

LOCAL GOVERNANCE FOR ENVIRONMENTAL
SUSTAINABILITY: AN OVERVIEW OF SOME ENVIRONMENTAL
LAW PRINCIPLES IN SOUTH AFRICA

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1 Introduction

Sustainability as a term has been coined and developed in environmental law in recent years and is regarded as the vehicle for different processes and change in the move towards sustainable development.¹ Literature on sustainability is often accompanied by references to governance for sustainability and to this extent emphasises the fact that the achievement of sustainability is dependent on governance endeavours conducive thereto.² Governance for sustainability may be defined as governance that integrates environmental,³ social and economic considerations that aim to achieve triple bottom line success.⁴ The aim of governance for sustainability in

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- 1 Sustainability is intended to be a means of configuring civilisation and human activity so that society and its members are able to meet their economic, social, and environmental needs and express their greatest potential in the present, while preserving biodiversity and natural ecosystems, and planning and acting for the ability to maintain these ideals indefinitely. See for a definition of sustainability, Sustainability HYPERLINK <http://www.reference.com/browse/wiki/Sustainability> [21 July 2006]. See for a full discussion on sustainability Kotzé *Integrated Environmental Governance* 20. The technical difference between the notions of sustainable development and sustainability does not require an in-depth analysis for purposes of this study. It may be noted that without compromising the independent legal status of any of the two notions that sustainable development in nature requires a long-term approach for the establishment of an equilibrium between development and the environment. Sustainability on the other hand refers to activities or conditions that can be maintained in future without constant external inputs. See further Kotzé *Integrated Environmental Governance* 65.
 - 2 Some of the values characterising governance for sustainability include: transparency, accountability and an ethical, integrated and stakeholder-inclusive approach to economic, social and environmental stewardship. These values arguably provide the foundation for governance for environmental sustainability. See for a discussion of these values translated into legal principles, paragraph 2 below.
 - 3 Environmental considerations require an understanding of the term 'environment'. Section 1(xi) of the *National Environmental Management Act* 107 of 1998 states that:
'environment' means the surroundings within which humans exist and that are made up of—
 - (i) the land water and atmosphere of the earth:
 - (ii) micro-organisms, plant and animal life:
 - (iii) any part or combination of (i) and (ii) and the interrelationships among and between them: and
 - (iv) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being.
 - 4 A working definition of governance, for an improved understanding of governance for environmental sustainability, is that it constitutes the process whereby groups in society or organisations, wield power and authority, and influence and enact

general is to govern in such a way that a desired condition is maintained over time without eroding natural, social and financial resource bases.⁵ Governance for sustainability affects all state actors and governors in all spheres of government.⁶

The *Constitution of the Republic of South Africa, 1996* (the Constitution) provides amongst other for a local sphere of government.⁷ Governance must be effective, transparent, accountable and coherent.⁸ In terms of the Constitution, local authorities are responsible for, *inter alia*, democratic and accountable government for local communities;⁹ the provision of services to communities in a sustainable manner; the promotion of social and economic development; promotion of a safe and healthy environment and to encourage the involvement of communities and community organisations in the matters of local government.¹⁰ Local government has been given a 'new face' within the new constitutional system and all local governments have been given a special status as a distinctive sphere of the government accompanied with specific objects and developmental duties that must be achieved.¹¹ It may, therefore, be deduced, with reference to the values underpinning

policies and decisions concerning public or organisational life, economic and social development. See in this regard Mokale and Scheepers *Developmental Local Government* 15.

5 See Kotzé *Integrated Environmental Governance* 20 and Glazewski *Environmental Law* 504.

6 See for a view on this idea, the Millennium Development Goals Report 2005 HYPERLINK <http://www.unstats.un.org/unsd/mi/pdf/MDG%20Book.pdf> [20 July 2006].

7 See Chapter 7 of the Constitution and Section 152 (1)(a)-(e) of the Constitution. See also Bekink *Local Government Law* 67 and Mokale and Scheepers *Developmental Local Government* 16.

8 Section 41(1)(c) of the Constitution. See also Bekink *Local Government Law* 92 and Mokale and Scheepers *Developmental Local Government* 6.

9 The concept of government should be distinguished from governance. Governance is a broader concept than government. The term government encompasses, *inter alia*, principle elements such as the Constitution, legislature, executive and judiciary, whilst governance implies to the interaction and co-operation between these government or organisational institutions and those of civil society. It is argued further that governance involves a wide spectrum of people who participate in the governance process, while government is the task of those employed or appointed as government officials. See in this regard Mokale and Scheepers *Developmental Local Government* 15.

10 See section 152(1)(a)-(b) of the Constitution.

11 See Bekink *Local Government Law* 41.

governance for sustainability, that the Constitution itself supports the core foundations thereof in its provisions on local government.¹²

Governance for environmental sustainability at local government sphere is, furthermore, provided for and embedded in international instruments such as Agenda 21.¹³ The role of local governments is referred to in section 3 of Agenda 21 whilst Local Agenda 21 (LA21) as a programme area of Agenda 21 is established in Chapter 28.¹⁴ LA21 is aimed at governance for sustainability at the local level in different nation states. Internationally, it may be a key instrument for specifically governance for environmental sustainability at the local sphere of government.

This study in essence concentrates on the principles governing environmental sustainability at the local sphere of government in South Africa in the context of the constitutional objective of local government to promote a safe and healthy environment.¹⁵ The principles that arguably underpin governance for environmental sustainability at the local sphere of government are discussed in order to establish whether or not sufficient provision is made for the incorporation and concretisation of these principles in framework South African local government law.¹⁶

12 Note that the core foundations of governance for sustainability and environmental sustainability will be outlined and discussed in paragraph 4 below.

13 The notion of governance for environmental sustainability (which includes environmental governance) refers, according to Du Plessis and Nel, to the 'the collection of legislative; executive and administrative functions, processes and instruments used by the public and private sectors to ensure environmental sustainability as far as governance of activities, products, services, processes and tools are concerned'. See Du Plessis and Nel 2004 *SA Public Law* 183. Agenda 21 is a programme of the United Nations (UN) related to sustainable development. It is a comprehensive plan of action to be taken globally, nationally and locally by organisations of the UN, governments and major groups in every area in which humans impact on the environment. See for more information on Agenda 21, Agenda 21 HYPERLINK <http://www.reference.com/browse/wiki/Agenda21> 21 July 2006.

14 See chapter 28 of Agenda 21. Note that the implementation of Agenda 21 was from the outset intended to involve positive action at international, national, regional and local levels.

15 For a brief introduction to local government in South Africa, see Bekink *Local Government Law* 15. For an outline of the developmental duties of local government in terms of the Constitution, see Bekink *Local Government Law* 69-78.

16 The legal framework for local governance in South Africa consists of framework and issue-specific laws including, *inter alia*: the Constitution, the *Local Government: Municipal Systems Act* 32 of 2000, the *Local Government: Municipal*

Although these principles are clearly outlined in the *National Environmental Management Act 107 of 1998 (NEMA)*, it lacks the necessary legal force to be of concrete legal use in local governance.¹⁷

The meaning of governance for sustainability and governance for environmental sustainability in its international and national contexts are also get unpacked in this study, followed by an exposition of the possible meaning of local governance for environmental sustainability in South Africa.¹⁸ The international environmental principles that underpin local governance for environmental sustainability (as nationally contained in the NEMA) are then distilled, followed by a critical analysis of the Constitution and the LGMSA to estimate the extent, if any, to which these principles are provided for in South African framework local government law.¹⁹

Structures Act 117 of 1998, the Municipal Demarcation Act 27 of 1998. In as far as the environmental duties of local governments are concerned, the NEMA as framework environmental law plays a particularly important role.

- 17 The NEMA is preempted to fashion an environmental management system on organs of state rather than impose a set of regulatory commands on the private sector. The latter is however not affected in consequence of an imposition of an environmental management system on state organs. See in this regard Glazewski *Environmental Law* 137.
- 18 There are also regional instruments and bodies such as the *New Partnership for Africa's Development (NEPAD)* and the *Southern African Development Community (SADC)* which provide for or at least allude to the notion of governance for sustainability and environmental sustainability at the regional level. For the purposes of this study these regional instruments and the operation of regional bodies will not be discussed.
- 19 Note that this study has been conducted mainly by means of a literature overview of related basic primary and secondary legal sources.

2. Governance for sustainability and environmental sustainability

2.1 Introduction

The following paragraphs are aimed at establishing what meaning may be afforded to governance for sustainability and environmental sustainability at the international and national levels.

2.2 Governance for sustainability

2.2.1 International meaning

Governance for sustainability in its entirety is called for in different international instruments.²⁰ The aim of Agenda 21, for example, is to embrace the notion of sustainability as a framework for achieving economic development which is socially equitable and protective of the natural resources on which human activity depends.²¹ According to this instrument, sustainability cannot be achieved unless each country undertakes common but differentiated actions to implement its recommendations.²² Agenda 21 involves a comprehensive plan of action to be taken globally, nationally and locally by, *inter alia*, governments responsible for the governance of communities (and therefore humans) that impact on the environment.²³

Governance for sustainability at international level envisages that economic growth and other developments (such as development by the public sphere typically part of governance endeavours) should occur with minimal degradation of the environment.²⁴ The international meaning of governance for sustainability encompasses social, economical and

20 See paragraph 1 of chapter 1 above.

21 See in this regard Dernbach 1998 *Case Western Reserve Law Review* 16, Glazewski *Environmental Law* 35 and Du Plessis "Environmental Compliance" 3.

