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## PRIVATISATION, PUBLIC-PRIVATE PARTNERSHIPS AND OUTSOURCING: THE CHALLENGE TO LOCAL GOVERNANCE

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One of the key distinctions being made in local government policy studies is that between local government *ensuring* service delivery rather than *directly providing* services. Those who argue for the latter feel that local government should concentrate on encouraging the private sector and engage in regulatory questions, and not directly engage in service delivery. An array of policy options is then presented ranging from that of directly providing a service under competitive conditions to the complete passing over of responsibility to the private sector within a mild regulatory framework.

The wide range of intermediary possibilities is represented by the term PPP (public-private or public-public partnerships), which introduce a level of innovation in local government service provision. The enthusiasm for PPP rests on the idea that the public sector is incapable of delivering alone, and that partnerships would assist in releasing resources from the private sector to implement major developmental objectives. Privatisation is represented as a pole at the end of a spectrum of possibilities and, within the present global order, as having a universal logic. Privatisation, it is argued, will lead to the reduction of costs, improved delivery, a stimulus to the private sector, and better managerial practices associated with private corporations.

The privatisation strategy has been widely implemented in the UK, Europe, and the US as a means of cutting costs of local government services and utilities. Although primary reference will be made to South African case studies, the British experience has been crucial and cross-references will be made to examples from that country as representing an extreme development. There are obvious contextual dissimilarities but these represent an important reference point. While there is strong ideological pressure and a new level of advocacy from the World Bank, it is argued that there are also negative spin-offs from privatisation – corruption in the tendering and drawing up of contracts, particularly in the US, monopoly in the privatised service, higher user charges, inflated directors' fees, share options and management salaries, wide-scale retrenchments and anti-union policies. Most importantly, privatisation and PPP, it is argued, can lead to the incapacitation of local government as the fulcrum for development.

## Two approaches to local government

It is in this context that South African policies are evolving. There are fundamentally different conceptions of local government that underpin the debate about privatisation and PPP in South Africa:

- That local government exists solely as the authority taking responsibility for services without necessarily directly providing them; a cast of mind which regards local government as essentially limited to that of being a contractual authority and not a political institution, and which implies the close direction of central government fiscal policies in the provision of services; and
- That the local government level specified in the Constitution as a unique level with its own sphere of activity, should be the field for the flowering of local democracy, which should involve the building of local capacity, and that local representatives of the people should decide policy relating to governance of the locality as well as the provision of services.

The first view generally favours a rigorous approach of 'value-for-money' and is most disposed to argue for privatisation or PPP in which the private sector dominates. Here local government is simply an agency to provide services at the lowest cost; it should not directly provide services but facilitate and regulate the provision of services by other agencies and by itself. The second view, which is supported here, argues first that local government has to be seen in a developmental context, which involves building a local authority that can provide services (often effectively for the first time in many rural and peri-urban areas) in which local people can take command of their own institutions and services.

The former strategy is open to proposals for PPP as a means of drawing in private-sector expertise and funding, particularly in large projects. These two conceptions are tied to the question of privatisation; one seeking to extend the orbit of local government and the direct provision of services, the other seeking in the flow of funding to the local government sphere a profitable area for private-sector involvement.

In South Africa there is a contradictory local government policy context in which the elevated entitlements to fundamental rights and services provided in the Constitution and key policy documents on the one hand, are hemmed in by incapacity and restrictive practices on the other. At one level the question is institutional and temporary; tied to the peculiar *transition* from authoritarian and racist practices to democratic forms of government. In many areas, the rural sector particularly, new local government structures are often still being formed

and developed, and those that are in operation are still seeking full legitimisation, in which there is a reconstruction of the existing local governments. The contradictions within this transition abound. In many areas there are complaints about the low level of delivery of basic services, and yet there are local authorities which complain vociferously that some provinces are acting as barriers to their accessing promised national funding (a complaint which appears could be warranted by reports of chaotic administration in some provinces).<sup>1</sup> Yet at another broader policy level the contradictions are cast in terms of the socio-economic programmes and policies, in which the early development of genuine local democracy is impinged upon, expanded or contracted by the imprint of national programmes. The contradictory trends range broadly from the reforming zeal of the RDP to the narrower and more restrictive formulations of GEAR. Although the Constitution promises the wide entitlement to basic conditions of life, more than ever local government is cast within restrictive financial and political regimes of control.

### **Privatisation and commercialisation**

In the context of these institutional and policy transitions, a wide variety of possibilities in service delivery are being examined. As in the public sector nationally, the operations and services of local government are being subjected to tests of 'value for money' and new procedures of accounting which are often summed up in the concept of commercialisation: the tendency for the management and financial control and other processes of the public sector to copy those of the private sector. It generally involves the introduction of business plans and private sector values in decision-making using narrowly defined efficiency and financial criteria. Service users are treated largely as 'consumers' whose needs are assessed purely in terms of the needs of paying individuals rather than as *collective groups* whose needs may be contradictory and unequal. Performance indicators are adopted which give greater priority to narrow efficiency and value-for-money criteria than to effectiveness of service delivery and the meeting of social needs. Tied up with this conception of local government is the shift from 'cash-based' accounting, which concentrates on accounts received and payable, to 'accrual-based' accounting,<sup>2</sup> which is employed in the private sector, recognises asset values, stresses operational efficiency, the writing off of uncollected receivables etc. This shift in accounting represents the implementation of a commercially based conception of local government, firstly as a basis for the application of a more rigorous cost accounting of the internal operations of local government, and secondly as a means of increasing the competitive edge

between public and private-sector operations. Commercialisation, manifested by new forms of internal accounting, is generally a preparatory step towards the privatisation of local government operations, which involves the cession of an entire operation or contracting-out of specific functions from in-house operations to an external enterprise. The two processes are necessarily linked in the sense that all aspects of public services are now assessed by rigorous monetary criteria, a procedure that is putting pressure on the internal cost structure of local governments (in particular providing direct pressure on local government salaries), and is also essential in preparing various services and departments to offer their operations to competitive tendering.

