THE REALITIES OF FREE BASIC SERVICES AND INDIGENCY:

HUMAN RIGHTS, DIGNITY AND FINANCIAL SUSTAINABILITY

KEY CHALLENGES, GAPS AND OPPORTUNITIES FROM THE POLICIES AND PRACTICES IN THREE LOCAL COMMUNITIES

Policy Brief
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ACCOUNTING FOR BASIC SERVICES

ABOUT THE ABS PROJECT

In order to improve accountability and to ensure that communities' democratic rights go beyond a simple vote towards active political participation and engagement, efforts need to be made to capacitate and enable citizens to do so. In 2016-2018, Afesis-Corplan, the Built Environment Support Group (BESG), the Heinrich Böll Foundation (HBF) Southern Africa Office, Isandla Institute and PlanAct have jointly implemented a project entitled "Accounting for basic services: Tackling the inadequate use of resources by municipalities and building a rights-based approach to service delivery" – referred to as the ABS Project. The ABS Project contributes to these efforts by assisting in improving the understanding of the complex framework that finances local government in the country. The project has been supported by the EU Delegation to South Africa.

The ABS Project aims to strengthen community engagement with local government to ensure equitable, just and effective use of municipal funds. While doing so, it hopes to expand the use of budget analysis and social accountability tools as key approaches to engaging communities, fostering responsive governance and strengthening accountability. By engaging in their local municipal affairs, communities and their organisations can develop an understanding of where and on what money is being spent, and to evaluate if government's priorities adequately address their needs. By doing so communities are better able to voice their concerns and needs, in order to keep government accountable.

Planned outcomes of the project include: the support of 6 rural and urban communities in strengthening political voice; holding their municipalities to account for effective and equitable spending of their finances; and, crystallising lessons for policy and practice. The communities are: KwaZenzele (Lesedi LM), Masakhane (Emalahleni LM), Chris Hani (Buffalo City Metropolitan Municipality), Glenmore (Ngqushwa LM), Mpolweni (Umgungudlovu DM) and Kwa-Nxamalala (Msunduzi LM).

In furtherance of these outcomes, the ABS Project has developed a number of policy briefs, focusing on key issues that have been identified during the course of the project. The purpose of these briefs is to highlight the issue identified (e.g. inadequate access to basic services), outline the policy and institutional context (including the legal framework, municipal policies, intergovernmental relations, roles and responsibilities), identify challenges, gaps and opportunities, and make recommendations for policy and practice/uptake of policy. Ultimately, through the policy briefs, the ABS Project seeks to raise the profile of issues identified in the project communities and connect these into broader policy debates, with the intention to develop clear recommendations towards improving local democratic policies and practices.

ABOUT THIS POLICY BRIEF

While the issues identified and the experiences of the communities with the municipalities differ significantly across the ABS Project, some common themes can be identified. One of these themes is that poor communities are not very well informed about their rights, nor how the Council is ensuring that basic rights to water and sanitation are addressed. Furthermore, the fact that the equitable share is an unconditional allocation has complicated communities' efforts to determine whether their Council is using the funds efficiently and in the interest of poor households. This policy brief focuses on the realities of free basic services and indigency, and draws on examples from three municipalities (Lesedi LM, Emalahleni LM and uMshwathi LM) where the ABS Project has been implemented.

ACCOUNTING FOR BASIC SERVICES

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ACRONYMS

FBS	free basic services
IGR	intergovernmental relations
IDP	Integrated Development Plan
LM	local municipality
DM	district municipality
LGES	Local Government Equitable Share
LGFF	Local Government Fiscal Framework
CoGTA	Cooperative Governance and Traditional Affairs (the Ministry which includes the Department of Cooperative Governance)
dplg	Department of Provincial and Local Government (now CoGTA)
SALGA	South African Local Government Association
SERI	Socio-Economic Rights Institute
MTREF	Medium Term Revenue and Expenditure Framework
RDP	Reconstruction and Development Programme

1. INTRODUCTION

South Africa has a complex intergovernmental system that comprises of nine provinces and 257 municipalities, with functions often shared concurrently and resources divided according to agreed fiscal principles and formulas. This situation means that the lines of accountability (responsibility being shared in many instances) is often blurred as one component is dependent on another. While cooperative governance provides many strengths in a developing context, this is arguably its primary challenge.

Roughly 1 in 3 indigent households are not yet enjoying the access to free basic services (particularly water and sanitation), as envisaged in the Constitution and the National Indigent Policy.

One of the challenges with the above system of accountability in a developing country context is around the ability and capacity of communities and civil society organisations to hold their local governments accountable. Amongst others, this is due to varying levels of education and access to information, as well as levels of understanding (or lack thereof) of the complex expenditure and financing mandates of national, provincial and local government.

While there is consensus that local government should play a developmental role, there has not been agreement on what exactly this means and how this role evolves and responds to different municipal service delivery contexts. Since the introduction of Free Basic Services (FBS) in 2000/01, the role of municipalities has understandably tended to focus on the extension of basic services to previously marginalised and under-served communities and the eradication of backlogs. Local government delivers key basic services such as water, electricity, sanitation and refuse removal.

The 2011 Census (and subsequently the 2016 Community Survey) indicated that the number of households has increased considerably and that there are still significant backlogs across the country. These developments put pressure on municipalities as demand for services increases.

In 2016 municipalities identified 3.6 million indigent households as earning less than R3 500 per month. Of these 3.6 million households, only around 2 million were benefiting from indigent support for basic services. This means that a high percentage (about 30%) of indigent households are not receiving access to free basic services (particularly water and sanitation), despite the constitutional and policy imperatives.

Exacerbating the challenge is the reality that more and more South Africans are increasingly unable to pay for municipal services and the vast majority of municipalities are unable to raise a substantial portion of 'own

The number of households in the country increased at a national average rate of 29% between 2001 and 2011. While the provision of/access to (free) basic services has been increasing at a good rate over the last two decades, so has the rather significant backlog. According to the 2016 Community Survey, the national average of access to basic services by households amounted to:

- **Water = 85%**
- **Electricity = 85%**
- **Refuse removal = 62%**
- **Sewage = 60%**

While the roll out basic services has been significant, these figures do not reveal whether the services are reliable and/or of decent quality.

revenue', which is a key policy assumption in the national fiscal framework. A declining revenue base and increasing cost of services has put many municipalities in deep financial distress, meaning less resources to execute the developmental mandate and having to make painful choices between competing priorities, often at the expense of the poor.

This brief will review national policy and intent with regard to FBS, followed by how FBS are provided and budgeted for in three municipalities, in particular how it caters for those considered indigent. The three municipalities assessed are Lesedi Local Municipality (LM), uMshwathi LM in uMgungundlovu and Emalahleni LM.

