

LoGICA Intergovernmental Profile

South Africa, 2022

1. Country description and state of decentralization

South Africa is a country at the southernmost tip of the African continent. It has a multilevel system of government organized at the national, provincial, or regional and local levels. The country's current system of cooperative multilevel governance is anchored by the progressive Constitution adopted in 1996. The provincial layer of government is constituted by nine provincial governments, which provide major social services such as health, education and social welfare. The local layer of government consists of 257 municipalities of different sizes. Municipalities, which are charged with the delivery of basic municipal services (local roads, solid waste management, water, electricity, sanitation, etc.), are the sphere or tier of government closest to the people. As a result, they tend to have most contact with citizens relative to the central and provincial governments. Provincial and municipal governments in South Africa are both autonomous, highly devolved subnational government entities, with local governments having a somewhat greater degree of autonomy compared to the provincial governments.

South Africa is a country at the southernmost tip of the African continent. The country borders Mozambique to the northeast, Zimbabwe to the north, Botswana to the west and Namibia to the southwest. It completely surrounds Lesotho and almost surrounds Eswatini (formerly Swaziland). The country is divided into nine provinces which are further divided into 257 municipalities of different sizes. According to an estimate by Statistics South Africa (the national department responsible for statistics) in mid-2022, the country's population stood at 60.6 million residents, with black Africans making up 81% of this population. In 2021, the World Bank estimated that South Africa had an urban population of 68%.

Local government is where the real work of service delivery and development takes place. Hence, it is not surprising that South Africans tend to have the most contact with municipalities which are responsible for providing basic services such as electricity, water, and sanitation. Citizens also have significant contact with provinces which provides major social services such as health, education and social welfare. Citizens' interaction with the central government is minimal and evident in areas such as civil administration and the payment of social grants.

The intergovernmental profile covers the multilevel governance arrangements in South Africa. The analysis focuses on key aspects of the multilevel government system as organized at central, provincial and local levels. At provincial and local levels, focus is given to the nine provincial governments and the 257 municipalities, respectively.

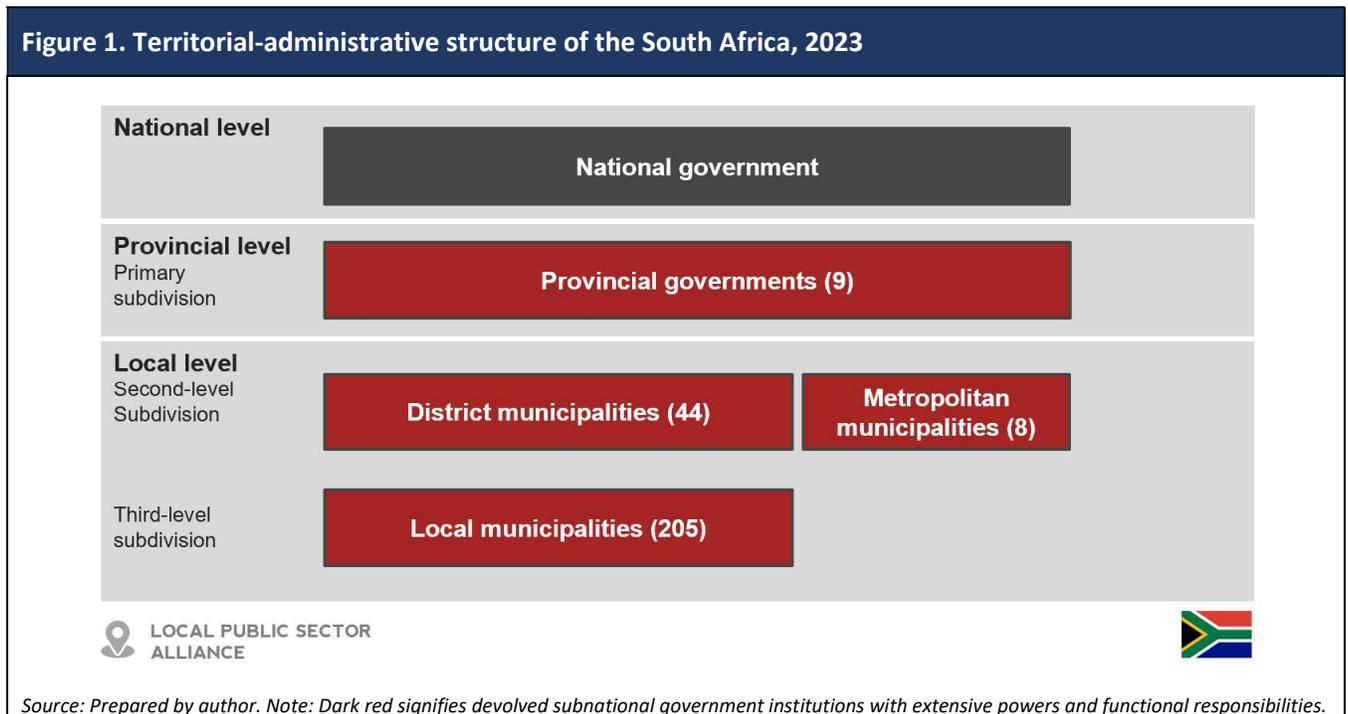
South Africa's multilevel system of government is anchored in its 1996 Constitution which organizes government at three levels or "spheres": national, provincial and local. The three spheres of government are bound together by the principle of cooperative government which emphasizes the need for cooperation rather than competition among the spheres and between governments within and across these spheres. The Constitution not only provides the framework for multilevel government but goes as far as sharing governmental powers and functions among the three spheres of government and regulating the relationships between them. The Constitution requires the enactment of legislation and adoption of policies to operationalize the multilevel system government.