Privatisation generally refers to the process of 'rolling back the state', of passing over state assets into private hands. Privatisation includes a very diverse range of policies: the *sales* (or divestiture) of public assets such as publicly owned firms, utilities and property; *contracting-out*, the withdrawal of public provision and its replacement by private services; the transfer of public responsibilities to private bodies; private-sector planning, financing and operation of major infrastructure projects; and *deregulation*, which reduces or eliminates state controls and creates new markets for private capital.

### A viable public sector?

The shift towards privatisation has been accompanied by an ideological barrage praising its merits. Privatisation has been associated with the complete deflation of the notion of a viable public sector and its prime advocate, Pirie (1987:8), for instance, develops a comprehensive ten-point critique of the public sector and its inability to produce and deliver goods and services, including production costs, efficiency, labour costs, capital costs, consumer input, innovation and flexibility, decision-making, condition of equipment, interruption of service and responsiveness to cost control. Although his description conveys incidental rather than intrinsic characteristics, it has been largely accepted as a global view of the public sector.

Many economists regard it as indisputable that many public enterprises throughout the world are poorly managed because their budget constraint is 'soft'. They often suffer from inefficiency, over-investment and inadequate attention to marketing and incremental productivity improvements. Despite public enterprise mismanagement, however, one cannot assume that performance is invariably better in the private sector (Jones et al 1991:227). Much critical analysis of the public sector is based on inaccurate information. While Pirie, for example,

argues that labour costs are a predominant feature in the public sector, yet the wages of the public sector tend to lag considerably behind those of the private sector, particularly in the professions (Martin 1993:50). Many of his other assertions are wide of the mark and others relate to the constraints in the public sector over raising capital within a highly restrictive policy environment. Yet in response to the manifold problems of bureaucracy, difficulties in service delivery and budgetary restraints, privatisation is presented by free-market ideologues as the answer to the often evident problems and demands on the public sector.

### **A balance-sheet on privatisation**

Privatisation internationally is proving to be an increasing trend; 1996 was a record year for Western European privatisations, but following years have seen more planned privatisations being completed, and Italy has become one of the foremost countries in the privatisation stakes. This trend has been accelerated by a policy environment in which privatisation has become the prescription for problems of budget deficit, investment and fluctuating exchange rates.

Although the 1980s and 1990s in Britain will probably go down in history as the decades of privatisation, a policy which has been exported around the world, yet its effects are often not well understood. Privatisation does not mean the withering away of the state, to coin an old phrase.

Transferring ownership to the private sector does not automatically call forth competition. The 'markets' for water and gas demand different regulatory regimes. The unacceptable conclusion is the one saying that because the flotations of the Eighties worked, in the specific circumstances and histories of those industries, privatisation is therefore a universally applicable tool.

The successful transposition of enterprises and utilities from the public to the private sector has brought a triumphal tone to the analysis of the process by conservative policy centres, although in many cases there is continuing customer dissatisfaction in Britain and in the United States. These studies argue that privatisation has worked in the sense that operations are continuing in private hands, generally prices have not risen (with the exception of water) and many have fallen, subsidies have been withdrawn and services are profitable, and government has had considerable benefit from the initial sale and greater tax income thereafter.

Yet the results are highly uneven and, at times, not a little suspect in Western Europe and particularly Britain. In Eastern Europe the process is often chaotic and counter-productive. In countries with a weak or non-existent regulatory

regime, there have been disastrous consequences. Privatisation in Russia and Ukraine has led to the selling of public assets which could no longer be sustained by national or local government. The extent of control and ownership of local government was always unclear but with the dissolution of the USSR many public facilities have fallen into disrepair. Privatisation has often involved the complete sale of public facilities, all of which now fall outside any organised regulatory framework. This has led to asset-stripping in many cases: the re-sale of assets bought from the local authority to realise profits without the continued provision of services. There appears to be wholesale looting of the state in many areas and a general break-up of public property in the transition to the free market. It remains a strongly negative representation of the privatisation process.<sup>3</sup>

Despite general agreement in the African context that state-owned enterprises have not performed well, privatisation has had ambiguous effects in macro-economic terms. Privatisation has been accelerated by the fact that increasingly lending is based on privatising initiatives. A very high proportion of technical assistance has been focused on strengthening capacity to privatise and privatisation depends critically on such assistance, and financial aid focused on this objective. But privatisation is not expected to bring increased tax revenues or a reduced government deficit, particularly as the World Bank has argued that African governments should transfer their most profitable assets first.<sup>4</sup>

In the Third World privatisation has been associated with austerity and impoverishment; the extraordinarily bleak 'crossing of the desert' on the way to the promised land of prosperity. Privatisation becomes a key feature of the World Bank's model of structural adjustment with devastating effects on employment, particularly in Central American and Caribbean countries (Martin 1993:77), and policies that have led to the destruction of basic human capital in terms of schooling, infant mortality and malnutrition. While the question of private control has been argued to be critical, most improvements claimed for privatisation in Britain took place while the companies were still in the public sector.

In the monopolistic utilities, regulation based on capping prices combined with increasing competition to produce enormous increases in efficiency – especially in telecoms and electricity where there was an extensive investment in new technology. In certain utilities, most noticeably British Telecom, improvement in service has been huge. With the exception of water, prices have come down – though the greatest reductions have tended to be in business markets where new competition, not privatisation, has been the driving force (*Financial Times* 17.01.97). In many cases governments have restructured services and state-owned companies at considerable cost in preparing for privatisation; public debt has

been written-off and assets sold at knock-down prices. In South Africa, South African Airways appears to be following a similar path as it cut its costs by R203 million in 1997 in preparation for privatisation and the choosing of a strategic equity partner (*The Natal Mercury* 16.02.98).

