

**Lesotho's local government system: A critical note on the structure and its implications for popular participation and service delivery**

**By**

**Motlamelle Anthony Kapa**

**Lecturer,**

**Department of Political & Administrative Studies National University of Lesotho**

**and (PhD Candidate)**

**Department of Political and International Studies**

**Rhodes University**

## **Abstract**

*Lesotho held its first post-independence local government elections on the 30<sup>th</sup> April 2005. These elections have arguably taken the country a step further on its democratisation path. However, the system ushered in by the elections has not devolved power fully to the lowest level of society, the village. Instead, it has had an effect of undermining democratic values of popular participation and improved service delivery. This has been through devolving power from the centre/central government while at the same time taking that power away from the bottom/villages and concentrating it on the community councils. This paper argues that the existing Lesotho's local government system constitutes 'recentralisation' within decentralisation. The process of 'recentralisation' is paradoxical in that it occurs within a supposedly democratic dispensation while the erstwhile military model of local government- undemocratic as it was, for it was not elective - had created a system with more scope and avenues for popular participation than does the current one. The paper seeks to demonstrate this contradiction and suggest a solution to it.*

## **1. Introduction**

The April 30 2005 local government elections introduced into Lesotho's administration, at least in theory, a decentralised system of governance throughout the country. However, holding elections is one thing, and having a resultant system work as expected or achieve what it seeks to achieve is another. The history of Lesotho's local government is well documented in the literature and needs no repetition here (see for example, van de Geer & Wallis 1984; Kotze et al 1974; Gill 1993; Shale 2005; Mofuoa 2005). However, none of these authors addresses an important issue, namely, that of the structure of this system and its implications for popular participation and service delivery. This paper attempts to fill this gap. What is noteworthy, however, is the fact that all forms of local administration in Lesotho had their own limitations, at least in the eyes of the successive regimes that have ruled the country. Those defects, whether perceived or real, necessitated changes in the composition and structure of local administration institutions. Significant among these changes have been those introduced by the ruling Lesotho Congress for Democracy (LCD) government. These are that: (1) the local government system must be wholly elective, thus proscribing the country's chiefs from participating in it unless they are also elected, albeit by other chiefs, (2) reserving for women candidates one-third of the electoral districts seats and denying men the right to stand in those districts, (3) and that the local government system should have three tiers: community, urban/municipal, and district councils respectively. The first change has serious political implications for villages' governance and these have been reflected and analyzed elsewhere (Kapa, 2005), while the second was greeted with protests by some

opposition political parties and court cases by at least one male citizen, although to no avail.

The above changes granted, however, the focus of this paper is on the third change - *the structure of the local government and the implications for popular participation and improved service delivery*. The thesis of the paper is that the 2005 election-created local government constitutes 'recentralisation' within decentralisation in that the structure of the LCD's local government system does not reach the grass-roots in the way that the military government's model did; instead, it lumps together several villages under what is called a community council. This arrangement undermines the key values and objectives of a local government system, namely, popular participation and improved service delivery to the people at the grass-roots level. Because local government has been conceived of differently for different contexts and purposes, it is useful to provide our own conceptualisation as the following next section does.

## **2. Conceptual/theoretical framework and rationale for local government**

As a concept, local government has been defined in numerous ways but it is conceptualised in this paper in two broad ways. Firstly, it is a means of promoting local democracy through making it possible for the people to vote for their leaders and opening channels for popular participation in decision making processes. Secondly, it is an instrument of improved service delivery. Service delivery is used here in a broad sense to encapsulate anything from the provision of clean water; health care; roads; land allocation for residential and other purposes; registration of births and deaths; livestock registration and other services required in different parts of the country. Several authors share this conceptualisation. According to Newton & van Deth (2005:84-85), modern

states are too large and complex to be governed from one power centre and have to decentralise their operations in the interest of democracy and efficiency. This point is corroborated by Ismael et al. (1997:3), who posit that local government exists for two principal reasons, namely, service delivery and promotion of democracy. Mellors and Copperthwaite provide a more elaborate definition of the term as follows:

[L]ocal government develops and is modified in response to the changes in local and national needs and prevailing ideas and beliefs. The UK system of local government serves two particular purposes: the provision of a wide range of services which take account of both specific area needs...it gives direction and control of these services. [It] is a provider of services and an instrument of self-government. (Mellors & Copperthwaite 1987:1)

In a way, local government is an approximation of direct popular participation models of government reminiscent of the Ancient Greek city-states. The quest for direct popular participation as a democratic right of citizens and a value to be aspired for has been resilient despite the currency of representative democracy and its entrenchment into the Western political systems as a result of territorial expansion of the modern nation-state. This point is aptly captured by Boaden et al. (1982:3), who argue that ‘democratic government is local government: democratic government is community government ...and democratic government is only possible in small-scale communities...’. As an instrument of decentralisation policy, local government in whatever its form is considered today within liberal democratic ideology and discourse as the only workable system capable of making democracy accessible to the people at grass-roots level. This is because it has a potential, among other benefits, to promote popular participation in decision-making and better service delivery. The service delivery thesis is premised on the assumption that, since the local government structures are or should be within the

local communities, they are likely to respond more promptly to the local demands than would the central government itself.

The theoretical origins of participatory democracy are traceable to the works of theorists such as Rousseau through his Social Contract Theory. According to Pateman (1970:22), Rousseau's entire political theory hinges on individual participation of each citizen in political decision making. This is expressed more succinctly in his General Will thesis - the idea that all citizens surrender their rights to the whole community for their own benefit, and more importantly, their own freedom and political equality. The result is the contract in which 'each of us puts his person and all his power to the common use under the supreme direction of the general will; and as a body we receive each member as an indivisible part of the whole' (Sait 1947:265; Dunning 1920:18). What is discernible in Rousseau's ideas is the fact that he had no faith in representative democracy for he regarded it as a 'sham' in that, in his own view, 'it can't be me that my representative represents. At best, it can only be his idea of me that he represents, and much more likely, his own interest will interpose itself between him and those whom he appears to represent' ( McClelland 1996:271).

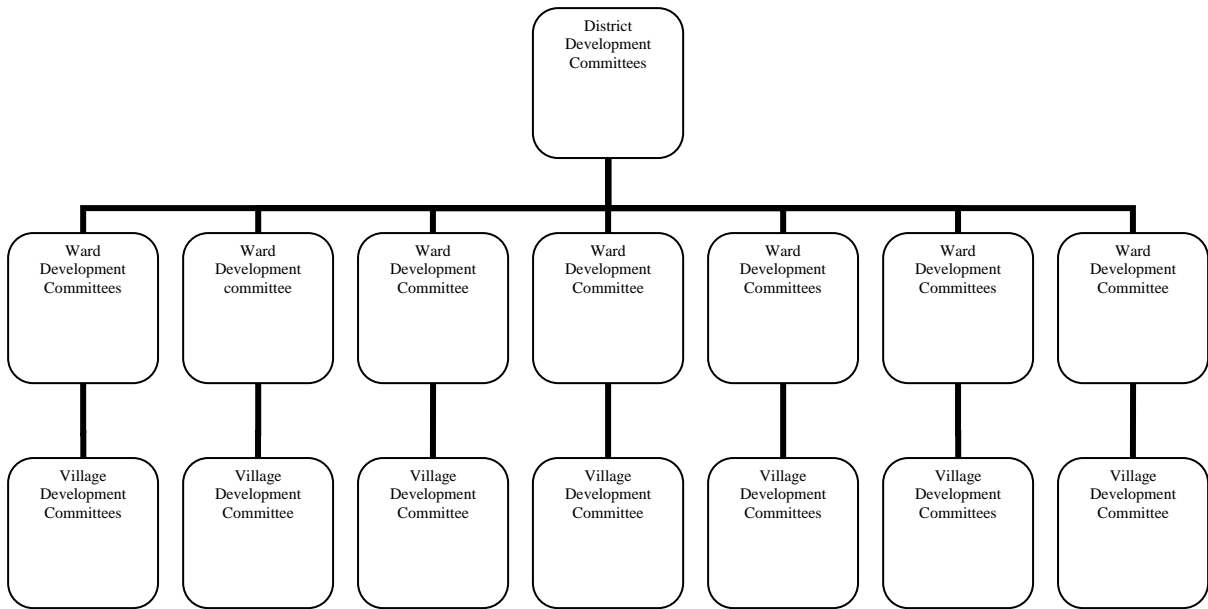
Thus, representative democracy is replete with inadequacies. This observation is also made by Macpherson (1977:22) who submits that other models of representative democracy are deficient to the extent that they alienate other sections of the population, hence a need to replace them with a participatory democratic model. Because it is now difficult if impossible to have the fully participatory model work due to the size of modern nation-states among other factors, Macpherson suggests a model, which encapsulates what he dubs pyramidal direct/indirect democratic machinery. The

