

**RENTAL HOUSING AND
LOCAL GOVERNMENT IN SOUTH
AFRICA**

*Rental Housing and Local Government in South
Africa*

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LIST OF ABBREVIATIONS

ANC	African National Congress
CRU	Community Residential Units
DPLG	Department of Provincial and Local Government
HDA	Housing Delivery Agency
IDP	Integrated Development Plan
IGRF	Intergovernmental Relations Framework Act
MECs	Members of the executive council
MoU	Memorandum of Understanding
NCoP	National Council of Provinces
NDoH	National Department of Housing
NGO	Non-Governmental Organization
PSC	Provincial Steering Committee
RZs	Restructuring Zones
SALGA	South African Local Government Association
SHF	Social Housing Foundation
SHIs	Social Housing Institutions
VNG	Vereniging Nederlandse Gemeenten (Association of Netherlands Municipalities)
VROM	Dutch Ministry of Housing, Spatial Planning and the Environment

1. INTRODUCTION

1.1 Cooperation between South Africa and the Netherlands

In 1999 the Dutch Ministry of Housing, Spatial Planning and the Environment (VROM) and the South African Ministry of Housing (NDoH) have signed a Memorandum of Understanding (MoU) to start their cooperation in the field of social housing. This MoU has been extended in 2004 and will continue until 2009. The purpose of this MoU is to provide Dutch assistance to the building of a social housing sector in South Africa. Social housing was a completely new phenomenon for South Africa. In the Netherlands there is over a century of experience in social housing and it forms a major part of the total housing sector.

There are several partners that participate in the Memorandum of Understanding. On the South African side, these are the National Department of Housing (NDoH), the South African Local Government Association (SALGA) and the Social Housing Foundation (SHF). On the Dutch side the partners are the Ministry of VROM, the Association of Netherlands Municipalities (VNG) and Aedes (national organisation for Social Housing Institutions). The coordination of the Memorandum of Understanding cooperation is organised on both sides by Oversight Committees, in which the main stakeholders are represented.

The cooperation started with a focus on social housing. Because of the many changes that have taken place in the social and rental housing sector in South Africa it is now focused on different segments of the social and rental housing sector in South Africa. Social Housing Institutions (SHIs), municipalities, provinces and the national government are all targeted. The kind of assistance that is provided varies from policy advice, training/capacity development, to providing guarantees for loans. Several Dutch experts have been seconded to build capacity in the rental and social housing sector, to assist in the development of policies and guidelines.

1.2 Objective

This document has been developed **to inform those people that are professionally interested in the South African (Local) Government system and especially in the Social/Rental housing sector.**

In the implementation of the Memorandum of Understanding, there is a lot of interaction between South African and Dutch professionals. The differences in the political systems, the culture and customs, to name a few, can sometimes lead to misunderstandings, or confusion between people. While cooperating and communicating with colleagues in another country, it is important to be aware of the cultural and technical differences.

This document has two main focuses; first there is a description of the housing sector in South Africa, specifically the social and rental housing sector and second there will be an explanation of the roles and responsibilities of the different spheres of government in South Africa.

Attention will also be given to intergovernmental relations and 'lessons learned' in twinning relations between Dutch and South African municipalities.

The following chapter, the second chapter of this document will describe the housing sector in South Africa in general and the role of the municipality in housing. In the third chapter there will be a specific focus on the rental housing sector. It will give an overview of the different rental housing options and the importance of rental housing in the total housing sector in South Africa.

The fourth chapter will describe the role of the national and provincial government in South Africa. The fifth chapter will illustrate the role of Local Government in South Africa with a focus on:

- Types of municipalities;
- the roles and responsibilities of the municipality;
- the structure and tasks of the municipal council.

The sixth chapter will explain the intergovernmental relations between the three spheres of government. Finally, the last chapter explains the cultural and technical differences and similarities between Local Government in The Netherlands and in South Africa.

1.3 Background South Africa

South Africa is a young democracy. Since 1994 the state and its governmental system have been reformed to a decentralized, unitary state with a democratic model of co-operative governance which is acting in three spheres: national, provincial and local. From 1948 to 1994, South Africa was characterized by a system of racial segregation, identified as the apartheid. This system formed a framework for political and economic dominance by the white population and severely restricting the political rights of the black majority. The system dictated that people in South Africa were legally classified in different groups (black, white, indian and coloured) and were separated from each other. The different population groups were situated in different suburbs and had different access to education, medical care and other public services offered by the government. Services, available to black people, were of an inferior standard. For example the education system for black people was designed to create a black working class. Black, coloured and Indian people were not allowed to vote.

Finally, through a series of negotiations, between 1990 and 1993, against a backdrop of political violence in the country, the apartheid system was ended in 1994 and the first multi-racial democratic national election was held, which was won by the African National Congress (ANC).

After 1994, the government worked hard to deal with the divisions from the past and to meet citizens in their needs by promoting national development objectives. South Africa has emerged from their history of apartheid into a period characterized by a democratically elected government and a new Constitution with a Bill of Rights, which prohibits discrimination on the basis of race, colour, gender, religion and ethnicity.

The Republic of South Africa is now a democratic state established on the following values:

- human dignity, the achievement of equality and the advancement of human rights and freedoms;
- non-racialism and non-sexism;
- supremacy of the constitution and rule of law;
- universal adult suffrage, a national common voters' roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness.

South Africa has an estimated total population of 47.9 million people (in 2007). This number does not include the large numbers of illegal immigrants from other African countries like Zimbabwe and Nigeria. The majority of the population is black (79.6%), followed by the white population (9.1%), coloured people (8.9%) and Indians (2.5%). More than half of the population is under 25 years of age and only 10% is older than 55 years. The number of households is approximately 7 million, but is expected to increase because of a decrease in average household size. The typical nuclear family is not the predominant household form in South Africa.

The population is largely centred in the urban areas. Less than 50% of the population lives in rural areas and there is a trend of more people moving from the rural areas to the urban centres in search of employment opportunities. The population density in the urban areas is much higher than in the rural areas and the large influx of people into the cities puts pressure on housing delivery in urban areas. The differences in population density and in unemployment rate between the urban and the rural areas are much higher in South Africa than they are in the Netherlands. The official unemployment rate is 25.5% (in 2007), compared to 4.5% in the Netherlands. The social security system in the Netherlands is much more sophisticated than in South Africa. Therefore, people in the Netherlands have access to enough financial resources to pay for housing (rent) and other basic services. In South Africa the social security is not enough to cover these costs.

