

LEGISLATURE AND GOVERNANCE



POLICY DISCUSSION DOCUMENT

March 2012

1. OVERALL FRAMEWORK

We have made significant progress in state transformation since 1994. Our objective of the construction of a developmental state is being progressively realized. To deepen and advance the National Democratic Revolution (NDR), we have to, together with the masses of our people, accelerate service delivery and development. To do this we have to transform the state into a stronger, more cohesive, developmental state.

One of the main current tasks of the African National Congress as resolved in Strategy and Tactics in 2007 is “to strengthen the hold of the democratic movement on state power, and to transform the state machinery to serve the cause of social change”. The transformation of state power is guided and shaped by strategy and tactics. In the context of the NDR the task of state transformation is that “in broad terms, the National Democratic Revolution (NDR) seeks to ensure that every South African, especially the poor, experience an improved quality of life. It seeks to build a Developmental State shaped by the history and socio-economic dynamics of South African society”.

The ANC centenary celebrations and eighteen (18) years of democratic governance by the ANC led government, provides significant milestones within which to review and shape the future of the state. Both the ANC centenary and eighteen (18) years of democratic governance, requires the ANC to set a new long term vision for state transformation. The ANC policy perspective in this paper must be long term and aim to introduce innovative, dynamic and long lasting policies for the state.

The Paper builds on the decisions taken at the ANC 52nd National Conference of 2007, the National General Council of 2010 and the December 2010 Provincial and Local Government Summit. The issues are presented here in a brief, condensed form, with the aim of encouraging greater branch participation.

The discussion paper provides a brief policy review of the current policies and the progress in the implementation of these policies. It gives an overview of the nature and character of the Developmental State we are building and evaluates

our current system of cooperative governance and the role of provinces. The paper considers the transformation of legislatures and the experience of the ANC over the past 18 years in this sector and proposes specific changes needed in this area. The concept of a single elections system is debated in the document and again specific recommendations are provided in the discussion paper.

A key focus area of the discussion paper is local government the sphere that is most crucial in accelerating service delivery. The paper recognizes that this is the most challenged sphere of government and seeks to address these challenges with a range of proposals. These include the delivery of basic services; matters of demarcation; political governance; a differentiated model for local government; the two-tiered system of local government leading to proposed reforms on the role of District Councils. There are specific recommendations on enhancing accountability through improving ward committees and deepening community participation.

We have to focus more attention, energy and resources on making local government work far more effectively. If local government works more effectively and is more transformative, it will contribute significantly to advancing the NDR, but if it does not perform better, our overall transformation will be severely challenged. Whatever we do to make local government work better will have limited success unless the ANC and the Alliance are stronger, more cohesive and more effective. Many of the tensions within the ANC get translated into municipalities (and vice versa), and unless ANC structures exercises political and strategic oversight without seeking to micro-manage municipalities and use them as a site to wage internal party struggles, it will be difficult to get municipalities to work much better.

2. BRIEF POLICY ANC POLICY REVIEW ON GOVERNANCE AND LEGISLATURES

The National Executive Committee has developed a framework for all policy papers. The policy papers must be guided and focus largely on the following questions:

- i. What are the existing ANC policies?
- ii. What decisions have been taken?
- iii. Is the policy been implemented?
- iv. If not is the problem with the policy or the implementation thereof?
- v. How are the new proposals related to the National Development Plan and the New Growth Path?
- vi. How does the ANC respond to this situation?
- vii. Does conference need to adopt new policy in this area?

The ANC policy on Legislatures and Governance is informed primarily by the 52nd National Conference Resolutions of 2007, the 3rd National General Council of 2010, previous National Policy Conferences of the ANC and NEC decisions. In addition various NEC Makgotla also make key policy proposals on both implementation of National Conference resolutions and dealing with policy gaps.

The Legislature and Governance subcommittee also hosted a summit on provinces and local government (December 2010) as mandated by the 52nd National Conference and the 3rd National General Council. The summit considered extensively key policy issues on Provinces and local governance and made recommendations to the NEC. The NEC Lekgotla of July 2011, dedicated substantial time on local government and outlined a clear programme and tasks with regard to the implementation of ANC policies.

i. What are the existing ANC policies?

The 52nd National Conference held in Polokwane adopted resolutions in the following areas;

- Electoral system
- Floor crossing
- Single public service

- Review of provinces and local government
- Ethics and integrity
- Voting age
- Post tenure employment defending democratic state
- Establishment of a women's ministry

The 3rd National General Council also considered various policy issues and reviewed the progress on implementation. The NGC adopted a report on how to fast track the implementation of national conference resolutions. Various policy gaps were identified at the NGC and referred to Policy conference and the Provincial and local Government summit.

ii. What decisions have been taken and is the policy been implemented?

