadian FCM which have maintained a strong interest in supporting local governance in Zimbabwe. Following discussions with the Urban Councils Association of Zimbabwe (UCAZ), and based on needs assessments carried out over recent months, coordination will focus on five core areas for short-to-medium term support, including:

- Local government input into the constitutional review process;
- Councillor and staff training;
- Capacity building of the local government association UCAZ;
- Council-to-council partnerships targeted at meeting skills shortages and improving infrastructure and essential local services; and
- Community-based reconciliation (a key mechanism to encourage political healing that promotes reconciliation and community justice).

Coordination does not only occur within the selected pilot cases. The connections made between organizations through the CIB Working Group have enabled coordination to become more frequent and gives some inspiring examples of harmonization. For example, in February 2009, FCM and VNG International co-organized with the Association of Cities of Vietnam and UCLG/ASPAC the 3rd Asia Pacific Local Government Association Partners Workshop on Financial Sustainability and Advocacy in Hanoi, Vietnam.² This collaboration facilitated the participation of a larger pool of LGAs (14 LGAs from the region) as well as engaged expert capacity building resources from the two northern partners on two themes: policy advocacy and financial sustainability planning.

In addition, CIB members have found opportunities to coordinate the planning of projects and programs in non-pilot countries. For example, when FCM and VNG International learned that they both had a common partner in Cambodia, the National Association of Communes and Sangkats (NLC/S), they made a concerted effort to design projects in a coordinated way. The strategic plan of NLC/S was taken as the point of reference for design, with each organization providing technical assistance in areas of comparative expertise, i.e. VNG International on member services and financial sustainability, and FCM on developing the systems, guidelines and tools to perform more effective communications and advocacy on behalf of its members. This has resulted in better coordinated, more efficient interventions by the two northern partners and greater ownership of the initiatives on the part of NLC/S.

² This workshop built on a similarly co-organized workshop with associations in Asia in Manila, May 2008.

Policy and Advocacy

The CIB Working Group serves as a technical resource base for UCLG on issues related to MIC and ACB, for example in relation to pursuit of the Millennium Development Goals. In this capacity, it has been supporting the development of three policy papers: (1) aid effectiveness and local government, (2) local government and development cooperation,³ and (3) local government and economic stimulus.⁴ These papers are meant to inform the practice of UCLG members and provide a policy basis for dialogue with the international donor community and multilateral institutions.

The *UCLG Position Paper on Aid Effectiveness in Local Government* is a good case in point. The 2005 *Paris Declaration on Aid Effectiveness*, signed by all OECD countries and endorsed by many developing countries, reflects a policy consensus that is shaping the way that donors define their priority sectors and focus countries, and select the mechanisms through which they deliver aid. Although potentially significantly impacted by this new approach to aid delivery, local government was not included in these policy discussions. The position paper calls for the full acknowledgement of local and regional governments as development partners and outlines a number of policy recommendations directed to donors and central governments as well as to local governments and their associations on improving aid effectiveness.

Already we are beginning to see modest progress. For example, the Accra Agenda for Action (AAA), which was the result of the mid-term 3rd High Level Forum on Aid Effectiveness in Accra, Ghana (2-4 September, 2008), includes explicit recognition of the role of local governments in the development of national development policies. The AAA also recognizes the need to support capacity-building initiatives of local authorities and emphasizes the importance of local resources in the provision of technical cooperation. In recognition of the value brought by local governments to these policy discussions, UCLG has been invited to become a permanent member of the OECD/DAC Working Party on Aid Effectiveness and it will also be working with the UN Development Cooperation Forum in an advisory capacity.

³This paper will present the experience and expertise of local and regional governments in the area of decentralized cooperation and outline principles and guidelines for the international action of local governments and their associations in the field of development cooperation.

⁴UCLG has collected case studies from its developing country network on the impact of the global financial crisis on local and regional governments. This paper will help support international advocacy, arguing for increased investment at the local level by national governments and international institutions (i.e. UN, financial institutions and development banks).

Challenges in Coordination

Even though work has progressed since 2007, the CIB members face significant challenges to ensure true harmonization of efforts. First of all, most northern LGAs receive funds for MIC and ACB programmes through their respective Ministries of Foreign Affairs or Agencies responsible for official development assistance. Due to the often rigid regulations that accompany these funds (i.e. specific reporting requirements, eligible thematic areas of focus, geographic concentration and types of capacity building assistance), it is not always possible to coordinate with other LGAs or to pool financial and human resources. This creates a gap between the enthusiasm of CIB members to coordinate and the reality of programming and contractual restrictions. In order to increase aid effectiveness, donors should allow for increased flexibility in the implementation of ODA programs delivered through LGAs.

Secondly, to ensure real ownership of the programmes, coordination of northern partner interventions should ideally be initiated and led by the southern partner LGAs and local governments. Clearly, a stronger southern LGA voice is needed at the CIB table, but additional financial resources are required to facilitate the participation of partner country/regional LGAs. It is important to raise donors' appreciation of the importance of providing funding for partner country participation in multilateral committees and forums addressing aid effectiveness.

Finally, CIB members themselves also need to invest greater efforts and resources in the sharing of information and program coordination. While LGAs in both the south and the north are growing in their understanding and appreciation of the principles of aid effectiveness, much more must be done to change entrenched approaches. While this improvement of understanding leads to good results in local-level projects, they often do not add up to broader sectoral and country-level impacts due to a lack of alignment with national development priorities and harmonization with the investments of other actors.

Much has been done within the international local government family to work toward greater coherence in the implementation of MIC and ACB programmes. The CIB Working Group has been, and continues to play, a key role in the identification of any overlap and opportunities for cooperation as well as in providing an opportunity for strengthening relations amongst its members. The aim is to build on the modest but real

successes to date through refining the CIB coordination of development cooperation – including new tools and indicators to measure our work – in order to more successfully apply the principles of aid effectiveness.

For more information about the CIB Working Group, contact Ms. Renske Steenbergen at r.steenbergen@cities-localgovernments.org.

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Appendix 1: Commonwealth Members of the CIB Working Group

- **Kenya** Association of Local Government Authorities of Kenya (ALGAK)
- **South Africa** South African Local Government Association (SALGA)
- **Pakistan** Local Councils Association of the Punjab (LCAP)
- **United Kingdom** Local Government Association (LGA)
- **Canada** Federation of Canadian Municipalities (FCM)

Recent trends in Gender Mainstreaming and Poverty Alleviation: The Kudumbashree Initiative

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Kudumbashree was officially launched in 1998 in the State of Kerala, India, with the objective of eradicating absolute poverty in 10 years through community action. It is a comprehensive women-based poverty eradication programme jointly initiated by Government of Kerala and National Bank for Agriculture and Rural Development (NABARD), scaled up from earlier UNICEF-assisted initiatives in Alappuzha Municipality and Malappuram district. The programme is implemented by community-based organizations (CBOs) of poor women in co-operation with local governments (Panchayats).

Kudumbashree focuses on empowerment of women through its CBOs and activities such as service coordination, encouraging thrift and internal lending, and start-up of micro enterprises. There are success stories of enterprises such as catering and canteen services at

¹ The views expressed in this practice note are those of the author and do not necessarily reflect any official policy or position on the issues discussed.

bus stands and offices in several places across the state. Handling of solid waste in municipalities is another emerging area of activity.

Kudumbashree is not a commercial-type microfinance organization. In contrast to the income poverty approach of the Government of India, KDS has developed a more comprehensive (holistic) approach to poverty identification. It targets the overall development of women and children from families below the poverty line (BPL). Importance is given to healthy nutrition, education, employment, and improvement of economic status, which are related to the risk factors and the social environment of an individual or family. Hence, it sets the following criteria for identifying poor families:

- Whether the family lives in a Kutcha House²
- Whether it has access to safe drinking water
- Whether it has access to a sanitary latrine
- Whether the family is barely getting two meals a day or less
- Whether any adult in the family is illiterate
- Whether anyone in the family is alcoholic or drug addicted
- Whether the family has no income-earning member or just one
- Whether there are children below the age of 5 in the family.

A family which fulfills four of the above criteria is identified as a poor family and becomes a member of a Kudumbashree neighbourhood group.

A key feature of Kudumbashree is that groups have prospered under the benefaction and leadership of Local Self Governments and have participated in the programmes of Panchayats, while other similar groups operate separately from local government.

Kudumbashree neighbourhood groups (NHGs) consist of one adult woman from each of 15-40 families at risk. At the Panchayat ward level, 10-15 NHGs are federated into an Area Development Society (ADSs), while at the Gram Panchayat (local government area) level,

² A temporary structure made of crude materials such as mud-clay, un-burnt bricks, bamboos, grass, reeds, thatch or loosely packed stones is referred to as a Kutcha house.

the ADSs are federated into Community Development Societies (CDSs). As of now there are 162,619 NHGs (covering nearly 3 million families) 14,245 ADSs, and 1,050 CDSs across the state.

The NHGs become Thrift and Credit Societies (TCSs) and their basic function is to mobilize the poor to make small savings. These savings are deposited in a commercial/cooperative bank and are used to provide loans among members. The women take on the multiple roles of savers, borrowers, account-keepers and finance managers. Also, the NHGs identify destitute families and the Panchayats provide a package of care services.