pyramidal system has a direct democracy at the base and delegated democracy above. This means establishing structures in which people participate directly in decision making at the first level and delegate their powers to their representatives as the structure goes upward in a pyramid form. The ideal of participatory democracy can, in modern nation-states regardless of their size, only be given practical application through local government. Macpherson's formulation seems appropriate and constitutes a theoretical/conceptual framework for this paper. In other words, the author conceives local government as a system that makes possible the spread of democracy to the grass-roots and also an instrument of improved service delivery. Lesotho has had different models of local administration in terms of their institutional/legal framework. How do the models compare? The following section broaches this question.

### **3. The institutional/legal framework of the Lesotho's local government system: A brief comparison of the military and the LCD government's models**

When it assumed the reigns of power forcefully on the 20 January 1986 from the authoritarian Basotho National Party (BNP) government that had been in power for twenty-one years, the military regime, under the then Major General Metsing Lekhanya abolished and changed some institutional arrangements established by its predecessor. Among those arrangements were the central government-created local government structures that were established under the 1968 Local Government Repeal Act. The new administration put another structure in their place (see diagram 1 below).

#### **Diagram 1: Lesotho's Development Committees structure in terms of Development Committees Order No.9 of 1986**



The new structure was provided for by the Development Committees Order No. 9 of 1986. The order, in particular, shaped the local government system from the villages as follows. It established the village development committee (VDC) - a body composed of seven members elected from the inhabitants of the concerned area at a public gathering or a pitso, which is open for attendance to all adults in the village. The chief of the area would be an ex-officio member and chairman of the committee. There was also a ward development committee (WDC) composed of twelve members elected from among the members of the VDCs in the area. The ward or principal chief of the area would be an ex-officio member and chairman of the WDC. A ward is larger than a village in terms of the population and area. The last structure was the district development committee (DDC), which was established in the country's ten administrative districts. The DDC consisted of fifteen members elected in a meeting of the members of various WDCs and the ward or principal chief in the district as both an ex-officio member and chairman. In cases where there were more than one principal chief, (as indeed there are, for example, in Maseru, Mafeteng, Berea, and Mohale's Hoek districts) the respective chiefs would alternate in presiding over the DDCs' meetings. The district secretaries were the secretaries of the DDC (Development Committees Order 1986, Sections 1-17). Section 4 of this Order is



also elaborate on the functions of these committees, but in particular and of relevance to this paper are the duties of VDCs. They were:

- To be responsible, in consultation with the government, for planning, formulation, implementation and maintenance of development activities and social services in their areas;
- To represent and lead the community in its efforts to identify village development needs;
- To raise funds for its local development purposes;
- To stimulate local participation in development activities;
- To make government aware of local development priorities through the DDC.