During the apartheid a lot of opportunities and services were out of reach for the majority of the South African population. This has caused a giant gap between the different groups within society and this gap is to a certain extent still visible. The government is trying to promote the emancipation of the groups that previously have been disadvantaged. One way in which they are aiming for this emancipation is through Black Economic Empowerment (BEE). This basically means that the government wants to promote the participation of previously disadvantaged groups in the economy. Measures have been taken to promote the employment of people from these groups, especially black people and women. Also 'black' ownership of companies and 'black' management are stimulated through government incentives.

1.4 The Policy Review Process of Provincial and Local Government

In a few years the governmental system in South Africa is probably going to change. In the past decade, challenges have been identified in the current governmental system. Especially, the intergovernmental relations between the three spheres of government and the separation of roles and responsibilities between the three spheres of government have occasionally been stumbling blocks.

In 2007 the Department of Provincial and Local Government (DPLG) initiated a process to review the relation between Local and Provincial Government to improve the governmental system. The main goal of the review process is to develop a White paper on Provincial Government and to review the existing White Paper on Local Government.

This review process will also affect the housing sector. In the current situation, most responsibilities for housing are located at the provincial level. The process will change the relation between the Provincial and Local Government, and both their roles and responsibilities will be redefined.

2. HOUSING IN SOUTH AFRICA

2.1 Housing in General

In the current situation, a lot of citizens are moving from rural to urban areas in search of job opportunities, which results in a high demand for proper housing, especially in the cities. Around the cities there are areas where many people live without proper access to housing and governmental services.

The National Department of Housing (NDoH) in South Africa has developed several legal frameworks and helpful guidelines which structure the delivery of housing. The legal framework for housing is stated in the South African Constitution and in the Housing Act. In 2004 the NDoH launched 'The Comprehensive Plan for the creation of sustainable human settlements', also known as 'Breaking New Ground'. This is the national strategic housing plan. It requires among others that municipalities change their planning practices from old spatial planning methods to planning that promotes holistic based integration of human settlements. Furthermore, the National Housing Code provides the National Housing Programme Policy and guidelines for the implementation of the national housing development programmes and should facilitate the effective implementation of this policy. These documents form the framework for the implementation of housing development.

In the Constitution is stated that every citizen in South Africa has the right to have access to adequate housing, which is the responsibility of all the three spheres of government. In the Housing Act, it is described in more detail that municipalities must pursue the delivery of housing within the framework of National and Provincial Housing Policies. Also, the Housing Act prescribes that the Minister of Housing has to publish a code, the National Housing Code. The code must contain the National Housing Policy and administrative guidelines in order to facilitate the effective implementation of the National Housing development programmes.

In 2004, the NDoH developed a strategic plan which is called 'Breaking New Ground'. This document promotes the achievement of an integrated society through the creation of sustainable human settlements and quality housing. The plan promotes a better quality of life and highlights the need for integrating previously excluded groups into the city and the provision of access to the services offered by the city.

The government's housing expenditure has increased over the last few years to R9 billion in 2007/2008. This meant an average growth of 23.2% per annum since 2004. The budget for housing is expected to grow further in the coming years to R10.6 billion in 2008/2009 and R15.3 billion in 2010/2011. This increase in expenditure is extremely important because there is still a large backlog that needs to be addressed.

One of the challenges in the delivery of housing is the high costs and the availability of suitable land. To be able to address this problem and to fast track the delivery, the NDoH has initiated the Housing Development Agency Bill. This bill will, once it is enacted, be used to establish the Housing Development Agency. The objects of this agency are:

- to identify, acquire, hold, develop and release state, communal and privately owned land for residential and community purposes and for the creation of sustainable human settlements;
- to project manage housing development services for the purposes of the creation of human settlements;
- to monitor that there is centrally coordinated planning and budgeting of all infrastructure required for housing development; and
- to monitor the provision of all infrastructure required for housing development.

2.2 The role of Local Government in Housing in South Africa

The National Housing Policy is primarily implemented by the three spheres of government. Each of which has its own roles and responsibilities (*see table 1*). They have to cooperate to reach the goals of the National Housing Policy.

The National Government has the power to develop laws and policies to set broader housing goals. They also establish a national funding framework for housing development. The Provincial Government receives a budget from the NDoH and they have the power to allocate this budget to municipalities. Also, they have the administrative power for the effective exercise in respect of housing development. Both the Constitution and the Housing Act make provision for National and Provincial Governments to support and strengthen the capacity of Local Government.

Together with National and Provincial Government, Local Government has to guarantee citizens the right of access to adequate housing and it has to give priority to the basic needs of the community. The Housing Act offers further support by recognizing that housing fulfils a basic human need. To ensure access to housing, the Housing Act obliges Local Government to identify and designate land for housing purposes, to facilitate and coordinate housing development in its area of jurisdiction, as well as to regulate health and safety standards regarding housing development. Municipalities are further obliged to set housing delivery goals and to create an environment for the development of housing. While the role of Local Government is to facilitate housing, the delivery of housing is the responsibility of delivery agents, for example the SHIs. Compared to services as water and light, housing is not a funded mandate for municipalities. The mandate is with the Provincial Government, which makes municipalities hesitant to act in this field. Probably, municipal accreditation (see paragraph 2.3) will create more clarity.

Table 1 responsibilities of the three spheres of government in housing.

Sphere:	Responsibility:
National Government	<ul style="list-style-type: none">• Sets National Housing goals.• Establishes and facilitates a sustainable national housing process by determining the National Housing Policy.
Provincial Government	<ul style="list-style-type: none">• Establishes a national funding framework.• Creates an enabling environment.• Facilitates the provision of adequate housing in its province within the framework of the National Housing Policy.• Allocates the subsidies for housing to Local Government.
Local Government	<ul style="list-style-type: none">• Facilitates the delivery of housing, within the framework of the National and Provincial Housing Policy.• Addresses issues of land management and usage, services and infrastructure provision.• Creates an enabling environment for the development of housing.