The cost/benefit analysis of privatisation involves an extraordinarily complex weighing-up of issues. While in Britain prices have been reduced in a number of utilities this has been completely disproportional to the rise in profits, share prices and dividends (Drakeford 1997:116). The contrast between prices and profits, even where there have been reductions in prices, is stark and indicative of the acceleration of inequality in wealth produced by privatisation.

With the transfer of such immense possibilities for enrichment the questions of corruption and special interests are evident. Poor regulation has freed up the operation of rampant private interests. Commentary on the behaviour of directors of privatised companies has been scathing. A British commission has concluded that the offer of shares at low prices and bloated boardroom salaries is 'unfair, unstable and in need of far-reaching reform' (*Financial Times* 15.01.97). These privatised industries have wholeheartedly embraced all the worst manifestations of corporate excess. The perception is one of excessive executive pay and share options, excessive returns to shareholders, under-investment and a raw deal for customers. A study of many examples from the US concludes that 'corruption has been an endemic feature of contracting-out at state and local level' (Martin 1993:177).

The transfer of government operations to the private sector can lead to corruption, patronage and other unhealthy relationships, such as companies who win contracts from municipalities unsurprisingly making contributions to the electoral campaigns of leading politicians (*Time* 18.08.97). Obviously those companies benefiting from privatisation and contracting-out will give financial support to politicians supporting privatisation, and all manner of 'pin-stripe corruption' and conflicts of interest are being manifested. In the United States there are signs of the civil service system of local government, which was instituted as a reform to eliminate local patronage and corruption, is being radically undermined.

### **Governance and 'popular capitalism'**

Generally the divestiture of public companies has been through the share flotation of privatised companies, which have been offered at cut prices as a means of creating enthusiasm for, and excitement about, privatisation. The



British example has been portrayed as the most successful course of privatisation, but there have been criticisms that shares have been priced for political reasons – namely to make privatisation popular (Martin 1993:97). The intention of privatisation is the projection of a popular capitalism in which the numbers of shareholders are greatly expanded. While it is certainly true that in Britain there has been a large increase in the number of shareholders, most of these only own shares in the privatised utility and their number tends to decline over time as they sell because they need income from their shares. After listing, there has been a rapid decline in the number of shareholders as capital gains are taken. The promised boom in shareholding has not come about; few of the new shareholders continued to buy non-privatisation shares. The gap between shareholders and non-shareholders has grown over time, and the main beneficiaries of privatisation are the wealthy and middle class. This has often brought about revulsion at the sale of public assets in the form of cheap shares.

The advocates of privatisation (understood broadly as encompassing the various processes of commercialisation, contracting-out, accrual accounting) argue that it brings reduction of costs, improved delivery, a stimulus to the private sector and better managerial practices associated with private corporations. Yet in macro-economic evaluations, the whole question of costs and benefits of privatisation is sharply contested. Those who support privatisation argue that it leads to value for taxpayers' money, that it results in cheaper services; yet those opposing cite evidence of declining services, at times provided more expensively, and argue that the costs of preparation for privatisation are being met by the public sector. Examples of successful cases of contracting-out are countered by arguments that there are often kick-backs and that the cost of services is often not cheaper. Generally it appears that the poorest families in a community face the greatest weight of penalties from privatised operations for non-payment as basic utilities shift from being the producers of social goods to becoming traders in commodities. Although private companies taking on municipal services argue that they provide more effective human resource development, there are universal complaints that there is a greater intensity of work and retrenchments are being made. Those public-sector workers who are known to have low wages find that they remain on low wage scales while taking on more work – the 'producing more with less' syndrome. As privatisation often occurs against the wishes of trade unions, privatised operations are prone to poor industrial relations.

Employment conditions remain a focus of controversy: commercialisation is seen by public-sector workers as part of a campaign against working conditions.

which are summed up by one writer who concludes they were mainly 'badly off before and even worse off afterwards' (Martin 1993:173).

### **Privatisation in the local government context**

The effects of privatisation have been deeply pervasive in local government, encouraging a fundamentally different outlook to traditional local government practice. The broad policy shift towards reviving the private sector by selling off the assets of the state sector has had dramatic effects on the concept of local government and local democracy. Current practice, represented by the trend towards commercialisation and privatisation, is to move away from concepts of local democracy and citizenship to prioritise the 'efficient and effective' operation of local government in which commercial principles are applied, 'best practice' principles established and 'services benchmarked' against such practices.

The general trend in municipal government in more developed countries is towards a form of 'reinventing government', which asserts the necessity of privatising municipal services and resists compromise with local government unions. This is the context of an enormous pressure to cut costs, to commercialise and to privatise local government operations, all measures strengthened by a monetarist approach to public finance.

In Britain the Conservative-led governments of 1979-97 insisted that municipalities put services out to compulsory competitive tendering: the procedure initiated with local authorities in the late 1980s compelled local government to submit services to competitive tender. The local authority was obliged to accept the lowest price offered or to show good cause why not. Social criteria such as contractors' wage rates, employment practices and health and safety policies were regarded as 'non-commercial' considerations, and were not to be taken into account (Martin 1993: 174). Every aspect of municipal services was subject to this regime. Computing staff, for instance, had to compete with the private sector for their jobs; they were allowed to tender for the work but without any guarantee of success.

Increasingly, the tendency in Britain is for local authorities to enter into contracts for service delivery, yet the economic benefits are contested. Professor Michael Chisholm, who is sceptical about any savings, argues: 'The problem is that to draw up a contract to go out to tender and to monitor problems, you have to have very skilled people. The anecdotal evidence is that it costs more to contract-out than to do it yourself' (*The Independent* 4.10.95). The final quantification of costs and benefits is still unclear. In South Africa, where such

technical capacity is painfully weaker, the costs of contracting-out are even more evident.

