

CHAPTER 7

SUMMARY, FINDINGS AND RECOMMENDATIONS

7.1 INTRODUCTION

This study seeks to respond to the question on the preparedness of the local government to promote environmental rights, with specific reference to District Municipalities in the Free State. In order to grasp the nature of environmental rights it was deemed fit to analyze a number of concepts that have a direct bearing on these fundamental rights. Concepts such as environment, sustainable development, developmental economics and international environmental law play an important role in determining the role of local government in promoting environmental rights. In terms of the constitutionally encapsulated principle of Co-operative Governance all spheres of government are enjoined to promote and protect fundamental right to environment. It is clear from the above that the third sphere of government has changed drastically from the order that was in place prior to 1994. The new supreme Constitution with its comprehensive Bill of Rights has set a new legal paradigm for municipal government. The Constitution, however, only provides a basic constitutional framework.

7.2 SUMMARY

This study can be summarized as following:

7.2.1 Problem Statement and Research Methods

In chapter 1 of this research it was stated that the aims of the research are:

- To give a theoretical exposition Environment and Development Economics.
- To discuss the relationship between “environment” and sustainable development.

- To discuss the concept of sustainable development and its relevance to local government.
- To evaluate the preparedness of the District Municipalities in the Free State in promoting environmental rights as enshrined in the Constitution.
- To discuss the role of co-operative government in promoting environmental rights.
- To evaluate programmes of the District Municipalities on environmental issues.
- To offer recommendations on how best the local government can fulfil its mandate on environmental rights.

7.2.2 Sustainable Development and Economic Development

In chapter 2 it was submitted that sustainable development theory can be traced back to economic development theory, which simply defined it as the analysis of the economic progress of countries, taking into consideration sociological, anthropological, historical, political and even ideological factors. Sustainable development is a continuation of the principles of economic development but with more emphasis on the social well-being of people and the introduction of the environment as a major component. As reflected in the key instruments on sustainable development, namely the Stokholm Declaration on the Human Environment, the Brundtland Report, the Rio Declaration on Environment and Development and the Johannesburg Declaration, an important theme of this paradigm is the notion of limiting the influence of economic growth imperatives, including profit making. Sustainable development is often criticized for its indeterminacy, the idea that it is so flexible that it means different things to different constituencies. Sustainable development is a continuation of the principles of economic development but with more emphasis on the social well-being of people and the introduction of the environment as a major component.

Inherent in the premises of historical materialism is the notion of the co-evolution of nature and society. Human development, the unfolding of human potentials, and the

emergence of new needs and talents presuppose the material production and reproduction of life and of means of subsistence, processes through which both humans and the nature change and are mutually sustaining. The growing scale of the capitalist economy and the weight that it is imposing on a limited biosphere are not everything. More important, ultimately, is the actual integrity of ecosystems and the basic biogeochemical processes of the earth system. Theory of the metabolic rift helps to understand capitalism's intensive, not merely extensive, destruction of the environment. The environmental damage wrought by industrial capitalism, in the form of the universal pollution to be found in large towns.

The greatest single case of environmental degradation and black impoverishment was the institutionalization of apartheid system itself. The massive population displacement this engendered wreaked devastation upon the natural resource base in areas of intense population concentration. Apartheid as a human resource management strategy was a disaster, in terms of both poverty alleviation and environmental management, in those areas designated for black settlement. Not least, this was because it drove major wedge in people's mind between environment protection and meeting people's basic needs

7.2.3 Relationship between Environment and Sustainable Development

In chapter 3 it was noted that both biocentrists and social ecologists are calling for a major transformation of people's view and of governmental policies towards environment. The notion of a right to environment has met resistance from those who claim that the concept cannot be given content and who assert that no justiciable standards can be developed to enforce the right, because of the inherent variability of environmental conditions. The notion of a right to environment has met resistance from those who claim that the concept cannot be given content and who assert that no justiciable standards can be developed to enforce the right, because of the inherent variability of environmental conditions.

The definition of sustainable development therefore suggests an inherent link between social and environmental needs and the need for technological advancement and development. An imbalance among these elements, where global patterns of development put the environment under pressure, places the earth in crisis. Most human rights treaties were drafted and adopted before environmental protection became a matter of international concern. As a result, there are few references to environmental matters in international human rights instruments, although the rights to life and to health are certainly included and some formulations of the latter right make reference to environmental issues. The pledged cuts in emissions are not only inadequate but will probably not be achieved. Climate change impacts will continue to fall disproportionately on the world's poorest people.