22 See Kheng-Lian and Robinson 2002 *Singapore Journal of International & Comparative Law* 642.

23 *Ibid.*

24 See Smith *Environmental Sustainability* 253 and D'Souza and Gebremedhin *Sustainability* 138.

environmental aspects in support of the triple bottom line idea. The aim with governance for sustainability at the international level centres on the often referred to idea that society and its members should be able to meet their economic, social and environmental needs without eroding natural resources in such a way that it will compromise the needs of future generations to relish the same natural ecosystems. This idea is also internationally entrenched in the well-known definition of sustainable development as contained in the *Brundtland Report*.²⁵

2.2.2 Meaning in South Africa

The notion of governance for sustainability in South Africa is, arguably, alluded to in the Constitution. Section 24 of the Constitution imposes a positive duty on all spheres of government to protect the environment for present and future generations and to secure ecologically sustainable development of natural resources together with the promotion of justifiable economic and social development.²⁶ It may be argued that a literal interpretation of the wording contained in section 24 provides for local constitutional inception of the international notion of sustainability.

25 See the definition of sustainable development as it was published in *Our Common Future (Brundtland Report)* United Nations General Assembly Res 422118611, Dec 1987. The Report describes sustainable development as '...development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs.' See Bray 1998 *South African Journal of Environmental Law and Policy* 2 for a further discussion on sustainable development.

See also sustainable development – definition [HYPERLINK](http://www.are.admin.ch/are/en/nachhaltig/definition/index.html#sprangmarkel)

<http://www.are.admin.ch/are/en/nachhaltig/definition/index.html#sprangmarkel> [26 September 2006]. For a full discussion on sustainability and sustainable development see Kotzé *Integrated Environmental Governance* 21.

26 Section 24 of the Constitution states that:

Everyone has the right-

- (a) to an environment that is not harmful to their health or well-being; and
- (b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that
 - (i) prevent pollution and ecological degradation;
 - (ii) promote conservation; and
 - (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

See also Glazewski *Environmental Law* 72 and Kotzé *Integrated Environmental Governance* 2. See further paragraphs 2.4.2 and 4.1.1 below.

The NEMA as framework environmental legislation in South Africa takes this notion further by establishing and unpacking several principles aimed at sustainability.²⁷ Apart from the specific environmental principles addressed, section 2(3) of the NEMA also clearly states that development must be socially, environmentally and economically sustainable.²⁸

Section 24 of the Constitution and the NEMA as framework environmental law, merely refer to the notion of sustainability and its meaning is, therefore, not unambiguously unpacked. However, it is argued that the role and meaning of sustainability in the South African context are implied in these instruments with reference to related basic values and principles.²⁹ Governance for sustainability is accordingly derived to mean that the integration of social, economic and environmental factors, concerns and principles in all governance activities at all spheres and line functions of government as well as in the private domain is required.³⁰ Governance for sustainability in South Africa can therefore, not be an idea that runs alongside daily governance activities. Rather it should be a mindset and approach that should inherently accompany all governance activities – ranging from planning to coordination and monitoring at all government spheres.

27 See section 2 of the NEMA and Glazewski *Environmental Law* 138.

28 See Glazewski *Environmental Law* 141. See also paragraph 4.1 below.

29 Some of the values contained in the Constitution that, for example, direct towards the notion of sustainability include human dignity, freedom, the promotion of equality, accountability openness and transparency. See sections 7 and 41(1)(c) of the Constitution. See also paragraph 4 below.

30 See also paragraph 1 above.

2.3 Governance for environmental sustainability

Having established the meaning of governance for sustainability as a general and umbrella-type notion based on the triple bottom line idea, subsequent paragraphs aim to define a particular component thereof. It is aimed in the paragraphs to establish the meaning of governance for environmental sustainability. The meaning of governance for sustainability in its environmental context is discussed to determine its role as well as some of the practical implications it poses for governments or different spheres of government.

2.3.1 International meaning

Governance for environmental sustainability is internationally viewed as governance practices that take into account measures, principles, programmes and systems that allow people to use natural resources such as water, air, soil and biodiversity in a way that is not harmful to the environment or to these and other environmental resources.³¹ According to Smith, environmental sustainability puts an upper limit on natural resource use by human beings.³² One of the major challenges for ecological economists and other scholars dealing with environmental sustainability is to develop a theoretical perspective (let alone a practical strategy), in which social and ecological institutions create incentives for self-interested individuals to equitably divide natural resources among themselves, future generations and other species.³³ Governance for environmental sustainability should accordingly take cognisance of this upper-limit idea. This dilemma directs towards the type of solution(s) that may be expected from a government concerned with governance for environmental sustainability.

31 See Smith *Environmental Sustainability* 2.

32 *Ibid.*

33 See Smith *Environmental Sustainability* 59.

According to the United Nations Millennium Development Goals Report of 2005, environmental sustainability will not be achieved with the current patterns of resource use.³⁴ The reasons for this are quite obvious and include that land is becoming degraded at an alarming rate, plant and animal species are lost in record numbers and that climate is changing world-wide with resultant threats of increased droughts and flooding.³⁵ Environmental sustainability may also be hampered internationally by the rural poor because these peoples' day to day subsistence and livelihoods are dependent on the different natural resources in their immediate livelihoods. To this extent it seems that the careless use of natural resources, even if unintentional, impacts on environmental sustainability and therefore requires regulation and governance aimed at environmental sustainability. Governance for environmental sustainability is implicitly endorsed in international instruments such as the *Rio Declaration on Environment and Development* (the Rio Declaration) of 1992;³⁶ the *Stockholm Declaration of the United Nations Conference on the Human Environment* 1972 (the Stockholm Declaration)³⁷ and was reaffirmed during the *World Summit on Sustainable Development* 2001 (the WSSD).³⁸ Principle 3 of the Stockholm Declaration furthermore requires that development (that arguably relies on decisions made by governments), must be fulfilled in

34 See also the *Millennium Development Goals Report* 2005 HYPERLINK <http://www.un.org/Docs/Summit2005/MDGBook.pdf> [15 October 2006].

35 *Ibid.*

36 The United Nations Conference on Environment and Development (UNCED) held in Rio de Janeiro in 1992, provided the fundamental principles and the programme of action for achieving sustainable development. Through the Declaration countries strongly reaffirm their commitment to the Rio principles, the full implementation of Agenda 21 and the Programme for the Further Implementation of Agenda 21. They also commit themselves to achieving the internationally agreed development goals, including those contained in the United Nations Millennium Declaration and in the outcomes of the major United Nations conferences and international agreements since 1992.

37 Principle 1 of the *Stockholm Declaration of the United Nations Conference on the Human Environment*, 1972 (hereafter the *Stockholm Declaration*) states that: man has the fundamental right to freedom and equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations.

38 See in this regard the WSSD HYPERLINK <http://www.un.org/jsummit/> [15 October 2006]. See also Glazewski *Environmental Law* 35, De Sadeleer *Environmental Principles* 1 and Kotzé *Integrated Environmental Governance* 17.

such a way that it will ensure that the developmental and environmental needs of present and future generations shall be met in equitable fashion.³⁹

It should be noted, however, that although an international view on governance for environmental sustainability may be derived from international instruments, local definitions in different countries should be developed and adapted according to the natural resource needs and environmental characteristics as well as the governance structure of a particular country.⁴⁰ It is also noted that the inherent complexity of the notion of environmental sustainability at the international level is evident from issues such as increased poverty, the driving forces behind economical development and the pressing need for social upliftment, all of which have to compete with the protection of natural resource bases. For this reason the meaning of governance for environmental sustainability in the international context may differ from its meaning in different domestic contexts.

2.3.2 Meaning in South Africa

At the core of governance for environmental sustainability stands the environment and, arguably, also the protection of environmental rights. The Constitution provides in section 24 for the right to an environment which is not harmful to health or well-being.⁴¹ This is a fundamental right which should be protected and furthered by all spheres of government (including local government).⁴² The importance of the environmental right as a fundamental right enshrined in the Constitution has been emphasised by the Supreme Court of Appeal in *Director: Mineral Development, Gauteng Region and Sasol Mining (Pty) Ltd v Save the*

39 See Kotzé *Integrated Environmental Governance* 17.

40 See principle 21 of the Stockholm Declaration. See also De Sadeleer *Environmental Principles* 375.

41 See section 24(a) of the Constitution and paragraph 2.2.2.

42 See Bekink *Local Government Law* 511 and Glazewski *Environmental Law* 72-81.

Vaal Environment and others 1999 (2) SA 709 (SCA). The court held that.⁴³

Our Constitution, by including environmental rights as fundamental justiciable human rights, by necessary implication requires that environmental considerations be accorded appropriate recognition and respect in the administrative process in our country.

In as far as administrative process is inextricably linked with governance practices it may be derived from the judge's statement that decisions should be accompanied by environmentally sustainable endeavours in the context of governance for environmental sustainability.

Environmental sustainability is also included in South African policies aimed at the promotion of development in general. The *Development and Facilitation Act* 67 of 1995 (the DFA), for example, provides for principles that encourage environmentally sustainable land development practices and processes.⁴⁴ Section 3(1)(h)(iii) of the DFA requires that policy, administrative practice and law should promote efficient and sustainable land development at the required scale and should promote sustained protection of the environment.⁴⁵ In support of the DFA, the NEMA provides for different planning and management tools. Section 23 of the NEMA is, for example, aimed at the establishment of environmental management tools in order to ensure integrated environmental management (hereafter IEM) of activities in South Africa.⁴⁶ The general objective of IEM is to integrate the principles of environmental management set out in section 2 of the NEMA into all decision-making (also decision-making by government) which may have a significant effect on the environment.⁴⁷ The use and employment of integrated environmental management tools and the integration and

43 See *Director: Mineral Development, Gauteng Region and Sasol Mining (Pty) Ltd v Save the Vaal Environment and others* 1999 (2) SA 709 (SCA) at paragraph 719 and Glazewski *Environmental Law* 67.