In furthering the 52nd National Conference and NGC resolutions, the NEC Lekgotla of July 2011 developed a clear programme to drive and implement ANC policies on legislature and governance.

Most of the policies have been implemented and in some areas there is significant progress in implementation. However, there are policy areas where there are major challenges of implementation, namely the single public service and the review of provinces and local government, specifically local government matters.

(a) Single Public Service:

The process to finalise the establishment of a single public service is near completion. The trade union movement needs to be drawn into the final process of the Bill that addresses the Single Public Service. Disparities and anomalies in remuneration between the Local, Provincial and National spheres of government exist. Norms and standards for service delivery, Human Resource Development Management and training and development are not uniform.

The policy implementation in this area has progressed but not at the pace that was anticipated. Largely the pace has been informed by the complexity of HR issues; the Constitution and related legal matters. The speeding up of the process lies in the hands of the Ministries of Public Service and Administration and Cooperative Governance and Traditional Affairs in the first instance. As this is a process matter no new policy is needed.

(b) Provinces and local government:

The 51st National Conference of ANC held in Stellenbosch in 2002 resolved on this matter and not much was done until the 52nd National Conference held in Polokwane. Again up until the 3rd NGC held in Durban in 2010 progress was limited. The NGC mandated an urgent Summit to be held in December 2010. This ANC summit considered the matter and provided political principles and guidelines that inform and lead to the development of a Blue Print policy on Provinces and local government. This task is still outstanding. The summit recommended the appointment of a panel of experts by government to undertake a comprehensive policy review informed by factual data and thorough analysis.

(c) Local government:

The key issues on local government have been: collapsing municipalities, municipal demarcation, the role of ANC structures on political oversight of municipalities and financial viability of most rural municipalities. The NEC Lekgotla of 2011 took significant decisions on all of these issues. However implementation has been the challenge. The issues of role of ANC structures in political oversight of municipalities will require a policy decision by both the policy conference and the National Conference.

iii. Key Milestones in implementing the Policies on Legislature and Governance

The following are some of the key milestones and interventions undertaken by ANC and government, as practical measures to implement ANC policy.

a. ANC 2009 Manifesto and Local Government manifesto 2011;

The manifesto's as informed by the 52nd National Conference resolutions, become the ANC programme in government. The Manifesto was translated into the Government's Medium Term Strategic Framework 2009 to 2014.

The ANC 2011 local government manifesto has also been based on and informed by the 2010 NGC resolutions.

b. Provincial and Local Government Review:

The NEC subcommittee held a successful summit and considered key policy issues on provinces and local government. The political principles and roadmap for the completion of this task was outlined and adopted at the summit.

c. Local Government Turnaround Strategy:

The ANC government adopted a comprehensive strategy to stabilise local government. The turnaround strategy has been implemented although unevenly across the country by national departments, provinces and municipalities.

d. National Legislation

The ANC has and continues to provide political, policy and technical direction on draft legislation, including the municipal systems, the public service administration as well as support to specific interventions.

e. Local government elections and transitional matters

Prior to local government elections, mechanisms to deal with transitional matters were put in place by the ANC.

iv. Does conference need to adopt new policy in this area?

The NEC Lekgotla of July 2011 has identified the following issues for consideration at the policy conference:

- i. Review of Developmental Local Government
 - Separation of powers within local government
 - Funding model for and non-viable municipalities
 - Two tier system of local government

- ii. Macro-Review of the Government
 - Cooperative Governance

- Interventions in provinces and municipalities
 - Policy on Provinces
 - Single Elections
 - Powers and Functions across the three spheres
 - Alignment of planning cycle across the spheres
 - Inter-governmental Fiscal Relations Framework
- iii. The CDW roles, functions and management must be reviewed
- iv. Transformation of legislatures

The policy paper on legislature and governance seeks to address the above policy gaps.

3. NATURE OF THE DEVELOPMENTAL STATE WE BUILDING

Problem Statement

The ANC Strategy and Tactics as adopted in 2007 defined and outlined the developmental state and its attributes. Weaknesses are located in the implementation to realize the objectives of a developmental state. Various policies of the ANC government seek to achieve the objectives of a developmental state. Weaknesses are located in the implementation of a common and broad framework to coordinate and drive the implementation.

Discussion

Setting a long term vision and agenda for the task of state transformation is critical in accelerating the tasks of the NDR.

The ANC led government has progressed in adopting policies that seek to advance the developmental state. There is general agreement that this has not been comprehensive enough and well coordinated. This policy paper must ensure that ANC government takes forward the task of building the development state by identifying key policy areas and making concrete policy proposals that are aligned to and seek to, ensure realisation of a developmental state.

Strengthening existing policy

(i) Vision of a Developmental State.

The long term vision and type of state the ANC seeks to build is a “Developmental State”, and the work of the Presidency in terms of the National Planning Commission and Monitoring and Evaluation must foster and marshal society’s support and commitment towards realisation of this vision. .