Kudumbashree was launched as part of the ninth five-year plan (1997 to 2002). An integrated approach to poverty reduction was urgently required as the most marginalized section of society, the poorest of the poor, were still not getting the benefits from the anti poverty projects of local governments. So a decision was taken to introduce a community-based approach to participatory micro-level planning in all local governments. Thus from modest beginnings this initiative has now been extended throughout the state. There is now a clear structure for anti-poverty planning with Kudumbashree groups identifying destitutes and participating in plan preparation and implementation by Panchayats.

Among the significant works taken by Kudumbashree, some deserve special mention:

- Ashraya: The first role of this programme is to identify destitutes and find out the various deprivations that they face in terms of food, health (chronic illness, fatal diseases), pensions, education, drinking water, sanitation, employment, skills development and so on. The mission³ addresses these deprivations and tries to rehabilitate them.
- Balasabha: This is a grassroots children's group for BPL families. The mission identifies these children and provides a supportive environment for informal education.
- Bhavanshree: This is a micro housing programme catering to the housing needs of BPL families, planned by Kudumbashree.

³ State Poverty Eradication mission - Government of Kerala

- Yatrashree: This programme aims at setting up a chain of hotels along the wayside of major roads of the state.
- Vidyashree: This programme provides computers for high schools to teach computer literacy in 14 districts across the state.
- Kerashree: This programme produces and looks into the marketing of branded coconut oil
- Harithashree: This programme identifies leasehold land and provides it to poor families who are ready to do farming, but do not have the land.
- S3 Panchayats: The focus of this programme is implementation of a developmental model of 'Sustainability, Self-reliance and Self-sufficiency' (S3) in selected Panchayats.
- Clean Kerala: Under this programme groups of women have been established to undertake collection and transporting of solid waste from households, marketplaces, hotels etc.

Empowerment of Women

Empowerment can be seen as a concept where the people achieve greater control over decision-making and resources, and where they acquire increased social mobility and dignity. In this context, women have made good progress in planning projects, collective bargaining, the ability to address a group, and improvements in overall skills and capabilities. Progress has also been made in generating awareness of their rights and forms of discrimination, and enhancing self confidence. Their social status has also risen among their family members and social circle.

Amartya Sen identified 'bargaining' as an important non-material capability in determining outcomes, and the ability to collectively bargain, plan projects and organize group activities has been greatly improved through the Kudumbashree movement.

Hence social capital has been considerably enhanced. There is much more willingness to cooperate with others, leading to mutual trust, and the trust of the community in the members

of SHGs has also increased. Cooperation with representatives of local government has also improved significantly. Kudumbashree thus combines credit support with social capital.

Poverty Alleviation

Kudumbashree has registered a spectacular growth in the number of families covered. The number of NHGs increased from 37,000 in April 2000 to over 160,000 today. The number of poor families (identified using the criteria outlined earlier) as per official records is heading towards 3.8 million in a state with around 7.5 million households.

Due to the programme Bhavanshree there is reported improvement in housing, but the full impact of Bhavanshree and other housing related schemes will take some time. Evident progress has also been made with regards to sanitary facilities, employment (especially self-employment), nutrition (the proportion of the families taking traditional three meals a day), and reduced alcoholism. There is also improvement in the capacity to borrow for a majority of the poor.

Some Issues

However, Kudumbashree does face some significant issues. The first of these is competing programmes. Other NGOs have also organized self-help groups that offer micro credit, mobilize savings and provide a connection to banking services. These parallel organizations could create serious difficulties for Kudumbashree, which currently enjoys a respected place as a microfinance institution.

Second, overloading the people involved in Kudumbashree may also become a problem, as the programme is engaged in such a wide range of activities.

Third, whilst creating more micro enterprises is seen as the chief instrument for generating employment and income for women, it is important that effort also goes into steadily improving the quality of those enterprises, encouraging new approaches and introduction of new technologies.

Fourth, there are issues with the interface between Kudumbashree and local governments. Kudumbashree members are prominent in the Gram Sabha (a biannual meeting of all eligible voters in a village), and this is seen as an important way of empowering women and achieving the necessary quorum for meetings. Also, it is a way of influencing the Panchayats' Women's Component Plans and thereby generating a substantial source of funds for Kudumbashree programmes. However, the quality of participation is questionable, and Kudumbashree is not directly engaged in strengthening local governments.

On the other hand, indirectly Kudumbashree is supporting the socio-political process of decentralization in Kerala as many leaders of the Kudumbashree movement are getting elected to Panchayat committees. Also, Kudumbashree groups involved in agricultural production have cooperated with the Panchayats in plan formulation and implementation of various activities like watershed development and organic farming.

Conclusion

In spite of some issues and potential difficulties, the Kudumbashree movement has certainly helped in both gender mainstreaming and poverty alleviation. It has firstly made women more aware of the causes of poverty and the ways to resolve it. Financial security is the prerequisite for any empowerment and the Kudumbashree movement has helped women to stand on their own feet by giving them greater economic self-reliance through establishment of micro-enterprises and other income generating activities. Women share and discuss issues affecting their sources of income and livelihoods in the weekly meetings of NHGs.

The Kudumbashree network also ensures that women are actively involved in planning and development processes as they take part in preparing micro-plans at the NHGs level and higher level plans through both ADSs and CDSs, which are then integrated into the poverty eradication plans of local governments. This combination of hard work, joint action, inventiveness, planning and active participation in local governance is the key to success.

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Appendix 1: Status Report of NHGs and Thrift & Credit under Kudumbashree

No	District	No. of GPs	No. of NHG	No. of ADS	Families Covered	Families Started Thrift	Thrift (In crores)	Loan (In crores)	VIL
	Rural (14 districts)								
1	Thiruvananthapuram	78	16744	1259	344225	341807	101	222	2.21
2	Kollam	71	12174	1214	223550	223550	70	156	2.24
3	Pathanamthitta	54	6602	744	136670	136405	49	63	1.3
4	Alappuzha	73	13348	1106	263218	263218	81	181	2.25
5	Kottayam	75	11039	1153	222784	222762	56	107	1.92
6	Idukki	52	9160	750	166607	166094	66	157	2.36
7	Ernakulam	88	12966	1352	213449	213078	67	229	3.41
8	Thrissur	92	15631	1324	284239	284239	90	33	3.68
9	Palakkad	91	20056	1436	340023	340023	103	277	2.7
10	Malappuram	102	14676	1845	332367	332367	89	124	1.39
11	Kozhikkode	78	14394	1309	295698	294201	104	273	2.62
12	Wayanad	25	7314	434	120248	120248	33	160	4.86
13	Kannur	81	11045	1264	209603	209603	65	204	3.14
14	Kasargode	39	5615	646	118995	119419	36	148	4.05
	Total	999	170764	15866	3271676	3267014	1010	2634	2.61
15	Urban (58 ULBs)		13587	1134	347996	347996	59	68	1.16
16	Tribal NHGs(9 Dist)		2339		40211	38025	6	12	2.04
	Grand Total		186690	17000	3659883	3653035	1074	2715	2.53

As of June 2008

Source: Govt. of Kerala - State Poverty Eradication Mission, Kudumbashree Achievements in the Field (Updated 2008 March 30) – Thrift & Credit operations

Australian Infrastructure Financial Management Guidelines

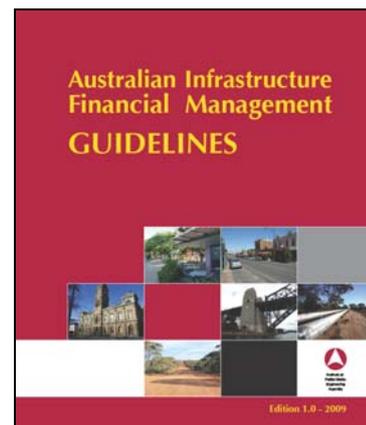
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Institute of Public Works Engineering Australia

1. Introduction

The Institute of Public Works Engineering Australia (IPWEA) has recently published the *Australian Infrastructure Financial Management Guidelines*. The Guidelines provide new assistance to link the technical (engineering) and financial aspects of managing infrastructure and services, and to assist infrastructure owners such as local government to develop sustainable long-term asset and financial management plans.



Financial management for long-life infrastructure assets (such as roads, water, sewerage, and stormwater networks, and community buildings) is about ensuring sustainability in the provision of services required by the community. These new Guidelines offer advice for every organisation and individual with responsibility for the management of infrastructure assets. They assist in defining best practice approaches for:

- Accounting for infrastructure
- Depreciation, valuation, useful life, fair value
- Managing financial sustainability
- Integrating asset management planning and long term financial planning
- Meeting requirements for financial reporting

The project was a joint initiative of IPWEA and the National Local Government Financial Management Forum.¹ A steering committee representing national and state governments, technical and financial professionals, local government associations and auditors oversaw it.