44 See section 3(1)(c) (viii) of the DFA and Maharaj *Between Unity and Diversity* 100.

45 See section 3 of the DFA and Barnard *Environmental Law* 230.

46 See section 23(1) of the NEMA and Du Plessis and Nel 2004 *SA Public Law* 187.

47 See section 23(2) of the NEMA.

alignment of environmental management principles with governance activities (especially decision-making and development) arguably allude to what the practical meaning of governance for environmental sustainability in South Africa is.⁴⁸ Governance for environmental sustainability may also be expected to satisfy the constitutional duty of government in terms of section 24 of the Constitution to make use of 'other measures' to further the environmental right of citizens that constitutes the regulated or governed community.⁴⁹

From this brief discussion it may be concluded that the Constitution, the NEMA and South African planning legislation recognise the notion of environmental sustainability whilst its inception in governance activities is explicitly and implicitly required in terms of law. Governance for environmental sustainability could however become a vague and utopian idea if not critically surveyed and unpacked in terms of rights and obligations and measures to estimate performance, compliance and enforcement. The following paragraph aims to establish what meaning may be afforded to governance for environmental sustainability at specifically the local government sphere in South Africa.

48 See Glazewski *Environmental Law* 138.

49 See paragraph 2.3.3 above.

3. Local governance for environmental sustainability

3.1 International meaning

Most countries in the world have a government system of which at least one level or sphere is directly mandated with the governance of local communities. Governance by municipalities or local authorities therefore also increasingly receives international attention.

The international meaning of local governance for environmental sustainability may, perhaps, best be derived from LA21 as one of the programme areas contained in Agenda 21.⁵⁰ LA21 is an approach aimed at governance for sustainability in general at the level of municipalities in different nation states and may be key to an understanding of governance for environmental sustainability at the local sphere of government.⁵¹ LA21 has several characteristics that include, amongst others, the integration of social, economic and environmental issues in governance endeavors as well as local authorities' working in partnership with civil society.⁵² LA21, although assisting in our understanding of local governance for environmental sustainability does, however, pose some challenges. The first of these is the absence of concrete strategies to facilitate the social and individual natural resource and governance needs in different countries. In poorer countries (such as the countries in southern Africa) this means, for example, that LA21 does not assist effectively in integrating a country's developmental

50 See Selman *Local Sustainability* 98 and paragraph 2.2.1 above. Chapter 28 of Agenda 21 states that every local authority should by 1996 have developed a LA21 through consultation with their citizens. Note that no penalty for non-compliance with this obligation has been set. See in this regard Robinson *Sustainable Development* 467.

51 The goal of LA21 is to build a worldwide movement of local governments dedicated to achieving sustainable development through participatory, multi-stakeholder sustainable development planning and the implementation of certain goals. See in this regard ICLEI on LA21 [HYPERLINK http://www.iclei.org/index.php?id=798](http://www.iclei.org/index.php?id=798) [23 July 2006].

52 *Ibid.*

needs with its ecological priorities at local government sphere.⁵³ Secondly, although clear on the fact that policy processes at the national level in different countries need to be linked with planning and action at the local sphere LA21 does not provide guidelines to facilitate this rather challenging process.⁵⁴

What is important, however, is that LA21 internationally supports the inception of local governance for environmental sustainability in governance generally and that basic guidelines are provided for. It is clear from LA21 that local governance for environmental sustainability requires planning, implementation of programmes and legislation, legal reform and different forms of open dialogue (especially public participation) in the move towards sustainability.⁵⁵

53 See Selman *Local Sustainability* 100.

54 *Ibid.*

55 Chapter 28 of Agenda 21 provides that a local authority should enter into dialogue with their citizens, local organisations and other enterprises to adopt LA 21. Another international organisation whose activities assist in defining local governance for environmental sustainability at local government sphere and that aims to promote the notion of governance for environmental sustainability worldwide, is the *International Council for Local Environmental Initiatives* (ICLEI). ICLEI is an international association for local governments across the world that provides an assisting forum for the implementation of sustainable development at local government levels/spheres. ICLEI recommends, for example, that LA 21 should instill a blend of effective technical systems and democratic processes which may, of course, include governance endeavors. ICLEI developed two sub-programs for furthering activities in the move towards environmental sustainability, namely the *Strategic Service Planning Framework* and the *Model Communities Programme*. Some of the objectives of the *Strategic Service Planning Framework* include the implementation of strategies to identify and analyse systematic service problems and accordingly incorporate long-term environmental, social and economic objectives into problem solving plans as well as engaging service users in the continual evaluation of the sustainability of services. Its *Model Communities Programme* strives to promote public participation at local government sphere by ensuring that all sectors are fully informed and involved in the consultation processes of a municipality. It is evident that ICLEI as well as Agenda 21 aim to unpack a general vision for governance for sustainability (and environmental sustainability) internationally at the sphere of local authorities or municipalities. See in this regard Selman *Local Sustainability* 100. See also ICLEI Global Homepage HYPERLINK <http://www.iclei.org/> [15 October 2006]. See also paragraph 4.5 below.

3.2 Meaning in South Africa

With the discussion on governance for environmental sustainability in its national and international context in mind as well as the international view on local governance for environmental sustainability, it now suffices to survey the possible meaning of the former in the South African context. For this purpose, different South African laws are consulted.

It is important to note from the outset that governance for sustainability (including activities such as service delivery in a sustainable manner) is one of the constitutional objectives of local government in South Africa.⁵⁶ In terms of section 152(1)(b) of the Constitution, the objectives of local government include, amongst others:⁵⁷ to ensure the provision of services to communities in a *sustainable manner*.⁵⁸ This provision emphasises the legal duty of local authorities to govern in a way conducive to 'governance for sustainability'. Section 152 of the Constitution read with section 24 allows for the assumption, therefore, that the idea of local governance for environmental sustainability is indeed entrenched in the South African Constitution. This also means that no local government in South Africa can justly refrain from governing a community in its demarcated area, in an environmentally sustainable fashion. To facilitate the realisation of this constitutional duty, Schedules 4B and 5B of the Constitution unpack different matters (a number of which relate to the environment) that fall within the functional areas of municipalities and local governance.⁵⁹

The LGMSA, which constitutes framework local government law, contains some legal duties that, arguably, are inherently based on the

56 See sections 152(1)(a)-(e) of the Constitution. See also Bekink *Local Government Law* 283. See also paragraph 1 of chapter 1 above.

57 See section 152(1)(b) of the Constitution. See also Mokale and Scheepers *Developmental Local Government* 6 and Du Plessis "Environmental Compliance" 5.

58 Emphasis author's own.

59 See Schedules 4B and 5B of the Constitution and paragraph 4 below. See also Venter and Landsberg *Government and Politics* 145.

notion of environmental sustainability.⁶⁰ The purpose of the LGMSA and its point of departure are contained in the preamble to the Act. The aim of the Act is, *inter alia*, to provide for:

...(c)ore principles, mechanisms and processes that are necessary to enable municipalities to move progressively towards the social and economic upliftment of local communities, to provide for community participation; to establish a simple and enabling framework for the core processes of planning, performance management, resource mobilisation and organisational change which underpin the notion of *developmental local government*; as well as a frontline development agency capable of integrating the activities of all spheres of government for the overall social and economic upliftment of communities in *harmony with their local natural environment*.⁶¹

From the former it is derived that the LGMSA envisages local governments to govern in a manner that is environmentally sustainable.⁶² A laudable attribute of the LGMSA is that it defines 'environmentally sustainable' as the provision of a municipal service aimed at ensuring that.⁶³

- (a) the risk of harm to the environment and to human health and safety is minimised to the extent reasonably possible under the circumstances;
- (b) the potential benefits to the environment and to human health and safety are maximised to the extent reasonably possible under the circumstances; and
- (c) legislation intended to protect the environment and human health and safety is complied with.

In support of the definition of 'environmentally sustainable', section 35(1) of the LGMSA provides for a useful planning tool, namely integrated development plans (IDPs). The obligatory development of an IDP arguably constitutes an instrument to facilitate governance for environmental sustainability at the local government sphere. This may

60 See paragraph 4 below.

61 See the preamble to the LGMSA. See also Glazewski *Environmental Law* 213. Emphasis author's own,

62 See the discussion on section 33 of the LGMSA in paragraph 3.3 below. "To govern" in this sense implies that all decisions, service delivery and planning should be conducted in an environmentally sustainable fashion.

63 See section 1 of the LGMSA. See also Venter *Government and Politics* 217 and Glazewski *Environmental Law* 213. Note importantly that subsection 1(c) implies that a local authority will only deliver environmentally sustainable services when, amongst laws, environmental law such as the NEMA, is complied with.

satisfy LA 21's call for improved planning as part of local governance for environmental sustainability. Whereas the LGMSA also provides for co-operative government in terms of section 4, South Africa adheres to LA 21's requirement of improved dialogue and cooperation in the aim to establish local governance for environmental sustainability. The Structures Act provides a foundation for local governance for environmental sustainability in as far as it proposes that local governments should fulfil their constitutional obligations related to sustainable, effective and efficient municipal services and that it should encourage a safe and healthy environment by working with communities.⁶⁴ It is derived from the Structures Act that the meaning of local governance for sustainability in South Africa is intrinsically linked with service delivery and open dialogue with regulated communities.