### Effects on the workforce

The public-sector unions have had a variety of responses to contracting-out. Generally the unions feel that improvements have taken place on the basis of personnel being flexible. Yet there have been more temporary jobs and internal transfers are common. By and large the increased productivity has arisen from cutting the number of workers by various means: '(t)he same workload has for the most part also been shouldered by a smaller number of personnel than previously' (Martin 1996:29). The downsizing of local government workers has been quite dramatic.

It has been estimated that 100 000 local government employees in Britain have lost their jobs after competitive tendering was instituted in 1988 (Martin 1993:174). In Sweden there have been local government losses between 1992 and 1994 of the order of 50 000 (Martin 1993:38). Competitive tendering particularly threatens the position of low-wage women workers in local government. According to a study of the modernisation of public services in Europe, 77 per cent of jobs lost as a result of compulsory competitive tendering for local authority services had been held by women. In the cases studied women's employment fell by 22 per cent, and pay rates of jobs held by women tended to fall (Martin 1996:6). Women tend to be paid less than male employees after privatisation for doing work of equal value, in order to compete with tenders from the private sector (Martin 1996:22).

Such innovations as competitive tendering obviously undermine the local government workforce, which universally is paid a lower wage than the private sector and is defensive about its security. Workers are suspicious of the introduction of a commercial ethos into the public service as it is seen as a contradiction to the delivery of high-quality public services that are responsive to the needs of users. Under a system of privatisation and contracting-out, profits from services depend on cutting costs. With privatisation, the relative freedom from a public obligation to provide full-time employment has led to a significant increased use of temporary and casual labour. The effects of competitive tendering have been to place even greater pressure on low wages in local government and on women workers (Martin 1993:38).

### Effects on citizens: disconnection and self-disconnection

The effects of privatisation bear most radically on the poorest in the community; there is widespread evidence of more cut-offs in service and generally a harsher attitude towards low-income 'customers'. Water in Britain is a case in point. Water and sewerage bills have increased by an average of 67 per cent between 1989-90 and 1994-95, and in roughly the same period the rate of disconnections because of non-payment by 177 per cent (Drakeford 1997:117). Over the same period, the inflexibility and hostility which often characterised the attitude of public utilities towards non-payment has been replaced by an emphasis on pre-payment meters and *self-disconnection* as public goods have been commodified. Pre-payment metering is greatly advantageous to companies as the problem of poorer customers is avoided, there is a continuous revenue stream in advance of consumption, less of a 'political' problem in confronting disconnections and a better form of debt recovery. Studies have shown that a surprisingly high number of self-disconnections of water supply for various periods increased by as much as 49 per cent for those using pre-payment devices over a trial period (Drakeford 1997:122-23). The most critical feature of the privatisation process, however, has been that cross-subsidies are rooted out after privatisation; those who need costly help have to pay for these services directly themselves. 'Thus people who find it hardest to pay their bills would also have some of the highest bills to pay' (Drakeford 1997:128). In place of cross-subsidies there has been the introduction of 'cost-reflective' pricing (in which prices reflect the particular costs associated with a particular customer) that end with greater differences in regional charges, the poorer paying more and better-off customers with cheque accounts paying less using direct debits.

The tendency towards accelerated cost recovery has also led to enthusiasm for pre-paid metering in South Africa. A recent study of disconnections in Tembisa (Barchiesi 1998) made the startling finding that the cost of installing electricity meters, which is estimated at about R1 000 each, would be recovered in higher tariffs. Again the poorest have to meet the highest tariffs.

### PPP and the promotion of the private sector in South Africa

While in the advanced economies privatisation is presented as a way of reducing the public-sector deficit and releasing new profit centres, in South Africa it is a panacea for the slow growth that the economy is experiencing. It is an essential strategy to attract foreign capital to provide for investment, a strategy to improve

the country's reserves and to bring in higher levels of technology, as well as to help to reduce the public deficit. On occasion it is argued that the state no longer can act as the agent of development and that a 'fourth sector' (the third sector being the non-government organisations) of PPP has to fill the gap (*The Sunday Independent* 20.4.97). On a political plane privatisation is promoted as creating black empowerment and improving service delivery. The critique of the public sector extends particularly acutely to local government. It has been variously reported that a third of local authorities are financially viable, a third financially unsure and a third financially unviable.

A review of the financial situation of local authorities has identified that about 200 (double the number expected) were potentially 'in trouble' (*Business Day* 8.7.97). The many reasons for the financial instability of much of South African local government have not been comprehensively presented, but the situation poses a challenge to the goal of bringing basic services to the majority of the population. Many contemporary reports feature a critical lack of financial capacity and experience in municipalities failing to collect income, control expenditure or pass operating budgets, and almost half the Eastern Cape's town councils are reported as being financially unsound for these and a wide variety of other reasons, leading to an incapacity in service delivery. (*Business Day* 10.2.98).

But within these difficulties there are opportunities, either for local government regeneration and reconstruction or for sizeable profits. South Africa has a backlog in infrastructure of at least R170 billion: electricity, water, railways, sanitation, harbours, urban housing and rural development. These are substantial amounts of money, and in securing delivery the restructuring and redevelopment of local government could be achieved. Equally, the depressed civil engineering and building sectors must be concerned to become equity partners with the public sector to secure the overwhelming share of the proceeds. In the search for operational efficiency there is now the exploration of a multitude of possible combinations of public and private-sector operations in an effort to bring down costs and raise operational effectiveness, efficiency and sustainability.

### **The scope of PPP: 'enabling environment for private action'**

The PPP concentrate on 'direct private-sector involvement through equity investment in, and/or the management and operation of, infrastructure facilities (such as water, roads, power and so on) ... a range of different forms of PPP may be identified along a spectrum of limited involvement (e.g. a management contract)

through to totally privately owned utilities' (Department of Finance 1996, p. 2). The various private-public partnership options move beyond the *contractual* range where ownership of assets remains with the local authority, to an *ownership* range where assets move into the private sector. In the latter days of the Conservative government in Britain there were proposals for public-sector corporations in which local authorities and private companies jointly invest in service-delivery partnerships with the aim of attracting outside investment (*Financial Times* 24.01.97).

