



South African law perspectives on the promotion of public value in local government

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DEDICATION

To my beautiful daughters Tiba Dlulisa and Naye 'Elihle' Dlulisa, thank you for being my cheerleaders. May my journey always inspire you.

I love you.

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I extend my deepest gratitude to the **God Almighty** for His boundless mercies.

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ABSTRACT

This study examines the extent to which South African local government law and policy instruments promote the so-called public value approach in local governance. To achieve this, this study reviews the theoretical framework that underpins public value. It uses doctrinal legal research to trace how the historical development of local government in South Africa influenced the present status of municipalities and public perceptions of the creation of public value. The study further uses the same method to delve into the present state of local government, particularly the dysfunction of municipalities, to reveal that the current situation facing local communities as a result of the collapse of local government does not accord with the constitutional, policy and statutory framework on local government, as these provide for the creation of public value by municipalities, albeit without expressly saying so.

The analysis reveals that municipalities operate within a legal structure that establishes at least three principal local government instruments for the creation of public value, namely, Integrated Development Plans, annual municipal budgets and annual municipal reports. These instruments reinforce one another and can be used to create public value through accountable, transparent, responsive, trusted, and legitimate municipalities that provide quality, efficient, and effective service delivery. The study examines if and how the metropolitan municipalities in the Gauteng Province of South Africa, namely the City of Ekurhuleni, the City of Tshwane and the City of Johannesburg, use these three instruments to create public value to demonstrate that these three instruments may be leveraged to create public value; the case studies reveal that Integrated Development Plans, municipal annual budgets and annual municipal reports provide for all the tenets of public value as traditionally understood in related disciplines. The study finds that the collapse of local government in South Africa is an indication of the failure to infuse a public value approach in local governance. The thesis concludes by offering recommendations for improving public value in local government.

Keywords: Public value; local government law; accountability and transparency; service delivery; Cities of Ekurhuleni; Tshwane; Johannesburg

LIST OF ABBREVIATIONS

AIDS	Human Immunodeficiency Virus
ANC	African National Congress
B2B	Back to Basics
BCLR	Butterworths Constitutional Law Reports
CC	Constitutional Court
CODESA	Convention for a Democratic South Africa
CoGTA	Cooperative Governance and Traditional Affairs
COVID-19	Coronavirus Disease 2019
ECG	High Court of South Africa: Eastern Cape Division, Grahamstown
ECP	Eastern Cape High Court, Port Elizabeth
GG	Government Gazette
GGLN	Good Governance Learning Network
HSRC	Human Sciences Research Council
ICT	Information and Communications Technology
IDASA	Institute for Democratic Alternatives in South Africa
IDP	Integrated Development Plan
KZP	High Court of South Africa: KwaZulu-Natal, Pietermaritzburg
LGACS	Local Government Anti-Corruption Strategy
LGSETA	Local Government Sector Education and Training Authority
LGTAS	Local Government Turnaround Strategy

LLD	Doctor of Laws
LLM	Master of Laws
MFMA	Local Government: Municipal Finance Management Act
MDB	Municipal Demarcation Board
MEC	Member of the Executive Council
MISA	Municipal Infrastructure Support Agent
MMDAS	Municipal and District Assemblies
MPNF	Multi-Party Negotiating Forum
NGO	Non-Governmental Organisation
NHS	National Health Service
NPC	Non-Profit Company
NPM	New Public Management
NWU	North-West University
PMP	Performance Measurement & Management in Professions
RDP	Reconstruction and Development Programme
SA	South African Law Reports
SACR	South African Criminal Reports
SAJHR	South African Journal on Human Rights
SALGA	South African Local Government Association
SALRC	South African Law Reform Commission
SPLUMA	Spatial Planning and Land Use Management Act

UCT	University of Cape Town
UK	United Kingdom
UKZN	University of KwaZulu-Natal
UN	United Nations
US	United States of America
VOC	Verenigde Oostindiesche Companjie
WCC	High Court of South Africa: Western Cape Division, Cape Town
ZACC	South Africa: Constitutional Court
ZAGPPHC	South Africa: North Gauteng High Court, Pretoria
ZANWHC	South Africa: North West High Court
ZAWCHC	South Africa: Western Cape High Court

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CHAPTER 1

INTRODUCTION

1.1 Background

The post-apartheid South African local government system has failed to meet its service delivery obligations to communities.¹ While progress has been made in building a democratic state with a clearly articulated service delivery mandate that is set in law,² the local government system is crumbling³ because of various challenges.⁴ This failure occurs despite the constitutional, statutory and policy framework within which municipalities operate.⁵ The infusion of funds, technical support, and oversight from the provincial and national government spheres seem to have a limited effect on taming the tide of local government failure.⁶ Since local government is the sphere of government closest to the people,⁷ its failure to provide basic goods and services for the benefit and satisfaction of communities negatively impacts their quality of life.⁸ Hence, there is a need to ensure that the 257 municipalities, made up of eight metropolitan municipalities, 44 district municipalities and 205 local municipalities, provide effective service delivery.⁹

¹ Aklilu and Makalela 2020 *International Journal of Economics and Finance Studies* 22.

² Section 152(1) of the *Constitution of the Republic of South Africa*, 1996 (hereafter *Constitution*). See *Joseph v City of Johannesburg* 2010 4 SA 55 (CC) (hereafter *Joseph v City of Johannesburg*) para 34. See also Mashamaite and Lethoko 2018 *International Journal of eBusiness and eGovernment Studies* 119. See schedule 4 Part B of the *Constitution* on the service delivery mandate of local government.

³ See South African Government *National Development Plan 2030: Our Future Make it Work* 408.

⁴ Masiya, Davids and Mangai 2019 *Theoretical Researches in Urban Management* 22.

⁵ See Chapters 4 and 5 of this study on the constitutional, policy and statutory frameworks within which local government operates in South Africa.

⁶ See also 4.5 below on various forms of national and provincial support given to municipalities.

⁷ See *Kgetlengrivier Concerned Residents v Kgetlengrivier Local Municipality* [2023] 2 All SA 452 (NWM) (hereafter *Kgetlengrivier Concerned Residents v Kgetlengrivier Local Municipality (Appeal Decision)*) para 1; and Bizana *Improving Service Delivery by Local Government: A Case for Improved Supply Chain Performance Management* 28.

⁸ See, in this regard, *Kgetlengrivier Concerned Residents v Kgetlengrivier Local Municipality (Appeal Decision)* para 1, in which the court lamented the impact of service delivery failures by municipalities.

⁹ See Pretorius *The Influence of Political and Administrative Interaction on Municipal Service Delivery in Selected Municipalities in the Free State Province* 52-53. For an outline of the classification of municipalities into different categories (which comprise Category A – metros, B – local municipalities, C – district), see Good Governance Africa *Governance Performance Index – South Africa 2024*. 5.

The *Constitution* assigns municipalities a developmental duty to mobilise resources in ways that prioritise the basic needs of their communities and promote their social and economic development.¹⁰ The *White Paper on Local Government*,¹¹ which was one of the first instruments for transforming local government in post-apartheid South Africa, laid the foundation for enabling the local government system to fulfil its developmental role.¹² However, establishing a new local government regime has not translated into positive results for the majority of South Africans because of the increasing failure of municipalities to provide basic services.¹³

The above said, municipalities must play an important role in providing basic services that improve quality of life and enable survival. The relevant basic services include access to safe drinking water and sanitation.¹⁴ Accessibility of basic services is closely related to social inclusion and social capital, making the failure of municipalities to deliver basic services problematic for social and economic development.¹⁵ Although municipalities in South Africa face many challenges, such as corruption¹⁶ and political instability,¹⁷ most communities are still affected by the past injustices of colonialism and apartheid fragmentation.¹⁸ As a result of the historical legacy of exclusion and oppression, many communities face marginalisation when it comes to accessing basic services such as clean drinking water, proper sanitation, electricity, health care, formal housing and infrastructure.¹⁹

The failure of municipalities to live up to community expectations and deliver on their constitutional duties has led to increased anger and disillusionment among affected

¹⁰ Sections 153(a) of the *Constitution*. See also Reddy 2016 *Journal for Transdisciplinary Research in Southern Africa* 9.

¹¹ White Paper on Local Government GN 423 in *GG* 18739 of 13 March 1998.

¹² See para 1 of the *White Paper on Local Government*.

¹³ Wright, Dube and du Plessis 2022 *Verfassung und Recht in Übersee/World Comparative Law* 105.

¹⁴ For a discussion of this obligation and the ensuing challenges, see Makaudze and Gelles "The Challenges of Providing Water and Sanitation to Urban Slum Settlements in South Africa" 121-133.

¹⁵ See, for instance, Clover's attempts to relocate from the Ditsobotla Municipality as a consequence of service delivery failures - Clover 2021 <https://www.scribd.com/document/511000490/Clover-Statement-Relocation-of-Cheese-Production-to-Queensburgh-080621>.

¹⁶ Sebake 2020 *African Journal of Development Studies* 167-170.

¹⁷ Political instability mostly arises as a result of differences among coalition partners, see Venter 2022 *Farmer's Weekly* 14.

¹⁸ Du Plessis "The Global Aspiration of "Safe, Sustainable, Resilient and Inclusive" Cities: South African Local Government Shaping Up" 21.

¹⁹ See, for instance, Edokpayi *et al* 2018 *Water* 159 on water issues in Limpopo Province.

communities.²⁰ Widespread discontent, which manifests as service delivery and other forms of protest action, is attributed to the failure of municipalities to meet their service delivery obligations and community expectations.²¹ Community protest action indicates a dysfunctional local government system that is unresponsive to community needs.²² Although some protests have been moderate and solely intended to express community discontent, some municipalities have become targets of large-scale and violent protests²³ whose social costs on public infrastructure are substantial.²⁴

Demonstrations, civil disobedience and other forms of protest are not the only ways in which communities express discontent and frustration with their municipalities.²⁵ In some quarters, civic organisations and movements express their frustrations through additional strategies, such as rate boycotts and litigation, to hold local government accountable and to influence decision-making.²⁶ In some instances, State Institutions Supporting Constitutional Democracy have litigated to compel municipalities to perform their duty to provide services.²⁷ Protests and litigation lead to trust deficits between local government and communities.²⁸ The pervasive fraud and corruption trends, poor management and leadership, immature and unstable politics, and skill deficits in many municipalities further fuel distrust.²⁹ Among black communities, this distrust is evident in that they reportedly have the lowest levels of satisfaction with

²⁰ Farooqui 2007 *Social Scientist* 44-51.

²¹ See Alexander 2010 *Review of African Political Economy* 25-40; Breakfast, Bradshaw and Nomarwayi 2019 *African Journal of Public Affairs* 106-125; Mpehle 2012 *Journal of Public Administration* 213-225.

²² According to Chikulo 2016 *Journal of Human Ecology* 51-60, these violent protests indicate the emblematic crisis of local government representation and the inclinations of both protesting citizens and the state to use violence.

²³ Welzel and Deutsch 2012 *British Journal of Political Science* 465-479. See also, Samkange *et al* *Counting the Cost of Community Protests on Public Infrastructure* 1-22.

²⁴ Breakfast, Bradshaw and Nomarwayi 2019 *African Journal of Public Affairs* 11.

²⁵ Ngcamu 2019 *Journal for Transdisciplinary Research in Southern Africa* 1-9.

²⁶ See cases such as *Rademan v Moqhaka Local Municipality* 2013 4 SA 225 (CC) (hereafter *Rademan v Moqhaka Local Municipality*); and *Unemployed Peoples Movement v Eastern Cape Premier* 2020 3 SA 562 (ECG) (hereafter *Unemployed Peoples Movement v Eastern Cape Premier*).

²⁷ An example in this regard is *South African Human Rights Commission v Msunduzi Local Municipality* [2021] 3 All SA 939 (KZP) (hereafter *South African Human Rights Commission v Msunduzi Local Municipality*). For a commentary on this case, see Diedericks, Dube and du Plessis 2023 *South African Journal on Human Rights* 1-13.

²⁸ Peyper 2016 <https://www.news24.com/Fin24/south-africans-not-happy-with-municipalities-survey-20160727>.

²⁹ De Visser 2009 *Commonwealth Journal of Local Governance* 23.

basic service delivery, indicating that the quality and quantity of services they receive are inferior.³⁰

1.2 The dysfunction of local government in South Africa

Indications suggest that South Africans are dissatisfied with local government, as seen from attempts to withhold payments for property rates as a form of protest against unsatisfactory service delivery.³¹ An example in this regard is the *Rademan v Moqhaka Local Municipality* case, in which the applicant decided not to pay the rates with respect to her property in Kroonstad, citing dissatisfaction with the Municipality's service delivery.³² Her refusal was informed by the Moqhaka Ratepayers and Residents Association, which decided that its members should not pay their rates because of the poor and inefficient service delivery by the Municipality. Even though the Constitutional Court ruled in favour of the Municipality,³³ the issues that gave rise to the litigation indicate that although local authorities may want to listen to communities regarding their needs, expectations and preferences regarding service delivery, they may not always have resources and human capital to provide the desired level of service.

Another issue that arises concerning the failure of municipalities to fulfil their service delivery obligations is the question of how the provincial and national spheres of government can aid dysfunctional municipalities to return to good financial and service delivery standing, as provided in section 139(1) of the *Constitution* and section 137 of the *Municipal Finance Management Act*.³⁴ In *Coetzee v Premier, Mpumalanga Province*,³⁵ the court ordered the provincial government to intervene in a failing municipality that could not deliver basic services.³⁶ This landmark decision was succeeded by another order for provincial intervention in *Unemployed Peoples*

³⁰ See Masiya, Davids and Mangai 2019 *Theoretical Researches in Urban Management* 33.

³¹ A classic case in this regard is the *Rademan v Moqhaka Local Municipality*, alluded to above. See also *Thompson v City of Tshwane Metropolitan Municipality* Case number 5664/2011 (unreported) (hereafter *Thompson v City of Tshwane Metropolitan Municipality*) para 1.

³² *Rademan v Moqhaka Local Municipality* para 4

³³ *Rademan v Moqhaka Local Municipality* para 47.

³⁴ *Local Government: Municipal Finance Management Act* 56 of 2003 (hereafter *Municipal Finance Management Act*).

³⁵ *Coetzee v Premier, Mpumalanga Province* Case No. 2799/2017 (unreported) (hereafter *Coetzee v Premier, Mpumalanga Province*).

³⁶ Chamberlain and Masiangoako 2021 *South African Law Journal* 423-459.

Movement v Eastern Cape Premier. In this case, the main issue was that the failure of the Municipality to provide basic services such as water and sanitation was inconsistent with the *Constitution*.³⁷ The court ordered the provincial government to intervene in the failing Municipality to ensure access to basic services.³⁸ In *Kgetlengrivier Concerned Citizens v Kgetlengrivier Local Municipality*,³⁹ the court did not order provincial intervention but temporarily handed over municipal works on water treatment to a residents' association to enable the residents to fix the water issues themselves.⁴⁰ The court made a declaratory order to the effect that the Municipality and its manager breached several constitutional obligations regarding service delivery.⁴¹ Looking at these cases, one may conclude that if a municipality is failing, provincial and national governments must intervene in terms of section 139(1) of the *Constitution* and that if they fail to do so, they may be compelled through litigation. One also concludes that where intervention is not desirable due to failure to fix a particular issue (such as was the case with sewage and water works in the Kgetlengrivier Local Municipality), the court may temporarily hand over the particular issue to groups of unelected local residents to restore the service in question.⁴²

Despite isolated instances of provincial government refusal to intervene in failing municipalities – such as Makana Local Municipality and the eMalahleni Local Municipality, as discussed above, indications are that provincial and national governments are intervening in many failing municipalities.⁴³ In February 2022, 33

³⁷ *Unemployed Peoples Movement v Eastern Cape Premier* para 97.

³⁸ For an analysis of the Makana litigation, see Chamberlain and Masiangoako 2021 *South African Law Journal* 423-459 and Wright, Dube and du Plessis 2022 *Verfassung und Recht in Übersee/World Comparative Law* 105-125.

³⁹ *Kgetlengrivier Concerned Citizens v Kgetlengrivier Local Municipality* [2020] ZANWHC 95 (hereafter *Kgetlengrivier Concerned Citizens I*).

⁴⁰ For an analysis of the implications of this judgment, see Pieterse 2021 <http://theconversation.com/local-government-in-south-africa-is-broken-but-giving-the-job-to-residents-carries-risks-155970>, who argues that although it there was a need for drastic action in the municipality, the court's outsourcing of municipal works to an un-elected group of residents not only undermined electoral democracy but also flouted legal requirements set by the *Local Government: Municipal Systems Act* 32 of 2000 (hereafter *Municipal Systems Act*) on the outsourcing of municipal functions.

⁴¹ See *Kgetlengrivier Concerned Citizens I* for the orders in para 11-13.

⁴² Regarding the legal intricacies of handing over municipal works to un-elected community members, see the analysis by Pieterse 2021 <http://theconversation.com/local-government-in-south-africa-is-broken-but-giving-the-job-to-residents-carries-risks-155970>.

⁴³ For an analysis of interventions into failing municipalities, see Makoti and Odeku 2018 *African Journal of Public Affairs* 65-85.

municipalities were under provincial intervention because they had become so dysfunctional that national and provincial governments had to step in and attempt to restore governance, financial management and service delivery.⁴⁴ Serious issues such as financial distress informed these interventions, along with poor cash flow management and increased outstanding debtors and creditors.⁴⁵ Presently, the general state of decay at the local government level is substantiated by reports from the Auditor-General of South Africa, which is an independent state (constitutional Chapter 9) institution that audits and reports the outcomes of all municipal accounts, financial statements and financial management.⁴⁶ In the 2020/2021 assessment, the Auditor-General reported that although 18 municipalities improved, while 17 municipalities regressed.⁴⁷ Eight municipalities that previously had disclaimers did not improve and remained with the disclaimer audit opinion.⁴⁸ The Auditor-General concluded the following:

It is clear from our audits that these repeatedly disclaimed municipalities do not fulfil their mandate of ensuring quality service delivery to communities. Challenges faced by some municipalities are significant because of their long neglect and lack of action.⁴⁹

Despite reporting shortcomings and providing recommendations over the years, as well as numerous costly national and provincial initiatives and interventions, the poor status of key financial management controls shows that municipalities have not yet mastered financial reporting – 75%% of municipalities were not able to submit quality financial statements for auditing.⁵⁰

These findings of the Auditor-General can be viewed as indicators of service delivery failures, poor governance, weak institutional capacity and instability that characterise the local government sphere. The failures are linked to accountability deficits arising

⁴⁴ Auditor-General of South Africa 2023 *Consolidated General Report on Local Government Audit Outcomes MFMA 2021-22* 6.

⁴⁵ National Treasury *The State of Local Government Finances and Financial Management as at 30 June 2011: Fourth Quarter of the 2010/2011 Financial Year* 3.

⁴⁶ The Auditor-General is regulated by s 188 of the *Constitution*. See also, s 4(1)(d) of the *Public Audit Act* 25 of 2004 (hereafter *Public Audit Act*).

⁴⁷ Auditor-General of South Africa 2021 *Consolidated Report on Local Government Audit Outcomes: MFMA 2020-21* 37.

⁴⁸ Auditor-General of South Africa *Consolidated Report on Local Government Audit Outcomes: MFMA 2020-21* 37.

⁴⁹ Auditor-General of South Africa *Consolidated Report on Local Government Audit Outcomes: MFMA 2020-21* 44.

⁵⁰ Auditor-General of South Africa 2022 <https://mfma-2021.agsareports.co.za/pages/audit-outcomes>.

from poor performance and a lack of transparency and integrity.⁵¹ The evidence further suggests that the lived reality of most communities in South Africa is far from some of the constitutional ideals on access to clean water, sanitation, electricity, refuse removal services and good roads and infrastructure.⁵²

1.3 Causes of the dysfunction of local government

There are many reasons for the dysfunctional state of municipalities, such as the apartheid legacy of deliberate racial segregation and the underdevelopment of black areas.⁵³ The apartheid legacy is also evident in densely populated informal areas that the current government services even though there is no infrastructure for proper service delivery in such areas.⁵⁴ The apartheid system of local government, which was geared towards servicing white people at the expense of their black counterparts, created immense discontent that bred a culture of resistance and protest in black communities.⁵⁵

Another contributor to the current service delivery deficit is that during the apartheid era, South Africa lacked a uniform system for local government.⁵⁶ Local rural governments were administered through a system of traditional and racially based municipal structures,⁵⁷ leaving the majority of black South Africans with no access to essential services such as clean water and electricity.⁵⁸ Therefore, a new constitutional architecture was necessary to eradicate apartheid-based inequalities and to adopt a system in which all South Africans would enjoy proper service delivery on matters of water supply, sanitation, electricity supply and other basic services.⁵⁹ Given the apartheid legacy of deliberately under developing communities in which the majority

⁵¹ Auditor-General of South Africa *Consolidated General Report on Local Government Audit Outcomes MFMA 2021-22* 56.

⁵² Craig *Keeping Decentralisation in Check: An Exploration of the Relationship Between Municipal Audit Outcomes and Levels of Service Delivery in South African Local Government* 128.

⁵³ Parnell et al *Democratising Local Government*; Parnell et al *Democratising Local Government* 1.

⁵⁴ Statistics South Africa *The State of Basic Service Delivery in South Africa: In-Depth Analysis of the Community Survey 2016 Data* 13.

⁵⁵ Binza 2005 *Southern Journal for Contemporary History* 77.

⁵⁶ For a full exposition of the history in this regard, see Chapter 3 of this study.

⁵⁷ De Visser *Developmental Local Government: A Case Study of South Africa* 57.

⁵⁸ Tsatsire *et al* 2009 *New Contree* 146.

⁵⁹ Mbatha "Democratising Local Government: Problems and Opportunities in the Advancement of Gender Equality in South Africa" 189.

of South Africans lived, there also seemed to have been a need to reorient local government to ensure that municipalities were in a position to provide adequate and high-quality service delivery.⁶⁰

The causes for the dysfunction of local government are not isolated, given that many issues related to unethical conduct in public administration plague all spheres of government, leading to perceptions that South Africa may follow in the footsteps of its many African counterparts in becoming a failed state due to lack of accountability.⁶¹ In all spheres of government, South Africa is experiencing corruption, fraud, nepotism and other forms of irregularities in public procurement that are so glaring and widespread to the extent of being seen by some as worse than during the apartheid regime.⁶²

In municipalities, procurement corruption and fraud result in inflated prices, unnecessarily affecting municipal revenue.⁶³ This problem is compounded by low revenue collection rates, which undermine the ability of affected municipalities to provide goods and services.⁶⁴ There is also a lack of skilled personnel, some of whom are incorrectly placed.⁶⁵ In addition, some public representatives distance themselves from their communities, leading to inadequate public participation and inefficiency of ward councillors and committees.⁶⁶ As seen above, the ensuing deterioration of municipalities has led to protests that attest to a dysfunctional local government system that is unresponsive to community needs, expectations and preferences – in

⁶⁰ For a full exposition of the history of how the apartheid system created injustices that prompted the adoption of a new system of local government, see Kaywood 2021 *African Journal of Public Affairs* 42-61.

⁶¹ Pawle 2023 <https://www.bbc.com/news/world-africa-65683674>.

⁶² See Van Onselen 2018 https://www.huffingtonpost.co.za/gareth-van-onselen/is-sa-really-worse-now-than-under-apartheid_a_23358994.

⁶³ See Munzhedzi 2016 *Journal of Transport and Supply Chain Management* 1-8; Fourie 2018 *Local Economy* 726-739; Mantzaris and Ngcamu 2020 *Journal of Public Administration* 461-479 for accounts of endemic corruption in municipalities in South Africa.

⁶⁴ The problem of non-payment of rates and taxes dates to the apartheid era and has intensified in the democratic epoch. See Ngxongo *Non-Payment of Municipal Rates and Service with Reference to the Nelson Mandela Metropolitan Municipality* for a discussion.

⁶⁵ Mafunisa, Ramabulana and Hlaele *Skills Transfer in Municipalities in South Africa*.

⁶⁶ Department of Cooperative Governance and Traditional Affairs *Back to Basics: Serving Our Communities Better* 4.

addition to many other reasons that fall outside this study's purview.⁶⁷ Given the foregoing challenges facing local government, this study identifies the so-called 'public value' approach as a conceptual and normative alternative to resolving some of the challenges facing local government in delivering basic services in South Africa.⁶⁸

1.4 The need for a public value approach in local government

Public value is a concept that developed in the fields of public administration and management.⁶⁹ It refers to the collective value that public (government) organisations contribute to their communities through the provision of goods and services.⁷⁰ This concept integrates the collective view of the public regarding what the majority perceives as valuable for the purposes of the expenditure of public resources and the use of state authority.⁷¹ This implies that the government must deliver services that add value to the public in an open and accountable manner to ensure that its performance is optimal and in compliance with the law.⁷²

Hence, the practical application of public value relies on operational capacity, which determines how government policies, programs and procedures can be streamlined to increase efficiency and effectiveness.⁷³ Within South Africa's transformation agenda of changing society from the effects of an unjust apartheid system to one founded on democratic constitutional values, public value arguably holds a lot of transformative potential for local government.⁷⁴ However, transformation is a contested concept in this regard, as it evokes different feelings and perceptions among South Africans.⁷⁵ In both legal and political theory, transformation is defined as:

[A] permanent ideal, a way of looking at the world that creates a space in which dialogue and contestation are truly possible, in which new ways of

⁶⁷ South African Law Reform Commission 2019 *Review of Regulatory, Compliance and Reporting Burdens Imposed on Local Government by Legislation* 9.

⁶⁸ See section 1.4 of this study.

⁶⁹ Bozeman 2002 *Public Administration Review* 149.

⁷⁰ Lindgreen *et al* *Public Value: Deepening, Enriching, and Broadening the Theory and Practice* 1.

⁷¹ See 2.2.4.

⁷² See Cruz Dallagnol, Portulhak and Cezar Severo Peixe 2023 *Public Money & Management* 251-258.

⁷³ Moore "Introduction" 4.

⁷⁴ See 3.6 on the transformation from apartheid to constitutional democracy.

⁷⁵ See Pandor *Contested Meanings of Transformation in Higher Education in Post-Apartheid South Africa* 1-20.

being are constantly explored and created, accepted, rejected, and in which change is unpredictable but the idea of change is constant.⁷⁶

Although this definition was originally provided in the context of transformative constitutionalism,⁷⁷ it is relevant and may be transplanted into the discourse on public value. In this regard, the reality remains that South Africa has not done away with its past due to the influence of, among others, apartheid-era spatial planning and the resultant infrastructural backlogs that it created for the present government.⁷⁸ Although it is possible for one to argue that apartheid-era injustices should not be a pretext for the failure of the current government and also that there are many other reasons for the failure of local government, another view to look at the situation is that South Africa has not yet fully transitioned from apartheid because it has to constantly contend with the past until it fully "reckons with its claims to justice."⁷⁹

According to Bannister and Connolly, transformation in the public sector may take the form of a "new mode of operation such as an important new service or a major shift in the level of performance or provision of public services."⁸⁰ Thus, transformation begins when the government is committed and equipped to provide essential public goods and services and involve communities in decision-making.⁸¹ From the public value perspective discussed in this section and Chapter 2 of this thesis, the government's interest in facilitating citizen involvement in decision-making is linked to good governance, transparency, participation, integrity, and fairness.⁸²

⁷⁶ De Vos 2013 <https://constitutionallyspeaking.co.za/pius-langa-a-man-who-knew-the-meaning-of-transformation/>. On transformation and how it is understood and applied in South Africa, see Klare 1998 *South African Journal on Human Rights* 146-188; Fuo *Local Government's Role in the Pursuit of the Transformative Constitutional Mandate of Social Justice in South Africa* 1-20; Claassens and Budlender 2013 *Constitutional Court Review* 75-104; Davis and Klare 2010 *South African Journal on Human Rights* 403-509. The idea of transformative constitutionalism stems from the notion of transformative constitutions – see Klug 2019 *Buffalo Law Review* 701-710.

⁷⁷ Transformative constitutionalism entails the idea that the *Constitution* is not just a legal and political instrument for governing the state, but also that it is an instrument for changing society for the better by ensuring socio-economic justice, equality, equity and democracy – see Klare 1998 *South African Journal on Human Rights* 146-188.

⁷⁸ Du Plessis "The Global Aspiration of "Safe, Sustainable, Resilient and Inclusive" Cities: South African Local Government Shaping Up" 21.

⁷⁹ *Daniels v Scribante* 2017 4 SA 341 (CC) (hereafter *Daniels v Scribante*) para 154.

⁸⁰ Bannister and Connolly 2011 *Policy & Internet* 1.

⁸¹ For an extensive discussion of these major tenets of the public value approach, see Van Dijck, Poell and De Waal *The Platform Society: Public Values in a Connective World* 1-10.

⁸² See the discussion in 2.3.7 above.

The transformative potential of a public value approach towards local government and its service delivery mandate may also be seen from its ability to drive public sector transformation through changes to structures, policies, processes, systems and culture in order to enhance effectiveness, efficiency, accountability, responsiveness and transparency in the making and implementation of government decisions.⁸³ In addition to good governance (which flows from effectiveness, efficiency, accountability, responsiveness and transparency), the transformative potential of public value also lies in its ability to provide new ways in which technology can, for example, be leveraged to improve service delivery, enhance efficiency and increase public participation in decisions.⁸⁴ Governments worldwide are implementing smart technologies in public sector management across different policy domains and government functions in what has come to be known as digital transformation and e-government.⁸⁵ This digital drive creates public value through the term digital government.⁸⁶

Public value in digital government is the ability of e-government systems to provide government efficiency and improve services to communities and participation.⁸⁷ Adopting these technologies seems to create public value through e-government systems that improve public involvement, government efficiency, and the quality of

⁸³ See Willi *et al* 2020 *Tijdschrift voor economische en sociale geografie* 303-304 for a discussion of organisational transformation.

⁸⁴ During the COVID-19 pandemic, the transformative power of new communication and information technologies in enhancing public value became evident as community engagement was significantly compromised due to travel restrictions. At the time, some governments were stuck in the traditional ways of engagement like meetings in halls. Hence, it became necessary for local government to embrace technology to enable engagement with communities. For a discussion of the impact of the COVID-pandemic on government engagement with communities, see Haldane *et al* 2021 *Nature Medicine* 966. For an analysis of how 'smart communities' overcame the barriers caused by the pandemic regarding community engagement, see Ding *et al* 2022 *International Journal of Environmental Research and Public Health* 1-21.

⁸⁵ This form of transformation is defined as digital transformation – see in general, Agbeko, Effah and Boateng "Digital Transformation Initiative in a Public Sector Organization: Stakeholder Viewpoints and Responses in Ghana" 161-2172, Jonathan "Digital Transformation in the Public Sector: Identifying Critical Success Factors" 223-235; Mergel, Edelman and Haug 2019 *Government Information Quarterly* 101385.

⁸⁶ Bannister and Connolly 2014 *Government Information Quarterly* 119-128; Castelnovo "A Stakeholder Based Approach to Public Value"; Cordella and Bonina 2012 *Government Information Quarterly* 512-520.

⁸⁷ Twizeyimana and Andersson 2019 *Government Information Quarterly* 167-178.

goods and services that governments provide to communities.⁸⁸ It may as well be that in addition to transforming local government to create public value, technology also holds the potential to fulfil some of the statutory requirements regarding public participation in the creation of public value through Integrated Development Plans (IDPs) and annual municipal budgets and reports.⁸⁹ Although the technological side of creating public value is outside the purview of this study, it can still be argued that together with other ways of creating public value in local government, technology may be leveraged to make the legal framework regarding public value more progressive and geared towards service delivery in municipalities.

1.5 Research question

This study seeks to determine the extent to which South African law and national and local policy instruments promote a public value approach in local government. To determine this, the study answers the following subsidiary questions:

- (a) What is the theoretical framework underpinning a public value approach in local government?
- (b) How did the evolution of local government in the colonial and apartheid epochs undermine public value, and to what extent does this history contribute to challenges facing local government in South Africa today?
- (c) How does the constitutional, policy and legislative framework for local government provide for a public value approach?
- (d) How do city-level governance instruments (particularly IDPs, annual municipal budgets and annual municipal reports) in the selected cities of Johannesburg, Ekurhuleni and Tshwane provide for a public value approach?
- (e) Drawing from the foregoing and succeeding analysis in this study, how can the legal architecture of South Africa be enhanced towards a public value approach in local government?

⁸⁸ For a further examination of the contribution of digital technologies and e-government to public value creation, see Twizeyimana and Andersson 2019 *Government Information Quarterly* 167-178;

⁸⁹ See Chapter 5 on the statutory requirements governing IDPs and annual municipal budgets and reports.

1.6 Aim and objectives

The main aim of this study is to critically examine the extent to which South African local government laws and policy instruments promote a public value approach. To this end, this study seeks to achieve the following objectives:

- (a) To explore the theoretical framework underpinning a public value approach in local government.
- (b) To ascertain how the evolution of local government in the colonial and apartheid epochs undermined public value and to determine how that history contributes to challenges facing local government in South Africa today.
- (c) To critically examine the extent to which South Africa's constitutional, policy and legislative framework provides for a public value approach in local government.
- (d) To identify and analyse local government instruments that could provide for a public value approach (IDPs and annual municipal budgets and reports) and probe the use of these instruments in the City of Ekurhuleni, City of Tshwane and City of Johannesburg.
- (e) To offer recommendations on how the South African legal architecture could enhance a public value approach in local government.

1.7 Hypothesis and assumptions

1.7.1 Hypothesis

This study is based on the central hypothesis that in local government, the legal and policy framework can contribute to creating and maintaining public value through the law and the following three local governance instruments: IDPs, budgets, and annual reports.

1.7.2 Assumptions

This study is guided by the following assumptions:

- (a) South African local government is failing to meet its legally entrenched service delivery obligations to communities.
- (b) Local governance requires alternative public management approaches to improve municipal service delivery.
- (c) Value-led management can transform local government and make them more responsive and effective at serving communities as required by law.
- (d) Local communities are entitled to articulate and measure the value that local government in South Africa must create.
- (e) Unlike the private sector, measuring public value is more difficult in the public sector.
- (f) There are multiple and diverse arbiters through which the public value measurements of local government can be assessed.
- (f) Citizens' trust in government is moulded by common levels of public trust in government.

1.8 Potential impact of the study

This study seeks to contribute novel ideas and new insights into the state of local government in South Africa by drawing on the theory and application of 'public value'. While the crisis facing local government in South Africa has been the subject of public and academic debate, no study to date has explored how South African local government law and policy can promote the creation and maintenance of public value. Hence, this study seeks to be the first to investigate whether and how South African law and policy promote a public value approach for local government. This analysis is undertaken to better understand how a public value approach manifests in the legal and policy framework of local government and how it can be used to improve accountability, transparency, responsiveness, effectiveness, efficiency, and other tenets of public value in the local sphere. To achieve this, the study explores the theoretical framework that underpins the public value approach to contextualise the analysis with a comprehensive review of the principles and ideas that guide the creation and maintenance of public value (Chapter 2). It is hoped that this context will

enhance the application of public value to local government regulations and policy formulation to enhance service delivery.

Another contribution of this study is insights into existing knowledge on the crisis facing local government. This study examines the historical development of local government in colonial and apartheid South Africa through the lens of public value (Chapter 3). While many scholars have traced the history of South Africa, no study has discussed the history of local government through the lens of public value. As such, this study contributes vital insights into how the historical evolution of local government undermined what is understood to be public value and how these manifests in contemporary local government through complexities that undermine service delivery, such as infrastructure backlogs alluded to above.⁹⁰

No scholarly discussion has been found on how the legal framework for local government regulation manifests a public value approach. The assessment of how this framework manifests a public value approach in local government thus helps to identify gaps in the literature and *lacunae* in law on how the *Constitution*, policies and legislation can be harnessed to create public value in local government (Chapter 4).

A meaningful contribution of this study is found in Chapter 6, which explores city-level instruments that manifest a public value approach in Johannesburg, Ekurhuleni, and Tshwane. The analysis of how IDPs, budgets, and annual reports as local government instruments create and maintain public value (Chapter 5) and how these instruments are used in these municipalities offers insights into their practical impact and potential for the public value approach in local government. Together with insights from the theoretical framework that underpins public value (Chapter 2), historical analysis (Chapter 3), and constitutional, policy and legislative framework (Chapter 4), this was used to formulate recommendations for enhancing the public value approach in local government (Chapter 7).

⁹⁰ See 1.3 above.

It must be noted that while the generality of the study is based on law, the study extends beyond the law, given that public value is not a legal concept.⁹¹ By infusing a concept that has emerged from the fields of public administration and management (public value), this study construes a novel understanding of the *status quo* by establishing a connection between public value, politics and law. Although politics influence the law in that elected public officials make laws through legislation, the link between public value, politics and law is essential in creating and maintaining public value in that to understand the current state of local government, it is necessary to grasp its history, which was also influenced by law as discussed in Chapter 3.

1.9 Research methodology

This study is primarily based on doctrinal legal analysis and a literature review. Both methods are informed by the fact that this study is primarily based on law, although it draws insights from other disciplines, such as public administration and management, politics and philosophy, as explained in the preceding section. Hence, a general inquiry into these disciplines is necessary to inform theoretical perspectives underpinning public value, its interpretation, definitions and descriptions, and the suitability of public value in the South African local government context.

A literature review is a method that is used to collect, analyse, and interpret applicable scholarly sources on a topic.⁹² In this study, a literature review was conducted to identify, evaluate, analyse and synthesise sources on the meaning of public value and the emergence of its theory in public administration and management.⁹³ The doctrinal legal research method entails the analysis of primary sources of law (such as the *Constitution*, legislation and case law) and secondary sources of law (which include government policies and scholarly works such as books, journals, articles and reports) on public value, governance, local government law and constitutional law.⁹⁴ Selected

⁹¹ See 2.4 on the origins of the public value approach in public administration and management disciplines.

⁹² See Rowe 2014 *European Journal of Information Systems* 241-255; Snyder 2019 *Journal of Business Research* 333-339 on the meaning of a literature review as a research method.

⁹³ See Chapter 2 of this study.

⁹⁴ See Hutchinson and Duncan 2012 *Deakin Law Review* 83-119 and Gawas 2017 *International Journal of Law* 128-130 on the meaning of the doctrinal legal research method.

governance instruments, such as IDPs, budgets and annual reports, are doctrinally analysed in this study to establish the extent to which these local governance instruments promote public value.⁹⁵

Although the literature review and doctrinal methods used in this study are relatively straightforward, there is something to note about the utility of these methods in a legal study that draws from other disciplines, such as public administration and management. In navigating the complexities that arise from dealing with a concept that is not an originally legal one, *per se* (public value, in this case), it is also possible to understand that to achieve the aims and objectives of this study, a connection among public value, politics and law will inevitably arise. This is so in that while politics influences the law in that elected public officials make laws through legislation,⁹⁶ the government must act within laws that safeguard the public purse and ensure the efficient, open and accountable provision of public goods and services.⁹⁷ Although the study shows that the South African *Constitution* does not explicitly refer to public value, it also demonstrates that it nonetheless contains a set of values, principles and objects that promote it, such as the rule of law accountability, openness, and responsiveness.⁹⁸

Hence, the *Constitution* creates an expectation of public value that is enabled through various pieces of municipal legislation, processes and instruments.⁹⁹ The constitutional and legislative environment within which decision-makers in the public sector make decisions not only ensures constitutional integrity, legality, representation and efficiency but also entails striking delicate balances involving politics, politicians and the general public.¹⁰⁰ Notwithstanding this connection, it should be noted that in this study, the analysis of public value - which is a concept of public administration and

⁹⁵ See Statistics South Africa 2019 *Mid-Year Population Estimates* vi.

⁹⁶ Section 43 of the *Constitution* provides for law-making powers of the three spheres of government in South Africa. According to this section, South Africa the legislative authority of the national sphere of government is vested in Parliament, as set out in section 44 of the *Constitution*. Provincial legislative powers are vested in the provincial legislatures, as set out in section 104 of the *Constitution*. In the local government sphere, the powers are vested in municipal councils, as set out in section 156.

⁹⁷ See the founding provisions in section 1(d) of the *Constitution*.

⁹⁸ See Chapter 1 of the *Constitution*.

⁹⁹ See Chapter 4 of this study for a comprehensive discussion.

¹⁰⁰ Hartley *et al* 2015 *Public Administration* 197.

management - is not intended to create the impression that public value is a legal or political concept.

In addition, the study does not intend to provide a complete picture of the interconnectedness of law, politics and public value. These concepts are discussed in this study only to the extent that they aid the examination of legal perspectives on public value in local government in South Africa. However, it must be noted that while the law is an essential variable in creating and maintaining public value, it is often missing in the scholarship on public value and local government. In this regard, there is a need for the government to understand the basic administrative and constitutional laws, as these influence how public office-bearers should make decisions, consult the public, and remedy issues that arise in the day-to-day running of state affairs, such as service delivery.¹⁰¹

Given the legal nature of this study, it is also necessary to contextualise the political and public administration and management settings in which this study was undertaken. This is necessary in that while this study is primarily based on law, the role of law and politics in the government's work in creating public value cannot be ignored because it is strongly influenced by the separation of powers between the executive, legislature and judiciary.¹⁰² As will be seen in this study, public value focuses on efficiency and effectiveness in the provision of public goods and services,¹⁰³ while politics determine legislative representativeness (through provisions for elections) and responsiveness of the executive in that the executive is responsible for enforcing laws enacted by the legislature.¹⁰⁴ The law determines the mechanisms for accountability and compliance, procedural integrity, individual rights and duties, and judicial review of government decisions.¹⁰⁵ In short, references to the political context and the public administration and management environment in which local government creates public value should not be understood as a deviation from the

¹⁰¹ See Hartley *et al* 2015 *Public Administration* 197.

¹⁰² See Rosenbloom 1983 *Law and Policy in International Business* 763.

¹⁰³ See Chapter 2 of the study.

¹⁰⁴ Bryson, Crosby and Bloomberg 2014 *Public Administration Review* 447; Wang and Wang 2020 *Administration & Society* 445.

¹⁰⁵ Amsler 2016 *Public Administration Review* 700.

legal nature of this study. However, they should be viewed as a holistic approach to the true nature and utility of public value.

1.10 Organisation of the study

This study is organised into seven chapters following this introduction:

Chapter 2: Theoretical framework of public value

This chapter defines public value, analyses selected tenets of public value, traces the emergence of public value from public administration and management, and discusses how it is created. The chapter also examines the measurement of public value and its dimensions.

Chapter 3: Historical evolution of local government in South Africa

This chapter traces the history of local government in South Africa from the time the Dutch arrived in the Cape until the demise of the apartheid regime. This chapter seeks to demonstrate how South Africa's history in local government undermined public value and created some of the problems that municipalities face today.

Chapter 4: Local government in South Africa today

This chapter examines various aspects of local government in South Africa today, such as the constitutional, policy and legislative framework for local government, public value challenges in local government, and how various forms of national and provincial support attempt to ensure that municipalities stay within their service delivery course.

Chapter 5: Public value manifested in the local government instruments provided for in law

This chapter discusses how the three selected local government instruments (IDPs, annual budgets and annual reports) may create public value in local government.

Chapter 6: Case study analysis: Ekurhuleni, Tshwane and Johannesburg

This chapter analyses how the three selected local government instruments (IDPs, annual budgets and annual reports) are used by the cities of Ekurhuleni, Tshwane and Johannesburg to create public value.

Chapter 7: Conclusion and recommendations

This chapter concludes the study and offers recommendations for enhancing public value in local government in South Africa.

CHAPTER 2

THEORETICAL AND CONCEPTUAL FRAMEWORK OF PUBLIC VALUE

2.1 Introduction

Although public value has been part of the public administration discourse since the 1990s,¹ it has not been addressed in the context of the legal academic discourse. This is especially true in South Africa, even though the country has adopted a transformative *Constitution* that potentially supports a public value approach to service delivery.² This gap explains the importance of analysing how the South African legal system promotes a public value approach to so-called developmental local government. This chapter examines the theoretical framework of public value in order to bridge the scholarship gap in the discourse on how the law may influence the creation of public value and how the law (and governance instruments created in law) can be used to understand and further develop the public value theory.

It should be noted that there is a distinction to be made between the theoretical framework of public value and the public value theory. Although the terms sound the same, they are different in general and in this study in particular, as they cover different aspects of public value. This distinction is that the theoretical framework refers to the broader and more comprehensive perspective on understanding public value, measuring it, and applying it in various contexts.³ Hence, the theoretical framework of public value entails analysis of theoretical models that are used to conceptualise and study public value – such as multi-disciplinary approaches drawn from the fields of economics, sociology, political science and public administration and management.⁴ The theoretical framework also concerns itself with methodologies, assumptions and key principles that guide the understanding of public value and its

¹ See Moore *Creating Public Value: Strategic Management in Government* -120; Moore and Khagram *On Creating Public Value: What Business Might Learn from Government About Strategic Management* 1-3; Moore "Recognizing Public Value: The Challenge of Measuring Performance in Government" 91-116.

² For an analysis of the transformative potential of the South African *Constitution* in the context of the country's history, see Klare 1998 *South African Journal on Human Rights* 146-188.

³ See the presentation of the theoretical framework in Torfing *et al* 2021 *Policy & Politics* 189-209; Faulkner and Kaufman 2018 *Australian Journal of Public Administration* 69-86.

⁴ See Benington and Moore *Public Value: Theory and Practice* 1-21.

criticisms and debates.⁵ On the other hand, the public value theory refers to a particular theory in the broad fields of public administration and management.⁶ In this work, the public value theory must be understood through the prism of the fields of public administration and management.

The remainder of this chapter is structured as follows. The second section, which follows this introduction, defines public value by first assessing linguistic difficulties encountered in making sense of its meaning. After examining the semantic difficulties of defining public value, the second section analyses definitions of public value advanced by Moore, Bozeman and other scholars. The third section of this chapter presents selected tenets of public value on which the other chapters rely for examining how local government law and policies promote a public value approach. The fourth section examines the emergence of public value from public administration and management, while the fifth section discusses the creation of public value. It shows that the main actors and stakeholders are communities, the political and administrative arms of government and civil society. The sixth section of this chapter examines measurement standards of public value and the methodological tools for its measurement. The measurement standards and methodological tools are understood alongside the dimensions of public value, which are analysed in the seventh section. The eighth section concludes the chapter.

2.2 Defining public value

2.2.1 Linguistic difficulties in defining public value

The concept of public value is ambiguous and lacks a generally accepted definition in theory.⁷ This is because, generally, public value is a contested concept.⁸ Ambiguity and contestations on its meaning derive from several issues, such as the broadness

⁵ For a discussion of the meaning of a theoretical framework, see Lederman and Lederman 2015 *Journal of Science Teacher Education* 593-597; Kivunja 2018 *International Journal of Higher Education* 44-53; Varpio *et al* 2020 *Academic Medicine* 989-994.

⁶ See Turkel and Turkel 2016 *Review of Public Administration and Management* 1000189; Marcon "Public Value Theory in the Context of Public Sector Modernization" 323-351; Kaywood 2021 *African Journal of Public Affairs* 49-50.

⁷ See Rutgers 2015 *American Review of Public Administration* for a discussion of the complexities of defining public value.

⁸ Benington "From Private Choice to Public Value?" 31-51.

of its constituent terms 'public' and 'value.'⁹ The term 'public' may be used to refer to members of the community, the general populace or community interests.¹⁰ Lexically, the public is defined along the following lines:

[E]xposed to general view: of, relating to, or affecting all the people; of, by, for, or directed to the public; of or relating to business or community interests as opposed to private affairs; devoted to the general or national welfare; accessible to or shared by all members of the community; supported by public funds and private contributions rather than by income from commercials.¹¹

Looking at the above definition from a local government perspective, the 'public' can, in essence, be defined as the collective of individuals who constitute the local community, both as beneficiaries and contributors to shared services and communal welfare and whose interests are the primary focus of governmental policies and actions. On the other hand, the term 'value' denotes the worth, benefits, moral beliefs and even principles expressed as "the relative worth, usefulness, or importance of a thing or (occasionally) a person; the estimation in which a thing is held according to its real [value]."¹² Given disparities in the meaning of individual words comprising public value, the resultant meaning may differ from the original meaning of the terms in question.

Other challenges to defining public value are contextual variability of the term and resultant interdisciplinary differences. For instance, public value is understood differently in the fields of public administration and management as the benefits which the general populace derives from governmental actions,¹³ while in economics, it is known as the value derived from public goods.¹⁴ Since public goods are provided by or on behalf of the government and citizens derive value from these goods, one may

⁹ In linguistics, compound terms that arise from a combination of two words produce new terms whose specific meanings may be different from the standalone meanings of their constituent terms. For a discussion of compound terms in linguistics and how they may introduce ambiguity, see Yuldasheva *et al* 2021 *Linguistics and Culture Review* 1431-1438.

¹⁰ For an analysis of variations in the meaning of 'public' in various contexts, see Barnes *et al* 2003 *Public Administration*; Moore *Recognizing Public Value* 379-399.

¹¹ Merriam-Webster 2023 <https://www.merriam-webster.com/dictionary/public>.

¹² Oxford English Dictionary 2023 <https://www.oed.com/search/dictionary/?scope=Entries&q=value>. see also, Bryson, Crosby and Bloomberg "Introduction" 4.

¹³ Naidoo and Holtzhausen 2020 *Administratio Publica* 193.

¹⁴ See the discussion in Mazzucato and Ryan-Collins 2022 *Journal of Economic Policy Reform* 345-360.

argue that there is not much difference between the economic and public administration perspectives on public value. However, the provision of goods from which citizens derive satisfaction requires different actions from the government. In this context, the following subsections examine how some scholars have defined public value. The discussion of scholarly approaches to the meaning of public value will aid in crafting a working definition of public value in this chapter.¹⁵

2.2.2 Moore's managerial approach to public value

The leading authority on public value is Moore,¹⁶ who expended a considerable effort in the study of public value in the public sector.¹⁷ Moore equated public value with shareholder value in the corporate context and defined it as the collective expectations of communities with respect to the government and the public services it provides to them.¹⁸ He postulated that managerial work in the public sector should aim to create value for society, just as managers in the private sector aim to create private value in the form of products and services that corporations sell to earn revenue that exceeds production costs.¹⁹ Moore further argued that this is the best way to ensure that public sector organisations are efficient and effective and that they meet the needs of the people they serve.²⁰

It should be noted that Moore focused on public value within the context of strategic decision-making, public service efficiency, the commitment of public sector employees to public service, and ethical behaviour.²¹ He also focused on the goals and achievements of public managers with regard to three principal areas of public value: administrative ethics, public integrity, and the elimination of corruption; public value

¹⁵ This study's understanding of public value is articulated in 2.2.4.

¹⁶ See Bryson, Crosby and Bloomberg "Introduction" 4 for tribute to Moore's contribution to the discourse on public value.

¹⁷ See the biographical information in Moore 2021 *International Journal of Professional Business Review* 1-2.

¹⁸ Moore *Creating Public Value: Strategic Management in Government* 64-65.

¹⁹ Moore and Khagram *On Creating Public Value: What Business Might Learn from Government About Strategic Management* 1-3.

²⁰ See Moore and Khagram *On Creating Public Value: What Business Might Learn from Government About Strategic Management* 1-3; Moore "Recognizing Public Value: The Challenge of Measuring Performance in Government" 91-116.