The key questions are:

- Are the intended beneficiaries of this policy (i.e. the poor/poor households) in fact receiving the full benefit of the policy and enjoying the basic services intended to give meaning to their human rights, dignity and a decent standard of living?
- Are the municipalities in question using their equitable share allocations to ensure as wide a reach as possible of FBS for the poor and indigent, as indicated through the way their policies are framed and applied and through their expenditure patterns?

The brief will highlight key challenges and gaps between the intended policies and how they are actually implemented, drawing on some lessons from these three examples (as limited as they are). Finally, some recommendations are put forward for consideration by policy makers and practitioners about how the gap between the intended policies and practice can be bridged in so far as ensuring that those who qualify do indeed have access to free basic services.

2. POLICY AND INSTITUTIONAL FRAMEWORK:

THE LOCAL GOVERNMENT MANDATE, FISCAL FRAMEWORK AND POLICIES FOR FREE BASIC SERVICE PROVISION

Section 40(1) of the Constitution stipulates that government is constituted as the national, provincial and local spheres of government, which are distinctive, interdependent and interrelated. The three spheres of government and organs of state in each sphere are constitutionally bound by the principles of cooperative governance.

Service provision functions are, for the most part, shared between the three spheres of government. National government and provinces are concurrently responsible for social services such as health, education and social welfare. National government's role in municipal functions is primarily a regulatory role, that of setting policy norms to ensure equitable service provision throughout the country, dividing revenue between the three spheres of government through the budget process, monitoring impact, providing information and support, and exercising oversight.

Provinces and municipalities deliver services to the public within the framework of national policy. They are vested with the authority to determine their own budgets, to decide the appropriate mix of services for their regional or local area, to provide these services to the public, and to account for their performance. Both spheres receive transfers from the national fiscus to fund basic service provision in the form of an unconditional equitable share of revenue and grant funding conditional to a specific purpose, but municipalities (on average) raise substantial revenue of their own, through rates on property and user charges. For that reason, municipalities receive a substantially smaller percentage of funding through transfers than provinces.

2.1 THE NATURE OF LOCAL GOVERNMENT

Local government is the key site of delivery and development, and is central to the entire transformative project of the new South Africa. It is also in the area of service delivery that local government is confronted most sharply with the socio-economic legacy of the past.

In the words of Kriegler J in Fedsure *Life Assurance Ltd and Others v Greater Johannesburg Transitional Metropolitan Council and Others 1998 (12) BLCR 1458 (CC) (referred to as Fedsure)* at para 126:

> The transformation of South Africa from a society rooted in discrimination and disparity to a constitutional democracy founded upon freedom, dignity and equality posed, and continuous to pose, particularly profound challenges at local government level. It is here that acute imbalances in personal wealth, physical infrastructure and the provision of services were and are often most patent. Given the fact that poverty is experienced locally, municipalities are confronted daily with the consequences of apartheid. As a result, a large part of the burden of addressing this falls upon local government, as it is the provider of primary services which are essential to the dignity of everyone who lives in their area of jurisdiction. It is therefore a legitimate aim and function of local government to eliminate the disparities and disadvantages that are a consequence of the policies of the past and to ensure, as rapidly as possible, the upgrading of services in the previously disadvantaged areas so that equal services will be provided to all residents.

Local government is the sphere of government closest to the people and so is charged by the Constitution and the White Paper on Local Government (which set in motion the democratic local government dispensation) to be developmental and people-centred in its approach.

The White Paper on Local Government (1998) put forward a vision of developmental local government, one which is committed to working with citizens, groups and communities in meeting the social, economic and material needs of communities in a holistic way. A central principle of the post-apartheid Reconstruction and Development Programme (RDP) was the empowerment of poor and marginalised communities, people-centred and people-driven development that emphasises growing empowerment and reliance on mobilising the energies of communities.

By law, a municipality comprises its political structures, its administration and the community, which means communities are an integral part of municipal governance.

An inclusive form of governance requires that all the inhabitants of the community claim their rightful place in local government. In fact, local government legislation [1] defines a municipality as comprising of its political structures, its administration and the community of the municipality. Thus, communities are an integral part of municipal governance of local government affairs, but this requires a strong public that can interact with local government in an informed and directed manner and use the spaces available for participation on key decisions for more effective local solutions. In this regard, it is incumbent on local government to encourage and create conditions for the local community to participate in the affairs that govern them.

In a landmark *Matatiele* judgement in South Africa in 2006, the Constitutional Court made it clear that community participation is particularly important to ensure that the rights and interests of vulnerable groups in society are protected. The Court remarked that "participatory democracy is of special importance to those who are relatively disempowered in a country like ours where great disparities of wealth and influence exist". [2] Participatory democracy places the onus on local government to ensure that citizens have the necessary information and opportunity to exercise this right.

[1] Local Government: Municipal Structures Act 117 of 1998.
[2] Matatiele Municipality and Others v President of the Republic of South Africa and Others (2006) CCT 73/05

2.2 LOCAL GOVERNMENT FISCAL FRAMEWORK (LGFF)

One of the main aims of providing funding support to local government is to enable it to deliver on this constitutional mandate, in particular the role it must play in redressing the social, economic and spatial inequalities caused by apartheid. To finance these responsibilities, municipalities are empowered with revenue instruments in the form of taxes, user charges, licenses, fees and other charges. Municipalities are expected to raise their own revenues from service fees, property rates, levies and other taxes. Thus, unlike national and provincial government, local government is meant to have a degree of financial independence from the national budget because of their revenue raising mandate.

The fiscal structure of local government is defined by the functional competencies allocated to municipalities, and the financial challenges they face are defined by their varying socio-economic profiles and levels of economic activity. Municipalities in predominantly rural areas, for example, face significant limitations in revenue due to the small size of their tax base and high levels of poverty, but also face different spending needs due to the form of settlements. Larger and predominantly urban municipalities are faced with the pressures of urbanisation which also impact on their ability to roll out access to good quality services. The role of local government can only be meaningfully defined in relation to variations in service backlogs and costs of delivery (expenditure needs), revenue capacity and institutional capability.

While there is a strong redistributive element built into the way local government is structured and financed, questions have often been raised as to whether municipalities are sufficiently resourced to discharge their responsibilities effectively; to be developmentally orientated; and to provide communities with opportunities to effectively participate in the governance of their municipalities. The viability of many municipalities are progressively at risk and constantly called into question due to the growing pressures associated with expanding populations and (slow) economic growth, which results in increasing demand for services, and the rising costs of services that are impacting negatively on household disposable income and affordability.