The DFA provides for principles that encourage environmentally sustainable land development practices and processes,⁶⁵ many of which are directly linked with the governance activities and regulatory function of local authorities in South Africa. Section 3(1)(h)(iii) of the DFA requires that policy, administrative practice and laws should promote efficient and sustainable land development at the required scale and should promote sustained protection of the environment.⁶⁶ Local authorities cannot escape this legal obligation and it is derived from its inception in the DFA that local governance for environmental sustainability requires a focus on improved administrative practice and the development of a sound regulatory framework to facilitate sustainability that may include, for example, the development of local environmental bylaws.

The meaning of local governance for environmental sustainability in South Africa may in short be summarised to mean accountable governance (including decision-making, service delivery, operation and

64 See the Preamble to the Structures Act.

65 See section 3(1)(c)(viii) of the DFA and Maharaj *Between Unity and Diversity* 100.

66 See section 3 of the DFA. See also Barnard *Environmental Law* 230.

implementation of provincial, national and local laws and policy) by the local sphere of government, in line with the basic environmental management principles that underpin environmental framework legislation in a way that will ensure that desired environmental conditions are maintained over time without eroding natural, social or financial resource bases of local communities.⁶⁷

To compliment the foundational legal provisions contained in the Constitution, the LGMSA, the Structures Act and the DFA, the NEMA contains basic albeit important environmental governance principles applicable to governance at all government spheres in South Africa. Our understanding of local governance for environmental sustainability in South Africa will not be complete without understanding the scope and meaning of these principles. The subsequent discussion highlights the environmental principles contained in the NEMA that may assist in understanding the practical meaning of local governance for environmental sustainability in South Africa. Although these principles are outlined in section 2 of the NEMA they are mere guiding principles without effective legal force.⁶⁸ To this extent it is important not only to distil the principles related to local governance in South Africa, but also to critically analyse the Constitution and the LGMSA to ascertain the extent to which the relevant principles are concretised in legally enforceable terms/obligations in framework local government law.

67 Own definition. See also paragraph 5 below.

68 See Glazewski *Environmental Law* 137.

4. Some principles for local governance for environmental sustainability distilled

In order to concretise local governance for environmental sustainability in South Africa, it is argued that specific environmental principles are required that are aimed at steering local governments. Section 2 of the NEMA is fortunately particularly useful in this regard. This section reflects some of the most important international environmental law principles that extend also to local authorities and local governance since the NEMA, as was stated above, applies in its entirety to all spheres of government in South Africa.⁶⁹ Subsequent paragraphs reflect on the principles contained in the NEMA that serve to, *inter alia* support and direct local governance for environmental sustainability. Since, as was stated above, the principles in the NEMA are not endowed with legally binding force,⁷⁰ the discussion to follow also focuses on the extent to which the Constitution and the LGMSA as framework local government law incorporate the identified environmental principles. It should be observed from the outset that should the Constitution and the LGMSA fail to provide for key environmental principles by means of legally enforceable duties, the notion of local governance for environmental sustainability may fail to succeed. The principles under discussion include the achievement of sustainable development; transparency; accountability; the cradle-to-grave principle; public participation; the precautionary approach; co-operative governance; intergenerational equity and environmental justice. |

69 See section 2(1) of the NEMA.

70 See Glazewski *Environmental Law* 137.

4.1 Achievement of sustainable development

The first principle that may be important for local governance for environmental sustainability is the achievement of sustainable development or, at least, the commencement of processes and programmes towards sustainable development. The NEMA states that sustainable development must be socially, environmentally and economically sustainable⁷¹ and it defines sustainable development as the integration of social, economic and environmental factors into planning, implementation and decision-making to ensure that development serves present and future generations.⁷² It should be noted, however, that many of the other environmental principles, some of which are still to be discussed, are crucial for an achievement of sustainable development as a principle.⁷³

Plenty of literature exists on the notion and principle of sustainable development and its meaning is quite often unpacked in scholarly work.⁷⁴ The relevance of the principle of sustainable development, specifically at the local sphere of government, may also be deduced from the attention it receives in international instruments⁷⁵ whilst also being the point of departure of a number of international institutions.⁷⁶ The achievement of sustainable development as a principle arguably requires the design, implementation and harmonisation of different management and planning tools. Should framework local government law accordingly provide for sufficient tools in support of the principle of sustainable development, it may be argued justly that this principle is

71 See section 2(3) of the NEMA.

72 See the definition contained in section 1 of the NEMA. This definition resounds the definition contained in the *Brundtland Report* referred to in paragraph 2.2.1 above.

73 See in this regard Glazewski *Environmental Law* 141.

74 For further reading on the topic of sustainable development see Baker *Sustainable Development* and Cordonier Segger and Khalfon *Sustainable Development Law*. See also Robinson *Sustainable Development* and Rao *Sustainable Development*.

75 Such as Agenda 21's programme area, LA21.

76 Such as ICLEI and the UN Department of Economic and Social Affairs Division of Sustainable Development.

indeed translated into an enforceable legal duty at local government sphere in South Africa. It accordingly suffices to establish, as will be done with all the environmental principles still to be discussed, whether the Constitution and the LGMSA provide for this environmental principle in concrete fashion.

4.1.1 Constitution

Section 24 of the Constitution establishes South Africa's environmental human right.⁷⁷ In as far as the achievement of sustainable development is concerned, it is clear from section 24 that government should be committed to sustainable development and a positive duty is placed on, *inter alia*, local governments to protect the environment of current and future generations.⁷⁸ Although not providing for tools for its realisation as such, section 24 of the Constitution at least endorses the principle of the achievement of sustainability and constitutionally obliges local government to make use of legislative and/or other measures to further the environmental human right and the move towards the achievement of sustainable development.

Chapter 7 of the Constitution regulates the status, objects and developmental duties of local government in South Africa.⁷⁹ Two particularly important provisions include section 155(4) which provides that national legislation must take into account the need to provide municipal services in an equitable and sustainable manner⁸⁰ and section 152 which provides that local government shall ensure the provision of services in a sustainable manner, promote social and economical development and promote a safe and healthy environment.⁸¹ Section

77 See paragraph 2.2.2 above. For the importance of the Constitution and especially the Bill of Rights, in local governance, see Bekink *Local Government Law* 48-60.

78 See De Waal, Currie and Erasmus *Bill of Rights* 406 and Bekink *Local Government Law* 49.

79 See Cloete and Thornhill *Municipal Government and Administration* 114.

80 See section 155(4) of the Constitution. See also Bekink *Local Government Law* 524.

81 See sections 152(1)(a)-(e) of the Constitution. See also Glazewski *Environmental Law* 111 and Scheepers *Developmental Local Government* 16.

153 contains the developmental duties that local authorities are expected to fulfil. It is, *inter alia*, provided that a municipality must:

(a) structure and manage its administration and budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community.⁸²

From this short discussion of the Constitution's provision for the achievement of sustainable development as far as local authorities are concerned, it seems as if the first environmental principle is endorsed and translated into a legally enforceable requirement to be fulfilled by local authorities. However, the constitutional framework on both the environment and local government does not unpack any concrete tools or processes to facilitate the often daunting task of achieving sustainable development.

4.1.2 LGMSA

At first glance it seems as if, indeed, the LGMSA considers the environmental principle of achieving sustainable development. In section 1 both 'development' and 'environmentally sustainable' are clearly defined in the context of local governance whereas development gets defined as sustainable development, which includes the integrated social, economic, environmental, spatial, infrastructural, institutional, organisational and human resources upliftment of a community.⁸³ It also includes aims at improving the quality of life of its members, with specific reference to the poor and other disadvantaged sections of the community, and ensuring that development serves present and future generations.⁸⁴ Environmentally sustainable, on the other hand, is defined as circumstances in which the risk of harm to the environment and to human health and safety should be minimised to the extent

82 See section 153(a) of the Constitution. See also Bekink *Local Government Law* 283.

83 See section 1 definitions of the LGMSA.

84 See section 1 definitions of the LGMSA.

reasonably possible.⁸⁵ Furthermore, environmentally sustainable should ensure that the potential benefits to the environment and to human health and safety are maximised to the extent reasonably possible under the circumstances and that legislation intended to protect the environment and human health and safety are complied with.⁸⁶ By evaluating the components of the environmental principle of sustainable development (being development and environment), the LGMSA, arguably, goes a long way from the outset in moving local authorities to achieve sustainable development.

Section 4(2)(d) of the LGMSA furthermore legally obliges municipalities to promote and undertake development.⁸⁷ Chapter 5 of the Act also provides that municipal planning should be developmentally oriented. Section 23 of the LGMSA introduces a novel and useful planning tool, namely integrated development planning. A municipality must adopt an integrated development plan (IDP)⁸⁸ which is a plan aimed at linking, integrating and coordinating the different plans relevant to the development of a municipality.⁸⁹ Arguably, IDPs require short and long term environmental visions and planning strategies that support the rationale behind the principle of achieving sustainable development and taking into account the needs of future generations.

In as far as its conceptualising of key terminology and also its provision for basic planning instruments (such as IDPs) are concerned, it may be derived that the LGMSA indeed do provide for the principle of sustainable development in support of governance for environmental sustainability and specifically for local governance for environmental sustainability.