2.3 Municipal Accreditation

“Breaking New Ground”, the new human settlements plan, illustrates the accreditation of municipalities. Accreditation is particularly set up for the six metropolitan municipalities, and ultimately all municipalities. Municipal accreditation is initiated by the NDoH. The main goal is to give more responsibilities to municipalities, which previously were the responsibility of the province. This involves responsibilities such as the administration of housing programmes and the allocation of the budget.

There are three levels of accreditation:

1. subsidy budget planning and allocation
2. programme management and administration
3. financial administration.

Municipalities that apply for accreditation must be sure that they have a housing plan in their Integrated Development Plan (see paragraph 5.2) and that they have enough knowledge, staff and technical abilities to perform these functions. The first stage of accreditation a municipality has to reach is level one, subsidy budget planning and allocation. Thereafter, a municipality has to develop capacity to reach the second and the third level. When municipalities reach level three they are fully accredited. The Housing Act describes that a municipality can apply for accreditation in writing to the Member of the Executive Council (MEC) of the Provincial Government. The MEC approves or rejects the application. If the municipality fails to perform the tasks correctly, the MEC may intervene.

Accreditation has been emphasized as a key government priority in support of an overall principle for cooperative government, but it's a complex process which can take years before one level is reached. At the moment of writing there are no municipalities accredited, though a number of municipalities have reached the requirements for level one and in some cases, level two accreditation. The final goal is full accreditation, or at least level one accreditation for all municipalities.

3. RENTAL HOUSING IN SOUTH AFRICA

3.1 Rental Housing Sector

The most used form of tenure in South Africa is ownership. Rental housing is for the majority of the population not the preferred kind of tenure. The reason for this lies in the apartheid history of the country. During the apartheid the black community was not allowed to own a house and therefore was forced to rent. Rental housing is in the minds of many people connected to apartheid. With the abolishment of apartheid it was stated in the Constitution that every South African citizen has a human right to have access to adequate housing. Yet, the demand for houses is very high and has not been met so far.

Ownership of a house is considered as a way of empowering people by giving them assets on which they can further base their economic growth. The National Government started a programme to cater for fast delivery of basic low-cost housing for the poorest of the poor (income below R3500 per month). This is the so-called BNG¹ housing (formerly known as RDP housing). It is a unique programme, considering that no country in the world provides free housing for its people. In this programme the poorest of the poor are provided with the ownership of a small plot with a simple house on it. A lot of BNG houses have been built, but the waiting lists for more houses are very long. These houses should, to a great extent, contribute to the elimination of the illegal slum areas, but that didn't turn out the way it was expected. It appeared that many people living in the city slums have a house elsewhere in the rural areas, but stay in the city slums to be closer to employment opportunities. Furthermore, many BNG houses have been illegally rented out, or sold while the rightful owners remain in the slums.

Some of these houses are rented or sold to foreigners that can't apply for housing subsidies. The fact that foreigners live in these BNG houses was part of the frustrations that triggered the xenophobic attacks in May 2008. Beneficiaries of BNG houses are not allowed to sell the houses within the first five years of their ownership. Once a person has received a BNG house, or other kind of subsidy, he/she cannot apply for a second subsidy. This means that people who have sold their BNG house, and are living in informal settlements, can't apply for a new house. This makes it more difficult to resolve the problems of the informal settlements.

Because of the government's task to deliver adequate housing and because of the provision of free housing, many people are expecting the government to provide housing for them. The government cannot provide the necessary number of houses in the short term, financially and capacity wise. This creates frustration with the people who have to wait for a long time for something that they have a right to.

¹ BNG stands for Breaking New Grounds

The people that do not qualify for the free BNG houses, or other subsidies and cannot afford to buy a house, will have to depend on the rental housing sector. There is a great reluctance to pay a monthly fee for rental accommodation that eventually will not be owned by the tenant. Many municipalities that have rental stock are struggling with the rent collection. People are reluctant to pay their rent for a number of reasons. One is that the concept of rental housing should be changed in the mindset of the people. This is because of the history of South Africa and the focus on ownership in the country. Furthermore, when the housing stock is not owned by the municipality, the people see it as the task of the municipality to provide the houses for free, as is done with the BNG houses. This leads to non-payment of rent, which again leads to financial problems to maintain the buildings and provide the services. It is a vicious circle and it creates a lot of frustration and conflicts between municipalities and tenants of municipal stock.

Another problem that municipalities are facing is that it is extremely difficult to evict the people that are not paying their rent. They have to provide alternative accommodation and with long waiting lists for the BNG houses, there is a great shortage. It is a long juridical process and in many cases councillors don't want to evict people because it will affect them at the next election.

In short, the rental housing sector, especially the public rental housing, is facing a lot of problems which cannot be solved without a lengthy process of capacity building at the different spheres of government and speeding up of the delivery of houses. On the other side a change in the public mindset is also necessary; people have to get used to the concept of renting accommodation as opposed to ownership. The Dutch assistance aims at some of these aspects, such as the capacity building at different governmental levels and at SHIs.

3.2 Social Housing

For social housing there is the social housing programme, the subsidy linked to this programme is called the Restructuring Grant. Social housing is a rental housing option for lower income groups, mainly delivered and managed by SHIs. The NDoH developed a Social Housing Act which contains the legislative framework for the field of Social Housing.

3.2.1 Social Housing Sector in South Africa

Social housing is a type of housing that can cater for a certain income group (R1500 – R7500) and is suitable, especially, for the restructuring of urban areas. It aims for social, economic and racial integration of the society. This means that social housing projects should be located in urban areas where the tenants will have access to amenities such as transport, employment opportunities, schools, hospitals, etc. Furthermore, the objective is to create a mix of people of different economic and racial background in social housing projects. During the apartheid era, people of different racial background were located in different parts of the cities and towns. The cities were reserved for the white population while the black population had to live in townships and homelands. This division is still visible and obstructs the integration of the different racial groups in the country.

The percentage of social housing in the total housing sector in South Africa is very low, unlike the situation in the Netherlands, where social housing accommodates a large part of the population. The reason for this difference lies in the history of both countries. In the Netherlands there was a major demand for housing after the second world war. The government was able to provide the financial incentives to boost the social housing sector. There was also enough experience and capacity in the sector to deliver the necessary housing units. Furthermore, because of the economic situation in the Netherlands, people have a stable minimum income and can afford to pay their monthly rent. In South Africa the social security system is not as advanced and therefore a lot of people are unable to pay the level of rent that would be needed for a social housing unit.