2. Background

Several infrastructure and financial sustainability studies have been published in Australia over the last few years. These studies identified deficiencies in service planning, asset management planning, long-term financial planning and financial reporting. An overview report prepared for the Australian Local Government Association (PwC, 2006, p. 6), concluded that around 35% of Australian councils are not financially sustainable. Also, the national infrastructure renewal backlog was estimated at \$14.6bn. The additional funding required to clear this backlog and cover underspends on renewals is estimated at \$3.1m per council per annum or \$2.16bn nationally (PwC, 2006, Table E2, p. 11).

This \$2.16bn funding shortfall represents around 9% of local government's \$23.08bn 2005/06 income base and around 24% of local government's rate income of \$8.92bn (DoTaRS, 2007, Table 1.5, p 14).

The Australian Local Government Association (ALGA) report observed that local government is responding to ever rising community expectations by providing a growing range of services and infrastructure. Rising costs exceeding revenue growth are seeing a significant number of councils develop financial operating deficits. A common response to 'balance the budget' is to defer or reduce expenditure on the renewal of community infrastructure. The ALGA report concludes that major reforms are required in the way local government is funded and the way it operates. It states that in the absence of major reforms, Australian local governments will have to cut back on services, reduce their asset base or obtain additional revenue if they are to be sustainable in the longer term.

¹ The authors were John Howard, Jeff Roorda & Associates; Jim Dixon, GAAP Consulting; and John Comrie, JAC Comrie Pty Ltd. The writing team brought together skills and experience in infrastructure asset management, financial management, and accounting and audit.

Part of the reason for the sustainability of infrastructure being questioned, is the lack of nationally consistent data on the condition of infrastructure, the quality of services provided from infrastructure, and the costs involved in providing those services. Uniting the technical and financial aspects of infrastructure asset planning and financial planning and management will increase the quality of data used for financial reporting and quality of decisions made on service delivery from existing and new assets.

National Action

Australian Prime Minister Kevin Rudd stated one of the three purposes of the inaugural Australian Council of Local Government meeting held on 18 November 2008 was to “begin work on a planning reform to improve infrastructure and services delivery across Australia”. His address to the meeting further set the national agenda for asset and financial management:

We must improve asset management and financial management. We need to know what we’ve got, what condition it is, whether it needs to be repaired and how much it costs to maintain. (ACLG, 2008)

The Local Government and Planning Minister’s Council (LGPMC) (2009) has adopted three nationally consistent frameworks for:

1. Assessing local government financial sustainability
2. Asset planning and management
3. Financial planning and reporting.

The LGMPC (2009) has set a target for substantial implementation of these national frameworks by 31 December 2010. The *Australian Infrastructure Financial Management Guidelines* are a contribution to the achievement of that objective.

3. Guidelines: Structure And Content

The guidelines are set out in 4 parts.

- **Part A: Introduction** introduces the guidelines and provides background including reasons for their development.
- **Part B: Planning** discusses the planning phase of infrastructure financial management, namely service planning, asset management and long term financial planning.

- **Part C: Financial Reporting** describes the regulatory framework covering financial reporting and auditing of financial reports.
- **Part D: Application** covers the practical application of the above parts to valuation, accounting for infrastructure, financial reporting and planning, administration and implementation.

The guidelines are designed to cover the needs of both ‘core’ (those beginning the process) and ‘advanced’ users. The movement from ‘core’ to ‘advanced’ is one of continuous improvement in priority areas. A Quick Guide is included to provide information on the key points of the guidelines.

Financial Sustainability Indicators

An organisation is seen to be sustainable if its infrastructure and financial capital can be maintained over the long-term. The guidelines propose eight nationally consistent financial sustainability indicators: operating surplus; operating surplus ratio; net financial liabilities; net financial liabilities ratio; interest cover ratio; asset sustainability ratio; asset consumption ratio; and asset renewal funding ratio.

Accounting for Property, Plant and Equipment

The Australian Accounting Standard AASB 116 *Property, Plant and Equipment* prescribes the accounting standard for property, plant and equipment assets so users of financial reports can discern information about the entity’s investments in its assets. Property, plant and equipment are tangible assets that:

- are held for use in the production or supply of goods or services, for rental to others, or for administrative purposes, and
- are expected to be used during more than one (financial reporting) period.

Accounting for Infrastructure

The key accounting requirements for infrastructure assets can be illustrated by three essential steps:

1. Recognition: the asset is identified at component level
2. Measurement after recognition: the asset is revalued at ‘fair value’ option

3. Reporting asset consumption – a depreciable amount of an asset is to be allocated over asset's useful life in a manner reflecting the pattern of consumption of future economic benefits.

Reporting Asset Values and Consumption

Depreciation is the financial representation of the consumption of an asset in the reporting period. The guidelines propose an eleven-step valuation methodology:

1. Define valuation component level
2. Develop asset registers into database of components
3. Develop standard replacement costs
4. Assess residual value
5. Assess useful lives
6. Assess remaining useful life
7. Determine depreciation method
8. Calculate accumulated depreciation, fair value and depreciation
9. Test for impairment and calculate impairment loss
10. Sum component values
11. Assess land value where applicable.

The future economic benefits (FEB) for infrastructure assets is the entity's ability to provide services to its customers/community in the future. The recommended methodology for ensuring that the depreciation method reflects the pattern of consumption of FEB is:

1. Define services provided
2. Identify measure of consumption of services
3. Identify pattern of consumption
4. Select depreciation method.

Good Financial Management – The Key to Overcoming Asset Management Funding Gaps

Assets should be managed to provide the required level of service at the optimal life cycle cost, and financial reports should reflect how the assets are performing in providing the required level of service. The asset manager's role is to ensure assets are managed, maintained, rehabilitated and replaced at points in time, and in ways that achieve

required service standards and minimise whole of life costs. Unfortunately, all too often in infrastructure-intensive entities this objective is not being achieved. As a result whole of life costs are higher and service levels are lower than necessary.

The problem typically arises because:

- budgets and service level decisions are made based on short term cash costs and cash availability
- in acquiring new assets to deliver higher and additional services, not enough thought is given as to whether the entity will have the capacity to fund increasing maintenance as existing and proposed additional assets age.

As a consequence, assets prematurely fail. Their economic life is not realised and whole of life costs are therefore higher. The entity is often not in a position to fund the assets' rehabilitation or renewal and unwilling to raise additional borrowings to do so, and as a result, service standards fall. In order to make sound asset management decisions, it is essential to:

- have reliable forecasts regarding likely future asset performance and associated costs
- have an appreciation of future revenue raising capability and affordability of service level proposals
- be willing to utilise additional debt where required and cost effective to do so.

Thus, sustainable asset management requires effective long-term financial planning.

Operating Sustainably

Generally speaking, and in the absence of other over-riding objectives or directions, public sector business entities should strive to generate operating revenue approximately equal to their operating expenses calculated on an accrual accounting basis. A break-even operating result for local governments would mean that the property rates and other charges people are paying is equivalent to the costs incurred by an entity in providing its existing levels of service. (Note that a small operating surplus may also be appropriate having regard to risk and uncertainty and inter-generational equity considerations.)

The decision to add to the stock of assets will add to operating costs in future years through increased: depreciation (unless the asset is land); financing costs (or reduced investment income); and possibly higher other operating and maintenance costs.

In order to operate sustainably an entity needs to be able and willing to generate higher income in future (or reduce costs elsewhere) when making decisions to increase the quantity and/or standard of its asset stock. Rating and outlay decisions should be based on striving to achieve and maintain an operating break-even or small surplus result on average over the medium/long-term. In the case of decisions regarding possible capital outlays, the focus should be the impact on the ongoing operating result (e.g. from depreciation): The quantum of the capital outlay should not be the prime concern.

4. Long-term financial plans

Every organisation with a significant stock of long-lived infrastructure needs a long-term financial plan. It is impossible to effectively and equitably manage service level, asset management and revenue raising decisions without this, and there really is no excuse not to have such a plan. While there are benefits from including more detail, a simple long-term financial plan can be quick and easy to prepare and is much better for decision-making. A long-term financial plan should show the financial impact over time (at least 5 years) from any material proposals eg regarding variations in asset stocks, service levels, operating costs and revenue. It should disclose projected financial performance against targets, and where targeted performance is forecast not to be achieved, proposals should be revised. Other considerations:

- Service levels from assets and an organisation's consequential holding of asset stocks need to be based on long-term affordability.
- Asset maintenance and rehabilitation decisions should not be based on short-term cashflow considerations.
- Cashflow constraints should be resolved through a long-term financial plan.
- Asset management plans should be based on maintaining an organisation's preferred, long-term affordable service levels and minimising the whole of economic life costs of assets.

5. Conclusion

The IPWEA *Australian Infrastructure Financial Management Guidelines* (2009) provide direction for all organisations and individuals with responsibility for the management of infrastructure assets, including how to:

- determine affordable service levels
- set and manage to appropriate accrual accounting based financial targets
- responsibly use debt
- maintain a soundly based long-term financial plan.

Further details on the guidelines are available from www.ipwea.org.au/AIFMG.