Subsequent to the adoption of the Constitution, the national government have adopted several policies and laws to implement this system. While provinces have the power to enact laws regulating local government, in practice the local government is mainly based on national laws.

2. Subnational (territorial-administrative) structure of South Africa

South Africa is a quasi-federal country as its multilevel system of government has both federal and unitary elements. The 1996 Constitution of South Africa provides the overarching framework for central-provincial-local relations. Provinces are the primary or first territorial-administrative subdivision of South Africa. Local government, comprised of municipalities, is the secondary territorial-administrative subdivision. Municipalities are classified into metropolitan, local and district municipalities.

South Africa is a quasi-federal country as its multilevel system of government has both federal and unitary elements. Its 1996 Constitution organizes government at national, provincial and local levels. As depicted in Figure 1 below, provinces are the primary or first territorial administrative subdivision of South Africa. Local government make up the secondary territorial-administrative subdivision. Local government is constituted by three types of municipalities: metropolitan, local and district municipalities.



The South African Constitution shares government powers and functions between the central, provincial and local government. As such, the authority of provincial and local governments to government originates directly from the Constitution. The central government, through various laws, has complemented the constitutional framework for multilevel government. Even though both the central and provincial can regulate local government, it is the central government that has dominated the legislative space at the expense of province. As a result, the system of subnational governance is largely uniform across the country.

Table 1 below provides an overview of the governance, territorial and administrative structure of South Africa. As of December 2022, there were 257 municipalities across the nine provinces. The number of municipalities have

been progressively reduced ever since the modern democratic local government system was established in the early 2000s. The number of provinces, which is entrenched in the Constitution, has not changed since the adoption of the Constitution in 1996.

	Number of units	Complete territorial coverage?	Uniform structure	Territorial Level	Nature of Level / Type
National government	1	Yes	Yes	Central	GP
Provincial governments	9	Yes	Yes	Regional	GP
Local (municipal) governments	257	Yes	No	Local	GP

Source: Prepared by author based on Constitution (1996); Statistics South Africa (2022). Note: GP – General Purpose government.

Provinces. Provinces are the primary territorial-administrative subdivisions of South Africa. Each province has an elected legislature and executive, as well as an administration. The provinces are diverse in terms of physical size, population, and economy. Gauteng Province is the smallest in physical size but is the most economically powerful. The province is also the most populous province with approximately 16.1 million people (26.6% of South Africa’s population). On the other hand, Northern Cape Province has the smallest share of South Africa’s population with only 1.3 million people (2.2%).

Municipalities. Provinces are subdivided into municipalities, which together, make up the local sphere of government. Every part of South Africa is under the jurisdiction of a municipality, creating what is often known as wall-to-wall municipalities. Municipalities form the secondary (and in non-metropolitan areas, tertiary) territorial subdivision of South Africa, although the structure of local governments is not completely uniform across urban and rural areas.

As per the constitution, there are three different types of municipalities: metropolitan municipalities (category A), local municipalities (category B) and district municipalities (category C). Under the Local Government Demarcation Act of 1998, the Municipal Demarcation Board transformed a complex system of 843 transitional municipalities into 284 municipalities (Ncube and Monnakgotla 2016). In total, there are currently 257 local governments in South Africa.