The Local Government Fiscal Framework (LGFF) is therefore the set of policy, legal and institutional mechanisms through which the availability of revenue is balanced with the expenditure responsibilities of municipalities and the effective governance and administration of both revenue and expenditures are maintained. The LGFF is constantly under review to keep track of policy developments and data updates that affect local government. In 2012, the focus of the review was on updating the data used in the Local Government Equitable Share (LGES) formula with new information from the 2011 Census (and thereafter the Community Survey 2016), as well as on expanding the basket of municipal services together with a new poverty threshold.

THE LGES ALLOCATIONS AND FORMULA

LGES allocations are unconditional and it is the choice of municipalities how they appropriate the funds in their budgets in order to meet their constitutional and legislative mandates and responsibilities. Despite the unconditional nature of the LGES, the formula used to determine allocations is made up of components that are based on the particular functions and characteristics of municipalities.

The LGES formula consists of five components.[3] It is important to note that the structure includes some components that add funds to LGES allocations and other components that subtract. The Basic Services Component is by far the largest in the formula and accounts for over 90% of the value of final LGES allocations on average. This component takes account of five services, namely, electricity, water, sanitation, refuse and municipal health.

The purpose of the basic services component is to assist municipalities in providing free basic services to poor households and with funding municipal health services. The allocations for each of these services go to the municipalities authorised for these functions. In areas with both district and local municipalities, this means that the district always receives the municipal health funding and the local always receives the electricity funding (as is the case in the uMshwathi and uMgungundlovu examples later), but other services are allocated differently in different areas based on which municipality is authorised for each function.

The LGES allocations assume that municipalities provide poor households with a quantity of free basic services, in line with national policy norms. The LGES formula only funds services to poor households and is only intended to fund services that meet the basic levels of services. The quantities of free basic services funded through the formula are those quantities stipulated in national free basic services policies – being electricity at 50kWh per month and water at 6kl per month. If municipalities choose free basic services policies that are more generous than these norms provide for, then it is up to them to fund those additional levels of service from own revenue sources.

REVENUE COLLECTION AND CREDIT CONTROL

Sustainable service delivery requires revenue collection rates of between 85 and 95%. However, rural and district municipalities are generally only able to collect between 20% and 35% from own revenue sources and are therefore highly dependent on government grants. On average, metros and secondary cities raise 75% of their operating budgets from own revenue sources. Metros and largely urban municipalities are therefore not only able to raise more revenue from own sources, but are also more dependent on it because they are expected to fund their own administrative costs.[4]

All municipalities are, however, experiencing numerous challenges in the area of revenue collection and debt management due to, amongst others, the rising cost of bulk services which makes municipal services increasingly unaffordable and leads to increasing numbers of indigents. Ineffective interfacing of technical and other systems, challenges with respect to billing and enforcement of credit control policies, among others, exacerbate the problem, as well as the fact that municipal consumer debtor books have been ever increasing since the 2004/05 financial year.

[3] The five components are: basic services; institutional; development; revenue raising capacity correction; and correction and stabilisation.

[4] National Treasury, CoGTA, SALGA, FFC, StatsSA discussion paper II "Local Government Equitable Share Formula Review - Analysis of the Current Local Government Equitable Share Formula" (2012), page 20.

2.3 FREE BASIC SERVICES AND INDIGENT POLICIES

The Constitution highlights the right of all citizens to have access to basic levels of services. This principle is underpinned by the National Indigent Policy which says that the municipality must provide free basic services to indigent people in a sustainable manner.

The Municipal Systems Act, (Act No. 32 of 2000) defines basic services as those services "necessary to ensure an acceptable and reasonable quality of life and, if not provided, would endanger public health or safety of the environment". Free basic service is defined as the minimum amount of basic levels of services, provided on a day-to-day basis, sufficient to cover or cater for the basic needs of poor households. Various sector departments have set minimum standards outlining the basic amount of services or quantity to be supplied to poor households with regards to water, energy, sanitation and refuse removal.

Local government is responsible for the provision of water, electricity and sanitation services to households. Municipalities must act reasonably, using the integrated development plan (IDP) and budget, to extend basic water, sanitation and electricity services to their inhabitants; this means that local government has an obligation to progressively make sure poor households, and especially those classified as indigent, have improved access to adequate water, electricity and sanitation.

The extent of poverty across all municipalities in South Africa is severe. There is an additional institutional dimension of poverty because of institutional failure, as the poorest are those who are unable to access state assistance designed to provide a social safety net for them.[5] Alongside the 'informal economy', the marginalisation of the poor from the core administrative or institutional systems and resources of government is one of the key dimensions of persistent and chronic poverty.

By the nature of its developmental mandate, local government is therefore primarily concerned with the challenges of poverty. The fact that water, waste and electricity are the financial lifeblood of municipalities, and the fact that ideally they are provided only to those who can pay for them, underscores the imperatives of fully understanding the inter-relationship between poverty and local government in designing an indigent policy.

Section 74(2)(c) of the Municipal Systems Act, 32 of 2000 stipulates inter alia the following:

"Poor households must have access to at least basic services through:

(i) tariffs that cover any operating and maintenance costs;

(ii) special tariffs or life line tariffs for low levels of use or consumptions of services for basic levels of service; or

(iii) any other direct or indirect method of subsidisation of tariffs for poor households".

[5] Friedman, Steven (2005) On whose terms? Participatory Governance and Citizen Action in Post-Apartheid South Africa (Paper for International Institute of Labour Studies Workshop, Geneva, unpublished)

The National Indigent Policy seeks to address the problem of institutional exclusion by facilitating the reform of the systems of local government to ensure the inclusion of the poor in ways that will guarantee their access to basic services. The policy's aim is therefore to alleviate or reduce poverty in disadvantaged communities by providing free basic water (at least 6 kilolitres per month), free basic electricity (at least 50 kWh per month), and subsidised sewerage and sanitation as well as solid waste management (up to R50 per month or 100% subsidy to indigent households). However, the policy needs to be read and understood in relation to other policy and fiscal frameworks, which are managed and administered by various sector departments.

Section 73 of the Municipal Systems Act states that local municipalities should have a policy to provide free basic water and free basic electricity to people who cannot afford to pay for these services. Municipalities can choose whether to give free basic water and electricity to everyone (universal allocation) or to target poor households (means-tested or targeted allocation, like a social grant).

For each of the basic services there are a range of service levels, which can be provided with the following categories typically being applied:

- Basic service level – which is required in order to maintain basic health and safety.
- Intermediate service level.
- Full service level – the highest level of service that is traditionally applied in South African municipalities.

From the point of view of a municipal indigent policy, where the aim is to provide essential services free to indigent households, the basic service level is of primary importance.