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Appendix 1: Authors of the Guidelines

John Howard is an Engineer and Economist and was the Project Manager and Principal Author of the guidelines. He began his asset management journey as a municipal engineer working with the council's asset management corporate team to develop the data, business processes and systems into an asset management system integrated within the council's corporate information system. This included a single asset register, works costing system linked to individual assets, daily costing, annual revaluations with asset records linked to the geographic information system. John was the inaugural chair of the IPWEA National Asset Management Committee who developed the National Asset Management Manual in 1994. He has a keen interest in the common functions of technical and accounting systems and was one of the Tasmanian representatives on the National AAS27 Implementation Committee for 5 years. John is the Project Manager for IPWEA National Asset Management Strategy committee NAMS.AU.

Jim Dixon authored the accounting and auditing sections of the guidelines. Jim's qualifications include MBA, B Commerce and B Education. He has held the position of Assistant Auditor-General with the Victorian Auditor-General's Office where he was responsible for training and advising staff on the implementation of Australian equivalents to International Financial Reporting Standards (AIFRS) Prior to this, Jim provided advice and training across a wide range of private sector businesses while holding the positions of Technical Director of CPA Australia, Technical Director of chartered accountants, Pitcher Partners and as Senior Manager Research for the National Australia Bank.

John Comrie is an Economist and an Accountant. His qualifications include B. Economics, Grad. Dip. Business Administration and is a Fellow of CPA Australia. John held the positions of Executive Director of the SA Government's Office of Local Government and Local Government Association of SA and City Manager and Councillor of large metropolitan Adelaide councils. John was responsible for development of many of the legislative reforms in these fields now applicable to the SA local government sector and has often spoken on these subjects at SA and national forums. John authored the financial planning section and provided an overall review of the Guidelines.

Education and Research via the Open University Malaysia – An Opportunity for Local Government

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Background

In this era, the provision of education and dissemination of research-based knowledge need not be restricted to conventional methods such as classroom settings and face-to-face interactions. Advancements in communications via improved technologies enable people from all over the world to seek knowledge to support their needs, conduct global research via

teleconferencing, and study at their own pace wherever they are and according to their level of ability. Naturally governments, too, are aware of this flexibility to increase their effectiveness and improve the capacity of their staff.

In this context, local government can move towards a more knowledge-intensive and professional entity that can deliver its services more efficiently to the public through open and distance learning. This is especially so for local government in Malaysia where the employees of local authorities may be located in various parts of the country and training via open and distance learning means increased access and flexibility – a combination of work and education without the hassle of having to attend training at a fixed locality. Generally, the Malaysian public is aware of the need for a better quality of life and this has impacted on the services provided by local authorities, which have to be developed and upgraded according to their target groups. Hence local government has to ensure that its workforce is given the support to enhance the quality and relevance of people's skills. However, using only conventional and existing educational structures may limit the effectiveness and increase the cost of training local government staff. Meanwhile, the Malaysian government is supporting the use of relevant technology to promote innovation and cooperation between departments to upgrade public facilities and services, exchange information, and enhance the skills of employees.

This thinking had already begun during the 1990s when there was a conscious shift towards a knowledge-based economy in Malaysia, as the government realized the need for the country to be competitive and sustainable in line with the global trend of open trade and innovative technology. If Malaysia was to achieve economic growth, it had little choice but to leverage on a workforce that is educated and skilled. This meant that changes had to be made to the country's education structure and policies by placing emphasis on technology: focusing on ICT, broadband networks, the internet and e-government with linkages to the global information highway. Partly the response was to set up more public universities, but it was inevitable that the private sector also had to be involved and given the role of expanding opportunities for education, especially higher education, to anyone who desires it, provided the person possesses the minimum entry requirements. Ultimately, to allow as many people

as possible and wherever they live or work to gain access to education, the role of the Open University became prominent.

Open University Malaysia – Role and Contribution

The Open University Malaysia (OUM) was established on the concept of encouraging lifelong learning and providing education using the latest Internet technology, thereby allowing access to education for all. Indeed, OUM was the first open distance learning (ODL) institution in Malaysia. It was set up in 2000 to fulfill the country's aspiration to increase education opportunities for the people, especially working adults¹. Over the years, ICT and ODL (UNESCO, 2002) have become synonymous with the way OUM operates its programs. Internet technology has increasingly become a fundamental component of learning and delivery of educational materials for OUM's students (Abu Zarin, et al, 2008). Based on a policy of blended teaching, this allows for limited sessions of face-to-face tutorials with printed learning materials as inputs, alongside online coaching and forum discussions. Thus, OUM's teaching is premised on self-managed learning (80%), face-to-face interaction (8%) and online learning (12%) (Abas, Z. W. et al, 2008).

While e-learning allows for freedom in self-learning, it requires much discipline and perseverance. However, OUM has noticed that this strengthens the student's willpower to succeed. Certainly, this makes learning via OUM's methods a dualistic achievement – obtaining a degree (knowledge) *and* character building. Over the years, OUM as an ODL university has developed and fine-tuned its web-education and established a unique system for teaching and learning online. This system enables learners and tutors to interact online where courses and discussions are delivered and carried out digitally. It is known as My Learning Management System (MyLMS). OUM's MyLMS allows the integration of various features such as instructor and students' guides, technical support, administrative tools and functions, thereby facilitating the teaching and learning process (OUM, 2005). It has given credence to digital education where it is now possible to learn outside the classroom and, importantly, for students to interact with their peers online. It engages both learners and tutors in an environment that permits the transmission of course materials and interaction between different parties who are at various locations all over the country, and globally.

¹ OUM was established on 10th August 2000 under the Private Higher Education Institutions Act 1996.

OUM also has in place a library that is fully digital and easily accessed from various destinations in the world, thereby serving the research needs of many of the postgraduate learners who may not reside in Kuala Lumpur where the university is sited.

Video conferencing is a common mode of correspondence and communication, and again this technology has become an integral part of the operations of the OUM. Oral examination or *viva-voce* for the OUM's PhD candidates from other countries using video conferencing has made it unnecessary for students to travel to Malaysia for the oral defence of their dissertations. OUM also provides i-tutorial, but this is not used frequently, perhaps due to the popularity and easy accessibility of OUM's other available modes of learning. The underlying concept for the university is that students have a choice to select the most cost effective system that allows them the flexibility they need for learning interaction, whether that be web-based and/or multi-media modes together with printed modules.

As mentioned previously, OUM has developed its own e-learning management systems, namely the MyLMS whereby interaction takes place in an online forum. This opportunity to discuss and interact online would also be of value to local government research, as forums can be accessed easily and allow all those with interest in local government affairs and activities to discuss and share ideas online. Using MyLMS, OUM has already conducted a number of researches on the formation of learning communities to create better learning environments. This is useful in cases where it is not possible to have face-to-face interaction and sharing of information online strengthens research networks. OUM is considering further expansion of this approach with government agencies such as local authorities in order to maximize the potential for learning activities to enhance the skills of staff and benefit local communities. At the same time, research and creative efforts are ongoing to stimulate academic discussion and debate online that transcends both traditional disciplines and geographical boundaries.

Conclusion

As the OUM works to promote excellence in education, it is conscious of competition from other ODL institutions within Malaysia and globally that seek to offer the same opportunities to a similar pool of potential clients. The trend in education in Malaysia is one of continuous

growth and development, but OUM will face challenges in terms of technology, politics and economy, demography and market opportunities. Its ability to circumvent the problems that these challenges may pose will depend upon OUM's innovativeness and vision, and its willingness to re-examine and restructure some of its policies in keeping with changing demands and global trends in education.

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Attaining Sustainable Rural Infrastructure through the National Rural Employment Guarantee Scheme in India

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The enactment of the National Rural Employment Guarantee Act (NREGA) 2005, with its rights-based approach through a time-bound employment guarantee and legal framework, has marked a paradigm shift not only from other wage-employment programmes hitherto pursued in India, but also from neo-liberal reforms undertaken since 1991. The Act came into force on 2 February 2006 and was implemented in a phased manner. In Phase I it was introduced in 200 of the most backward districts of the country; Phase II added another 130 districts in 2007-08; and in Phase III the scheme was further extended to the remaining 274 rural districts of India from 1 April 2008.

The demand-driven approach of NREGA ensures that adult members of a rural household willing to do any public-related unskilled manual work at the statutory minimum wage are provided a legal guarantee for 100 days of employment for each financial year. If the State

government fails to provide work within 15 days of application being made, the applicant is entitled to an unemployment allowance.

The National Rural Employment Guarantee Scheme (NREGS) requires that a Perspective Plan, concerned mainly with water conservation, minor irrigation, land development and rural connectivity, is to be prepared for whole districts to provide a Shelf of Possible Projects to be taken up under the scheme as and when demand for work arises. The Act is also a significant vehicle for strengthening decentralization and deepening the process of democracy by giving a pivotal role to the Panchayati Raj Institutions (PRIs) in planning (Panchayats at District, Intermediate and Village levels are the principal authorities for planning); monitoring (a regular social audit of all works within the jurisdiction of each Panchayat is expected to be carried out by the Gram Sabha¹); and implementation.