7.2.4 Intergovernmental Relations and Co-operative Governance

Chapter 4 dealt with Intergovernmental Relations and Co-operative Governance. A province needs to promote the development of local government capacity to enable them to perform their functions and manage their own affairs. Although the responsibility of capacity building and training is not the sole responsibility of provinces, provinces can play a vital co-ordinating role. Provinces can build the capacity of municipalities in various ways, such as facilitating or funding training programmes, and providing technical assistance with municipal Integrated Development Plans.

The division of powers and functions between provincial and local government in schedule 4 and 5 lacks clarity and precision. The distribution of powers and functions is done in broad strokes with no neat separation of powers. To a large extent there is concurrency of powers in respect of most areas of governance. In a number of functional areas the only distinction lies in (Schedule 4A matter) and "municipal health service" (Schedule 4B matter). In some instances the overlap is not explicit but inherent in the nature of the functional areas. For example, the exercise of the provincial competence relating to liquor licenses (Schedule 5A matter) will inevitably overlap with

a municipality's power to control undertakings that sell liquor to the public (Schedule 5B matter).

Whilst the principles and policies derived from the Constitution are to a large extent complementary or supportive, there are several instances where specific legislative or regulatory components are at worst contradictory or, at best, do not complement each other. In some cases, such as issues associated with mining activities, there is also a lack of clarity as to which statutory requirements take precedence, or are more important, than others. A more fundamental problem is the perceived absence of a common approach to local government and the supporting processes that seek to minimise contradictions at national level. A good example is the Health Act of 2003, where the definition of "municipal health services" and the allocation of this function to district municipalities contradict the department of provincial and local government's approach to local government powers in general and district-local municipal relations in particular. In an over-inclusive definition, "municipal health services" are defined as: (a) water quality monitoring; (b) food control; (c) waste management; (d) control premises; (e) communicable disease control; (f) vector control; (g) environmental pollution control; (h) disposal of the dead; and (i) chemical safety, but excludes port health, malaria control and control of hazardous substances. This definition conflicts with the allocation of functions between district and local municipalities. While the "municipal health services" function is a district function in terms of section 84 of the Municipal Structures Act, the "licensing and control of undertakings that sell food to the public" and "air pollution" are local functions. The problem with the definition of "municipal health services" is symptomatic of a larger problem, namely the lack of integration and coordination at national level. The lack of a coherent set of guidelines on the meaning of the functional areas of local government means that inconsistencies are likely to occur. The absence of a clearing house for local government legislation in the department of provincial and local government as the department responsible for local government will inevitably result in an uncoordinated approach to local government. Environmental planning is not a separate or another processes of municipal planning. It is an integral

part of municipal planning. Co-operative governance plays an important role in realizing challenges of environmental planning and sustainable development.

7.2.5 Developmental Local Government

Chapter 5 dealt with the role of local municipalities in promoting environmental rights. Local government is the key site of service delivery and development and is central to the entire transformative project of the new South Africa. It is also in the area of service delivery that local government is confronted most sharply with the legacy of apartheid. The local sphere of government in South Africa is assigned a developmental role. This means that the municipalities are no longer purely instruments of service delivery, but are also assigned a role as agents of economic development.

Thus, urgent attention will need to be given to building capacity in the environmental management and sustainability fields amongst existing IDP managers and relevant sector officials through short courses and continuing education programmes. Raising awareness of politicians, non-governmental organisations and community groups participating in these processes, will also be necessary so that the vision, strategies, programmes and projects, that emanate from these IDP processes, contribute to sustainability goals. Mainstreaming will only be achieved when individuals move beyond their professional biases and sectoral foci, and show a willingness to embrace new ideas, alternative approaches and modes of operation. This will require commitment, boldness and a willingness to work outside traditional 'comfort zones'. It may also lead to the restructuring of departments and changes to institutional arrangements. However, overcoming fear of change and being willing to experiment with new ideas, alternative approaches and systems, will be necessary steps for local government in South Africa to make a break with the past and embark on a path more aligned to sustainable development.

7.2.6 Evaluation

Chapter 6 of this study deals with the evaluation of the District Municipalities in the Free State in promoting environmental rights. It is apparent that there is lack of capacity in the District Municipalities in the Free State Province to tackle the environmental challenges. This is further complicated by the lack of capacity from the Provincial and National Government to assist municipalities in fulfilling their developmental mandate of promoting Environmental Rights. The IDPs of the District Municipalities do not have a uniform and co-ordinated way of incorporating environmental issues into their planning. There is also lack of capacity in the organized local government, South African Local Government Association (SALGA), to deal with environmental issues.