85 See section 1 definition of environmentally sustainable in the LGMSA. See also Venter and Landsberg *Government and Politics* 144.

86 See the section 1 definitions of the LGMSA. See also Glazewski *Environmental Law* 213 and Venter and Landsberg *Government and Politics* 145.

87 See section 4(2)(d) of the LGMSA.

88 See Glazewski *Environmental Law* 214.

89 See Section 25(1) of the LGMSA. See also Glazewski *Environmental Law* 214 and Venter and Landsberg *Government and Politics* 145.

4.2 Environmental justice

The second important environmental principle that underpins governance for environmental sustainability is the principle of environmental justice. According to section 2(4)(d) of the NEMA, environmental justice refers to equitable access to environmental resources, benefits and services to meet basic human needs. Environmental justice ensures that human well-being is pursued and that special measures are taken to ensure access thereto by categories of persons disadvantaged by unfair discrimination.⁹⁰ Bearing South Africa's political history in mind, environmental justice is arguably one of the most important environmental principles that should underpin governance for environmental sustainability – also at local government sphere. This idea is supported by the fact that all people within the local communities in rural and urban areas of South Africa are equally dependent on the basic services such as waste and water management as provided by local government.⁹¹

4.2.1 Constitution

Local government as an organ of state is bound by the Bill of Rights contained in chapter 2 of the Constitution and, accordingly, also by the section 9 equality clause.⁹² When reading section 9 together with section 24, it seems indeed as if the Constitution provides for environmental justice. Some other constitutional provisions such as the

90 See section 2(4)(d) of the NEMA.

91 The practical implications of implementing environmental justice at local government sphere would be, for example, that if waste disposal in a wealthy suburb is conducted three times a week, but only once a week in an adjacent township within the same demarcated area, the service delivery of that municipality would be contrary to the principle of environmental justice and perhaps also to the section 24 environmental right.

92 See section 9 of the Constitution. Section 9(2) states that equality includes the full and equal enjoyment of all rights and freedoms (arguably including the environmental right) and the promotion of equality, through legislative and other measures (such as local environmental bylaws and environmental governance endeavours) designed to protect or advance persons or categories of persons disadvantaged by unfair discrimination. See also Bekink *Local Government Law* 48.

right of access to justice⁹³ and the right of access to information⁹⁴ may serve to strengthen environmental justice. Although the Constitution does not explicitly refer to environmental justice as was the case with the achievement of sustainable development, it most definitely implicitly endorses this environmental principle – also at the local government sphere in South Africa.

4.2.2 LGMSA

The principle of environmental justice indeed gets reflected in the LGMSA to the extent that local authorities have the duty, within their financial and administrative capacity, to give members of local communities access to the municipal services to which they are entitled.⁹⁵ This idea gets strongly affirmed when section 4(2)(d) of the LGMSA is read with section 73.⁹⁶ Section 73 of the LGMSA states, *inter alia*, that a municipality must give priority to the basic needs and development of a local community and should, furthermore, provide for services which must be equitable and accessible - provided in a manner that is conducive to economic, efficient and effective use of available resources and that is environmentally sustainable.⁹⁷

Environmental justice at the local government sphere will be dependant, arguably, on its incorporation in local service delivery, equal local government environmental law enforcement and equal access to the natural resources in a regulated demarcated area. To the extent that the LGMSA indeed explicitly refers to equitable access and to fairly distributed service delivery, it is argued that environmental justice as an environmental principle gets translated into a legally enforceable local government duty.

93 See section 34 of the Constitution.

94 See section 32 of the Constitution.

95 See section 4(2)(f) of the LGMSA.

96 Section 4(2)(d) of the LGMSA states that the council of a municipality, within the municipality's financial and administrative capacity has the duty to strive to ensure that municipal services are provided to the local community in a financially and environmentally sustainable manner.

97 See sections 73(2)(a)-(b) and (e) of the LGMSA.

4.3 Accountability

Accountability as an environmental principle gets unpacked in section 2(4)(p) of the NEMA. Section 2(4)(p) provides that the costs of remedying pollution, environmental degradation and consequent adverse health effects and the costs involved in preventing, controlling or minimising further pollution, environmental damage or adverse health effects must be paid for by those responsible for environmental harm. Apart from being an environmental principle, accountability is increasingly surveyed in discourses on good governance.⁹⁸ A provision on accountability contained in law other than the NEMA, therefore, does not automatically refer to accountability as an environmental principle. Accountability in its environmental context requires, *inter alia*, that people in positions of power (including governors) for example be held accountable and responsible for such actions and conduct of theirs as are contrary to environmental obligations contained in law.⁹⁹ Accountability does not only refer to the acceptance of responsibility in a monetary sense, but also refers to the management of liability in the case of non-compliance with legal duties. The principle of accountability generally, but also in its environmental context, requires public participation and measures to ensure that the actions of a local authority reflect the aspirations of a particular community.¹⁰⁰ Accountability in an environmental context means that provisions should be in place (such as provisions for legal action) to ensure that governors indeed govern in a way aimed at the protection and safeguarding of the natural environment of the people that are governed.

98 See in this regard The World Bank and Good Governance [HYPERLINK](http://www.worldbank.org/wbi/governance/about.html) <http://www.worldbank.org/wbi/governance/about.html> [15 October 2006] and the United Nations Human Rights Committee on Good Governance [HYPERLINK](http://www.unhchr.ch/huridocda.nsf/(Symbol)/E.CN.4.RES.2000.64.En?OpenDocument) [http://www.unhchr.ch/huridocda.nsf/\(Symbol\)/E.CN.4.RES.2000.64.En?OpenDocument](http://www.unhchr.ch/huridocda.nsf/(Symbol)/E.CN.4.RES.2000.64.En?OpenDocument) [15 October 2006].

99 See Bekink *Local Government Law* 481.

100 *Ibid.* See also Venter and Landsberg *Government and Politics* 143.

4.3.1 Constitution

Section 1(d) of the Constitution highlights as one of the values of a multi-party system of democratic government the ensuring of accountability, responsiveness and openness.¹⁰¹ The constitutional drafters arguably did not have accountability as an environmental principle in mind when they drafted this provision, but when read with section 24 of the Constitution accountability in its general sense could also be extended to apply to environmentally sustainable governance. Accountability as a principle gets extended in section 41(c) of the Constitution, which provides that all spheres of government (including the local sphere) must provide effective, transparent, accountable and coherent governance for the Republic as a whole.¹⁰² Section 41(c) is strongly phrased and clearly establishes a legal duty for all spheres of government that arguably translates at least parts of the NEMA principle of accountability into an enforceable legal duty in terms of the Constitution. Local authorities will, furthermore, escape this legal duty with great difficulty in as far as section 139 of the Constitution states that when a municipality cannot or does not fulfil an executive obligation, the relevant provincial executive may intervene by taking appropriate steps to ensure the fulfilment of the obligation.¹⁰³ The Constitution should, therefore, be lauded for not only translating accountability as a principle related to governance in general, but also into environmental governance in particular, in clear, legally enforceable terms. Legal duties related to this principle arise not only for government as a whole, but also for local authorities in particular.

4.3.2 LGMSA

Accountability at local government sphere – in general and pertaining to environmental performance – implies a two-legged approach. The first

101 See also Bekink *Local Government Law* 9.

102 See Cloete and Thornhill *Municipal Government and Administration* 114.

103 See section 139 of the Constitution. See also Venter and Landsberg *Government and Politics* 143.

being that the local sphere of government is accountable towards the community it governs¹⁰⁴ and, secondly, that it is accountable to provincial and national government, albeit in the spirit of co-operative governance.¹⁰⁵

It is argued that the LGMSA explicitly provides for accountability in its environmental context. A number of tools and provisions contained in the Act satisfy the call for accountability in general and could be extended to establish a legal requirement that also ensures accountability in its NEMA context. These tools and provisions include, for example, the provision for legal standing of members of a local community (section 5(1)(b)),¹⁰⁶ the legally required establishment of performance management systems (PMSs)¹⁰⁷ and the legal duty of local authorities to administer their affairs in an economical, effective, efficient and accountable manner.¹⁰⁸ In terms of a PMS, a municipality must monitor and review its own PMS and set out appropriate key performance indicators to assist in the achievement of its PMS.¹⁰⁹ Accountability in its general and environmental law sense also applies to individual governors. The preamble of schedule 1 of the LGMSA, in this regard, provides for the code of conduct of councilors. It provides that

104 See section 4(2)(b) of the LGMSA.

105 See Venter and Landsberg *Government and Politics* 143.

106 Section 5(1)(b) in brief determines that members of the local community have the right to prompt responses to their written or oral communications or complaints to the municipal council or to another political structure or a political office bearer or the administration of the municipality. This will enable communities to receive suitable feedback on questions surrounding local governance and its accountability, and where the local government fails to give such feedback the community may consult the Public Protector and the Auditor-General which are regarded as public watchdogs. See in this regard Venter and Landsberg *Government and Politics* 143.

107 A PMS may, in short, be defined as a strategic approach which provides a set of tools and techniques to plan regularly, monitor, measure and review performance of the organisation and individuals. The aim with a PMS is to set appropriate key performance indicators in terms of section 41 of the LGMSA which, arguably, will enhance the development objectives of local government by establishing a goal or outcome to be reached. It is important to note that in developing a PMS and in subsequent evaluation of its success, the local community should in terms of the LGMSA be involved at all times. See in this regard Performance Management Systems HYPERLINK <http://www.salga.net/home.asp?pid=730> [15 October 2006].