The duties of WDCs were to collate development proposals from VDCs for scrutiny and implementation as well as to monitor development projects at village level (Development Committees Order 1986, section 10).

Because every village in Lesotho had its own VDC hence offering scope for the people to have a better if direct input in issues affecting their lives, the Lesotho local government structure under the military regime was a better popular participation maximization model than the current one. Additionally, the model was a better means for service delivery since the villagers accessed services in their own villages. The only major limitation of the model was that it was not elective, hence a negation to liberal democracy. The villagers simply selected their representatives in pitsos thus undermining one of the basic tenets of democracy - the principle of secret ballot. This undemocratic procedure of selecting representatives may have led the post-military government of the Basutoland Congress Party (BCP) to change the model.

The return of Lesotho to multi-party democracy in 1993 presented the opportunity for the popularly elected BCP administration to improve on the already existing and working model through injecting into it an elective aspect; but it did not.

The BCP had said in its pre-1993 general elections manifesto that it would establish local government system upon winning state power. The manifesto specifically said that:

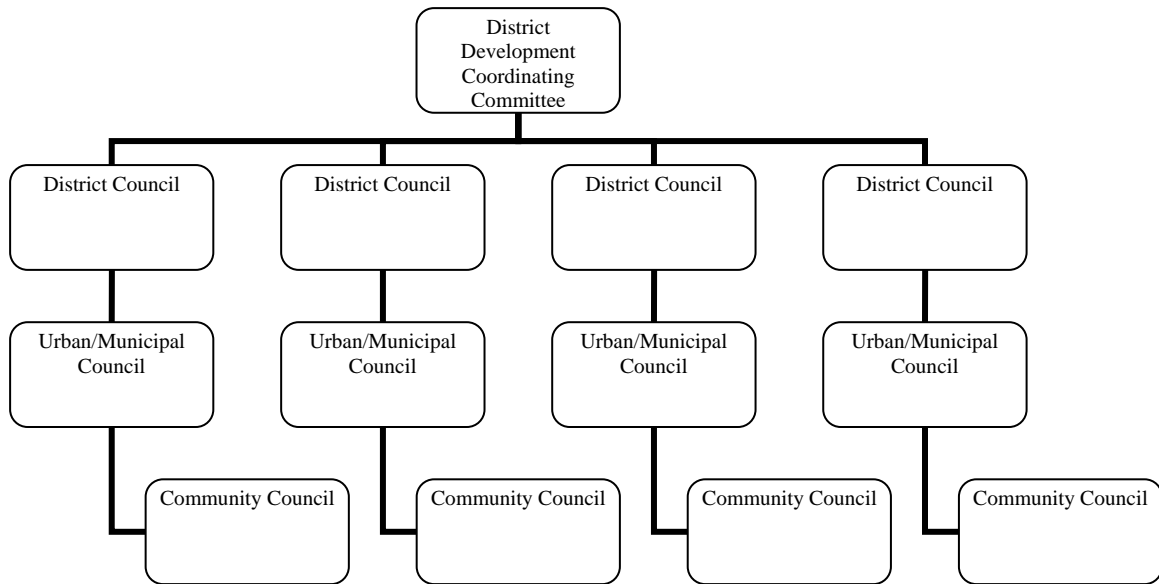
[T]he BCP is convinced that true development and good governance require grassroots involvement in both planning and decision-making. To that extent, the BCP government shall; (a) ensure the establishment of councils at district; constituency and village levels (b) facilitate a democratic relationship between the central and local governments (The Basutoland Congress Party Manifesto 1993:7)