An increasing number of government documents indicate the priority which is being given to the development of PPP in the South African context.

The emergence of PPP has become an increasingly pervasive international trend ... Although a limited number of PPP have been tried domestically, South Africa lags significantly behind many other parts of the developing world ... It should also be stressed that, at the level of general principle, interaction with business (domestic and international) around PPPs in South Africa has been extremely positive thus far, and expectations are high (Dept of Finance 1996:3).

The first principle that informs policy towards PPP is stated by the department as follows: 'Government is in favour of promoting direct private-sector involvement in infrastructure investment and service delivery' (Dept of Finance 1996:3, para 12.i). The policy environment of this interest is spelt out: 'in a context where there are strict limits to (national and local) public-sector and parastatal borrowing, direct private-sector investment in infrastructure provides a critical source of finance for the infrastructure programme' (Dept of Finance 1996:3, para 3.i). Local government is restrained from acting as an entrepreneur and is thus dependent on the private sector playing this role. The department lists the reasons why, in line with this policy, PPP are attracting such interest at the local government level: to unlock investment capital from the private sector, to raise efficiency and effectiveness, to gain access to non-financial resources, as well as fiscal and macro-economic benefits (Dept of Finance 1996:3, para 1-2). The final point sets the broadest policy context, which involves the fiscal advantage of 'off-budget financing of infrastructure', the potential for risk-sharing between public and private sectors, a reduction in the public-sector wage bill and the 'financial discipline that private-sector involvement tends to bring to the overall system of service provision' (Dept of Finance 1996:3, 3.iv). The full range of possible configurations of PPP include management contracts, lease arrangements, concessions and full-scale privatisation.

The most programmatic statement of government intent to date has been the Municipal Infrastructure Investment Framework (MIIF), which provides a plan to bring existing local government projects into a consolidated programme (DCD 1997). In this document a *fundamental distinction* is made between service authority and service provider, between *ensuring* that services are delivered and *actually* delivering services. This builds on the idea of local government as an 'enabler' rather than a provider, setting the context for private-sector intervention. The MIIF privileges the private sector as the most appropriate vehicle for delivery as it rests on the understanding that local authorities do not have the capacity to deliver.

Rather than making a critique of the excessive hierarchies and bloated management systems traditionally associated with local government, the lack of local government capacity in rural areas and pressing for the revitalisation of local government to secure the development of infrastructure and service delivery, it argues that 'local governments will need to weigh up political concerns (such as relinquishing direct accountability in a new democracy) against efficient and cost-effective service delivery' (Ronnie 1996:17 referring to an earlier draft of the MIIF). Here democracy is opposed to delivery and the private sector is given the strategic advantage of being able to deliver. More specifically the document spells out alternative ways of delivering services from public ownership in the form of service departments to private ownership either through 'demonopolisation' or new entry, or through the sale of public assets (para 186). In assessing the form of service that could be offered, the MIIF lists the need for local government to 'deliver services in a competitive manner', to provide 'an enabling environment for private action', although it also mentions, as constraints to the development of PPP, the question of the private-sector response and trade union attitudes. The various alternative delivery mechanisms put forward in the MIIF show the influence of the commercialisation and privatisation policy framework (see particularly para 186). In the present difficult climate for the construction industry the policy framework outlined here offers many possibilities for the private sector.

### **PPP and service delivery**

Increasingly in public-private partnerships the emphasis is put on the private component and involves a private contractor being responsible for the various combinations of feasibility studies, project financing, project construction, operations and management, and ownership. The options include service

contracts, operations and management contracts, leases and concessions, none of which end in the permanent ownership of assets in private hands. Examples of PPP, which often involve combinations of South African and multinational companies such as Lyonnaise des Eaux, include the building of toll roads on a build, operate and transfer (BOT) basis with the Department of Transport Roads Agency, which is being developed with a majority private-sector board to manage the national road network. In the housing field the Department of Housing is forming joint ventures to produce high-density housing stock; the Department of Public Works is developing the Asset Procurement and Operating Partnerships (APOPS) initiative. PPP planned at the municipal level include the Nelspruit water concession (projected over 30 years), the Port Elizabeth water concession and the Pretoria emergency services (Examples taken from the Department of Finance 1996 p.2).

Although there has been little public information about their monetary value, the contracts between the Department of Water Affairs and Forestry (DWAF) and consortia to provide water and sanitation services for specific local governments in the Eastern Cape, KwaZulu-Natal, Mpumalanga and Northern Province, appear to be the most extensive PPP agreed to date.<sup>6</sup> Oddly, the list put out by the promotional literature of the Development Bank of South Africa (DBSA) is somewhat shorter, mentioning partnerships in Queenstown, Benoni, Springs, Richards Bay and KwaNdebele, and mainly limited to water supply (*Partnerships* August/September 1997).

The contracts between DWAF and Aquamanzi consortium to provide water and sanitation to the remoter urban areas in KwaZulu-Natal illustrate some of the processes involved in PPP and BOT operations. The deal is regarded within the industry as an enormous contract, which invests considerable faith in the consortium made up of Aquamanzi, Stocks Civil Engineering, Jeffares Green Parkman Consultants and Ernst and Young Management Services (who deal with the socio-economic and institutional side). The contract includes the standard access to 25 litres of water daily per person from a standpipe not more than 200 metres distant, and VIPs to be provided to communities. The BOT contract is a big departure from conventional tender procedures in which an *implementing agent* is assigned to a project, a *consultant* appointed, construction undertaken and the contractor paid by the *implementing agent*. Although this procedure has been followed the process has been vastly accelerated by taking in a number of projects in one area. The argument for such a diverse BOT contract is that under existing public-sector procedures money is not spent fast enough and service delivery is hampered, but professionals regard the bypassing of these



procedures as 'crisis management'. Although the development of water supply may be accelerated, they argue that the local government capacity to manage large contracts is avoided until the end of the operation.