108 See section 38(c) of the LGMSA. See for a full discussion on PMS' Bekink *Local Government Law* 486.

109 See sections 40 and 41 of the LGMSA. See also Du Plessis "Environmental Compliance" 6.

councillors should, *inter alia*, ensure that municipalities have structured mechanisms of accountability to local community. In a collective sense, local governments are also annually held accountable by means of legally required performance reports. These reports should reflect on the entire performance of a local authority – also in terms of environmental duties.¹¹⁰ Taking all of the former into consideration, it is argued that, indeed, the environmental principle of accountability as a basic component of local governance for environmental sustainability is in a broad context provided for in the LGMSA.

4.4 Transparency

The next environmental principle under discussion is the principle of transparency which, similar to the principle of accountability, generally accompanies the idea of good governance.¹¹¹ Section 2(4)(k) of the NEMA provides that transparency requires decisions (including all environmentally related decisions taken by all spheres of government) to be taken in an open and transparent manner and that access to information must be provided for.¹¹² Also, it should be noted that decisions taken at local government sphere, whether they refer to environmental considerations or not, are the government decisions most commonly observed by civil societies. This principle, therefore, implies open dialogue, consultation with community members, information sharing, local public participation and sufficient measures to ensure that a government's decisions are taken in transparent fashion.¹¹³ The principle of transparency in general, but specifically in the environmental context, arguably is of particularly great importance at the local government sphere. Transparency is, however, one of those

110 See schedule 1 of the LGMSA.

111 See in this regard The World Bank and Good Governance HYPERLINK <http://www.worldbank.org/wbi/governance/about.html> [15 October 2006] and the United Nations Human Rights Committee on Good Governance HYPERLINK [http://www.unhchr.ch/huridocda.nsf/\(Symbol\)/E.CN.4.RES.2000.64.En?Opendocument](http://www.unhchr.ch/huridocda.nsf/(Symbol)/E.CN.4.RES.2000.64.En?Opendocument) [15 October 2006].

112 See section 2(4)(k) of the NEMA.

113 For some notes on local government and public participation, see Bekink *Local Government Law* 135.

attributes/principles that cannot realise by itself – clear measures and procedures are required (often in terms of law) to make this principle work.

4.4.1 Constitution

The principle of transparency in its environmental context requires, *inter alia*, that decisions on the environment or issues that may affect the environment must be taken in an open and transparent manner.¹¹⁴ In terms of section 160(7) of the Constitution local authorities should, in general, conduct their business in an open fashion. Section 41(c) supports this provision by stating that all spheres of government must provide effective, transparent, accountable and coherent governance. Transparency is, therefore, clearly a general constitutional obligation and a legal duty also of local authorities in South Africa that could very well be extended to form part of local governance for environmental sustainability. In as far as transparency as a principle in the NEMA also requires access to information, the Constitution clearly affords a right of access to information to every person in South Africa.¹¹⁵ Since local governments are legally obliged to respect and protect this right of its community members, it is possible to argue that this part of the principle of transparency is also translated into a legally enforceable obligation in terms of the Constitution. Section 32 also could be read to constitute a right to environmental information and environmental information sharing by local government.¹¹⁶ This idea is supported by section 195(1)(g) of the Constitution which states that transparency must be fostered by providing the public with timely, accessible and accurate information - also all information related to the environment or environmental impacts.

114 See section 2(4)(k) of the NEMA.

115 See section 32(1) of the Constitution which states that:

- (1) Everyone has the right to-
 - (a) any information held by the state; and
 - (b) any information that is held by another person and that is required for
- the exercise or protection of any rights.

116 See section 32 of the Constitution. See also Loots 1997 SAJELP 66.

4.4.2 LGMSA

One of the main characteristics of the developmental municipal system is arguably that of transparency.¹¹⁷ The LGMSA elaborates on the principle of transparency as contained in the Constitution by providing that local governance requires efficient, effective and transparent public administration in line with the constitutional principles. Sections 6(2)(e) and (f) of the Act is even more clear on the matter by officially requiring of local authorities to give full and accurate information to the community regarding the level and standard of municipal services that they are entitled to receive (also environmentally related services such as water provision) and information on how the municipality is managed. The functionality of certain management and planning tools should, for example, be made public. The principle of transparency in its environmental context may be viewed to be even further extended in section 15(3) which provides that a municipality must compile a compilation of all its bylaws (including environmental bylaws) and that the municipality at request of a member of the public must provide that person with a copy of or an extract of its municipal code. The LGMSA, therefore, sufficiently provides for measures that also concretise the environmental principles of transparency into legally enforceable duties.

4.5 Public participation

The principle of public participation in its environmental context entails that participation of all interested and affected parties in environmental governance must be promoted, and that all people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation whilst the participation of vulnerable and disadvantaged persons must be ensured.¹¹⁸ The rationale behind public participation is that people form part of local

117 See section 20(1) of the LGMSA. See also Mokale and Scheepers *Developmental Local Government* 12.

118 See section 2(4)(f) of the NEMA.

governance and in order for them to be able to ensure that their voices are heard in local government decision-making, it is of the utmost importance to have participatory processes and mechanisms in place.¹¹⁹ In as far as public participation as an environmental principle is concerned, it arguably calls for mechanisms and procedures to be provided for in law that will facilitate local societies' participation in decision-making on matters affecting their environment, whether in a positive or negative sense.

4.5.1 Constitution

Section 152 of the Constitution requires of municipalities to encourage the involvement of communities and community organisations in the matters of local government. These matters arguably include those related to sustainable service delivery and the environment. Furthermore, in terms of section 152(1)(e) a municipality should have the objective to encourage community involvement in matters of local government. Public participation in local governance affairs is, therefore, a general albeit legally enforceable duty of all local authorities in South Africa. Section 195(1)(e) states in addition that peoples' needs must be responded to and that the public must be encouraged to participate in policy-making. In local governance for environmental sustainability it may accordingly be very important to have civil society on board in drafting environmental bylaws or in developing local environmental policies such as for example a Local Action 21 policy. The Constitution accordingly translates public participation into a legally enforceable duty of local authorities and although this is done in general fashion – the scope of this duty arguably also covers the environmentally related governance practices of local authorities.

4.5.2 LGMSA

119 See Mokale and Scheepers *Developmental Local Government* 23.

The duties of a municipality include that it should provide democratic and accountable government without prejudice;¹²⁰ encourage community involvement (which is similar to public participation);¹²¹ and consult the community on the level, quality, range and impact of municipal services.¹²² Therefore, the LGMSA is clear on the need for public participation. Whereas section 5 of the LGMSA provides that members of the local community have the right to contribute to decision-making and to submit recommendations, it is derived that this provision furthermore underlines the need for public participation in general. The principle gets even further reiterated in section 16(1) of the Act which provides that a municipality must develop a culture of municipal governance within a system of participatory governance and for this purpose it must encourage the local community to participate in the affairs of the municipality.¹²³ These affairs include, amongst others, the development of IDPs and PMSs.¹²⁴

Should the LGMSA only have provided for public participation without unpacking exact ways in which to achieve the former, the LGMSA arguably would have failed to concretise the environmental principle in legally enforceable terms. Section 17(1) of the LGMSA does, however, unpack the mechanisms, processes and procedures for community participation, including, amongst others, the scheduling of public meetings, consultative sessions with locally recognised community organisations, and measures for report-back to the local community.¹²⁵ These processes and guidelines should for the purpose of local governance for environmental sustainability be taken seriously in stimulating participation in related governance endeavours and decision-making and in ensuring that public participation infiltrates local governance in both rural and urban communities.

120 See section 4(2)(b) of the LGMSA.

121 See section 4(2)(c) of the LGMSA and Bekink *Local Government Law* 476.

122 See section 4(2)(e).

123 See also Bekink *Local Government Law* 135-136.

124 See section 16(1) of the LGMSA.

125 See sections 17(2)(c)-(e) of the LGMSA and Bekink *Local Government Law* 479. See also Mokale and Scheepers *Developmental Local Government* 26.

4.6 Co-operative governance

The next environmental principle to be examined is the principle of co-operative governance. Section 2(4)(l) of the NEMA describes co-operative governance to include the intergovernmental co-ordination and harmonisation of policies, legislation and actions related to the environment.¹²⁶ At the core of co-operative governance in general stands improved coherence and coordination of the work and mandates of different government spheres, different government ministries and also different government institutions. In other words, it focuses on interdependence and mutual support in governance practices. In an environmental governance sense, taking into account the many governance activities that do impact on the environment, the many natural resources located in different jurisdictions and how environmental regulation should take place simultaneously in many different areas, co-operative governance seems to be a key principle.¹²⁷

4.6.1 Constitution

The principle of co-operative governance in general is explicitly provided for in the Constitution. This principle is regarded as important enough for the constitutional drafters to have devoted a complete chapter in the Constitution thereto.¹²⁸ The Constitution, however, does not provide expressly for co-operative environmental governance as such. In the spirit of section 24 of the Constitution and to the extent that the effective realisation of the environmental right arguably requires co-operative governance pertaining to environmental issues, it may be derived that co-operative environmental governance gets implied in the Constitution and that it becomes a legal mandate of all government spheres and institutions. Chapter 3 of the Constitution is substantiated by section

126 See section 2(4)(l) of the NEMA.

127 See Bekink *Local Government Law* 13. See also sections 4 and 5 of the *Intergovernmental Relations Framework Act* 13 of 2005.