Low level of absorption of labour in rural India

According to the 11th Planning Commission's (2007-12) estimate 27.5% of the total population of India live below the poverty line, and about 73% of these poor live in rural areas and are primarily small and marginal farmers. A number of studies indicate that over the past few decades the capacity of the agricultural sector to absorb labour has gone down due to sharp decline in public investment in rural infrastructure such as irrigation. Consequently, there has been a steady decrease in the per capita output of agriculture, which necessitates a massive increase in public investment in rural India. The annual rate of growth of rural employment was around 0.5% per annum between 1993-94 to 1999-2000 as compared to 1.7% per annum between 1983-84 and 1993-94. Also the current daily status unemployment rate in rural areas increased from 5.63% in 1993-94 to 7.21% in 1999-00 (Chakraborty 2007, p.5). However, as shown by the 2001 Census data provided by the National Sample Survey Organization (NSSO), the number of marginal workers grew significantly in the countryside in the 1990s when compared to the 1980s, hence the problem is not merely related to outright unemployment, but also under-employment. Rural labourers are forced to work for very low wages in the non-formal sector. The deceleration of rural employment growth was further reinforced by a sharp cutback in public spending on rural employment programmes. Direct expenditure on these programmes was 0.2% of GDP in

¹ A twice-yearly meeting of eligible voters (adults aged 18 years or more) in each Panchayat.

1996-97, but only 0.13% of GDP in 2001. It increased to 0.40% in 2002-03 but again declined to 0.33% in 2006-07 (Chakraborty 2007, p. 17). This situation demanded providing a safety net to rural communities in the form of guaranteed employment through a programme like NREGA. But as well as ensuring rural employment, productivity enhancement in rural communities is also necessary to generate secondary benefits and improve the rural economy's ability to absorb labour.

Criticism of NREGA to date

NREGA has thus far received two broad types of criticisms. Firstly, pro-market liberals tend to denigrate the Act itself on the grounds that NREGA will accelerate excessive fiscal deficits on the one hand, and encourage corruption on the other. Secondly, other groups including advocates of NREGA, feel that it will actually crowd out private investment, particularly in agriculture, and can only lay the foundations for non-inflationary growth in the medium term if it is accompanied by substantial upgrading of rural infrastructure. These groups feel that the government has so far been approaching the NREGA as purely a wage-employment programme thus negating the development potential of the Act. Furthermore, they argue that there should be no trade-off between expenditures on providing legal rights to rural employment and upgrading infrastructure, but rather that they are complementary.

Furthermore, the three pillars of the rights-based approach of NREGA (a legal guarantee of 100 days of rural employment, a statutory minimum wage, and ensuring unemployment allowances) seemed to be at stake when the 2007 report of the Comptroller of Auditor General (CAG) – the most extensive assessment of the implementation of the scheme so far – highlighted serious procedural lapses in its implementation. These included lack of adequate administrative and technical manpower in rural local governments that adversely affected the preparation of plans, scrutiny, approval, monitoring and measurement of work done, as well as lack of maintenance of the stipulated records at Gram Panchayat level. Absence of recorded dates of applications for work under NREGA, as CAG observed, made it difficult to establish entitlements to employment allowances and also to verify the provision of the work within the legal guarantee of 100 days.

Poor quality of works taken under NREGS

Many studies indicate that giving preference to employment creation over the creation of durable productive assets under NREGS seems to have resulted in poor quality works, increasing numbers of incomplete projects and very low levels of maintenance. This is exacerbated by inadequate technical support for the scheme and poorly designed implementation strategies: "...the emphasis is more on spending a large amount of money than on ensuring quality in works execution" (Ambasta et al. 2008, p. 44). For example, tree-planting may be done under NREGS but no provision made for watering nor any protection planned against grazing (ibid., p. 44). Similarly, water-harvesting structures have been created under NREGS without any provision for catchment protection, and eventually most of these have silted up beyond repair (CSE 2008, p. 43).

Moreover, with a view to generating more workdays and creating labour-intensive projects, the Act bans the use of machines and the commissioning of contractors, who tend to do most work using labour-displacing machinery. The Act also requires a 60:40 ratio of wages to materials costs. Many observers feel that compliance with this strict norm for each project, along with the restriction on the use of machinery, has led to problems with respect to the generation of durable assets. The study undertaken by CSE (2008 p. 42) observed that about 80 percent of the assets created under the Act are not providing sustainable benefits.

Another problem is that there is no compulsion on implementing agencies under NREGA to actually complete a project. Thus local governments start labour intensive projects to meet demands for job creation but many of them are abandoned midway. Many feel that instead of opening up new projects, it is more important to complete existing works within a set timeframe. In 2006-07, 53.7% of the total number of schemes under NREGA remained incomplete. Respective figures for the financial years 2007-08 and 2008-09 are 54.1% and 56.1% as evidenced from the table below.

	Financial Year 2006-07	Financial Year 2007-08	Financial Year 2008-09*
Number of Districts Involved	200	330	615
Employment Provided: Person Days per Household	43 days	42 days	47 days
Total Number of Works (In Lakhs)	835,000	1,788,000	2,643,000
% Works Completed	46.3%	45.9%	43.9%
Type of Works			
Water Conservation	54%	49%	45%
Irrigation Facility	10%)	15%	20%
Rural Connectivity	21%	17%	18%
Land Development	11%	16%	15%
Other	4%	3%	0.93%

***Provisional results to March 2009**

Source: Guidelines on Convergence with National Rural Employment Guarantee Scheme, Ministry of Rural Development, Government of India, 2009, New Delhi (website: <http://www.nrega.nic.in>)

Need and scope for convergence

As noted above, interested parties have asked whether the success of the Act should only be measured in terms of work days provided to rural households, or whether more emphasis should be placed on creating productive and durable assets which would in turn ensure long term rural employment. They argue that the government should ensure better coordination between line departments and with other funding schemes with a view to complementing NREGS with additional mechanized work. For example, non-engineered brick soling roads created under NREGS could be metalled with engineering inputs by linking the scheme with *Pradhan Mantri Gram Sadak Yojna (PMGSY)*, the Prime Minister's Rural Road Project.

The Ministry of Rural Development (MoRD) does in fact appear to have realized that NREGS with its inter-sectoral approach has the potential for convergence with other departments like the Ministry of Water Resources (MoWR), Ministry of Environment and Forests (MoE&F), Department of Land Resources, Ministry of Agriculture (MoA), Ministry

of Human Resources, and the Ministry of Women and Child Development. There is also scope to converge with schemes like PMGSY, the National Afforestation Programme (NAP), Accelerated Irrigation Benefits Programme (AIBP), Farmers Participation Action Research Programme (FPARP) and the Common Area Development and Water Management Programme (CAD& WM). Such linkages could create a 'second generation' NREGS that effectively creates durable assets. Inter-sectoral convergence would also add value through resource and activity synergies as well as infusion of technological inputs and professional quality in planning and implementation (MoRD, 2009).

Given the current situation of a plethora of schemes with similar activities, there is a great need to rationalize their planning and implementation to avoid duplication and redundancy. A convergence model, as conceptualised by MoRD (2009) would draw together existing schemes and resources, rather than create a new scheme with additional resources, thus optimizing public investment and achieving shared objectives. For example, convergence between NREGA and ongoing programmes like PMGSY could be instrumental in achieving the goal of the Rural Development Plan: Vision 2025 (prepared by MoRD) to provide proper connectivity to all villages across the country.

Similarly, convergence between NREGA and the National Afforestation Programme (NAP) would be mutually beneficial. MoE&F has set the target of one third of the country's land area under forest or tree plantations, as envisaged in the National Forest Policy, 1988. This cannot be accomplished by the MoE&F alone due to the volume of manpower and other resources required for the task, some of which could be provided through NREGS.

Also, there are several programmes of MoWR being implemented across the country that involve works similar or complementary to NREGA projects. MoWR has identified a gap between the irrigation potential being created and that utilized because many irrigation projects have been operating below their potential due to inadequate maintenance. This has resulted in the problem of low efficiency of water usage and low productivity. Integration with NREGS could ensure better maintenance of projects implemented by MoWR.