The National Indigent Policy (Department of Provincial and Local Government, now CoGTA) therefore opens with the following statement:

"This document is the result of a renewed effort by government to understand what it means to rapidly improve access to basic services and goods, thereby having a major impact on reducing levels of the indigent and poverty and specifically the proportion of people who are indigent. The policy described in this document is intended to provide a high level framework to guide the national initiative to improve the lives of the indigent. It recognises the need for inter-governmental co-operation in the process of dealing with indigents but places specific emphasis on the municipal sphere, recognising the important role local government has in effectively addressing the needs of indigent households. There are two key thrusts to this policy:

- **It provides a foundation upon which municipalities can build their own indigent policies in order to meet their own responsibilities in respect of providing basic municipal services for all.**

- **It provides a basis for actions which national government will take in terms of the responsibilities municipalities are given by the Constitution in order to ensure that all have acceptable access to basic municipal services.**

WHO QUALIFIES FOR FBS?

Only indigent households qualify for FBS and the programme is solely intended to assist them, and applies only to metered water and electricity connections, as well as communal services. Municipalities generally subject applications to means tests to determine whether households applying meet the criteria set by their municipality to qualify for indigent status.[6] There are different categories of subsidies as set out by the various indigent by-laws/policies of the municipalities. In some municipalities, households qualify for 100% subsidies while others qualify for less than 100%, depending on the criteria set.

All households who qualify in terms of the said policy, receive a subsidy on property rates as well as other service charges such as water, refuse and electricity. Usually only households where the account holder or property owner has registered as indigent in terms of the municipality's annual registration program and whose registration has been approved and entered into the register of indigents qualify for the above concessions.

METHODS FOR TARGETING: SUBSIDIES AND SUSTAINABILITY

Of course, the provision of basic services to the community can only be done within the financial and administrative capacity of the Council. Targeting the poor requires that something which costs the municipality (or its external services providers) money to provide, must be made available for free. Therefore, a subsidy is required to ensure that the costs required to provide the service can continue to be funded from a source other than the consumer of the service.

The financial sustainability of free basic services is most commonly done though the determination of appropriate tariffs to ensure cross-subsidisation. The tariff for a service must therefore be sufficient to cover the cost of the initial capital expenditure required and interest thereon, managing and operating the service and maintaining, repairing and replacing the physical assets used in its provision. Sustainability does not only mean that the price of the service must include all the relevant cost elements, it also means that charges to be levied must be collected. Thus, municipal councils must adopt and apply a Credit Control and Debt Collection policy to ensure that property rates and service charges are fully recovered. The subsidies on rates and the specified service charges are determined as part of each annual budget and in terms of the municipality's policies on property rates and tariffs.

[6] Child-headed households and households without access to FBS infrastructure are always regarded as indigents.

3. THE REALITIES OF FBS:

KEY CHALLENGES, GAPS AND OPPORTUNITIES FROM THE POLICIES AND PRACTICES OF LESEDI, EMALAHLENI AND UMSHWATHI MUNICIPALITIES

The following sets out the key challenges, gaps and opportunities from the FBS policy approach and revenue and expenditure practices in three municipalities, namely Lesedi Local Municipality (LM), uMshwathi LM in uMgungundlovu DM and Emalahleni LM; this is analysed within the FBS allocations these municipalities receive from the LGES as well as against the broader pressures and realities inherent in the fiscal framework of local government.

3.1 EXCLUSIVE POLICY APPROACH (STRINGENT REQUIREMENTS TO PREVENT FRAUD RATHER THAN ENSURING WIDE COVERAGE)

A sound FBS and indigent policy is the foundation of a fair and equitable solution to bring relief to the many millions of poor residents of municipalities. While the indigent policies of municipalities differ, they all have more or less the same objectives, namely:

- To determine a level of affordability for the supply of free basic services;
- To prevent the escalation of debt on the accounts of consumers not in the position to pay;
- To restrict the level of utilisation of consumer services for the people who cannot afford to pay;
- To determine the total value for free basic services in a way that it can be recovered from the available portion of the equitable share; and,
- To regulate the access of households to free basic services.

In regulating access, the key question is whether indigent policies frame the requirements for qualification in a way which is exclusive for many poor households. It is true, of course, and generally acknowledged in municipal indigent policies (such as Lesedi's) that there are a number of challenges in defining criteria, among them being:

- Household income alone is not an adequate indicator of poverty;
- To make an accurate assessment of the true situation in any household is difficult;
- The number of households who might legitimately be termed indigent or too poor to afford minimum acceptable levels of municipal services is huge;
- The households are changing constantly; and
- Conditions of poverty are too complex to allow for a single indicator to define the target group for indigent support.

As an example, uMgungundlovu District's indigent policy (in which uMshwathi LM falls) provides that all households who have submitted their applications for inclusion in the municipality's indigent register will qualify for 6kl free water which also covers sanitation. The policy then lists the household eligibility process as:

- Application on a specific council application form, after which screening and ongoing auditing are possible. This form will require data on the inhabitants of the household, their occupations, income and property ownership, and business ownership.
- Inspectors may visit indigent households to audit the veracity of the data in the application form, and to record any changes in circumstances, and make recommendations on the continuation or discontinuation of the subsidy.
- An audit report is to be submitted to Council on a regular basis.
- Indigent households must reapply for indigent support every twelve months, subject to regular monitoring of individual cases.
- Indigent Households registered on the Municipality's register may, on registration, elect to have a limited flow of water to minimise high consumption and avoid debt.

By their nature, many indigent households will not have the necessary paperwork (proof of income, etc.) or ownership/tenure rights required by most policies. The net effect is that by framing the requirements in this manner, municipalities are able to channel funding for the poor towards other operational requirements. The more financially strained the municipality is, the more likely it is to use the ES for operational expenditure and therefore frame their indigent policies in fairly strict and exclusive terms, such that the bulk of the ES allocation can sustain its operations. One can argue that this is the perverse incentive inherent in the unconditional nature of the ES.

The Lesedi LM Indigent Management Policy boasts that it covers a wide range of indigent benefits and essentially provides a subsidy for the full range of basic services to qualifying households, but very few households in fact successfully meet the eligibility criteria. The criteria it lists include being a registered owner of property (with a few further qualifications), total combined income of the household not being above R3 500 and possession of a valid South African identity document, among others. The policy further requires that measures must be taken to ensure the reliability of the information submitted by the applicant.

LESEDI INDIGENCY BY NUMBERS

Based on the household numbers from the 2016 Community Survey Households, Lesedi LM has a total of 39 294 households, with 21 628 of those classified as having total household income of less than two old age pensions (effectively the indigent). A total of 16 021 households are classified as poor (having a combined income of not more than R3 745 thousand per month). The estimated unemployment rate for the area stands at 25.9 percent.