Eight metropolitan municipalities currently govern South Africa’s major metropolitan areas, having exclusive municipal executive and legislative authority in their respective areas. The eight metropolitan municipalities are Buffalo City; City of Cape Town; City of Johannesburg; City of Tshwane; City of Ekurhuleni; eThekweni; Mangaung; and Nelson Mandela Bay.

District municipalities (currently 44) share municipal executive and legislative authority with Local municipalities (currently 205). District municipalities each have municipal executive and legislative authority in area that includes more than one Local municipality. Unlike in other African countries, local municipalities are not a sub-structure of district municipalities. Their existence is not dependent on the existence of district municipalities.

Every municipality, whether metropolitan, local or district, is governed by an elected council. The municipal executive is elected from amongst the composition of this council. The decisions of this council are implemented by a municipal administration.

3. Nature of subnational governance institutions in South Africa

Provinces and municipalities in South Africa meet the criteria of devolved subnational governments with extensive powers and functional responsibilities. Their existence is constitutionally defined and not dependent on the goodwill of higher tiers of government, nor do provincial or local governments require the approval of higher-level governments before implementing laws and policies. However, higher tiers of government are equipped with supervisory powers over lower tiers of government. In addition, in both law and practice, provinces are less autonomous compared to municipalities.

Provinces and municipalities in South Africa are devolved subnational governments with extensive powers and functional responsibilities. As shown in Table 2 below, provinces and municipalities have corporate status, with their powers and authority to govern originating directly from the Constitution. Provinces and municipalities provide public services in their areas, have own elected political leadership. They also own assets, raise own funds, adopt and implement their own budgets and can borrow money as well as appoint own staff.

Table 2. Subnational governments meet criteria of devolved governments		
	Provinces	Municipalities
Corporate status	Powers provided by the SA Constitution	Powers provided by the SA Constitution
Engages in governance functions	Provides provincial-wide public services	Provides municipal-wide public services
Own (elected) political leadership	Elected Premier, provincial executive and legislature	Elected Mayor or Executive Committee, Council
Own assets and raise funds in own name	Yes (including taxing powers but they are mainly funded through grants)	Yes (including taxing powers)
Prepare, adopt, and manage their own budgets	Yes (albeit with somewhat limited discretion given that they significantly rely on national grants)	Yes
Incur liabilities by borrowing on their own account	Yes (but within the parameters set by national law. In addition, they have less discretion to borrow than municipalities)	Yes (but within the parameters set by national law)
Appoint own officers and staff	Yes	Yes

Provinces and municipalities are governments in their own right. The Constitution classify them as separate spheres of government rather than of extensions of higher tiers of government. They enjoy a considerable but varying degree of discretion when exercising and undertaking their powers and functions. For example, provinces and municipalities adopt and implement their own laws and policies. They adopt budgets without prior approval of higher tiers of government. Subnational governments can also hire their own staff.

Provinces and municipalities must exercise their powers in line with constitutional division of functions among tiers of government, as well as within the applicable national or/and provincial regulatory and policy framework. This regulatory and policy framework must be developed in line with the Constitution which requires local autonomy.

There are arguably a number of factors that place bounds on the *de facto* authority and autonomy of provincial governments relative to municipal governments (albeit not sufficiently for provincial governments to be considered “limited” in their powers or functions). First, there is a strong vertical political relationship between the national government and provincial governments, given that eight out of nine provinces are governed by the ruling African National Congress (ANC). Second, although provincial governments employ and control their own officers and staff, provinces are part of the single public service with the national government. Third, the fact that

over 90% of provincial budgets is nationally funded through grants could potentially undermine their budget autonomy. However, the vast majority of provincial funding is provided through a formula-based, unconditional Provincial Equitable Share mechanism, ensuring that provincial governments retain a certain measure of decision-making authority over their budgets.

In a nutshell, provinces and municipalities should both be considered devolved subnational government units with extensive devolved powers.

4. Assignment of functions and responsibilities in South Africa

The assignment of functions and responsibilities in South Africa is based on the principle of cooperative governance. The 1996 Constitution of South Africa provides that the central, provincial and local spheres of government are distinctive, interdependent and interrelated. This means that while the spheres of government are independent governments in their own right they rely on each other and must work together to ensure effective delivery of public services to the citizens. The assignment of functional responsibilities to these spheres follows a collaborative rather than individual approach. For instance, the central and provincial governments have concurrent competence over a number of public service functions. Both the central and provincial governments can regulate the exercise of local government functions. Thus, in practice more than one tier of government is often involved in the delivery of a functional responsibility either as a policy setter, funder or actual provider of the public service. However, there are exceptions in areas such as defense, customs, and security- which are reserve for the central government.