²¹ See Moore *Creating Public Value: Strategic Management in Government* and Moore "Recognizing Public Value: The Challenge of Measuring Performance in Government" 91-116.

management, in which public managers are expected to create public value; and the public value perspective on issues such as equity, transparency, and accountability.²²

Looking at Moore's propositions above, it is clear that the pursuit of positive change by managers in the public sector should ideally be guided by the desire of communities for efficiency in the public sector and the achievement of collectively valued social outcomes.²³ The issue of collective social outcomes arises from the proposition that public value "attracts projections concerning the need to engage in dialogue about values, value conflict, and the role of the public sector in changing societal contexts."²⁴ The interpretation of this proposition in this study is that it suggests that dialogue may lead to consensus about which values a particular community wants to adopt, how it intends to resolve conflicts among its members regarding specific values, and how the public may influence these values over time based on societal changes and specific circumstances.²⁵

Although Moore's account of the meaning of public value and the stakeholders who contribute to its realisation is ideally convincing, some scholars have differed with his approach and have seen it as no more than a story that means "all things to all people."²⁶ The genesis of this criticism seems to come from the proposition that public value is variably applied and ambiguous.²⁷ Part of the argument against Moore's proposition on public value is that his "approach short-changes the importance of politics and elected officials, overemphasises the role of public managers, and trusts too much in public organisations, private sector experience, and the virtues of public servants."²⁸ Another strong criticism of Moore's theory on public value is that:

²² Nabatchi 2012 *Public Administration Review* 66, 72.

²³ Dahl and Soss 2014 *Public Administration Review* 497.

²⁴ Meynhardt 2009 *International Journal of Public Administration* 192-193.

²⁵ In political theory, reaching consensus in this way is term deliberative democracy – see Curato *et al* 2022 *International Political Science Review* 55-66; Willis, Curato and Smith 2022 *Wiley Interdisciplinary Reviews: Climate Change* e759 for a discussion. However, there are concerns about the limitations of deliberative democracy – see Ryfe 2005 *Annual Review of Political Science* 49-71; Mutz 2008 *Annual Review of Political Science* 521-538.

²⁶ Rhodes and Wanna 2007 *Australian Journal of Public Administration* 408.

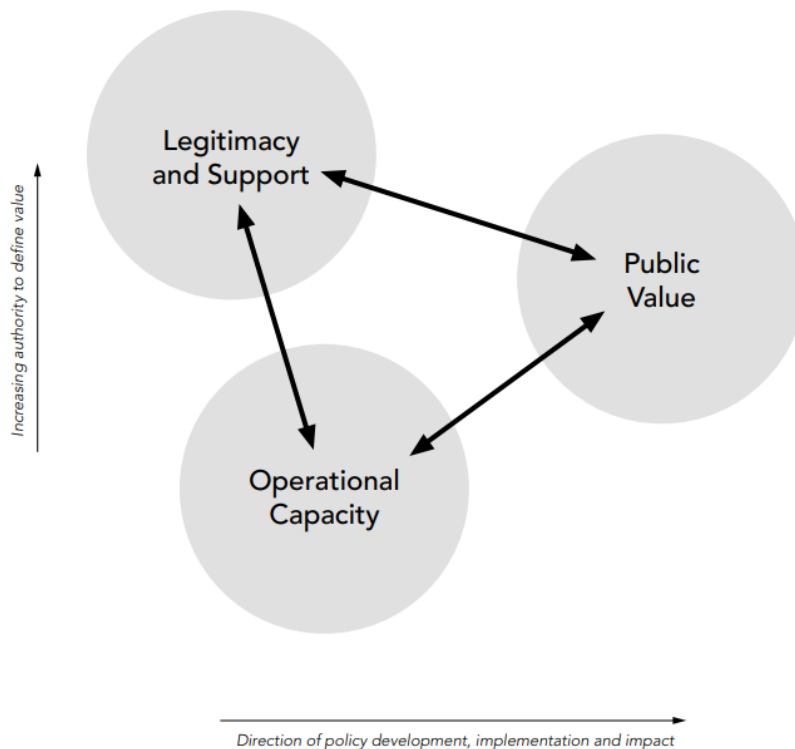
²⁷ Rhodes and Wanna 2007 *Australian Journal of Public Administration* 408.

²⁸ Bryson, Crosby and Bloomberg "Introduction" 5. See also the criticisms in Rhodes and Wanna 2007 *Australian Journal of Public Administration* 409-412.

[By] posing public value as an analogy to shareholder value, seeing democratic engagement in primarily instrumental terms, and viewing public value as something that is produced, Moore and his followers mimic the very neoliberal rationality they seek to resist and run the risk of furthering neoliberalism's de-democratising and market-enhancing consequences. Public managers pursuing public value might unwittingly be agents of downsizing democracy.²⁹

It appears that the bulk of the criticisms against Moore's positions on public value also stem from his strategic triangle, in which he postulated that to create public value, a strategy adopted by a public manager must be substantively valuable, legitimate, politically sustainable, and operationally and administratively feasible.³⁰ The strategic triangle appears below.

Figure 2:1: Moore's strategic triangle³¹



In defence of this strategic triangle, others argue that notwithstanding criticisms that may be labelled against it, the strategic triangle correctly captures the reality that public managers have the autonomy to shape what they perceive to be public value

²⁹ Bryson, Crosby and Bloomberg "Introduction" 5-6. See also, Dahl and Soss 2014 *Public Administration Review* 496-504; Jacobs 2014 *Public Administration Review* 480-494.

³⁰ Moore *Creating Public Value: Strategic Management in Government* 71.

³¹ Image taken from Moore *Creating Public Value: Strategic Management in Government* 71.

and that any argument to the contrary would be failing to acknowledge that there is no clearly demarcated line between politics and public administration.³² This means that politics influences administration in that politicians appoint public servants, and they would want to appoint people on whom they have some influence and leverage in making policy and administrative decisions.³³

2.2.3 Bozeman's policy approach to public value

The above criticism of Moore's conceptualisation of public value led other scholars, such as Bozeman, to rethink its meaning and to diverge from his management approach. Bozeman wrote *Public Values and Public Interest: Counterbalancing Economic Individualism*,³⁴ which adopted a policy or societal-level approach to public value. In this book, Bozeman uses the language of 'public values' as opposed to 'public value' and argues that:³⁵

A society's "public values" are those providing normative consensus about (a) the rights, benefits, and prerogatives to which citizens should (and should not) be entitled; (b) the obligations of citizens to society, the state, and one another; and (c) the principles on which governments and policies should be based.³⁶

This conceptualisation of public value suggests that it is a typically contested concept in democracy.³⁷ Other scholars adopt the view that normative consensus, seen in the context of Bozeman's definition, entails that such values are bad, although no further explanation is given for this.³⁸ Nevertheless, some argue that public value may be discerned from constitutions, parliamentary mandates, policies adopted by national executives, literature reviews, public opinion polls, and other sources.³⁹ The succeeding chapters of this study confirm that these formal and informal sources outline a public value approach in local government law and policies.

³² Alford and O'Flynn 2009 *International Journal of Public Administration* 177.

³³ Bryson, Crosby and Bloomberg "Introduction" 5.

³⁴ Bozeman *Public Values and Public Interest: Counterbalancing Economic Individualism*.

³⁵ In other parts of the book, Bozeman uses the singular rather than the plural, such as Chapter 1, titled "The privatization of public value." No explanation is given for this discrepancy in his book.

³⁶ Bozeman *Public Values and Public Interest: Counterbalancing Economic Individualism* 13-14.

³⁷ Bryson, Crosby and Bloomberg "Introduction" 6.

³⁸ See Bryson, Crosby and Bloomberg "Introduction" 6.

³⁹ See in general, Jørgensen and Bozeman 2007 *Administration & Society* 354-381; Bryson, Crosby and Bloomberg "Introduction" 7.

At this juncture, it is necessary to highlight that although this study is limited to doctrinal analysis and, therefore, does not engage in empirical research to determine public opinion, it is worth noting that in *S v Makwanyane*,⁴⁰ the court observed that it is not in all instances that public opinions on any issues would be relevant. In this regard, the Constitutional Court said that if public opinion about an issue were to be decisive, "there would be no need for constitutional adjudication".⁴¹ While this proposition is appealing in the context of protecting minority rights, it also raises a broader question on who frames public value. Given the preceding discussion on Moore's strategic triangle, it appears that public managers do not have as much power as Moore would suggest in making decisions that are substantively valuable, legitimate, politically sustainable, and operationally and administratively feasible. Instead, constitutional democracies might see more powers given to courts in determining issues of public interest like public value. Although section 2.5.1 below deals with actors in creating and maintaining public value, this study does not delve into the intricacies of the separation of powers and checks and balances among the three branches of government so as not to distract from the overall objectives of this thesis.

Bozeman⁴² developed a public value model with reference to the United States, which other scholars subsequently improved to illustrate the failure and successes of public value.⁴³

⁴⁰ *S v Makwanyane* 1995 6 BCLR 665 (CC) (hereafter *S v Makwanyane*) para 88.

⁴¹ See *S v Makwanyane* para 88.

⁴² Bozeman *Public Values and Public Interest: Counterbalancing Economic Individualism* 145-147.

⁴³ Table 2.1 illustrates the public value successes and failures by Bryson, Crosby and Bloomberg "Introduction" 7-10.

Table 2.1: Public value failures and successes⁴⁴

Criterion	Definition	Illustration of Public Value Failure and Success
Creation, maintenance, and enhancement of the public sphere	<p>As a public value: open public communication and deliberation about public values and collective action pertaining to public values.</p> <p>As a public value-enabling institution, the space, physical or virtual, in which the realisation of the public sphere value occurs.</p>	<p>Failure: An authoritarian regime seizes control of the internet or other social media to exert control of protestors and thereby thwarts open public communication.</p> <p>Success: A deliberative democracy group is established to bring together diverse stakeholders in a local environmental dispute, and these stakeholders engage in free and open public values-related communication.</p>
Progressive opportunity	<p>An "equal playing field" is less desirable than collective actions and public policies addressing structural inequalities and historical differences in opportunity structures.</p>	<p>Failure: "Merit-based" policies that fail to distinguish the effects of opportunity structures on achievement.</p> <p>Success: Compensatory education programs.</p>
Mechanisms for values articulation and aggregation	<p>Political processes and social cohesion should be sufficient to ensure effective communication and processing of public values.</p>	<p>Failure: "Merit-based" policies that fail to distinguish the effects of opportunity structures on achievement.</p>

⁴⁴ Bozeman *Public Values and Public Interest: Counterbalancing Economic Individualism* 145-147.

		Success: Compensatory education programs.
Mechanisms for values articulation and aggregation	Political processes and social cohesion should be sufficient to ensure effective communication and processing of public values.	<p>Failure: Combination of US Congress' seniority system and non-competitive districts leading, in the 1950s, to legislative bottlenecks imposed by just a few committee chairs who held extreme values on civil rights, national security, and other issues.</p> <p>Success: The US Congress' seniority system reforms taking into account factors related to relevant subject matter experience and expertise.</p>
Legitimate monopolies	When goods and services are deemed suitable for government monopoly, private provision of goods and services is a violation of legitimate monopoly.	<p>Failure: Private corporations negotiating under-the-table agreements with foreign sovereigns.</p> <p>Success: Uses of patent policy in allocating intellectual property rights.</p>
Imperfect public information	Similar to the market failure criteria, public values may be thwarted when transparency is insufficient to permit citizens to make informed judgments.	<p>Failure: Public officials developing national energy policies in secret with corporate leaders of energy companies.</p> <p>Success: City council's widely advertised and open hearings</p>

		about proposed changes in zoning.
Distribution of benefits	Public commodities and services should, <i>ceteris paribus</i> , be freely and equitably distributed. When "equity goods" have been captured by individuals or groups, 'benefit hoarding' occurs in violation of public value.	Failure: Restricting public access to designated public use land. Success: Historical policies for the governance of national parks.
Provider availability	When there is a legitimate recognition of the necessity of providing scarce goods and services, providers need to be available. When a vital good or service is not provided because of the unavailability of providers or because providers prefer to ignore public value goods, there is a public value failure due to unavailable providers.	Failure: Welfare checks are not provided due to the lack of public personnel or failures of technology for electronic checking transactions. Success: Multiple avenues for rapid and secure delivery of income tax refunds.
Time horizon	Public values are long-run values and require an appropriate time horizon. When actions are calculated based on an inappropriate short-term time horizon, there may be a failure of public values.	Failure: Policy for waterways that considers important issues related to recreation and economic development but fails to consider long-run implications for changing habitat for wildlife. Success: Measures taken to ensure the long-term viability of pensions.

Substitutability vs. conservation of resources	Actions pertaining to a distinctive, highly valued common resource should recognise the distinctive nature of the resource rather than treat the resource as substitutable or submit it to risk based on unsuitable indemnification.	<p>Failure: In the privatisation of public services, contractors have to post bond-ensuring indemnification but provide inadequate warrants for public safety.</p> <p>Success: Fishing quotas or temporary bans allow long-term sustainable populations of food fish.</p>
Ensure subsistence and human dignity	In accordance with the widely legitimated Belmont Code, human beings, especially the vulnerable, should be treated /with dignity and, in particular, their subsistence should not be threatened.	<p>Failure: Man-made famine, slave labour, political imprisonment.</p> <p>Success: Institutional Review Boards' protections of "vulnerable populations" including children, prisoners, and the mentally ill.</p>

This table depicts the following tenets of public value:

- (i) Engagement, collaboration, public consultation and deliberation of communities with government.
- (ii) Equity and redress.
- (iii) Communication, cohesion and representation in government.
- (iv) Fairness and accessibility of the government and its resources.
- (v) Availability and reliability of the government.
- (vi) Sustainability.
- (vii) Protection of human rights such as human dignity.

In section 2.3, this chapter presents the main tenets of public value that have been selected for this study. Chapters 5 and 6 of this study will address the extent to which the *Constitution*, national policies and legislation and local government instruments provide for these tenets of public value, in addition to others which are not expressly mentioned in this list in section 2.3 but which emerge from their fulfilment in practice.⁴⁵

The analysis shows that public value is seen as a reflection of the preferences of communities that are collectively expressed and facilitated not only through political outcomes (regarding their choice of public representatives in elections)⁴⁶ but also through processes that generate satisfaction, trust and fairness in government.⁴⁷ Hence, Jess and Uys see public value as "material items such as roads, buildings and land, which is inseparable from its counterpart, the conceptual, satisfaction and aesthetic value."⁴⁸ In Ryan's⁴⁹ view, the creation of public value should ideally have positive outcomes for the government as it affirms its legitimacy and enhances the chances of future electoral success. Public value helps connect public perceptions of community members with improved ways of understanding public values and how to connect with them.⁵⁰ According to Jessa and Uys, public value also entails:

[The] benefits accruing to civil society, i.e., the outcomes of stakeholder engagement, which the organised community, regional and national institutions of state (IOS) are part of within an [integrated public service system].⁵¹

⁴⁵ According to Herder *Buildings Blocks for Public Value - A Study of Four Managerial Activities as Conditions for Public Value Creation* 1-130, other tenets of public value include effectiveness, quality and legitimacy.

⁴⁶ Electoral choices reflect the preferences of communities on whom and through which political parties they should be governed. This is termed electoral accountability – see Aruoba, Drazen and Vlaicu 2019 *International Economic Review* 517-545 for a discussion.

⁴⁷ O'Flynn 2007 *Australian Journal of Public Administration* 358. Trust in the government and the fairness of its actions enhance legitimacy because they demonstrate the government's willingness to submit itself to the people who elected it and to govern them responsibly – see Shapiro and Sweet *On Law, Politics, and Judicialization* 3.

⁴⁸ Jessa and Uys 2018 *Administratio Publica* 279.

⁴⁹ For a discussion of how trust, fairness and legitimacy of the government may improve a government's prospects of re-election, see Gélineau 2013 *Electoral Studies* 420.

⁵⁰ Ryan 2014 *Journal of African & Asian Local Government Studies* 36.

⁵¹ Jessa and Uys 2018 *Administratio Publica* 278.

These definitions of public value affirm the varying "schools of thought, approaches and difficulties involved in conceptualising [public value] in terms of its subjective and objective qualities."⁵² Hence, it is expected that some definitions of public value would be based on theories that define the role of public administration and management. An example in this regard is the definition of public value as "producing what is either valued by the public, is good for the public, or both."⁵³ The following section synthesises this study's interpretation of public value.

2.2.4 This study's interpretation of public value

This study adopts the above descriptions of public value and defines it as the collective rights and social, economic, and environmental benefits that communities are entitled to receive from the government as part of its mandate to meet their needs and improve human well-being. In this regard, the creation of public value should ideally prioritise service delivery through the provision of public goods and services such as sanitation, transportation, safety, education, healthcare, and environmental protection, among others.⁵⁴ To deliver these goods and services, the government must provide avenues for public participation in decision-making so that the needs and expectations of those communities are prioritised.⁵⁵ The government may also enhance public value by providing goods and services transparently and being accountable in line with the law.⁵⁶

Since rights and benefits come with corresponding obligations,⁵⁷ it is argued that communities also have a role to play in creating public value. Their roles come in various forms, which have been introduced in the preceding section. They include

⁵² Jessa and Uys 2018 *Administratio Publica* 278.

⁵³ Bryson, Crosby and Bloomberg *Public Value and Public Administration* 448. See also, Meynhardt and Jasinenko 2020 *International Public Management Journal* 2.

⁵⁴ Most of the services in this list fall under the functional competences of local government in many jurisdictions – see Gilbert *et al Making Cities Work: Role of Local Authorities in the Urban Environment* 1-9.

⁵⁵ See Naidoo and Ramphal 2018 *South African Journal of Industrial Engineering* 82-93; Martin 2009 *Sociology Compass* 310-326; Draai and Taylor 2009 *Journal of Public Administration* 112-122; Madumo 2014 *Administratio Publica* 130-147.

⁵⁶ For a discussion of the connection between service delivery, on the one hand, and accountability and transparency, on the other hand, see Joshi 2013 *Development Policy Review* 29-48; Mamokhere, Musitha and Netshidzivhani 2022 *Journal of Public Affairs* e2627; Waddington *et al 2019 Campbell Systematic Reviews* e1025; Amalia 2023 *The ES Accounting And Finance* 160-168.

⁵⁷ For one of the oldest propositions on this, see Hart 1955 *The Philosophical Review* 175-191.

participating in decision-making through various community engagement platforms that enable the government to understand their needs and expectations.⁵⁸ They also include voting to elect public office-bearers who are committed to service delivery, openness and accountability,⁵⁹ volunteering in government initiatives such as clean-up campaigns, and paying rates and taxes to finance public expenditure in providing goods and services.⁶⁰ Fulfilling these duties may enhance the government's sustainable provision of quality goods and services, create a sense of community ownership of government projects, and enhance accountability, trust, and legitimacy.⁶¹

The foregoing analysis of the definition of public value also shows that the government has a role to play in enhancing the participation of communities in government matters.⁶² This role may be fulfilled through collaborative negotiation between government officials and stakeholders such as communities, the private sector and non-governmental organisations, as these represent various interests and groups among communities.⁶³ The adopted definition also shows that collaboration may resolve misunderstandings, mitigate instances of conflict between the government and communities, and create a sense of ownership of government projects by achieving shared goals.⁶⁴ Based on the adopted definition, it can be argued that creating public value through this collaborative approach may lead the government to achieve a shared vision of community needs, benefits, demands and expectations.

⁵⁸ See Jessa and Uys 2018 *Administratio Publica* 277-305 for an analysis of community engagement in the context of public value.

⁵⁹ According to Fombad, authentic democratic systems ensure that people elect public representatives that they want and thus get governments that they deserve. See Fombad 2010 *Speculum Juris* 42.

⁶⁰ Volunteer clean-up campaigns can be seen as an example of civil environmental stewardship – see Jorgensen, Krasny and Baztan 2021 *Sustainability Science* 153-167.

⁶¹ Cheema "Building Trust in Government: An Introduction" 1-12.

⁶² In South Africa, the government has a duty to ensure effective public participation. See Czapanskiy and Manjoo 2008 *Duke Journal of Comparative & International Law* 1-40; Du Plessis 2008 *Potchefstroom Electronic Law Journal* 1-34.

⁶³ Warner and Sullivan *Putting Partnerships to Work: Strategic Alliances for Development Between Government, the Private Sector and Civil Society* 1-10; Matibane *Improving Service Delivery Through Partnerships Between Local Government, Civil Society and the Private Sector: A Case Study of Imizamo Yethu* 1-10; Haywood *et al* 2019 *Development Southern Africa* 555-569.

⁶⁴ Thia and Ross 2012 *Journal of Modern Accounting and Auditing* 827-829.

The definition of public value in this section also shows that creating public value through negotiation, collaboration, and other forms of public engagement in service delivery minimises the tension between the government and the governed by including a participatory role for communities in public decision-making.⁶⁵ Hence, public value creates benefits for communities, such as improvements in the provision of public services and enhancements to the quality of life through social and economic development, healthy and safe environments, and environmental protection.⁶⁶ This conceptualisation of public value depicts the prioritisation of democratic values such as citizen involvement and participation, free exercise of political rights in electing leaders, and accountable and open governance.⁶⁷

2.3 Selected tenets of public value

2.3.1 Legality

Legality is rooted in the principle that all actions, decisions and policies of public institutions must be grounded in laws that exist at the time of their making.⁶⁸ Hence, legality is not merely the existence of law but the adherence to its spirit and letter by public institutions.⁶⁹ Legality is intended to ensure that governmental actions are predictable, consistent, transparent and adhere to the rule of law.⁷⁰ Its other elements are consistency of the application of the law, procedural fairness and accountability for infringement of these elements.⁷¹ In this regard, consistency entails that all public

⁶⁵ For a further discussion of community participation in government decision-making, see Du Plessis 2008 *Potchefstroom Electronic Law Journal* 1-34; Czapanskiy and Manjoo 2008 *Duke Journal of Comparative & International Law* 1-40.

⁶⁶ See Kelly, Mulgan and Muers 2002 https://www.academia.edu/23693003/Creating_Public_Value_An_analytical_framework_for_public_service_reform on the benefits of creating public value.

⁶⁷ For a discussion of democracy in creating and maintaining public value, see Benington "Public Value as a Contested Democratic Practice" 29-48; Bryson, Crosby and Bloomberg "Discerning and Assessing Public Value" 1-23.

⁶⁸ See Varuhas 2020 *The Cambridge Law Journal* 578-614 for a full exposition of the meaning of legality.

⁶⁹ Gardner 2018 *Australian Journal of Legal Philosophy* 3-4.

⁷⁰ The rule of law means that all laws be clear, publicised, stable and fairly applied so that they can enable communities and public office-bearers to which they apply to guide their behaviour accordingly - O'Donnell 2004 *Journal of Democracy* 35. It is widely believed to be rooted in Dicey's tripartite elements: supremacy of the law, equality of all members of the community to which the law applies, and redress through the courts – see Dicey *Introduction to the Study of the Law of the Constitution* 202-203.

⁷¹ See Hoexter 2022 *Constitutional Court Review*.

decisions and actions align with established legal norms and statutes in order to uphold the integrity of the legal system, which would otherwise fall into disrepute if there was misalignment.⁷² Procedural fairness refers to the processes by which laws are applied.⁷³ Hence, it emphasises impartiality and the right to a fair hearing to give affected people a sense of justice. In the context of legality, accountability entails that public office-bearers take responsibility for their actions to ensure that they act within the bounds of law and are answerable to the public and institutions designated for that purpose.⁷⁴

The importance of legality in general and to the creation of public value, in particular, is immense, given that legality serves as a safeguard against arbitrary governance, protects individual rights, and ensures that public office-bearers only exercise power according to the established laws.⁷⁵ This fosters trust and predictability of the legal system and is essential for society to function in order and peace.⁷⁶ Legality also promotes equity, as it requires that all individuals, regardless of status, be subject to the same legal standards.⁷⁷ This equitable application of the law is fundamental in ensuring social justice and fairness.⁷⁸ When closely examined, legality also promotes accountability in government, as discussed below.

2.3.2 Accountability

Generally, accountability is about ensuring that decision-makers are answerable for their actions and ensuing outcomes.⁷⁹ In the context of public governance, accountability refers to the duty of public office-bearers to answer for their actions, decisions and policies.⁸⁰ Hence, accountability is about ensuring that public office-bearers are answerable for their performance and other conduct in the management

⁷² Chen 2015 *Monash University Law Review* 329-333.

⁷³ Plasket 2020 *South African Law Journal* 698-700.

⁷⁴ Versteeg and Ginsburg 2017 *Law & Social Inquiry* 109.

⁷⁵ Radin "Reconsidering the Rule of Law" 37-40.

⁷⁶ Whiting 2017 *Comparative Political Studies* 1907-1908.

⁷⁷ See Búzás 2018 *International Organization* 1-31 for a discussion of the normative foundations of equality in the discourse on legality.

⁷⁸ Radin "Reconsidering the Rule of Law" 37-40.

⁷⁹ Flinders *The Politics of Accountability in the Modern State* 1.

⁸⁰ Gregory "Accountability in Modern Government" 681.

of public resources, execution of public policies and the delivery of basic services.⁸¹ As a public governance and legal concept, accountability is rooted in the notion of transparency and responsibility, both of which demand scrutiny and evaluation of public actions by oversight mechanisms through, among others, checks and balances that prevent and address corruption and other abuses of public power and resources.⁸² For this reason, it can be said that accountability helps to uphold the integrity of public institutions and to maintain community trust in the government, thereby fostering the legitimacy and effectiveness of the government.⁸³

The main elements of accountability include answerability, transparency and enforcement.⁸⁴ Answerability requires public office-bearers to provide reasons for their decisions and other actions to enable communities to examine and critique such actions.⁸⁵ As discussed below, transparency is vital in ensuring that decisions and actions are open to public scrutiny to empower an informed and engaged citizenry.⁸⁶ Enforcement is meant to ensure that there are mechanisms to sanction and correct inappropriate or inefficient actions.⁸⁷ The three elements of accountability (answerability, transparency and enforcement) uphold a system where public office-bearers are held to account for their stewardship of public resources and fulfilment of responsibilities.⁸⁸

In the public value context, which is the subject of this study, accountability promotes efficiency, upholds ethical standards and enhances the quality of service delivery.⁸⁹ Through accountability mechanisms, public office-bearers may be compelled to efficiently and effectively utilise public resources for their intended purposes.⁹⁰ It also helps to uphold ethical standards in public service, ensuring that officials act with

⁸¹ Almquist *et al* 2013 *Critical Perspectives on Accounting* 479.

⁸² Harrison and Sayogo 2014 *Government Information Quarterly* 513-520.

⁸³ Houston and Harding 2013 *Public Integrity* 53-70.

⁸⁴ See Mabillard and Zumofen 2017 *Public Policy and Administration* 110-120 for a discussion of this relationship.

⁸⁵ Smith 2015 *Inquiry* 99-100.

⁸⁶ See 2.3.3 for a discussion.

⁸⁷ Akpanuko and Asogwa 2013 *International Journal of Finance and Accounting* 164-170.

⁸⁸ Bovens, Schillemans and Hart 2008 *Public Administration* 225.

⁸⁹ De Kadt and Lieberman 2020 *British Journal of Political Science* 185.

⁹⁰ Lapuente and Van de Walle 2020 *Governance* 461-475. See also, 2.3.11 on effectiveness and efficiency of service delivery as tenets of public value.

integrity and in accordance with moral and ethical norms.⁹¹ Additionally, it enhances the quality of public services by ensuring that they are delivered in a transparent manner that meets public needs and expectations, as discussed in the following section.

2.3.3 Transparency

It has already been noted in the above section that transparency is part of accountability in that it ensures openness in public processes and decisions and is key to creating public trust and legitimacy.⁹² In governance, transparency pertains to the openness and accessibility of government actions, decisions and information to the public.⁹³ Transparency refers to openness through sharing information about decisions which are being made or about to be made by the government, how and why they are made, and the expected outcomes.⁹⁴ It is intended to prevent secrecy and deception and to build trust.⁹⁵ As noted above,⁹⁶ accountability relates to transparency in that it requires the government to accept responsibility for the outcome of its decisions and actions.⁹⁷

Transparency requires the government to give the public access to information about its reasons so that the public can understand the decisions that have been made and the motivations for such decisions.⁹⁸ This is important in preventing abuse of power and state resources for personal gain instead of the public interest.⁹⁹ For these reasons, it can be said that transparency empowers communities to be informed of the decisions of the government to facilitate democratic engagement.¹⁰⁰ However, it must be noted that transparency is not merely about the availability of information but also about its comprehensibility and relevance so that the public can effectively

⁹¹ Ghanem and Castelli 2019 *Journal of Values-Based Leadership* 1-23.

⁹² See 2.3.2.

⁹³ Androniceanu 2021 *Revista* 149-164.

⁹⁴ Androniceanu 2021 *Revista* 149-164.

⁹⁵ Alessandro *et al* 2021 *World Development* 105223.

⁹⁶ See 2.3.2.

⁹⁷ see Hood 2010 *West European Politics* 989-1009.

⁹⁸ Sofyani, Riyadh and Fahlevi 2020 *Cogent Business & Management*

⁹⁹ Heimstädt and Dobusch 2020 *Organization Theory* 1-12

¹⁰⁰ Schudson 2020 *American Behavioral Scientist* 1670-1675; Hollyer, Rosendorff and Vreeland 2019 *British Journal of Political Science* 1251-1270; Androniceanu 2021 *Revista* 149-160.

use and engage with the information and decide on accountability pathways where necessary.¹⁰¹

The main elements of transparency include disclosure of information, clarity and timeliness.¹⁰² Disclosure of information involves publicising relevant governmental processes, decisions and policies.¹⁰³ Clarity ensures that the information provided is understandable and accessible to all persons and free from obfuscation and technical jargon that could impede comprehension by average members of society.¹⁰⁴ Timeliness refers to the prompt provision of information to ensure that such information is relevant and useful for current public discourse and decision-making.¹⁰⁵ As such, it can be argued that transparency underpins processes by ensuring citizens have the necessary information to hold public office-bearers accountable and participate meaningfully in public life.¹⁰⁶ Ideally, transparency deters corruption and misuse of public resources by subjecting government actions to public scrutiny.¹⁰⁷

In the public value discourse, transparency in government decision-making is necessary to ensure that public institutions serve the collective interests of society and not the narrow interests of elites.¹⁰⁸ This is because transparency ensures that government actions align with public needs and expectations.¹⁰⁹ Transparency empowers citizens to engage with and influence the policy process, ensuring that public services and policies reflect the diverse needs and aspirations of society.¹¹⁰ It also builds trust between the government and the public.¹¹¹ This is crucial for creating trust and legitimacy in public institutions, as discussed below.

¹⁰¹ Albu and Flyverbom 2019 *Business & Society* 272.

¹⁰² Khan, Lee and Bae 2019 *Sustainability* 2078-2079.

¹⁰³ Schnackenberg, Tomlinson and Coen 2021 *Human Relations* 1628-1660.

¹⁰⁴ Albu and Flyverbom 2019 *Business & Society* 282.

¹⁰⁵ Bhimavarapu and Rastogi 2020 *Test Engineering and Management* 274.

¹⁰⁶ Molina Rodríguez-Navas, Medranda Morales and Muñoz Lalinde 2021 *ISPRS International Journal of Geo-Information* 1-14.

¹⁰⁷ Parra, Muñoz-Herrera and Palacio 2021 *Journal of Behavioral and Experimental Economics* 101762.

¹⁰⁸ Parra, Muñoz-Herrera and Palacio 2021 *Journal of Behavioral and Experimental Economics* 101762.

¹⁰⁹ Parra, Muñoz-Herrera and Palacio 2021 *Journal of Behavioral and Experimental Economics* 101762.

¹¹⁰ Schnell and Jo 2019 *American Review of Public Administration* 944-945.

¹¹¹ Schmidhuber, Ingrams and Hilgers 2021 *Public Administration Review* 91-93.

2.3.4 Trust and legitimacy

Building public trust in the government enhances the perceived legitimacy of public institutions and their actions.¹¹² In the governance context, trust refers to the belief and confidence of citizens in the ability, integrity and fairness of the government.¹¹³ It is closely related to government legitimacy, which refers to the perception that the government exercises its authority in a manner that is justifiable and appropriate and in accordance with established laws and societal norms so as to prevent arbitrariness.¹¹⁴ Trust and legitimacy are interconnected in that legitimacy serves as a foundation for trust, while trust can reinforce the legitimacy of the government and its decision-making processes.¹¹⁵

The core elements of trust are the reliability of the government in making decisions in the public interest, transparency, and responsiveness.¹¹⁶ Reliability pertains to the consistent and dependable performance of the government in fulfilling its governance and other service delivery duties,¹¹⁷ while transparency (discussed above) involves the openness and clarity with which the government operates.¹¹⁸ Responsiveness, which will be explored further below, refers to the extent to which the government addresses and incorporates the needs, expectations and preferences of communities in making decisions.¹¹⁹ Legitimacy builds on the principles of legality (discussed above),¹²⁰ ethical governance, and the popular will expressed through democratic, free, and fair periodic elections.¹²¹

In the public value discourse, trust and legitimacy are essential for the stability and effectiveness of political systems that underpin public governance across the globe.¹²²

¹¹² See Nathan 2020 *Journal of Democracy* 158.

¹¹³ Hitlin and Shutava *Trust in Government: A Close Look at Public Perceptions of the Federal Government and its Employees* 7.

¹¹⁴ Tyler "Governing Amid Diversity: The Effect of Fair Decision-Making Procedures on the Legitimacy of Government" 74-83.

¹¹⁵ Kumagai and Iorio *Building Trust in Government Through Citizen Engagement* 16.

¹¹⁶ Mansoor 2021 *Government Information Quarterly* 101597; Porumbescu 2015 *State and Local Government Review* 205-213.

¹¹⁷ Levi "Trustworthy Government and Legitimizing Beliefs" 362-384.

¹¹⁸ See 2.3.3.

¹¹⁹ See the discussion in 2.3.6.

¹²⁰ See 2.3.1.

¹²¹ Pardo and Prato "Ethnographies of Legitimacy: Methodological and Theoretical Insights" 1-25.

¹²² Vallier 2017 *Social Philosophy and Policy* 323-233.

This is because trust engenders citizen compliance with laws and public policies and fosters their willingness to participate in civic activities such as elections.¹²³ Legitimacy, in turn, is crucial for accepting governmental authority and decisions to maintain an equilibrium of peace in society – and thus prevent a state of war that occurs when that balance is not maintained.¹²⁴ Without legitimacy, the government faces challenges in implementing policies and laws, leading to unrest or civil disobedience.¹²⁵ Thus, trust and legitimacy contribute to the social capital that is essential for cohesive and resilient communities.

Trust and legitimacy enable effective governance through smoother administration and enforcement of laws.¹²⁶ Trust and legitimacy also bolster social cohesion and a sense of belonging that is required for members of communities to have confidence in state institutions.¹²⁷ It can also be argued that if the governed trust the government and perceive it as legitimate, they are less likely to put up resistance.¹²⁸ Based on the foregoing analysis, it can be said that as tenets of public value, trust and legitimacy are indispensable in realising outcomes that are beneficial for the collective interests of society (regarding legality, accountability and transparency, among other tenets of public value), particularly when the government respects human rights and values each person, as discussed below.

2.3.5 Respect for human rights

Government respect for human rights refers to the recognition, protection and promotion of the inherent rights and freedoms of all individuals, as espoused in international human rights instruments¹²⁹ that are given effect in local laws.¹³⁰ Human rights and freedoms are universally acknowledged and are integral to the dignity and

¹²³ Tanny and Al-Hossienie 2019 *Journal of Administrative Studies* 1-3.

¹²⁴ See Brenner 2017 *Contemporary Politics* 408-410.

¹²⁵ Adams 2018 *Res Publica* 475.

¹²⁶ Herrera "Governance and Development: The Importance of Legitimacy and Institutional Change" 19-22.

¹²⁷ Newton, Stolle and Zmerli "Social and Political Trust" 961-970.

¹²⁸ Newton, Stolle and Zmerli "Social and Political Trust" 961-970.

¹²⁹ These include treaties such as the International Covenant on Civil and Political Rights (1966) and International Covenant on Economic, Social and Cultural Rights (1966).

¹³⁰ See De Wet and Du Plessis 2010 *African Human Rights Law Journal* 345; du Plessis 2010 *Review of European Community & International Environmental Law* 316 for a discussion.

worth of the human person.¹³¹ They encompass a wide range of rights, including civil, political, economic, social and cultural rights whose respect distinguishes democratic governments from their authoritarian counterparts.¹³² Respect for human rights is grounded in the principle that all individuals are entitled to certain fundamental rights simply by virtue of being human.¹³³

The essential components of respect for human rights in the context of this study include non-discrimination, equality, freedom and dignity.¹³⁴ Non-discrimination means that all individuals are treated equally without distinction based on their race, gender, ethnicity, religion or any other status that is prohibited in international law and state legislation.¹³⁵ Equality relates to the equal enjoyment of rights and freedoms by all individuals.¹³⁶ Freedom encompasses various liberties, such as freedom of expression, assembly and belief.¹³⁷ Dignity refers to the inherent worth of every individual, which must be respected and protected by the state.¹³⁸

In the public value context examined in this study, respect for human rights entails granting members of society the freedom to do as they please within the confines of the law, to provide adequate housing, proper civilian infrastructure, protection of the environment, and access to essentials of life such as water, food and sanitation.¹³⁹ Respect for human rights also ensures that the actions of the government sync with the principles of justice and fairness.¹⁴⁰ It safeguards individuals from abuse and mistreatment by those in power.¹⁴¹ It also promotes social stability and peace by addressing grievances and preventing conflicts.¹⁴² For this reason, respect for human

¹³¹ The Universal Declaration of Human Rights (1948) is the blueprint for all human rights instruments -see Global Citizenship Commission *The Universal Declaration of Human Rights in the 21st Century: A Living Document in a Changing World* 13-24.

¹³² Mutua "The Ideology of Human Rights" 103-172.

¹³³ See the Preamble to the *UDHR*.

¹³⁴ For an exposition of the interrelatedness among these rights, see Ackerman *Human Dignity: Lodestar for Equality in South Africa* 1-15.

¹³⁵ Moeckli "Equality and Non-Discrimination" 53-54.

¹³⁶ Moeckli "Equality and Non-Discrimination" 53-54.

¹³⁷ Boyle and Shah "Thought, Expression, Association, and Assembly" 217-37.

¹³⁸ Ackerman *Human Dignity: Lodestar for Equality in South Africa* 1.

¹³⁹ Hart "Are There any Natural Rights?" 61-77.

¹⁴⁰ Nnodim and Okigbo 2020 *Ethical Perspectives* 69.

¹⁴¹ Kälin and Künzli *The Law of International Human Rights Protection* 1-10.

¹⁴² Whiting 2017 *Comparative Political Studies* 1907-1908.

rights links with the legitimacy of government actions, as it demonstrates a commitment to the principles of justice and the rule of law discussed above.¹⁴³

2.3.6 Responsiveness

Government responsiveness refers to the ability and willingness of government institutions and public office-bearers to listen, understand and act upon the needs, expectations, and preferences of the communities they serve.¹⁴⁴ It involves adapting policies and services to meet the evolving conditions and requirements of communities.¹⁴⁵ Responsiveness anchors on the idea that effective governance is about implementing laws, rules and policies and ensuring that these actions resonate with the aspirations and needs of the governed.¹⁴⁶ This alignment enhances the legitimacy and credibility of the government, as it demonstrates a commitment to serving the public interest.¹⁴⁷ Responsiveness also fosters trust between the government and citizens, as it shows that the government is attentive to public concerns and willing to act upon them.¹⁴⁸ Additionally, responsive governance is necessary for addressing social issues and challenges effectively, as it allows for policies and services that are tailored to specific community needs.¹⁴⁹

The main features of responsiveness are attentiveness, adaptability, and engagement with local communities.¹⁵⁰ Attentiveness requires government officials to be aware of and sensitive to the changing needs and concerns of the community.¹⁵¹ Adaptability involves the capacity of government institutions to modify and adjust policies and services in response to public feedback and societal changes.¹⁵² Engagement encompasses the active participation of citizens in governance processes, enabling them to influence decision-making and policy formulation.¹⁵³

¹⁴³ See the discussion on legality in 2.3.1.

¹⁴⁴ Beshi and Kaur 2020 *Public Organization Review* 241.

¹⁴⁵ Esaiasson, Gilljam and Persson 2017 *Comparative Political Studies* 742.

¹⁴⁶ See the analysis in Sabl 2015 *Perspectives on Politics* 345-365.

¹⁴⁷ Arnesen and Peters 2018 *Comparative Political Studies* 870.

¹⁴⁸ Beshi and Kaur 2020 *Public Organization Review* 340-341.

¹⁴⁹ Blomkamp 2018 *Australian Journal of Public Administration* 738.

¹⁵⁰ Janssen and Van Der Voort 2016 *Government Information Quarterly* 3.

¹⁵¹ Holbein 2016 *American Political Science Review* 354.

¹⁵² Janssen and Van Der Voort 2016 *Government Information Quarterly* 3.

¹⁵³ Linde and Peters 2020 *Party Politics* 291-304.

In the public value discourse, the objectives of responsiveness include enhancing the quality of service delivery, fostering citizen satisfaction and promoting civic participation.¹⁵⁴ Responsive governments ensure that the goods and services that they provide are relevant and beneficial to specific communities.¹⁵⁵ When communities are satisfied with government responses to their needs, expectations and preferences, their trust in the government is improved, resulting in greater civic participation.¹⁵⁶ As a tenet of public value, responsiveness is fundamental in ensuring that governance and public services deliver outcomes that benefit society.¹⁵⁷

2.3.7 Public participation

Public participation refers to the involvement of communities in the decision-making processes of government and public administration.¹⁵⁸ It refers to various ways in which the public can engage with and influence the formulation of policies, the development of services, and the decision-making processes of government institutions.¹⁵⁹ This involvement is based on the principle that citizens, as stakeholders in their communities and societies, have the right to have a say in decisions that affect their lives.¹⁶⁰ Public participation is essential for the democratic legitimacy of the government because it ensures that public decision-making is conducted by relevant persons empowered by law to conduct them and that they reflect the diverse perspectives and needs of the citizenry.¹⁶¹

The elements of public participation include accessibility, inclusiveness and meaningful engagement.¹⁶² Accessibility ensures the availability of opportunities for public participation, regardless of socio-economic status, education or geographic location of communities.¹⁶³ Inclusiveness involves the active effort to engage a diverse range of

¹⁵⁴ Brinkerhoff and Wetterberg 2016 *Public Administration Review* 276.

¹⁵⁵ Castelnovo, Misuraca and Savoldelli 2016 *Social Science Computer Review* 729-730.

¹⁵⁶ Van de Walle "Explaining Citizen Satisfaction and Dissatisfaction with Public Services" 227-228.

¹⁵⁷ Janssen and Van Der Voort 2016 *Government Information Quarterly* 1-5.

¹⁵⁸ King, Feltey and Susel "The Question of Participation: Toward Authentic Public Participation in Public Administration" 383-384. See also, Katsonis 2019 *Policy Design and Practice* 215.

¹⁵⁹ Katsonis 2019 *Policy Design and Practice* 215.

¹⁶⁰ Shang and Qian 2022 *Journal of Physics Conference Series* 1.

¹⁶¹ Enwereji and Uwizeyimana 2020 *Gender & Behaviour* 16871.

¹⁶² Nabatchi and Leighninger *Public Participation for 21st century democracy* 1-3.

¹⁶³ Fung 2015 *Public Administration Review* 9.

voices, especially those that are often marginalised or underrepresented.¹⁶⁴ Meaningful engagement refers to the genuine consideration of public input in the decision-making process to ensure that the contributions have a tangible impact on outcomes.¹⁶⁵

Public participation plays a critical role in governance by enhancing transparency, accountability and responsiveness because it empowers citizens and gives them a direct role in governance.¹⁶⁶ This empowerment is essential for the legitimacy and credibility of government actions because decisions made with public input are more likely to be accepted and supported by the communities to which they apply.¹⁶⁷ Additionally, public participation leads to better decision-making because it incorporates a wider range of perspectives, knowledge and expertise.¹⁶⁸ Community involvement strengthens democracy by making public decision-making more representative and participatory.¹⁶⁹ It improves policy outcomes by ensuring that policies are grounded in the real-life experiences and needs of the community.¹⁷⁰

As a tenet of public value, public participation is essential in ensuring that the actions of the government and public institutions serve the collective interests and needs of society.¹⁷¹ In this way, public participation arguably contributes to public value by ensuring that these actions and policies are informed by and responsive to the diverse perspectives and needs of the community. It enhances the legitimacy and effectiveness of governance processes, leading to more equitable, inclusive outcomes that are reflective of public needs.¹⁷²

¹⁶⁴ Stockholm Environment Institute *Making Space: How Public Participation Shapes Environmental Decision-Making* 1.

¹⁶⁵ See Kola and Jordan *Making Participation Meaningful* 26-27

¹⁶⁶ See Harrison and Sayogo 2014 *Government Information Quarterly* 513-525; Kim and Lee 2012 *Public Administration Review* 819-828.

¹⁶⁷ Lee and Kwak 2012 *Government Information Quarterly* 492-503.

¹⁶⁸ Fung 2015 *Public Administration Review* 513-522.

¹⁶⁹ See Wampler 2012 *Polity* 666-682; Michels 2011 *International Review of Administrative Sciences* 275; Biegelbauer and Hansen 2011 *Science and Public Policy* 589-597, for discussion.

¹⁷⁰ Kahila-Tani, Kytta and Geertman 2019 *Landscape and Urban Planning* 45.

¹⁷¹ Bryson, Crosby and Bloomberg 2014 *Public Administration Review* 445.

¹⁷² Bryson, Crosby and Bloomberg 2014 *Public Administration Review* 445.

2.3.8 Collaboration and co-production

Collaboration in public governance refers to the process where different entities, including government agencies, private sector organisations, non-profit organisations and the public, work together towards common goals or to solve shared problems.¹⁷³

Co-production involves the active participation of citizens in the design, delivery and evaluation of public services and policies.¹⁷⁴ Both collaboration and co-production are grounded in the belief that effective solutions and innovative policies emerge from the synergistic efforts of diverse groups and individuals to bring diverse perspectives, resources and expertise.¹⁷⁵

Elements of collaboration and co-production include partnership, mutual respect, and shared responsibility between the government and communities.¹⁷⁶ Partnership implies the formation of alliances between various stakeholders who contribute their strengths and resources towards a common purpose.¹⁷⁷ Mutual respect is vital in acknowledging the value and contributions of each stakeholder, such as communities and the business sector, to ensure equitable consideration of all voices.¹⁷⁸ Shared responsibility highlights that the government, stakeholders and local communities have a stake in the process and outcomes to ensure collective decision-making in the public sphere.¹⁷⁹

In the public value discourse, collaboration and co-production are crucial for addressing complex societal challenges and enhancing the quality of public service delivery.¹⁸⁰ These approaches may arguably facilitate the pooling of resources, knowledge and expertise, leading to more comprehensive and effective solutions. Additionally, collaboration and co-production enhance legitimacy and public trust in

¹⁷³ Eaves "After the Collapse: Open Government and the Future of Civil Service" 146-147.

¹⁷⁴ Bovaird and Loeffler 2012 *Voluntas* 1119.

¹⁷⁵ See Carr "Who Owns Co-Production?" 74-83.

¹⁷⁶ Poocharoen and Ting 2015 *Public Management Review* 587-600.

¹⁷⁷ Watson 2014 *Planning Theory & Practice* 68.

¹⁷⁸ Clayson, Webb and Cox 2018 *Drugs and Alcohol Today* 51-60.

¹⁷⁹ Pestoff 2014 *Public Management Review* 383.

¹⁸⁰ Osborne, Radnor and Strokosch 2016 *Public Management Review* 693.

government actions, as they demonstrate a commitment to inclusive and participatory governance, as discussed above.¹⁸¹

2.3.9 Environmental sustainability

Environmental sustainability refers to the responsible management and use of natural resources and ecosystems in a way that meets current needs without compromising the ability of future generations to meet their own needs.¹⁸² It encompasses practices and policies aimed at preserving the environment, promoting the efficient use of resources, and minimising environmental degradation.¹⁸³ This concept is rooted in the understanding that the well-being of humans is intricately linked to the health of the environment, thereby necessitating a balance between economic development and environmental protection.¹⁸⁴

The main elements of environmental sustainability include conservation, resource efficiency and ecological balance.¹⁸⁵ Conservation involves the protection and preservation of natural resources and ecosystems to increase their longevity and health.¹⁸⁶ Resource efficiency emphasises the need to use natural resources in a way that maximises their utility while minimising waste and environmental impact.¹⁸⁷ Ecological balance pertains to maintaining the natural processes and biodiversity that support life on Earth - it is a recognition of the interdependence of all living organisms, including humans.¹⁸⁸

Within the public value context of this study, environmental sustainability could ensure that government policies and actions do not harm the environment but instead contribute to its preservation and restoration.¹⁸⁹ This is essential for the health and

¹⁸¹ Osborne, Radnor and Strokosch 2016 *Public Management Review* 693.

¹⁸² Moldan, Janoušková and Hák 2012 *Ecological Indicators* 4.

¹⁸³ Morelli 2011 *Journal of Environmental Sustainability* 1-2.

¹⁸⁴ Moldan, Janoušková and Hák 2012 *Ecological Indicators* 4-10.

¹⁸⁵ Saeed *et al* 2019 *Corporate Social Responsibility and Environmental Management* 424.

¹⁸⁶ Godet and Devictor 2018 *Trends in Ecology & Evolution* 720.

¹⁸⁷ Hoekstra and Wiedmann 2014 *Science* 1114.

¹⁸⁸ In this work, ecological balance is understood through the prism of ecologically sustainable development, as discussed by Kotzé "The Sustainable Development Goals: An Existential Critique Alongside Three New-Millennial Analytical Paradigms" 41-42.

¹⁸⁹ See Gann *et al* 2019 *Restoration Ecology* S1-S46. See Du Plessis 2018 *South African Journal on Human Rights* 191 for a discussion of 'well-being' in the context of environmental protection and sustainability.

well-being of current and future generations.¹⁹⁰ Environmental sustainability also addresses issues such as climate change, pollution and resource depletion, which are some of the most pressing challenges facing communities today.¹⁹¹ By prioritising sustainability, the government can mitigate these challenges and ensure a more stable and prosperous future.¹⁹² As a tenet of public value, environmental sustainability ensures that economic and social development occurs within the limits of what the natural environment can sustainably support.¹⁹³ Arguably, this approach protects the environment and ensures the resilience and sustainability of communities and economies.

2.3.10 Financial sustainability

In the public governance discourse, financial sustainability refers to the ability of a government entity to maintain its operations and fulfil its obligations over the long term without undue reliance on external financial support.¹⁹⁴ This concept implies prudent fiscal management to ensure that public services and initiatives are effective in the short term and viable and resilient in the face of future economic challenges.¹⁹⁵ Financial sustainability is grounded in the principle of fiscal responsibility, which entails a balanced approach to budgeting, spending and investment that takes into account both current needs and future implications.¹⁹⁶

In the discourse on public value, financial sustainability is crucial for maintaining public trust and confidence in governmental institutions because fiscal mismanagement can lead to economic instability, reduced service quality and erosion of public trust.¹⁹⁷ Furthermore, a sustainable financial approach enables the government to respond more effectively to economic downturns, natural disasters, and other unforeseen

¹⁹⁰ Kuhlman and Farrington 2010 *Sustainability* 3436.

¹⁹¹ Arora *et al* 2018 *Environmental Sustainability* 309-340.