The BCP government was rhetorically intent on establishing this system for it passed the Local Government Act No.6 in 1997. The government, through this law, changed the organisational structure of the local authorities and established a three – layered system consisting of community, urban/municipal, and district councils respectively. It gave these councils legal persona status with powers to sue and be sued, acquire, sell, and own property as well as to make their own by-laws. It also introduced upon winning state power some sections, which collide directly with the Basotho culture and traditions, namely, that all members of the councils, including the chiefs, must be elected. But the BCP government never implemented the local government system until it was ousted from power in 1997 through what was styled parliamentary coup by its splinter but larger party than itself, the Lesotho Congress for Democracy (LCD). The then BCP leader, Ntsu Mokhehle, defected from the BCP with a group of 39 members of parliament to form the now ruling LCD in parliament. This left the BCP with only 24 members of parliament in the then 65 member house. The remaining one seat had been won by the BNP. The LCD declared itself a government because of its parliamentary majority (Sekatle, 1997:75-76).

The LCD passed the Local Government Amendment Act 2004 and held the local government elections on the 30 April 2005. This Amendment Act did not change anything in the principal law pertaining to the structure and composition of local

authorities. It only replaced the rural councils with district councils and made a concession regarding the inclusion of the chiefs into the system. The chiefs had to be 'nominated' by other chiefs within their area rather than be elected. This does not, however, hide completely the regime's historically known position on, and negative attitude towards the chieftainship institution. Chieftainship has a very well defined hierarchy with a clear line of authority. The LCD government also retained, through this Act, a three-tier local government system consisting of; (a) community councils, which are composed of between 9 and 15 members and 2 gazetted chiefs nominated by other chiefs; (b) urban councils composed of between 9 and 13 members and 2 gazetted chiefs, nominated by other chiefs within the urban council area; (c) a municipality consisting of between 8 and 15 members and 3 gazetted chiefs nominated by other chiefs within a municipality area; and (d) district councils consisting of a number representing community councils and to be determined by the minister of Local Government. These members must however include a chairperson of each community council, a member of any community council elected by other councillors, and 2 gazetted chiefs representing all community councils in the district (Local Government (Amendment) Act, 2004 section 4). The diagram below depicts the structure of local government system introduced by the LCD government.

**Diagram 2: Lesotho Local Government structure in terms of the Local Government Amendment Act 2004**



**Source:** Adapted from the Programme for Implementation of local government in Lesotho: Concepts, Structures, and Roles, Government of Lesotho document, December 2003.

The above diagram is not intended to depict the actual number of the councils at all levels of the local government system, but the structure as it were. There are 10 district councils, one for each of the 10 administrative districts of the country, urban/municipal councils of which the number is not stipulated in the Act and none other than the Maseru City Council has been established, and 128 community councils. This brings the total number of councils to 139. The diagram also shows that the local government structure ends at the community council level, without reaching individual villages in Lesotho. What did the LCD government model of local government bring into Lesotho's administration? More specifically, what was lost and gained through this model? The following section dwells on this question.

#### **4. The LCD's local government model: Gains and losses**

The LCD's model may rightly be hailed for spreading democracy by making the local government system elective. This is without doubt a democratically acceptable practice for it gives people the right to choose their representatives on the basis of conventional democratic practices central to which is the principle of the secret ballot. The model is a positive departure, in electoral democratic terms, from the traditional pitso system that was used during the military regime to select members of the local authorities. The main weakness of the model is lack of freedom of choice on the part of the people and their susceptibility to intimidation by some powerful elements. In short, the erstwhile system was without doubt undemocratic procedurally. Under the LCD's model, the local government elections, like the national general elections, are run and managed by the country's Independent Electoral Commission (IEC), which arguably notwithstanding its own limitations in other areas, has both the capacity and the requisite experience in election's management.

The LCD's local government model has enabled more women than has ever been the case in Lesotho's political history to be elected into public office. The government has made explicit its policy of women empowerment and has since taken steps to implement it. It has set aside a third of the community councils' seats for women. The policy is in line with various international declarations seeking to eliminate all forms of discrimination against women. These declarations include the Beijing Platform for Action of 1995, which calls for the states to take measures aimed at ensuring women have equal access and full participation in decision making processes (Lesetedi, 2002:232-233), the Southern African Development Community (SADC) Gender and Development Declaration on Gender and Development (SADC, 1997) and African Union

declarations that they will seek to achieve gender balanced societies through increased number of women in key decision making bodies.