In South Africa there is a large demand for social housing, though the demand for social housing is not such a big part of the total demand for housing as it is in the Netherlands. Social housing was an unknown concept in South Africa before 1997. Over the last ten years the government, with the assistance of several other countries has been working on the establishment of a social housing sector that would be able to deliver enough units to cater for the demand. A lot of work has been done at different levels. At the national level, a Social Housing Policy has been developed, as well as a Social Housing Bill, which will be enacted soon. More than 60 SHIs have been established and have built approximately 30.000 social housing units. Many SHIs have not been able to deliver on such a scale that they are economically independent. They need more and bigger projects to become economically viable. The current demand for social housing is larger than the capacity of the existing SHIs. This means that the SHIs will need assistance to scale up their capacity and to be able to deliver more units in the short term.

Not only are the SHIs dealing with capacity problems, but there are also general problems in the (public) housing sector that delay the delivery of social housing units. The availability of suitable land is limited. Interest rates are high, especially compared to the Dutch rates. That makes it difficult to establish economically viable projects. The costs of construction material are rising because there is a higher demand (partly because of the building that is being done for the World Soccer Championship in 2010) and supplies take longer to be delivered, which delays the building process.

Besides a deficiency in the capacity of SHIs, there is also a need for capacity in the Provincial and Local Governments. There is a need for staff that has the necessary knowledge to ensure that delivery of social housing can take place. In many municipalities there is not only a lack of knowledge, but also a lack of staff. There are many municipalities that don't have enough people in their housing department or don't even have a separate housing department.

3.2.2 Restructuring Zones and the Interim Programme

In the National Social Housing Policy, the NDoH has stated that the subsidy for social housing will only be applicable for social housing projects in Restructuring Zones (RZs). RZs are designated areas within cities that have been identified as suitable for social housing.

That means that they have certain characteristics, such as being close to economic and social amenities. These areas are often nodes and corridors in the city centre or between the city centre and townships. The establishment of social housing projects in those kind of areas will increase the social and economic activities and create a more integrated living environment. It can improve the safety in city centres and be a solution for the improvement of dilapidated areas.

While the process of the enactment of the social housing bill is still continuing, the NDoH has selected 13 urban municipalities that could already start with the designation of RZs and with the application for the Capital Grant. It is the goal to expand the number of municipalities that can designate RZs, once the programme is running smoothly.

The NDoH has established Provincial Steering Committees (PSCs) where the 13 municipalities are represented as well as some other major stakeholders in the sector. In these PSCs a pipeline is established of all social housing projects that could be established within the next five years. The purpose of this pipeline is to be able to monitor all possible projects and assist municipalities and SHIs where necessary to get the projects ready for implementation. Another purpose of the pipeline is to have an overview of all projects that can apply for the Capital Grant in the current financial year. The subsidy amount that is available for social housing every year, is not sufficient to subsidise all social housing projects. Therefore, a selection needs to be made from the projects that are ready for implementation. This selection is done based on the readiness and the (economic) viability of the projects. Currently, there is enough subsidy available for approximately 4 to 5 projects per year. This is not enough to reach the delivery targets that the NDoH has set for social housing. So besides the capacity in the sector, the financial part is also a challenge for the delivery.

3.3 Community Residential Units

Because social housing is not going to be sufficient to cater for the demand of rental housing, especially in the lower income groups, the NDoH has established the Community Residential Units (CRU) programme. This programme is the follow up of the hostel redevelopment programme. During the apartheid years many hostels were built to house black labourers in the cities. The tenure was not per room or unit, but per bed. In 1991 the government started a programme to renovate these hostels and turn them into proper housing units. Many hostels were in a terrible state because of lack of maintenance and misuse of the buildings by the tenants.

The CRU programme is used for the refurbishment of hostels, but also of other municipal and provincial (housing) stock. Municipalities and provinces that own housing stock, or other buildings that could be transferred into housing stock, can apply for a subsidy to refurbish this stock and make it suitable for low cost rental units. The units should be affordable for the income group below R3500 per month. The units will remain in the possession of the municipality or province. The purpose of this programme is to cater for a group of people that needs temporary rental units.

This programme and the social housing programme together form the major part of the national strategy for rental housing. The NDoH has developed this strategy to build capacity in the rental housing sector and to boost the delivery of rental housing stock. This strategy should gear the rental housing provision to scale and address affordability and access to rental housing for lower income groups. The target is to deliver 100 000 units in five years (2007/08 – 2011/12). Of these units 75 000 units should be social housing and 25 000 units should be CRU units.

The CRU programme is also included in the PSC meetings, so there is a separate pipeline for CRU projects alongside the pipeline for social housing projects. This also means that, where necessary, municipalities or provinces can get assistance with those projects. This assistance can be part of the partnership under the MoU.

Currently the programme is in the phase of being implemented, though it takes some time to have all Provincial and Local Governments informed and ready to work with the new programme.

4. NATIONAL AND PROVINCIAL GOVERNMENT

4.1 National Government

In the Republic of South Africa, there is a division of powers: the Parliament has the legislative power, the Cabinet has the executive power and the Courts have the judiciary power (see figure 1). This is all written down in the Constitution, and as in most democratic countries, these three bodies guarantee a system of checks and balances.

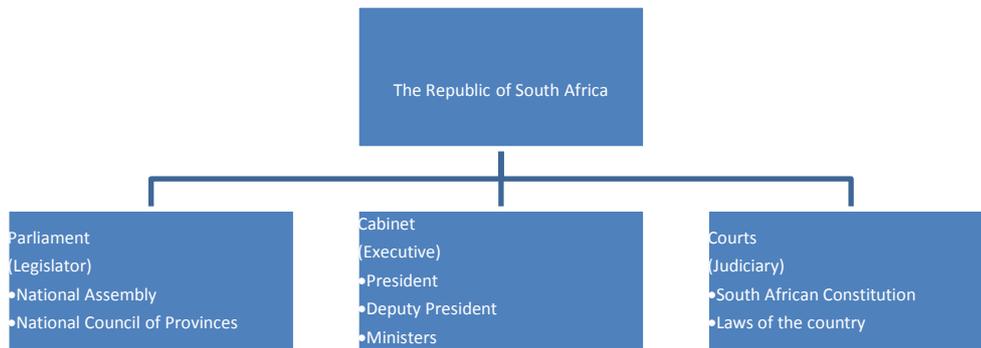


Figure 1: The Republic of South Africa

4.1.1 Legislative Power

The legislative power is vested in the Parliament (see Figure 1). The Parliament is bounded by the Constitution, and must act within these boundaries. It has the power to initiate, consider, pass, amend or reject legislation and they have the power to amend the Constitution. In addition, it has the power to oversight the national executive authority, which is called the Cabinet. The Parliament is made up of two Houses: the National Assembly and the National Council of Provinces (NCoP). The role of the Parliament is to represent the citizens (National Assembly), to represent the provinces at the national level (NCoP) and to approve the government's budget for providing services to the people of South Africa. Furthermore, they are responsible for making laws.