There is lack of capacity in the District Municipalities in the Free State to cater for environmental issues in the IDP. It is clear that even the provincial government departments responsible for issues of environment are not adequately capacitated to assist the District Municipalities in the Free State on Environmental and Health issues. IDP/Environmental toolkit designed to assist municipalities with regard to the environmental planning did not achieve its objectives. IDPs of the District Municipalities in the Free State do not have uniform environmental/ health issues. This in itself illustrates the fact that there is a poor co-ordination on health and environmental issues and that there is no assistance from relevant Provincial Departments in the Province in line with the spirit of co-operative governance. There seems to be no standardized format of reporting on environmental matters.

District municipalities in the Free State Province seem to be biased towards municipal/environmental health at the expense of environmental management. Devolution of municipal health to the District municipalities is partly to be blamed because of Environmental Health Practitioners belong to a specific profession. There seem to be no direction as to how the District Municipalities in the Free State Province can deal with environmental issues other than environmental/municipal health component. A comparative study suggests that there is a need for the inclusion of both environmental health and environmental management in the organizational structure of

the District Municipalities in the Free State. Exclusion of the environmental management in the District Municipalities in the Free State Province unnecessarily limits the scope of those municipalities to promote the Environmental Rights.

7.3 FINDINGS

In view of the empirical survey in Chapter 6, the findings can be deduced as following:

- There is lack of capacity in the District Municipalities in the Free State to cater for environmental issues in the IDP.
- It is clear that even the provincial government departments responsible for issues of environment are not adequately capacitated to assist the District Municipalities in the Free State on Environmental and Health issues.
- IDP/Environmental toolkit designed to assist municipalities with regard to environmental planning did not achieve its objectives.
- IDPs of the District Municipalities in the Free State do not have uniform environmental/ health issues.
- This in itself illustrates the fact that there is a poor co-ordination on health and environmental issues and that there is no assistance from relevant Provincial Departments in the Province in line with the spirit of co-operative governance. There seems to be no standardized format of reporting on environmental matters.
- District municipalities in the Free State seem to be biased towards municipal/environmental health at the expense of environmental management. Devolution of municipal health to the District municipalities is partly to be blamed because of Environmental Health Practitioners belong to a specific profession.

- There seems to be no direction as to how the District Municipalities in the Free State can deal with environmental issues other than environmental/municipal health component thereof.
- A comparative study dictates that there is a need for the inclusion of both environmental health and environmental management in the organizational structure of the District Municipalities in the Free State.
- Exclusion of the environmental management in the District Municipalities in the Free State unnecessarily limits the scope of those municipalities to promote the Environmental Rights.
- Lack of resources from National and Provincial Government impact negatively on the role of the district municipalities in the Free State to realize their developmental mandate of promoting the environmental rights.
- The local government system put the District Municipality at the cutting edge of delivery of basic services like environmental issues. This can only be done if the system of co-operative governance is effective.
- Lack of understanding on the roles and functions of the district municipalities give rise to unnecessary tensions. What is even frustrating is that not only councilors lack capacity, even municipal officials are facing this challenge as well.
- There is also lack of co-operation on environmental and health issues between District Municipalities in the Free State *inter se*.
- The role of the South African Local Government Association (SALGA) is a worrying factor on the environmental issues. This does not only relate to its role with regard to capacitating councils but also with regard to policy formulation and pronouncements on environmental matters. The mere fact that there is lack of

understanding on the part of councilors on environmental issues suggests that SALGA in the Free State does not cope with its mandate of capacitating councilors.

- This lack of capacity also indicates that decisions that may be taken by the councilors may have serious implication on the environmental issues. The mere fact that there is no adequate budgetary allocation confirms this. Equally, the relevant department responsible for local government in the Free State does not seem to feature prominently in assisting municipalities on environmental matters. This is evident in their conspicuous absence in the revision of the IDP/Environmental toolkit.
- There are no incentives for business complying with the environmental/health legislation. This simply means that there is no synergy between environmental plan and the Local Economic Development (LED) plan.

7.4 RECOMMENDATIONS

In view of the above, it is recommended that:

- Officials of District Municipalities in the Free State must be trained on the implementation of the IDP/Environmental toolkit.
- There is a need for intensive awareness programmes on environmental issues in the municipalities.
- The role of SALGA must be visible in assisting municipalities in the Free State in fulfilling the environmental and health mandate.

- There is a need for legislative amendment to include the environmental management functions in the District Municipality.
- Intergovernmental Relation can provide a solution to the challenges facing municipalities in the fulfillment of environmental rights.
- The national and provincial governments must capacitate the district municipalities in the Free State to tackle the environmental issues.
- A guide for the councilors dealing with the role of municipalities in relation to health and environmental issues must be developed. This must be compiled jointly by SALGA, Department of Co-operative Governance and Traditional Affairs, Department of Health, and Department of Environmental Affairs.
- It is proposed that an environmental management component in the organizational structure of the District Municipalities in the Free State be included.
- It is also recommended that Environmental Health Practitioners be trained in courses such as strategic management and other specialized courses in environmental field.
- The bottom line is that officials involved with planning must be trained on environmental issues and those involved with environment must be trained in planning issues. This will assist in bringing synergy between environment and planning in the District Municipalities in the Free State.
- Councillors must be sensitized on environmental issues.
- For the purpose of learning the best practices it is advisable that District Municipalities in the Free State have co-operative arrangements with other

District Municipalities outside the province. It is important that District Municipalities in the Free State learn from each other.