The last point focuses around the question of preliminary and general (P&G) or start-up costs (to set up offices, telephones, staff etc) paid to the successful tendering consortium, which appear to critics in the industry as excessive in comparison to the existing funding of local government. This *start-up funding*, it is argued, could have gone to build local government capacity that could have achieved an enormous amount, but instead goes to the consortium, which will be able to set up offices and employ staff throughout the region; a direct transfer to the private sector to compete with the public sector. Aquamanzi has a policy of involving black empowerment companies in its operations and to allocating 40 per cent of its equity to these groups. Those regional councils<sup>6</sup> in KwaZulu-Natal with capacity, such as Ugu (around Port Shepstone) and Zululand, are not participating but the councils of uThungula, uMzinyathi, uThukela, iNdllovu and Ilembe covering the rest of KwaZulu-Natal rural areas, will participate. There is undoubted pressure from the DWAF to make the contract a success. The large scale of the contract means money can be spent quickly and that additional hundreds of thousands of KwaZulu-Natal residents will have clean water. The problem is that nearly all the risks and costs have to be met from central government without corresponding 'learning through doing' in local government.

Yet, in the last analysis, private companies cannot make profits from poor rural people and any shortfalls and revisions in costing will have to be met from government. The question of sustainability is critical as, according to the industry, water provision in rural areas is expensive and yet water tariffs cannot be set at this level. The consortium will have agreed to penalties if there is no capacity-building and sufficient attention to sustainability, but it is more likely that there will be a renegotiation of aspects of the contract. On completion of the contract, again according to industry sources, the local authorities could be faced with relatively expensive systems to maintain without the capacity to manage them.

The process is highly unusual and has been described by a participant as 'new, innovative and South African', and by another as the provision of private-sector capacity to the DWAF on a basis that is unorthodox internationally and unique in South Africa. Although a contract was signed with Aquamanzi in July there is no precise value to the operation but the first phase is in the order of R50 million and the entire operation over two years is said to involve R200 million. The final unusual point is that the 'employer's agent' (DWAF) is not the

department; direct control has been ceded to a consultant. Even the monitoring and control function is contracted-out. The operation appears to depend on different private agencies working with the department at one step removed.

In the health field there is a similar PPP operation that bypasses conventional tendering and has been justified by the Minister of Health as enabling clinics to be built much more rapidly. This form of planning has its critics, in particular Professor Victor Nzimande, chairman of the Valley Trust, the non-governmental organisation, who has spoken out against the RDP clinic-building programme.

Clinics are being built that are inappropriate, are frequently built within the service radius of an existing clinic and which have a curative focus rather than a community-centred principle, among all the line ministries with which it interacts (Valley Trust, Annual Report, 1995-6, p.1).

From the perspective of a multi-disciplinary approach Professor Nzimande argues that government thinking needs a paradigmatic shift in inter-sectoral collaboration. PPP appear to offer speedy resolution of certain line department problems but pose new problems en route.

### **An evaluation of public-private partnerships**

At one level PPP represent innovative approaches to the problems of inertia and traditional methods in local government. At another they could lead to the atrophy of local self-government and local democracy, and its replacement by the growth of 'government by contract' in which local government declines responsibility for improving service delivery and ends its supporting procedures, thereby legitimising further commercialisation. The water consortia mentioned above, for instance, will be very well placed to continue management and to maintain a permanent concession if there is a policy shift. From a neo-liberal outlook the perfect local authority is one in which the councillors meet once a year to decide on the contracts for its services and then go home! Although privatisation in the sense of the sale of public assets represents the most visible aspect of the commercialisation process, the most profound challenge to the conception of direct service delivery by local government comes in the field of 'government by contract'. The commercialisation and privatisation of local government operations were not initially targeted as conservative governments prioritised the large national state enterprises. Now, however, they are being organised around the slogan of 'value for money', particularly in the tendering for municipal services. What previously would have been regarded as

'in-house' operations e.g. information technology, salary records etc, are now being subjected to competitive tendering.

The key question is the extent to which the use of PPP in the above context serves to meet developmental needs. Basic needs are now established as the frontier of the extension of citizenship to the majority of the population in South Africa. All government policy to date has been spelt out in terms of criteria of equity and socio-economic empowerment. The position RDP officials adopted in the period when the RDP existed as a separate unit of government was that the major service deliveries then being experienced, with funds being rolled over from one year to another, could be explained by the paralysis of local government, and particularly the time lapse between national and local elections. Then, but also now, there were tensions in service delivery between line departments and local governments e.g. water, health, housing and in other fields. Now the emphasis has returned to the development of local government, but many of the old contradictions remain. In some provinces there still are extraordinary problems accessing provincial funding in support of local government initiatives. The development of PPP carries the hope that these difficulties can be ameliorated by the drawing in of the private sector, bypassing the essentially political and administrative problems of local and provincial government.

While in South Africa PPP is a fairly new phenomenon, elsewhere progress towards PPP has been widespread and the current European model of the public sector is that of "mixed service provision" (Martin 1996:35). They entrench business methods in local government operations and secure a field-of-service delivery subject to profit. Enthusiasm for PPP appear to be the exploration of new forms of public/private relationships when the boundaries are shifting in the direction of privatisation, and there is a perceived need of private companies for the public sector to retain the management of, and the responsibility for, risk. In short, PPP appear to be a step towards privatisation in that the balance between public and private is shifting decisively towards the profit-seeking private sector.

### **Trade union responses**

The particular historic strength of COSATU and the growing campaigns by SAMWU (the South African Municipal Workers' Union) will mean that privatisation at the level of local government will be vigorously contested and could become a crucial political issue dividing the organised workers and

sections of the rising middle class. This could make the privatisation of local government services subject to bitter political engagement.