¹⁹² Arora *et al* 2018 *Environmental Sustainability* 309-340.

¹⁹³ Petrescu 2019 *Public Management Review* 1733.

¹⁹⁴ Laine, Tregidga and Unerman 2021 *SSRN* 1-4.

¹⁹⁵ Gray 2010 *Accounting, Organizations and Society* 47-62.

¹⁹⁶ See Escolano and Escolano *A Practical Guide to Public Debt Dynamics, Fiscal Sustainability, and Cyclical Adjustment of Budgetary Aggregates* 7.

¹⁹⁷ Bryson, Crosby and Bloomberg 2014 *Public Administration Review* 452.

events, thereby enhancing their overall resilience and capability to serve the public.¹⁹⁸ Based on the foregoing discussion, one may conclude that ensuring the continuity of public services, even in the event of troubled times such as natural disasters and economic downturns, guarantees communities continued access to basic services such as healthcare, education and public safety.

As a tenet of public value, financial sustainability ensures that government actions and initiatives are effective in addressing current public needs and viable and resilient over time, even in the face of disasters and pandemics.¹⁹⁹ Based on the foregoing analysis, it can be said that this approach enhances the credibility and legitimacy of public institutions and ensures that they can continue to deliver services effectively and efficiently, as discussed below.

2.3.11 Effective and efficient service delivery

Effective and efficient service delivery in the public sector refers to the provision of public goods and services in a manner that maximises their impact while minimising resource expenditure.²⁰⁰ Effectiveness is about achieving desired outcomes and meeting the needs and expectations of the public, while efficiency involves the optimal use of resources - time, money, personnel and materials - to deliver these goods and services.²⁰¹ Together, effectiveness and efficiency ensure that public services achieve their intended objectives and represent prudent and responsible use of public resources.²⁰²

In the discourse on public value, effective and efficient service delivery is about the internal workings of public organisations and their impact on society through the

¹⁹⁸ For a discussion of how financial capability may enhance a government's resilience to natural disasters, economic downturns and other unforeseen events, see Noy and Yonson 2018 *Sustainability* 1-16; Fiksel, Goodman and Hecht 2014 *Solutions* 38-47.

¹⁹⁹ Dzigbede, Pathak and Muzata 2023 *Journal of Public Budgeting, Accounting & Financial Management* 333-353; Anessi-Pessina *et al* 2020 *Journal of Public Budgeting, Accounting & Financial Management* 957-965.

²⁰⁰ Reddy 2016 *Journal for Transdisciplinary Research in Southern Africa* 1.

²⁰¹ Khalil and Adelabu 2012 *Journal of Public Administration and Governance* 85-88.

²⁰² Leland and Wood "Improving the Efficiency and Effectiveness of Service Delivery in Local Government" 245.

provision of public goods and services.²⁰³ It includes considerations of how well services meet the needs of citizens, contribute to societal well-being, and foster trust and confidence in public institutions, as discussed above.²⁰⁴ Achieving effective and efficient service delivery requires several key strategies, such as aligning available resources with public needs, expectations and preferences; responsiveness to these priorities; and regular assessment of the relevance of such priorities and necessary adaptation in both scope and timing of the provision of goods and services to meet such priorities.²⁰⁵ It also entails the adoption of best practices and innovative approaches that can enhance the quality and efficiency of service delivery.²⁰⁶ Innovative approaches in this context include leveraging technology and digital solutions.²⁰⁷ Ultimately, effective and efficient provision of public goods and services fulfils all the above tenets of public value and is the main criteria used by communities to determine whether public value has been created. It is for this reason that throughout this study, effective and efficient service delivery is emphasised as a core tenet of public value.

2.4 Emergence of the public value approach

It has been observed above that public value is neither a legal nor political concept but originates from public administration and management.²⁰⁸ This section seeks to provide an overview of public administration and management theories, which led to the emergence of public value. The discussion starts from the late 19th to early 20th centuries when bureaucracy characterised public administration in developed countries.²⁰⁹ Simply defined, bureaucracy is an organisational structure that operates according to a system of rules, procedures and other processes that follow a strict

²⁰³ Osborne *Public Service Logic: Creating Value for Public Service Users, Citizens, and Society Through Public Service Delivery* 1-27.

²⁰⁴ Kalonda and Govender 2021 *African Journal of Public Affairs* 3.

²⁰⁵ Makanyeza, Kwandayi and Ikobe 2013 *International Journal of Information Technology and Business Management* 9-10.

²⁰⁶ Martin and Williams "Evidence and Service Delivery" 41-60.

²⁰⁷ Lee, Hwang and Choi 2012 *Management Decision* 147-162.

²⁰⁸ See 2.2 above.

²⁰⁹ See Neo, Grimmelikhuijsen and Tummers 2022 *Public Administration Review* 838-861 for a discussion of bureaucracy.

system hierarchy.²¹⁰ According to Neo, Grimmelikhuijsen and Tummers,²¹¹ the origins of the bureaucratic approach to public administration can be traced to the Anglo-Saxon region with the adoption of the Wilsonian bureaucracy. This period of traditional public administration, which started in the late 19th century, was widely practised until the late 1970s and early 1980s.²¹²

The bureaucratic approach to public administration emphasised compliance with laws and regulations, impartiality, and impersonal relationships among public administrators for the maintenance of law and order.²¹³ These bureaucratic principles were believed to be vital for the effective delivery of public goods and services.²¹⁴ However, it does not appear that the bureaucratic approach to public administration and management placed any emphasis on public engagement and negotiation regarding the needs, expectations, and preferences of communities. A possible explanation for this is that bureaucratic governments believed they knew better about what was required by their communities. However, public administration based on the bureaucratic theory faced shortcomings, such as inefficiency, lack of accountability, and corruption.²¹⁵ These shortcomings made it undesirable, paving the way for so-called behavioural public administration, which is discussed below.

In the middle of the 20th Century, an interdisciplinary approach combining public administration and psychology began to emerge.²¹⁶ Scholars proposed theoretical approaches to public administration using psychology to analyse public administration.²¹⁷ Simon²¹⁸ wrote a book that led to the discourse on behavioural public administration. Although there was limited knowledge of how human bias and

²¹⁰ Lefort 1974 *Telos* 31-33; O'Loughlin 1990 *Administration & Society* 275.

²¹¹ Neo, Grimmelikhuijsen and Tummers 2022 *Public Administration Review* 849.

²¹² Neo, Grimmelikhuijsen and Tummers 2022 *Public Administration Review* 849.

²¹³ See in general, Bryson, Crosby and Bloomberg 2014 *Public Administration Review* 445-456.

²¹⁴ Bryson, Crosby and Bloomberg 2014 *Public Administration Review* 445.

²¹⁵ Asaduzzaman and Virtanen "Partnership and Capacity Building of Local Governance" 850.

²¹⁶ Grimmelikhuijsen *et al* 2017 *Public Administration Review* 45-56.

²¹⁷ For details, see Grimmelikhuijsen *et al* 2017 *Public Administration Review* 45-46.

²¹⁸ Simon *Administrative Behavior* based his theory of behaviour public administration on 'bounded rationality', which he argued could aid the decision-making in the public sector. This theory proposed that while public decision-makers are bound by the framework within which they make decisions, cognitive limitations influence them – see Jones 1999 *Annual Review of Political Science* 297-321; Selten 1990 *Journal of Institutional and Theoretical Economics* 649-658; Conlisk 1996 *Journal of Economic Literature* 649-658.

other behavioural attributes could influence the public sector, it was believed that a scientific approach that considers individual perceptions, attitudes and behaviour would help to understand communities, public sector employees, and elected public representatives.²¹⁹ Due to limitations in available scientific knowledge at the time of its development, the behavioural public administration theory did not gain traction, leading to the need for yet another theory for public administration. Despite its earlier setbacks, the behavioural public administration theory rebounded in the first decade of the 21st Century due to the availability of more scientific data on the connection between cognitive elements and decision-making in the public sector.²²⁰

Between the late 1970s and the early 1980s, several reforms to modernise the public sector using market-oriented business practices led to reform through New Public Management and structural adjustment programs²²¹ and their accompanying neoliberal economic reforms.²²² These were aimed at enhancing the efficiency, productivity and accountability of the public sector.²²³ Li and Yang define New Public Management as follows:

The New Public Management Movement (NPM) is a wave of administrative reforms that started worldwide in the late 1970s and the early 1980s. This market-oriented reform of the administrative management system advocated, "hands-on professional management' in the public sector, explicit standards and measures of performance, greater emphasis on output controls, shift to disaggregation of units in the public sector, shift to greater competition in the public sector, stress on private sector styles of

²¹⁹ See also, Vogel and Hattke 2022 *Public Administration* 17-40.

²²⁰ For further discussion, see Moynihan 2018 *Journal of Behavioral Public Administration* 1-8; Bhanot and Linos 2020 *Public Administration Review* 168-171; Hassan and Wright 2020 *Public Administration Review* 163-167.

²²¹ Structural adjustment programs were economic reforms led by the World Bank and the International Monetary Fund that were designed to downsize public expenditure on industries and prune the public sector in the hope of promoting economic stability in certain regions across the world – see Rodrik 1990 *World Development* 933-947; Summers and Pritchett 1993 *The American Economic Review* 383-389. Structural adjustment programmes had profound negative and positive consequences, such as increased poverty and worsening the financial situation of developing states – see Konadu-Agyemang 2000 *Professional Geographer* 469-483; Potts and Mutambirwa 1998 *Environment and Urbanization* 55-76; Geisler 1992 *Journal of Modern African Studies* 113-119.

²²² Neoliberal economic reforms were part of structural adjustment programmes and entailed various measures for fiscal austerity, devaluation of currencies, liberalisation of trade, privatisation of some state industries and general deregulation aimed at increasing private sector participation in the economy - see in general, Kay 1993 *Third World Quarterly* 691-702; Bernards 2022 *New Political Economy* 116-131.

²²³ Munzhedzi 2021 *Journal of Public Affairs* 2.

management practice, stress on greater discipline, and parsimony in resource use.²²⁴

Simply interpreted, this definition shows that New Public Management reforms were introduced to make way for market reforms and to introduce professional management of the public sector and performance measures, among several management practices that define the private sector. One reason for introducing private sector-style management principles into the public sector was to enhance accountability for public sector spending and improve efficiency and effectiveness in providing public goods and services.²²⁵ At the time, it was believed that enhancing efficiency in the public sector by setting targets and measuring performance would enhance efficiency and effectiveness and promote accountability.²²⁶ However, New Public Management had the unintended result of increasing bureaucracy, reducing job satisfaction in the public sector, and shifting long-term planning to short-term results.²²⁷ Owing to these limitations, the New Public Management approach suffered a fate similar to its predecessors and paved the way for performance management, which is discussed below.

As the name suggests, performance management is concerned with outcomes and results.²²⁸ Performance management emerged because the 1990s and early 2000s saw a shift in the discourse to increase efficiency, effectiveness and accountability in the public sector.²²⁹ The performance management approach was defined by various measures adopted to increase performance, such as incentives for promotions, availability of learning opportunities to employees, and celebration of success.²³⁰ The main driver of performance management was the technological shift from pen and

²²⁴ Li and Yang 2022 *Political Studies Review* 489.

²²⁵ See Kampourakis 2021 *Journal of Law and Political Economy* 307.

²²⁶ See Gerrish 2016 *Public Administration Review* 48-66 for a comprehensive discussion.

²²⁷ Diefenbach 2009 *Public administration* 892-909.

²²⁸ See Dixon 2021 *International Journal of Public Sector Management* 356-376 for a definition of performance management.

²²⁹ Northcott and Ma'amora Taulapapa 2012 *International Journal of Public Sector Management* 166-191.

²³⁰ Ciobanu, Androniceanu and Lazaroiu 2019 *Frontiers in Psychology* 1-7.

paper to dynamic and efficient systems that leveraged the internet for communication.²³¹

Performance management also saw the introduction of organisational strategies to improve performance.²³² These strategies were complemented by feedback systems for measuring staff performance against organisational goals and objectives, leading to coordination, efficiency and effectiveness.²³³ However, performance management has its challenges and has been viewed as broken and ineffective.²³⁴ Possible explanations for this may include challenges in the uptake of information technology at the turn of the 21st Century, as most people may not have been experienced in using information technology at the time.

At the end of the 21st Century, a new approach to public administration and management emerged when Moore took an interest in the concept of public value.²³⁵ Moore also worked with other scholars on projects to build a strategic management framework for public sector managers²³⁶ and sought to design a public administration theory that is neither strictly bureaucratic nor market-based but collaborative, democratic, and focused on governance.²³⁷ The rise of the concept of public value in public administration was attributed to the growing need for public management approaches focused on economic models and management techniques used by the private sector.²³⁸ For this reason, Moore equated public value with shareholder value.²³⁹

The public value theory promises a more realistic perspective for tackling current public sector challenges than New Public Management approaches in that it recognises

²³¹ Hunt 2011 *Industrial and Organizational Psychology* 188.

²³² Kanovska and Tomaskova 2012 *Engineering Economics* 70-71.

²³³ See Fenwick and De Cieri 1996 *Asia Pacific Journal of Human Resources* 76-91 for a discussion.

²³⁴ Pulakos *et al* 2015 *Industrial and Organizational Psychology* 51-52.

²³⁵ See Moore *Recognizing Public Value*; Moore *Creating Public Value: Strategic Management in Government*.

²³⁶ See in general, Moore and Khagram *On Creating Public Value: What Business Might Learn from Government About Strategic Management*; Moore "Recognizing Public Value: The Challenge of Measuring Performance in Government" 91-116; Benington and Moore *Public Value: Theory and Practice* 1-31.

²³⁷ Turkel and Turkel 2016 *Review of Public Administration and Management* 7.

²³⁸ Moore *Creating Public Value: Strategic Management in Government* 28.

²³⁹ Moore *Creating Public Value: Strategic Management in Government* 28.

"the full roundedness of human qualities and experiences."²⁴⁰ This indicates that the public value theory is built on the need for dialogue between the government and communities about the values that the public considers ideal in terms of economic efficiency and organisational forms.²⁴¹ This theory focuses on democracy and the engagement of communities with their government in determining the nature and quality of goods and services that communities need and expect from the government.²⁴² While public management theories offer specific ideas on how to run public institutions, the public value theory is more concerned with the *procedural* aspects of running public affairs and the *quality* of public goods and services offered by the government to communities.²⁴³

The public value approach to public administration and management emphasises procedural justice in the form of fairness, transparency, and accountability in government decision-making and the delivery of public goods and services.²⁴⁴ This is also because the public value theory is based on process-based notions of public management and democracy.²⁴⁵ It integrates government action with the needs and expectations of communities, the private sector and NGOs regarding the provision of goods and services by the government.²⁴⁶ As such, the public value approach aims to make the government more collaborative and democratic in providing goods and services. It achieves this by emphasising the engagement of communities in decision-making, public participation and the maintenance of trust in government.²⁴⁷

²⁴⁰ Stoker 2006 *American Review of Public Administration* 41-57.

²⁴¹ Turkel and Turkel 2016 *Review of Public Administration and Management* 1.

²⁴² See Bryson, Crosby and Bloomberg *Public Value and Public Administration* 5.

²⁴³ See Eriksson and Nordgren 2018 *Journal of Health Organization and Management* 572-586; Cruz Dallagnol, Portulhak and Cezar Severo Peixe 2023 *Public Money & Management* 251-258; Gains and Stoker 2009 *Parliamentary Affairs* 438-455; Mamokhere, Musitha and Netshidzivhani 2022 *Journal of Public Affairs* 1-7.

²⁴⁴ See Cruz Dallagnol, Portulhak and Cezar Severo Peixe 2023 *Public Money & Management* 251-258; Gains and Stoker 2009 *Parliamentary Affairs* 438-455; Mamokhere, Musitha and Netshidzivhani 2022 *Journal of Public Affairs* 1-7.

²⁴⁵ For a discussion of the relationship between public value and democracy, see Benington and Hartley "Action Research to Develop the Theory and Practice of Public Value as a Contested Democratic Practice" 143-158; Cruz Dallagnol, Portulhak and Cezar Severo Peixe 2023 *Public Money & Management* 251-258.

²⁴⁶ For an analysis of how private sector-inspired methods of public value creation impact on democracy and the provision of public goods and services, see Eikenberry and Kluver 2004 *Public Administration Review* 132-140.

²⁴⁷ Chatfield and Reddick 2020 *Social Science Computer Review* 254.

Although a public value approach to public administration and management offers many possible benefits, such as improved public sector accountability and transparency, as discussed above, it became necessary to consider a new approach based on the need for networked governance, collaboration and partnerships.²⁴⁸ In the context of the public value approach, it is evident that co-creation is necessary for delivering public goods and services.²⁴⁹ Arguably, New Public Management has elements of public value in that, like public value, it emphasises engaging communities and empowering them to become role players in providing goods and services.²⁵⁰

2.5 The creation of public value

2.5.1 Actors and stakeholders

The working definition of public value as the collective rights and social, economic and environmental benefits that communities are entitled to receive from their government as part of its mandate to meet their needs and improve human well-being sheds light on the creation of public value.²⁵¹ In the local government context, this definition brings one to the realisation that the creation of public value entails prioritising service delivery through the provision of public goods and services such as sanitation, transportation, safety, education, healthcare and environmental protection.²⁵² To deliver these goods and services, local government must provide avenues for public participation in decision-making so that the needs and expectations of those communities are prioritised in service delivery.²⁵³ Local government may also enhance public value by providing goods and services transparently and accountably in line with the law. This implies that there are three main actors in the creation and

²⁴⁸ See Poee and Munyanyi 2022 *South African Journal of Economic and Management Sciences* 1-12

²⁴⁹ See Meynhardt, Chandler and Strathoff 2016 *Journal of Business Research* 2981-2989 for a discussion of co-creation.

²⁵⁰ For a discussion of the transition from New Public Management to public value, see O'Flynn 2007 *Australian Journal of Public Administration* 353-366.

²⁵¹ See 2.2.4 above.

²⁵² See Caceres et al 2016 <https://openknowledge.worldbank.org/server/api/core/bitstreams/43071521-fdd3-5d8b-93e7-da7e74102624/content> for a discussion of these service delivery areas.

²⁵³ Clark 2021 *American Review of Public Administration* 199-212.

maintenance of public value: the government, community members, and associations of community members (civil society). The roles of each actor are discussed below.

The definition of public value given above in 2.2.4 shows that the main actor in the creation of public value is the executive branch of government, which must create and maximise public value by ensuring that its expenditure of public resources in providing goods and services provides more benefits than costs to the governed. Maximising public value requires a democratic state to have solid and effective government to guarantee fair treatment of the people, provide equal opportunities to them, and access a range of key services such as healthcare, road networks and basic services (electricity, water and sanitation).²⁵⁴ The expenditure of public resources on providing these services provides a yardstick to determine whether public value has been created by the government.²⁵⁵

The government creates public value in that managers in the public sphere must run daily state operations (including the provision of basic goods and services) efficiently and within their budgets.²⁵⁶ This requires them to satisfy the immediate needs and expectations of users of public goods and services while maintaining good relations with them.²⁵⁷ Such efficiency is useful for measuring the extent to which services are delivered satisfactorily and responsively.²⁵⁸ Arguably, this could demonstrate the extent to which a government achieves maximum benefits at a minimum cost. Although this discussion shows that the government is the first player in creating public value, it is not the only one, as it works alongside members of the general public and civil society. These are discussed below.

Since rights and benefits come with corresponding obligations,²⁵⁹ it is argued that communities also play a role in creating public value and that their roles come in various civic duties.²⁶⁰ These civic duties include participating in decision-making

²⁵⁴ Benington and Moore *Public Value: Theory and Practice* 31.

²⁵⁵ O'Flynn 2007 *Australian Journal of Public Administration* 359.

²⁵⁶ See 2.3.11 above.

²⁵⁷ Kumagai and Iorio *Building Trust in Government Through Citizen Engagement* 1-31.

²⁵⁸ See Voorn, Van Genugten and Van Thiel 2019 *Public Administration* 671-685; Liu, Gao and Huang 2020 *Social Indicators Research* 971-990.

²⁵⁹ For one of the oldest propositions on this, see Hart 1955 *The Philosophical Review* 175-191.

²⁶⁰ See Mullinix 2018 *Political Research Quarterly* 199-214 for a discussion of these civic duties.

through various community engagement platforms to enable the government to understand their needs and expectations; voting to elect public office-bearers who are committed to service delivery, open and accountable; volunteering in government initiatives such as clean-up campaigns; paying rates and taxes to finance public expenditure in providing goods and services; and evaluating the goods and services provided by their governments so as to provide valuable feedback.²⁶¹ Fulfilling these duties may enhance the sustainable provision of quality goods and services by the government, create a sense of community ownership of government projects, and enhance accountability, trust and legitimacy.²⁶²

Civil society refers to non-state organisations that manifest the interests and will of communities (such as the private sector, labour unions, charitable organisations, political parties, professional associations, foundations and community groups).²⁶³ Although most of them are formal, some are informal but are engaged in public and other social activities outside the state.²⁶⁴ Civil society contributes to creating and maintaining public value in several ways because it is interested in the efficient, open and accountable provision of public goods and services.²⁶⁵ Therefore, civil society can be seen as an important check on the use of public power in the expenditure of public resources.²⁶⁶ It achieves this through advocacy and representation of the diverse interests of its members, building social capital, participating in the delivery of public goods and services, and, at times, influencing public policy on which goods and services should be provided to which communities, when, and in which quantities.²⁶⁷

While it does not exercise public power, civil society advances the interests of communities and various stakeholders to ensure that the government is efficient, effective, transparent and accountable in using public resources to provide goods and

²⁶¹ See Mullinix 2018 *Political Research Quarterly* 199-214 for a discussion of these civic duties.

²⁶² Gains and Stoker 2009 *Parliamentary Affairs* 438-455.

²⁶³ See Chambers and Kopstein "Civil Society and the State" 363 on the meaning of civil society.

²⁶⁴ Bayat 1997 *Third World Quarterly* 53-59.

²⁶⁵ Ahmad 2008 *Journal of Administration & Governance* 10-21.

²⁶⁶ Ramkumar and Krafchik "The Role of Civil Society Organizations in Auditing and Public Finance Management" 21-53.

²⁶⁷ For a full exposition of the role of civil society in influencing public policy and advocating for efficient, transparent and accountable service delivery, see in general, Anheier *Civil Society: Measurement, Evaluation, Policy* 1-150.

services.²⁶⁸ As such, civil society plays a crucial role in creating public value, as the government ultimately needs to negotiate and engage with various groups of civil society on the needs, expectations and preferences of communities with regard to the amount, manner, and timing of the delivery of public goods and services.²⁶⁹ Through advocacy and representation, civil society ensures that the government is always appraised of the needs, expectations and preferences of communities so that it can adjust its decisions and activities accordingly to ensure that it is always responsive to them.²⁷⁰ Responsive governance contributes to good governance and benefits communities.²⁷¹ In recognition of the roles of the various actors and stakeholders, the following subsection examines the co-creation matrix in which they create public value.

2.5.2 Public value co-creation matrix

The preceding analysis shows that the government can create public value through meaningful and deliberative consultative processes involving communities. These processes can be seen as a move away from a narrow intra-organisational focus to a leadership style that is focused on multi-actor collaboration, as depicted in the public value co-creation matrix in Figure 2:2. The public value co-creation matrix in Figure 2:2 may be seen as an analytical tool that illustrates the co-creation of public values.²⁷²

²⁶⁸ See, in general, Edwards "Civil Society and Government" 285-302 for a discussion of the role of civil society in government.

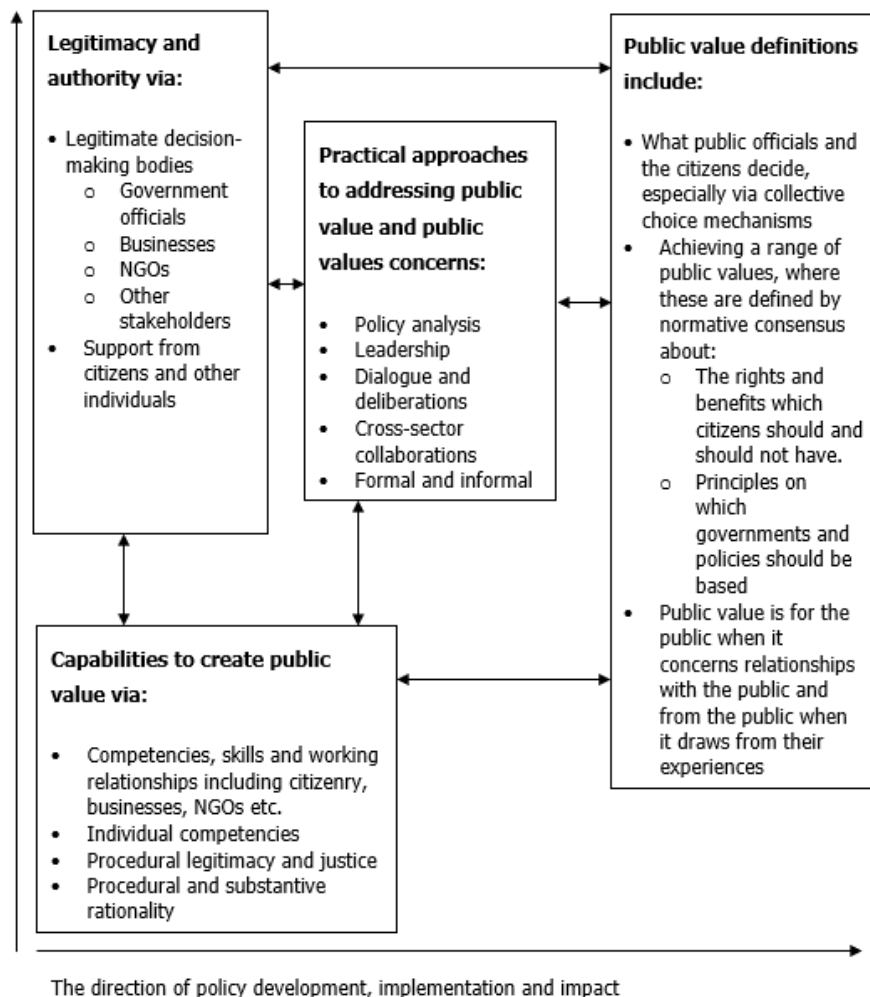
²⁶⁹ See discussion in 2.3.7 on the need for negotiation and engagement between the government and communities.

²⁷⁰ Rasmussen and Reher 2019 *Comparative Political Studies* 1648-1676; Sénit 2020 *Environment and Planning C: Politics and Space* 693-712.

²⁷¹ See Speer 2012 *World Development* 2379-2398 for an analysis.

²⁷² Bryson, Crosby and Bloomberg *Public Value and Public Administration* 5.

Figure 2:2: Public value co-creation matrix²⁷³



The four quadrants in Figure 2:2 illustrate the distinct but interconnected entities and processes for the creation of public value. The first quadrant, legitimacy and authority, shows legitimate public decision-making bodies and their role in the creation of public value. These are government entities (represented by public office-bearers and other officials), businesses, NGOs, and other stakeholders. The second quadrant - public value definitions - lays out the definitions of public value and details the meaning, creation, and principles that inform it. The third quadrant, the public value approach, illustrates methods for addressing concerns regarding public value. These are policy analysis, leadership, dialogue, and collaboration within a democratic space, guided by

²⁷³ Figure originally published in Bryson, Crosby and Bloomberg *Public Value and Public Administration* 5.

strategic and performance management. The last quadrant, public value capabilities, highlights individual competition and the wider aspects of legitimacy and rationality.²⁷⁴

The public value co-creation matrix may also be viewed from the perspective of pulling stakeholders to negotiate and resolve agreements among community members on the nature of their needs, expectations and preferences.²⁷⁵ This may contribute to creating public value in several ways. First, negotiations between the government and its people enhance the consideration of diverse perspectives on the interests, needs and expectations of various groups of communities regarding public policy and service delivery.²⁷⁶ Second, negotiations between the government and communities can provide the necessary platforms and ideal conditions for the government to receive critical feedback and insights from communities on the impact of public policies, programs and services on their lives.²⁷⁷

Receiving feedback and insights from communities is intended to formulate corrective policy interventions to ensure that public goods and services meet the needs and expectations of communities.²⁷⁸ It also improves service delivery and enhances development through increased transparency, accountability and social inclusion.²⁷⁹ According to Gigler, the government must receive feedback from communities because of:

[The] need to move beyond traditional models of governance -- where citizen input is received just once per election cycle, or sometimes not at all - to one that is more open, inclusive and responsive to citizens, and where citizen input is sought on a regular basis, including from the most marginalised groups.²⁸⁰

²⁷⁴ The public value co-creation matrix may be viewed within Carr's co-production model because it shows that public value is a creature of co-creation which emphasises collaboration among actors and stakeholders and which acknowledges the diverse approaches and capabilities of these actors and stakeholders in creating public value - Carr "Who Owns Co-Production?" 74-83.

²⁷⁵ See Brown, Cherney and Warner 2021 *International Journal of Public Administration* 804.

²⁷⁶ Pang, Lee and DeLone 2014 *Journal of Information Technology* 194.

²⁷⁷ See Brown, Cherney and Warner 2021 *International Journal of Public Administration* 803-807.

²⁷⁸ Gigler 2015 <https://blogs.worldbank.org/governance/citizen-feedback-inclusive-institutions-10-lessons>.

²⁷⁹ Gigler 2015 <https://blogs.worldbank.org/governance/citizen-feedback-inclusive-institutions-10-lessons>.

²⁸⁰ Gigler 2015 <https://blogs.worldbank.org/governance/citizen-feedback-inclusive-institutions-10-lessons>.

Through engagement and negotiation, potential areas of dissatisfaction can be identified so that concerns can be addressed to avoid expressions of dissatisfaction, such as public interest litigation.²⁸¹ and service delivery protests.²⁸² Arguably, engagement and negotiation may lead the government and communities to reach common ground on the nature, amount, and timelines for the delivery of public goods and services.²⁸³

Engagement between the government and communities also fosters a sense of public ownership of government programs, enhances participation, and builds trust and confidence in public representatives.²⁸⁴ Buy-in from communities leads to community buy-in on government initiatives and builds legitimacy in the government by creating perceptions of compliance with the rule of law.²⁸⁵ In addition, constant engagement and negotiation between the government and communities results in more collaboration and cooperation between them and the government, leading to effective public decision-making and better outcomes for society.²⁸⁶ It enhances government compliance with the core principles of good governance, such as inclusive decision-making, responsiveness, and accountability.²⁸⁷

One of the benefits of compliance with these principles of democratic governance is that it enables co-production, thereby putting the government in a position in which it can work with communities in designing and implementing public policies that mirror the needs, expectations, values and aspirations of the general public.²⁸⁸ This may result in service delivery that is relevant, effective and sustainable in all material aspects.²⁸⁹ Conclusively, negotiations and other forms of dialogue between the

²⁸¹ Cummings and Rhode 2009 *Fordham Urban Law Journal* 603-652.

²⁸² See Morudu 2017 *Cogent Social Sciences* 1.

²⁸³ Gigler 2015 <https://blogs.worldbank.org/governance/citizen-feedback-inclusive-institutions-10-lessons>.

²⁸⁴ See Beshi and Kaur 2020 *Public Organization Review* 337-350.

²⁸⁵ Sajó "The Rule of Law" 262.

²⁸⁶ Lee, Hwang and Choi 2012 *Management Decision* 149.

²⁸⁷ See Pomeranz and Stedman 2020 *Journal of Environmental Policy & Planning* 428-440.

²⁸⁸ Co-production is defined by Carras as engagement of communities by the government in developing services and designing policies. The essence of collaboration is that it is in itself an acknowledgement of the importance of the value of public participation in decision-making by the government. See Carr "Who Owns Co-Production?" 74-83.

²⁸⁹ For a discussion of how government engagement with communities may improve outcomes, see Langham and Paulsen 2019 *Design Management Journal* 53-54.

government and communities are necessary for democratic governance, effective decision-making, efficient service delivery, and transparency and accountability in the public sector.

As part of the process of resolving contestations on public value, deliberations between state actors and key stakeholders, such as communities, are essential.²⁹⁰ Since public value may be viewed as the value created by the government through laws and regulations to achieve collective outcomes,²⁹¹ one can postulate that public value is concerned with the quality and quantity of services rendered by the government within the confines of laws, policies and other governance instruments. In this regard, public value may be seen as a framework that helps to improve ways of understanding what the public values and how to connect with it.²⁹²

Based on the above discussion of how public value contestations may be resolved through continuous engagement between the government and communities, one may argue that one of the key strengths of public value is that it provides a platform for a standardised understanding of public value across several disciplines, such as law, public management, economics, political science, psychology and philosophy.²⁹³ The following subsection discusses the tangible and non-tangible criteria for creating public value.

2.5.3 Tangible and non-tangible criteria for creating public value

The tangible and non-tangible criteria for creating public value comprise the list of services that communities generally want to obtain from the government in order for them to get the impression that they have a good government.²⁹⁴ This list derives from the treatment of public value as encompassing "both tangible and non-tangible services and products produced, managed and evaluated by stakeholder teams which

²⁹⁰ Stoker 2006 *American Review of Public Administration* 42.

²⁹¹ Kelly, Mulgan and Muers 2002 https://www.academia.edu/23693003/Creating_Public_Value_An_analytical_framework_for_public_service_reform.

²⁹² Ryan 2014 *Journal of African & Asian Local Government Studies* 36.

²⁹³ Bryson, Crosby and Bloomberg *Public Value and Public Administration* 148. See also Meynhardt 2009 *International Journal of Public Administration* 197.

²⁹⁴ See Jessa and Uys 2018 *Administratio Publica* 278.

share a common vision arising from community needs, benefits, demands and expectations."²⁹⁵ Table 2.2 lists the tangible and non-tangible criteria for creating public value.

Table 2.2: Tangible and non-tangible criteria for creating public value²⁹⁶

Tangible public value criteria - public goods and services	Non-tangible public value criteria - social progress
Public safety	Public and non-profit services
Local transport hubs	Community capacity and capability
Build a strong local economy	Sound quality of life
Infrastructure for community stability	Adult basic education
Resources for sustainability	Civic education
Housing conducive to quality of life	Effective and efficient service delivery
Disaster management centres	Aesthetically pleasing environment

This self-explanatory table shows that tangible and intangible public value criteria refer to public goods and services provided by the government and various institutions. Tangible criteria include improving safety, transportation, economic activity, infrastructural development, sustainability, and housing to enhance the quality of life of communities and better manage disasters. As depicted in table 2.2, non-tangible criteria include initiatives to improve social progress. These include the provision of profit and non-profit services, community capacity-building, improving literacy rates through adult education, and general efficiency in service delivery. Among these intangible value criteria is an aesthetically pleasing environment that compliments the

²⁹⁵ See Jessa and Uys 2018 *Administratio Publica* 278.

²⁹⁶ This table was adapted from Bryson, Crosby and Bloomberg *Public Value and Public Administration* 4.

quality of life provided by social progress and intangible criteria. Having analysed the creation of public value, the following section examines the measurement criteria that may be used to determine whether tangible and non-tangible criteria have been met - that is, if and to what extent public value has been created.

2.6 Standards and methodological tools for measuring public value

2.6.1 Measurement standards

In most disciplines, if not all, the appropriateness of any measurement standard depends on its validity, objectivity and reliability.²⁹⁷ However, using these standards can be difficult when the phenomenon under assessment is broad and abstract to the extent that a limited set of attributes is available, such as in the case of public value.²⁹⁸ Ensuring that measurement standards are appropriate requires clarity on how they relate to the purpose of what is being measured.²⁹⁹ The various measurement standards for public value are discussed below, taking into account its inherently theoretical nature. Measuring the extent to which government organisations generate public value remains a major challenge for researchers as they are "unable to quantitatively study the causes, consequences and correlates of public value. It is also a problem for practitioners."³⁰⁰

Due to the inherently theoretical nature of the concept of public value, this study also faces similar challenges to measuring public value. To mitigate this difficulty, this study relies on outcome achievement, trust and legitimacy, service delivery quality, and efficiency in discussing how to ideally measure public value. Some of the main standards are depicted in Figure 2:3 as follows:³⁰¹

²⁹⁷ For a general discussion of measures for ascertaining measurement standards, see Kimberlin and Winterstein 2008 *American Journal of Health-System Pharmacy* 2276-2284.

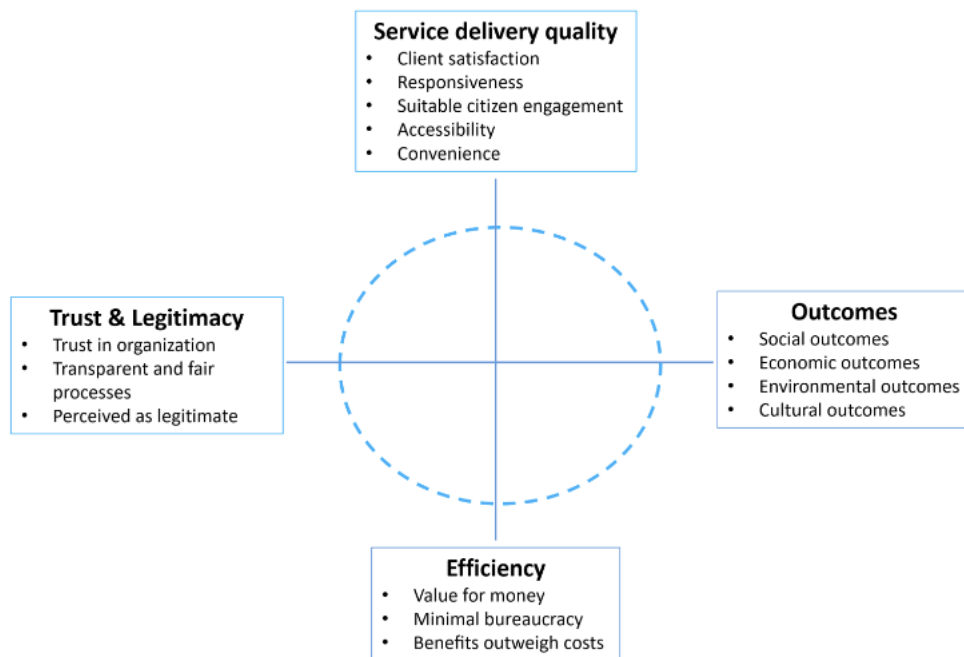
²⁹⁸ See Talbot 2008 http://publiccommons.ca/public/uploads/literature/measuring_pv_final2.pdf and Hills and Sullivan 2006 https://www.tavinstitute.org/wp-content/uploads/2013/03/Tavistock_Projects_A-Think-Piece-on-Measurement-of-Public-Value.pdf.

²⁹⁹ See Kimberlin and Winterstein 2008 *American Journal of Health-System Pharmacy* 2276-2284.

³⁰⁰ PMP Lab *Measuring Public Value* 1.

³⁰¹ For a similar diagrammatic representation of the standards for measuring public value, see Faulkner and Kaufman 2018 *Australian Journal of Public Administration* 9.

Figure 2:3: Standards for measuring public value³⁰²



These standards are further explored below.

2.6.1.1 Outcome achievement

This standard pertains to the achievement of predetermined outcomes, such as efficient service delivery.³⁰³ In the context of public value, it can be used to assess the impact of public policies and the provision of public goods and services on the well-being of communities and social progress.³⁰⁴ According to Faulkner and Kaufman:

Outcome achievement' refers to the extent to which a public body is improving publicly valued outcomes across a wide variety of areas... such as economic activity and employment, social capital and cohesion, and environmental outcomes (e.g. reducing pollution, waste, and global warming).³⁰⁵

As such, outcome achievement may be ideal for determining the public perception of a particular issue and may be ascertained through a consultative process, public opinion polls, and satisfaction surveys.³⁰⁶ This process allows public managers to

³⁰² This figure was originally published in PMP Lab *Measuring Public Value* 1.

³⁰³ See Moore, Lippman and Ryberg 2015 *American Education Research Association Open* 1-25.

³⁰⁴ Faulkner and Kaufman 2018 *Australian Journal of Public Administration* 9.

³⁰⁵ Faulkner and Kaufman 2018 *Australian Journal of Public Administration* 9.

³⁰⁶ See Dalton, Burklin and Drummond 2001 *Journal of Democracy* 141.

achieve social, economic, environmental and cultural outcomes.³⁰⁷ This is because the public value approach strongly emphasises the importance of involving the public in setting the values that will determine the choice of services and provide feedback on the effectiveness of services in achieving their aims.³⁰⁸ For this reason, outcome achievement may be used to determine whether the public believes that service delivery is undertaken in ways that meet the needs, expectations and preferences of communities and whether it is efficient, effective, transparent and accountable. It can also be argued that in the context of the four dimensions of public value discussed in 2.7, the public's happiness with the government's service delivery may be ascertained using the outcome measurement standard.³⁰⁹ The following subsection examines how trust and legitimacy can be used to measure public value.

2.6.1.2 Trust and legitimacy

Trust and legitimacy are measurement standards for public value and are applied when the government seeks to ascertain whether communities have confidence in the way the government provides goods and services.³¹⁰ According to Faulkner and Kaufman:

'Trust and legitimacy' refer to the extent to which an organisation and its activities are trusted and perceived to be legitimate by the public and by key stakeholders. This dimension includes the extent to which the public trust the particular institution.³¹¹

Trust and legitimacy also relate to the performance and orientation of government activities to ensure effective communication with communities, fairness of the process, responsiveness, transparency and accountability.³¹² Trust is important in the discussion of public value because public trust in service delivery is a key component

³⁰⁷ Tilley and Pawson 2000 <http://healthimpactassessment.pbworks.com/f/Realistic+evaluation+an+overview+-+UoNT+England+-+2000.pdf>.

³⁰⁸ See the discussion under the definition of public value in 2.2.4.

³⁰⁹ For details, see Faulkner and Kaufman 2018 *Australian Journal of Public Administration* 9-10.

³¹⁰ Swaner 2017 *New Political Science* 95-108.

³¹¹ Faulkner and Kaufman 2018 *Australian Journal of Public Administration* 11.

³¹² See Swaner 2017 *New Political Science* 95-108.

in determining whether there is public value.³¹³ Hence, trust lies at the heart of the relationship between communities and the government.³¹⁴ For this reason, "trust and legitimacy are at the heart of public value creation, largely because organisations that are trusted and perceived to be legitimate are best able to secure the support needed to carry out their objectives."³¹⁵ This may be interpreted to mean that for the government to create public value, it must be transparent, accurate, and democratic and negotiate with communities pertaining to their needs and expectations - that is, the government must not undermine public trust in it but must instead, be transparent about the services it is providing to enable communities to appreciate that it is doing its best.³¹⁶

Trust is so important for creating the legitimacy of the government to the extent that, according to a World Bank publication:

If governments fail to build this trust, people will only trust their families, friends, and ethnic and religious groups. Once social norms about trusting one's clan over the state solidify, it will become a norm among leaders, parliamentarians, and business owners, leading to corruption, nepotism, and cronyism. This, in turn, undermines institutional trust.³¹⁷

In this context, it can also be argued that the extent to which the government and its activities are trusted and perceived as legitimate by the public and key stakeholders matters in public value measurement.³¹⁸ Trust and legitimacy can be enhanced by engaging stakeholders and recognising and incorporating diverse perspectives and interests to ensure inclusive decision-making.³¹⁹

³¹³ Horner, Lekhi and Blaug 2006 <https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=51af667a7c1eb49850361b3cf68a1793b64dc2b6>.

³¹⁴ On the importance of trust in the government's relationship with communities, see these works in general - Braithwaite and Levi (eds) *Trust and Governance*; Schmidhuber, Ingrams and Hilgers 2021 *Public Administration Review* 91-108.

³¹⁵ Faulkner and Kaufman 2018 *Australian Journal of Public Administration* 11. See also, Talbot and Wiggan 2010 *International Journal of Public Sector Management* 54-70.

³¹⁶ Andrews *et al* 2022 <https://blogs.worldbank.org/governance/trust-necessary-fuel-effective-governance#:~:text=If%20governments%20fail%20to%20build,corruption%2C%20nepotism%2C%20and%20cronyism>.

³¹⁷ Andrews *et al* 2022 <https://blogs.worldbank.org/governance/trust-necessary-fuel-effective-governance#:~:text=If%20governments%20fail%20to%20build,corruption%2C%20nepotism%2C%20and%20cronyism>.

³¹⁸ See Faulkner and Kaufman 2018 *Australian Journal of Public Administration* 10-11.

³¹⁹ See 2.3.4.

Trust and legitimacy are measurement standards for public value and can be measurable through public opinion surveys.³²⁰ On this note, it has been determined through surveys that communities often trust civil servants more than the politicians who appoint and manage them.³²¹

2.6.1.3 Quality of service delivery

Quality of service delivery is the third measurement standard for public value. This standard pertains to the criteria discussed previously in this chapter on assessing the efficiency, responsiveness and capability of the government to provide public goods and services.³²² The quality of service provided by the government is ascertained by examining its performance in meeting the needs and expectations of communities in an efficient, transparent and responsive manner.³²³ It also concerns the effectiveness of the government in implementing its policies and projects in a manner that enhances public welfare through the provision of quality goods and services.³²⁴ In this context, Faulkner and Kaufman define the quality of service delivery as follows:

'Service delivery quality' refers to the extent to which services are experienced as being delivered in high-quality manner that is considerate of users' needs. It is expected to be maximised when individuals who interact with the service are satisfied, and when they perceive the services to be responsive to their needs, accessible, convenient, and incorporate sufficient citizen engagement.³²⁵

The quality of service delivery may also be assessed by examining whether the provision of goods and services considers the needs and expectations of the public and whether legally defined standards are met (e.g., the quantity and quality of water).³²⁶ Service delivery is deemed to be of high quality when communities are satisfied with it and perceive that public goods and services are accessible, convenient, and responsive to their needs and expectations.³²⁷ Communities derive benefits from

³²⁰ Faulkner and Kaufman 2018 *Australian Journal of Public Administration* 11.

³²¹ Andrews *et al* 2022 <https://blogs.worldbank.org/governance/trust-necessary-fuel-effective-governance#:~:text=If%20governments%20fail%20to%20build,corruption%2C%20nepotism%2C%20and%20cronyism.>

³²² See 2.6.1.

³²³ See 2.6.1.

³²⁴ See the discussion under 2.3.11.

³²⁵ Faulkner and Kaufman 2018 *Australian Journal of Public Administration* 12.

³²⁶ See 2.3.11.

³²⁷ World Bank *Indicators of Citizen-Centric Public Service Delivery* 1.

the personal use of public services, which are very similar to the benefits derived from consuming goods and services purchased from the private sector.³²⁸ Hence, user satisfaction is critical for public value. In the context of high-quality service delivery, the following subsection considers efficiency as a measurement standard for public value.

2.6.1.4 Efficiency

The fourth measurement standard for public value is efficiency, defined by Faulkner and Kaufman as follows:

'Efficiency' refers to the extent to which an organisation is achieving maximal benefits with minimal resources. It is expected to be high when the benefits provided by an organisation are perceived to outweigh the costs of that organisation, when "unnecessary" bureaucracy is avoided, and when an organisation is perceived to offer 'value for money.'³²⁹

Efficiency is used to evaluate the ratio of the input of public resources to output (service delivery).³³⁰ It can be argued that the input should be lower than the output and should take the shortest time possible. In the government context, this means that performance and orientation in the provision of public goods and services are measured by looking at the pace at which public goods and services are provided, cost-effectiveness in their delivery, and the ability of the government to fulfil its tasks with minimal waste of resources.³³¹ It may also pertain to effectiveness in the allocation of resources so that those who need public goods and services receive them when they need them and in the right qualities and quantities.³³²

Hence, efficiency is about ensuring that the benefits of expending public resources on the provision of goods and services outweigh the costs of procuring and making them available to the public.³³³ Arguably, it also means eliminating bureaucracy, which often results in timely and efficient service delivery.³³⁴ To this end, one might consider

³²⁸ In this regard, see Moore *Creating Public Value: Strategic Management in Government* 28.

³²⁹ Faulkner and Kaufman 2018 *Australian Journal of Public Administration* 11.

³³⁰ See Hsu *The Relative Efficiency of Public and Private Service Delivery* 1-2.

³³¹ See in general, Hsu *The Relative Efficiency of Public and Private Service Delivery* 2-9.

³³² See Joseph *Improving Service Delivery* 8-9 on effective service delivery.

³³³ Faulkner and Kaufman 2018 *Australian Journal of Public Administration* 12.

³³⁴ Alornyeku *The Impact of Bureaucracy on Public Service Delivery: A Study of Kumasi Metropolitan Assembly* 1-16; Hackman *et al* 2021 *World Journal of Engineering and Technology* 482-502.

whether the provision of goods and services to the public improves the quality of life, well-being and happiness; enhances social capital, social cohesion, and social inclusion; improves safety and security; and promotes equality by eliminating deprivation and social exclusion. One may also consider whether this promotes democracy and civic engagement.³³⁵ If service delivery meets this criterion, one can confidently say that it is efficient.

2.6.1.5 Benchmarking

Benchmarking is a measurement standard for public value. Generally, most entities will never know how they perform if they do not compare themselves to their peers.³³⁶ Hence, entities measure their performance against the best entities in similar undertakings³³⁷ in order to learn from the successful practices of others and to facilitate their own improvement.³³⁸ Hence, benchmarking is a continuous and systematic process of measuring an entity's services and practices against those of organisations regarded as superior.³³⁹ In the context of this study, the idea behind benchmarking is not to determine how much the government is doing but rather how it can *do better* to create and maintain public value by rectifying performance gaps. Arguably, benchmarking is necessary because public value represents a more holistic notion of public services and should be benchmarked to assess the extent to which it is created and maintained by a particular government.³⁴⁰ However, it should be noted that when benchmarking, the best practices utilised at any given point may not be ideal in the future because of changes in the performance of entities against which an organisation is benchmarking.³⁴¹

2.6.2 Methodological tools

In this study, the methods of measuring public value are used to determine the extent to which one can say that the provision of public goods and services creates value for

³³⁵ New and Neuberger *Hidden Assets—Values and Decision-making in the NHS* 1-39.

³³⁶ See Lankford 2002 *Coastal Business Journal* 51.

³³⁷ Lankford 2002 *Coastal Business Journal* 51.

³³⁸ See Ionut 2022 *Annals-Economy Series* 54-56.

³³⁹ See in general, Li and Yang 2022 *Political Studies Review* 475-492.

³⁴⁰ See Li and Yang 2022 *Political Studies Review* 475-492 on the benefits of benchmarking.

³⁴¹ See Peters and Waterman *In Search of Excellence: Lessons from America's Best-Run Companies* for a discussion in this regard.

communities and whether, in that process, the government is responsive, transparent, accountable and adaptable to the changing circumstances that arise in service delivery. Some of the methodological tools for measuring public value, such as surveys, have been introduced above under outcome achievement and trust and legitimacy. Following a similar approach, this section discusses these methodological tools in greater detail.