The Budget indicates that in the area:

- **32 201 households receive water services**
- **26 402 households receive energy**
- **27 424 households receive sanitation and refuse removal services**

Of these figures, the number of indigent households that receive the 50kwh free electricity, 6kl water, free sanitation services and once a week refuse removal is 2 400.

The total cost of free basic services to formal registered indigent households is projected to cost R16.1 million. The total of rebates and exemptions over and above the Section 17 MPRA guideline equates to R28 million. The municipality has been allocated R104.9 million (LGES) in 2017/18 to fund its social package of R44.1 million.

Thus, only 2 400 households in the municipality are registered as indigent and qualify to receive the 50kwh free electricity, 6kl water, free sanitation services and once a week refuse removal. Yet, 21 628 of the households in Lesedi have a total household income of less than two old age pensions (effectively the indigent, according to the LGES), and a total of 16 021 households are classified as poor (have a combined income of not more than R3 745 thousand per month).

For 2017/18, Lesedi allocated over R90m for basic services, yet the total cost of FBS it provided to formally registered indigent households was R16.1million.

This means that potentially 14 000 households eligible for and in need of free basic services, according to Lesedi's own policies, are not registered as indigent and therefore do not enjoy access to basic services, despite the LGES catering for 21 628 indigent households. R74m of a possible R90m – or 82% of the funds intended for those in need – are not spent as such. By the LGES definition, 19 200 indigent households identified by national government as qualifying are not receiving the services intended for them. More than 80% of those that the LGES classifies as indigent are therefore missing out due to the municipality's criteria, and while it may not be a deliberate attempt at exclusion, that is its real effect.

EMALAHLENI INDIGENCY BY NUMBERS

Based on the household numbers from the 2016 Community Survey Households, Emalahleni LM has a total of 150 420 households, with 69 812 of those classified as having a total household income of less than two old age pensions (effectively the indigent eligible for FBS). The municipality has an unemployment rate of 21.3%.

According to the Tariff Schedule for all Tariffs annexed to the Budget (in terms of the Tariff and Rates Policy of Emalahleni for 2017/18), the following provision is made for registered indigent properties:

- **For water, 6kl free and then there is a progressively increasing tariff applicable in blocks above 6kl, and a flat rate above 80kl as the ceiling.**
- **For sanitation, the same applies (6kl free).**
- **For refuse removal, a 50% subsidy applies with a fixed monthly charge of R55.**
- **For electricity, registered indigent households get 50kwh free, and then fixed rate charges apply thereafter, according to consumption.**

For Emalahleni, while the LGES caters for over 65 000 households as effectively indigent, the municipality's budget provides that to only 10 500 households recognised as indigent. The 2017/18 Budget proposed that, of the ES allocation, only R38m goes to indigent applications, and the rest to operational expenditure, compared to a basic services allocation of over R300m for 2017/18, meaning that just over 10% of the ES allocation intended for those recognised as indigent is actually spent on them.

In both cases, the figures suggest that for every 10 households classified and funded as indigent by the LGES, less than three qualify as registered indigent households on the municipal database. As a recent report by the Socio-Economic Rights Institute (SERI) indicates[7], this is generally true across the spectrum.

[7] SERI Report "Targeting the poor? An Analysis of FBS and Municipal Indigent Policies in South Africa", 2014

UMSHWATHI INDIGENCY BY NUMBERS

Based on the household numbers from the 2016 Community Survey, uMshwathi has a total of 29 082 households, with 20 956 of those classified as indigent, defined as total household income being less than two old age pensions. The only form of FBS made available by the municipality is offering free basic electricity to those who are registered on the data base.

Since the municipality is not authorised to perform the water or sanitation functions, those allocations are passed on to the district (uMgungundlovu), resulting in a total basic services allocation for uMshwathi of R40 713 217. The only source of own income is rates and refuse collection, thus the district is highly grant dependent. Total Revenue Estimates for the 2017/2018 financial year for the area amounts to R178.927 million.

UMGUNGUNDLOVU (District responsible for water and sanitation)

The core business of the municipality is to provide sustainable and quality drinking water and decent sanitation services for the whole district. 62% of the operating budget goes towards these functions. Own revenue mainly from service charges amounts to 32% of the operating revenue, while 33% and 31% respectively is generated from the LGES and RSC levy replacement grant.

Meanwhile, the backlog in uMshwathi Municipality indicates that its ability to implement Free Basic Services to all qualifying households will be hamstrung by the magnitude of the backlog it still faces. From the base year of 2001/2, noticeable progress has been made in respect of access to potable water, whether piped or within a distance of 200 meters.

It is estimated that 10 749 (46%) and 7 875 (33%) of households within uMshwathi Municipality still do not have access to piped water and water within a distance of 200 meters respectively. Furthermore, approximately 19 045 households have no access to decent sanitation and 11 734 households do not have access to legal electricity connection.

This level of backlog is even more critical when looked at against the national goals of universal access to potable water and sanitation, and universal access to electricity. The municipality's target is to register 4 000 or more indigent households during the 2017/18 financial year, a process reviewed annually, but given the backlog, is still short of ensuring that those in need have the bare necessities.

Given the earlier statement that the marginalisation of the poor from the core administrative or institutional systems and resources of government is one of the key dimensions of persistent and chronic poverty, it is greatly disappointing that those most unlikely to be able to do so are required to go to such lengths to justify why they should get access to basic services. It is little wonder then that such low numbers qualify, and actually receive the support, relative to the number of indigent households classified in the LGES.

KEY CHALLENGES AND OPPORTUNITIES

Some of the exclusionary practices to adequate provision of free basic services include:

- Indigent policies that are more concerned with eliminating fraud than with making sure that basic services get to those most in need. This approach is outdated, and is certainly not developmental, as it sees the poor as recipients of charity rather than people with basic rights.
- Conditions for receiving free basic services which are problematic. For example, with the exception of communal service points, applicants must own the property where the services are provided. The implication is that the most vulnerable households who do not own property (or have the necessary paperwork to prove it) are excluded.
- Cost of living increases which often exceed household income increases, while the income bands to qualify for assistance have remained largely static (typically R3500-R3750), meaning that many households who are indigent or in desperate need of assistance do not qualify in terms of prescribed income bands. This is the cruel outcome of a rigid compliance based approach (rather than a developmental one) and serves to exacerbate poverty and inequality, rather than diminish it.