128 See chapter 3 of the Constitution.

41(c) of the Constitution which provides that all spheres of government must, *inter alia*, provide coherent governance for the Republic as a whole. Co-operative governance as it relates to municipalities is provided for in terms of section 154 of the Constitution. Section 154(1) provides that national and provincial government, through legislative and other measures, must strengthen the capacity of municipalities to manage their own affairs. Such strengthening arguably should be extended to local governance efforts directed towards governance for environmental sustainability. It may be important to note that the principle of co-operative governance in an environmental sense means that governors in different line-functionaries (such as the Department of Water Affairs and Forestry, Department of Provincial and Local Government and the Department of Environmental Affairs and Tourism) and government spheres should assist each other in strengthening the protection and realisation of the environmental right and in furthering environmental goals. However, it does not mean that the provincial or national government should shoulder responsibility from the outset for environmental governance at the local government sphere. Local authorities are autonomous and accountable government entities and form a crucial part of the co-operative environmental governance regime.

4.6.2 LGMSA

The principle of co-operative governance and the position of local government in a general sense is explicitly provided for in section 3 of the LGMSA. Local government is legally obliged to facilitate compliance with the principles of co-operative government and inter-governmental relations set out in section 41 of the Constitution.¹²⁹ Section 3 of the LGMSA provides that organised local government must seek to enhance co-operation, mutual assistance and the sharing of resources among municipalities.¹³⁰ To this extent, it may be derived that the LGMSA generally also provides for co-operative governance amongst

129 See section 3 of the LGMSA and Bekink *Local Government Law* 103.

130 See section 3(3)(b) of the LGMSA.

municipalities themselves. In an environmental context this provision could further the environmental principle of co-operation whereas local authorities in the same province with similar environmental features and challenges are expected to coordinate their governance endeavours and to mutually assist one another.

The principle of co-operative governance in an environmental context (with reference to section 24 of the Constitution) and at local government sphere resonates in section 4(2)(f) of the LGMSA which states that local authorities have the duty to contribute together with other organs of state to the progressive realisation of the fundamental rights contained in the Constitution. The environmental human right (section 24) is one of the fundamental rights explicitly referred to.¹³¹

It is possible to conclude that the LGMSA is in no way silent on the principle of co-operative governance in general. Also, in as far as explicit reference is made to the need for co-operative governance and mutual assistance towards furthering the environmental right as contained in the Constitution, one could argue that co-operative governance as an environmental principle also gets explicitly provided for in the LGMSA and, indeed, that it translates into a legal obligation of local authorities in South Africa.

4.7 Cradle-to-grave principle

Another environmental principle derived from international environmental law, but also from the NEMA, is the cradle-to-grave principle. This environmental principle entails that responsibility for the environmental as well as health and safety consequences of a policy, programme, project, product, process, service or activity exists throughout its life cycle.¹³² This principle applies to industry and activities conducted in the private sphere, but it also applies to the policies, programmes, products

¹³¹ See section 4(2)(f) of the LGMSA.

¹³² See section 2(4)(e) of the NEMA.

and activities of public entities such as, for example, local governments. This principle means that responsibility for the environmental and health consequences of a product, process or service starts with the extraction or processing of raw materials and extends through manufacturing and use to include ultimate disposal of products and waste.¹³³ This principle would, in local governance practice, require of a municipality to show that environmental law and environmental impacts are taken into consideration from the moment that a local council takes a particular decision up to the point in time where the particular decision realises into, for example, a service delivery programme or a development project such as a housing project. This principle ultimately requires the integration of all other environmental principles in, for example, the development cycle of a local government endeavour or project. Environmental management systems (EMSs) often assist in this regard.

4.7.1 Constitution

The Constitution does not provide explicitly for the cradle-to-grave principle, although section 24 may allude implicitly to some of the components of this principle. Often the realisation of the constitutional environmental right will depend on a holistic approach towards, for example, development at local government sphere. This means that a local authority will only be able to comply with its constitutional duty to ensure an environment for its community that is not harmful to health or well-being when a holistic environmental governance approach is applied. A holistic approach ultimately requires the consideration of environmental duties, obligations and principles from the point of local government decision-making up to the very final phase of any project or governance activity.¹³⁴ Although the cradle-to-grave principle as a truly environmental principle is absent from the Constitution, this principle

133 See in this regard Three Principles [HYPERLINK](http://www.polity.org.za/html/govdocs/green_papers/enviro3.html) http://www.polity.org.za/html/govdocs/green_papers/enviro3.html [19 October 2006].

134 See Glazewski *Environmental Law* 112 and Venter and Landsberg *Government and Politics* 142.

may be of cardinal importance in furthering section 24 and is, therefore, arguably implicitly provided for.

4.7.2 LGMSA

It is argued that the provision for IDPs contained in the LGMSA may assist in partially transforming the cradle-to-grave principle to a legally enforceable duty of local governments in South Africa.¹³⁵ This holds especially true when bearing in mind the definition of 'environmentally sustainable' as contained in section 1 of the LGMSA.¹³⁶

It is argued that the principle reflects the need for the municipality to be environmentally responsible for a process or project from the start (from conception) until the process or project is completed. Although no express provision is made in the LGMSA itself, which specifically refers to the cradle-to-grave principle, the spirit of this principle may well be part of the legal duty upon local authorities to develop IDPs.¹³⁷ As an IDP requires planning from beginning to end within a five year time-span; it is argued that the cradle-to-grave principle is implicitly provided for in the LGMSA.¹³⁸ This, however, only holds true should the IDP sufficiently focus on the environment in the development and implementation of the IDP.¹³⁹ It is argued that the cradle to grave principle is arguably (of all the environmental principles) given the least legal attention in both the Constitution and the LGMSA. In this regard local governments certainly will have to take heed of this important principle for environmental governance in South Africa.

135 See chapter 5 of the LGMSA, as well as sections 23, 24 and 25.

136 See paragraph 4.1.2 above.

137 See Bekink *Local Government Law* 16 and See also Venter and Landsberg *Government and Politics* 146.

138 See Venter and Landsberg *Government and Politics* 146.

139 *Ibid.*

4.8 Precautionary principle

The precautionary principle is a well-known principle in environmental law context and requires that a risk-averse and cautious approach is applied that takes into account the limits of current knowledge about the environmental consequences of decisions and actions.¹⁴⁰ Decisions and actions in this regard once again extend to both private entities and public entities or governors, such as local authorities. At the core of this principle stand endeavours to ensure that human intervention in environmental constituencies is mitigated.¹⁴¹ The precautionary principle may be viewed as having developed from distrust over the introduction of risky technologies, processes and products which may affect the environment¹⁴² and, ultimately, to include a preventative dimension, by which, for example, public authorities (such as local authorities) intervene prior to the occurrence of environmental damage.¹⁴³ The precautionary principle as a basic environmental principle, therefore, has everything to do with risk reduction.¹⁴⁴ As a result, the principle requires of decision-making processes to take all environmental risks into account, whatever their degree of uncertainty.¹⁴⁵ In a local government sense this principle would mean that especially in instances where decisions are taken related to activities or services that may impact on the environment, a very cautious and risk-averse approach should be followed. Should a local authority, for example, consider an extensive commercial development in an area known for a lack of water resources, the possible impact of the development on the environment, and specifically the water resource base of the area, the possible risks that the development activity may pose to the former should be considered seriously. Being a principle at the heart of resource conservation and the protection of environmental rights, it may be very important for the

140 Section 2(4)(a)(vii) of the NEMA.

141 See Raffensperger and Tickner *Implementing the Precautionary Principle* 17.

142 *Ibid.*

143 See De Sadeleer *Environmental Principles* 91.

144 *Ibid.*

145 See De Sadeleer *Environmental Principles* 92.

precautionary principle to be concretised as a supporting legal duty in, *inter alia*, local government law and policy.

4.8.1 Constitution

The precautionary principle, being by and large an environmental governance-related principle, is not in general or in explicit terms provided for in the constitutional framework on local governance. This principle may, however, be read into the obligations of government (including local government) in terms of section 24 of the Constitution. To the extent that section 24 refers to 'future generations', it may be implicitly expected of government (also local government) to follow an environmentally cautious and risk-averse approach in different governance efforts. Since the state of the environment and the environmental challenges of the future cannot be ascertained completely at this point, governors should go about the environment and natural resources as cautiously as possible. Failure to comply with constitutional duties that, in fact, support the precautionary approach, may lead to future generations of people not having the same natural resource-based benefits as the present generation which, in effect, will nullify all current environmental governance endeavours.¹⁴⁶

4.8.2 LGMSA

The precautionary approach as characteristic of environmental management specifically does not feature explicitly in the LGMSA. However, to the extent that planning is directed towards the future activities of a local authority the obligations of local government in terms of planning, and as contained in the LGMSA, indeed may translate this principle into a duty of local governments in South Africa. In support of the move towards environmental sustainability, the LGMSA requires of

¹⁴⁶ All the duties of government and local government that can be derived from section 24 of the Constitution arguably serve to translate to enforceable legal duties in support of the precautionary approach.

municipalities to adopt IDPs.¹⁴⁷ The LGMSA makes provision for a particular planning tool, namely the development of IDPs.¹⁴⁸ An IDP is regarded as a method to plan future development in municipal areas and it aims to co-ordinate the work of local and other spheres of government in a single plan to improve the quality of life for all the people living (and that will be living) in a specific area.¹⁴⁹ An IDP should take into account the existing conditions and problems and resources available for development. The IDP assists local municipalities in focusing on the most important needs of local communities by taking into account the different resources available.¹⁵⁰ Planning, of course, requires the needs of future local communities also to be taken into account. Another possible way in which to concretise the precautionary principle lies in local authorities' mandate to develop local government bylaws. Environmental by-laws could be so designed as to make provision for the precautionary approach and to regulate matters that would show dedication indeed to a risk-averse outlook on local government or community matters that may impact on the environment.¹⁵¹ The LGMSA's provision for the precautionary approach ultimately depends on the careful design and success of the planning and regulatory tools provided for. It may also require the involvement of environmental experts, the obtaining of important environmental data and the participation of natural scientists. Should the mentioned instruments and the suggested approach fail to succeed, the precautionary approach will also be in vain and, therefore, so will a key component of what constitutes local governance for environmental sustainability.