2.6.2.1 Surveys

A survey is one of several research methods used to collect data from a predefined group of respondents who belong to a particular democratic or other group whose views about a particular subject are sought.³⁴² Often, the subjects of interest in surveys are personal perspectives about phenomena, behaviour, beliefs, employment status, and income.³⁴³ A survey is conducted when standardised questions are presented to the respondents in a structured way to solicit their responses.³⁴⁴ A variety of questions are used in surveys, such as closed-ended, open-ended, and demographic questions. Stejskal and Hájek³⁴⁵ argue that the survey approach can be used if the population in question is large. These authors submit that the findings of a measurable service are transferrable and comparable to other public services and are significant for the allocation of public resources and accountability for their expenditure.³⁴⁶ The most powerful aspect of surveys is that they provide data directly from communities and can thus be used to ascertain whether the government has fulfilled standards of measuring public value such as outcome achievement and trust and legitimacy.³⁴⁷ Arguably, the perceptions of communities regarding the effectiveness and efficiency of the government in providing goods and services can only be ascertained by asking them about their experiences, recording the responses and analysing them.³⁴⁸ The

³⁴² For a deeper analysis of surveys as a research method, see Fowler *Survey Research Methods* 1-5. See also, Salaria 2012 *International Journal of Transformations in Business Management* 1-7.

³⁴³ Fowler *Survey Research Methods* 1.

³⁴⁴ See Fowler *Survey Research Methods* 1.

³⁴⁵ Stejskal and Hájek 2015 *Public Money & Management* 145.

³⁴⁶ Stejskal and Hájek 2015 *Public Money & Management* 145.

³⁴⁷ Faulkner and Kaufman 2018 *Australian Journal of Public Administration* 9-10.

³⁴⁸ For a discussion of surveys as means to ascertain service delivery, see Dehn, Reinikka and Svensson 2002

<https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=e82acdead71e82760c6d3e320e01a34d19ff3b32> 1-8.

other methodological tool for measuring public value is the multi-criteria analysis method, which is discussed below.

2.6.2.2 Multi-criteria analysis method

This method entails organising scientific data, identifying links in the results, and using the results to inform decision-making.³⁴⁹ This means that multiple criteria can be used to systematically evaluate the results so that the most viable alternative is used for the ultimate decision. For this to work, a persistent feedback mechanism is ideal to provide positive and negative inputs to all actors involved in the process. In the context of public value, similarities in stakeholder requests and expectations must be assessed to obtain dynamic feedback by capturing the positive and negative inputs of all actors and stakeholders.³⁵⁰ This multi-pronged approach enables the identification of commonalities, such as shared needs and expectations, to determine the extent to which the public perceives value to have been created.³⁵¹

The multi-criteria analysis method is ideal for ascertaining commonalities in stakeholder feedback to enable the government to prioritise common needs and expectations and optimise its efforts to meet them.³⁵² This method makes the government appear adaptable, responsive, and open in public decision-making.³⁵³ Since responsiveness and openness in public decision-making are key tenets of creating public value, it may be argued that the multi-criteria analysis method is an ideal methodological tool for measuring the creation of public value.³⁵⁴ The following section considers a cluster-driven framework to measure public value.

2.6.2.3 Cluster-driven framework method

This methodological tool of measuring public value "relate[s] to broad social outcomes such as quality of life, well-being, happiness, availability of social resources, social

³⁴⁹ Kiker *et al* 2005 *Integrated Environmental Assessment and Management* 95-108.

³⁵⁰ Gamper and Turcanu 2007 *Ecological Economics* 298-307.

³⁵¹ See the strengths and difficulties of using the multi-criteria method in Gamper and Turcanu 2007 *Ecological Economics* 300.

³⁵² Dodgson *et al* *Multi-Criteria Analysis: A Manual* 10.

³⁵³ Gamper and Turcanu 2007 *Ecological Economics* 301.

³⁵⁴ For a discussion of responsiveness and openness of the government as key tenets of creating public value, see Karunasena and Deng 2012 *Government Information Quarterly* 76-84.

inclusion, safety, security, equality and public engagement."³⁵⁵ This measurement method is based on a conceptual framework that seeks to categorise and differentiate concepts of co-production in service delivery based on four types of value that the government co-creates with communities for the purpose of service delivery.³⁵⁶ These include co-production, co-design, co-construction, and co-innovation.³⁵⁷ These represent 'clusters of public value,' such as improvement in quality of life, well-being, happiness, availability of social resources, social inclusion, safety and security, equality, and public participation in government decision-making.³⁵⁸ Hills and Sullivan³⁵⁹ argue that clusters of public value must be identified to quantify the outputs and effects of public value generated. These are efficiency, effectiveness, cost-effectiveness, democracy, transparency, equity, and authorisation.³⁶⁰ The following subsection looks at the competing value framework, which is another methodological tool for measuring public value.

2.6.2.4 The competing values framework method

The competing values framework method is used to assess the impact of organisational culture, such as commitment, decision-making, leadership, and job satisfaction, on public value.³⁶¹

[The competing values framework] analyses organisational effectiveness along three competing value dimensions. Along the external-internal dimension, the organisation might focus externally, emphasising its function and development within a larger environment, or focus internally, emphasising the function and development of people within the organisation. Along the control-flexibility dimension, the organisation might emphasise control, focusing on structure, predictability, and stability; or emphasise flexibility, focusing on innovation and adaptability. Finally, along the means-goals dimension, managers might be means-oriented, emphasising processes, planning, and goal setting; or goal-oriented,

³⁵⁵ Jessa and Uys 2018 *Administratio Publica* 292-293.

³⁵⁶ Jessa and Uys 2018 *Administratio Publica* 292-293.

³⁵⁷ See Clarke *et al* 2017 *British Journal of Management* 1.

³⁵⁸ See this list of clusters in Jessa and Uys 2018 *Administratio Publica* 292-293.

³⁵⁹ Hills and Sullivan 2006 https://www.tavinstitute.org/wp-content/uploads/2013/03/Tavistock_Projects_A-Think-Piece-on-Measurement-of-Public-Value.pdf 13.

³⁶⁰ See Hills and Sullivan 2006 https://www.tavinstitute.org/wp-content/uploads/2013/03/Tavistock_Projects_A-Think-Piece-on-Measurement-of-Public-Value.pdf 13.

³⁶¹ See Cameron and Quinn *Diagnosing and Changing Organisational Culture Based on the Competing Values Framework* 1-12.

emphasising outcomes, deliverables, and productivity. Although the values are conceptually opposite and paradoxical in nature, they are not empirically opposite - nor are they mutually exclusive in practice.³⁶²

As such, the competing values framework method helps organisations to identify the cultural values in which they operate, manage change, enhance performance, and fulfil their strategies.³⁶³ It relates to public value in that it helps ascertain public choices using four public value categories.³⁶⁴ These categories are collaboration (which emphasises flexibility and a friendly collaborative environment that promotes cohesion and morale among employees – in this case, public sector employees); create (which encourages innovation, creativity, and adaptability to enhance entrepreneurship and risk-taking); compete (which is about stability and control to improve productivity); and control (which deals with bureaucracy in an organisation and how it can be eliminated to improve efficiency and uniformity).³⁶⁵ These categories seek to reconcile the inherent tensions in public value evaluation.³⁶⁶ Tensions may arise due to the divergence between flexibility and autonomy on the one hand and control and stability on the other.³⁶⁷ They may also arise from collective concerns about competitiveness and collaborative participation.³⁶⁸

The foregoing analysis of the standards and methodological tools for measuring public value shows that public value management is based on democracy and the need for a government that is responsive, open and accountable. It also points to a government that is trusted and legitimate, committed to positive outcomes, efficient, and committed to quality service delivery.³⁶⁹ The public value theory appears to integrate government action with the needs and expectations of communities, the private

³⁶² Grabowski *et al* 2015 *Nonprofit and Voluntary Sector Quarterly* 911.

³⁶³ See Yu and Wu 2009 *International Journal of Business and Management* 37-42 for a discussion.

³⁶⁴ See in general, Zeb *et al* 2021 *Business Process Management Journal* 658-683; Grabowski *et al* 2015 *Nonprofit and Voluntary Sector Quarterly* 908-923.

³⁶⁵ Zlatković 2018 *Strategic Management* 15-25.

³⁶⁶ Talbot 2008 http://publiccommons.ca/public/uploads/literature/measuring_pv_final2.pdf 10.

³⁶⁷ Talbot 2008 http://publiccommons.ca/public/uploads/literature/measuring_pv_final2.pdf 10.

³⁶⁸ Talbot 2008 http://publiccommons.ca/public/uploads/literature/measuring_pv_final2.pdf 10.

³⁶⁹ For a discussion of the relationship between public value and democracy, see Benington and Hartley "Action Research to Develop the Theory and Practice of Public Value as a Contested Democratic Practice" 143-158; Cruz Dallagnol, Portulhak and Cezar Severo Peixe 2023 *Public Money & Management* 251-258.

sector, and NGOs regarding the provision of goods and services by the government.³⁷⁰ The following section discusses the dimensions of public value, which may be measured using the measurement standards and methodological tools referred to above.

2.7 Dimensions of public value

The dimensions of public value refer to different perspectives that are used to evaluate the perceived value received from the government's decisions and activities in providing public goods and services.³⁷¹ There are four main dimensions to understanding public value, i.e., hedonistic-aesthetical, political-social, moral-ethical, and utilitarian-instrumental dimensions.³⁷² Although these are explained and analysed in due course, it is noted for the purposes of the present discussion that one cannot easily conceptualise public value outside these four dimensions because each dimension contains various factors with which communities interact daily.³⁷³ To understand these four dimensions, it is necessary to also appreciate that certain processes in the public sector create public value and that maintaining public value depends on eliminating factors that negatively affect public value, such as corruption and lack of integrity in the public sector.³⁷⁴ Table 2.3 illustrates the four dimensions of public value as originally developed for the Swiss context.

³⁷⁰ For an analysis of how private sector-inspired methods of public value creation impact on democracy and the provision of public goods and services, see Eikenberry and Kluver 2004 *Public Administration Review* 132-140.

³⁷¹ See Meynhardt and Jasinenko 2020 *International Public Management Journal* 3-4.

³⁷² Meynhardt 2009 *International Journal of Public Administration* 192-219; Meynhardt and Jasinenko 2020 *International Public Management Journal* 4.

³⁷³ See the table in Meynhardt and Jasinenko 2020 *International Public Management Journal* 4.

³⁷⁴ Jørgensen and Rutgers 2015 *American Review of Public Administration* 8.

Table 2.3: Four dimensions of public value³⁷⁵

Public value dimension	Content	Item examples: The organization ...
moral-ethical	<ul style="list-style-type: none"> • Based on need for self-worth and dignity • Related to subjective moral and ethical standards of how humans should be treated • Striving for equality, fairness, ethicality 	<ul style="list-style-type: none"> • behaves decently is fair • acts ethically correct • is just • respects the human dignity of individuals
hedonistic-aesthetical	<ul style="list-style-type: none"> • Based on individuals' need and motivation to avoid pain and maximize pleasure • Ranges from basic need to survive to positive hedonistic experiences • Strives for happiness, joy, relaxation, beauty 	<ul style="list-style-type: none"> • contributes to the quality of life in Switzerland • is enjoyable for people in Switzerland • is pleasant for people in Switzerland • contributes to the happiness of the people in Switzerland • contributes to the well-being of the people in Switzerland
utilitarian-instrumental	<ul style="list-style-type: none"> • Based on need to understand, predict and control environment • Strives for utility, efficiency, and effectivity • Also encompasses subjectively perceived financial or economic value 	<ul style="list-style-type: none"> • performs well in its core business • is economically viable • is professionally recognized in Switzerland • contributes to economic welfare in Switzerland • provides good quality to people in Switzerland
political-social	<ul style="list-style-type: none"> • Based on need for social relatedness and belonging • Strives for positive relationships, social identity, or group membership • Ranges from belonging to cooperation and solidarity 	<ul style="list-style-type: none"> • contributes to social cohesion in Switzerland • creates a community in Switzerland • has a positive effect on social relationships in Switzerland • contributes to solidarity in Switzerland • contributes to cooperation in Switzerland

The following subsections expand the discussions on the four dimensions identified in the table.

2.7.1 Moral-ethical dimension

This dimension of public value refers to the values, principles and ethical standards that inform the decision-making and actions of the government in a compassionate, flexible and honest manner.³⁷⁶ This implies that the moral-ethical dimension concerns the government's integrity, fairness, transparency and accountability, as well as its social responsibility and compliance with moral values in protecting the public interest through its decisions and actions.³⁷⁷ This illustrates that as much as the government

³⁷⁵ Originally published in Meynhardt and Jasinenko 2020 *International Public Management Journal* 4.

³⁷⁶ Christensen and Gornitzka 2019 *Administration & Society* 88-89.

³⁷⁷ See Fukumoto and Bozeman 2019 *American Review of Public Administration* 640; Mazur and Walczyna 2021 *Sustainability* 5.

must operate within the law, it is also bound by moral and ethical considerations necessary to enhance public trust - which is in itself essential for legitimacy.³⁷⁸

Another way to see the moral-ethical dimension of public value is to view it as a representation of "a collectively shared value ascribed to personhood and what it means to be human."³⁷⁹ Meynhardt and Jasinenko argue that:

In the organisational context, this dimension considers how an organisation treats individuals or, more specifically, whether an organisation respects and contributes to people's self-worth and dignity. Consequently, to contribute to public value in the moral-ethical dimension an organisation has to show fair, just, ethically correct, or at least decent, behaviour.³⁸⁰

This extract shows that this dimension builds on the basic human need for self-worth and dignity, as each individual's estimation of their worth and dignity may be protected only through compliance with moral and ethical standards.³⁸¹ This shows that the moral-ethical dimension originates from each individual's view of the moral and ethical standards that are embedded in and influenced by society.³⁸² Thus, the government must show fair, just, ethically correct, and decent behaviour in dealing with users of public goods and services to contribute positively to the moral-ethical dimension.

2.7.2 Hedonistic-aesthetical dimension

This dimension of public value refers to the aesthetic elements of happiness and pleasure.³⁸³ This is because the hedonistic-aesthetic dimension represents "a collectively shared value ascribed to pleasure and what it means to create a positive experience [for the governed]."³⁸⁴ Research has revealed that the hedonistic dimension originates from the evolutionarily ingrained human need to avoid pain and maximise pleasure to survive.³⁸⁵ Thus, this dimension refers to each individual's

³⁷⁸ Tom *et al* 2020 *Public Administration* 1032.

³⁷⁹ Meynhardt, Chandler and Strathoff 2016 *Journal of Business Research* 154. See also, Meynhardt and Jasinenko 2020 *International Public Management Journal* 5-6.

³⁸⁰ Meynhardt and Jasinenko 2020 *International Public Management Journal* 5-6.

³⁸¹ For a detailed exposition of how compliance with ethics and moral values protects human dignity, see Kirchhoffer *Human Dignity in Contemporary Ethics* 2-18.

³⁸² See Jin and Peng 2021 *Frontiers in Psychology* 1-11 for a full discussion of how society shapes each individual's view of what is ethical and moral in any given situation.

³⁸³ Changlin, Thompson and Marijn 2021 *International Journal of Information Management* 102401.

³⁸⁴ Meynhardt, Chandler and Strathoff 2016 *Journal of Business Research* 2981-2989.

³⁸⁵ Meynhardt, Chandler and Strathoff 2016 *Journal of Business Research* 2981-2989.

negative and positive experiences, which are influenced by the subject's need to avoid pain while maximising pleasure.³⁸⁶ This shows that the hedonistic dimension is based on the recognition of each individual's desire to pursue pleasure and satisfaction. Based on this analysis, it is concluded that the hedonistic-aesthetical dimension also shows that subjective well-being and happiness are critical in ascertaining public value.

Hence, one may view the hedonistic dimension as one influenced by each person's basic need to survive, experience positive experiences, and strive for satisfaction.³⁸⁷ In the discourse on public value in this study, the hedonistic-aesthetic dimension may be seen from the perspective of how public governance institutions, such as municipalities, can contribute to positive experiences and maximise pleasure for communities through effective and efficient service delivery. The basis for this is that the hedonistic-aesthetic dimension of public value emphasises happiness and relaxation.³⁸⁸ For this reason, one can argue that in the context of this study, the hedonistic-aesthetic dimension of public value suggests that government actors must contribute to improving the quality of life for the people they govern and make it pleasant by ensuring the provision of quality services that contribute to their happiness and satisfaction, improve their well-being, and make their livelihoods sustainable.

2.7.3 Utilitarian-instrumental dimension

This dimension of public value refers to the practical and functional aspects of public value and the means through which public value is created.³⁸⁹ It refers to the practical achievement of service delivery goals through effectiveness and efficiency.³⁹⁰ This means that it entails the benefits received by communities from the provision of public goods and services in a way that meets their needs, expectations and preferences cost-effectively. Some of the benefits of cost-effectiveness arising from the utilitarian-

³⁸⁶ See Kennon *et al* 2001 *Journal of Personality and Social Psychology* 326.

³⁸⁷ It can be argued that the hedonistic dimension fits within Maslow's hierarchy of needs Maslow's theory on the hierarchy of needs. This theory ranks the needs of individuals from the most important (required for basic survival – such as food and shelter) to psychological desires such as happiness where the hedonistic dimension fits. For an exposition of the hierarchy of needs, see, Maslow *Motivation and Personality: Motivation and Personality: Unlocking Your Inner Drive and Understanding Human Behavior* 120.

³⁸⁸ Meynhardt and Jasinenko 2020 *International Public Management Journal* 4.

³⁸⁹ Cui and Aulton 2023 *Public Management Review* 3.

³⁹⁰ See Fukumoto and Bozeman 2019 *American Review of Public Administration* 640.

instrumental dimension may include improved public safety, enhanced economic development, and resolution of pressing social issues as a result of a responsive government approach to the needs, expectations, and preferences of communities.³⁹¹

Consequently, the utilitarian-instrumental dimension of public value requires the government to provide public goods and services through sustainable financial decision-making.³⁹² Based on this, it may be argued that even if most community members do not have detailed information on the public sector's financial performance, they may have an interest in its economic well-being to help them determine the cost-effectiveness, effectiveness, and efficiency of government expenditures. In times of crisis, economic performance affects people's basic need for coherence and control due to its consequences on the psychological well-being of affected populations and the resultant loss of trust in the government.³⁹³ For example, the economic downturn of countries during a financial crisis brings the stability and coherence of the entire system into question, resulting in negative feelings that destroy public value.³⁹⁴ Thus, governments must be able to understand, predict, and control their fiscal environment and perform well to ensure that they remain economically viable and contribute to socio-economic welfare.³⁹⁵ This requires good governance, which depends on various factors such as transparency, responsiveness, and accountability, all of which enhance public trust and government legitimacy.³⁹⁶ In addition, good financial standing shows the sustainability and capacity of the government to be economically resilient and in a position to reduce poverty and improve the welfare of the public.³⁹⁷

2.7.4 Political-social dimension

This dimension of public value refers to the value that the government creates regarding the achievement of political and social goals such as efficient service

³⁹¹ See the analysis in Jessa and Uys 2018 *Administratio Publica* 277-278.

³⁹² See Meynhardt 2009 *International Journal of Public Administration* 209.

³⁹³ See in general, Ginés *et al* 2018 *Frontiers in Psychology* 1-16.

³⁹⁴ See Jamal, Muda and Yusof "The Role of Government Online Crisis Communication Framework in Strengthening Public Trust" 373-379.

³⁹⁵ See the discussion in section 2.3.10 above.

³⁹⁶ See the discussion in section 2.3 above.

³⁹⁷ See Barbera, Guarini and Steccolini 2020 *Accounting, Auditing & Accountability Journal* 529-558.

delivery, equal treatment of communities in accessing public goods and services, social inclusion, public welfare, and accountability.³⁹⁸ This is achieved by creating consensus and collaboration and ensuring efficiency in service delivery.³⁹⁹ Since the political-social dimension relates to service delivery to a greater extent, it can be argued that democratic governance, participatory decision-making, and public consultation are vital to achieving this dimension of public value.⁴⁰⁰ This is because it is nearly impossible for one to envisage consensus and collaboration between the government and communities without processes through which the government can consult communities to ascertain their needs and expectations.⁴⁰¹ For this reason, the political-social dimension of public value represents "a collectively shared value attached to social relationships and what it means to establish positive group relations."⁴⁰²

Another interpretation of the political-social dimension of public value is that it is based on the basic need for social belonging, according to which individuals strive for positive relationships, social identity, and group membership.⁴⁰³ In the public sector context, this requires the government to contribute towards building social cohesion, belonging, and overall positive social relationships because unresponsive governments often fail.⁴⁰⁴ Hence, the political dimension is more than just satisfying communities; it is also securing political stability. Governments can achieve social stability and achieve all outcomes of the political-social dimension by adopting and implementing policies that foster inclusivity, address inequality, promote equity, encourage civic engagement, and facilitate dialogue and cooperation among the people they govern.⁴⁰⁵

Public participation in government decision-making is essential to understanding the needs and expectations of communities to help the government frame responsive

³⁹⁸ Pereira *et al* 2017 *Information Systems Frontiers* 214.

³⁹⁹ Chatfield and Reddick 2020 *Social Science Computer Review* 258.

⁴⁰⁰ See Valadares *et al* 2016 *Cadernos EBAPE* 978.

⁴⁰¹ Nabatchi 2012 *Public Administration Review* 547-558.

⁴⁰² Meynhardt, Chandler and Strathoff 2016 *Journal of Business Research* 2981-2989.

⁴⁰³ Meynhardt, Chandler and Strathoff 2016 *Journal of Business Research* 2981-2989.

⁴⁰⁴ See Juan, Hanyi and Wen-Hui 2022 *Frontiers in Psychology* 2.

⁴⁰⁵ See Juan, Hanyi and Wen-Hui 2022 *Frontiers in Psychology* 816019.

public policies.⁴⁰⁶ Arguably, the government can fulfil the political-social dimension of public value by providing services that support social relationships and cooperation, which indirectly provide access to everybody through affordable services, ensuring courtesy, assuring friendliness to people with disability, and supporting values of solidarity within society.⁴⁰⁷ Ensuring a sense of belonging, cooperation among members of society, and solidarity contributes to social cohesion because it builds trust and fosters a sense of unity and shared purpose.⁴⁰⁸

2.8 Chapter conclusion

This chapter presented a theoretical framework of public value to contextualise the exploration of how South African law can promote public value in local government. The discussion began by examining the challenge of defining public value due to linguistic ambiguities arising from its constituent terms - public and value. As seen from the discussion in 2.2.1 above, the other challenge to defining public value lies in the two diverging schools of thought on its meaning. Moore, the main proponent of public value, conceptualised public value using the managerial approach, while Bozeman defined it using the policy-level approach. Notwithstanding these difficulties, this chapter conceptualised public value as a reflection of the collective preferences of communities, which are facilitated by the government through trust and fair processes in the provision of public goods and services.⁴⁰⁹

This chapter also revealed several tenets of public value, which include legality, accountability, transparency, trust and legitimacy, respect for human rights, responsiveness; public participation in government decision-making regarding community needs, expectations and preferences; collaboration and co-production between the government and communities; environmental sustainability; financial sustainability and effective and efficient service delivery.⁴¹⁰ Subsequent analysis will

⁴⁰⁶ See Draai and Taylor 2009 *Journal of Public Administration* 112-122.

⁴⁰⁷ Feinberg *et al* 2012 *Journal of Personality and Social Psychology* 1015.

⁴⁰⁸ See Feinberg *et al* 2012 *Journal of Personality and Social Psychology* 1015 on how cooperation may enhance social cohesion.

⁴⁰⁹ See 2.2.4.

⁴¹⁰ See the tenets of public value in 2.2.4.

examine how these tenets of public value manifest in the constitutional, policy and legislative framework (chapter 5) and the local government instruments (chapter 6).

After defining public value, this chapter examined the emergence of public value from public administration and management.⁴¹¹ It observed that public value is neither a legal nor political concept but originates from public administration and management. The analysis provided an overview of the evolution of public administration and management theories, which led to the emergence of public value as a management concept. The definition of public value and analysis of its emergence in public administration and management theory contextualised the creation and maintenance of public value.

The discussion in 2.5.1 revealed that the main actors and stakeholders in the creation of public value are communities, the political and administrative arms of government, and civil society. These actors and stakeholders create public value through a co-creation matrix that entails legitimacy and authority through legitimate decision-making bodies, practical approaches such as policy analysis, leadership, and dialogue, and the rule of law components such as procedural and substantive rationality. These tenets of public value point to the tangible and non-tangible criteria for its creation. The criteria include public safety, economic development, transportation services, and resources for improving quality of life. As such, it also necessitates aesthetic elements such as a pleasing environment that is clean and sustainable.

However, section 2.6 of this chapter illustrated that measuring public value is a contentious and difficult process. Hence, this chapter also analysed the measurement standards of public value as well as the methodological tools for its measurement. The measurement standards and methodological tools are understood in this chapter alongside the dimensions of public value, which encompass the moral-ethical dimension, hedonistic-aesthetical dimension, utilitarian-instrumental dimension, and political-social dimension. As shown in section 2.7, these dimensions of public value

⁴¹¹ See 2.4.

refer to different perspectives that are used to evaluate the perceived value received from the government's decisions and activities in providing public goods and services.

In short, the theoretical framework of public value presented in this chapter revealed that public value is about meeting the needs, expectations and preferences of communities in ways that increase their access to much-needed public goods and services. The discussion further showed that meeting the basic needs of communities paves the way for fulfilling their expectations and preferences, leading to their happiness, fulfilment and enjoyment. These can be fulfilled through cost-effective, efficient, and effective service delivery, which is done in transparent, responsive, and accountable ways that not only comply with the laws but also consider societal circumstances, moral values, and ethics. This shows that when seen through its dimensions, public value has transformative potential in local government. The following chapter examines the historical development and evolution of local government in South Africa to illustrate how the erstwhile regimes failed to create and maintain public value.

CHAPTER 3

HISTORICAL EVOLUTION OF LOCAL GOVERNMENT IN SOUTH AFRICA

3.1 Introduction

The South African local government sphere is in crisis due to the increasing failure of municipalities to deliver basic services to their communities.¹ This failure negatively affects the social, economic and environmental needs of communities.² The challenges faced by local government include poor financial management, administrative inefficiency, poor strategic planning, insufficient human capital, and political instability.³ While some of the problems faced by municipalities are new, such as political instability within municipal councils, others have historical roots.⁴ Municipalities, like all spheres of the government, are burdened by the effects of apartheid on service delivery because South African history is replete with stories of a dysfunctional local government system that failed to address the needs of the black majority.⁵ Some scholars attribute the current crisis facing local government to the design of the apartheid system, which left huge infrastructural backlogs that the current government must address amid an increase in the population and demand for services.⁶

In the foregoing context, this chapter examines the historical evolution of the local government sphere in South Africa. It seeks to answer the question of how local

¹ *Electoral Commission v Minister of Cooperative Governance and Traditional Affairs* [2021] ZACC 29 (hereafter *Electoral Commission v Minister of Cooperative Governance and Traditional Affairs*) para 195. See also, Wright, Dube and du Plessis 2022 *Verfassung und Recht in Übersee/World Comparative Law* 106, for a discussion.

² See Wright, Dube and du Plessis 2022 *Verfassung und Recht in Übersee/World Comparative Law* 109; *Unemployed Peoples Movement v Eastern Cape Premier*.

³ See Ramutsheli and Janse van Rensburg 2015 *Southern African Journal of Accountability and Auditing Research* 107-118.

⁴ For a discussion of political instability in municipalities as a result of coalition governments, see Department of Cooperative Governance and Traditional Affairs 2023 <https://www.cogta.gov.za/index.php/2023/06/01/amid-the-instability-of-coalition-governments-we-all-have-the-responsibility-to-ensure-effective-and-efficient-functioning-municipalities-that-delivers-on-their-mandate/>. See also, Beaumont *The Accidental Mayor: Herman Mashaba and the Battle of Johannesburg* 1-80.

⁵ Parnell *et al Democratising Local Government* 1.

⁶ Kaywood 2021 *African Journal of Public Affairs* 77.

government historically developed and evolved in colonial and apartheid epochs and the extent to which that history contributed to the challenges faced by municipalities in present-day South Africa. The objective of this chapter is to contextualise the extent to which colonial and apartheid governments undermined public value and to determine how that history may have contributed to the challenges facing municipalities today.

The remainder of the discussion is organised as follows: section 3.2 provides a short justification for the historical analysis. Section 3.3 examines the system of local government in the Dutch Cape Colony and covers the period from 1652 to 1795. It discusses how the Dutch East India Company colonised and governed the Cape through the Council of Policy, *Heemraden* and *Landdrosts*. Section 3.3 analyses the system of local government in the British Cape Colony and covers the period from 1795 to 1909. The section shows how the British occupation of the Cape Colony in 1795 changed the course of the local government in South Africa. Section 3.5 discusses how the Union of South Africa shaped local governance during the segregation era, which spanned 1910–1948. The section analyses the system of local government under apartheid rule, which is the period from 1948 to 1993, to show that in this era, local government, like all levels of government, was engineered through segregation to ensure that, while the government provided resources and enabled white areas to develop, it stifled black areas to ensure that they would remain poor and without the necessary infrastructure to develop self-sustaining municipalities, resulting in an infrastructure backlog with which the post-apartheid government is struggling.

Section 3.5 synthesises how colonial and apartheid administrations undermined public value and highlights how the regulation of local government in those eras necessitated an overhaul of the local government system in South Africa. The section also briefly analyses how South Africa transitioned into democratic governance and the possible opportunities to overhaul the local government system. The last section concludes the chapter.

3.2 Contextualising the historical analysis

The historical analysis should be understood in the context that in as much as this study is about ascertaining the extent to which current South African law promotes public value in local government, historical analysis is required not only for completeness purposes but also because the history of any entity or phenomenon is always necessary to understand its current state.⁷ In South Africa, for instance, spatial inequalities can only be understood through the prism of the colonial and apartheid dispossession of land.⁸

Understanding the relevance of the historical analysis in this chapter hinges on the appreciation that national policies and legislation are instrumental in shaping public value by making local government more responsive to the unique needs of communities.⁹ Integrating public value considerations into policy design and implementation can enable local government to design strategies that meet community needs, expectations, and preferences by enhancing transparency, accountability, and public trust.¹⁰ In addition, public value may provide a framework for evaluating the effectiveness and societal impact of local government initiatives and fostering continuous improvement and innovation in public service delivery.¹¹ Hence, the historical analysis in this chapter will aid in understanding the erosion of public value in both colonial and apartheid epochs and the present.

South Africa has a long and complicated colonial and apartheid history that can be divided into three phases for the purposes of this chapter.¹² The first phase was the Dutch and English colonial period, which started in the 17th Century and lasted until the early 20th Century, covering the period from 1652 to 1910.¹³ This period started when Dutch colonisers arrived at what they named the Cape of Good Hope and

⁷ See Carr "What is History?" 14-23.

⁸ Strauss and Liebenberg 2014 *Planning Theory* 428-448; Turok "Worlds Apart: Spatial Inequalities in South Africa" 159-182; Todes and Turok 2018 *Progress in Planning* 1-31.

⁹ See 3.4.2.

¹⁰ See Reynaers 2014 *Public Administration Review* 41-50.

¹¹ Gerrish 2016 *Public Administration Review* 48-66.

¹² For a comprehensive discussion of South African history, see Thompson *A History of South Africa* 1-200; Ross *A Concise History of South Africa* 1-250.

¹³ For a discussion of early South African history, including the 17th Century, see Landau *Popular Politics in the History of South Africa, 1400-1948* 1-180.

colonised it until the English displaced them in the late 20th Century.¹⁴ After major conflicts, the Dutch and English united into a Union of South Africa until the formal inception of apartheid rule in 1948.¹⁵ The second phase covered the period from 1948 to 1993, when apartheid prevailed and ended.¹⁶ The third phase covers the post-1994 era when South Africa transitioned into a democracy under the interim¹⁷ and final *Constitution*.

3.3 Local government in the Dutch Cape Colony (1652-1795)

3.3.1 Colonisation through the Dutch East India Company

The beginning of formal local government in South Africa (municipalities and councils in this chapter, depending on the context and period in question) was attributed to the arrival of Dutch colonialists at the Cape of Good Hope in 1652. The colonialists arrived through the Dutch East India Company (*Verenigde Oost-Indische Compagnie*) (VOC) under the leadership of Jan van Riebeeck.¹⁸ According to Thompson, the VOC, which was founded in 1602:

[W]as a state outside the state. 'Operating under a charter from the States-General (the Dutch government), it had sovereign rights in and east of the Cape of Good Hope, and by mid-century it was the dominant European maritime power in southeast Asia. Its fleet; numbering some six thousand ships totalling at least 600,000 tons, was manned by perhaps 48,000 sailors.'¹⁹

This extract shows that the Dutch East India Company was not an ordinary company but a gigantic capitalist entity that had the power of a state. When it arrived at the Cape of Good Hope, it found a local population that did not have a system of local government but depended on agriculture and hunting.²⁰ However, historical accounts

¹⁴ See Hunt *Dutch South Africa: Early Settlers at the Cape, 1652-1708* 1-9, for a discussion of the arrival of Dutch settlers in South Africa.

¹⁵ See Thompson *The Unification of South Africa: 1902-1910* 1-225, for a discussion of the conflicts and factors that led to the unification of Dutch and English colonies in South Africa.

¹⁶ Although pre-1948 South Africa had an apartheid-like system of race classes and exclusion of the majority of people (blacks), apartheid was formalised in 1948. See Giliomee 2003 *Journal of Southern African Studies* 373-392; Posel "Introduction" 1-22.

¹⁷ *Constitution of the Republic of South Africa Act 200 of 1993* (hereafter *Interim Constitution*).

¹⁸ For a historical outline of the origins of the VOC, see Gelderblom, De Jong and Jonker 2013 *The Journal of Economic History* 1050-1076.

¹⁹ Thompson *A History of South Africa* 33.

²⁰ Binza 2005 *Southern Journal for Contemporary History* 71.

indicate that Dutch settlers under the Dutch East India Company established a settlement at the Cape of Good Hope in 1652 as a refreshment station for ships travelling to Asia²¹ - there was "no intention of creating anything more than a small fortified base, where the annual fleets bound to and from Batavia could rendezvous, take in fresh water, fruit, vegetables and grain."²² This settlement became a platform through which Dutch colonialists gradually enslaved the local population and took over the land in the Cape of Good Hope until the British arrived in 1795 and started fighting with them for land.²³

The Dutch East India Company did not establish a municipality *per se* in the Cape but created a system through which it provided basic services to the settlers as an imitation of the Dutch municipal system and to "improve their rudimentary way of living and to improve local economic development in the areas."²⁴ Between 1652 and 1795, the Dutch East India Company played a central role in trying to resolve service delivery problems by creating a local government system, as discussed below.

3.3.2 Administration through the Council of Policy

This section discusses the various forms of local governance structures that emerged and evolved in response to the needs and challenges faced by both colonisers and indigenous populations during the Dutch colonial period from 1652 to 1795. Although the Cape of Good Hope was established as a refreshment station for water, food, and other provisions, it also served as a slavery route and evolved into a fully governed territory by the Dutch East India Company.²⁵ Under Dutch rule, the local government developed an intricate land grants and taxation system that sought to maintain the

²¹ Kootker *et al* 2016 *PLoS One* 1-2; Hunt *Dutch South Africa: Early Settlers at the Cape, 1652-1708* 1-100.

²² Thompson *A History of South Africa* 33.

²³ See Kootker *et al* 2016 *PLoS One* 1-20; Harries 2013 *Slavery & Abolition* 579-597, for accounts of Dutch enslavement of the local population in the Cape of Good Hope.

²⁴ Binza 2005 *Southern Journal for Contemporary History* 71.

²⁵ See Johnson 2010 *South African Historical Journal* 463-486.

colonial order while extracting resources from native communities.²⁶ In the early years after 1652, the Dutch East India Company maintained direct control over local administration.²⁷ It appointed officials who oversaw land distribution and tax collection, which seemed to have increased colonial influence inland, making it necessary for their communities to establish local governing bodies called councils. Councils were responsible for managing public affairs such as infrastructure maintenance, law enforcement, education and healthcare provision.²⁸

The Council of Policy was the primary administrative body of the Cape under the Dutch East India Company and was responsible for the design, implementation, and enforcement of its policies, laws, and regulations in the Cape Colony. It was headed by a governor, company officials, and so-called free 'burgers. Liebenberg observes that:

The Council of Policy held the highest authority. The tasks were distributed among various functionaries. In order to aid researchers, the introduction also contains a list of all the VOC commanding officers at the Cape. The representatives of the VOC had judicial authority. Because the Colony developed so rapidly, the town of Cabo experienced the need for a local government following the Dutch example.²⁹

The creation of local government structures was initially necessitated by the economic activities of the Dutch East India Company.³⁰ However, the expansion of communities

²⁶ The Dutch East India Company levied various taxes, including customs and excise duties, land tax, tithe, grazing tax and tavern licences and alcohol taxes. However, there are no specific works dedicated to the taxation system of this company, as these are often detailed in broader works that focus on the economic, social and political aspects of the Dutch East India Company – see, for example, River and Editors *The Dutch East India Company: The History of the World's First Multinational Corporation* 1-120; Sluyterman *Dutch Enterprise in the 20th Century: Business Strategies in Small Open Country* 1-20.

²⁷ It must be noted that although the Dutch East Indica Company had various measures for maintaining law and order, infrastructure, education and healthcare, it did not provide them in the form that we know them today, owing to the time in history and also because it was a commercial endeavour keen to make the maximum profit. For a discussion of the early years of its rule in the Cape, see in general, Raven-Hart *Cape Good Hope, 1652-1702: The First Fifty Years of Dutch Colonisation as Seen by Callers* 1-80.

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²⁹ Liebenberg *Introduction to the Resolutions of the Council of Policy of Cape of Good Hope* 5.

³⁰ Binza 2005 *Southern Journal for Contemporary History* 71.

and settlements necessitated the development of institutional arrangements to cope with the increased demand for services.³¹ The separation of the local government and its administration from the broader community was necessary, leading to the emergence of municipal structures that had the authority to administer local matters.³²

3.3.3 *Heemraden and Landdrosts*

Naturally, the local government system that emerged in the 17th century and was administered by the Dutch East India Company in Cape Town was governed by the principles of Roman-Dutch law, which governed the Netherlands at the time.³³ Dutch indigenous governance systems ruled over the Cape through officials such as *Heemraden* and *Landdrost*. According to Liebenberg:

The Board of the Landdrost and [members of] the Heemraad governed the country districts. The Board served as a court with jurisdiction on civil as well as criminal cases, and also had municipal and related governing functions, could impose taxes and even had certain military powers, and played a role in the safekeeping and defence of the relevant districts. The members of this Board, namely the Landdrost, assisted by members of the Heemraad, were recommended by the Council of Policy and nominated by the Governor.³⁴

The *Heemraden* was a local administrator in the Dutch administrative system and could be equated to an alderman or a magistrate.³⁵ *Heemraden* was responsible for implementing laws and regulations, maintaining roads and bridges, and overseeing water management, which is vital for agriculture.³⁶ Given their role, the *Heemraden* often consisted of local landowners familiar with the Cape, its people, and the issues they faced in each area where they presided. On the other hand, the Landdrost was like the chief magistrate of a district (equal to a mayor or governor) and was appointed

³¹ Binza 2005 *Southern Journal for Contemporary History* 71-72

³² Cloete *Central, Provincial and Municipal Institutions of South Africa* 242; Riekert "Black Local Government in the Republic of South Africa" 63.

³³ Cloete *Central, Provincial and Municipal Institutions of South Africa* 2-3.

³⁴ Liebenberg *Introduction to the Resolutions of the Council of Policy of Cape of Good Hope* 33.

³⁵ Liebenberg *Introduction to the Resolutions of the Council of Policy of Cape of Good Hope* 36.

³⁶ Liebenberg *Introduction to the Resolutions of the Council of Policy of Cape of Good Hope* 36. See also, Binza 2005 *Southern Journal for Contemporary History* 72, who says that the 'heemraden' – [were] a council system used to solve farming disputes - and a 'landdrost' – [was] a magisterial system used to manage local affairs.

by the Dutch East India Company to enforce its regulations, oversee the local administration, preside cases, and collect taxes.³⁷

The system of *Heemraden* and *Landdrosts* led to the formation of the College of *Landdrosts* and Heemraden of Stellenbosch, paving the way for the formation of municipalities in the Cape.³⁸ According to Binza, several "municipalities were established during the time of the [Dutch East India Company], namely Stellenbosch in 1679, Drakenstein in 1687, Swellendam in 1745, and Graaff-Reinet in 1786."³⁹ After the creation of the Stellenbosch Municipality and its successors, some Dutch farmers moved further inland, displacing the local inhabitants from their ancestral lands.⁴⁰ In an expropriation exercise, the sons of Dutch farmers had the right to own a minimum of 6 000 hectares of land upon marriage.⁴¹ Therefore, it is not surprising that the raids travelled as far as what is now known as KwaZulu-Natal.⁴² Dutch farmers cast their eyes on fertile land regardless of the occupation of local tribes.⁴³ Inevitably, raids have resulted in land dispossession, which has affected many indigenous inhabitants (mainly black).⁴⁴ As will be seen further in this chapter, land ownership determined access to several essential municipal services.

3.4 Local government in the British Cape Colony (1795-1870)

The above discussion shows that the Cape was not colonised by the Dutch government but by a private entity, the Dutch East India Company. Hence, the municipalities created by this company can be seen as no more than advanced commercial entities that had a profit mandate. This commercialised system of local government changed in 1795 when the British took over the Cape Colony from the Dutch settlers.⁴⁵ The

³⁷ Liebenberg *Introduction to the Resolutions of the Council of Policy of Cape of Good Hope* 36.

³⁸ Fuo *Local Government's Role in the Pursuit of the Transformative Constitutional Mandate of Social Justice in South Africa* 72.

³⁹ Binza 2005 *Southern Journal for Contemporary History* 72.

⁴⁰ The Great Trek was an exodus of Voortrekkers (Dutch farmers, mainly) from the British-run Cape Colony further inland between 1835 and 1854. See Etherington *The Great Treks: The Transformation of Southern Africa 1815-1854* for a discussion.

⁴¹ Oliver and Atmore *Africa Since 1800* 95.

⁴² See Oliver and Atmore *Africa Since 1800* 87-99.

⁴³ See Oliver and Atmore *Africa Since 1800* 87-99.

⁴⁴ The question of land continues to be a thorny issue in the South African political discourse – see Hall 2004 *Review of African Political Economy* 213-227.

⁴⁵ See Müller 1986 *South African Journal of Economic History* 58-76 for a historical account of the British occupation of the Cape in 1795.

British occupation of the Cape Colony was caused by the French Revolution, which coincided with the increasing dominance of Great Britain, which saw an opportunity to prevent it from becoming a French colony.⁴⁶ However, British occupation was short-lived, as the Dutch regained Cape Colony in 1806.⁴⁷

The British were interested in the Cape for various reasons, including its strategic location, economic interests, competition with the French, and the expansion of the British Empire.⁴⁸ After the Treaty of Paris in 1814, the British were formally in control of the Cape Colony and, like their predecessors, replaced the legal system in the colony with their own legal system – the English local government system.⁴⁹ The British system adopted a state approach as opposed to the 'commercial' approach adopted by the Dutch East India Company.⁵⁰ British occupiers introduced local government structures and a governance system that entailed:

[A] mayoral system, various committee systems, the career system, and the Westminster system in the local authorities. The 'burgher senate' system was introduced to manage and administer municipal affairs.⁵¹

In 1836, the *Cape Municipal Ordinance* was enacted to enforce British law.⁵² This became a framework within which municipal regulations could be drawn to cater to the various municipal needs.⁵³ The *Cape Ordinance* served as the model legislation for municipal affairs of the former colonies of the Transvaal, Natal, and Orange Free State.⁵⁴ All towns have had municipal councils, council committees, councillors, town

⁴⁶ Thompson *A History of South Africa* 52.

⁴⁷ The Dutch regained the Cape Colony after signing the Treaty of Amiens of 1803, after having defeated the British – see Thompson *A History of South Africa* 52.

⁴⁸ See Turner 1961 *Australian Historical Studies* 368-378 for an account.

⁴⁹ The introduction of the British legal system contributed to making South Africa a dual legal system which recognise English procedural and mercantile law, on the one hand, and substantive Roman-Dutch common law – see Van der Merwe 2012 *Fundamina: A Journal of Legal History* 92-96. However, the colonial system did not recognise African customary law except to the extent that it validated colonial interests. For a discussion of the ensuing tension between the common law and African customary law, see Faris 2015 *International Journal of African Renaissance Studies* 171-189.

⁵⁰ Binza 2005 *Southern Journal for Contemporary History* 72.

⁵¹ Binza 2005 *Southern Journal for Contemporary History* 72.

⁵² This ordinance provided for the existence of local authorities in the four provinces demarcated by then apartheid government, namely: the Cape in 1836, the Natal in 1847, the Transvaal in 1853, and the Orange Free State in 1856.

⁵³ Tsatsire *et al* 2009 *New Contree* 131.

⁵⁴ Tsatsire *et al* 2009 *New Contree* 132.

clerks, and mayors.⁵⁵ The role of the local government and functions of public services were specified in the law under this ordinance. According to Binza,

The position of municipalities was consolidated and strengthened as they had to participate in the formulation and implementation of fiscal and monetary policies which aimed to improve the balance of payments, reduce the inflation rate, reduce the unemployment rate, and improve economic growth. The introduction of customs duties (tax on imports and exports used as an additional source of revenue for local services provided) marked the commitment of the then local authorities to realise the objectives of fiscal policy.⁵⁶

However, the British occupation of the Cape did not create public value in that it, among other things, prevented public participation in municipal decision-making and general administration under the pretext that municipal administration was best separated from politics.⁵⁷ Without mechanisms to ascertain the needs, expectations and preferences of Cape residents, it is difficult to determine whether the British system created any public value.

South Africa eventually became divided into two British colonies (Cape of Good Hope and Natal) and two Dutch colonies (Orange Free State and Transvaal) because of Dutch and British feuds.⁵⁸ In 1886, several towns, such as Port Elizabeth, Durban, Bloemfontein, Pretoria and Johannesburg, were established.⁵⁹ In rural areas outside major cities, such as Cape Town and Johannesburg, the colonial project enslaved indigenous communities for agricultural production and shaped local governance by incorporating traditional African forms of collective decision-making and dispute resolution into colonial administration structures to ensure compliance with taxation and labour demands.⁶⁰ After a long and complicated history, South Africa experienced

⁵⁵ Cameron *Local Government Policy in South Africa 1980-1989 (With Specific Reference to the Western Cape): Devolution, Delegation, Deconcentration or Centralisation?* 105.

⁵⁶ Binza 2005 *Southern Journal for Contemporary History* 72.

⁵⁷ Binza 2005 *Southern Journal for Contemporary History* 72.

⁵⁸ See Muffet 2022 *Journal of Imperial and Commonwealth History* 1035-1069, for a historical account.

⁵⁹ Binza 2005 *Southern Journal for Contemporary History* 73.

⁶⁰ For historical accounts of slavery in South Africa, see Groenewald 2010 *History Compass* 964; Krige 2021 *Astrágalo: Cultura de la Arquitectura y la Ciudad* 141-143.

a second war between British and Dutch settlers,⁶¹ resulting in a truce that saw the unification of the four colonies in 1910.⁶²

3.5 Local government during the segregation era (1910-1947)

3.5.1 Establishment of a Union Government

In 1909, the British Imperial Parliament passed the *South Africa Act*, which united four colonies in the Union of South Africa.⁶³ The Union had significant implications for local government in South Africa because the *South Africa Act* did not assign self-governing powers or other autonomy to local government but gave provincial councils in the newly formed four provinces (Cape of Good Hope, Orange Free State, Natal and Transvaal) powers to enact legislation to govern municipalities in their respective areas.⁶⁴ The *South Africa Act* provided that:

85. Subject to the provisions of this Act and the assent of the Governor-General in council as hereinafter provided, the provincial council may make ordinances in relation to matters coming within the following classes of subjects (that is to say):

(vi) Municipal institutions, divisional councils, and other local institutions of a similar nature.⁶⁵

Provincial councils used these powers to enact ordinances to regulate municipal affairs.⁶⁶ Several criticisms were levelled against the regulation of local governance in

⁶¹ The Second South African War started in 1899 and ended in 1902. For the British, it was 'the Boer War', while for the Afrikaners, it was the 'Second War of Freedom' – see Thompson *A History of South Africa* 141.

⁶² The Union of South Africa was a self-governing dominion within the British Empire and came into existence owing to the enactment of the *South Africa Act* 9 Edw c 9. Act 9 of 1909 (hereafter *South Africa Act*) by the British Imperial Parliament. See Krüger *The Making of a Nation: A History of the Union of South Africa, 1910-1961* 1-40 for a general examination of the formation of the Union of South Africa and the governments which ruled over until the formal proclamation of a Republic of South Africa in 1961.

⁶³ See Magubane *The Making of a Racist State: British Imperialism and the Union of South Africa 1875-1910* 1-90 for a discussion of the unification process.

⁶⁴ See the analysis in Steytler and De Visser *Local Government Law in South Africa* 2.1.

⁶⁵ Section 85(vi) of the *South Africa Act*.

⁶⁶ According to Steytler and De Visser *Local Government Law in South Africa* 2.1: "In the Cape Province, a local government ordinance was passed in 1912, to be replaced in due course in 1951 and 1974. In the Transvaal, the principal legislation was the Local Government Ordinance of 1912 which was later replaced by the Ordinance of 1939. In the Orange Free State, local government was governed successively by ordinances of 1913, 1948 and 1962. In Natal, the Local Authorities Ordinance of 1974 replaced earlier ordinances of 1918 and 1942."

the *South Africa Act*. First, section 85(vi) of the *South Africa Act* deprived municipalities of constitutional status, rendering them creatures of statute whose power and functions were regulated by statutory enactments of provincial councils.⁶⁷ Evidently, this deprived municipalities of the autonomy to regulate their affairs. Second, section 85(vi) of the *South Africa Act* reduced municipalities into administrative bodies that had no autonomy or statutory powers to regulate their affairs, making them susceptible to judicial review. This is because it gave provincial councils powers to establish ordinances regarding all municipal institutions and everything related to the local government.⁶⁸

3.5.2 Restriction of access to land

Looking at the *South Africa Act*, it is clear that the post-1910 approach ensured that provincial and municipal governments functioned under an umbrella Union Government not for the purposes of streamlining national and provincial governments but for amplifying segregation and ensuring that to the greatest extent possible, black people had no means to survive other than working in white-owned farms, industries, and cities.⁶⁹ This was achieved through the *South Africa Act* and the *Native Land Act*,⁷⁰ which disposed of the vast majority of black people of their land, making it necessary to work in cities and mines to meet their tax obligations to the Union Government and for basic survival. It can be concluded that by instigating an exodus of black people from their villages into cities and mining towns, the *Native Land Act* sought to accelerate urban development by making cheap black labour readily available in those cities and towns, much to the detriment of the rural areas from which cheap labour came.⁷¹

Hence, the *Native Land Act* had profound implications on public value, particularly in terms of social equity and economic justice. This is because it restricted black South

⁶⁷ Steytler and De Visser *Local Government Law in South Africa* 2.1.

⁶⁸ Section 85(vi) of the *South Africa Act*.

⁶⁹ For a historical account of the lives of black South Africa in the Union of South Africa, see Thompson *A History of South Africa* 1-250, who terms the period as "The Segregation Era."

⁷⁰ *Native Land Act* 27 of 1913 (hereafter *Native Land Act*).

⁷¹ For discussions of the impact of this statute on the lives of black South Africans, see Beinart and Delius 2014 *Journal of Southern African Studies* 667-688; Hall 2004 *Review of African Political Economy* 1-13; Feinberg 1993 *The International Journal of African Historical Studies* 69-102.