Could municipalities rather be more inclusive to make sure people in need are not left out? Means tests are not a given, so a truly developmental municipality could choose to make access universal or spend 100% of the ES allocations for the purpose for which they were intended. Given the financial pressure on municipalities, there is an obvious reluctance to do so.
Fraud, and other means of abusing the system, is an ever present reality in the South African context of mass unemployment, poverty and pervasive inequality and as such, policies and procedures to prevent them are necessary. However, those policies should not go the other extreme and be framed in a way which inherently excludes the very intended beneficiaries (as they largely do now). It stands to reason, for example, that the requirement to prove ownership of a property among the most vulnerable and disenfranchised would, by nature, be exclusionary. The desperate need for housing and security of tenure are some of the biggest challenges facing the country and resonates in illegal land invasions, growing informal settlements, increasing evictions, violent protests and discord between communities. [8]

ACCOUNTABILITY FOR FBS REACH AND SPEND

A key issue is accountability for FBS provision and meeting the goals of universal access. In 2005 CoGTA (then dplg) developed the framework for municipal indigent policies and defining basic services and free basic services in the Municipal Systems Act. The National Indigent Policy indicated that "it provides a basis for actions which national government will take in terms of the responsibilities municipalities are given by the Constitution in order to ensure that all have acceptable access to basic municipal services".

Treasury plays a key role in providing for these services in the LGES and trying to ensure sound budgeting and sustainability, but CoGTA has thus far played no role in the monitoring and oversight of how municipalities have implemented the services in their own policies and expenditure patterns. Yet, while local government has a degree of autonomy, CoGTA does have an important monitoring and oversight responsibility in ensuring, for example, that municipal policies and practices are indeed accommodative of the poor and truly seek to give effect to their constitutional rights, rather than framing policies in exclusionary terms. Such exclusionary framing runs counter to the progressive realisation of constitutional rights, which is the State's obligation.

[8] GroundUp, "Dire need for housing is South Africa's biggest challenge" opinion piece by Brett Herron, Cape Town MMC for Housing and Transport (8 March 2018).

3.2 THE CONUNDRUM FOR LOCAL GOVERNMENT – BALANCING THE DEVELOPMENTAL MANDATE, GRANT DEPENDENCE AND FINANCIAL SUSTAINABILITY

While municipalities do receive grants to fund free basic services, it is an unconditional grant, which means it can be spent as municipalities see fit, and there is very little accountability or oversight of this component.

Local government is at the forefront of service delivery and is the site where poverty and inequality is manifested. Local government has to bear the brunt of the pressure and harsh realities of poverty and displacement and this is reflected in their conservative policy and funding choices; it has to make the most of what it has while pursuing a fair and equitable FBS and poverty reduction programme. A look at the budgets of the three municipalities paints a very bleak picture in this regard.

For Emalahleni, the following points can be observed from the 2017/ 18 Budget:

- The municipality is 91% dependent on national for capital funding and 9% on the district (i.e. 100% reliant on others).
- The budget for 2017/18 (- R375m) and the two outer years (the entire MTREF period) shows a deficit and one that has been steadily increasing.
- The municipality has a huge debtors' book which causes the provision for bad debts to be excessively high.
- The budget was prepared on an assumed collection rate of 80% (average collection rates have been 75% for the last three years).
- Revenue budget increases are projected based on hiked tariffs and improved collection rates/anticipated payment from debtors.
- There is a recommended increase on water tariff of 10%, but the municipality suffers from 46% water losses. The water budget revenue was projected above R400m but by month 9 (i.e. three quarters into the financial year) only R54m had been realised.
- The revenue projections for waste water management and refuse services appeared to reflect far above (i.e. unrealistic) CPI increases which was not consistent with performance to date. For water services, it is not clear how it projects significant surpluses when current billing stands at less than 50%.
- Incorrect billing, malfunctioning meters, ageing infrastructure, increased costs, weak economy and high interest rates are stark realities in the municipality, which raises serious questions about the revenue projections.

The above means a clear need to reprioritise projects and expenditure within the existing resources, given the cash flow realities and declining cash position of the municipality. Significant cuts to expenditure and collecting billed revenue is therefore necessary. Even at the municipality's target for collecting 80% of billed revenue, this will not be sufficient as it has R2billion worth of creditors. This situation raises serious questions about the credibility and sustainability of the budget and its implications for delivering on its mandate, particularly the poor.

For Lesedi, the Budget has high liquidity risks and under-budgeting for other working capital requirements and projected unspent grants. The municipality's long-term sustainability is questionable due to a debtors' book that has increased at an average of R55-57 million per annum from the 2012/13 to the 2015/16 financial year. With a stagnant collection rate and no clear indication of the effectiveness of debt collection strategies, the situation is bound to deteriorate as the annual tariff increases (towards cost reflective tariffs) begin to affect the households. In addition, the projected collection rate decreases across the MTREF, as is a decline in the cash coverage ratio.

The following points are therefore salient with regard to the Lesedi LM municipal budget and sustainability:

- Without a more radical approach to the implementation of the debt collection and credit control policy, the municipality will not be likely to collect enough revenue to pay its creditors on time;
- All trading services are budgeted to operate at surpluses over the medium term, which is questionable with a stagnant collection rate and increasing costs;
- Past trends have indicated that the municipality has a low spending record with regard to projects that are funded from internal funding. This occurrence is also evident in the municipality reducing the number of internally funded projects in the current year; and
- The municipality presented surplus budgets for the entire MTREF period which is potentially unrealistic compared to the cash flows to be generated.

For uMshwathi, employee related costs are the main cost driver within the municipality, comprising 49% of total operating expenditure in the 2017/18 MTREF. This increase places a disproportionate upward pressure on the expenditure budget. Alternative operational gains and efficiencies will have to be identified to lessen the impact of wage and bulk tariff increases in future years, given the very limited responsibilities and modest budget at its disposal. Employee related costs are the main cost driver within the municipality.

KEY CHALLENGES AND OPPORTUNITIES

The enormous and increasing burden on local government needs the requisite support from other spheres of government to allow local government to cope with it, but this does not appear to be the case by the national government. On the one hand, local government has to be developmental and ensure coverage of basic services to the poor, while on the other, the reality of growing unemployment, indigency and concomitant lack of ability to pay for services on municipal budgets, as well as shrinking capital allocations, means that municipalities face increasingly difficult times.

While costs of services and wage bills continue to increase, so does the unemployment rate, combining to create a greater inability to pay, and the allocations to local government over the MTEF period are declining. Municipalities seeking to continue to improve access to and the quality of services, need to generate the required revenue, but they are faced with serious development backlogs and poverty. The expenditure required to address these challenges will inevitably always exceed available funding. Hence, difficult choices have to be made in relation to tariff increases and balancing expenditures against realistically anticipated revenues.

The current challenge facing these municipalities is managing the gap between cost drivers and tariffs levied, as any shortfall must be made up by either operational efficiency gains or service level reductions. Almost inevitably, the latter prevails at the expense of the poor, and a greater portion of the ES is used for operations as opposed to poverty relief.