While the women empowerment policy has been vaunted as a progressive move in the country's political development by some analysts (Shale, 2005), others see as appointment since appointing them into these positions has not enhanced and strengthened women's capacity to compete and gain control over their lives" (Makoa, 2006:4). Whatever the interpretation of this policy and its consequences may be, it is a new inclusion into the local government model. But it has to be stated clearly that the military model did not deny women participation in local government structures either in its implication or through actual practice. It was an open model to both men and women. The debate on the issue requires more space than can be accorded here.

The LCD government model has implicit and fallacious assumptions about Lesotho's local administration and these become palpable in its implementation. The first assumption is that Lesotho's local government system can exist outside the country's historical context of which the chieftainship institution is an integral part. It fails to acknowledge that the involvement of the chieftainship in the local government system can, has, and does, work in a mutually supportive fashion with the elected councils. To say that the gazetted chiefs must be 'nominated' by other chiefs to participate in the local government system, does not make sense since this has a potential of pitting chiefs against each other, thereby creating an unnecessary conflict between them and the people. The chieftainship has its own hierarchical structure with a clear line of authority. The law seems to suggest that the chiefs are equal and treats them like ordinary citizens. It would do no harm to any body if the chiefs participated in all local government structures on an

ex-officio basis as has always been the case in the previous model. Closely related to this assumption is the fact that traditional political institutions such as the chieftainship, are necessarily an antithesis of or inimical to democracy because they are not elective. It has been argued elsewhere that this is baseless in the African context in general and in Lesotho in particular (Kapa, 2005). This is one key issue that the model misses.

More importantly, the model is a negation of the democratic ideals or principles of popular participation and popular control in that it has removed the councils from the village thereby rendering them less accessible to the people. Advocates of popular participation argue that a democratic local government is that which is open and accessible to the individual citizens or groups. That means people who wish to take part in the decision and policy-making processes should be able to do so fairly easily and be able to influence decisions and policies that affect them (Boaden et al., 1982:3). The LCD government has made claims that it values popular participation. These claims are contained in its Poverty Reduction Strategy Paper. This paper says:

The government of Lesotho is committed to ensuring the participation of Basotho in the development process. In this regard, the Ministry of Local Government is working towards preparing communities for responsible and mature participation in local structures that will be more effective in reaching the poor (Government of Lesotho Poverty Reduction Strategy Paper 2004/2005 – 2006/2007).

In addition, local government structures are aimed, among others things at: proving for good governance, ownership and accountability in matters of public policy; facilitating democratic control over development planning processes; moving decisions, resource allocation and local level development planning into the hands of the people; facilitating greater speed and flexibility of decision making as a result of reduced central direction and control (Government of Lesotho, 2003:23)

There is a big gap between the government's declared commitment and practice, however. Unlike its predecessor, which had its roots in, and started from the villages, the LCD's model of local government has introduced a system of 'recentralisation' within decentralisation. That is, instead of devolving power fully to the lowest unit of society (the village) the LCD government has devolved it from the central government to the community council (a structure remote from a common Mosotho villager) and recentralised it from the village. It becomes difficult to see how the above declared objects of local government will be realised. Through the model, the decision-making powers have been removed from the villagers through the village development committees to the community councils. The latter covers a relatively huge area encapsulating between 9 and 15 electoral divisions (Local Government Act 1997 Section 6). Although, for whatever reasons, the Local Government Amendment Act 2004 does not define the electoral district, it is clear that this is larger than a village. An electoral district does not seem to serve any other purpose than to lump together a cluster of villages for purposes of electing councillors destined for community councils. In other words, instead of closing the gap between the higher structures of government and the people, the model has done the opposite: It has widened the gap between the people and these structures, which in theory they must own, monitor/control and influence in a relatively direct fashion. This is despite the declared objectives of the government through the local government system which include:

[T]o deepen and widen access to the structures of government through creating democratic control over development planning process and making public institutions more accountable to the electorate and (2) to allow "more decision-making, resource allocation, local planning, development and public services physically closer to the people (Ministry of Local government, 2007).