Africans from owning or renting land outside designated "native reserves," comprising only about 7% of the country's total land area.⁷² This legislation laid the groundwork for spatial segregation, which later intensified under apartheid, as discussed in the following section. From an economic standpoint, the *Native Land Act* severely curtailed the ability of black South Africans to engage in agriculture on a meaningful scale or to enter equitable land transactions because it deprived them of the most important requirement to engage in agricultural land.⁷³

From a social equity perspective, the *Native Land Act* was instrumental in disrupting social structures and norms by eroding land ownership and community ties, fostering social cohesion.⁷⁴ From public administration theory, the *Native Land Act* can be critiqued as a statute that grossly violated the principles of distributive justice and as one that entrenched pre-existing inequities that had been introduced by colonisation by the Dutch and British, as discussed above. Given that black people had no input in the formulation of the *Native Land Act* and that its essence was to undermine their economic potential, it can be concluded that this statute did not create any public value but instead eroded the little of it that may have been there.⁷⁵

3.5.3 Administration of the native population

This subsection examines how the segregation era affected the historical development of local government in rural areas. South Africa has vast rural areas in which local populations reside.⁷⁶ The rural population was also impossible to ignore, given that in present-day South Africa, all rural areas fall under specific municipalities.⁷⁷ Hence, tracing the historical development of local governance in the segregation era may

⁷² For a discussion of land dispossession under the *Native Land Act*, see Hall 2004 *Review of African Political Economy* 1-13.

⁷³ See Beinart and Delius 2014 *Journal of Southern African Studies* 667-688.

⁷⁴ The *Native Land Act* disrupted social structures and norms by dispossessing black people of the land, which can be seen as the fabric that held social structures and norms intact among black people. See Beinart and Delius 2014 *Journal of Southern African Studies* 667-688 for a discussion.

⁷⁵ Under colonial and apartheid administrations, black people had no input in the formulation of legislation that affected even the core of their lives. See *Merafong Demarcation Forum v President of the Republic of South Africa* 2008 5 SA 171 (CC) (hereafter *Merafong Demarcation Forum v President of the Republic of South Africa*) para 208.

⁷⁶ See Statistics South Africa *Monitoring Rural Development: Using Census Data to Measure Change in the Rural Nodes* 1-100.

⁷⁷ See Statistics South Africa 2022 <https://www.statssa.gov.za/?p=5232> for statistics regarding the rural municipalities in South Africa.

contribute to the broader objectives of this study regarding the historical evolution of local government. In this light, it is worth noting that in 1927, the British King and the Union of South Africa (acting through the Senate and the House of Assembly) enacted the *Black Administration Act* to "provide for better control and management of native affairs."⁷⁸ This subsection examines how the selected provisions of this statute have contributed to the historical development of local government in rural areas.

Section 1 of the *Black Administration Act* made the Governor-General of the Union of South Africa "the supreme chief of all Natives in the Provinces of Natal, Transvaal, and Orange Free State." This section, read with section 2, gave the Governor-General powers to appoint native commissioners as his agents in rural areas. This fundamentally restructured local governance in rural areas by formalising a system of indirect rule via traditional authorities, effectively racialising administrative structures. In terms of section 2(7), the Governor-General had the prerogative to designate chiefs and headmen. This evidently modified the existing framework of traditional governance, which had existed for centuries and significantly influenced public value by reducing the agency of local communities in self-governance.⁷⁹

In addition to the appointment of native commissioners to serve at the will of the Governor-General in partnership with local chiefs who had been co-opted into the colonial project, the *Black Administration Act* gave the native commissioners judicial functions and conferred them jurisdiction equivalent to the magistrate courts.⁸⁰ In doing so, the statute established a bifurcated legal system in which black South Africans were subject to customary laws that were frequently interpreted and executed by state-appointed authorities.⁸¹ This substantially impacted public value by undermining the uniform application of justice and perpetuating systems of governance predicated on racial differentiation, particularly given that the native

⁷⁸ See the preamble to the *Black Administration Act* 38 of 1927 (hereafter *Black Administration Act*).

⁷⁹ See Strauss 2019 *Fundamina* 149.

⁸⁰ Section 9 of the *Black Administration Act*.

⁸¹ See ss 9 and 10 of the *Black Administration Act*.

commissioners could only hear "all civil causes and matters between native and native only."⁸²

Overall, the above discussion shows that the *Black Administration Act* facilitated a governance model that led to the erosion of traditional structures, centralised authority in the hands of the colonial government, and fostered an environment conducive to segregation policies. Its impact on the local governance of black people in rural areas was further aggravated by the amplified spatial injustices that had been created by the *Native Land Act*.⁸³ This is because it gave the Governor-General discretionary powers to evict black people from their lands on the pretext of public interest:

Whenever he deems it expedient in the general public interest, [the Governor-General may] order the removal of any tribe or portion thereof or any Native from any place to any other place within the Union upon such conditions as he may determine.⁸⁴

This discretionary removal of black people from their rural areas put them in a position in which their residency in any area was always in doubt, as they could be evicted at any time at the wish of the Governor-General. Despite the fact that the segregation era compromised the lives of black people in favour of their white counterparts in cities and towns, the following section shows that the apartheid era took things a notch higher through crude segregation policies and laws, as discussed below.

3.6 Local government under apartheid rule (1948-1993)

3.6.1 Overview of the apartheid system

Although racial segregation was prevalent before and immediately after the unification of 1910, it was formalised through the adoption of apartheid in 1948 when the National Party government adopted legislation and policies to marginalise black communities and to prevent their participation in all government processes and discriminated against them in every sphere of South African life.⁸⁵ The term "apartheid" is derived

⁸² Section 10(1) of the *Black Administration Act*.

⁸³ Strauss 2019 *Fundamina* 149-150.

⁸⁴ Section 5(1)(b) of the *Black Administration Act*.

⁸⁵ See Maylam *South Africa's Racial Past: The History and Historiography of Racism, Segregation and Apartheid* 2-220 for an analysis of the root causes of apartheid and its rationale.

from the Afrikaans word meaning "separateness" or "apartness."⁸⁶ To achieve its apartheid agenda, the National Party government adopted several pieces of legislation that it enforced vigorously, even to the point of brutality, to ensure maximum results.⁸⁷

During the apartheid era, South Africa had racially based local authorities that spread across the country and varied in size, power, function, and sources of revenue.⁸⁸ This was the result of apartheid spatial planning, which was based on racial lines.⁸⁹ Although geographic, institutional, and social separation at the local government level did not begin after the inception of the apartheid system, apartheid legislation enforced strict residential segregation and forced removal of black people from white areas.⁹⁰ The structured exclusion of black people has two main forms. It commenced in 1913 when the *Native Land Act* dispossessed black people and tightly controlled their movement and access to services.⁹¹ Second, there was a progressive tightening of urban segregation throughout the 20th Century to confine and control the movement of black people living in cities.⁹²

The regulation and management of black people and their access to land, towns and cities seem to have two primary goals. First, it sought to entrench racial inequality and injustice by favouring the white population while deliberately stifling the capacity of black people to compete fairly in the economy.⁹³ Second, it was meant to provide a cheap black labour force for mines, industries and white households. This was done by ensuring that black people did not have access to opportunities to learn skills and

⁸⁶ Legal Information Institute n.d <https://www.law.cornell.edu/wex/apartheid>.

⁸⁷ See, for example, Poinsette 1985 *Harvard Women's Law Journal* 93.

⁸⁸ The country had no singular or uniform municipal system as each coloniser adopted its indigenous systems. See also Kaywood 2021 *African Journal of Public Affairs* 77; De Visser *Developmental Local Government: A Case Study of South Africa* 58-59; Tsatsire *et al* 2009 *New Contree* 134.

⁸⁹ De Visser *Developmental Local Government: A Case Study of South Africa* 58-59.

⁹⁰ Movement and settlement of Black South Africans were already controlled by legislation such as the *Black Administration Act*, the *Black (Urban Areas) Act* 29 of 1923 (hereafter *Black (Urban Areas) Act*) and the *Black (Urban Areas) Consolidation Act* 25 of 1945 (hereafter *Black (Urban Areas) Consolidation Act*).

⁹¹ Palmer, Moodley and Parnell *Building a Capable State: Service Delivery in Post-Apartheid South Africa* 23.

⁹² Palmer, Moodley and Parnell *Building a Capable State: Service Delivery in Post-Apartheid South Africa* 23.

⁹³ Simon 1989 *Transactions of the Institute of British Geographers* 189-206.

by outrightly banning them from some form of work to prevent them from acquiring special skills and playing an active role in the economy.⁹⁴

3.6.2 *Bantustans and local government in rural areas*

In the 1950s, the apartheid government sought to use legislation to regulate the lives of black people in cities, towns, and rural areas after accepting their permanent presence in these areas.⁹⁵ The *Black Authorities Act*, enacted in 1951,⁹⁶ took things further from the *Black Administration Act* by creating tribal authorities that stripped black people living outside the urban areas of their citizenship rights and relegated them to the status of subjects within their own country.⁹⁷ Instead of creating functional and modern municipalities for people in rural areas, this statute established tribal, regional, and territorial authorities⁹⁸ and gave municipal-like powers to levy rates.⁹⁹ Although they were established in cunning ways that seemed to suggest that they were independent and legitimate, the truth is that these *Bantu* authorities were no more than apartheid attempts to reinforce the policies of segregation and economic exclusion. None had resources to make any real difference to the quality of life of their constituents."¹⁰⁰

The establishment of the Bantustans was one of many apartheid attempts to introduce "own management" structures for black people at the local level. This was meant to compensate blacks for restricted rights and also strengthen the political and economic privileges of racial exclusion.¹⁰¹ In 1959, the apartheid government enacted the *Promotion of Bantu Self-Government Act*,¹⁰² which created several homelands for

⁹⁴ The apartheid government continued the job reservation system that had been introduced by the *Mines and Works Act (Colour Bar Act)* 25 of 1926 (hereafter *Mines and Works Act (Colour Bar Act)*) and enacted the *Black Labour Act* 67 of 1965 (hereafter *Black Labour Act*) to reinforce racial discrimination in the workplace.

⁹⁵ See *White Paper on Local Government* 12.

⁹⁶ *Black Authorities Act* 68 of 1951 (hereafter *Black Authorities Act*).

⁹⁷ The purpose of the *Black Authorities Act* sought to establish "certain Black authorities and to define their functions, to abolish the Black Representative Council, to amend the Black Affairs Act, 1920, and the Representation of Blacks Act, 1936" and other matters connected to it.

⁹⁸ Section 2 of the *Black Authorities Act*.

⁹⁹ Section 6 of the *Black Authorities Act*.

¹⁰⁰ Sithole and Mathonsi 2015 *Africa's Public Service Delivery & Performance Review* 12.

¹⁰¹ *White Paper on Local Government* 12.

¹⁰² *Promotion of Bantu Self-Government Act* 46 of 1959 (hereafter *Promotion of Bantu Self-Government Act*).

different tribal groups, including baSotho, *emaSwati*, baTswana, vhaVenda, amaXhosa, and amaZulu.¹⁰³ These 'homelands' were local government structures that enjoyed a form of independence but, in actual fact, did not have legitimate powers.¹⁰⁴ The *Promotion of Bantu Self-Government Act* established limited local government by giving traditional leaders limited powers to allocate land and regulate development in communally owned land, leading to the rise of towns which had their administrations but lacked real powers to develop themselves and provide services to their communities.

3.6.3 City and town councils

Apartheid legislation intensified the institutionalised segregation of black people by outlawing their residences in urban areas through a pass system.¹⁰⁵ The *Group Areas Act* only permitted black people to reside temporarily in cities and towns if they were attending to the needs of white people, such as laundry, housekeeping, gardening, and other menial jobs.¹⁰⁶ When their white employers did not require their services, black people were mandated to leave towns and cities and return to their homelands, where the legislature deemed them to belong.¹⁰⁷ These developments perpetuated racial inequality and undermined the capacity of local government to deliver effective services to all South Africans, as discussed below.

The *Group Areas Act* was implemented to ensure that blacks were forcibly removed from 'white' cities and forced to live in segregated townships governed by racially exclusive local councils.¹⁰⁸ This statute led to the creation of different forms of local government for different groups, leading to a variety of local authorities.¹⁰⁹ White, Coloured, and Indian group areas were generally administered by the White City and Town Councils.¹¹⁰ They had Local Affairs Committees (Natal) and Management

¹⁰³ See s 2(1) of the *Promotion of Bantu Self-Government Act*.

¹⁰⁴ Sithole and Mathonsi 2015 *Africa's Public Service Delivery & Performance Review* 11.

¹⁰⁵ See, for instance, the *Group Areas Act* 41 of 1950 (hereafter *Group Areas Act*).

¹⁰⁶ Ntliziywana "Professionalization of Local Government Management in South Africa" 111.

¹⁰⁷ Ntliziywana "Professionalization of Local Government Management in South Africa" 111.

¹⁰⁸ See Mabin 1992 *Journal of Southern African Studies* 405-428; Maharaj 1997 *Urban Geography* 138-150; Maharaj 1994 *Urban Forum* 1-25 for a discussion of the impact of the *Group Areas Act*.

¹⁰⁹ Reddy 1992 *The African Review* 70.

¹¹⁰ Reddy 1992 *The African Review* 70.

Committees in the Transvaal and the Cape.¹¹¹ Although these were established under the pretext that they were independent, they were, in fact, no more than advisory bodies to white municipalities.¹¹²

3.6.4 Community councils and black local authorities

In 1961, the apartheid government enacted the *Urban Bantul Councils Act*,¹¹³ which regulated the election and sectioning of council members for urban Bantu residential areas. This Act defined Bantu as a native, that is, a black person.¹¹⁴ Besides stipulating the limited powers of black Councils, this statute did not confer any revenue-generating powers on black councils, thus depriving them of much-needed revenue to develop their infrastructure for service delivery. It can be argued that, like all apartheid pieces of legislation, its primary purpose was not to develop black urban areas but to ensure an intricate system of control to enable the apartheid government to leverage black leadership for its own ends. This can be seen in the wide powers that the statute gave to the minister.¹¹⁵

When the apartheid government finally accepted the permanent residency of black people in urban areas in the 1970s, it established a racialised local government system through which it divided urban areas into administrative white and black local authorities. This was achieved through the *Black Local Authorities Act*,¹¹⁶ which gave black townships the status of local authority in large urban areas.¹¹⁷ This contributed to the lack of uniform local government systems, as each racial group configured their local government institutions according to their needs. One result of the *Black Local Authorities Act* was that it was exploitative, as it allocated resources in a racially biased manner by favouring white areas over black ones.

¹¹¹ Reddy 1992 *The African Review* 70.

¹¹² Sithole and Mathonsi 2015 *Africa's Public Service Delivery & Performance Review* 12.

¹¹³ *Urban Bantul Councils Act* 79 of 1961 (hereafter *Urban Bantul Councils Act*).

¹¹⁴ Section 1(1) of the *Urban Bantul Councils Act* stipulated that the meaning of Bantu was derived from the *Black (Urban Areas) Consolidation Act*.

¹¹⁵ For a synopsis of this statute, see Mathewson 1965 *Tydskrif vir rasse-aangeleenthede* 95-97.

¹¹⁶ *Black Local Authorities Act* 102 of 1982 (hereafter *Black Local Authorities Act*).

¹¹⁷ Palmer, Moodley and Parnell *Building a Capable State: Service Delivery in Post-Apartheid South Africa* 23.

The reason for the unequal allocation of resources was simple: it was meant to advance the apartheid agenda of separate development by limiting 'white' resources spent on serving disadvantaged black communities. While strange, this was arguably not unexpected, given the apartheid ideology of deliberately impoverishing black communities and blaming them for milking the white resource base. Inevitably, this system led to a situation in which the state allocated revenue to white municipalities that were separated from their black counterparts through industrial and commercial development. White areas were protected from blacks through statutes that formalised racially segregated spatial planning in an environment in which black communities paid higher rates than their counterparts.¹¹⁸ According to de Visser, "well-resourced and viable commercial centres, with their strong revenue bases, were reserved as white areas."¹¹⁹

In addition to the unequal allocation of resources, the apartheid government furthered its spatial injustice by stifling retail and industrial development from operating in black areas, thus limiting the tax base for municipalities in those areas and forcing residents to spend their money in white areas as intended by the *Group Areas Act*. This has led to inequality and underdevelopment, which continues today.¹²⁰ The problems caused by this form of spatial legislation were compounded by the fact that black municipalities had meagre financial resources to spend on infrastructural development and poorly managed their meagre financial resources due to human capacity constraints, corruption, and huge infrastructural backlogs, which made long-term planning impossible.¹²¹ Due to the failure to provide essential goods and services in the right quantities and qualities, black municipalities often faced rent boycotts and large-scale popular mobilisation.¹²²

In addition, civil society and other organised social movements refused to support underfunded councils, resulting in a loss of credibility among members of their

¹¹⁸ The main statute in this regard was the *Group Areas Act*.

¹¹⁹ De Visser 2009 *Commonwealth Journal of Local Governance* 8.

¹²⁰ Powell *State Formation After Civil War: Local Government in National Peace Transitions* 203.

¹²¹ Powell *State Formation After Civil War: Local Government in National Peace Transitions* 203.

¹²² De Visser *Developmental Local Government: A Case Study of South Africa* 58.

communities.¹²³ Residents and civil society viewed the councils as no more than an extension of the apartheid system.¹²⁴ and as instruments for advancing the apartheid project of deliberate impoverishment and exploitation of black people.¹²⁵ Evidently, a legitimacy crisis arose, increasing resistance against the councils, depriving them of much-needed revenue, and subjecting their infrastructure to widespread damage.¹²⁶ Resistance against black councils was widespread and devastating such that by 1993, most councils were ungovernable.¹²⁷

Unlike its urban counterparts, rural local government was presided over by traditional leadership,¹²⁸ which was also an instrument of the colonial administration. Using the power granted by the apartheid government, traditional leaders in rural areas are often oppressive and brutal, leading to the loss of legitimacy of the traditional leadership system.¹²⁹ Due to the traditional leadership system and neglect of the infrastructure and service delivery needs of rural communities, most black people in rural areas did not have access to clean water and sanitation.¹³⁰ Infrastructural neglect was widespread and of such a magnitude that more than 25 years into democracy, service delivery gaps persist in rural areas where people have to fetch water in streams and rivers where animals drink.¹³¹

Although some inroads have been made to provide clean drinking water and sanitation to rural communities, the backlog is huge. This suggests that in addition to depriving black people of jobs, housing, access to land, and service provision, the apartheid government's infrastructure was designed and executed to ensure unequal outcomes

¹²³ Palmer, Moodley and Parnell *Building a Capable State: Service Delivery in Post-Apartheid South Africa* 23.

¹²⁴ De Visser *Developmental Local Government: A Case Study of South Africa* 58.

¹²⁵ Ntliziywana "Professionalization of Local Government Management in South Africa" 107.

¹²⁶ Pieterse and Van Donk "Developmental Local Government: Squaring the Circle Between Policy Intent and Impact" 51–76.

¹²⁷ Palmer, Moodley and Parnell *Building a Capable State: Service Delivery in Post-Apartheid South Africa* 23.

¹²⁸ De Visser *Developmental Local Government: A Case Study of South Africa* 57.

¹²⁹ De Visser *Developmental Local Government: A Case Study of South Africa* 57.

¹³⁰ See Edokpayi *et al* 2018 *Water* 159 on the challenge of safe drinking water in the Limpopo Province, for example.

¹³¹ Tsatsire *et al* 2009 *New Contree* 146.

across human settlements.¹³² In summary, the apartheid local government system successfully delivered a mandate to municipalities to create gross inequalities and disparities in the supply of basic services. Since black local authorities had little revenue, they were unable to meet their obligations to their communities and thus faced a legitimacy crisis that saw their rejection by black communities.

3.7 Need for overhaul of the local government system

The system of local government created by both colonial and apartheid governments produced an atmosphere of racial conflict that persists even today in South Africa.¹³³ For the sake of national peace and progress, it became necessary to replace the apartheid system with a democratic government that would ensure that all areas of South African life were deracialised to promote public value - as defined in section 2.2.4 of this thesis. For this to happen, many changes were necessary for local government, such as introducing a democratic system of local government, ensuring accountable, responsive, and open governance, mandating fair and efficient service delivery, and creating trust and legitimacy.¹³⁴

First, there was a need to allocate state resources in a way that would satisfy the collective needs of South Africans equally, as opposed to the apartheid system, in which resources were allocated to white areas to the detriment of their black counterparts.¹³⁵ Hence, a new local government system was required. Second, there was a need to promote the direct participation of local communities in their government, as opposed to the apartheid system, in which national legislation imposed leadership on black communities and undermined their abilities to elect credible leaders.¹³⁶ The analysis in the preceding section does not show that there was any responsibility and accountability of the local authorities to their constituents, particularly in black areas, in which local leadership was not elected but instead imposed for the benefit of the apartheid government. Concluding from the analysis in

¹³² Palmer, Moodley and Parnell *Building a Capable State: Service Delivery in Post-Apartheid South Africa* 23.

¹³³ See Seekings 2008 *Journal of Contemporary African Studies* 1-25.

¹³⁴ Reddy 1992 *The African Review* 69-70.

¹³⁵ Reddy 1992 *The African Review* 69.

¹³⁶ Reddy 1992 *The African Review* 69.

the preceding section, one can argue that since there was no responsibility and accountability to local populations, it was not clear how the needs, expectations, and preferences of communities were ascertained and fulfilled. In other words, one can say there was no public value.

The lack of social equity occasioned by both colonial and apartheid governments led to an undemocratic and poorly organised local government system in which white areas enjoyed some form of multiple voting systems, while black areas faced tyrannical local authorities that served the apartheid system and their needs.¹³⁷ Hence, there was a need to adopt a new local government system that was democratic, accountable, responsive, transparent, trusted, legitimate, and committed to service delivery. A process for the adoption of this local government system within the broad framework of democratic transition occurred in the late 1980s, leading to the early 1990s when South Africans negotiated for the transition to democracy.¹³⁸

Although the apartheid system succeeded in subjugating the black majority, it was no longer sustainable, as various forms of internal and external pressures were applied to it to abandon racialised governance and pave the way for democracy.¹³⁹ Leaders of black movements, such as the African National Congress (ANC), agreed that the injustices of the apartheid regime could only be reversed through a constitutional process.¹⁴⁰ However, the history of negotiations between the apartheid government and its black components is long and cannot be covered in one chapter like this one. For the purposes of this chapter and thesis, it is essential to highlight that the transition to democracy was achieved through a negotiated process that saw the adoption of the Constitutional Guidelines for Democratic South Africa, which was a blueprint for the ANC to negotiate power.¹⁴¹

¹³⁷ See Reddy 1992 *The African Review* 69.

¹³⁸ For an examination of the transition from apartheid to constitutional democracy, see Gibson 2001 *Journal of Asian and African Studies* 65; Saunders 2004 *South African Historical Journal* 159; Alexander *An Ordinary Country: Issues in the Transition from Apartheid to Democracy in South Africa* 2-29.

¹³⁹ See Ellis "The Genesis of the ANC's armed struggle in South Africa 1948–1961" 108-127; Legassick 1998 *Journal of Southern African Studies* 443 for a discussion of the armed struggle.

¹⁴⁰ Ngcukaitobi *The Land Is Ours: Black Lawyers and the Birth of Constitutionalism in South Africa* 6.

¹⁴¹ African National Congress 1992 <https://www.anc1912.org.za/policy-documents-1992-ready-to-govern-anc-policy-guidelines-for-a-democratic-south-africa>.

After the release of Nelson Mandela and other struggle icons from decades of detention by the apartheid government, the process of negotiation sped up at the Convention for Democratic South Africa, which lapsed and gave way to the Multi-Party Negotiation Forum that concluded with agreements for the first democratic and inclusive elections in 1993. The Multi-Party Negotiating Forum (MPNF) also succeeded in forming a Constitutional Assembly that drafted the final *Constitution*.¹⁴²

The *Interim Constitution* regulated various aspects of local government, including provisions that the structures of local government, as well as their powers and functions, would be determined by law;¹⁴³ that local government would have legislative and executive powers within respective areas of jurisdiction (and therefore not subject to race other impediments);¹⁴⁴ and that the public would be allowed to participate in the affairs of local government in order to have a voice in their governance.¹⁴⁵ Importantly, the *Interim Constitution* gave local government a high level of autonomy, which had to be exercised within the law.¹⁴⁶ and prohibited national and provincial spheres from encroaching on those powers.¹⁴⁷ Since the *Interim Constitution* was short-lived and had a transitional role, its provisions on local government are useful to this study to the extent that it provided for public participation, clearly demarcated the powers and functions of the local government and provided it with a non-racial developmental mandate. As the discussion in chapter 4 shows, these features were eventually protected in Chapter 7 of the 1996 *Constitution*.

3.8 Chapter conclusion

This chapter traced the historical development of the local government system in South Africa from 1652, when Dutch colonisers under the Dutch East India Company arrived, to 1993, when South Africa started transitioning into constitutional

¹⁴² For a discussion of the negotiation process, see De Klerk 2002 *Owning The Process: Public Participation In Peacemaking Accord* 1-39.

¹⁴³ Section 175 of the *Interim Constitution*.

¹⁴⁴ Section 176 of the *Interim Constitution*.

¹⁴⁵ Section 178 of the *Interim Constitution*.

¹⁴⁶ Section 174(3) of the *Interim Constitution*.

¹⁴⁷ Section 174(4) of the *Interim Constitution*.

democracy. This chapter also offered insights into the various historical issues that contributed to the suppression of public value in local government and how these issues necessitated an overhaul of the local government system. The historical analysis showed that under colonial and apartheid rule, local governance was a complex and contested process that reflected and reinforced colonial power structures.

The analysis in this chapter revealed that from the inception of Dutch rule through British occupation to the unification of 1910, local governance evolved in response to shifting political, economic and social dynamics. The British occupation of the Cape brought significant changes to the local government structure in South Africa, as seen in the establishment of municipalities based on European models that aimed to provide efficient services to urban areas where colonial power was the most concentrated. In addition, it granted greater autonomy to new municipal governments than the Dutch system of government. These powers included levying taxes (instead of merely collecting) and making decisions about public works projects without requiring approval from higher authorities. This decentralisation process accentuated racial divisions between white settlers and black indigenous populations. This is because the new municipal governments used municipal boundaries as segregation instruments rather than inclusive political representation mechanisms. While some aspects of this historical evolution sought greater efficiency and autonomy for municipalities, others entrenched racial divisions and marginalised black communities from meaningful participation in decision-making. Segregation and marginalisation of black communities undermined public value in local government and necessitated a need for decentralisation, representation and service delivery in black communities. The following chapter analyses how the current system of local government promotes public value in South Africa.

CHAPTER 4

MANIFESTATION OF PUBLIC VALUE APPROACH IN NATIONAL LAW

4.1 Introduction

As seen in section 3.7 above, the demise of the apartheid state led to the eventual transformation of local government into a semi-autonomous sphere of government. This paved the way for its continuing transformation under the 1996 *Constitution*. In this light, this chapter examines local government in South Africa to contextualise the constitutional, policy and legislative framework that underpins the regulation of the local sphere of government. In this regard, the chapter explores how the *Constitution* enhances public value in local government through the preamble, founding values and principles, objects of local government, developmental duties of municipalities and the basic values and principles governing the public sector. After analysing the constitutional framework, this chapter examines the policy framework, which comprises several instruments. Thereafter, the chapter examines how selected statutes enacted in terms of the constitutional and policy framework may create public value.

The analysis of the policy framework that underpins the creation of public value in local government is followed by an exposition of the legal status of municipalities in the present system of cooperative governance. This analysis paves the way for the discussion of various forms of intergovernmental support initiatives for local government. However, the succeeding discussion will show that in as much as the system of cooperative governance and intergovernmental relations ensure that the national government supports local government through various mechanisms and programmes, there is a general failure to create public value in local government, as evident from the several manifestations of local government failure, such as lack of accountability and lack of responsiveness. The discussion also shows that municipalities are in a state of financial instability, which renders them unable to provide basic services to local communities, prompting the provincial governments to

intervene to restore public value in such municipalities. The last section concludes the chapter.

4.2 Constitutional framework for creating public value in local government

4.2.1 Constitutional aspirations in the Preamble

The *Constitution* enshrines a list of founding values in the Preamble, Chapter 1 and section 195.¹ The Preamble serves as an introduction to the *Constitution* by setting the context in which it was written.² Although the Preamble is not binding,³ it outlines the purpose of the *Constitution*, which is to "Recognize the injustices of our past" and to:

Heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights;

Lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law;

Improve the quality of life of all citizens and free the potential of each person.⁴

Although these preambular stipulations are not legally enforceable, they provide guidance on how all spheres of government and organs of state should work towards rebuilding South Africa. It is submitted that the commitments in the Preamble of the *Constitution* speak to some core aspects of the public value approach canvassed in Chapter 2 of this thesis.

Firstly, the reference to "healing the divisions of the past and establishing a society based on democratic values, social justice and fundamental human rights" may be interpreted to mean that all spheres of government and organs of state should create a South Africa that is based on inclusivity, equality and fairness. As shown in Chapter 2, these are strong features of a public value approach to public governance.⁵ These

¹ See *S v Makwanyane* para 262. See also, Okpaluba 2018 *Southern African Public Law* 1-32.

² Orgad 2010 *International Journal of Constitutional Law* 714-720.

³ Orgad 2010 *International Journal of Constitutional Law* 715.

⁴ Preamble to the *Constitution*.

⁵ See 2.3.

can equally be promoted by South African municipalities in local governance, as seen in the legislative analysis in Chapter 4 of the study.⁶ The preambular commitment also points to the need to ensure that public authorities such as municipalities serve the public interest by promoting the well-being of all communities.

Secondly, the preambular commitment to laying "the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law" highlights that local government, like all spheres of government, must promote local democracy through free and fair elections and promote public participation in local governance. These commitments emphasise the need to adhere to the rule of law, protect all communities equally, and ensure access to justice. All these are building blocks for public value, as discussed in Chapter 2 of this study.⁷

Third, the preambular commitment to improving the quality of life of all citizens and freeing the potential of each person requires all spheres of government and organs to work towards achieving these ideals. In the local government context, municipalities can do this by providing municipal services that enhance the quality of life of communities and create opportunities for them to thrive in an environment conducive to them. As will become evident below, these requirements are reinforced by the socio-economic rights duties of municipalities, which include basic service delivery and fulfilment of environmental rights.⁸ This vision is given effect in the Bill of Rights, which guarantees equality before the law and confers all fundamental human rights equally to all South Africans.⁹ Another relevant right is the environmental right.¹⁰ All

⁶ See 4.4 below.

⁷ See 2.3.

⁸ See the discussion in 4.2.4. For an analysis of the constitutional duties of municipalities regarding the fulfilment of environmental rights, see Du Plessis 2010 *Stellenbosch Law Review* 265; Fuo 2015 *Commonwealth Journal of Local Governance* 17-19; Feris and Fuo "Environmental Rights Protected in the Constitution" 6-3.

⁹ The Bill of Rights is found in chapter 2 of the *Constitution*.

¹⁰ Section 24 of the *Constitution*.

public authorities (including municipalities) have a duty to ensure an environment that is clean and healthy.¹¹

4.2.2 Founding values and principles

Some of the preambular aspirations discussed in the preceding section are reinforced by Chapter 1 of the *Constitution*. Although it would have been ideal in the preceding section to discuss the constitutional aspirations in the Preamble and link them to the Founding Provisions in Chapter 1 of the *Constitution*, a decision was made not to discuss them as a bundle but in isolation for the reason that the Preamble merely sets the context and vision of the *Constitution*, while the Founding Provisions have more weight in that they can be enforced.¹² Another reason for discussing the preambular aspirations that may create public value separately from the founding values and principles is that this is necessary for the purposes of completeness. In as much as one may appreciate how the Preamble may be viewed as public value-creating, it is equally necessary to analyse how the Founding Provisions, which stand independent from the Preamble, create public value.

Having noted the caveat above regarding the separation of the analysis of the Preamble from the Founding Provisions, it is noted that the Founding Provisions in Chapter 1 of the *Constitution* provide that South Africa is a democratic state founded on the following values (as directly quoted from the *Constitution*):

- (a) human dignity
- (b) the achievement of equality and the advancement of human rights and freedoms
- (c) non-racialism and non-sexism; supremacy of the *Constitution* and the rule of law, and
- (d) universal adult suffrage, a national common voter's roll, regular elections and a multi-party system of democratic government.

¹¹ For a discussion of the environmental right in the context of the provision of basic services by municipalities, see Chamberlain and Masiangoako 2021 *South African Law Journal* 423-459; Wright, Dube and du Plessis 2022 *Verfassung und Recht in Übersee/World Comparative Law* 105-125.

¹² See Orgad 2010 *International Journal of Constitutional Law* 714-738.

These Founding Provisions are meant to ensure accountability, responsiveness and openness.¹³ Therefore, like the Preamble, Chapter 1 of the *Constitution* is aligned with the public value approach discussed in Chapter 2 of this thesis.

The second Founding Provision that may be used to create public value is "non-racialism and non-sexism."¹⁴ This founding value manifests an intention to create public value because it seeks to ensure that all people are equally treated and given access to equal opportunities and resources regardless of their race, gender and other defining characteristics that have been historically used as a basis for discrimination in colonial and apartheid South Africa.¹⁵ It can be argued that in this context, this founding provision is to ensure that local government is equally equipped and prepared to provide basic services to all communities. It also means that all spheres of government do not intentionally enact legislation or make other decisions that are calculated to impoverish certain communities in the same way legislation did during the apartheid era. It has also been seen that apartheid legislation resulted in impoverished, ill-equipped, and underfunded black municipalities that failed to serve their communities in equal measure to their white communities.¹⁶ Hence, the founding values of non-racialism and non-sexism can be seen as a reiteration of the preambular aspiration to heal the divisions of the past.

Third, the founding constitutional provisions manifest public value through the provision on the supremacy of the *Constitution* and the rule of law.¹⁷ It must be noted here that the supremacy of the *Constitution* appears in both the Preamble and the Founding Provisions. The *Constitution* is the supreme law and provides that all laws and conduct that are not consistent with it are invalid to the full extent that they contradict it.¹⁸ The supremacy of the *Constitution* is also found in that its obligations must be fulfilled by all spheres of government (national, provincial, and local) as well

¹³ See section 1 of the *Constitution*; Fowkes "Founding Provisions" 1.

¹⁴ Section 1(b) of the *Constitution*.

¹⁵ See also the preamble to the *Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000* (hereafter *PEPUDA*) and that of the *Municipal Systems Act*.

¹⁶ See chapter 3.

¹⁷ Section 1(c) of the *Constitution*.

¹⁸ Section 2 of the *Constitution*.

as by all branches of government (the national executive, legislature and judiciary).¹⁹ Hence, everyone must act within the confines of the *Constitution*. The supremacy of the *Constitution* and the rule of law connect to public value in that they ensure that government actions are based on law and are not arbitrary.²⁰

The Founding Provisions on "universal adult suffrage, a national common voter roll, regular elections, and a multi-party system of democratic government, to ensure accountability, responsiveness, and openness"²¹ connect to public value in that they highlight the importance of democratic governance that ensures that local government is accountable to communities, responsive to their needs, and open to their participation. This provision illustrates the importance of ensuring that the government represents the will of the people through elections.²² In addition, the generality of this founding provision may be interpreted as a vision for a robust local government system that provides a democratic and accountable government for local communities, ensures the provision of services in a sustainable manner, promotes social and economic development, promotes a safe and healthy living environment, and encourages the involvement of communities and community organisations in the matters of local government.²³ To achieve this, the *Constitution* enshrines democratic governance founded on advancing human rights through a set of transformative values²⁴ and the principles of human dignity, social justice, and equality.²⁵

4.2.3 *Implied founding values and principles*

In addition to the expressly stated founding values, courts have infused *ubuntu* – the indigenous value of humaneness - into the fabric of founding values through judicial interpretation and precedent.²⁶ *Ubuntu* is now accepted as an implied constitutional

¹⁹ Section 2 of the *Constitution*.

²⁰ For a discussion of the connection between the rule of law and prohibition of arbitrary conduct, see Dallmayr "Hermeneutics and the Rule of Law" 283-304.

²¹ Section 1(d) of the *Constitution*.

²² See also political rights in section 19 of the *Constitution*.

²³ Section 152 of the *Constitution*.

²⁴ Fuo *Local Government's Role in the Pursuit of the Transformative Constitutional Mandate of Social Justice in South Africa* 61.

²⁵ Sections 1(a)-(d) of the *Constitution*.

²⁶ For reference to judicial recognition of ubuntu as a foundational constitutional value, see *Beadica 231 CC v Trustees for the Time Being of the Oregon Trust* 2020 9 BCLR 1098 (CC) (hereafter *Beadica 231 CC v Trustees for the Time Being of the Oregon Trust*) para 72.

value that should guide government-citizen relations in South Africa.²⁷ *Ubuntu* is relevant to the discourse on public value because it emphasises community orientation and relationships, interconnections, group solidarity, and ethical behaviour.²⁸ Community orientation connects to public value in local government in that municipalities must prioritise the needs, interests, and preferences of the communities they serve and ensure that communities are involved in policy and decision-making.²⁹ Solidarity relates to public value in the local government sphere because it reinforces communal relations based on generosity and may be seen as requiring municipalities to promote social cohesion and inclusivity through the provision of resources in an equitable manner to all members of the community.

4.2.4 *Objects of local government*

The *Constitution* sets out five objects of local government in section 152(1). These entail that local government must provide a democratic and accountable government for local communities; ensure the provision of services to communities in a sustainable manner; promote social and economic development; promote a safe and healthy environment; and encourage the involvement of communities and community organisations in the matters of local government. Section 152(2) of the *Constitution* qualifies the duties imposed by section 152(1) by obliging municipalities to strive, within their financial and administrative capacity, to achieve the objects of local government. The public value-creating aspects of section 152(1) of the *Constitution* can be unpacked as follows.

First, providing a democratic and accountable government is intended to ensure that municipalities provide platforms for their communities to be heard and make decisions in the best interests of communities. Arguably, this promotes public trust and

²⁷ For a full discussion in this regard, see Kotzé, Adelman and Dube "The Problem with Sustainable Development: Reimagining International Environmental Law's Mantra Principle Through the Lens of Ubuntu" 3-17. See also, Dube 2023 *Journal of Law, Society and Development* 1-10.

²⁸ See these works on the meaning of *ubuntu*: Gade 2011 *South African Journal of Philosophy* 484; Du Plessis 2019 *Potchefstroom Electronic Law Journal* 1; Hutchison 2019 *Acta Juridica* 99. See also, Bilchitz 2010 *Constitutional Court Review* 59-67, who argues that the *ubuntu* is the reason why the Constitutional Court requires municipalities to adopt a very humane approach to service delivery.

²⁹ See the analysis of the tenets of public value in Chapter 2, specifically in 2.2.4, which distils the meaning of public value.

confidence in government, thereby creating public value, as discussed in 2.3.4. Second, ensuring the provision of basic services in a sustainable manner promotes the well-being of communities and enhances the quality of life through efficient waste management as well as the provision of water, electricity and other basic services. The provision of these basic services is crucial to this study because the creation and maintenance of public value depend on them, as discussed in 2.3.11 above.

Third, social and economic development promotes a thriving environment for businesses to prosper, create jobs, and develop developmental programs that ensure strong and resilient communities. Section 152(1)(c) recognises that the improvement of an adequate standard of living through both the delivery of government services and self-empowerment (employment, social uplift) is dependent upon a productive local economy and improved social conditions. In the same vein, section 153(a) translates the objects of local government into a duty on the part of municipalities to promote their social and economic development. Section 153(a) instructs municipalities to prioritise their communities' basic needs, which have been seen in 2.3.11 as integral to creating public value.

Fourth, section 152 of the *Constitution* creates public value by requiring the local government and its functionaries to ensure a healthy environment, as outlined in section 24 of the *Constitution*. This is achieved by protecting the environment through the adoption and enforcement of bylaws, public safety, and emergency management to ensure community resilience and preparedness for emergencies. Promoting social and economic development and a safe and healthy environment³⁰ are outcomes valued by the public in several sectors and thus relate to and anchor the standard of outcome achievement, as discussed in 2.6.1.1 above.

Finally, section 152 manifests public value through the requirement for local government to encourage the involvement of communities and community organisations in local government matters. The involvement of local communities and their organisations promotes public participation and engagement, both of which are core elements of public value, as they enable the voices of communities to be heard,

³⁰ Section 152(1)(c) of the *Constitution*.

as discussed in 2.3.7 above. The objects of local government in the *Constitution* are further amplified in legislation, particularly the *Municipal Structures Act*.³¹

4.2.5 *Developmental duties of municipalities*

Section 153 of the *Constitution* bestows developmental obligations on local government to structure and manage municipal administration, budgeting, and planning processes in ways that prioritise the basic needs of communities. The obligations also include promoting social and economic development.³² Prioritising the basic needs of their communities and promoting social and economic development helps municipalities create public value and improve the efficiency and effectiveness of their operations.

Section 215 of the *Constitution* requires municipal budgets and budgetary processes to promote transparency, accountability, and effective financial management of the economy, debt, and public sector. This resonates with public value tenets such as accountability, trust and legitimacy, and service delivery efficiency and effectiveness, as discussed in 2.3 above. Section 215(2) of the *Constitution* requires that national legislation prescribes the form of municipal budgets and that the budget must show the sources of revenue and the way the proposed expenditure will comply with national legislation. Hence, the *Constitution* envisages a new system of local government to creatively stimulate development, harness local resources, and redistribute resources and services in a way that increases people's choices and is responsive to their needs.³³

4.2.6 *Basic values and principles governing public administration*

Section 195 of the *Constitution* regulates the basic values and principles governing public administration, including that of the local government. These are professional ethics, efficient use of resources, development-oriented public administration, impartial provision of services, accountability, transparency, and representation.

³¹ *Local Government: Municipal Structures Act* 117 of 1998 (hereafter *Municipal Structures Act*). See the discussion in 4.4.1.

³² Section 153(a) of the *Constitution*.

³³ De Visser and Steytler 2014 *Constitutional Court Review* 1-2.

These self-explanatory values and principles of public administration can be directly connected to public value because they embody some of the fundamental tenets of public value, such as professional ethics, efficient use of resources, impartiality and fairness, responsiveness to communities, accountability, transparency, representation, and development orientation.³⁴

4.3 Policy framework for creating public value in local government

4.3.1 Overview of the policy context

This section discusses how South Africa's local government operates within a complex and multifaceted policy framework that is deeply rooted in the country's commitment to democratic local governance. The national government adopted several policies that can create a blueprint for the creation of public value by local government – although there is no evidence that these policies were specifically aimed at creating public value at the time of their adoption. It is argued that regardless of the executive's motives when adopting these policies, the reality is that the policies contain aspects that can be viewed as creating public value. The policies include the *White Paper on the Transformation of the Public Service*,³⁵ the *White Paper on Local Government*,³⁶ the *White Paper on Transforming Public Service Delivery*,³⁷ and the *Integrated Urban Development Framework*.³⁸

The analysis of each below will reveal that, individually and collectively, these policy documents reflect a commitment to creating public value through participatory governance, social justice, sustainable development, and a service delivery approach that is responsive to the unique needs and preferences of the local communities. This researcher argues that the alignment of these policies with the key features of public value discussed in Chapter 2 of this thesis can facilitate the implementation of local strategies that foster economic growth, promote broader societal well-being, and,

³⁴ See 2.3.

³⁵ White Paper on the Transformation of the Public Service (Notice 1227 of 1995).

³⁶ *White Paper on Local Government*.

³⁷ White Paper on Transforming Public Service Delivery GN 388 in GG 18340 of 1 October 1997.

³⁸ Integrated Urban Development Framework: A New Deal for South African Cities and Towns (2016).

therefore, enhance public value at the local level. The following analysis delves into the content of these policies in relation to public value.

4.3.2 White Paper on the Transformation of the Public Service

The *White Paper on the Transformation of the Public Service* was adopted by the national government in 1995 as a framework to reform public service and all areas of government during the transition from apartheid to democratic South Africa. The intention was for it to "serve as a broad framework of government policy during the process of transformation and reform."³⁹ The White Paper introduced a vision for an integrated and coherent public service centred on the values of democracy and social justice.⁴⁰ The goal was to create a system that was more responsive to the needs of all South Africans and aligned with the principles of the constitutional government, thereby expressing a new vision for public service. The White Paper embodies tenets of public value such as transformation, accountability, transparency, and the development of human resources to capacitate public services (including local government) to serve the interests of communities.

Although the *White Paper on the Transformation of Public Service* does not specifically mention public value, it identifies several historical shortcomings that undermine its tenets. These include the lack of race, gender, and disability representativeness; lack of legitimacy due to these exclusions; discriminatory and exclusionary service delivery; authoritarian, centralised, and rule-bound management that undermined public participation; lack of accountability and transparency; failure to provide information to the public; low productivity due to inefficiency and ineffectiveness; demoralisation of public service due to poor salaries and incentives; conflicting labour relations; and poor professional ethos and ethics that resulted in corruption and embezzlement of public funds.⁴¹ These challenges demonstrate that the apartheid government failed to create and maintain public value for the majority of South Africans. This confirms the

³⁹ Preamble to the *White Paper on the Transformation of the Public Service*.

⁴⁰ See Chapter 2 of the *White Paper on the Transformation of the Public Service*.

⁴¹ Section 3.1 of the *White Paper on the Transformation of the Public Service*.

conclusion reached in Chapter 3 of this thesis that the apartheid system undermined public value in the local government.

To mitigate and resolve the challenges outlined above, the *White Paper on the Transformation of the Public Service* sought to introduce several changes as part of institutional building and management. These changes included ensuring the representativeness of the public service,⁴² transforming service delivery through improved service delivery, social equity, government-community partnerships, intergovernmental coordination and collaboration, consultation with communities, and introduction of legislation to give effect to these goals.⁴³ They also included setting guidelines and timeframes for service delivery.⁴⁴

Chapter 12 of the *White Paper on the Transformation of the Public Service* indirectly sought to enhance accountability, which is a key tenet of public value. It refers to the Reconstruction and Development Programme (RDP) and states that

The RDP calls for democratisation, which goes beyond the right to vote, in both the public and private sectors. This will require a comprehensive approach to the development of a democratic and accountable public service. At one level, a democratic approach will facilitate internal accountability and democracy within the operations of the service. At another level it will ensure that its relationships with the public are also transparent, consultative, participative and democratic.⁴⁵

To enhance accountability, the White Paper sought to improve internal democracy, external accountability, and monitoring and evaluation progress.⁴⁶ It also stipulates that internal democracy would be improved through mechanisms that ensure effective scrutiny of public services.⁴⁷

Regarding external accountability, the *White Paper on the Transformation of the Public Service* reiterated the importance of meeting the public's expectations, improving

⁴² Section 10.1 of the *White Paper on the Transformation of the Public Service*.

⁴³ Section 10.2 of the *White Paper on the Transformation of the Public Service*.

⁴⁴ Section 10.6 of the *White Paper on the Transformation of the Public Service*.

⁴⁵ Chapter 12 of the *White Paper on the Transformation of the Public Service*.

⁴⁶ Section 12.1 to 12.3 of the *White Paper on the Transformation of the Public Service*.

⁴⁷ Section 12.1 of the *White Paper on the Transformation of the Public Service*.

democratic and developmental approaches, and enabling communities to be self-reliant. It further stated the following regarding accountability:

The White Paper has specified some of the steps that will be taken to improve Parliamentary scrutiny of the public service, especially through the work of the Portfolio Committees, and the Public Service Portfolio Committee in particular. These Committees clearly have a vital role to play, both by investigating and by facilitating consultative processes. To play this role fully, however, the Committees will need additional funding, particularly for policy analysis and development, as well as for discussions and hearings. Accountability will also be enhanced through the work of the Auditor-General and the Public Protector.⁴⁸

In addition to enhancing accountability, responsiveness, and transparency, the *White Paper on the Transformation of the Public Service* set transformation priorities and processes, which included strategic review, policy formulation and performance measures, strategic planning and implementation, coordination, communication, consultation and participation, and research into the needs of communities and the impact of government programs on their welfare.⁴⁹

In a nutshell, the *White Paper on the Transformation of the Public Service* set the tone for the transformation of the public service and indirectly creates public value based on its key tenets such as democracy accountability, transparency, human resource development, people-centred and people-driven public service, equity, quality, and adherence to ethics. This was meant to improve service delivery, community satisfaction, and quality of life for all South Africans.

4.3.3 *White Paper on Transforming Public Service Delivery*

4.3.3.1 Overview

The *White Paper on Transforming Public Service Delivery*, also known as the *Batho Pele* White Paper, was adopted in 1997 "to provide a policy framework and a practical implementation strategy for the transformation of Public Service Delivery"⁵⁰ in post-apartheid South Africa. It was adopted after the *White Paper on the Transformation*

⁴⁸ Section 12.2 of the *White Paper on the Transformation of the Public Service*.

⁴⁹ See Chapter 5 of the *White Paper on the Transformation of the Public Service*.

⁵⁰ *White Paper on Transforming Public Service Delivery* 1.

*of the Public Service*⁵¹ in order to ensure the effective delivery of services in a manner that meets the needs of all South Africans.⁵² Hence, the *White Paper on Transforming Public Service Delivery* acknowledged that "a guiding principle of the public service in South Africa will be that of service to the people."⁵³ The purposes of the *White Paper on Transforming Public Service Delivery* are:

- (a) To provide a policy framework for the transformation of public service delivery.
- (b) To provide a practical implementation strategy for the transformation of public service delivery.
- (c) To improve efficiency and effectiveness in the delivery of services.
- (d) To provide a *Batho Pele* approach in making decisions to ensure systematic consultation with users of services.
- (e) To provide users with information about whether standards of service are being met in practice.

This list reveals an intent to introduce reforms that create public value in various aspects. First, the reference to the transformation of the public service through efficient and effective service delivery shows an inclination to create public value. Second, providing a policy framework for service delivery shows that the *White Paper on Transforming Public Service Delivery* intended to create a roadmap for an institutionalised approach to enhance governance and public administration. According to the analysis in Chapter 2, this is one of the important ways of creating public value.⁵⁴

Third, the *White Paper on Transforming Public Service Delivery* sought to indirectly create public value by mentioning a "practical implementation strategy" that adds value by ensuring that the policy is actionable and not just theoretical so that the

⁵¹ *White Paper on the Transformation of the Public Service*, discussed in 4.3.2 above. See also *White Paper on Transforming Public Service Delivery* 1.2.9.

⁵² *White Paper on Transforming Public Service Delivery* 1.1.1.

⁵³ *White Paper on Transforming Public Service Delivery* 1.

⁵⁴ See the analysis in 2.2.4.

needs and preferences of communities are met in practice.⁵⁵ The third tenet of public value to which the *White Paper on Transforming Public Service Delivery* refers is accountability, which is denoted in the mentioning of "standards of service" – thus implying a system of benchmarks and other measurements that aid in ensuring accountability and measuring performance.⁵⁶ While still on accountability, it can also be observed that the reference to Ministers, Members of the Executive Council (MECs) and other authorities denotes an acknowledgement of the intrinsic value of separation of powers to ensure appropriate checks and balances in government, which is an integral part of accountability.⁵⁷

In section 2.6.1.1 above, it has been seen that determining outcome achievement in the provision of goods and services to communities is one of the measurement standards of public value. As seen in the discussion in 2.6.2 above, data-driven approaches to governance hold intrinsic public value and can be achieved through surveys and other methodological tools for measuring public value.⁵⁸ The most important tenet of creating public value that is revealed in the purpose of the *White Paper on Transforming Public Service Delivery*, as distilled from the extract above, is a user-centric approach (*Batho Pele*). Due to its centrality to the analysis in this chapter, *Batho Pele* is analysed separately below.