This situation raises a key question as to whether the time has come to consider ring-fencing the ES basic services component, to ensure that the funding provided for FBS is exclusively utilised to provide these essential services to indigent households (as classified in the LGES). Perhaps then a more inclusive and less stringent approach will have to be taken by municipalities in their policies and implementation.

At the very least, there should be an acceptable norm for the percentage of money intended for the poor and that which is actually expended on them. For example, at least 75% of the LGES allocation (which is based on indigent households) could be ring fenced for the indigent and that will go some way to encourage more inclusive indigent policies and subsidies.

There is an important role that CoGTA could play in ensuring accountability and setting norms and standards for the FBS and Indigent Policy. At present, this is fully left to the discretion of municipalities and in many cases, less than 50% (and sometimes even up to 80%) of the funds intended for the indigent doesn't reach them. Of course, pursuing such an option would mean that local government would have to be more appropriately funded to fulfil its developmental role. As mentioned below, a comprehensive review of the funding model for local government is necessary, as inadequate finances has put extreme pressure on municipalities, resulting in the poor being increasingly short-changed.

3.3 IGR FISCAL FRAMEWORK – SHRINKING MUNICIPAL ES ALLOCATIONS ONLY PUNISHES THE POOR

Local government's share of the division of nationally raised revenue has increased steadily from just over 1% in 1998/99 to just under 10% in 2016/17. The incremental increase in local government's share should however be viewed against the increase in service delivery responsibilities of local government and varying economic and socio-economic contexts within which different types of municipalities have to operate, as revealed in the 2011 Census.

The size of the municipal consumer base has significantly increased since 1994, resulting in a number of challenges to government as a whole. The provision of services can therefore not be examined in an isolated manner, as a number of different socio-economic and cost dimensions form part of the value chain of sustainable service delivery.

Municipalities are confronted with major expenditure responsibilities for infrastructure and services for communities in different areas. Without significant investment to rehabilitate aging infrastructure and strategic new investment to crowd-in growth and raise urban productivity, the country's future growth prospects are significantly constrained as existing municipal assets continue to deteriorate at a rapid rate. The cost of capital infrastructure has escalated substantially over the last decade or so.

Yet, refurbishment and replacement costs of infrastructure are not properly incorporated into the operating grants transferred to municipalities. These costs can be significant, particularly where grant funding was used to fund infrastructure that benefits indigent communities. This exposes municipalities to potential financial sustainability challenges as they have limited revenue to enable them to expand infrastructure or maintain the infrastructure at a level where it operates optimally and therefore supports service delivery. Municipalities require fiscal support to fund refurbishment and replacement costs, particularly where infrastructure is funded from government grants.

Against this backdrop, much had been made about the proposals in the 2018 Budget to off-set South Africa's R50 billion deficit – a trade-off that will cause obvious economic discomfort. National Treasury claims that the proposed division of revenue will continue to prioritise funding of services for poor communities. Government spending over the next three years will be cut by R13.8 billion at municipal level. While R3.4 billion has been reallocated to the local government equitable share to address provision of free basic services, this reallocation was the result of cuts in investment in municipal infrastructure.

For the 2018/2019 financial year, indirect grants to municipalities will decline by 16.1% in real terms relative to the 5.1% reduction to provincial government. At a local government level, cuts will affect key grants that aid infrastructure development, such as the municipal infrastructure grant (MIG). The MIG - which funds the provision of bulk water, storm water management, sanitation, electricity, refuse removal, local roads and public lighting - will see a cut of R5.6 billion over the next three years.

These austerity related changes in the division of revenue will undoubtedly have an impact on promoting a decent standard of living and access to economic opportunities. Although it is recognised that the government deficit must be addressed, cuts to local government inevitably only succeed in punishing the poor. Austerity budgeting is by its very nature a harsh short-term intervention with even harsher long term impact.

As argued by Madonko, Lopes and Ben-Zeev, what local government required from National Treasury in 2018 was funds to cover the provision of free basic services as well as to invest in the maintenance and expansion of services.[9] With one in three South Africans living on less than R797 per month and the number of social grants at 17 million it is unlikely that the division of revenue proposals will be able to maintain services, let alone improve them for those households that most need them.

The reality is that the majority of municipalities do not raise a substantial portion of own revenue and the larger municipalities skew this figure significantly. The aggregated figure thus looks much better than is realistically the case across the sector. Of course, it is also true that the majority of poor households and those recognised as indigent reside in the larger urban municipalities. Implementing cost-reflective tariffs are important and necessary, but they may have the consequence of creating more indigent and non-paying residents given the socio-economic reality in most municipalities.

While strengthening the whip on local government is necessary to ensure maximum efficiency, so is ensuring that local government has a sustainable financial system and appropriate fiscal framework in place which is conducive to accelerating service delivery. Continuing to plan based on projected economic growth and job creation numbers that do not materialise will only exacerbate the situation and further result in marginalisation of the poor, as municipalities inevitably divert more of the ES allocations to fund operational expenditure.

[9] Madonko T, Lopes C and Ben-Zeev K "Budget 2018: more economic discomfort for local government" (submission to Parliament on Division of Revenue Bill 2018), Heinrich Boell Foundation.

3.4 HOW CAN THE POOR AND DISENFRANCHISED BE INCLUDED AS RIGHTS-HOLDERS RATHER THAN BE SEEN AS MERE RECIPIENTS? OPPORTUNITIES FOR A TRULY DEVELOPMENT APPROACH

The desperate need for housing and security of tenure are some of the biggest challenges facing the country. The legal and fiscal framework, as well as increasing pressures of being at the forefront of service delivery and having to do much more with much less, has perhaps had the unintended consequence of Councils adopting a 'bare minimum' compliance approach, viewing collaborative engagement and co-production with communities as a legal necessity or even irritation, rather than an imperative empowering tool for the poor and marginalised.

Municipal documents often talk of participatory process aimed at empowering the poor and marginalised, however, rhetorical political enthusiasm for participation or inclusiveness is not matched by practice. Contrary to the White Paper principles, communities have often been the passive recipients of development rather than collaborators in it. The Lesedi Indigent Management Policy is a case in point: while it boasts about its coverage of a wide range of indigent benefits in subsidising the full range of basic services to qualifying households, very few households have been able to qualify to benefit from the policy. In fact, only 2 400 households are registered as indigent and receive the services, out of over 16 000 indigent households stated by the LGES (as taken from the 2016 Community Survey) – which means only 15% of potentially eligible households receive the services.