The National Assembly consists of representatives, who are elected every five years by the citizens of South Africa. At the moment the National Assembly has 400 members² representing 16 different political parties. The Assembly chooses the President and acts as a national forum where public issues are debated.

² The National Assembly consists of no fewer than 350 and no more than 400 members elected for a five year term.

The NCoP was in 1996 introduced in the Constitution. It is composed of a single delegation from each of the nine provinces, consisting of ten delegates³. Local Government is represented in the NCoP by SALGA. There are ten representatives of SALGA who participate in debates but they are not allowed to vote. The NCoP represents the provinces. It acts as a forum where provincial issues are debated publicly and it is responsible for co-operative governance and participatory democracy. It also takes part in the law-making process and it oversees the activities of the National Government relating to provincial matters.

Each house has its own distinct functions and powers but most of the time they act together. The formation of the NCoP in 1996 can be seen as a concrete expression of cooperative government, to integrate the province into the national legislative law-making process. For example, when the National Assembly passes a bill, the bill must be referred to the NCoP, which may consider, pass, amend and pass or reject the bill. The NCoP generally follows two clear processes for dealing with the law-making process. If the bill does not affect the province (mostly bills that relate to areas of national legislative powers, such as Foreign Affairs, Defence and Justice) every member of the NCoP has one vote. The bill is agreed to if the majority of members vote in favour of the bill. Bills that do affect the provinces are generally those that relate to areas of shared national and provincial legislative powers, such as housing, health and education. When considering these bills, each provincial delegation has one vote. This bill is agreed to if at least five provinces vote in favour of the bill. In this case, if there is a disagreement between the National Assembly and the NCoP the bill will be referred to the Mediation Committee. Also for bills affecting the Constitution and bills affecting money, there exist different regulations for the voting system within the NCoP.

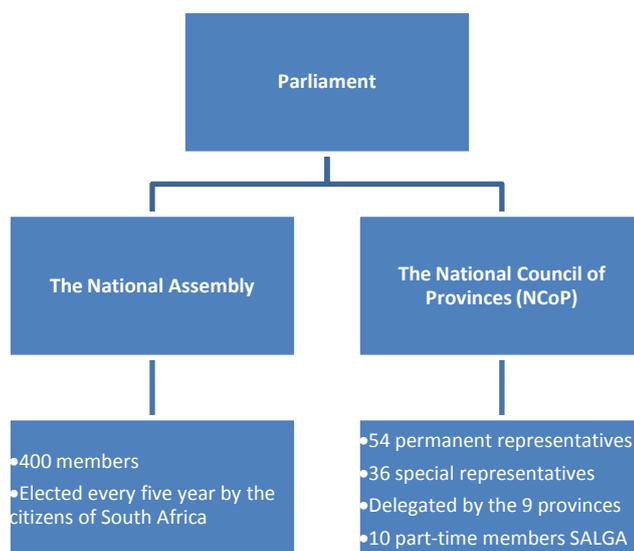


Figure 2: The Parliament

³ The ten delegates are selected by each province from the members of the provincial legislature (see paragraph 4.2). The delegation consists of four special delegates consisting of the Premier of the province and three other special delegates, and six permanent delegates which have to be appointed in accordance with the nominations of the parties.

4.1.2 Executive Power

The executive power is vested in the Cabinet, which consists of the President, the Deputy President and the Ministers. The President, elected by the National Assembly, is the head of the Cabinet and he appoints the Deputy President and the Ministers who each head one of the twenty-seven governmental departments. The Deputy President and Ministers may be elected from the National Assembly, but no more than two Ministers may be elected from outside the Assembly. The members of the Cabinet are accountable to Parliament for the implementation of their powers and the performance of their functions.

4.1.3 Judiciary Power

The judiciary power is vested in the Courts. South Africa has an independent judiciary authority, subject only to the South African Constitution and the laws of the country. The court system consists of: The Constitutional Court, The Supreme Court of Appeal, the High Courts, the Magistrate Courts and other courts. Chapter 8 of the Constitution of South Africa defines the structure of the South African judicial system. Permanent judges in the higher courts are appointed by the President of South Africa in consultation with the Judicial Service Commission⁴ and the leaders of the political parties represented in the National Assembly.

4.2 The Provincial Government

There are nine provinces in South Africa: Eastern Cape, Free State, Gauteng, Kwazulu Natal, Limpopo, Mpumalanga, Northern Cape, North West Province and the Western Cape. The executive and legislative responsibilities of the province are stated in the Constitution.

The legislative power in every province is vested in a single legislative chamber (unicameral) provincial legislature. A provincial legislature consists of representatives elected for five years according to proportional representation. There are no provincial elections in South Africa, it depends on the national elections how many seats each party obtains in the provincial legislature. The division of seats after the national elections determines the division of seats in the provincial legislature.

The provincial legislature is bound by the Constitution and the Provincial Constitution, if it has passed one. It is empowered to pass legislation within its own area and it may pass or amend a constitution for the province, which has to be in accordance with the South African Constitution.

⁴ The Judicial Service Commission plays an important role in the appointment of judges and the Commission also advises the National Government on any matter relating to the judiciary and administration of justice.