- Department of Health, Department of Co-operative Governance and Traditional Affairs, Department of Environmental Affairs and SALGA must work together to assist the District Municipalities in the Free State in promoting Environmental Rights.
- There is a need for political buy-in for the environmental issues to be realized. Councilors and management must support the officials entrusted with the environmental issues.
- There must also be adequate budget and other resources to enable the District Municipalities in the Free State to fulfill their developmental mandates of Environmental Rights. There is a need for partnership with business and other stakeholders in tackling environmental issues.
- For the purpose of investors in the Free State there must be incentives for businesses complying with the health and environmental legislation.
- Municipalities must embark on public participation process in relation to decisions affecting environment and planning. Environmental education must be intensified to sensitize councilors and management on environmental matters. Continuous public awareness on matters relating to environment is hereby recommended.

7.5 REALIZATION OF OBJECTIVES

This dissertation managed to give a theoretical exposition of Developmental Economics and environment. The relationship between environment and sustainable development was clearly explored. It managed to outline the concept of sustainable development and its relevance to local government. The relevance of co-operative governance and

intergovernmental relations (IGR) in promoting Environmental Rights was highlighted. It also succeeded in making recommendations on how best local government can fulfill its mandate on environmental rights.

7.6 TESTING THE HYPOTHESIS

This study is based on the hypothesis that the concurrency of jurisdiction and devolution between local government and other spheres of government on environmental issues is not properly managed and resourced to enable district municipalities in the Free State Province to discharge its developmental mandate in an effective, efficient and economical manner. This hypothesis is, indeed, supported and confirmed by the research. In chapter 4 it was concluded that National government is tasked to develop a sound intergovernmental relations system that is conducive to socio-economic transformation and through which it can provide a range of support mechanisms to assist municipalities in effecting fundamental change at grassroots level. Intergovernmental relations are concerned with the political, financial and institutional arrangements regarding interactions between the different spheres of government and organs of state within each sphere. Intergovernmental relations are one of the means through which the values of cooperative government may be given institutional expression.

Chapter 4 further concluded that the real difficulties encountered in developing the structures and processes that are needed for proper intergovernmental communication tends to obscure their goal. The mere existence of structures and mechanisms for intergovernmental relations and co-operative government pertaining to the environment may not guarantee that the principles for co-operative environmental management will be adhered to. It is the effective and efficient functioning of these structures and their commitment to developing a mindset of co-operation that may promote sound intergovernmental relations. Political buy-in and leadership are still needed are important for the successful implementation of Intergovernmental relations. Co-

operative governance plays an important role in realizing challenges of environmental planning and sustainable development.

The empirical survey in Chapter 6 revealed that both Provincial and National governments lack capacity to assist the local government in fulfilling its developmental mandate. It also indicates that professional bias on the side of the officials in the municipalities impedes the proper functioning of the co-operative governance and has a negative bearing on service delivery, particularly on environmental issues. This is also illustrated by the failure to bridge gap between health and environmental components of the environmental rights. The survey also revealed that there are limited resources to enable District Municipalities in the Free State to discharge or deal with environmental rights. There is no clear policy direction on how other spheres of government can work together in managing or otherwise assisting the local government with regard to the Environmental Rights.

7.7 RECOMMENDATIONS FOR FUTURE RESEARCH

It is submitted that this study should contribute to the solutions to local government in its developmental mandate which in turn could enhance more research and debate in this important field. Further research is recommended in this field of study to:

- Deal with the alternative service delivery mechanisms in promoting environmental rights by local government which was neither covered nor part of this study.
- Focus on the possible composite environmental legislation to be administered by local government.

7.8 CONCLUSION

The municipalities are enjoined in terms of the 1996 Constitution to respect, protect, promote and fulfill the right to environment. The 1996 Constitution also provides that all

organs of state must work together in their commitment to strive to achieve the rights to environment. There are so many legislative framework and policies justifying the role of the municipalities in promoting end indeed enforcing environmental rights. There are challenges hindering municipalities to fulfill its developmental mandate. Lack of political will and resources are some of the stumbling block for municipalities. There seems to be confusion on how local government in partnership with other spheres of government must work together to promote the environmental rights.