From the labour movement there is a rejection of the notion of a leaner public sector. In its September Commission, COSATU argues that the state has an obligation to extend the provision of basic services to those who were previously sidelined. The state should improve staffing levels, train civil servants and develop effective management to improve its institutional capacity:

A reduced state cannot meet the needs of social transformation and development, and is inappropriate in a society with our levels of unemployment. We propose the goal of a public sector enlarged to the extent required to effectively deliver universal services to all our people ... Policies should focus on producing more wealth and more and better job opportunities, meeting the needs of all citizens and allowing for the participation of workers to determine the conditions of their economy and priorities of economic policy (*Mail & Guardian* 06-13. 08.97).

In public hearings COSATU has warned 'against the haste to involve the private sector in direct service delivery', and argued that the public sector 'should not mechanically ape the private sector', which was driven by the profit motive. Such a policy would only provide goods and services 'to those who can afford it and where there is demand'. The government's downsizing strategy could strip the public service of the necessary human resources to deliver services and did not address service delivery (*Business Day* 25.08.97). SAMWU, the union most affected, has indicated that it will rigorously oppose the shift towards privatisation and argues that 'the only real way to meet all elements of the RDP is to move away from reliance on the private sector and to focus more strongly on state-based delivery systems' (Ronnie 1996:20).

In the case of the PPP in Nelspruit, designed to provide water and sanitation to the large area around the town, there has been very active opposition from the union. Workers came out on strike in response to negotiations by the council with the Metsi A Sechaba/Biwater consortium, marched through the town and handed in a memorandum at the council offices protesting against the contract (*Partnerships* December 1997 - January 1998). It is reported that implementation of the project has been paralysed by this opposition.

### Assessment of PPP

While PPP appear to offer a number of solutions to the present impasse in the provision of services at the local level, there has been little experience in South

Africa from which to draw case studies and general conclusions. The following questions need to be raised:

- Why has there been no exploration and development of public-public partnerships and a more extensive development of the Department of Public Works?
- Whether there can be sufficient control and regulation by local governments over PPP, especially in the form of build, operate and transfer operations?
- Whether the emphasis on PPP by central government is bypassing local government and not setting the necessary development of local government capacity as a first priority?
- Whether there is a sufficiently rigorous regulatory regime to enforce contracts and standards?
- Whether existing PPP are increasing the tendency towards atypical labour and casualisation, rather than attempting to develop permanent employment for workers on projects under their direction?
- Whether financing from government in the form of subsidies, capital grants and contractual payments to companies results in the state becoming a 'milch cow' for the private sector?
- Whether the large scale of PPP contracts allows companies of the competing consortia to be entrenched in a way that undermines the development of local government and the public service?
- Whether local communities and government are losing potential revenue sources to PPP?

### **Local self-government**

The approach that is being proposed here is one of reconstructing and renewing the public sector, a democratic and developmental approach in which the potential for self-government at the local level is accented and a shift made from the private to the public sector. The idea of local self-government is the right and ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population (Martin 1993:27). The key issue in South Africa

is the development of local government capacity to provide services in a manner that is responsive and responsible to local communities. Although there is a stream of PPP proposals, policymakers should be sensitive to the dynamics of the present transition, which focuses on the question of the historic acquisition of self-government in South Africa. Suggestions that service delivery should be managed but actual delivery contracted-out, has met with the response 'now that we have won control of government, you want to take it away from us' (Tomlinson and Krige 1997). This contradiction is neatly exposed: 'The role and resources of the state are declining just as representatives of the traditionally marginalised are gaining control of its machinery' (*The Sunday Independent*, 20.04.97). Such resentment and hostility to pressure for privatisation is what could be expected in a period of majority rule where the demand is for a powerfully engaged developmental local state.

This does not necessarily mean that there should not be innovative practices at local government level. The first has to be the application of the workforce and trade unions in the development plans for local authorities and in decisions to be made about specific departments. The Labour Relations Act provides for workplace forums but there are no-strike clauses attached and SAMWU is reluctant to engage in these forums if there is any loss of trade union rights. Nevertheless, consultation with the workforce, the development of human resources through education and training, and the fostering of in-house capacity is crucial to the development of post-apartheid local government. Crucial to this should be the initiation of management-labour forums for the development of local government. Examples from the United States have found that labour-management committees in health care have slowed the rate of increase in employee health benefit costs without reducing benefits. Other examples of joint work by trade unions and local government management to improve in-house capacity are found in New Zealand and the United Kingdom (PSI nd: 3.7-3.9).

The development of capacity to initiate more rigorous forms of monitoring and evaluation of the work undertaken for local government by private contractors both in the more conventional contracts and in PPP, is an essential element in local government training. A monitoring system should ensure that all the elements of the contract are complied with, including financial performance.

Monitoring during tendering should ensure that:

- Specifications and contract conditions are implemented;
- The method of delivery is adhered to;

- The protection of local government staff working alongside the contractor's staff;
- That contractors are paid only for the work they complete to the required standard;
- There is a reduction in the opportunities for contractors to submit loss-leader bids and to reduce standards; and
- The causes of any problems and the need for any changes in specifications are recorded once work has started (PSI nd: 8.10).

The training should cover a basic understanding of the tender specifications and the contract, procedures and reporting of monitoring, technical inspections, health and safety inspections, and negotiation and communication skills. It is proposed that responses to incomplete and poor-quality work should include withholding payment, the contractor being required to complete the work within a specified time limit, financial deductions from payments, warning notices, part of the contract being carried out by the local government at the original contractor's expense, and finally the termination of the contract (PSI nd: 8.10). Privatisation affects public-sector training in two ways; on the one hand it can remove public-sector workers from the ambit of local government training, and on the other it increases the demands on staff to raise their skills in preparing tenders and in contract compliance.