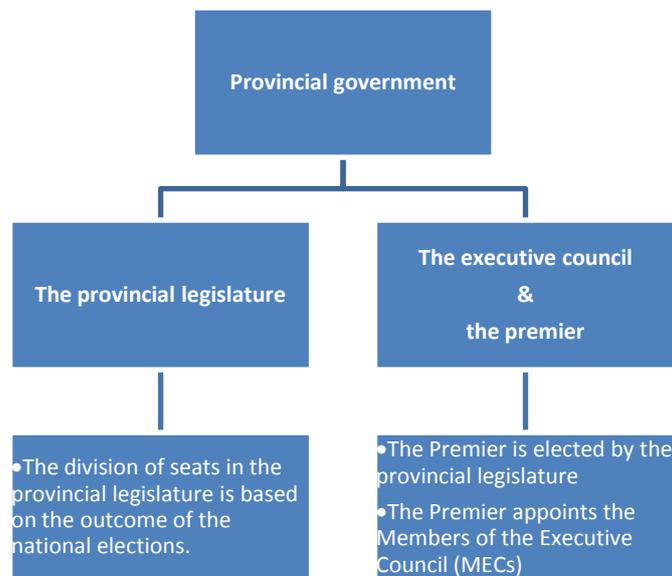


Figure 3: The Provincial Government

The executive power of the province is vested in a provincial premier and an executive council. The premier is elected by the provincial legislature and he appoints the other MECs, from the members of the provincial legislature, to be the political heads of each provincial department. The executive council at the provincial level can be compared to the national cabinet and the provincial premier can be compared to the national president. (see *Figure 3*)

The following are some of the functions of the province as listed in the Constitution:

- Agriculture
- Cultural matters
- Disaster management
- Education at all levels, excluding tertiary education
- Environment
- Health services
- Housing
- Pollution control
- Population development
- Property transfer fees
- Public transport
- Road traffic regulation
- Tourism
- Trade
- Urban and rural development
- Vehicle licensing
- Welfare services

5. LOCAL GOVERNMENT

5.1 Types of Municipalities.

An important reform after 1994 was the reduction of the 843 municipalities to 284 municipalities in 2000. The process to strengthen Local Government is still going on, which means that municipalities are still working on their internal structures, capacity development and sometimes struggle with young and contradictory legislation.

Nowadays, at the level of Local Government there are three different types of municipalities in South Africa: six metropolitan (category a) municipalities, 231 local (category b) municipalities and 47 district (category c) municipalities.

A **metropolitan municipality (category a)** is a municipality that has the exclusive authority to administer and to make rules in its own area. In South Africa there are six of these municipalities: City of Cape Town Metropolitan Municipality, City of Johannesburg Metropolitan Municipality, City of Tshwane Metropolitan Municipality, Ekurhuleni Metropolitan Municipality, Ethekwini Metropolitan Municipality and Nelson Mandela Bay Metropolitan Municipality⁵. Metropolitan municipalities, as most of the local municipalities, are divided into wards, which is a defined geographical area within the municipality. Voters have two votes; half of the councillors is elected through proportional representation ballot, where voters vote for a party. The other half of the councillors is elected as ward councillors, by the residents in their wards.

A **local municipality (category b)** is a municipality that shares their executive and legislative authority with a district municipality in its area. In general, local municipalities are subdivided in wards. Half of the councillors are elected through proportional representation ballot where voters vote for a party and the other half of the councillors are elected as ward councillors by the residents in each ward. Local municipalities with less than seven councillors do not have wards and in these municipalities the council will consist of proportional representative councillors only.

A number of local municipalities together make up a **district municipality (category c)**. It shares municipal executive and legislative authority with the local municipalities within a large area of jurisdiction. All local municipalities fall at least under a district municipality. A district has the authority to administer and to make rules in an area that includes more than one local municipality. A district council is made up of two types of councillors. Forty percent of the district councillors are elected on a proportional representation ballot by all voters in the district area⁶, these are elected councillors.

⁵ For clarity purposes, the main cities in these municipalities are:

- City of Cape Town Metropolitan Municipality – Cape Town
- City of Johannesburg Metropolitan Municipality - Johannesburg
- City of Tshwane Metropolitan Municipality - Pretoria
- Ekurhuleni Metropolitan Municipality – Kempton Park
- Ethekwini Metropolitan Municipality and - Durban
- Nelson Mandela Bay Metropolitan Municipality – Port Elizabeth

⁶ People that live in a local municipality have therefore three votes: two votes for their local council and one vote for the district council

The other sixty percent of the district council are local councillors sent by their local municipality to be representative in the district council.

Currently, the roles and responsibilities of district municipalities have been questioned because of confusion and conflicts about the implementation of their responsibilities. Sometimes, district municipalities do not perform their tasks as stated in the Municipal Structures Act, while local municipalities sometimes implement responsibilities that belong to district municipalities. With the recently initiated reviewing process as mentioned in paragraph 1.4, the responsibilities of district municipalities may be redefined in the coming years.

While metropolitan municipalities are responsible for all services, development and delivery in their area; local municipalities share this responsibility with district municipalities. The district municipality has to co-ordinate the activities of all local municipalities in its area and to ensure development and services for the district as a whole. A district municipality must also exercise functions of a local municipality which does not have enough capacity.

5.2 Roles and Responsibilities of Municipalities

The functions and powers of a municipality are stated in the Constitution, the Municipal Structures Act and the Municipal Systems Act. The Constitution has established Local Government as a separate sphere with its own responsibilities for service delivery to the citizens. The Municipal Structures Act provides to regulate internal systems and structures of municipalities, and the Municipal Systems Act describes the core principles, mechanisms and processes which are necessary to enable municipalities to develop themselves.

As stated in the Municipal Systems Act, every municipality (i.e. metropolitan, district and local) is required to develop an Integrated Development Plan (IDP) for its area of jurisdiction. An IDP is a strategic plan for a five-year period that guides and informs all planning, budgeting, management and decision making in the municipality. The aim of an IDP is to achieve service delivery, and to establish development goals in municipal areas in a sustainable and effective manner. Municipalities are required to be developmental in their approach and activities.

In terms of housing, the IDP is important for several reasons; firstly, because the Housing Policy of a municipality has to be part of the IDP and secondly because an IDP contains a strategy for five years in all different kind of policy fields that can (in)directly affect the Housing Policy.