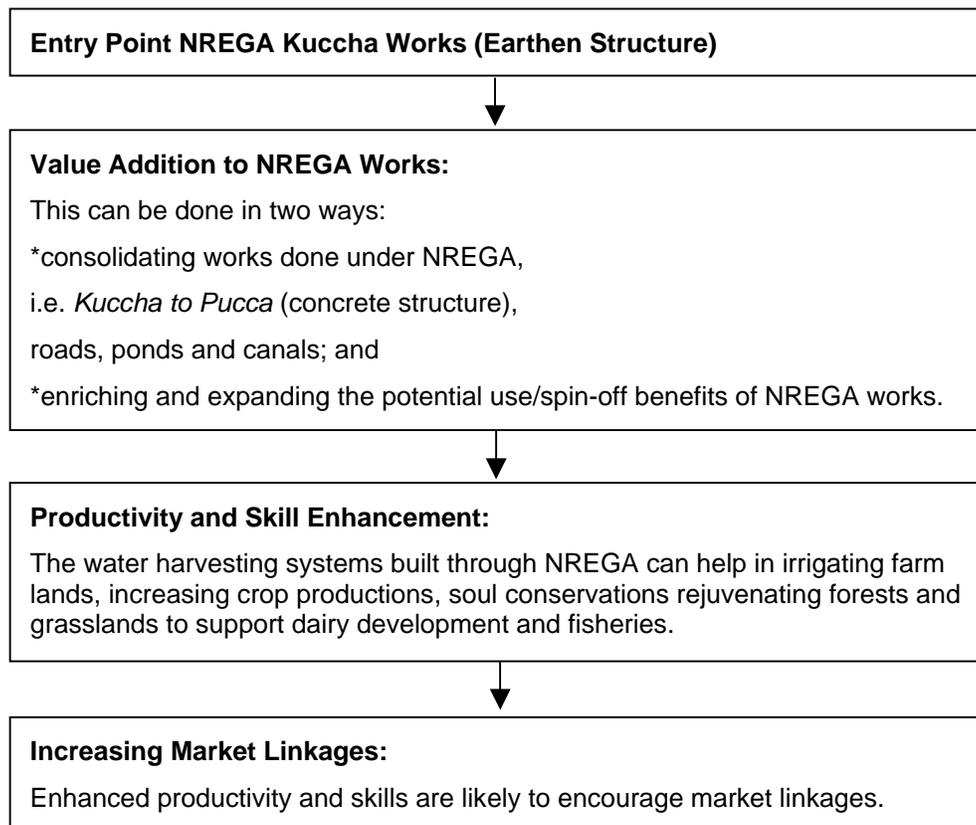
How inter-sectoral convergence could function

According to MoRD's proposals, NREGA works are expected to become a subset of all those other programmes which have a *kuccha* (earthworks) component and which require a large labour force, particularly semi-skilled and unskilled labour. For example, through convergence with the Accelerated Irrigation Benefits Programme (AIBP), earthworks such as embankment construction and minor irrigation schemes, along with other labour intensive work, could be carried out under NREGS, while works requiring machines can be executed under AIBP. The timing of *kuccha* works under convergence should be planned taking into account the agriculture lean season when participation in the NREGA workforce is high.

Convergence of works could be affected in several ways:

- **Gap filling** e.g. roadside planting along roads constructed under PMGSY.
- **Dovetailing inputs** into common projects identified through the NREGA Perspective Plan.
- **Area-based complementary projects**, e.g. NREGS could fund supplementary roadworks in an area to link villages that cannot be connected under the PMGSY, which allows for only limited rural connectivity.
- **Value addition** to NREGA works e.g. metalling roads built under NREGS through PMGSY
- **Technical support** for ensuring quality in planning, selection and execution of NREGS works e.g. the Ministry of Agriculture (MoA) can provide a database for the selection of appropriate works in a particular area at the planning stage along with quality enhancing technologies/technical support at the design and execution stages under NREGS.

The convergence model can thus provide a basis for sustainable development, as shown in the flow chart below.



Conclusion

Over the past few decades the capacity of the agricultural sector to absorb rural labour has declined due in part to a sharp reduction in public investment in rural infrastructure. In this situation, NREGA was introduced with its right-based framework to offer an employment guarantee to the rural poor. However, some critics feel that to date the government has been approaching NREGA purely as a wage-employment programme, thus negating its development potential and giving preference to employment generation over the creation of durable productive assets generation. But these two objectives must be seen as complementary. Studies have shown that there is a quite distinct and positive relationship between rural infrastructure development and the reduction of rural poverty through increases in wages and household income, income per acre of field crop, and non-agricultural employment. According to an estimate made by the International Food Policy Research Institute (IFPRI) for each additional Rs.1 million invested in roads, 165 people would be lifted above the poverty line (IFPRI, 1999, p. 39).

In this context, an inter-sectoral convergence model has been advanced by the Ministry of Rural Development. Successful pursuance of this convergence model is expected to create huge potential for upgrading, renovating and creating sustainable rural infrastructure on a massive scale that has not so far been undertaken in India. NREGA would thus be positioned not as an old style welfare programme, but rather a development initiative to create durable assets across a wide range of works. It remains to be seen to what extent this model of convergence between NREGS and other existing schemes of various line departments can deliver the expected boost to rural infrastructure.

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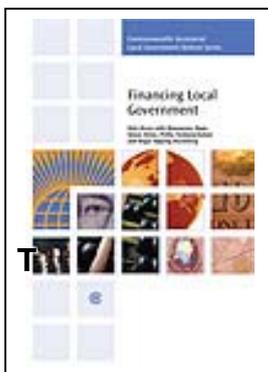
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Review Note: Local Government Reform and Local Government Finance

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BOOK REVIEW: Improving Local Government¹

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(Commonwealth Secretariat. 2008)

1. Introduction

The multi-faceted problem of local government finance has attracted increasing attention in the new millennium. The reasons for the renewed interest in this thorny question are comparatively straightforward. In the first place, for the past two decades all public sector institutions have been profoundly affected by the twin revolutions simultaneously sweeping the world – the globalization of the international economy and the information revolution wrought by the computer age – and local government is no exception. Not only have these inexorable forces had dramatic implications for the structure of government as a whole, and relationships between the different tiers of government, but also for service provision and public finance, including

¹ ISBN 9780850928532

local public finance. Secondly, substantially heightened demands on local government, together with limited access to adequate funding, have seen the genesis of a deepening crisis in the financial sustainability of local government entities.

Although local government has almost always been a much neglected area of intellectual concern, especially compared with academic interest in higher levels of government, this time local government in general, and local public finance in particular, has attracted considerable attention from scholars. This is evident from the plethora of recent books dealing with local government finance. Perhaps the most significant contribution has come in the form of an ongoing stream of books produced in the World Bank Public Sector Governance and Accountability Series under the series editor Anwar Shah. These volumes first began appearing in 2005 with the publication of *Public Services Delivery* as well as *Public Expenditure Analysis*. Since that time a steady stream of books has emerged, all edited by Anwar Shah, including *Local Governance in Industrial Countries* (2006), *Local Governance in Developing Countries* (2006), *Intergovernmental Fiscal Transfers* (2006), *Participatory Budgeting* (2007), *Budgeting and Budgeting Institutions* (2007) and *Macro Federalism and Local Finances* (2007).

In addition to this collection of books, it is possible to identify numerous other recent noteworthy contributions in a similar vein in the local government literature. These include Boyne (1998) *Public Choice Theory and Local Government*, Bailey (1999) *Local Government Economics*, Dollery, Crase and Johnson (2006) *Australian Local Government Economics*, Honadle, Costa and Cigler (2004) *Fiscal Health for Local Government*, Garcea and LeSage (2005) *Municipal Reforms in Canada*, John (2001) *Local Governance in Western Europe*, Denters and Rose (2005) *Comparing Local Governance*, Freire and Stren (2001), *The Challenge of Urban Government*, Dollery, Garcea and LeSage (2008) *Local Government Reform*, Bahl and Smoke (2003), *Restructuring Local Government Finance in Developing Countries*, Dollery and Robotti (2008) *The Theory and Practice of Local Government Reform*, and Wallis, Dollery and McLoughlin (2007) *Reform and Leadership in the Public Sector*, amongst a host of other significant books and scholarly papers. *Financing Local Government* (2008) by Nick Devas and several collaborators, published by the Commonwealth Secretariat in its Local Government Reform Series, represents a recent addition to this valuable literature. This review note considers *Financing Local Government* in the context of contemporary

thought on local government finance and especially local government financial sustainability.

The review note is divided into two main parts. Section 2 provides a synoptic outline of *Financing Local Government* in order to give the reader a brief account of the general thrust of the book. Section 3 discusses the neglected problem of financial sustainability in local government and the difficulties involved both with the concept and its application to local government. The note ends with some concluding remarks in section 4.

2. Financing Local Government

Financing Local Government should be seen against the background of a global trend towards decentralisation of the public sector, which has taken place in many nations, including Commonwealth countries. This trend has been driven by various economic, political and social forces, not least an attempt to address local needs and regional differences in many developed and developing nations, as well as the failure of the centralised socialist state in transition economies. As a consequence of this trend, a great deal of effort has been directed at designing efficient and equitable decentralised governmental systems. However, in almost all cases, the decentralisation of responsibility to lower tiers of government, most notably local government, has not been accompanied by a corresponding decentralisation of financial capacity. Financial sufficiency for local government requires not only additional powers to levy local taxes, but also the freedom to determine local charges, local fees and other local sources of revenue. The main consequence of the failure of national governments to decentralise fiscal capacity has been the development of a crisis in financial sustainability in many local government systems, especially rural municipalities.

While the specific reasons for the emergence of financial distress in local government systems differ between countries, as well as between the different local government jurisdictions in a given country, in general the problem can be traced back to two generic factors. In the first place, the almost universal existence of vertical fiscal imbalance in multi-tier governmental systems arises from the fact that national governments usually gather most tax income, which typically exceeds the expenditure requirements of central government agencies. The main reason for this unbalanced fiscal structure rests on the

existence of substantial economies of scale in tax collection. But since the central government has excess revenue relative to need and lower levels are faced with the reverse, this implies a need for fiscal transfers between the different tiers of government. Three possible avenues have been employed: tax sharing, financial transfers from central and/or provincial governments, and the devolution of tax powers. It is obvious that if the magnitude of funds transferred to local government through these three methods is inadequate, then a financial problem will develop in local government if current service provision is to be maintained. This is especially relevant under circumstances where additional functions are transferred to local government without accompanying additional funding as a result of decentralisation policies.