(ii) State Agencies must have the technical capacity to plan and implement

The ANC draft policy document on SOE’s and DFI’s needs to be read alongside this document. It gets to grips with issues of structures and location; governance; financing; legislation and function. It makes policy proposals and lists options. Clearly mandates of the state-owned enterprises, development finance institutions and other state agencies must be aligned with the objectives and priorities of the developmental state and ANC government. The state agencies must be positioned to be at the centre of the technical capacity building and training, planning and implementation. This is one of the attributes of the developmental state

(iii) A strengthened government wide planning

Key to this is building the technical capacity of the state to engage with and lead the development of dynamic and globally integrated economic sectors.

There must be integration, harmonization and alignment of planning and implementation across all three spheres of government and the Development Finance Institutions and State-Owned Enterprises. This includes the development of coherent inter-sectoral plans at national level and the alignment of local implementation in terms of the IDP’s.

Government wide planning must focus on spatial planning, infrastructure planning, urbanisation, migration and economic planning. The institutional planning mechanism must seek to redress the apartheid planning structure and introduce new innovative models of planning.

(iv) Building the human resources capacity of the state

The ANC government must restructure and re-focus the public service. The public service must be responsive, professional and guided by a new ethos. There must be the development of uniform entrance requirements and standards of employment in the public service, emphasizing professionalism, discipline and a commitment to serve.

The state must ensure adequate and competent personnel that deal with service delivery, particularly in the case of essential services and basic services.

(v) Parliament and provincial legislatures must be a lead in defining the national transformation agenda

The National Parliament and Provincial Legislatures, as tribunes of the people, must lead in the theory and practice of the national transformational agenda.

The ANC in legislatures and parliament must lead in the conceptual, theoretical and ideological analysis of national priority issues. The parliamentary constituency offices and the public hearings in all legislatures must be re-positioned to ensure active people participation in building a developmental state.

(vi) Cooperative governance geared towards service delivery

The more we build a developmental state, the more we create the conditions for a more integrated cooperative governance system. The more we strengthen cooperative governance, the more we create the conditions for effective service delivery. There is a mutually reinforcing relationship between effective cooperative governance, service delivery and a developmental state.

Provincial and local government must be repositioned to be more effective in provisioning of services to the people. Provinces must be strengthened to play a much more supportive role to local government in service delivery. Thus the powers and functions of provincial government must be re-focused and aligned to complement service delivery at local government.

QUESTIONS ON THE DEVELOPMENTAL STATE

- (i) What are the key policy interventions required to realise the objectives of the developmental state?
- (ii) What roles must be played by different organs of the state in building a developmental state?
- (iii) How do you align the National Planning Commission Report with the vision of a developmental state?

4. COOPERATIVE GOVERNANCE & THE ROLE OF PROVINCES

Problem Statement

(i) The ANC policy position is of a Unitary state. As part of our negotiated transition to democracy, we shaped a cooperative governance system with three spheres of government. The spheres of government are inter-related and inter-dependent. This presents challenges in some instances in terms of powers and functions and viability of some of the spheres either municipal or province.

(ii) The problems emanating from the existence of Provinces are not structural but are more functional and to do with powers. There is a need to avoid subjecting the country to “endless restructuring” and so digressing from the real challenge of tackling service delivery weaknesses and under-development. However there is a greater need to address the functionality of provinces and matters of powers.

(iii) The governance system we shaped is partly a reflection of what the movement wanted. It is also partly the outcome of negotiations process, “the reconciliation phase” between 1990 and 1996 (when the current Constitution was adopted). In the current conjuncture and given that history is ever evolving and the subject of the balance of forces within the State, the shortcomings of what we have are rising to the fore strongly and the need to review has become ever more important. Not to do so will result in what the “10 Year Review” in 2004 warned against, “the reversal of our gains and the setback of democracy”.

KEY POLICY ISSUES

(i) 18 years on we need to ask ourselves which features of our cooperative governance system should endure and which are contingent, having been shaped largely to meet the needs of a different context? Does the current *particular form* of cooperative governance system best suit our needs to advance the NDR? Does it serve to significantly advance service delivery and development? To what extent does it contribute to building a developmental state?

(ii) We need a far more integrated cooperative governance system, in which the three spheres of government work much more effectively together. In particular, national and provincial government need to become far more actively involved in local government in ways that strengthen municipalities, not erode their powers and functions. Crucially, for cooperative governance to be more effective, government, especially in the local sphere, must be more actively engaged with the people.