⁵⁵ For an analysis of the creation of public value through ensuring that policies align with realities in public management, see Mintrom and Luetjens 2017 *Policy Studies Journal* 170-190.

⁵⁶ See Cruz Dallagnol, Portulhak and Cezar Severo Peixe 2023 *Public Money & Management* 251-258; Kelly, Mulgan and Muers 2002 https://www.academia.edu/23693003/Creating_Public_Value_An_analytical_framework_for_public_service_reform for a discussion of the connection between public value. See also, Alford and O'Flynn 2009 *International Journal of Public Administration* 184.

⁵⁷ For one of the classical analyses of the relationship between separation of powers, checks and balances and accountability in the public sector, see Persson, Roland and Tabellini 1997 *The Quarterly Journal of Economics* 1163-1202. For a discussion of separation of powers in the South African context, see Mojapelo 2013 *Advocate* 37-46; Munzhedzi "The Role of Separation of Powers in Ensuring Public Accountability in South Africa: Policy Versus Practice" 80-86. See also, Fombad "The Role of Emerging Hybrid Institutions of Accountability in the Separation of Powers Scheme in Africa" 325.

⁵⁸ See section 2.6.2 on the methodological tools of measuring public value.

4.3.3.2 Defining *Batho Pele*

The term *Batho Pele* is a Northern Sotho maxim, which means "people first."⁵⁹ The essence of *Batho Pele*, that is, putting people first, is that it "serves the best interests of the public by enabling the achievement of individual rights encompassed in the provision of the *Constitution*."⁶⁰ In this regard, the *White Paper on Transforming Public Service Delivery* observes the following with regard to the application of the *Constitution* on the principles that public administration must adhere to professional ethics: impartial service delivery, efficient utilisation of resources, responsiveness to people's needs, public participation, accountability and transparency.⁶¹

Thus, *Batho Pele* entails employing systematic consultations with communities as users of goods and services provided by the government, using approaches that align public services with the needs and expectations of communities, enhancing the responsiveness of the government, and ensuring that communities are satisfied with the services offered by the government.

4.3.3.3 Linking *Batho Pele* to Moore's public value approach

In justifying why "people must come first" the *White Paper on Transforming Public Service Delivery* equates citizens to 'customers'.⁶² This mirrors Moore's managerial approach to public value.⁶³ It has been noted that Moore equated public value with shareholder value in the corporate context and defined it as the collective expectations of communities with respect to the government and the public services it provides to them.⁶⁴ In addition, Moore postulated that managerial work in the public sector should aim to create value for society, just as managers in the private sector aim to create private value in the form of products and services that corporations sell to earn revenue that exceeds production costs.⁶⁵ He argued that this is the best way to ensure

⁵⁹ Dube and Manthwa "Putting People First in Climate Governance: The Role of South Africa's Indigenous Values in Securing Ecologically Sustainable Development" 244.

⁶⁰ *Van der Merwe v Taylor* 2007 11 BCLR 1167 (CC) (hereafter *Van der Merwe v Taylor*) footnote 81.

⁶¹ *White Paper on Transforming Public Service Delivery* 1.2.2.

⁶² *White Paper on Transforming Public Service Delivery* 1.3.1.

⁶³ For a discussion of Moore's managerial approach to public value, see 2.2.2 above.

⁶⁴ Moore *Creating Public Value: Strategic Management in Government* 64-65.

⁶⁵ Moore and Khagram *On Creating Public Value: What Business Might Learn from Government About Strategic Management* 1-3.

that public sector organisations are efficient and effective and that they meet the needs of the people they serve.⁶⁶ Although it does not refer to Moore, the *White Paper on Transforming Public Service Delivery* likens the provision of public goods and services to the public sector by stating the following:

In a genuinely competitive commercial market, private companies cannot afford to ignore the needs and wishes of their customers if they want to stay in business, because dissatisfied customers can choose to take their business elsewhere. Knowing what the customer wants and providing it quicker, better and cheaper than your competitors, is essential to business success. As competitive companies worldwide soon discover, 'the customer comes first' is not an empty slogan but a fundamental business principle.⁶⁷

There are two main justifications for equating citizens who receive public goods and services to customers of private businesses. The first is that citizens have nowhere to go to receive most public goods and services because the state has a monopoly on their provision, as shown by the extract below:

By contrast citizens, as the 'customers' of public services, cannot choose to take their business elsewhere. For example, any South African who wants a passport has no alternative but to apply to the Department of Home Affairs, Many public services are not paid for directly by individual 'customers', and national and provincial departments which fail to satisfy their 'customers' do not go out of business. Moreover, many public services, such as revenue collection or the imposition of law and order are not 'services' but are regulatory in function. They are accepted by citizens as essential safeguards of a civilised society in which the vulnerable are protected and all citizens have equal opportunity for economic and social development.⁶⁸

The second justification for treating citizens as customers in the private sector context is that "improving service delivery...embraces certain principles which are as fundamental to public service delivery as they are to the provision of services for commercial gain."⁶⁹

According to the *White Paper on Transforming Public Service Delivery*, treating citizens who receive public goods and services as customers in the commercial context implies

⁶⁶ See Moore and Khagram *On Creating Public Value: What Business Might Learn from Government About Strategic Management* 1-3; Moore "Recognizing Public Value: The Challenge of Measuring Performance in Government" 91-116.

⁶⁷ *White Paper on Transforming Public Service Delivery* 1.3.1.

⁶⁸ *White Paper on Transforming Public Service Delivery* 1.3.2.

⁶⁹ *White Paper on Transforming Public Service Delivery* 1.3.3.

compliance with several tenets of public value. First, it implies democratic accountability through the creation of institutions which ensure public participation in the making of government decisions so as to create public trust and legitimacy. The *White Paper on Transforming Public Service Delivery* refers to this as "listening to their views and taking account of them in making decisions about what services should be provided."⁷⁰ Second, treating citizens as customers is consistent with ethical behaviour that is intended to create trust and social capital. This is referred to as "treating them with consideration and respect" by the *White Paper on Transforming Public Service Delivery*.⁷¹ Third, treating citizens as customers creates public value through operational efficiency, which ensures effective and efficient service delivery. This satisfies the immediate needs and preferences of communities and reinforces perceptions of effective and reliable government.

The *White Paper on Transforming Public Service Delivery* terms the third tenet of creating public value in this way as "making sure that the promised level and quality of service is always of the highest standard."⁷² Last but not least, treating citizens as customers within Moore's managerial approach to public value enhances accountability and responsiveness, as depicted in the *White Paper on Transforming Public Service Delivery*, which refers to it as "responding swiftly and sympathetically when standards of service fall below the promised standard."⁷³

The *White Paper on Transforming Public Service Delivery* contains a list of eight principles for transforming public service delivery.⁷⁴ These principles mirror public value by seeking to fulfil some of its various tenets discussed in Chapter 2 of this study. These *Batho Pele* principles are examined below.

⁷⁰ *White Paper on Transforming Public Service Delivery* 1.3.3.

⁷¹ *White Paper on Transforming Public Service Delivery* 1.3.3.

⁷² *White Paper on Transforming Public Service Delivery* 1.3.3.

⁷³ *White Paper on Transforming Public Service Delivery* 1.3.3.

⁷⁴ *White Paper on Transforming Public Service Delivery* 3.

4.3.3.4 Service delivery principles of *Batho Pele*

4.3.3.4.1 Public consultation

The *White Paper on Transforming Public Service Delivery* calls for the consultation of communities regarding the level and quality of public services which they receive and also advocates for them to be given a choice among the services that are offered to them by the government.⁷⁵ It has been noted in Chapter 2 of this study that engagement, collaboration, public consultation and deliberation of communities with government create and maintain public value by managing expectations and enabling consensus and co-creation, where applicable.⁷⁶ The *White Paper on Transforming Public Service Delivery* recognises public consultation not only directly with communities but also with civil society organisations such as bodies representing different consumer classes, NGOs and community-based organisations.⁷⁷ It says that the government must use surveys, interviews, consultation groups and meetings with civil society to consult communities about the services that it is offering.⁷⁸ To this end, it says that:

Whatever method is chosen, consultation must cover the entire range of existing and potential customers. It is essential that consultation should include the views of those who have previously been denied access to public services. Particular effort must be made to include the views of those who have been previously disadvantaged or who, due to geography, language barriers, fear of authority or any other reason, have previously found it hard to make their voices heard. The consultation, process should be undertaken sensitively; for example, people should not be asked to reveal unnecessary personal information, and they should be able to give their views anonymously if they wish. Often, more than one method of consultation will be needed to ensure comprehensiveness and representativeness.⁷⁹

To this end, the *White Paper on Transforming Public Service Delivery* states that consultation results must be reported to relevant authorities, such as the MEC, Minister or Portfolio Committee, and that they should be the product of an intelligence consultative process that identifies areas where effort and resources should be

⁷⁵ *White Paper on Transforming Public Service Delivery* 3.

⁷⁶ See Table 2.2 adapted from Bryson, Crosby and Bloomberg "Introduction" 7-10.

⁷⁷ *White Paper on Transforming Public Service Delivery* 4.1.2.

⁷⁸ *White Paper on Transforming Public Service Delivery* 4.1.2.

⁷⁹ *White Paper on Transforming Public Service Delivery* 4.1.2.

spent.⁸⁰ It further says that the outcomes of public consultations should strike a balance between the needs and preferences of communities with realistic expenditure of public resources through service delivery.⁸¹

In Chapter 2 of this study, it was pointed out that surveys and other methodological tools can be used to ascertain the extent to which the government creates public value by meeting the needs, expectations and preferences of citizens, whether it is responsive, transparent and adaptable.⁸² In addition to fulfilling these tenets of public value, public consultation fosters the democratic legitimacy of the government, ensures accountability, enhances inclusivity in the delivery of public services, encourages the efficient allocation of resources, helps the government manage the expectations of its citizens, and enhances co-creation.⁸³

4.3.3.4.2 Setting realistic service standards

The second *Batho Pele* principle is setting realistic service standards regarding which services must be introduced to which communities, when and how, so that previously excluded communities can benefit from education, health, housing, documentation (through Home Affairs) and other services offered by the state.⁸⁴ The idea of setting service standards is to enable communities to "judge for themselves whether or not what they are receiving is what was promised."⁸⁵ In this context, the *White Paper on Transforming Public Service Delivery* says that:

Service standards must be set at a level which is demanding but realistic. This means that they should reflect a level of service which is higher than that currently offered; but which can be achieved with dedicated effort, and by adopting more efficient and customer-focused working practices. To achieve the goal of making South Africa globally competitive, standards should be benchmarked against international standards, taking into account South Africa's current level of development.⁸⁶

⁸⁰ *White Paper on Transforming Public Service Delivery* 4.1.2.

⁸¹ *White Paper on Transforming Public Service Delivery* 4.1.2.

⁸² See 2.6 of this study.

⁸³ See the benefits of public consultation in Bryson, Crosby and Bloomberg "Introduction" 7-10.

⁸⁴ *White Paper on Transforming Public Service Delivery* 4.2.

⁸⁵ *White Paper on Transforming Public Service Delivery* 4.2.1.

⁸⁶ *White Paper on Transforming Public Service Delivery* 4.2.2.

This extract reveals various elements and tenets of public value, such as the need for efficiency and effectiveness, competitiveness (implying quality), credibility, equity and the creation of public trust in the ability of the government to deliver services.

4.3.3.4.3 Equal access to services

The third *Batho Pele* principle is ensuring equal access to services.⁸⁷ This principle is informed by colonial and apartheid exclusion of black South Africans from the provision of basic services, as discussed in Chapter 3 of this study. For this reason, this *Batho Pele* principle aims to "provide a framework for making decisions about delivering public services to the many South Africans who were and still are denied access to"⁸⁸ services. An important feature of this *Batho Pele* principle is that it acknowledges the effects of apartheid spatial planning and how it affected people living in remote areas and rendered them too far from basic services. To this end, it says that "service delivery...should therefore specifically address the need to progressively redress the disadvantages of all barriers to access."⁸⁹

Several tenets of public value can be distilled from the above discussion of the third *Batho Pele* principle. The first is equity, which is achieved by ensuring equal access to services for all South Africans by rectifying historical and systemic injustices of the apartheid regime, which deliberately denied many South Africans access to basic services.⁹⁰ The second tenet of public value distilled from the third *Batho Pele* principle is social inclusion, which arises from equity in that it is intended to ensure that marginalised South Africans are given access to services. The third tenet is trust, which is created when the government acknowledges historical injustices and commits to their non-repetition.⁹¹ The fourth tenet is effectiveness in service delivery through targeting underserved areas in order to improve the reach of service delivery. The fifth tenet of public value arising from a reading of the third *Batho Pele* principle is

⁸⁷ *White Paper on Transforming Public Service Delivery* 4.3.

⁸⁸ *White Paper on Transforming Public Service Delivery* 4.3.1.

⁸⁹ *White Paper on Transforming Public Service Delivery* 4.3.2.

⁹⁰ See the discussions in 3.3 and 3.6 on how colonial and apartheid laws and policies ensured the systematic exclusion of black South Africans from access to basic services.

⁹¹ For a discussion of trust in the context of public value, see Taylor-Gooby and Wallace 2009 *Journal of Social Policy* 401-419.

responsiveness, which is shown by the commitment of the government to respond to the plight of marginalised communities by granting them access to services.

4.3.3.4.4 Courteous and considerate treatment at public service points

The fourth *Batho Pele* principle refers to the treatment of members of the public as 'customers' in government service points.⁹² This principle requires the behaviour of public servants to be the best so that community members have a positive experience of interacting with the government through various service points.⁹³ This principle imposes customer-friendly behaviour on public servants who serve members of the public and requires the government to establish mechanisms for monitoring their performances for improvement and training purposes.⁹⁴ An important part of this *Batho Pele* principle is that it requires constant feedback from frontline staff to ensure that managers design ways to improve service delivery.⁹⁵ It can be argued that constant feedback ensures the responsiveness of the government when it is implemented.

4.3.3.4.5 Provision of full and accurate information about public services

The fifth *Batho Pele* principle pertains to the duty of the government to provide more and better information that is complete, "accurate and up-to-date...about services they provide, and who is entitled to them."⁹⁶ This principle seems to be intended to create harmony and understanding between communities and government so that "customers and potential customers need to know, and then to work out how, where and when the information can best be provided."⁹⁷ Furthermore, the fifth *Batho Pele* principle says the following regarding the provision of information to the public: the state must provide information to users through different media and languages and provide written information to users in plain language that does not use jargon. Also, all written information must be readable and comprehensive, and verbal information should be provided where necessary. This reveals several elements for enhancing

⁹² *White Paper on Transforming Public Service Delivery* 4.4.

⁹³ *White Paper on Transforming Public Service Delivery* 4.4.1.

⁹⁴ *White Paper on Transforming Public Service Delivery* 4.4.3.

⁹⁵ *White Paper on Transforming Public Service Delivery* 4.4.4.

⁹⁶ *White Paper on Transforming Public Service Delivery* 4.5.1.

⁹⁷ *White Paper on Transforming Public Service Delivery* 4.5.1.

public value, such as media diversity to meet the needs and preferences of diverse communities in South Africa, linguistic diversity, accessibility, cultural sensitivity, and generally, effective communication because, without such communication, it is impossible to see how the government can enhance engagement, dialogue and deliberation with communities.⁹⁸

4.3.3.4.6 Increasing openness and transparency

The sixth *Batho Pele* principle is openness and transparency,⁹⁹ which is a fundamental tenet of public value, as seen in the theoretical framework of this study, which shows that when transparency is lacking, citizens cannot make informed judgments about the government.¹⁰⁰ The *White Paper on Transforming Public Service Delivery* acknowledges that "openness and transparency are the hallmarks of a democratic government and are fundamental to the public service transformation process"¹⁰¹ regarding service delivery because they "build confidence and trust between the public sectors and the public they serve."¹⁰² The most fundamental aspect of openness and transparency is that it prevents secretive public administration, thereby preventing improper use of state resources, corruption, kickbacks, nepotism and other acts of unaccountable governance.¹⁰³

4.3.3.4.7 Redress for poor services

It has been noted earlier that one of the most important tenets of public value is the responsiveness of the government to the needs, preferences and expectations of communities regarding the quantity, quality and timing of public goods and services provided to them.¹⁰⁴ Responsiveness also entails addressing community complaints and remedying errors, as provided in the seventh *Batho Pele* principle, which states that:

⁹⁸ See Bryson, Crosby and Bloomberg 2014 *Public Administration Review* 445.

⁹⁹ *White Paper on Transforming Public Service Delivery* 4.6.

¹⁰⁰ See Table 2.2, adapted from Bryson, Crosby and Bloomberg "Introduction" 7-10.

¹⁰¹ *White Paper on Transforming Public Service Delivery* 4.6.1.

¹⁰² *White Paper on Transforming Public Service Delivery* 4.6.1.

¹⁰³ See Roy 2019 *International Journal of Public Administration in the Digital Age* 23-40; West and Davis 2011 *Public Administration* 226-241; Jørgensen and Sørensen 2012 *Public Integrity* 71-96.

¹⁰⁴ See 2.3.11.

The first steps, therefore, are to, acknowledge that all dissatisfaction, expressed in writing or verbally, is an indication that the citizen does not consider that the promised standard of service is being delivered; and then to establish ways of measuring all expressions of dissatisfaction. Staff should be encouraged to welcome complaints as an opportunity to improve service, and to report complaints so that weaknesses can be identified and remedied. The head of each department should regularly and personally review complaints, and how they have been dealt with.¹⁰⁵

Ascertaining community dissatisfaction by acknowledging shortcomings in service delivery and taking active steps to address such complaints is intended to minimise acts of public protest, which is an indication of a failure to create public value.¹⁰⁶ With regard to responsiveness, the *White Paper on Transforming Public Service Delivery* says that all complaints, no matter how minor, should be addressed in a way that considers each complainant's concerns and feelings, that apologies should be given and explanations rendered where appropriate, and that assurances of non-repetition should be given.¹⁰⁷ It also says that opportunities must be created for the public to file complaints and that complaint procedures must be speedy, fair, and confidential.¹⁰⁸

4.3.3.4.8 Value for money

Last but not least, the *Batho Pele* principle goes back to Moore's managerial approach to public value in that it adopts a business approach to the public sector through ways that improve efficiency, eliminate waste and cut costs.¹⁰⁹ It follows that this *Batho Pele* principle is intended to create public value by optimising the utilisation of state resources to make public funds go the extra mile, enhancing service delivery and increasing accountability and responsiveness.

¹⁰⁵ *White Paper on Transforming Public Service Delivery* 4.7.3.

¹⁰⁶ See the discussion in 1.1 on this issue.

¹⁰⁷ *White Paper on Transforming Public Service Delivery* 4.7.4.

¹⁰⁸ *White Paper on Transforming Public Service Delivery* 4.7.4.

¹⁰⁹ *White Paper on Transforming Public Service Delivery* 4.8.2.

4.3.4 *White Paper on Local Government*

4.3.4.1 Overview

One of the first post-apartheid steps towards restructuring local government according to the *Constitution's* mandate was the adoption of the *White Paper on Local Government* in 1998. The *White Paper on Local Government* recalls the intractable historical challenges inherited by the post-1996 local government system, such as skewed settlement patterns, extreme concentrations of taxable economic resources in (formerly) white areas, and considerable backlogs in the service infrastructure in historically underdeveloped areas.¹¹⁰ The *White Paper on Local Government* expresses the government's understanding that considerable municipal expenditure in addressing colonial and apartheid infrastructural backlogs is required, so much that it will exceed the revenue available to local government.¹¹¹

The *White Paper on Local Government* also acknowledges issues such as spatial separation, disparities between towns and townships, and urban sprawl, all of which enormously increase the costs of service delivery and the associated costs such as transport.¹¹² It further states that most urban areas are racially fragmented, with discontinuous land use and settlement patterns.¹¹³ In light of these challenges, the White Paper envisages that municipalities must develop spatial integration strategies while managing the continuing consequences of rapid urbanisation and service delivery backlogs.¹¹⁴

The *White Paper on Local Government* proposed the creation of developmental municipal institutions whose central responsibility was to work with local communities. It also calls for municipalities to find sustainable ways to meet their needs and to improve the quality of their community lives.¹¹⁵ It recognises crucial linkages between urban and rural settlements because most towns are functionally linked to rural areas,

¹¹⁰ *White Paper on Local Government* 11.

¹¹¹ Section G of the *White Paper on Local Government*.

¹¹² *White Paper on Local Government* 21.

¹¹³ *White Paper on Local Government* 21.

¹¹⁴ *White Paper on Local Government* 21.

¹¹⁵ *White Paper on Local Government* 21.

rely on their hinterlands for productive economic activity, and provide critical centres for the delivery of social services.¹¹⁶ It also emphasises the need for municipalities to leverage private sector resources for development and to rebuild relations with their local communities.¹¹⁷ In this regard, the *White Paper on Local Government* implores municipalities to be particularly sensitive to the needs of marginalised groups within communities and to be responsive and accessible to people with disabilities.¹¹⁸ In this context, it can be argued that the post-apartheid government understands that removing racial discrimination would never be sufficient to level the field in human settlements because of the magnitude of the harm caused by apartheid spatial planning. Hence, fundamental reforms of local government operations are necessary.¹¹⁹

4.3.4.2 Public participation in local government

The *White Paper on Local Government* may create public value by emphasising the importance of citizen participation on four levels, which are provided below as directly quoted from it:

As voters - to ensure maximum democratic accountability of the elected political leadership for the policies they are empowered to promote.

As citizens who express, via different stakeholder associations, their views before, during and after the policy development process in order to ensure that policies reflect community preferences as far as possible.

As consumers and end-users, who expect value-for-money, affordable services and courteous and responsive service.

As organised partners involved in the mobilisation of resources for development via for profit businesses, non-governmental organisations and community-based institutions.¹²⁰

This shows that the *White Paper on Local Government* outlines different ways in which citizens in different municipalities can engage the local government and expect their outcomes. It shows that citizens exercise democratic accountability through the

¹¹⁶ *White Paper on Local Government* 21.

¹¹⁷ *White Paper on Local Government* 21.

¹¹⁸ *White Paper on Local Government* 21.

¹¹⁹ Parnell *et al Democratising Local Government* 53.

¹²⁰ Section 3.3 of the *White Paper on Local Government*.

election of political leadership for municipalities to ensure that they are transparent, accountable, honest, and follow due processes. It also shows that citizens are entitled to mobilise financial resources with businesses and civil society to advance their collective interests. This aligns with the emphasis on local government for community participation and social inclusion, fostering public value by ensuring that local government is both responsive and accountable for the needs and priorities of the community.¹²¹

4.3.4.3 Developmental local government

The cornerstone of the *White Paper on Local Government* is the notion of a developmental local government, defined as "local government committed to working with citizens and groups within the community to find sustainable ways to meet their social, economic, and material needs and improve the quality of their lives."¹²² This definition alone makes collaboration an overarching concept that underpins the public value approach. The key standards are trust and legitimacy, with elements of dialogue, responsiveness, public opinion, democracy, openness, and citizen involvement, as discussed in 2.3.

The *White Paper on Local Government* identifies four interrelated characteristics of the developmental local government: maximising social development and economic growth, integrating and coordinating, democratic development, and leading and learning.¹²³ Regarding maximising social development and economic growth, the *White Paper on Local Government* states that municipal powers and functions should be exercised to impact the social development of communities.¹²⁴ The focus in this regard should be on meeting the basic needs of the poor through service delivery and the growth of the local economy.¹²⁵

The language used in this characteristic coheres with the main standards of public value, namely outcome achievement underpinned by the common good, social

¹²¹ Section 1.2 of the *White Paper on Local Government*

¹²² *White Paper on Local Government* 17.

¹²³ *White Paper on Local Government* 46.

¹²⁴ *White Paper on Local Government* 46.

¹²⁵ *White Paper on Local Government* 46.

cohesion, public interest, equity, and economic benefits, as discussed in 2.6.1.1 above. The other standard implicated by this characterisation is service delivery quality underpinned by user orientation. Finally, efficiency is an element of stakeholder value, as discussed in 2.6.1.4. Regarding the second characteristic relating to integrating and coordinating, the *White Paper on Local Government* asserts that development can only be effected through the integrated and coordinated efforts of all players (both public and private) in local governance.¹²⁶ It states that "poor coordination between service providers could severely undermine the development effort."¹²⁷ Integrated development planning is one of the most important methods for achieving coordination and integration.¹²⁸ In this regard, IDPs provide powerful tools for municipalities to facilitate integrated and coordinated service delivery.

As can be seen, efficiency, described as the degree to which public organisations achieve the best results for citizens with limited resources they have to work with, is implicated here with its elements of productivity and effectiveness. Poor coordination would not achieve the best results for citizens. The third feature of developmental local government, namely, democratic development, is explained to mean that municipal councils must play a central role in promoting local democracy by "promoting the involvement of citizens and community groups in the design and delivery of municipal programmes."¹²⁹

Regarding the final characteristics of the developmental local government, "a developmental municipality should play a strategic policy-making and visionary role and seek to mobilise a range of resources to meet basic needs and achieve developmental goals."¹³⁰ In practical terms, the *White Paper on Local Government* states that municipalities must be able to bring together coalitions and networks of local interests in order to realise a shared vision.¹³¹ They must also adopt responsive problem-solving and a commitment to open partnerships with businesses, trade

¹²⁶ *White Paper on Local Government* 47.

¹²⁷ *White Paper on Local Government* 48.

¹²⁸ *White Paper on Local Government* 48.

¹²⁹ *White Paper on Local Government* 48-50.

¹³⁰ *White Paper on Local Government* 52.

¹³¹ *White Paper on Local Government* 26.

unions, and community-based organisations. Furthermore, they must enhance local democracy by raising awareness of human rights issues and promoting constitutional values and principles.¹³² The first public value standard that emerges in this leg of local government development is the outcome achievement underpinned by social cohesion¹³³ - which is advanced through coalitions and a network of local interests. In this regard, a commitment to working in open partnerships with businesses, trade unions, and community-based organisations also cements social cohesion and would positively impact employment and the benefits of economic endeavours. Raising awareness of human rights issues also embeds access to knowledge, one of the prongs of outcome achievement.¹³⁴

The *White Paper on Local Government* posits that the outcomes of the development of local government include providing both housing infrastructure and services; creating cities, towns and rural areas that are integrated and liveable; local economic development; and empowerment of communities and redistribution.¹³⁵ These are the public sector results valued by the public in several sectors, and, as such, they embed outcome achievement. Community empowerment and redistribution straddle two public value principles: the benefits of economic endeavours and self-development. To achieve these outcomes, the *White Paper on Local Government* proposed three interrelated approaches that municipalities should follow to become more developmental: integrated development planning and budgeting, performance management, and working with local citizens and partners.¹³⁶

The IDP is a participatory planning process through which the municipality assesses needs, prioritises them, and formulates objectives and strategies to address them.¹³⁷ The formulated strategies must be linked to municipal budgets. This is reminiscent of the trust and legitimacy standards of public value, which places a high premium on citizen involvement, dialogue, listening to public opinion and democracy.¹³⁸ As alluded

¹³² *White Paper on Local Government* 51-52.

¹³³ See 2.6.1.1.

¹³⁴ See 2.6.1.1 on outcome achievement.

¹³⁵ *White Paper on Local Government* 52-53.

¹³⁶ *White Paper on Local Government* 59.

¹³⁷ See 5.3.1.

¹³⁸ See 2.3.4 above.

to in the section dealing with the *Municipal Systems Act* above, participation in developing an IDP is not merely a consultation. The local community must contribute to decision-making by assessing needs, prioritising them, formulating objectives and strategies, and linking them to the budget. This is the fulcrum of the public value standards of trust and legitimacy discussed in 2.3.4.

4.3.4.4 Access to services

Achieving the outcomes of a developmental local government through working with local citizens and partners embeds public value approaches to trust and legitimacy.¹³⁹ The *White Paper on Local Government* also links the development of local government to the realisation of socio-economic rights.¹⁴⁰ After referring to the government's obligation to realise the rights of access to adequate housing, health care, education, food, water, and social security, and the local government's past failure to help those with the greatest need, the *White Paper on Local Government* says that the development local government is characterised by the maximisation of social development, economic growth, integrated coordination, democratising development, and leading and learning.¹⁴¹ This resonates with outcome achievement underpinned by the common good, social cohesion, public interest, and equity. It also rings true for service delivery quality, which describes how the provision of services accommodates the recipients' needs. Meeting basic needs and improving the quality of life of communities, especially of those members and groups within communities that are most often marginalised or excluded, such as women, disabled people, and very poor people, accommodates the special needs of recipients and embeds service delivery quality – thereby creating public value.

The *White Paper on Local Government* defines 'good basic services' as water, sanitation, local roads, stormwater drainage, refuse collection, and electricity.¹⁴² It further states that these are essential to enable people to support family life, find employment, develop their skills, or establish small businesses. It states that the

¹³⁹ See 2.3.4.

¹⁴⁰ Steytler and De Visser *Local Government Law in South Africa*.

¹⁴¹ *White Paper on Local Government* 23.

¹⁴² *White Paper on Local Government* 53.

provision of household infrastructure can particularly make a difference in the lives of women, who usually play a major role in reproductive (domestic) work which sustains the family and the local society."¹⁴³ The values of common good, social cohesion, public interest, fairness, equity, and benefits of economic endeavours that buttress outcome achievement, described as the degree to which the cross-section of the population values the public sector developed results, are implicated here.

The *White Paper on Local Government* encourages municipalities to explore new approaches and alternative service delivery methods.¹⁴⁴ It proceeded from the premise that various options could deliver services guided by "clear criteria such as coverage, cost, quality, and the socio-economic objectives of the municipality."¹⁴⁵ The *White Paper* proposes the following delivery mechanisms from which municipalities can choose: building on existing capacity, corporatisation, public-public partnerships, partnerships with community-based organisations and non-governmental organisations, contracting out leases and concessions (public-private partnerships) and transfers of ownership (privatisation).

Exploring new approaches to delivering services recognises the need to invest in restructuring and reorienting the existing administrative capacity and systems to deliver quality services that accommodate the varied needs of South Africans. This speaks to the service delivery quality. It also speaks of achieving the best possible results for citizens who have limited resources. This embeds efficiency, as discussed in Chapter 2.

4.3.5 Integrated Urban Development Framework

4.3.5.1 Overview of the Integrated Urban Development Framework

The *Integrated Urban Development Framework* is a policy initiative that is coordinated by the Department of Cooperative Governance and Traditional Affairs. Its adoption in 2016 was underpinned by the need to foster a shared understanding across government and society about how best to manage urbanisation and enhance

¹⁴³ *White Paper on Local Government* 2.1.

¹⁴⁴ *White Paper on Local Government* 159.

¹⁴⁵ *White Paper on Local Government* 159.

economic development, job creation and living conditions of South Africans.¹⁴⁶ It is an acceptance of the reality that there is a need to reorganise the urban settlement system so that cities and towns become more inclusive, resource-efficient, and better prepared for the future.¹⁴⁷ Hence, the *Integrated Urban Development Framework* recognises the critical role of cities and towns in shaping the country's future and promotes an integrated approach to urban planning that can indirectly enhance public value by emphasising spatial transformation, inclusive growth and good governance – all of which are building blocks of public value as discussed in Chapter 2 of this study.¹⁴⁸

The *Integrated Urban Development Framework* is seen as a response to a directive by the National Development Plan to develop an urban development policy that will cater to increasing urbanisation trends. It aims to ensure proper planning and necessary infrastructure to manage urbanisation and thus create resilient and inclusive cities and towns.¹⁴⁹ The key outcome of the *Integrated Urban Development Framework* is spatial transformation aimed at inclusive, resilient, and liveable urban settlements and at addressing the unique conditions and challenges facing South Africa's cities and towns.¹⁵⁰ The *Integrated Urban Development Framework* identifies different policy levers and priorities for achieving spatial transformation. Policy levers relate to integrated urban planning and management, transport and mobility, sustainable human settlements, urban infrastructure, efficient land governance and management, inclusive economic development, empowered active communities, effective urban governance, and sustainable finances.¹⁵¹

According to the *Integrated Urban Development Framework*, these nine policy levers are premised on the understanding that integrated urban planning forms the basis of achieving integrated urban development. Integrated urban development follows a specific sequence of urban policy actions. One of them is integrated transport, which

¹⁴⁶ *Integrated Urban Development Framework* 7-8.

¹⁴⁷ *Integrated Urban Development Framework* 7-8.

¹⁴⁸ *Integrated Urban Development Framework* 14-30.

¹⁴⁹ *Integrated Urban Development Framework* 4.

¹⁵⁰ *Integrated Urban Development Framework* 14-33.

¹⁵¹ *Integrated Urban Development Framework* 42, 51, 59, 68, 75, 82, 91, 98, 105.

informs targeted investments into integrated human settlements underpinned by integrated infrastructure network systems and efficient land governance. This will require effective governance and financial reform to enable and sustain these policy actions. Altogether, these factors can trigger economic diversification and community inclusion and empowerment.¹⁵²

4.3.5.2 Integrated urban development and management

The first lever, integrated urban development and management, is explained by the *Integrated Urban Development Framework* in the following terms:

Cities and towns that are well planned and efficient capture the benefits of productivity and growth, invest in integrated social and economic development, and reduce pollution and carbon emissions, resulting in a sustainable quality of life for all citizens.¹⁵³

The prudent use of land and natural resources for development that is evident in this extract has a bearing on efficiency, which is a core tenet of public value.¹⁵⁴ It embeds the public value standards of outcome achievement underpinned by social cohesion, common good, employment, and economic benefits. Integrated urban development and management promote spatial justice, quality, efficiency, sustainability, and resilience, which embed public value standards.¹⁵⁵ For example, spatial justice relates to outcome achievement, whereas spatial quality relates to service delivery quality – both of which are public value measurement standards.¹⁵⁶

4.3.5.3 Integrated transport and mobility

The second policy lever relates to integrated transport and mobility to cities and towns where goods and services are transported efficiently and where people can walk, cycle, and use different transport modes to access economic opportunities, education institutions, health facilities, and places of recreation.¹⁵⁷ Integrated transport and mobility contribute to creating compact and connected cities that are dense and

¹⁵² See *Integrated Urban Development Framework* 42, 51, 59.

¹⁵³ *Integrated Urban Development Framework* 39.

¹⁵⁴ See 2.6.1.4 above.

¹⁵⁵ *Integrated Urban Development Framework* 42-43.

¹⁵⁶ See 2.6.1.1 and 2.6.1.3 above.

¹⁵⁷ *Integrated Urban Development Framework* 51-58.

efficient, resulting in enhanced mobility and connectivity. This improves access to services and opportunities, greater productivity, education level, and employment by reducing the time and cost spent on travel (either going to work or looking for work), denser and more efficient urban forms; and reducing emissions and ensuring efficient use of resources.¹⁵⁸ These developmental aspirations speak to public value through the various dimensions discussed in 2.7.

The *Integrated Urban Development Framework* contrasts this with the current reality of South Africans spending a long time commuting to and from work, resulting in more than 50% of urban residents spending more than 20% of their declared household income on transport, thus exacerbating poverty and lack of access to opportunities.¹⁵⁹ The key public value standards that emerge from the foregoing are efficiency through productivity, efficient use of resources, reduced time and cost of travel; and outcome achievement (enhanced mobility and connectivity, greater education and employment, and denser and more efficient urban forms which are the main dimensions of public value as discussed in 2.7 above.

4.3.5.4 Integrated sustainable human settlements

Integrated sustainable human settlements constitute the third policy level.¹⁶⁰ In this way, the *Integrated Urban Development Framework* envisions cities and towns that are liveable, integrated, and multi-functional, in which all settlements are well connected to essential social services and work opportunities.¹⁶¹ It states that addressing apartheid geography requires creating integrated and sustainable human settlements and conditions that are safe, humane and environmentally friendly.¹⁶² This speaks to the building blocks of public value discussed in 2.3 and the generality of Chapter 2 of this study.

The ultimate outcomes of this lever are improving the quality of life for communities through service delivery and a healthy environment – both of which are building blocks

¹⁵⁸ *Integrated Urban Development Framework* 52.

¹⁵⁹ *Integrated Urban Development Framework* 52.

¹⁶⁰ *Integrated Urban Development Framework* 59-67.

¹⁶¹ *Integrated Urban Development Framework* 60.

¹⁶² *Integrated Urban Development Framework* 60.

of public value creation in local government. This policy lever embodies tenets of public value related to outcome achievement (improved quality of life, economic opportunities, and cohesive and vibrant societies) as analysed in 2.6.1.1. The proliferation of marginalised and disconnected settlements on the periphery of cities that lack economic logic (being far from economic opportunities) makes access to socio-economic opportunities difficult, especially for low-income households,¹⁶³ and thus creates an impression that local government has failed to create public value by providing adequate housing.

4.3.5.5 Integrated urban infrastructure

This fourth policy lever seeks to transition cities and towns from traditional approaches to resource-efficient infrastructure systems, thereby providing universal access and inclusive economic growth.¹⁶⁴ The *Integrated Urban Development Framework* states in this regard that an "integrated urban infrastructure that is resource-efficient supports the development of efficient, equitable and resilient cities that provide access to social and economic opportunities."¹⁶⁵ Furthermore, this policy level is essential to achieve integrated transport and mobility (policy lever 2), sustainable human settlements (policy lever 3), inclusive economic growth (policy lever 6), and urban resilience.

The *Integrated Urban Development Framework* envisages that integrated urban infrastructure will result in universal access to basic social and other services that support equality and inclusivity, environmental benefits through the protection of ecological resources, sustained economic activity, growth and job creation, and urban resilience. Hence, municipalities must work to realise these aspirations. In the context of public value, access to basic services relates to the common good and the benefits of economic endeavours, whereas equality and inclusivity denote social cohesion, fairness, and equity, all of which underpin outcome achievement.¹⁶⁶ Sustained economic activity, growth, and job creation, in turn, represent the public interest,

¹⁶³ *Integrated Urban Development Framework* 60.

¹⁶⁴ *Integrated Urban Development Framework* 68.

¹⁶⁵ *Integrated Urban Development Framework* 69.

¹⁶⁶ See 2.2.4.

employment, and benefits of economic endeavours as well as elements of the public value standard of outcome achievement.¹⁶⁷

4.3.5.6 Efficient land governance and management

The fifth policy lever relates to enabling municipalities to grow their revenue base through rates and taxes to businesses and individuals who do business and take other opportunities in their localities.¹⁶⁸ The income generated from these investments can be used to fund public services and infrastructure to benefit the public, resulting in improved transport networks, affordable housing, and more public spaces for recreation and social interaction – thereby creating public value.

The following analysis of the main local government statutes that may create and enhance public value in municipalities sheds light on the commitment of the post-apartheid South African government to implement the above policy framework on creating public value in local government. The applicable statutes include the *Municipal Structures Act*, *Municipal Systems Act* and *Municipal Finance Act*.

4.4 Legislative framework for creating public value in local government

4.4.1 Local Government: Municipal Structures Act

4.4.1.1 Objectives of the *Municipal Structures Act*

This statute regulates several aspects of the local government, such as the establishment of municipalities according to their categories, internal governance systems and structures, and office-bearers.¹⁶⁹ It was enacted to regulate local government in a way that would advance democracy and nation-building to alleviate some of the most egregious violations of human rights occasioned by the apartheid system, such as poverty, gross inequalities, and poor living conditions.¹⁷⁰ The *Municipal Structures Act* seeks to support municipalities in fulfilling their constitutional obligations to ensure sustainable, effective and efficient municipal services, promote

¹⁶⁷ See 2.3.10.

¹⁶⁸ *Integrated Urban Development Framework* 75.

¹⁶⁹ See the long title of the *Municipal Structures Act*.

¹⁷⁰ See the preamble to the *Municipal Structures Act*.

social and economic development, and encourage a safe and healthy environment through working with communities to create environments and human settlements in which all people can lead uplifted and dignified lives.¹⁷¹

The *Municipal Structures Act* indirectly requires municipalities to create and maintain public value through democracy, social and economic development, efficient municipal services, citizen involvement, and self-development. As discussed in Chapter 2, these values affect trust, legitimacy, outcome achievement, service delivery quality, and efficiency.¹⁷² The applicable sections of the *Municipal Structures Act* are analysed below in the context in which they may indirectly create public value. The selected provision of the *Municipal Structures Act* that may create public value pertains to community participation in local government¹⁷³ and community and individual presentation in local government.¹⁷⁴

4.4.1.2 Community participation

The *Municipal Structures Act* makes extensive provision for community participation in local government, as will be discussed in this section. As already seen in Chapter 2 of this study, community participation in government (including local government) may create trust and legitimacy, both of which hinge on democracy and listening to public opinions, among other tenets of public value.¹⁷⁵ Regarding its overall duty to encourage and facilitate community participation, the *Municipal Structures Act* requires each municipal council to review its processes and involve the community in its affairs annually.¹⁷⁶ A municipality's executive mayor or executive committee must report on the involvement of communities and community organisations in the affairs of the municipality.¹⁷⁷ The *Municipal Structures Act* provides that the executive mayor or executive committee must also give regard to public views and report to the council regarding the effects of consultation.¹⁷⁸ These provisions place a duty on the

¹⁷¹ Preamble to the *Municipal Structures Act*.

¹⁷² See the analysis of selected tenets of public value in section 2.3 above.

¹⁷³ See the discussion in 4.4.1.2

¹⁷⁴ See the discussion in 4.4.1.4.

¹⁷⁵ See 2.3.4 above.

¹⁷⁶ Section 19(2)(c) *Municipal Structures Act*.

¹⁷⁷ Sections 44(3)(g) and 56(3)(g) *Municipal Structures Act*.

¹⁷⁸ Sections 44(3)(h) and 56(3)(h) of the *Municipal Structures Act*.

municipal council and its executive structure to reflect annually on the municipality's community participation strategy and its effects on decision-making.

Furthermore, the *Municipal Structures Act* places responsibility on the municipality's executives to ensure that the input obtained through community participation is considered.¹⁷⁹ It is suggested that this provision differs from the provisions requiring annual "reflection" because it is aimed at individual municipal decisions. The executive ensures that every municipal decision considers the public perspective.¹⁸⁰ This resonates with tenets of public value upon which trust and legitimacy hinge: accountability, dialogue, responsiveness, listening to public opinion, democracy, integrity, openness, citizen involvement, professionalism, honesty and self-development.¹⁸¹

In the context of community participation, the *Municipal Structures Act* reiterates the duty of the municipal council to develop mechanisms to consult the community and adds a specific reference to the duty to consult community organisations.¹⁸² This duty pertains to prioritising community needs and designing delivery mechanisms to meet those needs.¹⁸³ This unpacks several tenets of public value, including effective and efficient service delivery.¹⁸⁴ It also infers other tenets of public value, including ensuring the provision of services to communities in a sustainable manner, promoting social and economic development, and promoting a safe and healthy environment.¹⁸⁵

4.4.1.3 Community and individual representation

The public value tenet of representation is neatly captured in section 63(1)(a), read with Item 2 of Schedule 4 to the *Municipal Structures Act*. Section 63(1)(a) states that ward councillors of wards that form the subcouncil area are members of that particular subcouncil. Item 2 of Schedule 4 of the *Municipal Structures Act*, proportional representation seats on a subcouncil must be allocated to parties represented in the

¹⁷⁹ See, for example, Part 6 of the *Municipal Structures Act*.

¹⁸⁰ Steytler and De Visser *Local Government Law in South Africa* 6-8 – 6-9.

¹⁸¹ See 2.3.4 specifically and 2.3, generally.

¹⁸² Section 19(1)(3) of the *Municipal Structures Act*.

¹⁸³ In this context, see also, section 152 of the *Constitution*.

¹⁸⁴ For a discussion of quality service delivery as a tenet of public value, see 2.3.11.

¹⁸⁵ See 2.3 above on the tenets of public value.

metropolitan council in a manner that allows parties and interests to be fairly reflected in the metropolitan subcouncil in a manner consistent with democracy, taking into account the parties and interests reflected in the components of ward councillors of that metropolitan subcouncil.

Section 44(2) of the *Municipal Structures Act* lists the functions of the executive committee. These include identifying the needs of the municipality, reviewing and evaluating those needs in order of priority, and recommending municipal council strategies, programs, and services to address priority needs. It stipulates that needs that are prioritised are the ones in the IDP.¹⁸⁶ The *Municipal Structures Act* also stipulates that the executive committee must make estimates of revenue and expenditure, taking into account any applicable national and provincial development plans, and recommend or determine the best methods to deliver municipal strategies, programs, and services to the maximum benefit of the community.¹⁸⁷ This provision implies the public value tenets of effective and efficient service delivery, as well as financial sustainability.¹⁸⁸

The *Municipal Structures Act* further provides that the executive committee of a municipality must recommend or determine the best methods, including partnerships, to deliver services to the maximum benefit of the community.¹⁸⁹ This provision may lead to the creation of public value through efficiency, service delivery quality and trust and legitimacy, leading to outcome achievement.¹⁹⁰ Delivering services through partnerships is at the core of public value, as it aligns with the public value tenets of collaboration and co-production.¹⁹¹

Section 56 of the *Municipal Structures Act* underscores and embeds public value in the same manner as section 44(2), albeit with reference to the executive mayor. It could also be argued that another provision of the *Municipal Structures Act* that advances public value is section 84. This section deals with the division of powers and functions

¹⁸⁶ Section 44(2) of the *Municipal Structures Act*.

¹⁸⁷ Section 44(2) of the *Municipal Structures Act*.

¹⁸⁸ See sections 2.3.10 and 2.3.11 above.

¹⁸⁹ Section 44(2) of the *Municipal Structures Act*.

¹⁹⁰ See the tenets of public value in 2.3.

¹⁹¹ See the discussion above in 2.3.8.

between district municipalities and local municipalities. It employs the subsidiarity principle in terms of which powers are only assigned to a local municipality if the matter is most effectively administered locally and the municipality has the capacity to administer it.¹⁹² This reinforces the public value tenets of effective and efficient service delivery.¹⁹³

4.4.2 *Local Government: Municipal Systems Act*

4.4.2.1 Objectives of the *Municipal Systems Act*

The *Municipal Systems Act* indirectly gives effect to several tenets of public value, which are captured in the preamble. The preamble of this statute states the purpose of this enactment, which can be summarised as follows:

- (a) To establish principles, mechanisms and processes that will enable municipalities to realise social and economic development progressively.
- (b) To ensure universal access to affordable basic services in municipalities.
- (c) To define the legal nature of municipalities to include local communities and political and administrative structures of municipalities.
- (d) To regulate the exercise and performance of municipal powers and functions.
- (e) To provide for community participation in municipalities.
- (f) To regulate planning, performance management and mobilisation of resources towards the achievement of developmental local government.
- (g) To establish mechanisms for financial sustainability through service tariffs and credit control in local government.
- (h) To provide a framework for the provision of effective and efficient service delivery by municipalities.

¹⁹² See De Visser 2010 *Stellenbosch Law Review* 90.

¹⁹³ See the discussion in 2.3.11.

- (i) To provide the legal framework for other spheres of government to support, monitor and set standards for municipalities to become efficient and development-oriented.

These objectives of the *Municipal Systems Act* illustrate that it may indirectly create public value through service delivery, public participation, financial sustainability, and performance management, among other tenets of public value discussed in this study.¹⁹⁴

4.4.2.2 Community participation

The *Municipal Systems Act* is the primary statute that gives legislative effect to the constitutional mandate of municipalities to facilitate public participation in local government.¹⁹⁵ To reinforce the right to public participation in local government matters,¹⁹⁶ the entire Chapter 4 of the *Municipal Systems Act* is dedicated to community participation in local government. It provides for the right of communities to submit recommendations, complaints, or representations to their municipalities¹⁹⁷ and to expect prompt responses.¹⁹⁸ As such, Chapter 4 of the *Municipal Systems Act* advances public value tenets of responsiveness, openness and citizen involvement.¹⁹⁹ These tenets of public value create trust and legitimacy, which are enhanced by the right of local community members to be informed of the municipal council's decisions and to expect the council to disclose information about its business and financing.²⁰⁰ Communities in municipalities have the right to attend meetings of the municipal council and its committees and demand that the council act transparently and impartially.²⁰¹ This embeds public value tenets such as trust and legitimacy, accountability, openness and public participation.²⁰²

¹⁹⁴ See 2.3 on tenets of public value.

¹⁹⁵ See 4.2.4.1 on the constitutional obligation of municipalities to facilitate public participation.

¹⁹⁶ Section 5 of the *Municipal Systems Act* guarantees the right to public participation.

¹⁹⁷ Section 5(1)(a)(ii) of the *Municipal Systems Act*.

¹⁹⁸ Section 5(1)(b) of the *Municipal Systems Act*.

¹⁹⁹ See 2.3 above.

²⁰⁰ Section 5(1)(c) and (d) of the *Municipal Systems Act*.

²⁰¹ Section 5(1)(e) of the *Municipal Systems Act*.

²⁰² See 2.3 above for a discussion of these tenets of public value.

It must be noted that although the *Municipal Systems Act* provides communities with several rights, it also imposes corresponding obligations on them.²⁰³ For example, the right of community members to access municipal services is linked to their duty to pay service fees, rates, and taxes.²⁰⁴ Similarly, local community members have the right to participate in municipal decision-making, which is linked to a duty to utilise the procedures and mechanisms established to enable participation.²⁰⁵ Furthermore, members of the local community must allow municipal officials reasonable access to their property for the performance of municipal functions, comply with municipal bylaws, and respect the municipal rights of other members of the local community.²⁰⁶

The *Municipal Systems Act* further spells out the various duties of municipal administrations towards local communities, including responsiveness to community needs, establishing communication channels with local communities, informing local communities about all services to which they are entitled, and informing local communities about the management of their municipalities, including the expenditure of municipal funds.²⁰⁷ These requirements align with public value tenets of responsiveness, transparency, co-production, and collaboration, as discussed in 2.3 above.

The *Municipal Systems Act* requires each municipality to encourage community participation in the affairs of the municipality and create conditions for it.²⁰⁸ This means that a municipality must contribute to building the capacity of the community to enable it to participate in its affairs.²⁰⁹ This further entails that the municipality must use its resources and allocate funds annually in its budget as appropriate for community participation.²¹⁰ Similarly, the capacity of the staff and councillors to foster community participation must be established.²¹¹ This was reiterated by the court in *Borbet South Africa (Pty) Ltd v Nelson Mandela Bay Municipality*, where the court said

²⁰³ Section 5(2) of the *Municipal Systems Act*.

²⁰⁴ Section 5(2)(b) of the *Municipal Systems Act*.

²⁰⁵ Section 5(2)(a) of the *Municipal Systems Act*.

²⁰⁶ Section 5(2)(c)-(e) of the *Municipal Systems Act*.

²⁰⁷ Section 6 of the *Municipal Systems Act*.

²⁰⁸ Section 16(1)(a) of the *Municipal Systems Act*.

²⁰⁹ Section 16(1)(b)(1) of the *Municipal Systems Act*.

²¹⁰ Section 16(1)(c) of the *Municipal Systems Act*.