Local Government operates at a grass root level. Communication to the citizens is easier and therefore they should have a good understanding of the needs within their municipality. Their task is therefore to deal with services and community development. The following, as listed in the Constitution are the responsibilities for municipalities:

- Administration
- Public order
- Electricity delivery
- Water for household use
- Sewage and sanitation
- Storm water systems
- Refuse removal

- Fire fighting services
- Municipal health services
- Decisions around land use
- Municipal roads
- Municipal public transport
- Street trading
- Abattoirs and fresh food markets
- Parks and recreation areas
- Libraries and other facilities
- Local tourism

To exercise its legislative and executive power they can develop and adopt policies, plans, strategies and programmes, developing and passing its by-laws⁷ and monitoring and regulating municipal services where those services are provided by others than the municipality. Also they have the power to approve budget and development plans, impose rates or taxes and charge service fees. National or Provincial Government can also delegate responsibilities to local level but then clear agreements must be made.

5.3 Structure and Tasks of the Municipal Council.

The municipal council is elected every five years by the residents. As mentioned in paragraph 5.1, a municipal council consists of ward councillors and party representatives, and it has the following structure: there is a mayor who heads the councillors, an executive or mayoral committee, a speaker (except in very small councils) and committees which exist of experts in a particular field. Also, a ward councillor can have a ward committee which consists of people who put in effort to assist the ward councillor, and they function as a communication channel between the community and the council.

There are three different executive leadership systems (*see figure 4*) in South Africa for structuring the council, which are set out in the Municipal Structures Act:

1. **Plenary executive system:** This system is used in small municipalities with less than nine councillors. The executive authority is exercised by a full meeting of the municipal council, which means that the municipal council takes all the executive decisions. In this system the councillors must elect one of their members as chairperson of the council. He or she is called the mayor.
2. **Collective executive system:** This system is for municipalities with more than nine councillors. In this system, the municipal council elects an executive committee and delegates the executive responsibilities to that committee. The executive committee is elected through a proportional system. The number of members from one party in the executive committee must be proportional to the percentage of seats a party has in the municipal council. The municipal council must also elect one member of the executive committee as the chairperson; he or she is called the mayor.

⁷ By-laws: A By-law is a law ordinance dealing with matters of local or internal regulation made by the council. By-laws are developed at the local level and they help a municipality to enforce or realize a certain decision within the municipal powers.

3. **Mayoral executive system:** In the mayoral system the chairperson of the municipal council is also called the Speaker. The difference with the two other systems is that one member of the council is elected by the members of the council as the Executive Mayor who is responsible for all the executive powers. When the municipal council has more than nine members the Executive Mayor must establish a Mayoral Committee by appointing councillors. The number of councillors appointed must be no more than twenty percent of the municipal council with a maximum of ten councillors.

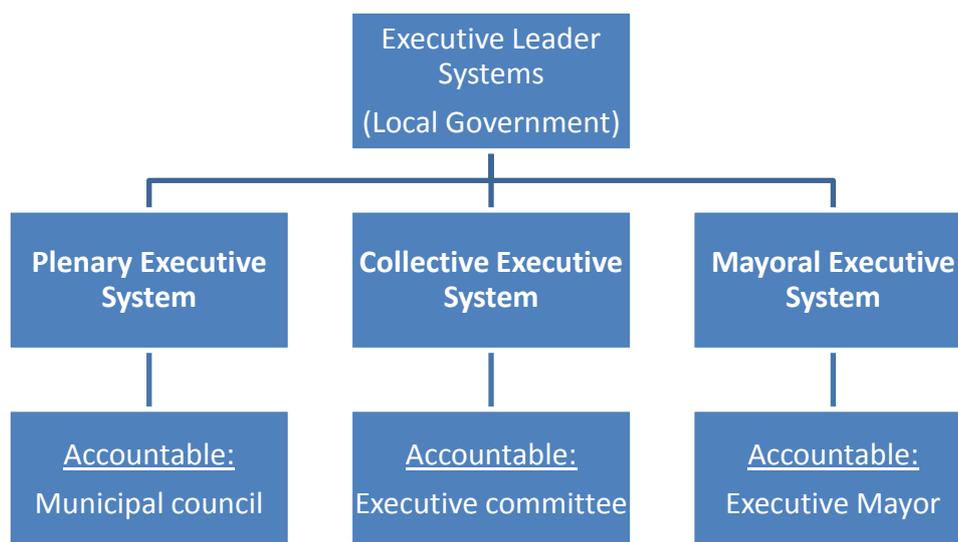


Figure 4: Executive leadership systems

The municipal council is responsible for the effective implementation of the functions mentioned in paragraph 5.2. The council makes policy decisions in a way that is accountable and transparent to the public. To reach effective implementation of the responsibilities of the municipality the council can use the following instruments:

- Approve budgets and development plans. Every year a municipal budget must be passed that sets down how money will be raised and spent;
- Impose rates and other taxes, for example, property tax;
- Charge service fees for the use of municipal services like water, electricity, libraries, and so on;
- Borrow money. The council can take a loan for a development or other project and use the municipal assets as surety.

6. INTERGOVERNMENTAL RELATIONS

A unique feature of the South African Constitution is the third chapter of the Constitution, which describes the establishment of a cooperative government. It recognizes the three spheres as distinctive, interdependent and interrelated; they have to consult and inform each other to strengthen the government and to form a unity. The Parliament passed an act that provides regulations and institutions for cooperative government; this became the Intergovernmental Relations Framework Act (IGRF). The IGRF provides ways for the three spheres of government to work together effectively, to resolve disputes and to recognize the importance of Local Government's full participation.

The IDP is an illustration of intergovernmental relations. It is developed at the local level, but the implementation is a challenge for all three spheres of government. The IDP has to fit in the policy frameworks, set up by National and Provincial Government. For example, Local Government is dependent on the allocation of resources from the provincial and national sector departments and therefore, its IDP has to associate with National and Provincial Government.

Cooperation between the three spheres of government is outlined by DPLG. The minister of DPLG is responsible for the development of Local Government policy and legislation, strengthening the institutions of government at provincial and local level and promoting intergovernmental relations between all three spheres. The national minister and the provincial ministers (MECs), have supervisory roles over Local Government. They can intervene in municipalities within their province if necessary. Both National and Provincial Governments have to enact legislation to support and strengthen the capacity of municipalities, to manage their own affairs, to exercise their powers and to perform their responsibilities. Also National Government has a similar supervisory role over provincial administrations if they fall short.