What has been described above is preparation for a vigorous regulatory regime, but the context depends on the power relations between local government and private sector. There are often very uneven power relations between newly established local government structures and sophisticated consortia, which may be well-connected to top government officials. This combination would produce a weak regulatory regime. Although there will be not much in the formal accounting transactions to raise concern from the Auditor-General, funds will be wasted and an opportunity lost to strengthen the capacity of local government.

### **Democratic approaches to privatisation and commercialisation**

The debate about service delivery raised by the problems associated with the programmes of the RDP, particularly in relation to housing, focused attention on the sphere of local government at the level of implementation – in a phrase, the arms and legs of the RDP. Here local government is assigned prime responsibility for securing service delivery to disadvantaged communities. This focus on an

active role for local government in providing services where they have not been provided before, and of expanding those in operation, implies a developmental local government but also poses the problem of capacity.

A developmental local government appears to fit appropriately with the new public administration model, which emphasises that the tasks, purposes and conditions of the public sector are distinctive from a private sector or corporate approach. The sense of public service is understood as 'serving the public' — social equity is a central concern, as well as the effective and equitable provision of public services to constituents.

At another level this conception of the state that is implicit in the Constitution, aims at the all-round development of the productive resources of the country. While this is still the stated policy and links to constitutional guarantees both of entitlement to basic needs and to a separate sphere of government in the form of local government, this conception is increasingly under pressure from a 'reinventing government' approach fundamentally based on market-oriented principles. While being influenced by international practice — for instance, the rigorous liberalisation and privatisation in New Zealand that has virtually brought collective bargaining to an end is reportedly being studied by the Ministry of the Public Service (Sven Lunsche, 'The land of the long clouds shows world the way to prosperity', *Business Times* in the *Sunday Times* 17.08.97) — the impact of privatisation and contracting-out at the local level has yet to be adequately researched.

In this article PPP options are examined and it is concluded that the demands of service delivery and equity place demands on the public side of the continuum; on greater local government intervention rather than privatisation and contracting-out. The imperative of reconstruction of local government cannot be displaced by alternatives that avoid this question.

The contemporary trend in local government is to lean towards involvement of the private sector to solve the problems of the public sector. Referring to the 'panacea syndrome', Fine (1997:1) finds a bias undermining public service and preferring the private sector.

The merits of the alternative of developing the capacity for 'good governance' within the context of the continuing public sector, instead of devoting considerable government administrative resources to privatisation and regulation, is rarely considered adequately.

There is a particular political context in South Africa, a tension between meeting the objectives of the RDP and the aspirations of the rising black empowerment groups to break off parts of the state as a source of profits. There



are also tensions between a historically situated labour movement that has fought against the cheap labour system in South Africa, and a black elite which argues that privatisation is an essential part of the strategy leading to the formation of black corporate strength.

Historically, municipalities were particularly responsible for holding down the wages of municipal workers to maintain rates for white householders and companies at the lowest possible level, and the present contest between employment and rate-setting policies is particularly sharp.

A variety of measures is being employed to make up for the lack of local government capacity. The question of consultancies is critical to the interface between the private sector and local government. Local government incapacity is highlighted by the involvement of consultants in a number of critical fields. Consultants consider themselves a form of privatised elite and very expensive civil service, and their companies are often involved in the central government functions of policy design, personnel management, administration and computing under privatisation tenders that they themselves devised (Martin 1993:87).

The development of capacity depends crucially on a correct relationship with consultancies which operate at a number of levels. An over-dependence on consultants can overshadow and stunt the development of local capacity and, at times, lead to tension between in-house and consultancy staff over work and pay. In addition, there is frequently a considerable expense often not specifically budgeted for. Both in the public and private sector outsourcing and the over-dependence on consultants can stem from low institutional self-esteem, along with the emphatic avoidance of the central problem.

Finally, PPP in the form of public-public and public-community partnerships appear quite underdeveloped in the South African context. Yet they could be a crucial focus for the development of local government capacity and provide new approaches to tendering in competition with the private sector. With the support and joint co-operation of local government employees (and, where appropriate, SMMEs) there could be great enthusiasm for renewing and reconstructing local government and an avoidance of the clash of interests involved with contracting-out to the private sector. All questions of innovation and change demand that more serious attention is given to local and provincial government training to increase capacity, with particular emphasis on the training and placing of the historically disadvantaged in increasing positions of responsibility.

## Notes

1. There has been a sudden focus of interest in corruption, financial mismanagement and maladministration at the level of provinces in the past period. See 'Mpumalanga officials in shredding caper' and 'Education reform derailed in provinces', in *Mail & Guardian*, August 29 - September 4, 1997. See also Cyril Madlala, 'States of the nation: good, bad and the ugly', *Sunday Times*, August 24, 1997, in which extensive misconduct, financial mismanagement, fraud and corruption is identified in a report commissioned by Dr Zola Skweyiya, Minister of Public Service and Administration.
2. More broadly the accrual basis of accounting refers to the system of charging income and expenses to the period in which they are earned or incurred rather than to the period in which they are actually received or paid. Other methods can provide a misleading income statement, but individuals or small firms usually keep their books on a cash basis because it greatly simplifies book-keeping.
3. Interview with Dr Simon Clark. July 14, 1997.
4. In an important article which summarises the African experience, Asghar Adelzadeh (*Mail & Guardian* April 25 to May 1, 1997) cautions that South Africa should learn from African experience of privatisation by implementing a cautious sectoral approach, recognising the importance of the labour movement, and steering clear from the explicit language of privatisation.
5. Information from Sandra van Niekerk, ILRIG, August 1997. At present, information on these and other PPP is very difficult to secure directly from government departments as few officials appear to know they exist and their public affairs and libraries have no details about them. There are very few press reports on the matter, no mention in professional journals, and access to the contract is difficult.
6. These are termed District Councils in other provinces.
7. A statement apparently made by Nicholas Ridley, former British Secretary of State for the Environment. *The Independent*, April 8, 1991.

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