²¹¹ Section 16(1)(b)(ii) of the *Municipal Systems Act*.

that "in the context of local government, more is required than public meetings and the publication of information."²¹² It observed that a local council must establish mechanisms that are ideal for public participation and build the capacity of its community to utilise those mechanisms in participating in local council affairs.²¹³ The court further said that this duty entails allocating resources and ensuring that proper structures are in place to realise the constitutional duty to facilitate public participation in municipal affairs.²¹⁴

The *Municipal Systems Act* provides a non-exhaustive list of important municipal events in which community participation is particularly important, including preparing IDPs, establishing municipal performance management systems, preparing municipal budgets, and making strategic decisions relating to the provision of municipal services.²¹⁵ The tenets of public value that are evident in this statute include public participation, collaboration and co-production, responsiveness, transparency and accountability and trust and legitimacy, as discussed in 2.3. They also include effective and efficient service delivery, as well as trust and legitimacy, which are embedded in section 16.

Section 17 of the *Municipal Systems Act* further requires Municipal Councils to develop mechanisms to consult communities and community organisations in performing their functions and exercising local government powers.²¹⁶ It lists several structures and mechanisms for community participation. It states that participation must occur through political structures established in terms of it.²¹⁷ The *Municipal Systems Act* defines political structures as Municipal Councils, committees or other collective structures of municipalities that are elected, designated or appointed in terms of it.²¹⁸

In summary, the provisions of the *Municipal Systems Act* make an important distinction between the various types or levels of community participation. These include access

²¹² *Borbet South Africa (Pty) Ltd v Nelson Mandela Bay Municipality* 2014 5 SA 256 (ECP) (hereafter *Borbet v Nelson Mandela Bay*) para 80.

²¹³ *Borbet v Nelson Mandela Bay* para 80.

²¹⁴ *Borbet v Nelson Mandela Bay* para 80.

²¹⁵ Section 16(1) of the *Municipal Systems Act*.

²¹⁶ Section 17(2)(d) of the *Municipal Systems Act*.

²¹⁷ Section 17(1)(a) of the *Municipal Systems Act*.

²¹⁸ Section 1 of the *Municipal Systems Act*.

to information,²¹⁹ avenues for local communities to petition their municipalities,²²⁰ consultation of local communities,²²¹ and contribution of local communities to municipal decision-making.²²² This is a resounding adoption of the public value tenets of public participation, transparency, and trust and legitimacy discussed in 2.3. Accountability, responsiveness, listening to public opinion, openness, collaboration and co-production, public participation and trust and legitimacy are expressions of various community participation types found in the *Municipal Systems Act*. As seen in Chapter 2 of this study, these tenets collectively contribute to ensuring efficient and effective service delivery.²²³

4.4.2.3 Efficient and effective service delivery

In addition to advancing the public value tenet of community participation, the *Municipal Systems Act* incorporates the public value tenet of quality service delivery by imposing an obligation on municipalities to ensure that all members of local communities have access to basic municipal services, including clean water.²²⁴ In *Mshengu v Msunduzi Local Municipality*,²²⁵ the court held that a municipality could not absolve this responsibility by merely arguing that it was not a water service authority.²²⁶ The *Mshengu v Msunduzi* judgment deals with a commonly raised reason advanced by municipalities for not providing basic services to informal dwellers living on privately owned land. The court made it clear that the constitutional duty on municipalities to provide basic services to all persons within their jurisdictions (including those on private farms in rural areas) remains in place even where the private landowner obstructs the municipality from providing services. Simply put, the obligation does not fall away when the land is privately owned, as owners need to be engaged to facilitate the provision of services. The court confirmed that a landowner could not unreasonably withhold consent for the municipality to provide services and

²¹⁹ Sections 5(1)(d), 6(2)(e) and (f); 17(2)(b), 18(1),18(2), 21(1), 21A(1), 21A(2), 28(3) and 78(3)(a) of the *Municipal Systems Act*.

²²⁰ Sections 5(1), 17(2)(a) and 20 of the *Municipal Systems Act*.

²²¹ Sections 5(1)(c) and 17(2)(b) – (d) of the *Municipal Systems Act*.

²²² Sections 5(1)(a), 17(4), 29(1)(b)(i) - (ii) and 42 of the *Municipal Systems Act*.

²²³ See the discussion in 2.3.11 above.

²²⁴ Section 73(1)(c) of the *Municipal Systems Act*.

²²⁵ *Mshengu v Msunduzi Local Municipality* [2019] 4 All 469 (KZP) (hereafter *Mshengu v Msunduzi*).

²²⁶ *Mshengu v Msunduzi* para 65.

that if it does, the municipality should seek relief from the courts so that it can fulfil its duties.

4.4.3 Local Government: Municipal Finance Management Act

The *Municipal Finance Management Act* and the regulations promulgated under it form part of the larger legal framework for regulating the use of public financial resources. Given that the larger portion of this statute in relation to the creation of public value is explored in detail in Chapter 5, this section provides a cursory glance at the public value-creating attributes of the *Municipal Finance Management Act*. As the title suggests, it was enacted to govern financial management in local government. The overarching aim of the *Municipal Finance Management Act* is to secure sound and sustainable financial management in municipalities.²²⁷ This statute contributes to the creation and maintenance of public value in that its object is to "secure sound and sustainable management of the fiscal and financial affairs of municipalities and municipal entities by establishing norms and standards and other requirements for"²²⁸ several tenets of public value. These include transparency, accountability and responsibility for municipal finances; collection of revenue and expenditure; budgetary and financial planning processes; and borrowing, among others.²²⁹

As seen above, the *Municipal Finance Management Act* indirectly creates public value by establishing norms and standards for the handling of the fiscal and financial affairs of municipalities. The establishment of these norms and standards may be viewed as a way of preventing corruption and ensuring prudent use of municipal resources. Financial reports ensure that complete and accurate information on the handling of public finance by municipalities is provided.²³⁰ As will be shown in the next chapter, the compilation of such reports ensures proper oversight in the use of public funds and transparency and accountability to prevent the abuse of public resources for the benefit of individuals.²³¹ The norms and standards for the management of municipal revenues, expenditures, assets and liabilities, and financial dealings also create public

²²⁷ Section 2 of the *Municipal Finance Management Act*

²²⁸ Section 2 of the *Municipal Finance Management Act*.

²²⁹ Section 2 of the *Municipal Finance Management Act*.

²³⁰ Enwereji and Uwizeyimana 2019 *African Renaissance* 143-144.

²³¹ See 5.5.

value by ensuring that they are appropriate and do not expose the financial standing of municipalities to unnecessary vulnerability.²³²

As will be shown in Chapter 5 of the study, the *Municipal Finance Management Act* has the potential to contribute to public value by establishing a comprehensive legal framework for prudent, transparent, and accountable financial management in municipalities.²³³ This legal framework may prevent corruption, abuse of public resources, and other forms of financial mismanagement by ensuring proper financial reporting, mitigating instances of inappropriate borrowing, and safeguarding supply chain management from manipulation.²³⁴ Arguably, this can bolster public trust in municipalities, enhance their legitimacy, and improve service delivery, among other attributes of public value analysed in 2.3.

4.5 Legal status of municipalities in the system of cooperative government

As seen in the first two sections of this chapter, the *Constitution* brought about institutional transformation by rearranging government, which now consists of three distinct, interrelated and interdependent spheres at the national, provincial and local levels.²³⁵ All these spheres of government must work in equal partnerships within the parameters of the principles of co-operative government outlined in Chapter 3 of the *Constitution*. The *Constitution* and post-apartheid legislation have entirely changed the government structure through provisions for transformative justice and democracy.²³⁶ This rearrangement has changed the local government's legal face, resulting in a new dispensation of municipalities. At present, the local government sphere consists of municipalities with executive and legislative authority vested in democratically elected municipal councils.²³⁷ Municipalities exercise a considerable

²³² See the further discussion in 5.4.2.

²³³ See 5.4 and 5.5.

²³⁴ See 5.4 and 5.5.

²³⁵ Section 40(1) of the *Constitution*. See also Du Plessis and Kotzé 2014 *Journal of African Law* 148.

²³⁶ Du Plessis and Kotzé 2014 *Journal of African Law* 148.

²³⁷ Section 151 of the *Constitution*.

degree of autonomy from provincial and national spheres of government,²³⁸ including fiscal autonomy to levy rates.²³⁹ In theory, this meant that the *Constitution* transformed local government from an insignificant level to a distinct sphere with self-governing powers.²⁴⁰

The *Constitution* also changed the mandate of local government regarding its duty to provide basic services to communities sustainably.²⁴¹ It requires municipalities to be developmentally oriented by structuring and managing their resources (budgeting) and planning processes to prioritise the basic needs of their local communities.²⁴² As equal partners in the intergovernmental area, commitment to healing past divisions and establishing societies based on democratic values, social justice, and fundamental human rights is equally applicable to the local government sphere.²⁴³

Although the local government sphere exercises autonomy regarding its legislative and executive authority, the *Constitution* recognises the need for supervision, monitoring and oversight by provincial and national spheres.²⁴⁴ Such supervision and intervention are permissible only if they are intended to enhance the capacity of municipalities to execute their constitutional obligations and to fulfil their duties to local communities²⁴⁵ or if municipalities fail to deliver on their constitutional obligations, like providing a basic service.²⁴⁶ Supervision and interventions are supporting mechanisms that should occur only within the spirit of co-operative governance in Chapter 3 of the *Constitution*. Section 41 of the *Constitution* lists the principles of co-operative and intergovernmental affairs. It provides that all spheres of

²³⁸ Du Plessis "The Global Aspiration of "Safe, Sustainable, Resilient and Inclusive" Cities: South African Local Government Shaping Up" 10. See also, Fuo and Pallangyo 2023 *Journal of Comparative Law in Africa* 1, on the high degree of autonomy of South African municipalities.

²³⁹ Fuo 2023 *Obiter* 232. See also, Fuo 2022 *Stellenbosch Law Review* 484 on the constitutional competences of municipalities.

²⁴⁰ Cameron 2001 *Local Government Studies* 87.

²⁴¹ See s 152 of the *Constitution*.

²⁴² Section 153(a) of the *Constitution*.

²⁴³ Preamble to the *Constitution*.

²⁴⁴ See s 154 of the *Constitution*.

²⁴⁵ See *Premier, Gauteng v Democratic Alliance; All Tshwane Councillors who are Members of the Economic Freedom Fighters v Democratic Alliance; African National Congress v Democratic Alliance* [2021] ZACC 34 (hereafter *Premier, Gauteng v Democratic Alliance*) paras 161; 179.

²⁴⁶ See Fuo 2017 *De Jure Law Journal* 324 on permissible intrusions into the autonomy of municipalities.

government and all organs of state within each sphere must secure the well-being of the people of South Africa and cooperate with one another, among other things. Pursuant to its obligation to enact legislation to bring these principles of co-operative governance and intergovernmental relations into effect,²⁴⁷ Parliament enacted the *Intergovernmental Relations Framework Act* 13 of 2005.

The principles of cooperative government and intergovernmental relations in section 41 of the *Constitution* are aligned with the duties imposed on national and provincial governments in section 154 of the *Constitution*. Section 154(1) obliges national and provincial governments to support and strengthen the capacity of municipalities to manage their own affairs, exercise their powers, and perform their functions. This must be done using legislation and through any other measures deemed necessary. Section 154(2) provides that when Parliament seeks to enact legislation that affects the status, institutions, powers and functions of municipalities, it must publish drafts of such legislation before their introduction in Parliament in order to allow organised local government (the South African Local Government Association), individual municipalities and interested community members to submit representations regarding such legislation.

These provisions affirm that national and provincial governments should ensure the use of legal and other governance instruments to assist particularly struggling municipalities in delivering constitutional mandates. The supervisory powers of national and provincial governments entail the power to intervene, monitor, support, and regulate municipalities.²⁴⁸ The following analysis discusses various forms of monitoring and support programs the national government has provided to municipalities. However, it must be noted that this section is not intended to analyse everything but has selected specific initiatives that bode well with the broader objectives of this study on creating public value. The idea behind this approach is to demonstrate that although municipalities exercise some autonomy under the *Constitution*, they receive various forms of support from the national government and

²⁴⁷ Section 41(2) of the *Constitution*.

²⁴⁸ Freedman *Constitutional Law: Structures of Government* 311; Steyler and De Visser "Local Government" 115-118.

that such support indirectly enhances their ability to create public value through service delivery, among others. The significance of this is that it indirectly acknowledges that the creation of public value is not a sole municipal obligation but that the provincial and national spheres of government have a role to play by supporting municipalities.

The constitutional autonomy of municipalities has been confirmed in various cases. In *Fedsure Life Assurance Limited v Greater Johannesburg Transitional Metropolitan Council*, the Constitutional Court observed that unlike in the past, post-apartheid local government is "entitled to certain powers, including the power to make by-laws and impose rates."²⁴⁹ For this reason, local government is no longer dependent on Parliament and provincial governments to function.²⁵⁰ The Court explained that in the current constitutional dispensation, the exercise of municipal powers may only be subject to constitutional legislation and judicial review on the basis of legality.²⁵¹ The Court indicated that the power of municipalities to impose rates and taxes was a legislative one, which municipalities enjoyed in terms of the Constitution.²⁵²

In *City of Cape Town v Robertson*, the court reiterated the entrenched powers of local government as follows:

The Constitution expressly precludes the national or a provincial government from impeding the proper exercise of powers and functions of municipalities. Thus a municipality has the right to govern the local government affairs of its area and community. However, the duties, powers and rights of municipalities have to be exercised subject to national or provincial legislation as provided for in the Constitution.²⁵³

The court further observed that local government is "inviolable and possesses the constitutional latitude within which to define and express its unique character" subject

²⁴⁹ *Fedsure Life Assurance Ltd v Greater Johannesburg Transitional Metropolitan Council* 1998 (12) BCLR 1458 (CC) (hereafter *Fedsure Life Assurance Ltd v Greater Johannesburg Transitional Metropolitan Council*) para 37.

²⁵⁰ *Fedsure Life Assurance Ltd v Greater Johannesburg Transitional Metropolitan Council* para 37.

²⁵¹ *Fedsure Life Assurance Ltd v Greater Johannesburg Transitional Metropolitan Council* para 39.

²⁵² *Fedsure Life Assurance Ltd v Greater Johannesburg Transitional Metropolitan Council* para 41.

²⁵³ *City of Cape Town v Robertson* 2005 2 SA 323 (CC) (hereafter *City of Cape Town v Robertson*) para 59.

to constraints permissible under the *Constitution*.²⁵⁴ In this regard, the court went further to reiterate the powers, functions, rights and duties of municipalities.²⁵⁵

In *Body Corporate of the Overbeek Building, Cape Town v Independent Outdoor Media (Pty) Ltd*,²⁵⁶ the court examined the manner in which the *Constitution* guarantees the legislative independence of municipalities and observed that section 156(2) of the *Constitution* gives municipalities the powers to adopt by-laws over building regulations.²⁵⁷ The court affirmed that:

The independent and exclusive legislative authority of municipalities is constitutionally buttressed in unambiguous terms in that it is indicated that the executive and legislative authority of a municipality is vested in the various councils of the municipalities. Put in another way, there are no constitutional provisions that empower anyone else other than the municipalities to make by-laws or approve any by-laws made by municipalities.²⁵⁸

The court went further to comment on the powers of national and provincial governments to regulate and supervise local government.²⁵⁹

4.6 Intergovernmental support for local government

As part of supporting municipalities, the national government spent considerable sums of money on various forms of capacity-building and support for local government.²⁶⁰ This entails various technical and other support initiatives to improve the capabilities of municipalities, which have been undertaken under different code names. These support initiatives are discussed below, starting with Project "Consolidate" in 2004. This project was initiated by the Department of Provincial and Local Government (now CoGTA) and was intended to be run until 2006 to address the challenges faced by local government. According to Project Consolidate, the main challenges faced by local

²⁵⁴ *City of Cape Town v Robertson* para 60.

²⁵⁵ *City of Cape Town v Robertson* para 61.

²⁵⁶ *Body Corporate of the Overbeek Building, Cape Town v Independent Outdoor Media (Pty) Ltd* 2022 4 SA 167 (WCC) (hereafter *Body Corporate of the Overbeek Building*).

²⁵⁷ *Body Corporate of the Overbeek Building* para 22.

²⁵⁸ *Body Corporate of the Overbeek Building* para 20.

²⁵⁹ *Body Corporate of the Overbeek Building* paras 27, 28, 30, 33.

²⁶⁰ Municipal Demarcation Board *Municipal Powers and Functions Capacity Assessment 2018: Sectoral Report: Housing* 9.

government in 2004 included, among other things, basic service delivery issues.²⁶¹ The program had two major components: targeted hands-on support and engagement to build capacity in municipalities and systematic refinement of policy, fiscal, and institutional matters.²⁶² The Project Consolidate support model sought to use partnerships and service delivery facilitators (mostly consultants), selected based on their skills in relation to the type of engagement required.²⁶³ The focus of facilitators was on specific municipal systems, such as finance or billing systems.²⁶⁴ Information on the impact of Project Consolidate was not immediately available at the time of writing.

In 2009, the national government developed the Local Government Turnaround Strategy, a program of action and blueprint for better service delivery.²⁶⁵ This strategy sought to promote responsive, accountable, effective, and efficient local government.²⁶⁶ The program was a countrywide intervention concerned with improving performance, monitoring, governance, and accountability to ensure that the root causes undermining the country's municipalities were addressed to restore good performance and service delivery.²⁶⁷ Five focus areas were identified as crucial for the implementation of fast-tracking. These were ensuring that municipalities meet the basic service needs of their communities; building a clean, effective, efficient, responsive, and accountable system of local government; improving performance and professionalism within municipalities; improving national and provincial policy, oversight, and support; and strengthening partnerships between communities, civil society, and local government.²⁶⁸ However, the impact of the Turnaround Strategy

²⁶¹ SALGA Project "Consolidate": *A Hands-On Local Government Engagement Programme for 2004-2006* 3.

²⁶² SALGA Project "Consolidate": *A Hands-On Local Government Engagement Programme for 2004-2006* 1-3.

²⁶³ SALGA Project "Consolidate": *A Hands-On Local Government Engagement Programme for 2004-2006* 3.

²⁶⁴ Palmer, Moodley and Parnell *Building a Capable State: Service Delivery in Post-Apartheid South Africa* 23.

²⁶⁵ Van Niekerk 2012 *Administratio Publica* 54-69.

²⁶⁶ See, Meyer and Venter 2014 *African Journal of Public Affairs* 85-90.

²⁶⁷ Van Niekerk 2012 *Administratio Publica* 54-69.

²⁶⁸ See also Van Niekerk 2012 *Administratio Publica* 59.

has not been immediately apparent, although the continuing decay of local government may suggest that the programme failed.²⁶⁹

In 2012, the government established the Municipal Infrastructure Support Agent (MISA) through section 7(2) and Schedule 3 of the *Public Service Act*.²⁷⁰ MISA was established to provide technical support and assistance to municipalities to enhance their capacity to deliver and maintain a basic service infrastructure.²⁷¹ The mission of MISA is to provide support and develop technical capacity for sustained accelerated municipal infrastructure and service delivery.²⁷² In this regard, MISA's mandate is to support and assist municipalities in conducting effective infrastructure planning to achieve sustainable service delivery goals; implement infrastructure projects as determined in their IDPs; operate and maintain municipal infrastructure; and build the capacity of municipalities to undertake effective planning, delivery, operations, and management of the municipal infrastructure.²⁷³ MISA has two primary programs: municipal sectoral and technical support and capacity development. MISA aims to provide technical support to targeted municipalities to improve infrastructure planning, implementation, operation, and maintenance.²⁷⁴ It also manages the deployment of professional service providers to municipalities. The capacity development program aims to ensure sufficient technical capacity is built within municipalities to ensure effective and efficient service delivery in the long term. MISA has also included training and administrative activities.²⁷⁵

In 2011, the national government recognised the centrality of cities to South Africa's economic development and the problems caused by spatial inefficiencies in cities by adopting the City Support Programme.²⁷⁶ The programme represents a multi-disciplinary support program that addresses urban spatial challenges by committing

²⁶⁹ See 4.7.

²⁷⁰ *Public Service Act* 103 of 1994 (hereafter *Public Service Act*).

²⁷¹ See *Proclamation R29* (hereafter *Proclamation R29*).

²⁷² MISA 2023 <https://www.misa.gov.za/>.

²⁷³ Department of Cooperative Governance and Traditional Affairs 2018 <https://www.cogta.gov.za/index.php/2018/07/24/municipal-infrastructure-support-agent-misa/>.

²⁷⁴ *MISA Technical Support Service*.

²⁷⁵ Palmer, Moodley and Parnell *Building a Capable State: Service Delivery in Post-Apartheid South Africa* 23.

²⁷⁶ Department of Planning, Monitoring and Evaluation *Implementation Evaluation of the Cities Support Programme* 2.

to making South African cities more productive, inclusive, and sustainable in preparation for 2030 when more than 71% of South Africans will live in cities.²⁷⁷ It is envisaged that productivity, inclusivity, and sustainability will bring about better governance practices and capabilities through projects aimed at generating high-quality and innovative outputs, such as analytical studies, case studies, or policy options, and institutionalising these outputs through a series of engagement processes such as workshops and seminars, within the cities and national departments. It was hoped that these would support and catalyse improvements at the city and intergovernmental level.²⁷⁸ In this context, the City Support Programme directly supports the eight metropolitan municipalities defined in the mutually agreed Bespoke City Support Plan. It also seeks to reform human settlements and public transportation in cities to make cities habitable and reachable.²⁷⁹

Although MISA and the City Support Programme sought to improve local governance, infrastructure and financial resilience, in 2014, the national government realised that municipalities were underperforming and that many of them were failing to deliver on their mandate.²⁸⁰ Hence, it instituted the Back to Basics Programme, affectionately known as B2B.²⁸¹ First, it sought to get all municipalities out of a dysfunctional state and, at the very least, enable them to perform the basic functions of local government.²⁸² It proposed to do this by enforcing current policies and legislation, systematically managing performance and accountability, and enforcing a system to

²⁷⁷ Department of Planning, Monitoring and Evaluation *Implementation Evaluation of the Cities Support Programme 1*.

²⁷⁸ Department of Planning, Monitoring and Evaluation *Implementation Evaluation of the Cities Support Programme 2*.

²⁷⁹ Palmer, Moodley and Parnell *Building a Capable State: Service Delivery in Post-Apartheid South Africa* 23.

²⁸⁰ Department of Cooperative Governance and Traditional Affairs *Back to Basics: Serving Our Communities Better*.

²⁸¹ See Wall "Service Delivery Back to Basics: What Should Happen After the Ribbon is Cut?" 33 for a discussion of Back to Basics.

²⁸² Department of Cooperative Governance and Traditional Affairs *Back to Basics: Serving Our Communities Better* 4.

manage consequences.²⁸³ Minimum performance requirements included ensuring the proper functioning of council structures and processes and providing basic services.²⁸⁴

The second priority was to support municipalities at a minimum basic level of performance in order for them to progress to a higher path.²⁸⁵ The focus was on building strong municipal administrative systems and processes. This included ensuring that administrative positions were filled with competent and committed people whose performance was closely monitored. Additionally, it sought to improve the oversight system of the local government by creating real-time monitoring systems. It also aimed to provide targeted, vigorous, and brisk responses to reduce corruption and fraud. It also sought to implement measures to ensure that municipalities engaged with their communities. Finally, it promised the implementation of support measures to create an enabling environment for local economic development and stimulate competitive, inclusive, and sustainable economies.²⁸⁶ The third priority was supporting and incentivising municipalities that perform well to retain good work.²⁸⁷

In the 2019 Presidential Budget Speech, President Cyril Ramaphosa identified a "pattern of operating in silos"²⁸⁸ as a cause for incoherent planning and implementation. According to the President, this challenge makes monitoring and oversight of the government's programme difficult, directly resulting from non-optimal service delivery and diminished impact on the triple challenges of poverty, inequality, and employment.²⁸⁹ Hence, the government adopted a District Development Model, which consists of a process by which joint and collaborative planning is undertaken at local, district, and metropolitan areas by all three spheres of government, resulting in

²⁸³ Department of Cooperative Governance and Traditional Affairs *Back to Basics: Serving Our Communities Better* 4-5.

²⁸⁴ Department of Cooperative Governance and Traditional Affairs *Back to Basics: Serving Our Communities Better* 4.

²⁸⁵ Department of Cooperative Governance and Traditional Affairs *Back to Basics: Serving Our Communities Better* 4-5.

²⁸⁶ Department of Cooperative Governance and Traditional Affairs *Back to Basics: Serving Our Communities Better* 4.

²⁸⁷ Department of Cooperative Governance and Traditional Affairs *Back to Basics: Serving Our Communities Better*.

²⁸⁸ COGTA 2020 <https://www.cogta.gov.za/ddm/index.php/about-us/>.

²⁸⁹ COGTA 2020 <https://www.cogta.gov.za/ddm/index.php/about-us/>.

a single strategically focused 'One Plan' for each of the 44 districts and eight metropolitan geographic spaces in the country. This model treats the district as a 'landing strip.'²⁹⁰ Although each sphere, sector, and entity has distinct constitutional powers, functions, and responsibilities, the District Development Model emphasises the need for organs of the state to cooperate and undertake collaborative planning, budgeting, and implementation processes by converging efforts at the district and metropolitan levels.²⁹¹ This joint work is expressed by formulating and implementing a "One Plan" method, a long-term strategic framework guiding investment and delivery in each district and metropolitan space.

The District Development Model is intended to improve coordination and efficiency, facilitate holistic planning and implementation, enhance service delivery, strengthen local government, promote economic development, foster community participation, and promote spatial transformation.²⁹² These can contribute to creating and maintaining public value by enhancing service delivery, empowering communities to participate in development initiatives, and improving the quality of life. Although the District Development Model, other intergovernmental support initiatives, and the *Constitution* envisage a transformed and efficient local government system, municipalities are failing to create public value. This is seen in dilapidated roads, poor waste collection, failure to provide clean drinking water, corruption, and wasteful expenditure of municipal resources.²⁹³

The following discussion examines the state of the local government in South Africa through the lens of the many challenges facing local government, such as corruption, poor service delivery and financial issues. These are not presented as the sole challenges facing municipalities but should be understood in the context of public value in that they manifest a lack of accountability, responsiveness and service delivery, as discussed in 2.3 above.

²⁹⁰ Department of Cooperative Governance and Traditional Affairs *Strategic Plan 2020 to 2025* 15.

²⁹¹ Department of Cooperative Governance and Traditional Affairs *Strategic Plan 2020 to 2025* 16.

²⁹² Department of Cooperative Governance and Traditional Affairs 2020 <https://www.cogta.gov.za/ddm/index.php/about-us/>.

²⁹³ See Department of Cooperative Governance and Traditional Affairs *List of Dysfunctional and Distressed Municipalities*.

4.7 Manifestations of failure to create public value in local government

4.7.1 Lack of accountability

It has been noted in 2.3.2 that accountability is one of the core tenets of public value. However, the ability of many South African municipalities to deliver basic goods and services and fulfil their other constitutional and statutory obligations is undermined by corruption,²⁹⁴ unauthorised investment of public funds,²⁹⁵ and nepotism.²⁹⁶ Corruption is rife in municipalities and its impact is so devastating to the lives of ordinary people in South Africa that some view it as a crime against humanity.²⁹⁷ In response to growing corruption, Parliament enacted the *Prevention and Combating of Corrupt Activities Act*, which contains a lengthy definition of corruption:

Any person who, directly or indirectly—

(a) accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or

(b) gives or agrees or offers to give to any other person any gratification, whether for the benefit of that other person or for the benefit of another person, in order to act, personally or by influencing another person so to act, in a manner—

(i) that amounts to the—

(aa) illegal, dishonest, unauthorised, incomplete, or biased; or

(bb) misuse or selling of information or material acquired in the course of the, exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation;

(ii) that amounts to—

(aa) the abuse of a position of authority;

²⁹⁴ Lannegren and Ito 2017 *Journal of Politics and Law* 55-59; Mantzaris and Ngcamu 2020 *Journal of Public Administration* 461-479.

²⁹⁵ Parliamentary Monitoring Group 2018 <https://pmg.org.za/committee-meeting/26233/>.

²⁹⁶ Nepotism is defined as showing favouritism towards one's relatives or close friends by providing them with employment opportunities in municipalities, unduly promoting them and giving them other advantages. For its manifestation in a given municipality, see Nwankwo *Perceptions of Nepotism and Cronyism on Employees' Job Satisfaction in the Public Sector: A Case Study of ILembe District Municipality* 51-52.

²⁹⁷ See, for example, Sebake 2020 *African Journal of Development Studies* 167.

- (bb) a breach of trust; or
 - (cc) the violation of a legal duty or a set of rules;
 - (iii) designed to achieve an unjustified result; or
 - (iv) that amounts to any other unauthorised or improper inducement to do or not to do anything,
- is guilty of the offence of corruption.²⁹⁸

This definition is expansive and confirms the view that corruption has many causes, which include the desire to be corrupt, uncertainty over the difference between a gift and a bribe, and the desire to advance one's kind and friends using public resources.²⁹⁹ In local government, corruption manifests in many forms, including when municipal officials circumvent established procurement procedures to award tenders to certain bidders in exchange for kickbacks.³⁰⁰ In some cases, contracts are awarded to suppliers without competitive bidding or to entities with clear conflicts of interest.³⁰¹ The Judicial Commission of Inquiry report confirms many instances of corruption in South Africa.³⁰²

Corruption in local government has severe implications for local communities, as shown by the fact that in 2021, "64 municipalities were dysfunctional. This dysfunction is rooted in poor governance, weak institutional capacity, poor financial management, corruption, and political instability."³⁰³ This illustrates that corruption is not a victimless crime because municipal dysfunction results in a lack of service delivery, which severely disrupts livelihoods.³⁰⁴ Corruption in local government also burdens other organs of state, such as the justice system, which is overloaded by the serious backlog of criminal matters arising from corruption. Since corruption compromises

²⁹⁸ Section 3 of the *Prevention and Combating of Corrupt Activities Act* 12 of 2004 (hereafter *Prevention and Combating of Corrupt Activities Act*).

²⁹⁹ Prasad, Martins da Silva and Nickow 2019 *Studies in Comparative International Development* 96.

³⁰⁰ See, for instance, Marakalala 2023 *International Journal of Social Science Research and Review* 595-623; Shava 2016 *Journal of Economics and Behavioral Studies* 161-162.

³⁰¹ For a discussion of various forms of corruption and issues associated with the fight against it, see in general, Corruption Watch *Understanding Corruption in Tenders*.

³⁰² See State Capture Commission 2022 *Judicial Commission of Inquiry into State Capture Report: Part 1 Vol 3*.

³⁰³ Auditor-General of South Africa *Consolidated Report on Local Government Audit Outcomes: MFMA 2020-21* 6.

³⁰⁴ Mafunisa 2007 *Journal of Public Administration* 260-270; Tooley and Mahoi 2007 *Journal of Public Administration* 366-373.

service delivery (as discussed in 4.7.1), it indirectly leads to public protests as a consequence of service delivery failures. During such protests, many more people are arrested for various offences related to the violation of public order, such as arson, looting, and related opportunistic crimes. Such persons must be brought before magistrates and judges where appropriate and tried for the offences that they committed. It can be argued that corruption and other forms of lack of accountability in local government.

4.7.2 Lack of responsiveness to local community needs

Chapter 2 of this study noted that government responsiveness is a fundamental tenet of public value.³⁰⁵ In its simplest form, responsiveness entails listening to members of the community about their needs, preferences, expectations, and complaints and working to resolve them as much as possible.³⁰⁶ It also entails providing avenues and procedures for community members to raise and deal with complaints with speed, fairness, and confidentiality.³⁰⁷ The idea behind responsiveness is to assure communities that the government will 'listen' to them and that they do not need to engage in violent protests in order to be heard.³⁰⁸

However, municipalities are plagued by an institutionalised lack of responsiveness to community needs, such as ineffective communication, resource misallocation, and a general refusal to 'listen' to communities, as seen from the reports from the Auditor-General of South Africa³⁰⁹ and the Department of Cooperative Governance and Traditional Affairs,³¹⁰ both which have highlighted many examples of ineffective communication and misallocation of resources. There is overwhelming evidence that

³⁰⁵ See the discussion in 2.3.6.

³⁰⁶ See *Batho Pele White Paper* para 4.7.4.

³⁰⁷ *Batho Pele White Paper* 4.7.4.

³⁰⁸ See Alexander 2010 *Review of African Political Economy* 25-40; Breakfast, Bradshaw and Nomarwayi 2019 *African Journal of Public Affairs* 106-125; Mpehle 2012 *Journal of Public Administration* 213-225.

³⁰⁹ Auditor-General of South Africa *Consolidated Report on Local Government Audit Outcomes: MFMA 2020-21* 33 with regards to issues of responsiveness around the provision of water and sanitation in the City of Ekurhuleni, which is one of the municipalities examined in this study.

³¹⁰ Department of Cooperative Governance and Traditional Affairs *List of Dysfunctional and Distressed Municipalities*.

most municipalities struggle to provide basic services.³¹¹ Consequently, the new institutional architecture and the delivery of services over the past three decades do not appear to match local community needs, expectations and preferences.

4.7.3 Financial instability

The foregoing problems confronting municipalities are compounded by low revenue collection rates, which undermine the ability of affected municipalities to provide goods and services.³¹² In 2022, Ratings Africa released a report on its annual assessment of the financial sustainability of approximately 100 municipalities and eight metropolitan municipalities in South Africa. The findings show that the six major metropolitan municipalities are financially unsustainable and require critical governmental intervention. In its words, "the South African municipal sector (except for Western Cape) was about to collapse. The government needs to acknowledge this and take necessary steps to save the country."³¹³ The report further states that municipalities do not have the money to pay for service providers or to deliver services to residents. From June 2021, all 108 municipalities tracked by Ratings Afrika had a combined R23 billion and an accumulated combined deficit of R54 billion.³¹⁴

Prior to the Ratings Africa report, the former Minister of Co-operative Governance and Traditional Affairs announced a list of 87 priority municipalities in Parliament.³¹⁵ He classified these municipalities as dysfunctional, financially distressed, or requiring urgent interventions.³¹⁶ In the 2020/21 financial year, a report indicated that the financial situation of most municipalities deteriorated such that 165 of the 257 were

³¹¹ Auditor-General of South Africa *Consolidated Report on Local Government Audit Outcomes: MFMA 2020-21* 3.

³¹² The problem of non-payment of rates and taxes dates to the apartheid era and has continued in the democratic epoch. See Ngxongo *Non-Payment of Municipal Rates and Service with Reference to the Nelson Mandela Metropolitan Municipality* 1-60 for a discussion.

³¹³ BusinessTech 2022 <https://businesstech.co.za/news/government/593676/south-africas-municipalities-on-the-brink-of-collapse-report/>.

³¹⁴ BusinessTech 2022 <https://businesstech.co.za/news/government/593676/south-africas-municipalities-on-the-brink-of-collapse-report/>.

³¹⁵ See the list at Department of Cooperative Governance and Traditional Affairs *List of Dysfunctional and Distressed Municipalities*.

³¹⁶ Department of Cooperative Governance and Traditional Affairs *Address by the Honourable Minister of Cooperative Governance and Traditional Affairs, Dr Zweli L Mkhize, on the Occasion Of The COGTA Budget Vote Speech to the National Assembly*.

in financial distress, while 106 adopted unfunded budgets in 2020/21.³¹⁷ At the time of writing, the figures on municipalities under administration from 2022-2024 were not immediately available.

The Auditor-General of South Africa has also reported extensively on the financial and other failures of municipalities.³¹⁸ These outcomes are reliable indicators of local governance performance when no credible data are available. Recent reports show that, after the 2016/17 financial year, some municipalities did not see tangible improvements, whereas most regressed. Only 61 municipalities had better audit outcomes than in 2015-2016, while 56 regressed.

Figure 4:1 illustrates the audit outcomes for the periods covering 2016 to 2021, which show that 10 % of municipalities obtained unqualified audit outcomes³¹⁹ and that many others operated with a deficit. This means that their expenditures exceeded the available revenues.³²⁰

³¹⁷ National Treasury *The State of Local Government Finances and Financial Management as at 30 June 2011: Fourth Quarter of the 2010/2011 Financial Year* 1.

³¹⁸ Section 4(1)(d) of the *Public Audit Act* on the functions and powers of the Auditor-General.

³¹⁹ Auditor-General 2020
<https://www.agsa.co.za/Portals/0/Reports/MFMA/201819/GR/MFMA%20GR%202018-19%20Final%20View.pdf> 4.

³²⁰ Auditor-General of South Africa *Consolidated Report on Local Government Audit Outcomes: MFMA 2020-21* 8.

Figure 4:1: Audit outcomes for the 2016-21 period.³²¹

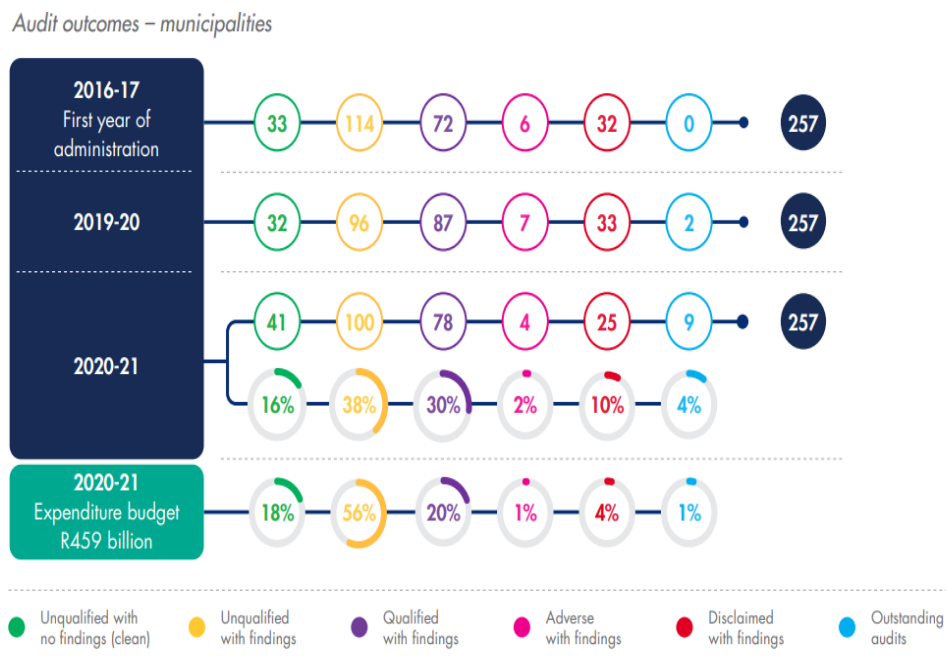


Figure 4:1 shows that audit outcomes have regressed since 2016. These findings are consistent with the National Treasury's assessment of the state of local government, which concluded that most municipalities are in financial distress, characterised by poor cash flow management and an increase in outstanding debtors and creditors.³²² This is despite significant capacity-building initiatives such as financial management reforms implemented in local government and intergovernmental transfers over the years.³²³ The Auditor-General has linked these to accountability failures and raised

³²¹ Figure originally published in Auditor-General 2020 <https://www.agsa.co.za/Portals/0/Reports/MFMA/201819/GR/MFMA%20GR%202018-19%20Final%20View.pdf> 51.

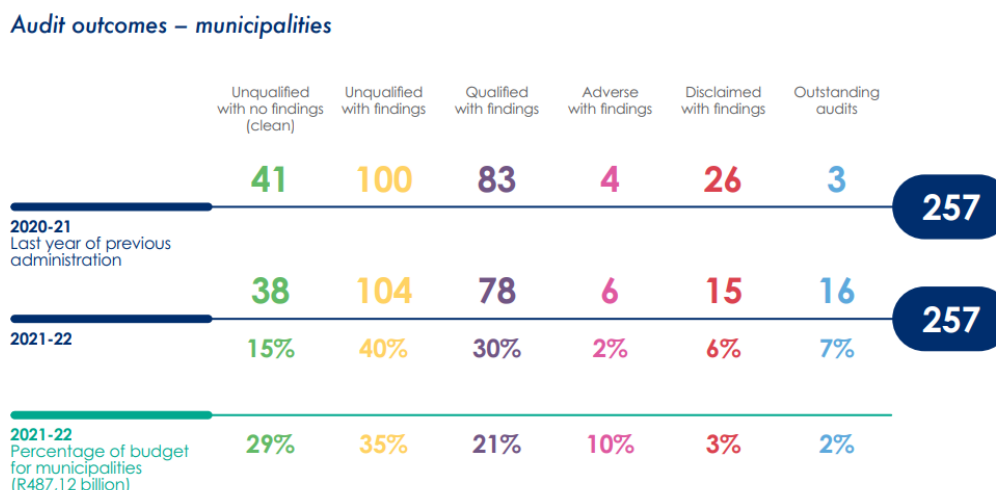
³²² National Treasury *The State of Local Government Finances and Financial Management as at 30 June 2020* 3.

³²³ National Treasury *The State of Local Government Finances and Financial Management as at 30 June 2020* 1.

persistent concerns about capacity in local government due to many open vacancies and instability in critical positions.³²⁴

The audit outcomes of the 2016-2021 period can be compared and contrasted with 2021-2022, which is depicted in Table 4.1 below.³²⁵

Table 4.1: Audit outcomes for the 2021-22 period³²⁶



The Auditor-General interpreted these findings to mean that municipalities are in a bad state, as seen by the fact that 33 had better audit outcomes than in 2022-21, while 29 had worsened outcomes.³²⁷

4.7.4 Failure to effectively provide municipal services

The foregoing challenges facing local government, such as lack of accountability, lack of responsiveness and financial instability, lead to one major failure – failure to provide efficient and effective service delivery. This failure is compounded by widespread rent-seeking and corruption among public representatives, reflecting a broader breakdown

³²⁴ Auditor-General <https://www.agsa.co.za/Portals/0/Reports/MFMA/201819/GR/MFMA%20GR%202018-19%20Final%20View.pdf> 51.

³²⁵ Table 4.2 was extracted from Auditor-General of South Africa *Consolidated General Report on Local Government Audit Outcomes MFMA 2021-22* 14.

³²⁶ Auditor-General of South Africa *Consolidated General Report on Local Government Audit Outcomes MFMA 2021-22* 14.

³²⁷ Auditor-General of South Africa *Consolidated General Report on Local Government Audit Outcomes MFMA 2021-22* 14.

of the values and principles that should guide public representatives and office workers in undertaking municipal duties.³²⁸ The reality in present-day South Africa does not seem to correspond to the ideals of the *Constitution* and the subsequent supporting laws enacted to facilitate new municipal dispensation.³²⁹

The other contributing factor to ineffective service delivery seems to be that South Africa has not done away with its past due to the influence of apartheid-era spatial planning.³³⁰ As such, formerly marginalised communities continue to face service delivery challenges owing to the absence of the required infrastructure,³³¹ leading many municipalities to fall short of delivering developmental mandates.³³² Due to the failure to maintain apartheid-era infrastructure, many municipalities struggle to provide essential services, such as clean water and sanitation.³³³ The infrastructure problem is compounded by a lack of human, technical, and financial capacity.³³⁴

The deterioration of municipalities represents a failure to create public value and has led to antagonistic protests by communities against poor service delivery.³³⁵ These protests attest to a dysfunctional local government system that is unresponsive to community needs, expectations and preferences.³³⁶ Through protests, communities express their discontent with and frustration with democratic governments.³³⁷ In

³²⁸ Department of Cooperative Governance and Traditional Affairs *Back to Basics: Serving Our Communities Better* 4.

³²⁹ The *White Paper on Local Government* was a forerunner to two key pieces of legislation on local government, namely the *Municipal Structures Act*, and the *Municipal Systems Act*, and the *Local Government: Municipal Demarcation Act* 27 of 1998 (hereafter *Municipal Demarcation Act*). A suite of legislation subsequently followed and this includes for example, the *Municipal Finance Management Act*.

³³⁰ Du Plessis 2014 *Urban Forum* 69-88.

³³¹ Monama, Mokoele and Mokgotho 2022 *International Journal of Entrepreneurship* 1-11.

³³² Ntliziywana "Professionalization of Local Government Management in South Africa" 55.

³³³ Development Bank of Southern Africa *The State of South Africa's Economic Infrastructure: Opportunities and Challenges* 79.

³³⁴ Pieterse 2014 *South African Law Journal* 161.

³³⁵ See the discussion in 1.2.

³³⁶ South African Law Reform Commission *Review of Regulatory, Compliance and Reporting Burdens Imposed on Local Government by Legislation* 9.

³³⁷ Alexander 2010 *Review of African Political Economy* 37.

response to these frustrations, some civic organisations³³⁸ and movements³³⁹ have adopted additional strategies, such as objections and litigation,³⁴⁰ to influence decision-making and hold local government accountable.³⁴¹ The courts have handed down judgments affirming that the failure of municipalities to provide basic services is inconsistent with the *Constitution*. In the first decision of its kind, the High Court ordered the provincial government to intervene in the affairs of a municipality and implement a recovery plan to assist in meeting its service delivery obligations.³⁴²

The failure of municipalities to provide effective and efficient service delivery as a result of the challenges analysed above negatively impacts public value through the erosion of public trust in local government, social unrest and public safety concerns, economic disruption as a result of municipal failure to provide basic services, reduced quality of life, and overload of the justice system, as analysed below. Public trust in local government is eroded due to the failure of municipalities to provide basic services.³⁴³ This is demonstrated by diminished civil participation in local governance because communities feel less motivated to fulfil their civic duties, such as voting in elections.³⁴⁴ This may be viewed as a decline in democratic representation and an illustration of decreased public cooperation with local government, thus widening the gap between the government and the governed. The erosion of public trust is also seen in noncompliance with municipal bylaws, including the payment of municipal rates in protests against poor service delivery.³⁴⁵ The erosion of public trust may also be seen in increasing social divisions due to grievances against the fact that some

³³⁸ See also *South African Municipal Workers Union v City of Cape Town* 2005 ZAWCHC 39 (hereafter *South African Municipal Workers Union v City of Cape Town*) para 1.

³³⁹ Such as the Unemployed Peoples Movement (UPM), which sought relief from the High Court declaring Makana Local Municipality to be in breach of ss 152-153 of the *Constitution*, amongst others, by (a) failing to ensure provision of services to communities in a sustainable manner and (b) failing to structure and manage its administration, budgets and planning in order to give priority to the basic needs of communities.

³⁴⁰ *Thompson v City of Tshwane Metropolitan Municipality* para 1.

³⁴¹ GGLN 2018 <https://ggln.org.za/media/attachments/2018/08/31/solg-2018-complete.pdf>.

³⁴² The first known judgment in this regard is *Coetzee v Premier, Mpumalanga Province*, which was followed by the *Unemployed Peoples Movement v Eastern Cape Premier*.

³⁴³ Pillay 2017 *Administratio Publica* 22.

³⁴⁴ Diagne 2021 <https://theconversation.com/here-are-five-factors-that-drove-low-voter-turnout-in-south-africas-2021-elections-173338>.

³⁴⁵ See *Rademan v Moqhaka Local Municipality*, for instance.

areas (previously white-only areas) receive quality basic services, whereas black areas are seeing an increase in municipal failure to deliver basic services.³⁴⁶

The increase in social divisions does not bode well for South Africa's reconciliation project and may be weaponised by opportunistic political elements.³⁴⁷ This contributes to increased social unrest because municipalities are experiencing severe service delivery protests that have led to the loss of lives³⁴⁸ and the destruction of public infrastructure. Several issues illustrate how service delivery failure erodes public value by increasing social unrest. First, social unrest illustrates the frustrations of deprived communities and may also be seen as a form of community mobilisation against democratic institutions – in this case, municipalities. Second, social unrest heightens security concerns as community members are no longer guaranteed that law enforcement and security services will come to their rescue when attacked by violent mobs.³⁴⁹ This is a serious threat to public safety, particularly when law enforcement is not in a position to respond adequately to quelling violence. The inability of law enforcement to maintain public order during violent service delivery protests exposes communities to human rights violations by protestors and law enforcement officials, who may use excessive force.³⁵⁰ In the context of this study, such protests are in themselves a manifestation of a failure by local government to create public value.

The failure of municipalities to provide basic services also leads to economic disruption for various reasons. First, it leads to protests that halt the government and businesses in affected areas. Second, it deprives businesses of basic services, such as water, electricity, and sanitation, thus compromising their ability to operate efficiently and

³⁴⁶ Siyo 2021 <https://www.iol.co.za/capetimes/news/watch-site-c-residents-slam-city-of-cape-town-for-lack-of-service-delivery-86ac60d0-46f1-4fff-882e-e51243265084>. See *Beja v Premier of the Western Cape* 2011 10 BCLR 1077 (WCC) (hereafter *Beja v Premier of the Western Cape*), in which the court ruled against the City of Cape Town for providing open view toilets in marginalised communities.

³⁴⁷ See Du Toit 2017 *International Political Science Review* 169-180 for a discussion of the causes for the failure of South Africa's reconciliation project.

³⁴⁸ Klaasen 2020 *Sustainable Development* 478-484; Breakfast, Bradshaw and Nomarwayi 2019 *African Journal of Public Affairs* 106.

³⁴⁹ For a discussion of violent mobs which may overwhelm the police, see Sibanda *Contextualising the Right to Life and the Phenomenon of Mob Justice in South Africa* 1-100.

³⁵⁰ See in general, Sibanda *Contextualising the Right to Life and the Phenomenon of Mob Justice in South Africa* 1-100.

effectively. Third, this leads to a loss of business confidence, as business owners lose confidence in the capacity of municipalities to provide the public goods and services they need. For instance, in Ditsobotla Municipality (Lichtenburg), Clover wanted to relocate because of the municipality's failure to maintain the road infrastructure and provide water and sanitation services.³⁵¹ Hence, businesses may be wary of investing in municipalities that are failing as they are exposed to protest disruption and potential loss of property, such as vehicles, which may be incinerated or looted during service delivery protests.³⁵²

Some businesses reportedly closed because of violent protests that saw their premises looted and set alight, leading to increased unemployment.³⁵³ As businesses spend more money to secure their properties from looters and arsonists during service delivery protests, they pass the cost to consumers who are already struggling because they have to spend more on necessities that municipalities should provide, such as water. For example, in most municipalities across South Africa, communities have to buy bottled water because municipal water is deemed unsafe for consumption and is often contaminated with cholera pathogens in some areas.³⁵⁴

The failure of municipalities to meet their service delivery obligations also erodes the living standards of communities in various ways. These include poor health due to a lack of clean drinking water and poor sanitation due to inadequate waste management.³⁵⁵ This violates several constitutional rights, such as the right to clean water and an environment that is not detrimental to human health or well-being.³⁵⁶

³⁵¹ Clover 2021 <https://www.scribd.com/document/511000490/Clover-Statement-Relocation-of-Cheese-Production-to-Queensburgh-080621>.

³⁵² See Khambule, Nomdo and Siswana 2018 *HSRC Review* 26-27 on violent protests.

³⁵³ See Ngcamu 2019 *Journal for Transdisciplinary Research in Southern Africa* 2415-2005.

³⁵⁴ See Department of Water and Sanitation *Drinking Water Quality Management Amid the Cholera Outbreak* 1-2.

³⁵⁵ Examples include the failure of eMalahleni and Makana municipalities to provide safe drinking water and provide refuse collection services, leading to poor sanitation and an unsightly environment as a result of rubbish piling up. See *Coetzee v Premier, Mpumalanga Province* (heads of argument) and the judgment in *Unemployed Peoples Movement v Eastern Cape Premier*. For a discussion of the environmental impacts of these failures, see Wright, Dube and du Plessis 2022 *Verfassung und Recht in Übersee/World Comparative Law* 105-125.