In short, the model makes mockery of the principle of popular participation in that the people do not have a more direct say in the decisions affecting them in their own villages; instead the system works through their representatives.

This structure, the author argues, logically undermines efficient service delivery as well. One of the objects of the LCD government for establishing local government structures throughout the country is to provide improved services to the local communities. This implies a positive relationship between service delivery and these structures. Thus, through these structures the communities should have an easy access to both the structures of government and whatever services, which have been decentralised. Some of these services are spelled out in the Local Government Act 1997, as amended by Local Government Amendment Act 2004, as control of natural resources (e.g. sand, stones) and environmental protection (e.g. dongas, pollution); land/site allocation; minor roads (bridle paths); grazing control; water supply in the villages (maintenance); and markets (provision and regulation)

It is obvious therefore that the decisions on how the above services are to be provided are not taken at the village level with the participation of ordinary people, but by the councillors at community council level. The needs of the villages are not the same; one village may need a road while others may need clinics or water supply, footbridges, markets for their produce and so on. Now that the decision as to what services are to be provided is taken at the community council level it means there will be some prioritisation, thereby marginalising other villages. This means the whole idea of local government working as a means to ensure provision of services, which reflect the needs of the people, remains a myth or a pipedream. Besides, villagers (except those who reside

in the same villages as the councils) have to travel long distances and to get the services than they would if there were structures in their own villages. It means, for example, that people have to lodge applications for sites allocation at the office of the council several kilometres away and not in their villages where the sites are, as was the case before. This is surely an inconvenience that decentralisation ought to be addressing instead of creating.

In a nutshell, the LCD government's model fails on the two criteria of popular participation and service delivery. It negates the whole participatory democracy thesis that is supposed to underpin a local government system and takes the villages back to a representative democracy albeit within a supposedly decentralised system. In other words, the system is incomplete unless and until it takes democracy to the people in their villages by ensuring their participation in projects and decisions that affect them and make it easy for them to access the services they need easily. This is the key weakness of the LCD's model of local government.

## **5. Conclusion**

There is no question that the LCD government took a commendable move by making attempts to spread democracy through establishing an elective local government system. However, this has not been without negative consequences. The main consequence, as this paper has demonstrated, has been 'recentralisation' within decentralisation; thus undermining democratic principles of improved/efficient service delivery, participatory democracy, and popular control over the local affairs. While it would have been rational for the LCD administration to study carefully the system it found in place and select from it those positive and workable aspects and discard the negative ones, it decided to throw out of the window every arrangement it found in place.

The purpose of any reform or policy change should be, to the greatest extent possible, to build on what already exists. This would ensure some form of continuity,

rather than aspire to reinventing everything and undermining some of the very values that such a policy purports to promote (in this case popular participation and improved service delivery). It is up to the LCD or any future government to establish local democracy by bringing back to the people at the grass-roots their democratic right of participating in the affairs affecting their lives. In this way the people will stand a better chance of influencing decisions affecting them rather than working through representatives in the community councils. This can be done simply by reinstating or establishing some structures below the Community Councils - at village level - that will serve as tools for increased popular participation and control of the affairs of the people. It conforms to what political theorists like Macpherson suggest, as indicated above, but also what worked under the military regime in Lesotho. Macpherson's model would complement rather than conflict with the current system by adding to it the crucial, yet missing, element in local administration - that of popular participation and improved service delivery; the latter being a function of other factors including the allocation of all requisite resources to the local authorities. It would give the people increased scope and avenues to practise some degree of direct democracy in their own villages while at the same time allowing representative democracy to work from community, urban, municipal, and district councils.

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