Secondly, and in common with vertical fiscal imbalance, most systems of government also exhibit horizontal fiscal imbalance, which describes a condition in local government where different local authorities have different revenue-raising and expenditure characteristics. In short, some local governments are 'rich' and others 'poor', with small rural local governments often falling into the latter category. This has invidious equity implications for local service provision to local communities. In many local government jurisdictions, the problems posed by horizontal fiscal imbalance are addressed to various degrees by means of fiscal transfers. Nonetheless, it is obvious that under decentralisation the quantum of horizontal fiscal imbalance will intensify and thereby exacerbate disparities between different local authorities.

Against this background, both practitioners and scholars will find *Financing Local Government*, part of an ongoing Commonwealth Secretariat Local Government Reform Series, a useful addition to the literature on local government finance outlined earlier. The book itself comprises an Introduction by Munawwar Alam, the Series Editor, followed by twelve chapters on different dimensions of local government finance. The administrative and financial implications of financial decentralisation in local government represent the general theme that connects most of these chapters. A second appealing feature of *Financing Local Government* resides in its practical orientation. This is likely to appeal to practitioners in local government who deal directly with formulating and administering financial policy in their local authorities.

Chapter 1 by Nick Devas considers trends in decentralisation, the reasons for these trends and the arguments for and against decentralisation in local government. Devas contends that fiscal decentralisation must be accompanied by carefully attuned local taxes, scope for local fees and charges, regulations for local government-owned businesses, and borrowing by local governments. In addition, functional responsibilities should be clearly defined. Chapter 2 explores local government revenue in more detail, by summarising the different sources of revenue available to local government, as well as their strengths and weaknesses. Chapter 3 continues discussion of this terrain by tackling the problem of local revenue administration and how best to design efficient revenue administration systems.

Chapter 4 deals with the financing of capital investment by local government. Borrowing is considered in detail as well as other sources of capital investment funds. In Chapter 5, Pritha Venkatachalam extends this discussion by focusing on various innovative methods of financing local government infrastructure adopted in Tamil Nadu.

Chapter 6 moves outside 'own-source' revenue and tackles the question of intergovernmental transfers. The full range of transfers from central government to sub-national and local governments is considered, which includes tax/revenue sharing arrangements, general (block) grants, specific grants, deficit grants, capitalisation grants and subsidised loans. Chapter 7 focuses on budgeting and expenditure management in local government. It discusses setting expenditure priorities, financial planning, and financial control. Chapter 8 extends this discussion by dealing with accounting and auditing in local government, using British illustrative examples. Chapter 9 completes this section of *Financing Local Government* by outlining citizen participation in budgetary processes and local government accountability.

The final part of *Financing Local Government* consists of two 'case studies' and a concluding Chapter 12. Chapter 10 looks at local government finance in England whereas Chapter 11 considers fiscal decentralisation in Ghana.

The arrangement of material in *Financing Local Government* is confusing. Although financial constraints impinge on all local government systems, the nature of these constraints differs widely and alternative policy remediation options exist. However, a

basic distinction must be drawn between developed and developing countries, mostly because local government systems in poor nations have more acute capacity limitations, notably administrative and technical incapacity. Unfortunately, this distinction is barely drawn in *Financing Local Government*, which considers both advanced country experience, such as English local government finance in Chapter 10, as well as practice in poor nations, like Ghanaian fiscal decentralisation in Chapter 11. It would have been better had *Financing Local Government* been split into different parts dealing with developed and developing countries separately.

3. Financial Sustainability in Local Government

A more serious deficiency with *Financing Local Government*, which it has in common with almost all the other contemporary literature on local government reform and local government finance, concerns its neglect of the crucial concept of financial sustainability in local government.

In most local government jurisdictions in rich and poor countries alike, central and/or provincial governments periodically assess the financial circumstances of the local authorities in their local government systems. If this process exposes financial distress in particular municipalities, then this can lead to intervention by central and/or state government agencies. Financial oversight by state government agencies of local councils is a thorny question because it inevitably involves developing methods of assessing the financial performance of local authorities. The conceptual and empirical difficulties involved in formulating and implementing accurate financial performance measurement systems are formidable.

Various factors account for these difficulties. Firstly, despite numerous attempts to conceptualise the problem, concisely summarised by Honadle, Costa and Cigler (2004) in *Fiscal Health for Local Governments*, there is no agreed definition of what constitutes 'financial sustainability' over the long term in local government. In this regard, Honadle, Costa and Cigler (2004, p. 18) have noted that there is not even 'consensus about the terminology surrounding fiscal health'. Numerous conflicting definitions exist in the literature. For instance, in the fiscal analysis of American local government, scholars have proposed a bewildering array of terms, including 'fiscal health' (Berry 1994), 'financial condition' (Lin and Raman 1998), 'fiscal strain' (Clark and Appleton 1989),

'fiscal stress' (Pagano and Moore 1985), 'fiscal capacity' (Johnson and Roswick 1991), and 'fiscal crisis' (Campbell 1991). By contrast, in Australia the term 'financial sustainability' has recently acquired almost universal acceptance, despite the fact that it lacks concrete meaning in Australian policy discourse.

One can readily understand how conceptual difficulties of this kind have arisen in the financial analysis of local government. For example, should financial health refer to short term or long run time periods? Similarly, how long should time horizons be? In an analogous vein, should the financial circumstances of a given council be judged exclusively in the light of financial magnitudes, such as operating expenditure, operating revenue, indebtedness, and the like, or should the yardstick reside in standards of service provision and community expectations? After all, cynics have often pointed out that a local council can easily improve its fiscal standing by simply reducing or eliminating service provision! Put differently, should financial performance in local government be assessed in its own terms or relative to operational effectiveness in service provision? What weight should be accorded to operational efficiency that can be determined by management compared with external factors beyond the control of local authorities?

Secondly, quite apart from the difficulties involved in developing a satisfactory definition of financial distress in local government, further unresolved problems exist in adequately measuring financial performance. For instance, the first attempt at systematically evaluating the fiscal standing of local government was undertaken by the American Advisory Commission on Intergovernmental Relations (ACIR) in 1973 which devised six early 'warning signs' of 'local financial emergencies' in the form of financial indicators. This engendered a rapidly growing literature on the development of performance indicators for local government in the United States (see, for example, Kloha, Weissert and Kleine 2005), which culminated in the construction of comparative indicators, typically in the form of financial ratios (see, for instance, Brown 1993; 1996).

Parallel developments have occurred in various other national contexts. For example, Australian local government has recently witnessed a series of state and national inquiries into local government that have sought to find the 'holy grail' of an operational definition of financial sustainability in local government. Thus the methodologies developed in the South Australian Financial Sustainability Review Board's (2005) *Rising*

to the Challenge, the Financial Sustainability of NSW Local Government's (2006) *Are Councils Sustainable*, and the Queensland Local Government Association's (2006) *Size, Shape and Sustainability* all attempted to define financial sustainability and develop attendant comparative measures of local government financial performance.

The aim of these exercises in constructing comparative indicators that can be applied to a whole local government system is certainly laudable. Policy makers seek some kind of 'objective' measurement tool that will enable them to compare the performance of individual local authorities and make recommendations that are unbiased. However, in the Australian context at least, this approach has been flawed. In this regard, Woodbury, Dollery and Prasada Rao (2003, p. 78) have argued that in Australian local government 'performance has been exclusively assessed by either comparing performance indicators against data for similar councils, primarily the "average council" figure for that state, or by comparing current performance with earlier indicators for a given council'. The problem is that 'little effort has been directed at explaining why there are differences between councils, determining what constitutes "best practice" levels of efficiency, or how state governments can best apply direct pressure to force inefficient councils to improve performance'.

Kloha, Weissert and Kleine (2005, pp. 316-317) have identified some of the general problems inherent in all system-wide local government comparative financial indicators. Firstly, almost all indexes of comparative indicators contain 'too many variables' that limit the 'ability to assess which are the most important or to combine them into a more useable and easily understood composite'. Secondly, the 'exclusion of key variables' consequent upon 'focusing almost exclusively on balance sheet data seems to hinder an indicator's ability to give early warning of distress.' An additional problem resides in 'ambiguous expectations' since 'some indicators include variables that may have differing interpretations'. A 'failure to allow for diverse preferences' typically derives from the application of average financial ratio values to every local council in strident defiance of preference differences on the part of residents of different local authorities. In the fifth place, an emphasis on the 'relative rather than absolute' values of indicators serves to punish councils whose absolute values are satisfactory but that fall at the end of a scale. An inability 'to focus on one locality' is a further problem that plagues systems of comparative indicators since 'ratios for all local governments must be computed

before the relative fiscal health of a single government can be determined' with onerous cost implications. Finally, acquiring accurate data is always a problem.