The 1996 Constitution directly shares functions and responsibilities between the central, provincial and local governments. Schedule 4 of the Constitution list concurrent powers of the central and provincial government while Schedule 4 list exclusive powers of provinces. Most functions of provinces and the most significant ones are listed in Schedule 4 where both the central and provincial government have full competence. Part B of schedules 4 and 5 list functional areas of local government. Both central and provincial governments can regulate the exercise of local government functions while respecting local autonomy, as required by the Constitution. Functions that are not listed in the Constitution such as defense and security, the so-called residual powers, belong to the central government. Given that provinces have limited set of exclusive functions and resource raising powers, the constitutional assignment of functions strengthens central and local governments at the expense of provinces. As a result, South Africa has been described as having an “hour-glass” multilevel government system.

In practice, the exercise of functions follows the constitutional assignment framework. However, some municipalities are exercising many national or/and provincial functions (e.g., housing, library, emergency services, social welfare, primary health care) on an assignment or delegation basis or due to historical reasons or because of need. Big cities are also increasing clamoring for more power from higher tiers of government in areas such as public transport, energy and policing.

LoGICA’s functional assignment section captures which government levels are responsible for the delivery of a range of 25 frontline public services including public education, public health services, roads, and others. Focus is given to the level of government that actually deliver the public services as opposed to the government level that is required by the Constitution to provide the service. Figure 2 illustrates the assignment of selected key public sector functions and responsibilities in South Africa.

Figure 2. Assignment of public sector functions and responsibilities in South Africa



National government functions. The central government delivers certain public services such as civil administration, national defense, law enforcement, and tertiary education directly to citizens.

The national government further plays an indirect role in the provision of many other public services. It determines the regulatory and policy framework, including norms and standards, for public services delivered by provinces and municipalities across the country in areas such as health, education, water and sanitation. Lastly, in addition to the Equitable Share, the central government provides conditional grants to provinces and municipalities for the delivery of certain public services. For instance, the central government often provides funds for infrastructural development by municipalities through a variety of conditional grants.

Provincial government functions. Provincial governments play an important role in the delivery of social sector services, such as primary and secondary education and health. Most of the functions of provinces sit in the concurrent list, which means both the central and provincial governments have equal competence. There is however an override clause which enables a national law to override provincial law under certain circumstances such as the need to maintain economic unity. In practice, the national government establishes the national and policy framework within which provinces deliver key social services. The national government also supervises and monitors the provincial delivery of these services, including housing, social development, health and education at all levels (excluding tertiary education). Provinces also provide public transport, administer provincial roads and play a leading role in housing and the development of human settlements.

Local government/municipalities. Municipalities in South Africa are responsible for the provision of basic public services as well as for overall socio-economic and sustainable development of their respective areas. The functional classification used for municipal expenditures in South Africa breaks down municipal functions and expenditures into four broad functional categories: Governance and Administration; Community and Public Safety; Economic and Environmental Services; and so-called Trading Services. Specific local government functions include:

- **Governance and Administration**, including Municipal Executive and Council operations; Budget and Treasury Office; and Corporate Services;
- **Community and public safety**, including community and social services (street lighting, local amenities); sport and recreation; public order and safety (provision of law, traffic enforcement and fire protection services) and local health services;ⁱ

- **Economic affairs and environmental services**, including planning and development (including built-environment planning), local roads, municipal public transport, local markets, and environmental protection;
- **Trading services**, including waste management, supply of potable water, sanitation, waste water management, and local electricity distribution. Unlike in many other countries, South African municipalities are direct providers of water, sanitation, and electricity to local residents, rather than managing these services through municipal utility companies. This means that a large portion of local budgets in South Africa reflect the expenses and revenues associated with the provision of these services.

While metropolitan municipalities exercise all local government functions in their respective jurisdictions, local and district municipalities share these functions. In general, the role of district municipalities is coordinative and support-oriented in nature. However, there are some District Municipalities that are involved in frontline service provision, in particular, the supply of portable water to communities. Lastly, all municipalities have governance and administration related duties.

Selected references

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- Mkhululi Ncube and Jabulile Monnakgotla. 2016. Amalgamation of South Africa's rural municipalities: is it a good idea? *Commonwealth Journal of Local Governance* (December 2016).

ⁱ While housing is a concurrent competence of the central and provincial governments, some municipalities (especially cities) provide housing on an assignment basis. Municipalities are assigned the function of "municipal health services" which in practice has been interpreted to mean environmental health. However, some municipalities provide primary health care (for instance, the administration of outpatient health centers such as clinics).