147 See section 25 of the LGMSA. See also Du Plessis "Environmental Compliance" 6.

148 See paragraph 4.1.2 above.

149 See Mokale and Scheepers *Developmental Local Government* 28. See also Du Plessis "Environmental Compliance" 6.

150 See paragraph 4.1.2 above.

151 Local by-laws means legislation passed by the council of a municipality, binding in the municipality on the persons to whom it applies. See in this regard sections 13 and 14 of the LGMSA. See also Venter and Landsberg *Government and Politics* 156.

4.9 Inter-generational equity principle

The intergenerational equity principle provides that environmental governance must place people and their needs at the forefront and that it should serve people's physical, psychological, developmental, cultural and social interests equitably.¹⁵² This principle relates to the precautionary approach in as far as it is directed towards future generations. The principle of intergenerational equity, in strong support of the notion of sustainability, implies that the present generation owes a duty to future generations to leave the earth and environment in no worse a condition than the present generation found it.¹⁵³ This principle may be regarded as one of the framework environmental principles – embracing almost all activities of all private and public entities that somehow could impact on the state of the environment of people still to be born. It is, however, a principle that needs to be concretised in framework local government law in order for it to become a legally enforceable duty of local authorities.

4.9.1 Constitution

The principle of intergenerational equity gets reflected not only in section 24 of the Constitution, but also in sections 153 and 9(2) of the Constitution as far as these sections provide for the basic needs of people to be met through the equal enjoyment of all rights and freedoms provided for in the Constitution.¹⁵⁴ This holds true both for existing communities and people, but also for those communities and people still to be born. The principle of inter-generational equity was also acknowledged in a constitutional context in the case of *BP Southern*

152 See section 2(2) of the NEMA and Bekink *Local Government Law* 230-234.

153 See Tladi 2002 *SAJELP* 180.

154 Section 24(b) of the Constitution provides for the principle of inter-generational equity in terms of the environmental right which exhorts that the environment should be protected for present and future generations. See also Glazewski *Environmental Law* 16.

*Africa (Pty) Ltd v MEC for Agriculture, Conservation and Land Affairs*¹⁵⁵ where the Constitutional Court held with reference to section 24 of the Constitution that balancing the environmental interests with justifiable social and economical development may be conceptualised beyond the present generation. Although the Constitution does not explicitly unpack this environmental principle, its aim is provided for in legally enforceable terms in as far as local government is bounded by section 24 of the Constitution, which makes explicit reference to the environmental right as a right of also future generations.

4.9.2 LGMSA

The environmental principle of intergenerational equity may be reflected to some extent in the LGMSA's section 73 that provides for equitable access to and reliance on municipal services, which places people and their needs at the forefront. People in this sense arguably also refer to those generations of people still to be born. Section 73 could be strengthened with reference to the legal duty of municipalities to see to the developmental interests of the community in equal fashion. Equality in this sense may be read to refer to equality beyond the current generation that extends to future generations also. When reviewing the LGMSA's different legal requirements pertaining to equality, but also those pertaining to the environment and sustainability, it seems as though indirectly the environmental principle of intergenerational equality is indeed provided for.¹⁵⁶

4.10 Conclusive remarks

As was argued at the beginning of the discussion on environmental principles, the former serve as the backbone for governance for environmental sustainability at local government sphere. Without the

155 See *BP Southern Africa (Pty) Ltd v MEC for Agriculture, Conservation and Land Affairs* [2004 (5) SA 124 (CC)].

156 Note that the principle of intergenerational equality links strongly with the principle of environmental justice discussed in paragraph 4.2 above.

identified environmental principles infiltrating local governance endeavours, it may, however, be impossible to achieve effective governance for environmental sustainability. With reference to the outline above, South African framework government law (the Constitution and the NEMA in particular) may be lauded for having translated many of the environmental principles as contained in the NEMA (whether consciously or unconsciously) into legally enforceable duties and obligations of local governments in South Africa. Should these duties and obligations indeed be effectively complied with, South Africa may be said to be steadily on its way towards local governance for environmental sustainability.

5 Conclusion and recommendations

With an increased focus on environmental sustainability and also the role that local governments play in furthering environmental rights, there is no doubt that there is a pressing need for local governance for environmental sustainability in our country. The meaning of local governance for environmental sustainability in South Africa may be derived from the international notion of sustainability as well as the meaning of governance for environmental sustainability in general.¹⁵⁷ The notion of sustainability and governance for environmental sustainability (also at local government sphere) is explicitly provided for in international and national instruments and activities of institutions such as Agenda 21, LA 21 and ICLEI and, to a limited extent, also in the programmes and objectives of NEPAD and the SADC in the regional context.

In this mini-dissertation the meaning of local governance for environmental sustainability was coined as accountable governance (including decision-making, service delivery, operation and implementation of provincial, national and local laws and policy) by the

¹⁵⁷ See paragraphs 2.2.1 and 2.3.1 above.

local sphere of government, in line with environmental rights and the basic environmental management principles that underpin environmental framework legislation, which aims to ensure that desired environmental conditions are maintained over time without eroding natural, social or financial resource bases of local communities.¹⁵⁸

In determining the practical meaning of the rather aspirational notion of local governance for environmental sustainability in South Africa, the section 2 NEMA principles are viewed to be of cardinal importance. Some of these principles were distilled in this study and their implication and role for local governance were reflected upon.

It may be concluded that framework legislation for local governance to a large extent provides for the spirit of the environmental principles, although not all of the environmental principles that may pertain to local government are explicitly provided for in section 24 or other parts of the Constitution.¹⁵⁹ Principles such as the precautionary principle and the cradle-to-grave principle however failed to find express meaning in both the Constitution and the LGMSA.¹⁶⁰ This may, however, put some pressure on local authorities in South Africa to make use of the right to govern regulated communities by means of by-laws. Environmental by-laws could very well be employed to translate those environmental principles not provided for in framework local government law in the laws and regulations created by local authorities themselves. Furthermore, the potential use of planning and management tools such as IDPs and PMSs should not be underestimated. A local authority could make very good use of these obligatory tools to incorporate all environmental principles in planning and governance practices. To this extent, legal tools contained in framework local government law also may become the vehicle for concretising the general environmental principles (specifically

158 Own definition.

159 See paragraph 4 above.

160 Some of the principles expressly provided for were the principles of accountability, public participation, environmental justice, achievement of sustainable development, Co-operative governance and intergenerational equity. See in this regard paragraph 4 above.

intergenerational equity and environmental justice) contained in chapter 2 of the NEMA.

South African framework local government law may be lauded for having translated many of the environmental principles as contained in the NEMA (whether consciously or unconsciously) into legally enforceable duties and obligations of local governments in South Africa.¹⁶¹ However, one should take cognisance of the fact that the implementation of these and the compliance and enforcement activities are often badly hampered by non-environmental challenges that local governments are faced with. These include, *inter alia*, social demands such as increased urban populations, the pressing needs arising from a vast number of HIV infected and poor people, the lack of effective service delivery in rural areas and the ineffective distribution of funds.

It is recommended that the national legislature could assist local authorities to enhance the effectiveness of the environmental principles in local governance endeavours by including these principles in the context of local governance in a completely novel national policy binding on all local authorities. In so doing, the environmental principles could be transformed for local governments into legally enforceable legal duties that would certainly support South Africa's obligations in terms of Agenda 21, LA21 and the action plans envisaged by the WSSD. New policy developments could however sustain the existing fragmented nature of domestic environmental law. Instead, a similar national strategy could be added to, and aligned with, the LGMSA as it stands by means of regulations thereto.

Acknowledging that the development and incorporation of a new national strategy may take considerable time and expertise, it is recommended that in the meantime all spheres of government (especially local

¹⁶¹ It should be kept in mind that legislation in South Africa in general has a fragmented nature and it is needed to address this issue when proposing a solution for the lack of legally binding rules and regulations with regard to the environmental law principles discussed above.

government) should be educated on the environment and be urged to minimise environmental degradation through the implementation of already legally established environmental principles. Educating the local sphere of government on the state of the environment and the importance thereof for future resource bases (such as forests, vegetation and water) will arguably enhance the local government decision-making process in the aim to achieve triple bottom line success and environmentally sustainable local governance. Local governance for environmental sustainability may arguably uplift the living conditions of rural and urban communities and could contribute to resolving the challenge of environmental degradation hampering the possibility of future generations to benefit from the same natural resources that the present generation enjoys.

In the move towards realising the environmental principles and in so doing, achieve local governance for environmental sustainability, local governments are dependent on public participation, sufficient resources and direction by line-functionaries and other spheres of government in the spirit of co-operative governance and within our understanding of good governance. The environment of people and their well-being are at the heart of environmental sustainability. Local governments are therefore urged to take up the challenge of local governance for environmental sustainability without delay; however not without the environmental principles that should illuminate the way to go.

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