RECOMMENDATIONS

The ANC summit on provincial and local government, considered the future role of provinces. The conclusion reached was that the status quo is not viable and neither is removing all nine provinces. Therefore the following recommendations were made at the summit :

- i. The ANC government must retain provincial governments as part of our government system. Provincial governments have an important role to play in terms of regional economies, supporting municipalities, ensuring provision of provincial based services and enhancing the system of both representative and participatory democracy.**
- ii. The ANC government must reform, rationalize and strengthen provinces. This must ensure the following;**
 - a. That we have fewer provinces which are functional, effective, economically sustainable, integrate communities on non-racial basis and do away with ethnic boundaries.**

- b. That the powers and functions of the provincial sphere of government be strengthened to ensure more functionality, economic viability and racial/ethnic integration.
 - c. The role of provincial legislatures be refocused, and mechanism to strengthen legislatures be developed.
 - d. Consideration of municipal representation in legislatures to strengthen participatory democracy and representation.
 - e. The roles and responsibilities of provinces to be legislated so as to remove any uncertainty and disputes. This is especially necessary since the district level of government is to be reviewed.
 - f. Consider City Regions in Gauteng.
 - g. Provincial government needs to focus on the roles and responsibilities that will capacitate local government; develop and enforce service delivery; financial management; governance standards and facilitate financial support for local governments in need.
- iii. The ANC government must undertake the development of a blue print policy to underpin and guide the task of reforming, rationalization and strengthening of provinces. The task must be carried out by government through appointment of a panel of experts.
 - iv. The process to reform, rationalise and strengthen provinces must be open, democratic and ensure broader consultation and participation by the public.
 - v. The ANC must give serious consideration to constitutional requirements to carry out the above, in case there is a need for fundamental changes to provinces. The envisaged policy changes might require constitutional amendments.
 - vi. The key political parties must be sufficiently consulted and be allowed a space to play a role in shaping the provincial reforms.

QUESTIONS ON THE PROVINCES

- (I) Do the current systems and policies facilitate more functional, viable and sustainable Provinces and what are the areas of major reforms required for Provinces?
- (II) What powers should Provinces have and why?
- (iii) What is the nature of support and capacity building for Provinces that is needed and who should perform this function?

5. OVERVIEW OF THE LOCAL GOVERNMENT SYSTEM

5.1 DELIVERY OF BASIC SERVICES

The vision

The vision for district municipalities in the White Paper on Local Government was linked to their envisioned distributive role namely: coordinating, planning and facilitating district-wide development, providing bulk infrastructure, supporting weaker municipalities and providing services where local municipalities did not have the capacity to do so. The objective of achieving a responsive, accountable, effective and efficient local government system involves categorising municipalities according to their varied contexts and tailored planning, financing and support to the specific requirements of each category. This would involve initiating ward based programmes to sustain livelihoods for the poor, strengthening local democratic participation and developing improved administrative and financial capabilities, all dependant upon effective coordination between local, provincial and national government.

The Problem Statement

- i. Municipalities differ from each other in various ways, including size and structure of population, poverty levels, backlogs in basic services, economic development, employment, land ownership patterns, spatial characteristics and a host of other factors. These factors have a large

impact on the scope and types of services that will be required to be performed.

- ii. Despite the advances in service delivery since 1994, the pace of improvement in services and the quality of services provided do not in many cases match the expectations of many of our people. A significant number of municipalities are still in deep distress and municipal service delivery is poor. Whilst access to basic services has risen progressively the backlogs remain high.
- iii. The one size fits all approach to improving local government has not worked. Integrated Development Plans (IDP's) which were meant to be key for facilitating local development have not lived up to this expectation.
- iv. There is a strong correlation between areas of high poverty concentration, poor services and institutional weaknesses. The problem is most pronounced in rural municipalities and those localities that have only one or two small towns, notably in the former homeland areas. Poor governance and accountability, weak financial management, skills gaps, high vacancies in critical senior management posts and a lack of informed and co-ordinated planning.

This has resulted in an inability of some municipalities to deliver even a core set of basic municipal services. Added to this has been a lack of infrastructure and a lack of appropriate delivery models in remote rural areas as well as general neglect of maintenance and repairs of municipal infrastructure.

- v. High vacancy rates and a lack of suitably qualified individuals in senior management and technical positions with only 25% of municipalities having a civil engineer.
- vi. Ineffective internal controls and procurement practices and critical skills gaps account for rising municipal debt and the weak financial position of many municipalities. Poor governance and accountability are major areas of concern. These manifest themselves in high levels

of distrust in local government and the escalation of community protests. Level of trust in local government has declined sharply since 2004. Participatory governance has lost meaning and content and in its place has risen communities who feel alienated and disconnected from decision-making processes and disempowered in influencing the affairs of the municipality. Much of this stems from poor communication with communities, lack of transparency and weak and ineffective ward committees.