These specific problems inherent in almost all sets of local government financial performance indicators are amplified when we consider wider conceptual anomalies. For instance, in *The Financial Analysis of Governments*, Berne and Schramm (1986, p. 93) stress that 'the judgment factor will never be replaced entirely by cookbook formulae' offered by the apparent 'objectivity' of quantitative financial ratios in comparative local government performance indicators. Similarly, in direct reference to Australian performance indicators, Worthington and Dollery (2000) emphasised the significance of 'nondiscretionary variables' in performance indicators that cannot be altered by the behaviour of a given council. Nondiscretionary variables include items such as pensioner rate rebates, non-rateable properties in a local government area, the proportion of non-English speaking and Aboriginal people, and a host of economic and social factors that cannot be influenced by a council.

4. Concluding Remarks

In this review note, we have considered the literature on local government finance, placed *Financing Local Government* in this context, and then demonstrated that the problem of defining financial sustainability in local government is unresolved and the application of this concept to local authorities in the form of various financial indicators is flawed. We have argued that the literature on local government finance is deficient in the sense that it often ignores this problem. *Financing Local Government* shares this problem with comparable books published over the past decade.

While *Financing Local Government* represents a useful addition to the literature on local government finance, especially in terms of its accessibility to practitioners in local government, it does not provide the reader with a complete picture because it has neglected the question of financial sustainability. This is a pity since a significant proportion of contemporary local government policy making is devoted to financially unsustainable local authorities.

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Book Review: Improving Local Government

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BOOK REVIEW: Improving Local Government¹

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(Palgrave Macmillan. 2008)

This book is a compilation of ten essays on local government with an introductory and concluding chapter. The themes discussed include metropolitan governance, the role of community leadership, the value of best practice as an administration technique, indigenous knowledge, intergovernmental relations, public-private partnerships and local management.

¹ ISBN 9780230517523

Academic literature that engages in a comparison of local government systems, policies and practices and their impact on democracy and development is hard to come by. Yet, these comparisons are critical as they shed light on challenges, failures and best practices in local government across jurisdictions. They also reveal an often-surprising similarity in challenges and choices experienced by countries that engage in decentralisation and are therefore critical resources for policy entrepreneurs and policy makers. This book is thus a very welcome addition to this small pool of academic publications that pursue such comparisons.

The article by Rodriguez-Costa and Rosenbaum contains a fascinating overview of metropolitan governance in Latin America, examining metropolitan governance in Quito, Lima-Callao, Santa Fe de Bogota, Sao Paulo, Santiago, Mexico City, Buenos Aires and San Salvador. The authors conclude that the challenges of metropolitan governance are huge and they bemoan the complexity of metropolitan governance arrangements, often characterized by a multitude of local and regional institutions sharing responsibility in a metropolitan area. A particularly interesting conclusion drawn by the authors is that the relative novelty of decentralisation in Latin America may be the reason why local authorities are reluctant to cede their newfound authority to cooperative ventures in the interest of better metropolitan governance. It is a pity that the authors don't often buttress their important observations about the socio-economic climate within which metropolitan governments operate and their performance, with sources that could assist the further academic enterprise in this area.

Reddy's article, entitled "Metropolises in Africa" is a comprehensive case study of three metropolitan municipalities in South Africa, where metropolitan areas are governed by single local government authorities. The article may as well have been entitled "Metropolises in South Africa" as the discussion is limited to the South African context. It offers an impressive and comprehensive consolidation of the debates surrounding metropolitan governance in South Africa, the history preceding the establishment of the new metropolitan municipalities, and their effectiveness so far. The article is impressive in its comprehensiveness and the author makes the important argument that the bold institutional arrangement for metropolitan governance in South Africa cannot be held up as an undisputed success story that is to be emulated by other jurisdictions. An area that the author left untouched is the effect of the establishment of powerful single-tiered metropolitan

municipalities on the balance of power between local, provincial and national government in South Africa. This is a pity, particularly considering the trend, which is all too common in Africa, of opposition parties winning municipal elections in urban areas (see for example Harare, Addis Ababa and Cape Town) and the consequent challenges for multi-party democracy. While Reddy argues that institutional arrangements are no recipe for successful metropolitan governance, Rodriguez-Costa and Rosenbaum observe that the fragmentation of metropolitan governance institutions in Latin America contributes negatively to the governance challenges in that region. The two papers represent, albeit implicitly, two sides to an interesting debate to which, in my view, the editors could have paid more attention in their overall assessment.

The book places a high premium on the theoretical discourse surrounding the rationale for local government autonomy. Haque, De Vries and Reddy discuss the classic theoretical foundations of local government and emphasise the limits of these theories. They propose a new theoretical foundation for local government, entitled the “multi-centred theory”, which calls for a more balanced approach to local government autonomy vis-à-vis accountability to the centre. Reflections on a foundation for local government are critical because, after a wave of decentralisation that has sustained itself for more than twenty years, there is still no conclusive evidence that decentralisation is inextricably linked to development. The usual platitudes that talk of ‘government closest to the people’ are generally not sufficient to justify local government. A firm conceptual basis is critical and the authors make an important contribution to the debate in this publication.

Haque’s survey of local government in South Asia is a very well documented article and provides the reader with an impressive arsenal of sources on a region whose local government experience is not often discussed (except for the Indian experience which has been the subject of extensive research and comment). Despite the promising attempts at deepening decentralisation, the author sees a long road ahead for local government in the region. Haque attributes the limited progress made thus far to the usual cocktail of socio-economic, financial and intergovernmental challenges that harass local governments in the developing world. However, the author also makes the critical point that ethnic, religious and caste cleavages bedevil progress in decentralisation.

Nwaka's contribution deals with indigenous knowledge and suggests that development and reform initiatives on the African continent are still dominated by conventional strategies for economic development. He challenges the development sector and the stakeholders on the African continent to rely more on indigenous moral and indigenous resources in order to develop a distinctly African tactic towards development.

Geldenhuis' chapter, entitled "The Crux of Intergovernmental Relations" discusses intergovernmental relations and carries a case study of South Africa. He introduces the South African framework for local government and narrates the transformation of local government. The framework for integrated development planning is posited as a critical vehicle for improved intergovernmental relations. Geldenhuis' chapter would have benefited from deeper reflection on the practice of intergovernmental relations. This may have been useful against the backdrop of the complaint, widely expressed by practitioners and increasingly recorded by academics, that intergovernmental relations in South Africa is at risk of getting stuck in a paradigm of good intentions, motherhood and apple-pie, ambitious legal frameworks and IGR forums that are pleasant get-togethers rather than real programmatic exchanges. For example, a reflection on the intersection between centralised politics and intergovernmental relations would have been useful. Another critical issue in intergovernmental relations is the notion of asymmetry in relationships. The contribution almost treats local government as a monolithic entity; it may have been useful to take into account the huge variations between municipalities and the impact this has on the practice of intergovernmental relations.

Kroukam and Lues discuss various initiatives and strategies to improve local government management. They discuss the modernisation agenda and provide a useful theoretical underpinning for it. They suggest eleven themes as crucial factors in making modernisation efforts successful. The authors introduce and assess the New Public Management concept, propose a new governing framework and then proceed with practical examples of improvement strategies in Bulgaria, Norway, South Africa, Tanzania and Brazil. While the context of the article suggests that the authors will review the modernisation of local

government management in these countries, the actual case studies focus largely on a description of ‘macro’ local government reform in the respective jurisdictions.

Du Plessis discusses the role of community leadership in local government. He distinguishes political leadership, managerial leadership and civic leadership, and discusses the various features of these different types. With regard to civic leadership, Du Plessis raises important questions particularly with regard to the desired levels of institutionalisation of community participation. The article promises a discussion of community leadership in South Africa, Latin America and Asia. However, the author’s delivery on that promise is somewhat lopsided. The South African discussion is comprehensive while the Latin American and Asian discussions are limited to quick excursions.

Göymen renders an interesting discussion of the background and rationale of the ever-increasing involvement of private enterprise in local development. The author posits that the history and prevailing ideology of the state will largely define the type of partnerships that will emerge. A strong public ideology will result in the domination of public actors in the partnership. He then proceeds to discuss examples of private-enterprise involvement in Turkey, Jordan, Poland and Uganda. The Turkish example is discussed at length against the backdrop of Turkey’s transformation from centralist to decentralised administration. The other three countries are afforded very limited attention and are not discussed in the conclusion.

Andrews addresses best practices as a technique in public administration. She discusses proposals to improve the ‘transferability’ of best practices and reiterates that context is all-important. The article then proceeds with a discussion of best practices in the field of intergovernmental relations, local leadership, local government management, private sector involvement and indigenous knowledge.

The book is likely to appeal more to the academic than to the local government practitioner. It contains valuable contributions to the study of local government across the globe and steers clear of too much attention to practical considerations. The book does not aim to be overly methodical in its comparison. The editors are not very explicit about the overall

objective of the various case studies and comparisons, or what has informed the choice of topics and regions (including a distinctly South African bias). This may very well have been intentional to allow the individual authors to deliver within their disciplines and interests. However, it ultimately leads to a conclusion, which some may find obvious, that there is no singular truth to local government and that a one-size-fits-all discourse on the topic is unproductive. Perhaps this important book may have benefited from a greater effort to distill trends from the various contributions and case studies, and to present those in a manner that assists practitioners in making everyday choices about local government. Nevertheless, the book certainly represents an important contribution to the body of international work on local government.