7. DIFFERENCES AND SIMILARITIES BETWEEN SOUTH AFRICA & THE NETHERLANDS

South Africa and the Netherlands are two completely different countries with a lot of distinction in history, habits, governmental systems, social development etc. Furthermore, South Africa is a country with a vast variety of languages, religions and habits; there exist wide divisions within the country. For example, there are 11 different official languages in South Africa. In the table below you will find some basic differences between South Africa and the Netherlands

Table 2 Statistics

	South Africa	The Netherlands
GDP per capita (2006)	\$12,100	\$38,500
Unemployment rate	25.5%	4.5%
Population	48.6 Million	16.4 Million
Area	1,221,037 Km ²	41,526 Km ²

In this final chapter some technical and cultural differences and recommendations are listed to share information of what to take into account while working together with a South African counterpart. It is not our goal to be comprehensive or judgemental, but to create awareness of differences to assist in understanding within the cooperation between South African and Dutch partners.

7.1 Housing Differences and Similarities

In the housing sector there are some basic differences between the two countries, yet, there are also some similarities. In both countries history is a determining factor in the status of the housing sector.

7.1.1 Differences

- In South Africa the apartheid era has had a major influence on the society and the physical separation of different groups within the population. In the Netherlands the social and political environment at the end of the 20th century made social housing possible and the high demand for housing after the second world war made the social housing sector take flight. In short, the two countries have a different history and therefore their current situations are very different. This in turn leads to different needs for (social) housing;

- One of the most important differences is the fact that in the Netherlands social housing forms a large part (35%) of the total housing market and 75% of the rental housing market. In South Africa ownership is the most important form of housing and social housing is only be a minor part of the total housing market;
- In South Africa there is a programme to cater for free houses for the poorest of the poor, the so called BNG houses. This programme was established to house these people, but also to provide them with assets which can be used for further economic development. The Netherlands does not have any form of free housing. This is understandable because the social security system in the Netherlands enables everybody to pay for housing in the form of rent;
- The subsidies for social housing in the Netherlands are paid out to the individual beneficiary. In South Africa, the subsidy will go to the institution that is responsible for the development and management of the housing units. In the Netherlands there is an extensive civic registration system which makes it possible to monitor where people live and whether or not they are entitled to a social housing subsidy. Such a system does not exist in South Africa;
- In South Africa there is a limited number of SHIs. The SHIs that do exist are relatively young and don't have as much housing stock as their Dutch counterparts. In the Netherlands the SHIs have had a long time to build their housing stock and to develop the in-house capacity.

7.1.2 Similarities

- The role of the municipality in planning for housing is essential in both countries. In the end, the government has a responsibility to ensure access to proper housing. Therefore, the planning of the number of houses needed, the spatial planning and the planning for social and economic amenities are very important;
- In the Netherlands the national government has started with a programme for the upliftment of so called strength neighbourhoods. These are neighbourhoods that are faced with a number of social and economic challenges that reinforce one another and lead to an unpleasant living environment. To assist these neighbourhoods to arise from this situation the national government will intensively target these areas with interventions at different levels and sectors to create an integrated approach to the challenges. This programme has quite some resemblance with the social housing programme and especially the concept of Restructuring Zones. In both cases the purpose is to create living environments that are pleasant to live in and cater for a number of social and economic amenities. In both cases the goal is to achieve social, economic and ethnic integration. This should lead to an overall improvement of the area, job opportunities, social well-being and especially more safety and security. Despite all the differences between the two countries, this may be a very strong point of similarity and perhaps an opportunity to learn from each other;

7.2 Technical Differences.

- While in the Netherlands the population is more evenly spread over the country, the South African population is mostly concentrated in cities. In South Africa there are large urban areas where a lot of people are concentrated and large rural areas where nobody or just a few people live;
- In South Africa, there exist three different kinds of municipalities and three different kinds of leadership systems for structuring the council. In the Netherlands there is just one kind of municipality and one council structure for every municipality;
- There is a different way of representation in a South African municipal council compared to a municipal council in the Netherlands. In South Africa, citizens have at least two votes: one for a ward councillor and one for the party representative, while in The Netherlands citizens just have one vote;
- There is no substantial opposition in the South African Parliament because the leading party, the ANC, has 2/3 of the seats. In the Netherlands there are always a few different parties who form a coalition and majority in the Parliament;
- Compared to the Netherlands, momentarily, there is a high staff turn over rate within municipalities, which is quite common for South Africa as a whole;
- South Africa is a very young democracy. The Constitution and most of the laws and regulations are all less than thirteen years old, which means that laws aren't perfectly aligned yet. That is why some of the laws and regulations contradict each other, which can create confusion about the responsibilities of the three spheres of government. In comparison, the Constitution of The Netherlands dates from 1814.

7.3 Cultural Differences

- Protocol is important in South Africa. When you cooperate with a municipality, make sure you follow the proper protocol. For example, inform the mayor and/ or the municipal manager first before you talk to the officials. Their support is of utmost importance for the success of a project;
- In South Africa, a **more hierarchical top-down structure** exists, compared to the Netherlands. South Africans are very much aware of the difference between specific positions that exist within specific organizations;
- The position of a councillor is of a higher status in South Africa than the same position in the Netherlands. Therefore, South African councillors have more influence on officials than Dutch councillors. It is uncommon for South African officials to criticize or say 'no' to councillors, especially in public;
- Loyalty plays an important role in the appointment of people in government positions. For example, there are members of political parties who are placed in high government positions because of their work for the party during or after the apartheid era;

- After 1994, the government promoted the allocation of (high) governmental positions to previously disadvantaged people. Because of this process, some of the existing expertise has been lost;
- Communication within a South African municipality or in the government in general is different than in The Netherlands. Sometimes it can take quite a while before you can get response from somebody, and the high staff turn over rate makes it even harder to find and reach the right person. Be aware that not everybody has (proper) access to computers and internet.

8. MORE INFORMATION

The following websites give some more information about governmental structures in South Africa:

- www.salga.net
- www.vng-international.nl
- www.dplg.gov.za
- www.southafrica.info
- www.info.gov.za
- www.demarcation.org.za
- www.local.gov.za
- www.parliament.gov.za

The following websites give some more information about housing in South Africa:

- www.housing.gov.za
- www.shf.org.za
- www.vrom.nl