- viii The role of District Municipalities needs to be clarified. The status quo is not optimal and needs to be reviewed. The question that must be confronted is whether it is workable for District Municipalities to be expected to provide services to some local municipalities that have more resources than them. There is a growing view that we need to be recommending policy that District Municipalities should house shared services and provide high level skills to municipalities that will never afford some of the skills.

- ix Various policy shifts impacted on this envisioned redistribution role, which included amendments to the Municipal Structures that shifted the role of District Municipalities in direct service delivery and the abolishing of the Regional Services Council (RSC) Levies in 2006. In place of the RSC levy grant was introduced to replace the lost revenue stream. In reality the grant system never functioned properly and the RSC decision has qualitatively weakened District Municipalities. Funding for smaller municipalities needs a firm decision. The assumption that municipalities can raise up to 95% of their revenue is only applicable to a very limited number of municipalities. Many small and rural municipalities have no revenue base and no capacity to manage even the limited resources given to them.

Recommendations:

- (a) Put in place a differentiated approach to municipal planning, financing and support.**

- (b) Emphasis must be towards increasing the share of nationally raised revenue to local government.**
- (c) Revisit the formula for local government funding.**
The key areas of review include: the equitable share; MIG & other conditional grants.
- (d) The revenue collection mechanism must be strengthened.**
- (e) The spending capacity of municipalities must be strengthened.**
- (f) The vigorous implementation of municipal credit policy.**
- (g) Initiating ward-based programmes to sustain livelihoods for the poor.**
- (h) Deepening local democracy.**
- (i) Enhancing administrative and financial capabilities of municipalities.**
- (j) Improve coordination of cross-departmental interventions impacting on local government.**

5.2 DEMARCATION

Demarcation and the Demarcation Board have been highlighted as areas of serious concern. As a governing party our views cannot be relegated to complaints. We need a workable approach. The demarcation processes must be informed by developmental patterns with the objective of deracializing and integrating communities in their operations.

Recommendations:

- (a) The ANC must improve and strengthen its capability and establish a mechanism to interact and influence the**

demarcation processes timeously and in a coordinated manner.

(b) Government must review the demarcation process and the role, functions, scope and composition of the Municipal Demarcation Board, the criteria it uses to decide on ward and municipal boundaries and with a much more enhanced role for community participation.

5.3 POLITICAL GOVERNANCE

Recommendations

- (i) ANC must develop urgent political guidelines regarding the implementation of the Municipal Systems Amendment Act.**
- (ii) A policy framework on how ANC structures (REC's and BEC's) relate to municipal structures is needed.**
- (iii) That the oversight role of Municipal Councils be strengthened by:
 - (a) strengthening the role of the speaker.**
 - (b) strengthening the separation of powers between the Executive and Council so that Council does hold the Mayoral Committee to account.**
 - (c) strengthening those Portfolio Committees chaired by a member of Council who is not serving on the Mayoral Committee.****

5.4 A DIFFERENTIATED MODEL

Although great strides have been made in extending access to services, there is a need to fast-track delivery. Given the different landscapes within which municipalities operate the division of powers and functions need to take these differences into account. Although each and every municipality is unique and will require different service delivery responses, there are two broad categories within which

municipalities fall namely, (a) metros and large cities; and (b) smaller and more rural municipalities.

There has been a deliberate increase in the amount of differentiation in the local government system in recent years. However there is still significant scope for the possibility of further differentiation in a number of areas.

RECOMMENDATIONS:

(i) Further devolution of functions to cities – full accreditation for the housing function and the transport regulatory function. Both of these functions are necessary for cities to be able to plan properly, integrated urban environments and change the apartheid spatial patterns of development they have inherited.

(ii) Infrastructure funding for cities and rural municipalities – Cities have very different infrastructure needs and planning capacities to rural municipalities. Cities require more integrated infrastructure funding while other municipalities require more guidance and assistance with their infrastructure.

(iii) Differentiated capacity interventions – Different municipalities have very different levels of capacity and so it makes sense to provide very different forms of capacity support in different municipalities. The type of capacity support appropriate for metros in planning their built environments will be very different to the type of capacity interventions that are appropriate in rural municipalities.

(iv) New revenue raising powers for some municipalities - There is scope for the revenue raising powers allocated to municipalities to become even more differentiated. This means that a particular group of municipalities (e.g. cities or rural municipalities) might apply for a new revenue raising instrument that could only be used by that group.

(v) Differentiation in regulations – In some instances it may be feasible to create different regulations and formats for different types of municipalities. For example simplified IDP formats. We must also be

very careful that any changes to regulations do not undermine the basic structures underpinning the transparency and accountability that has been built into the system over many years.

(vi) Creating a new type of category A municipality – The possibility of creating more municipalities operating outside districts would increase the scope for differentiation. The viable category B municipalities, should not un-necessarily burden district with support requirements and rather be redefined in a new category “A” type municipality. This allows districts to focus on the more needy municipalities.