The exclusion of disadvantaged groups from the focus of municipal policies is a manifestation of the practice that has commonly developed of becoming inward-focused, rather than being community and development orientated. Municipalities for example have a duty to discuss with communities what kind of water, electricity and sanitation (levels of service) is appropriate in each case. Seemingly, the preoccupation with delivery and getting the job done has usurped the participatory, collaborative or co-productive elements of its mandate. For example, the ABS Project could not obtain the indigent policies of Emalahleni or uMshwathi, despite this being one of the more crucial policies (upon which the LGES is largely based) which should at the very least be published on the website as soon as it is adopted or updated by Council. Furthermore, there could be an easy, multilingual guide on the website with categories such as a 'do you qualify?' test, 'how to apply' or 'what to bring along' for inhabitants to understand. Such accessibility embraces an approach which sees communities as partners in their own development. After all, by definition, the community is a vital part of a municipality, necessitating inclusiveness and transparency as the prevailing culture.

More and more South Africans are unable to afford to pay for municipal services and the vast majority of municipalities do not raise a substantial portion of 'own revenue'. A declining revenue base (income), increasing populations and indigency, compounded by shrinking fiscal allocations, has increasingly put municipalities in deep financial distress, meaning less resources to execute the developmental mandate and having to make painful choices between competing priorities, often at the expense of poor households.

The current crisis may in fact offer a golden opportunity for municipalities to become truly developmental in collaborating with communities to find workable, cost effective and innovative solutions to the mounting challenges. Nationally, the municipality that reported the largest increase in consumer units receiving free basic solid waste management over the five-year period (2008 to 2012) was Polokwane (from 30 700 to 91 338 consumer units). [10] This triple increase was due to the awareness campaigns that were run in villages, leading to more residents reporting and being assisted to register for free basic services at the municipality. This is a good example of a simple approach leading to significant increases in coverage and progressive realisation of rights.

A glance at Polokwane's budget and profile indicates that it has no less socio-economic or resource challenges to contend with, but despite that (or perhaps because of it), the municipality chose to take an inclusive (i.e. developmental) approach to ensure that it serves those whom it is intended to. The municipality has, in fact, taken an approach that empowers poor and marginalised communities, and places reliance on mobilising the energies of communities.

It could be argued that the growing burden on municipalities in fact necessitates the very developmental, people-centred (and driven), collaborative approach envisioned in the White Paper and constitutional mandate, as was the case in Polokwane – if Polokwane municipality can do it with such aplomb and simplicity, there is no reason that it could not and should not be the prevailing standard.

[10] 2016 Community Survey

4. RECOMMENDATIONS

The following are a key set of recommendations for policy makers and practitioners to ensure that the constitutional rights, policy intent and fiscal allocations to the poor are in fact much more progressively realised.

1. Councils must do more to ensure that coverage of FBS goes a lot further than is presently the case.

It is simply unacceptable that up to 80% of LGES basic services funding does not go to the poor or indigent as defined, due to the stringent criteria or eligibility requirements expected by most municipalities, or because of administrative incapacity to reach those most in need. It is incumbent on municipalities to take the steps necessary to ensure that those for whom provision is made, can, in fact, access their basic rights, and not to see it as an easy opportunity to use the funds for general operations (since not many will qualify based on the criteria set).

Recommendations include:

o Writing a policy requiring people to register and setting fairly inclusive requirements.

o Undertaking constant awareness campaigns and indigent registration drives to ensure that those who do qualify are not left behind for 'administrative' shortcomings.

o Assisting communities to meet the criteria, and not merely setting criteria and then judging applications at arms-length. Where applicants do not have the paperwork or supporting documentation readily at hand, municipal officials must assist the indigent to obtain them and meet the criteria.

o Renewing efforts at reconnecting communities with their municipalities, in particular involving communities in budget and fiscal planning. The onus is on the municipality to open as many avenues for engagement as possible, develop materials to assist communities to understand the planning and budget process and invite proposals to inform difficult fiscal and policy choices.

2. CoGTA should execute the roles assigned to it to further the realisation of rights.

CoGTA has an important monitoring and oversight responsibility over municipalities and has to play a greater role in ensuring that municipal policies not only comply with legal requirements, but in fact seek to further the real policy intent (universal or at least reasonable and fair access).

3. Determine a minimum norm for the percentage of local government equitable share allocations that must go to poor households.

To date, the local government equitable share allocation is largely allocated towards the operation costs of municipalities, including staff salaries, rather than the delivery of basic services to indigent households. Setting minimum norms and standards for the percentage of ES allocations that must go to poor households is another key role CoGTA could potentially be playing, thus taking the action mentioned in the National Policy to ensure that indeed all do have acceptable access to basic municipal services. Not enough has been done to date. There has to be an acceptable norm such that at least 75% of the money intended for the poor (allocated for FBS in the LGES) actually reaches them in municipal revenue and expenditure budgets.

4. Strengthen the link between Community Survey or Census data and FBS allocation.

There has to be a greater link between statistical data and the FBS allocation. Even if these are not accurate and are based on estimates, the bottom line is that funding is allocated based on those numbers and so should provision of services. If the Community Survey records 14 000 households in a particular municipality as being indigent and that is used in the LGES allocations, then those same households should be able to access FBS without further proof or administrative paperwork being required. The retort may always be 'it's not that simple', but it is that additional burden of proof which disqualifies so many otherwise qualifying households (in terms of LGES or Census/Community Survey definitions or income bands), to the extent that up to 8 out of 10 households do not receive the FBS intended and budgeted or allocated for them.

5. Initiate a policy review and debate to consider universal access to FBS and how this could be achieved.

While the funding implications may be prohibitive given the macro economic and fiscal climate, perhaps Treasury could consider assessing the cost implications of conducting indigency assessments, and recommend appropriate tariff structures to ensure cross subsidisation.

6. Engage in a comprehensive review of the local government fiscal framework

A comprehensive review of the local government fiscal framework should systematically re-assess the appropriateness of the baselines which underpin the vertical division of revenue to ensure local government is receiving revenue adequate for funding its broader development mandate, not just free basic services.

The vertical division of revenue must be re-evaluated against the increase in demand for basic services by poor households that are reported in the 2011 Census and 2016 Community Survey, as well as studies into the variation in the costs of providing basic services in municipalities with different topologies and human settlement densities.

Given the resource constraints which will remain a reality for at least the medium term, government as a whole, and local government in particular, critically need to rethink the approach on how to make inclusive development and collaborative governance a reality, otherwise the poor and marginalised will remain mere spectators of democracy and development.

As much as anything else, it requires a change in attitude, approach, and the development of an institutional culture of collaboration and co-production. The development of such a culture is vital for the sustainability of the institution of local government and the enhancement of vibrant democracy and the realisation of rights.

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