5.5 THE TWO-TIERED SYSTEM

The recommendations for the two tier system are as follows:

- **Leave the system as it is**

This option would retain the basic institutional framework of local government: metropolitan municipalities and two-tier local government. It would also retain the inefficiencies in the system: the absence of a clear model for districts, unstable functional arrangements, the mismatch between revenues and expenditure, and conflict over resources and authority.

If the two-tier system is retained in essence, policy and institutional reform will still be needed to correct the problems in the system.

In light of the known problems with local government, interventions other than institutional reform would still be needed. These would then constitute the reform agenda for local government. These would include: enhancing municipal leadership and accountability; strengthening participation mechanisms, strengthening intergovernmental processes, simplifying planning and introducing a long term initiative to build the capacity of weaker municipalities based on a shared services model.

Recommendation: There are no advantages to retaining the two-tier system as it is. The disadvantage would be perpetuating uncertainty and instability despite the structural defects in the system. That

would amount to retain institutional arrangements simply because they are there, irrespective of whether they are functional. Therefore this recommendation would not be favoured.

- **Abolish the Two-Tier System with more category “A” type municipalities**

This would involve significant re-demarcation, reduce the number of municipalities in the system and result in the re-allocation of district functions to local municipalities, provinces or other entities. It has the advantage of reducing the levels of conflict and complexity in the system, whilst linking accountability for service provision directly to Ward level. It also consolidates functions such as roads and emergency services under one authority.

One disadvantage is that there is some evidence that in rural areas districts are playing a supportive role in respect of the smaller locals.

Recommendation: Needs to be seriously considered

5.6 REFORM THE ROLE OF DISTRICTS

Reforming the system would most likely entail assigning service delivery functions to local councils, where that is feasible and redefining the role of districts. There are several options:

(i) Strengthening the planning, coordination and support functions of districts

This would help to achieve one objective, namely clarity about accountability for service provision, stronger links between service delivery and wards and a clearer role for districts vis-à-vis locals. The disadvantage is that districts already have these roles as statutory functions with little evidence that they are performing them effectively.

Provide more clarity on how the coordinating functions will be funded and what leverage district-wide planning will have.

(ii) Retaining districts only in certain areas

The rationale for district local government is to compensate for weak local councils in a particular area and to support them to become functional local governments. Districts would thus not exist where locals are strong enough to function independently.

(iii) Absorbing districts into national or provincial administrations

The district could be retained as a decentralized administrative structure of either national government or provincial government. The merit in this proposal is that it would retain capacity that has been built in the district, and bring the capacity of the other two spheres down to local level in a sustained way. It would however require major legislative and institutional reforms.

Recommendations

(i) The ANC supports the principle of differentiation for local government. This policy principle should seek to achieve the objective of ensuring municipalities are treated according to their strengths and capacities. A policy and regulatory framework on differentiation must be adopted by government. The differentiation policy must guide and inform the following:

- I. Devolution of functions to stronger municipalities such as cities.**
 - **Infrastructure funding for cities and rural municipalities.**
 - **Revenue raising capacities.**
 - **Capacity interventions.**
 - **Funding needs for municipalities.**

(ii) The district municipalities must be reformed and must entail;

- **That the stronger category B municipalities be removed completely from Districts Municipalities.**
- **Districts must operate and support the areas where there are weak local councils.**
- **Districts must focus only on strengthening coordination, planning and support function.**
- **A clear model for funding Districts Municipalities must be developed.**

QUESTIONS ON DISTRICT COUNCILS

- (i) Do we still need the system of district council and what value do they add?
- (ii) What are the major reforms required in district councils?
- (iii) What should be the future role of districts council?

6. IMPROVING WARD COMMITTEES AND COMMUNITY PARTICIPATION

Problem Statement

We have a very advanced and progressive system of community participation in local government. However the model of community participation is not working. The extent of community protests strongly suggests this, as do other key indicators. Without effective community participation, local government will not work properly. We have to ensure greater community participation, through ward committees, IDP forums, participatory budget processes and other forums.

Some of the challenges with Ward Committees include:

Lack of effective power; domination by ANC-led Alliance activists instead of by community representatives; tensions between ward councilors and ward committee members; lack of funding and other resources; capacity inadequacies; tensions between well paid CDW's (Community Development Workers) and unpaid ward committee members; and ward committees that do not engage with ward communities adequately.

There are various ways in which ward committees could be empowered over time and made more effective.

Recommendations:

1. Greater education of councilors and administrators on the importance of ward committees and the value of community participation.

2. Ensure that the ward committees are made up of representatives of residents, ratepayers, business, trade unions, women's organizations, youth, taxi associations, sport, cultural and other organisations in a ward and not dominated by political activists.

3. The broader community needs to be mobilized, not just political activists, through ward committees.

4. Consider whether School Governing Bodies, Community Policing Forums, Health Forums and other structures, should not also be incorporated into ward committees. This would save costs and ensure greater effectiveness. At the very least, these other bodies should have a structured relationship with ward committees.

5. Instead of the current 10 persons ward committees, ward committees could be comprised of up to 30 people and set up sub-committees and area structures, especially in geographically large wards.

6. Within a clear framework and in an incremental manner, municipalities should consider delegating some limited powers to ward committees. Ward committees should take responsibility for Ward Development Plans linked to IDP's. They should draw up annual profiles of the ward community. They should also oversee the delivery of services and development in the ward, including possibly contributing to the municipality's assessment of the quality of the services provided by a contractor before the contractor is fully paid.

7. Where possible, within clear guidelines, municipalities should incrementally allocate resources to ward committees. Ward committees should, at least, take some responsibility to fix potholes, pavements, street lights and similar issues,

using local labour. The allocation of resources and power to employ labour could produce tensions within ward committees, communities and the trade unions and will need to be managed sensitively and effectively.

8. Municipalities should be obliged to consider proposals from ward committees and inform them of their responses.

9. Ward committees should meet at least once a month. Meetings should be timed to fit in with meetings of the Council or other municipal structures.

10. The ward committee should hold at least 4 ward community meetings per annum, once a quarter and interact with the community regularly in other ways.

11. It would be advisable to have a Code of Conduct for ward committee members.

12. Consideration needs to be given to attaching a CDW to each ward committee. CDW's should also continue with other aspects of their work linking people actively with government in all three spheres to improve service delivery.

13. Municipalities should provide administrative support and training of ward committee members.

14. Municipalities need to allocate funding, office space and other resources to ward committees. Many municipalities will not be able to afford this. National government has to consider allocating funding for ward committees. Obviously, there will have to be strict guidelines on how the funds can be used and strong accountability for them. Municipalities must, at least, pay ward committee members out-of-pocket expenses, and where affordable more. Given the high levels of unemployment and dependency on the state for income, there will, understandably, be a scramble to serve in the ward committees and tensions could arise. Payments to ward committee members of any kind will have to be dealt with cautiously and incrementally.

15. Public Participation Units (PPU's) should be set up in the Speakers' Offices to assist with ward committees and other forms of community participation.

16. We need to amend the Municipal Structures Act to take into consideration the above recommendations and to make it compulsory, so there is no opting out as was the case historically. The Constitutional matters on this should be tested.

The above recommendations cannot be implemented overnight and will have to be phased in over time, depending on capacity and resources. For ward committees to be effective, other forms and structures of community participation also have to be strengthened. Municipalities also have to respond more effectively to community participation structures and processes outside of the spaces provided by the state.

QUESTIONS ON WARD COMMITTEES AND COMMUNITY PARTICIPATION

- (i) Who should elect ward committees and how should ward committees be elected?
- (ii) What is the role and relationship between the ward councilor and community development worker?

7. LEGISLATURES

Problem Statement

In the context of Parliament and Legislatures it is imperative that the following two attributes of a developmental state apply:

- (i) **Its strategic orientation:** an approach premised on people-centred and people-driven change
- (ii) **Its capacity to lead in the definition of a common national agenda and in mobilizing all of society to take part in its implementation.** Therefore, such a state should have effective systems of interaction with all social partners, and exercise leadership informed by its popular mandate.

In assessing its contribution and role since 1994, Caucuses have realized that there are weaknesses in the current operational and institutional systems of Parliament

and Legislatures which impedes the attainment of the ANC's 'strategic goals of an activist and people centred parliament and legislatures' as well as a developmental state.

Therefore policy re-alignment and recommendations must speak to:

- (i) The role of the ANC as a majority party in determining Parliament and Legislatures' budgets, structure and human resource capacity**
- (ii) Placing the Office of the Chief Whip of the Majority Party in all three spheres of the Legislative Arm of the State, at the centre of decision making and ensuring it is resourced to fit the tasks it has to perform.**
- (iii) The determination and conceptualization of oversight and institutional mechanisms**
- (iv) For the determination of budgetary allocation, treating the Legislative Arm of the State in the same manner as the Executive and Judiciary. In this respect, allocation of funding for the Chapter 9 and 10 Institutions is located in Parliament.**
- (v) The centrality of constituency work in linking the Legislative Arm of the State with the people.**
- (vi) An appropriate model and attributes of an activist, people centered Parliament and Legislatures**

QUESTIONS ON THE LEGISLATURES

- (i) What should be the transformation agenda of legislatures?
- (ii) How can ANC Caucus play a strategic role in the legislatures?
- (iii) What is the strategic agenda of the legislatures for the next decade?
- (iv) The effectiveness of provincial legislatures and how can they be strengthened?

8. SINGLE ELECTIONS

8.1 Problem Statement

(i) The NGC of 2010 discussed a proposal to hold all elections on one day from 2014. While there was broad support, the NGC stated that it should be based on political and not just financial considerations, and that research should be done by the ANC into the likely impact of simultaneous elections.

(ii) There is a strong feeling that the way ward votes are counted towards overall proportional votes for the PR seat allocation harms the ANC and the Polokwane Conference asked for this system to be reviewed.

8.2 ANC considerations

Arguments for same day elections

The main argument for same day elections from the perspective of the interests of the ANC has been that one election campaign would save a massive amount of money that could be better spent on other organisational priorities.

A second consideration is that with all three elections on one day, the ANC could develop a more coherent approach to deployment and candidate selection. This could enable us to ensure that we secure capable cadres for each sphere of government.

It may also limit the damage that repeated candidate selection battles do to the unity of the movement, and our ability to move beyond competition and towards cohesive work on implementing our programme of action.

Election campaigns also take massive effort from our leaders at all levels and from our cadres on the ground. For a few months during every election, the organisation focuses almost exclusively on election work. A five year break between campaigns

would allow us to get on with the important tasks of governance and organisation building.

Arguments against same day elections

Election campaigns are the main opportunities we use to renew our mandate and to reconnect with our constituency. Whilst we may wish to have regular and widespread contact, it seldom happens on anything approaching the scale of an election campaign.

Election campaigns are used to build the organisation and the capacity of our cadres. More training and engagement with our people happen during elections than any other time.

We track the approval rating of the ANC government and it directly corresponds with the election cycles. The more we communicate and share achievements, plans and problems with our voters, the better. One of the most common complaints of voters is that they do not see enough of leaders outside of election times. It is also a good opportunity for the ANC to get back to voters mid-way through the national and provincial terms of office.

A one day election will not halve the cost of our previous two election campaigns. Only about 10% of our election campaign budget covers Election Day operations. The vast majority of the funds are spent on media and events. rallies. If elections are held only once in five years, we would have to fund alternative campaigns and outreach programmes to stay in touch with our constituency and this would also have cost implications.

In terms of candidate selection, we experience a high level of contestation and the provincial leadership are usually involved in battles for seats as MPs and MPLs. In local elections we rely heavily on the availability of provincial leaders to guide and manage the candidate selection process. It is undesirable for ANC leaders to be preoccupied with their own selection at the same time that they have to play a constructive role in the selection of councillors. The issue of deployment could be sorted out regardless of when elections are held.

QUESTIONS



(i) What are the strategic areas of improving our current electoral system?

(ii) Do we still need to debate the single elections concept?

8.3 Key issues on the allocation of PR seats at local government level

At the moment all votes (ward and PR) that are cast in a local municipal area are added together for parties concerned. Any seats won in wards by independents are subtracted from the total number of seats in the council. The total votes cast then is divided by the number of remaining seats, so as to determine the quota of votes needed per seats and how many seats each party is entitled to. The ward seats won by each party are subtracted from the total the party is entitled to and the party will receive the rest of its share of seats from the PR seats.

This maintains overall proportionality since a party that wins 40% of the votes but no wards, will receive 40% of council seats from the PR seats. In some areas this has lead to the ANC getting very few PR seats while winning all ward seats. It has also benefitted us in areas where we are in opposition. The seat allocation is further complicated by the last seat usually going to a minor party who had the biggest share of the remainder votes but not enough to win a seat on its own. Many councils only have 10 -15 councillors and a minor player may end up holding the balance of power.

There are proposals to do away with overall proportionality, or even having a ward only system. Doing away with overall proportionality has serious implications for the ANC. Firstly it is unconstitutional and the amendment needed would go against one of the principles we fought hard to entrench. It will almost certainly be seen as a form of gerrymandering. In strong areas we may increase our number of councillors slightly, but in weak or opposition areas where we win almost no wards, we may get fewer councillors. In some areas in WC, parts of KZN and NC where we are the minority party we could potentially lose all our seats that we get through combining PR votes and votes in wards where we lost. As the smaller party there, we would be badly affected by a system that is purely first past the post at ward level and does not count those votes towards overall proportionality. Most small parties would also be wiped out by this proposal.

It makes more sense to address the remainder vote allocation and perhaps introduce amendments that only give additional seats to parties that had enough votes to win one seat outright. This will remove the numerous very small parties that sometimes control a municipality by having the largest remainder without having enough support to get one councillor.

RECOMMENDATIONS:

- **The current system of calculating PR seats should remain in terms of the allocation of seats according to the sum of all votes received.**
- **PR system should be amended with regards to the allocation of remainder seats so that only parties that already won seats through meeting the quota of votes required for at least one seat are entitled to get a seat based on their remainder votes.**
- **The elections should continue as separate local and national/provincial elections.**