³⁵⁶ See s 27(1)(b) (right of access to water) and s 24 (right to a healthy environment) of the *Constitution*.

As discussed above, economic disruption contributes to a low quality of life due to food insecurity that arises as a result of disrupted supply chains and the closure of some businesses.³⁵⁷ Other illustrations of poor quality of life arising from poor municipal service delivery include decreased safety, increased stress as a result of uncertainty about the availability of basic services, decreased social cohesion, and economic instability, which threaten jobs. These issues arising from the failure of municipalities are in themselves a manifestation of failure to create public value.

It has been noted above that the failure of municipalities to provide basic services has led to various forms of litigation, which has contributed to adding more weight to the justice system, which is already suffering from a huge load.³⁵⁸ The courts are also overloaded during and immediately after protests because more people are arrested for various offences related to the violation of public order, such as arson, looting, and related opportunistic crimes.³⁵⁹

The following discussion focuses on provincial intervention in failing municipalities as a viable approach to mitigating the impact of the challenges facing municipalities on local communities. The succeeding analysis should be understood in the context that whereas the national government provides various forms of support to municipalities to aid them in their public value-creating activities, provincial governments play a greater role when municipalities fail. Among other ways, they play this role through interventions in failing municipalities.

4.8 Provincial attempts to help restore public value in local government

Although municipalities enjoy a high degree of autonomy, the many manifestations of their failure to use such autonomy to create public value necessitate monitoring and intervention by provincial and national governments when necessary for the benefit

³⁵⁷ SAGE Sub-Committee on Food Security *Situational Analysis and Strategic Advisory on Farming and Food Security in South Africa in the Aftermath of Widespread Public Violence and Looting in KwaZulu-Natal and Gauteng Between 10-14 July 2021* 5.

³⁵⁸ Some of the cases include *Coetzee v Premier, Mpumalanga Province; Unemployed Peoples Movement v Eastern Cape Premier; South African Human Rights Commission v Msunduzi Local Municipality*; and *Kgetlengrivier Concerned Citizens I; Kgetlengrivier Concerned Residents v Kgetlengrivier Local Municipality (Appeal Decision)*.

³⁵⁹ See De Haas 2022 https://mistra.org.za/wp-content/uploads/2022/12/Beyond-protest-in-July-2021_Working-Paper.pdf.

of local communities.³⁶⁰ However, the duty to intervene is not absolute, but it must be exercised for genuine legal reasons.³⁶¹ so that the autonomy of local government is not unduly infringed.³⁶² The duty to intervene in municipalities is borne out of the realisation that in as much as local government may try to provide basic services, it is the weaker sphere of government and that it may not always succeed in doing so due to a variety of challenges such as competence and capacity constraints, which put them in a situation in which they would otherwise fail without the necessary support from their national and provincial counterparts.³⁶³

In the foregoing context, this section considers discretionary interventions that are regulated by section 139(1) of the *Constitution* and *Municipal Finance Management Act*.³⁶⁴ Both the *Constitution* and the *Municipal Finance Management Act* state that when it happens that a particular municipality has shown signs that it is not capable of fulfilling its service delivery mandates in terms of Part B of Schedule 4 and Part B of Schedule 5 of the *Constitution*, the provincial government (through the executive) in the province in which the municipality is located may take any action that is appropriate to ensure that the municipality fulfils its constitutional and statutory obligations. Section 139(1) of the *Constitution* reads as follows:

139. (1) When a municipality cannot or does not fulfil an executive obligation in terms of the Constitution or legislation, the relevant provincial executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation, including –

(a) issuing a directive to the Municipal Council, describing the extent of the failure to fulfil its obligations and stating any steps required to meet its obligations;

(b) assuming responsibility for the relevant obligation in that municipality to the extent necessary to –

(i) maintain essential national standards or meet established minimum standards for the rendering of a service;

³⁶⁰ See s 139 of the Constitution and 137 of the *Municipal Finance Management Act*.

³⁶¹ *Premier, Gauteng v Democratic Alliance* para 60.

³⁶² See s 151(3) of the *Constitution* on the autonomy of municipalities.

³⁶³ See *Ex parte Chairperson of the Constitutional Assembly: In re Certification of the Constitution of the Republic of South Africa, 1996* 1996 10 BCLR 1253 (CC) (hereafter *In re Certification of the Constitution of the Republic of South Africa*) para 373.

³⁶⁴ Section 137 of the *Municipal Finance Management Act*.

(ii) prevent that Municipal Council from taking unreasonable action that is prejudicial to the interests of another municipality or to the province as a whole; or

(iii) maintain economic unit; or

(iv) dissolving the Municipal Council and appointing an administrator until a newly elected Municipal Council has been declared elected, if exceptional circumstances warrant such a step.³⁶⁵

This extract shows that there is no general duty to implement discretionary provincial interventions, although they may be taken in the interest of maintaining national standards, preventing municipal councils from acting unreasonably and maintaining economic unity.³⁶⁶ When implemented, it creates and maintains public value by ensuring that the more capable and resourced provincial government intervenes in a municipality in the interest of service delivery in that municipality or other municipalities that may be affected by the actions of the municipality. Other forms of interventions are analysed in Chapter 6, which, among other things, deals with how annual municipal budgets create public value.³⁶⁷ In that chapter, the consequences for failing to pass annual municipal budgets – including provincial intervention – are analysed with a view to illustrate that under the *Constitution*, local government instruments for creating public value, such as annual municipal budgets, are not the sole responsibility of local government but that other spheres of government have a role in ensuring that municipalities use these public value-creating instruments to run their affairs in ways which advance the interests of local communities.³⁶⁸

4.9 Chapter conclusion

This chapter has analysed the manifestation of a public value approach in the constitutional, policy and legislative framework governing local government in South Africa. It established that the core tenets of public value in this regard include accountability, transparency, responsiveness, trust and legitimacy, service delivery, community participation and financial sustainability, among others. It was established that public value is created when local government is able to deliver basic services

³⁶⁵ Section 139 of the *Constitution*.

³⁶⁶ Section 139(b)(i)-(iii).

³⁶⁷ See 5.4.7.

³⁶⁸ See 5.4.7.

and conduct its affairs in a manner that meets the needs, expectations and preferences of local communities. The analysis reveals that in the constitutional framework, the public value approach is found in the Preamble; founding values and principles in Chapter 1 of the *Constitution*; objectives of local government in section 152 of the *Constitution*; developmental duties of municipalities in section 153 of the *Constitution*; and the basic values and principles governing public administration in section 195 of the *Constitution*.

The constitutional framework also showed that the *Constitution* informs all policies and legislation on local government. Also, the analysis showed that relevant provisions in the constitutional framework led the government to adopt several policies that indirectly require municipalities to create and maintain public value in the local government. The policies include the *White Paper on Transforming the Public Service*, the *Batho Pele White Paper*, the *White Paper on Local Government*, and the *Integrated Urban Development Framework*. These policies informed the enactment of legislation, which fulfils the constitutional vision for accountable, responsive, transparent and ethical governance. The relevant statutes include the *Municipal Structures Act*, the *Municipal Systems Act*, and the *Municipal Finance Management Act*.

After analysing the constitutional, policy and legislative framework for the creation of public value, this chapter also examined the status of municipalities in the present system of local government. It found that municipalities enjoy a high degree of autonomy, although they also rely on intergovernmental support from national and provincial governments. However, the discussion showed that in as much as this support is provided and received, there is a glaring failure by municipalities to create public value in that there is a serious lack of accountability, responsiveness, financial stability and effective service delivery in the local spheres. The chapter showed that these failures necessitate provincial intervention to restore municipalities into positions in which they can deliver on their developmental mandate. The next chapter discusses the manifestation of public value in local government instruments.

CHAPTER 5

PUBLIC VALUE MANIFESTED IN LOCAL GOVERNMENT INSTRUMENTS

5.1 Introduction

The previous chapter explained how South Africa's *Constitution* came to carve out a new system of local government with a broad mandate and how legislation and policies were adopted to enable municipalities to execute this developmental role. The chapter further examined the extent to which the *Constitution*, local government framework legislation and policies are aligned with the key features of public value discussed in Chapter 2. This chapter draws on the meaning and features of public value, as explained in Chapter 2 of this study, to critically evaluate the extent to which the local governance instruments may enable the adoption and use of a public value approach by municipalities. These local governance instruments are established in the suite of national local government legislation, which is discussed in this chapter. The chapter develops around the following parts:

The first focuses on what local governance instruments are and how they are generally defined. The second part focuses on the different types of instruments that are currently part of the statutory framework of local government in South Africa, as was introduced in Chapter 4. The relevant instruments are discussed with reference to the *Municipal Systems Act*, the *Municipal Structures Act*, and the *Municipal Finance Management Act*. Following the typological outline of the types of instruments that the law provides for, the next parts (parts three, four and five) focus on three specific instruments that provide for public value, as discussed in chapter 2 of the study. These instruments are IDPs, annual municipal budgets and annual municipal reports. Part six concludes this chapter.

5.2 Understanding local government instruments for creating public value

In this study, local government instruments for creating public value entail the strategic, financial, and reporting documents that outline the priorities, funding, and

feedback requirements for municipalities. The strategic documents are IDPs.¹ Financial documents comprise the annual municipal budgets,² while reporting documents refer to annual municipal reports.³ To contextualise how city-level instruments manifest a public value approach, it is necessary to briefly revisit the legal framework within which local government operates. Chapter 4 of this study showed that South African local government is vested with powers and functions to optimise public value creation. This legal framework is predominantly codified in the *Constitution* and various pieces of local government legislation, such as the *Municipal Systems Act* and *Municipal Finance Management Act*, all of which were discussed at length in Chapter 4 in the context of public value.⁴ These legal instruments collectively delineate the roles, responsibilities, and powers of local government in ways that manifest public value. It can be argued that their enactment was intended to ensure that local government operations are aligned with efficiency metrics and broader societal values, including sustainability and inclusiveness. It was also noted in Chapter 4 that the above statutes serve distinct but complementary roles that create an integrated architecture for governance. They seek to achieve this by enabling municipalities to render effective service delivery, implement national policies, and ensure accountability of the local government.⁵ These laws work in concert to construct an intricate balance of regulatory and practical mechanisms that allows municipalities to align their actions with the needs, expectations, and preferences of the communities they serve, thereby creating public value.⁶

For instance, the *Municipal Systems Act*, whose public value-creating provisions were analysed in Chapter 4 of this study, requires municipalities to design strategic frameworks through IDPs, which guide long-term vision and immediate developmental imperatives.⁷ On the other hand, the *Municipal Finance Management Act* governs the financial affairs of municipalities and requires municipalities to adopt budgets that

¹ See 5.3.1.

² See 5.4.1.

³ See 5.5.1.

⁴ See 4.2.4 on how the on how the *Municipal Systems Act* and *Municipal Finance Management Act* seek to contribute to the creation of public value, respectively.

⁵ See 4.2.4 above.

⁶ See 4.2.4 above.

⁷ Section 26 of the *Municipal Systems Act*.

reflect their development priorities.⁸ These statutes reveal mutual reinforcement in that IDP policy directives are given fiscal substance through budgets prepared in accordance with the *Municipal Finance Management Act* to ensure that resources are allocated consistent with declared priorities. Annual reports serve as accountability mechanisms for the achievements and challenges of municipalities over the past fiscal year.⁹ The following subsections detail how these instruments may be used to create public value for local government.

5.3 Integrated Development Plans

5.3.1 Meaning and legal status of IDPs

In the South African context, IDPs are strategic plans that outline municipalities' five-year vision, strategies, and development initiatives.¹⁰ Since they guide and inform municipal planning and development and all decisions that inform these processes,¹¹ IDPs can, therefore, serve as pivotal instruments for social justice and creating public value.¹² This is because they inform planning and development at the local government level and are legally binding to municipalities.¹³ Hence, municipalities must affect their IDPs and conduct affairs consistently with their provisions.¹⁴ To understand the importance of IDPs in creating public value, it is necessary to look at section 23 of the *Municipal Systems Act*, which provides that municipalities must undertake planning that is developmentally oriented to ensure that they fulfil the objects of local government set out in section 152 of the *Constitution*, developmental duties as required by section 153 of the *Constitution*, and a progressive realisation of the fundamental rights contained in sections 24, 25, 26, 27, and 29 of the

⁸ Chapter 4 of the *Municipal Finance Management Act* obligates municipalities to adopt budgets that prioritise their service delivery and developmental needs.

⁹ See The Citizens' Report 2021/2022 (2022) 6.

¹⁰ Section 35(1)(a) of the *Municipal Systems Act*. See also, Mello and Maserumule 2010 *Journal of Public Administration* 283; Wüst 2022 *Town and Regional Planning* 54-55. It must be noted, however, that IDPs are not inherently unique to South Africa – see Musco "Policy Design For Sustainable Integrated Planning: From Local Agenda 21 to Climate Protection" 59-75; Lustig and Weiland "Learning From Past Experience? Local Agenda 21 Processes and Integrated Urban Development Planning in Germany" 93-105.

¹¹ Section 35(1)(a) of the *Municipal Systems Act*.

¹² For a discussion of IDPs as instruments for social justice, see Fuo 2013 *Potchefstroom Electronic Law Journal* 220.

¹³ Section 35(1)(b) of the *Municipal Systems Act*.

¹⁴ Section 36 of the *Municipal Systems Act*.

Constitution.¹⁵ These requirements align with the creation of public value in the previous chapter.¹⁶ For instance, the requirement for municipalities to strive towards the achievement of the objectives of local government as set out in section 152 of the *Constitution* creates public value by promoting democratic and accountable governance in local government, ensuring sustainable service delivery, promoting socio-economic development, promoting the right to a healthy environment and encouraging community participation in local government.¹⁷ These are core tenets of public value.¹⁸ Aligning municipal development plans with sections 152 and 153 of the *Constitution* can, therefore, enable municipalities to create public value. It has already been seen in this study that section 153 of the *Constitution* may be used by municipalities to create public value by prioritising the basic needs of communities in socio-economic development.¹⁹ This may be partly achieved by realising their socio-economic rights duties.²⁰ It can be argued that the fulfilment of constitutional rights creates an environment conducive to individual and collective well-being and provides a legal baseline for local governance. This is because some constitutional rights, such as the right to a healthy environment,²¹ are tied to the functional areas of municipalities in the *Constitution* and may give communities an immediate sense of public value creation or erosion.²²

¹⁵ Section 23(1) of the *Municipal Systems Act*.

¹⁶ See 2.5.

¹⁷ Section 152 of the *Constitution*.

¹⁸ For a full discussion, see 2.3.

¹⁹ See 4.2.5.

²⁰ The socio-economic rights enshrined in section 23(1)(c) of the *Municipal Systems Act* include the right to a healthy environment (section 24 of the *Constitution*); the right to property (section 25 of the *Constitution*); the right to housing (section 26 of the *Constitution*); right to access to healthcare, food, water and social security (section 27 of the *Constitution*); and right to education (section 29 of the *Constitution*).

²¹ See Part B of Schedule 4 and Part B of Schedule 5 of the *Constitution* for a list of the functional areas for local government.

²² There are several cases in which local government failed to fulfil the environmental rights, leading to expressions of public frustration (which is, on its own, an indication of loss of trust in the ability of local government to fulfil its service delivery obligations). These cases include *South African Human Rights Commission v Msunduzi Local Municipality* (failure to properly manage a landfill site); *Unemployed Peoples Movement v Eastern Cape Premier* (failure to provide basic services); and *Coetzee v Premier, Mpumalanga Province* (failure to provide basic services like water and sanitation). For an analysis of the general role of courts in interpreting the environmental duties and powers of municipalities, see Fuo 2015 *Commonwealth Journal of Local Governance* 17; Fuo 2013 *Obiter* 77; Fuo "The Courts and Local Governments in South Africa: Design and Impact in Comparative Perspective" 103.

5.3.2 Alignment of IDPs with other plans and resources

The *Municipal Systems Act* outlines the process for the adoption of IDPs. It states that municipal councils must adopt inclusive and strategic plans for development that link, integrate, and coordinate plans for development in their jurisdictions and must align their resource utilisation with such plans.²³ Sector-specific plans that must be part of the IDP include a Water Services Plan, an Environmental Management Plan, an Energy Plan, and a Disaster Management Plan. In addition, such plans must be the framework for annual budgeting and compatible with national and provincial development plans.²⁴ The following analysis attempts to illustrate how each of these aspects of the IDP can be used to create public value. It must be noted that the analogies drawn in this section derive from the candidate's own analysis and are partly based on preceding discussions on the theoretical framework and the constitutional, policy and legislative framework on the creation of public value. Analogies have been made because, to date, there is no study that links the IDP requirements in the *Municipal Systems Act* to public value creation.

In the context of the preceding paragraph, it can be argued that the effective linkage and integration of plans create cohesive approaches to municipal development to reduce redundancy, increase efficiency, and maximise the use of public resources.²⁵ Such coordination may create public value by improving service delivery. Alignment of resources and capacity with the implementation of IDPs may create public value by ensuring the optimal use of financial, human, and infrastructural resources, thereby promoting successful outcomes such as improved facilities for local communities.²⁶

The requirement for IDPs to be the basis for policy frameworks and annual budgets may create public value by providing systematic approaches to governance and decision-making and ensuring that budgets are rational, focused, and intended to maximise public benefits from the expenditure of municipal resources.²⁷ Ensuring that IDPs comply with the whole of the *Municipal Systems Act* in this regard may, as

²³ Section 25(1) of the *Municipal Systems Act*.

²⁴ Section 25(1) of the *Municipal Systems Act*.

²⁵ See section 25(1)(a) of the *Municipal Systems Act*.

²⁶ See section 25(1)(b) of the *Municipal Systems Act*.

²⁷ Section 25(1)(c) of the *Municipal Systems Act*.

provided in section 25(1)(d) of the statute, create public value by fostering the legitimacy of IDPs and ensuring accountability in their implementation. It can be argued that this increases public trust in the local government and provides a basis for the transparency and answerability of municipal officials in their communities.²⁸

Finally, section 25 of the *Municipal Systems Act* ensures that IDPs are compatible with national and provincial plans, thereby attempting to create a unified and synergistic approach to local development.²⁹ Arguably, this may ensure that the initiatives of municipalities comply with constitutional provisions³⁰ and intergovernmental relations legislation³¹ and avoid conflicts with national and provincial government initiatives.³² A synchronisation of national, provincial, and local government plans may maximise the creation of public value since there will be no constatations among the three spheres of government on development priorities.³³

The *Municipal Systems Act* obliges municipalities to facilitate public participation in the development of IDPs and to notify the public about the adoption of the IDPs in different ways.³⁴ In line with the theoretical discussion of this study, it is submitted that these requirements of the IDP can be used to create public value. Such creation of public value may be achieved by promoting transparency; boosting public trust and legitimacy; enhancing accountability; educating the public on municipal priorities and initiatives; aligning the interests of government with the needs, expectations, and preferences of communities; and providing feedback for communities to contribute to

²⁸ See Legacy 2012 *Planning Theory & Practice* 71-87 on how legitimacy in can be created through strategic planning in local government.

²⁹ Section 25(10)(e) of the *Municipal Systems Act*.

³⁰ Section 40(2) of the *Constitution* requires all spheres of government to observe and adhere to the principles of cooperative governance and conduct their affairs in line with section 41(1) of the *Constitution*.

³¹ The *Intergovernmental Relations Framework Act* 13 of 2005 (hereafter *Intergovernmental Relations Framework Act*) was enacted pursuant to section 41(2) of the *Constitution* to give effect to its intergovernmental relations provisions in Chapter 3 of the *Constitution*.

³² See also section 24 of the *Municipal Systems Act* on the obligations of municipal regarding "municipal planning in co-operative government." This section reiterates compliance with section 41 of the *Constitution* and obligates municipalities to participate in national and provincial development programmes in line with section 153 of the *Constitution*.

³³ The prevention of contestations among the three spheres of government is one of the requirements set in Chapter 3 of the *Constitution*.

³⁴ See generally section 25 of the *Municipal Systems Act*.

the refinement of the IDP.³⁵ Informing the public about an adopted IDP may also enhance the responsiveness of local government in that when the public is aware of the IDP, members of the community may take steps to influence the implementation or amendment of the IDP to enhance responsiveness.³⁶

5.3.3 *Public value-creation attributes of IDPs*

It has been seen above that the duty of municipalities to undertake developmentally oriented planning and adopt IDPs has the potential to create public value in several ways.³⁷ This subsection delves into the core elements of IDPs that can enhance public value creation. Section 26 of the *Municipal Systems Act* lists the main features of Integrated Development Plans. Each core element of an IDP can foster public value in distinct ways and contribute to creating public value through integrated, effective, and accountable local governance. The following analysis briefly elaborates on how each element creates public value.

The requirement for each IDP to outline the municipality's vision for long-term development may be used to create public value by providing a roadmap to guide municipalities in ensuring that resources are strategically allocated towards critical development transformation needs, thereby enhancing the trust of communities and the social capital on which municipalities depend.³⁸ Community perceptions that public value has been created in this regard may be enhanced through assessments that enable municipalities to design targeted interventions to address the needs, expectations, and preferences of underserved communities to ensure the equitable distribution of municipal resources, as these are vital for social justice and addressing the legacies of past exclusions.³⁹ The IDPs must outline the economic and other developmental priorities and objectives of elected municipal councils.⁴⁰ These should be used to hold councils accountable.

³⁵ See, in general, Chapter 2 of this study.

³⁶ The adoption and amendment of IDPs is regulated by section 25(3) of the *Municipal Systems Act*.

³⁷ See 5.3.3.

³⁸ Section 26(a) of the *Municipal Systems Act*.

³⁹ See section 26(b) of the *Municipal Systems Act*.

⁴⁰ Section 26(c) of the *Municipal Systems Act*.

To further create public value, developmental priorities must align with national and provincial sectoral plans and planning requirements that are binding on municipalities in terms of legislation such as SPLUMA.⁴¹ Arguably, such an alignment ensures synergy and coherence in developmental planning, thereby legitimising local government actions and enhancing the institutional integrity of municipalities for the benefit of communities. In this regard, it must be noted that IDPs must outline spatial development frameworks that guide each municipality's land use management system.⁴²

In addition, the *Municipal Systems Act* requires IDPs to outline municipalities' operational strategies.⁴³ Such operational strategies may be used to create public value by enabling efficient service delivery and reducing the wastage of public resources, thereby ensuring cost-effectiveness.⁴⁴ The effectiveness of operational strategies may be enhanced through disaster management plans that provide pre-emptive planning to reduce instances of loss of life and property in the case of natural and man-made disasters.⁴⁵ Such preparedness may create public value by enhancing social and economic resilience.⁴⁶

The *Municipal Systems Act* also requires municipalities to ensure that their IDPs include financial plans that include budget projections for at least three subsequent years.⁴⁷ Financial planning and budgeting can be used to create public value through enhancing transparency and providing the necessary accountability mechanisms that foster fiscal sustainability. This requirement may be viewed in the context of the requirement for IDPs to include performance indicators and set performance targets.⁴⁸ The indicators and targets may create public value by serving as

⁴¹ See section 26(d) of the *Municipal Systems Act*.

⁴² Section 26(e) of the *Municipal Systems Act*.

⁴³ Section 26(f) of the *Municipal Systems Act*.

⁴⁴ For a discussion of the connection between strategic planning (including operational strategic planning), see in general, Weinberg and Lewis 2009 *Museum Management and Curatorship* 253-268; Giraudou and Mclarney 2014 *SDMIMD Journal of Management* 3-13.

⁴⁵ Section 26(g) of the *Municipal Systems Act*.

⁴⁶ For an analysis of the link between public value and disaster management preparedness, see Chandra and Paras 2021 *Public Management Review* 1856-1877.

⁴⁷ Section 26(h) of the *Municipal Systems Act*.

⁴⁸ Section 26(i) of the *Municipal Systems Act*.

benchmarks for public scrutiny and internal assessment of municipal performance, thereby promoting accountability and a platform for continuous improvement.⁴⁹

Other public value-creating attributes of IDPs are found in section 27 of the *Municipal Systems Act*, which provides a framework for integrated development planning. This section requires each district municipality to engage in a consultative process with communities to adopt an integrated development planning framework that, among other things, will identify issues for inclusion in the IDP.⁵⁰ and the principles that should be applied in coordinating an approach to that IDP.⁵¹ This requirement creates public value by providing community engagement, consultation, and participation in IDP adoption. The process of adopting an IDP also requires local community consultation and involvement.⁵² In addition to requiring community involvement and participation in IDP adoption, the *Municipal Systems Act* provides an accountability mechanism through provincial monitoring and support.⁵³ This mechanism gives the MEC for local government a role in monitoring the adoption of the IDP.⁵⁴ It also enables the MEC to assist the municipality in planning, adopting, and reviewing the IDP.⁵⁵ In addition, it facilitates the coordination and alignment of the IDPs with other spheres of government and organs of state.⁵⁶ It also resolves disputes that arise between municipalities and their communities concerning the IDP, as well as disputes between municipalities.⁵⁷

From the discussion above, it appears that IDPs are crucial tools that municipalities can use in diverse ways to create public value. Their potential is further enhanced by their binding legal status, which prevents unnecessary deviations from adopted plans and allocated resources.

⁴⁹ See Twizeyimana and Andersson 2019 *Government Information Quarterly* 161-170 for a discussion of the link between public value and key performance indicators.

⁵⁰ Section 27(2)(b) of the *Municipal Systems Act*.

⁵¹ Section 27(2)(c) of the *Municipal Systems Act*.

⁵² Section 29(1) of the *Municipal Systems Act*.

⁵³ Section 31 of the *Municipal Systems Act*.

⁵⁴ Section 31(a) of the *Municipal Systems Act*.

⁵⁵ Section 31(b) of the *Municipal Systems Act*.

⁵⁶ Section 31(c) of the *Municipal Systems Act*.

⁵⁷ Section 31(d)(i)-(ii), respectively, of the *Municipal Systems Act*.

5.4 Annual budgets

5.4.1 Meaning of annual budgets

A budget is a very important local governance instrument that can be used to create public value because it is used to allocate resources in line with identified needs. Budgeting in the public sector in South Africa entails systematic processes through which the different spheres of government and state organs create financial plans to allocate resources in line with identified priorities and the services they intend to deliver to the public within defined fiscal periods.⁵⁸ Section 215 of the *Constitution* requires budgets and budgetary processes in all spheres of the government to promote transparency, accountability, and effective financial management of the economy, debt, and public sector needs. This resonates with public value tenets such as access to knowledge (outcome achievement), accountability, trust and legitimacy, and efficiency and effectiveness, as discussed in Chapter 2 of the study. Parliament enacted the *Municipal Finance Management Act* to "secure sound and sustainable management of the financial affairs of municipalities and other institutions in the local government spheres."⁵⁹ In terms of the *Municipal Finance Management Act*, the council of each municipality must approve annual budgets⁶⁰ at least 90 days before the start of the financial year.⁶¹ However, this does not "preclude the appropriation of money for capital expenditure for a period not exceeding three years."⁶²

5.4.2 Public value-creating components of annual budgets

Section 17 of the *Municipal Finance Management Act* contains the prescribed contents of annual budgets, which this study identifies as the most important public value-creating attribute. It provides that the annual budget must be in a prescribed format that sets out realistically anticipated revenue,⁶³ expenditure,⁶⁴ source of revenue⁶⁵

⁵⁸ Mkhize and Ajam 2006 *Journal of Public Administration* 761-775.

⁵⁹ See preamble to the *Municipal Finance Management Act*.

⁶⁰ Section 16(1) of the *Municipal Finance Management Act*.

⁶¹ Section 16(2) of the *Municipal Finance Management Act*.

⁶² Section 16(3) of the *Municipal Finance Management Act*. In terms of this section, a separate appropriation must be made for each year. For the regulation of capital expenditure by local government, see section 19 of the *Municipal Finance Management Act*.

⁶³ Section 17(1)(a) of the *Municipal Finance Management Act*.

⁶⁴ Section 17(1)(b) of the *Municipal Finance Management Act*.

⁶⁵ Section 17(1)(c) of the *Municipal Finance Management Act*.

and "projected expenditure by vote for the two financial years following the budget year."⁶⁶ In addition, the prescribed format requires municipal annual budgets to set out their estimations of revenues and expenses for the budget years,⁶⁷ the actual revenues and expenses,⁶⁸ and any other information required in terms of section 215(3) of the *Constitution*.⁶⁹ In terms of section 215(3) of the *Constitution*, budgets in all spheres of government - including local government - must estimate revenues and expenditures, separate capital and current expenditure, and purpose financing of deficits, and indicate how borrowing will affect public debt.

It can be argued that the mandate to formulate municipal budgets in the detailed schedule in the format prescribed in section 17(1) of the *Municipal Finance Management Act* may enhance the transparency of municipalities in their financial dealings, thereby fostering accountability, as there will be openness regarding both revenues and expenses. In this regard, section 17(1)(a) may be viewed as an endorsement of the need for a practical and sound financial approach that is necessitated by realistic projections of municipal revenue from all its sources. It is difficult to determine how municipalities may create public value through service delivery without knowing how much revenue will be at their disposal. Similarly, section 17(1)(b) of the *Municipal Finance Management Act* may be seen as a public value-creating measure because it requires an organised (as opposed to haphazard) distribution of financial resources through expenditure across different municipal votes. Long-term financial planning, which is found in sections 17(1) and (c) of the *Municipal Finance Management Act*, may champion long-term fiscal stability, as municipalities would be aware of indicative revenue and projected expenditure for the upcoming two financial years, meaning that no single financial year is viewed in isolation. This may arguably help municipalities know where they stand financially in the coming years and plan accordingly. This may be viewed in tandem with the inclusion of estimated and actual revenue and expenditure for the current and preceding financial years in sections 17(1)(d) of the *Municipal Finance Management*

⁶⁶ Section 17(1)(c) of the *Municipal Finance Management Act*.

⁶⁷ Section 17(1)(d)(i) of the *Municipal Finance Management Act*.

⁶⁸ Section 17(1)(d)(ii) of the *Municipal Finance Management Act*.

⁶⁹ Section 17(1)(e) of the *Municipal Finance Management Act*.

Act. Accounting for both actual and estimated revenues may create public value by aiding municipalities in evaluating their performance and conducting financial analysis.

The *Municipal Finance Management Act* adds a requirement for municipalities to ensure holistic financial planning by providing that "an annual budget must generally be divided into a capital and an operating budget in accordance with international best practice, as may be prescribed."⁷⁰ This may be viewed as the endorsement of a comprehensive approach to financial planning by the local government. The *Municipal Finance Management Act* further provides for safeguards to ensure efficiency and effectiveness in municipal budgeting. In this regard, section 17(3)(b) of the *Municipal Finance Management Act*, which provides the tabling of an annual budget in a municipal council in terms of section 16(2), must be accompanied by draft resolutions, measurable performance objectives, projection of cash flows per month, proposed amendments to the IDP, proposed amendments to budget-related policies, information on the municipality's investments, prescribed budget information, information on proposed new municipal entities, particulars of proposed allocations and grants, cost of salaries, allowances, and benefits for political office-bearers, councillors, and municipal officials; proposed cost of the budget year; and other supporting documents as may be required.⁷¹ These are briefly analysed below.

Starting with the draft resolution, section 17(3)(a) of the *Municipal Finance Management Act* provides that when an annual budget is tabled for approval, a draft resolution for the approval of the budget must be provided,⁷² together with resolutions for the imposition of municipal taxes, setting of tariffs,⁷³ and approval of any matters as may be prescribed in legislation.⁷⁴ This creates transparency about the municipality's financial plans and enables communities, other stakeholders, and oversight bodies to scrutinise budgetary allocations, understand the rationale behind tariff impositions, and assess the alignment of fiscal policies with public needs. It may

⁷⁰ Section 17(2) of the *Municipal Finance Management Act*. Section 20(1) of the *Municipal Finance Management Act* provides that the Minister may prescribe the form of the annual budget and may make any prescribed requirements as may be necessary.

⁷¹ Section 17(3) of the *Municipal Finance Management Act*.

⁷² Section 17(3)(a)(i) of the *Municipal Finance Management Act*.

⁷³ Section 17(3)(a)(ii) of the *Municipal Finance Management Act*.

⁷⁴ Section 17(3)(a)(iii) of the *Municipal Finance Management Act*.

also serve as a measure of accountability in that the draft resolutions justify budgetary decisions.

Section 17(3)(b) of the *Municipal Finance Management Act* may create public value by increasing efficiency and effectiveness through measurable revenue performance. It has already been noted earlier in Chapter 2 of this study that efficiency and effectiveness are tenets of public value. In section 17(3)(c), the *Municipal Finance Management Act* regulates liquidity management by stipulating that budgets must contain projections of monthly cash flow by revenue source. This provision may be intended to ensure that the budget contributes to the municipality's financial solvency.

Another way in which annual budgets can contribute to the creation of public value is found in section 17(3)(d) of the *Municipal Finance Management Act*, which provides that the annual budget must contain "any proposed amendments to the municipality's integrated development plan following the annual review of the integrated development plan in terms of section 34 of the *Municipal Systems Act*." It has already been noted in this chapter that there is a strong connection between the IDP and the annual budget. Hence, section 17(3)(d) of the *Municipal Finance Management Act* can create public value by ensuring an alignment between the municipality's fiscal policies and its long-term development objectives and goals. This alignment ensures that public funds are used in a manner that contributes towards achieving long-term development objectives, thereby potentially creating lasting public value.

It can also be argued that section 17(3)(d) of the *Municipal Finance Management Act* creates public value through responsiveness in that an annual review of the budget ensures that the municipality's IDP remains relevant and responsive to changing circumstances, community needs, preferences, and expectations. Hence, linking the annual budget to the amended IDP may ensure that fiscal policies are adjusted accordingly to reflect each municipality's updated priorities so that resources are properly allocated in the annual budget. In addition, linking the annual budget to the amended IDP enhances transparency and provides a clear and comprehensive view of the municipality's development and fiscal plans. Through such transparency, communities may hold municipalities accountable for their budgetary decisions and

ensure that public funds are used responsibly in line with community needs, preferences, and expectations. These features help in creating public value. Finally, section 17(3)(d) of the *Municipal Finance Management Act* may create public value through integrated planning in that it promotes the need to ensure that fiscal policies reflected in the annual budget are not developed in isolation but with due regard to the broader municipal development strategy.

Section 17(3)(e) of the *Municipal Finance Management Act* may be used to create public value because it stipulates that the annual budget must include "any proposed amendments to the budget-related policies of the municipality." According to the *Municipal Finance Management Act*

"budget-related policy" means a policy of a municipality affecting or affected by the annual budget of the municipality, including—

- (a) the tariffs policy which the municipality must adopt in terms of section 74 of the *Municipal Systems Act*;
- (b) the rates policy which the municipality must adopt in terms of legislation regulating municipal property rates; or
- (c) the credit control and debt collection policy which the municipality must adopt in terms of section 96 of the *Municipal Systems Act*.⁷⁵

It can be argued that incorporating the review and amendment of budget-related policies into the budget maintains their relevance and effectiveness. Section 17(3)(f) of the *Municipal Finance Management Act* may create public value through financial stewardship. This subsection provides that when the annual budget is tabled, it must include "any particulars of the municipality's investments." The provision of details on all investments held by the municipality may promote sound financial management and risk mitigation.

In addition to the above, the contents of annual budgets and supporting documents may be used to create public value through municipal oversight. For example, section 17(3)(g) of the *Municipal Finance Management Act* stipulates that the annual budget must provide all prescribed budget information. This provision can be read with

⁷⁵ Section 1 of the *Municipal Finance Management Act*.

provisions on informed decision-making, such as section 17(3)(h)–(i), which requires details on new municipal entities and service delivery arrangements. Although such agreements may enhance public value by creating efficiency in service delivery, they also create public value by optimising the use of municipal resources. In this regard, section 17(3)(j) of the *Municipal Finance Management Act* seeks to promote collaborative governance and optimal resource use, both of which are tenets of public value.⁷⁶

Another dimension through which to view the public value-creating attributes of annual budgets is through section 17(3)(k) of the *Municipal Finance Management Act*, which mandates the disclosure of the proposed costs for salaries, allowances, and benefits of political figures and senior managers to ensure transparency and accountability in the remuneration of municipal officials. This provision is similar to section 17(3)(l) of the *Municipal Finance Management Act*, which mandates the disclosure of information on the cost of salaries, allowances, and benefits of members of boards of directors, chief executive officers, and other senior managers of entities under the sole or shared control of the municipality. In short, it can be argued that section 17(3)(k) and (l) of the *Municipal Finance Management Act* stipulates the public value-creating attributes of annual budgets in municipalities, including core tenets of public value, such as transparency, accountability, sustainable financial management, and quality service delivery. The following section discusses how funding from annual budgets can create value for the public.

5.4.3 Funding annual budgets

The funding of annual municipal budgets is regulated in section 18 of the *Municipal Finance Management Act*. The section can advance public value in several ways. First, it promotes fiscal responsibility and sustainability by requiring annual budgets to be funded only from revenue that is going to be realistically collected, "cash-backed accumulated funds from previous year's surplus not committed for other purpose"⁷⁷ and from borrowed funds in the case of the capital component of the budget.⁷⁸

⁷⁶ See 2.3.8 and 2.3.10.

⁷⁷ Section 18(1)(b) of the *Municipal Finance Management Act*.

⁷⁸ Section 18(1)(a)-(c) of the *Municipal Finance Management Act*.

Generally, this provision may promote fiscal responsibility and sustainability, thereby ensuring that the municipality can meet its financial obligations without resorting to excessive borrowing or unsustainable financial practices.

The requirement for an annual municipal budget to be funded only from realistically anticipated revenues to be collected may help in creating public value by ensuring that municipalities plan their expenditures based on realistic assessments of their revenue streams. Hence, it may ensure the efficient allocation and use of financial resources, as municipalities may be compelled to align their expenditure plans with their actual financial capacity. This may be understood together with section 18(1)(b) of the *Municipal Finance Management Act*, which encourages savings and financial prudence. This section allows for the use of cash-backed accumulated funds from previous years' surpluses, provided that these funds are not committed for other purposes. This encourages municipalities to save and build reserves during good financial years, which can be used to fund expenditures in leaner years, thereby promoting financial stability and ensuring that even in tough fiscal years, they are able to supply basic services to their communities.

Section 18(1)(c) of the *Municipal Finance Management Act* expressly stipulates that in addition to the above means of funding annual budgets, borrowed funds may be used to fund capital components of the budgets. This is intended to ensure that municipalities do not borrow funds to finance their recurrent expenditures, thereby forcing them to be prudent in their borrowing practices for the benefit of long-term financial sustainability and to protect municipalities from debt traps.

In addition to the potential to create public value by stipulating the only sources through which annual budgets may be funded, section 18 of the *Municipal Finance Management Act* requires municipalities to make realistic revenue projections for the current year based on collection levels to date and the actual revenue collected in previous financial years.⁷⁹ This provision ensures that municipalities do not base their budget on overly optimistic revenue projections and enhances the credibility and reliability of the budget, thereby fostering trust among stakeholders and reducing the

⁷⁹ Section 18(2) of the *Municipal Finance Management Act*.

risk of budget overruns. The provision can also create public value by ensuring accountability and transparency in that municipalities can only base their revenue projections on tangible and verifiable data that can be scrutinised by stakeholders. The following discussion is an analysis of how the preparation of annual budgets can create public value for the local government.

5.4.4 Preparation of annual budgets

The budget preparation process is regulated in section 21 of the *Municipal Finance Management Act*. This section has the potential to create public value through a comprehensive framework of the budget preparation process in municipalities. Section 21 fosters consistency, transparency, accountability, and strategic fiscal planning in local government. Section 21(1)(a) of the Act ensures the consistency and credibility of the budget process by mandating the mayor of a municipality to coordinate the processes for preparing annual budgets and reviewing the municipality's IDP and budget-related policies. This ensures budgetary consistency between IDPs and budget-related policies, thereby creating a sound basis for the financial planning and allocation of resources in a municipality. Such planning may enhance the effectiveness of public expenditures, thereby creating public value.

Section 21(1)(b) of the Act creates public value through structured and transparent financial planning in that it requires the mayor to table a schedule spelling out key deadlines for budget preparation, review of the IDP, and budget-related policies. It can be argued that this provision may facilitate stakeholder engagement and allow communities and interested parties adequate time to deliberate and consult on the proposed budget, thereby enhancing accountability and transparency in local government budgeting. A requirement for the mayor to consider the municipality's IDP when preparing the annual budget may create public value by contributing to the coherent and strategic allocation of resources within the municipality.⁸⁰

The budget preparation process must also ensure realistic fiscal planning, in that the mayor must take all reasonably necessary steps to ensure that the municipality revises

⁸⁰ See section 21(2)(a) of the *Municipal Finance Management Act*.

its IDP in light of realistic revenue and expenditure projections for future years.⁸¹ This requirement promotes prudent financial planning and helps municipalities mitigate the risk of budget overruns and other manifestations of fiscal imbalances.

It has been noted that the coherence of policy and actions among the three spheres of government is an essential attribute for creating public value. The *Municipal Finance Management Act* recognises this and mandates the mayor to consult the national budget, provincial budget, the national government's fiscal and macro-economic policy, and the annual Division of Revenue Act when preparing the annual budget so that the municipal budget aligns with national priorities and policies to promote macro-economic stability.⁸²

In addition to consulting the national policies discussed above, the mayor must also consult the following stakeholders when preparing the budget: district and local municipalities that are affected, provincial treasury and National Treasury, and other organs of state when prescribed.⁸³ This inclusive approach can create public value by ensuring that different perspectives are considered during the budgeting process. It also fosters cooperation and coordination between the three spheres of government to enhance the quality of the budgetary decision-making process. Such an enhancement can be submitted to the interests of communities served by municipalities to create public value.

It has already been observed in this study that public participation in government decision-making is a prominent tenet of public value.⁸⁴ In addition to consulting stakeholders in the preparation of the municipal annual budget, the *Municipal Finance Management Act* requires the mayor to provide information to these stakeholders upon request.⁸⁵ Such disclosure of information may create transparency and facilitate informed decision-making by relevant stakeholders, thereby increasing accountability and good governance in the local government. As seen in the following discussion on

⁸¹ Section 21(2)(b) of the *Municipal Finance Management Act*.

⁸² Section 21(2)(c) of the *Municipal Finance Management Act*.

⁸³ Section 21(2)(d) of the *Municipal Finance Management Act*.

⁸⁴ See 2.3.7.

⁸⁵ Section 21(2)(e) of the *Municipal Finance Management Act*.

the publication of annual budgets, disclosure through publication is a critical tenet for creating public value through the budget process in the local government.

5.4.5 Publication of annual budgets

Section 22 of the *Municipal Finance Management Act* regulates the publication of annual budgets by municipalities to promote transparency, accessibility, public participation, comprehensive dissemination, and accountability in municipal budgets. The publication of annual budgets creates public value and contributes to good governance. After the annual budget has been tabled in a municipal council, the accounting officer must immediately publicise the annual budget and related documents.⁸⁶ Such transparency affords communities and stakeholders the ability to scrutinise the budget and underlying assumptions. Hence, the publication of the annual budget fosters open and transparent local governance.

After publicising the annual budget, the accounting officer must "invite the local community to submit representations in connection with the budget."⁸⁷ It can be argued that invitations to community members foster participatory budgeting and enhance democratic local governance by providing communities with a platform to express their views, needs, preferences, and expectations of the budget to enable their municipality to ensure that the budget reflects these needs, preferences, and expectations. In addition to publicising the budget and inviting communities to make representations, the *Municipal Finance Management Act* requires the accounting officer to comprehensively disseminate the budget to the National Treasury and other national and provincial organs of the state⁸⁸ and to other municipalities that are affected by such a budget.⁸⁹ This provision ensures that key stakeholders to whom the mayor must consult⁹⁰ and provide information upon request⁹¹ have access to the budget. This may enable them to exercise effective oversight and scrutiny, thereby promoting accountability for municipal fiscal management. In short, the publication of

⁸⁶ Section 22(a)(i) of the *Municipal Finance Management Act*.

⁸⁷ Section 22(a)(ii) of the *Municipal Finance Management Act*.

⁸⁸ Section 22(b)(i) of the *Municipal Finance Management Act*.

⁸⁹ Section 22(b)(ii) of the *Municipal Finance Management Act*.

⁹⁰ See section 21(2)(d) of the *Municipal Finance Management Act*.

⁹¹ See section 21(2)(e) of the *Municipal Finance Management Act*.

the budget and its submission to relevant bodies enhances accountability, given that the accounting officer is responsible for ensuring compliance with these provisions. This contributes to a culture of accountability and responsible fiscal management by local government. The following discussion examines how consultations on tabled annual budgets may help create public value.

5.4.6 Consultations on tabled budgets

This study notes that public consultation is a key tenet of public value in that it is only through consultation and other forms of engagement between the government, communities, and stakeholders that the needs, expectations, and preferences of communities served by local government can be ascertained. In realising the importance of consultation, the *Municipal Finance Management Act* prescribes consultations on tabled budgets by stipulating, among other things, that stakeholders must be consulted.⁹² The council must give the mayor an opportunity to address all submissions and revise the budget where necessary. In addition, the National Treasury may issue further guidelines regarding the processing of the annual budget.⁹³ These provisions have now been considered.

The requirement to consider the views of the local community creates public value by promoting democratic engagement in the budget process and ensuring that the budget is not adopted without community involvement.⁹⁴ This may be seen as ensuring participatory local governance in that the local community will be afforded an opportunity to express its collective needs, expectations, and preferences from the budget. It may be assumed that municipalities would incorporate the views of local communities in the budget, thereby fulfilling another core tenet of public value – responsiveness. The requirement to consider the views of the National Treasury, relevant provincial treasury, and other organs of the state and municipalities enhances transparency and accountability not only to other municipalities but also to the other two spheres of government, thereby ensuring that the budget is aligned with national

⁹² Section 23(1) of the *Municipal Finance Management Act*.

⁹³ Section 23(1) of the *Municipal Finance Management Act*.

⁹⁴ Section 23(1)(a) of the *Municipal Finance Management Act*.

financial regulations and policies.⁹⁵ The foregoing analysis of consultations on tabled budgets paves the way for the creation of public value through the approval of annual budgets.

5.4.7 Approval of annual budgets

The above analysis examined the various ways in which public value is created through budgets that have been prepared and tabled in the municipal council. This section discusses the public value-creating attributes of the budget approval process. In terms of section 24 of the *Municipal Finance Management Act*, the municipal council must consider a tabled budget at least 30 days before the commencement of the budget year,⁹⁶ which must be approved before the start of that year.⁹⁷ It may be argued that advance consideration is crucial for ensuring thorough scrutiny of the budget to facilitate informed decision-making. The requirement for timely budget approval prevents a governance vacuum that may arise when the budget is not passed. Thus, it ensures continuity in the provision of basic services without interruption.

Section 24(2)(b) of the *Municipal Finance Management Act* can create public value through formal resolutions for budget approval. This fosters procedural safeguards and ensures that the adoption of the budget should follow careful deliberation by the municipal council. Another way in which section 24 of the *Municipal Finance Management Act* may create public value is through the requirement for the approval of the budget together with the adoption of resolutions for the imposition of municipal taxes in the budget year,⁹⁸ setting of municipal tariffs for the budget year,⁹⁹ approval of measurable performance objectives for revenues,¹⁰⁰ approval of changes to the IDP,¹⁰¹ and approval of changes to budget-related policies.¹⁰² Adopting these formal resolutions for the aforementioned fiscal management actions ensures a comprehensive approach that facilitates budget implementation in line with the

⁹⁵ Section 23(1)(b) of the *Municipal Finance Management Act*.

⁹⁶ Section 24(1) of the *Municipal Finance Management Act*.

⁹⁷ Section 24(2)(a) of the *Municipal Finance Management Act*.

⁹⁸ Section 24(2)(c)(i) of the *Municipal Finance Management Act*.

⁹⁹ Section 24(2)(c)(ii) of the *Municipal Finance Management Act*.

¹⁰⁰ Section 24(2)(c)(iii) of the *Municipal Finance Management Act*.

¹⁰¹ Section 24(2)(c)(iv) of the *Municipal Finance Management Act*.

¹⁰² Section 24(2)(c)(v) of the *Municipal Finance Management Act*.

municipality's fiscal strategy and operational plans. Resolutions pertaining to performance objectives and changes to the IDP may ensure that a budget is not simply a financial document but also a strategic tool that can reinforce strategic local governance. When the budget is approved with all these resolutions in place, it must be submitted to the National Treasury and relevant provincial treasury in compliance with the *Municipal Finance Management Act* to ensure effective oversight of its implementation.¹⁰³

However, there are times when a municipal council may fail to approve the budget. When this occurs, the council must reconsider the budget and vote on it (or its amended version).¹⁰⁴ This process must be completed until the budget is approved.¹⁰⁵ If there is a total failure to approve the budget, the provisions of section 55 of the *Municipal Finance Management Act* apply.¹⁰⁶ This section provides that the mayor must inform the MEC of local government in that province and, where appropriate, recommend provincial intervention in the municipality in terms of section 139(4) of the *Constitution*.¹⁰⁷ Such intervention may occur through the dissolution of the municipal council and the appointment of an administrator to run the affairs of the municipality until a new council is declared and elected.¹⁰⁸ A provincial executive intervening in the municipality may also approve a temporary budget or revenue-raising measure to ensure the continued functioning of the municipality.¹⁰⁹ This creates public value by ensuring that a temporary budget or measure for raising revenue is in place so that services may be provided to communities.

5.4.8 Unauthorised, irregular, fruitless and wasteful expenditure

When a budget is tabled and approved, there is a need for financial discipline to protect the efficient and effective use of public resources in local government to create public value by enhancing citizens' trust in their municipality. Additionally, financial

¹⁰³ Section 24(3) of the *Municipal Finance Management Act*.

¹⁰⁴ Section 25(1) of the *Municipal Finance Management Act*.

¹⁰⁵ Section 25(2) of the *Municipal Finance Management Act*.

¹⁰⁶ Section 25(3) of the *Municipal Finance Management Act*.

¹⁰⁷ See the discussion in 4.8 on provincial interventions.

¹⁰⁸ Section 26(1)(a) of the *Municipal Finance Management Act*.

¹⁰⁹ Section 26(1)(b) of the *Municipal Finance Management Act*.

discipline contributes to the local community's broader social and economic well-being. In view of this, section 32 of the *Municipal Finance Management Act* contains measures for protecting public funds and ensuring that their use is in a manner that benefits the public.

First, section 32 of the *Municipal Finance Management Act* seeks to ensure accountability by holding political office-bearers and municipal officials accountable for any unauthorised, irregular, and wasteful expenditure of municipal funds. It seeks to enforce responsible financial governments by imposing liability on them for deliberate, negligent, unauthorised, fruitless, or irregular expenditure.¹¹⁰ It can be inferred that this liability is intended to deter fiscal mismanagement. Second, the *Municipal Finance Management Act* also provides for the recovery of public funds lost through authorised, irregular, fruitless, or wasteful expenditures.¹¹¹ This mechanism preserves the financial integrity of a municipality by recovering lost funds.

Third, the *Municipal Finance Management Act* requires the accounting officer of a municipality to be aware that the council, mayor, or executive committee decides on something that may result in authorised, irregular or fruitless, and wasteful expenditure to inform the council, mayor, and executive committee in writing that such expenditure will be unauthorised, irregular or fruitless, and wasteful.¹¹² Fourth, the *Municipal Finance Management Act* requires transparency by mandating the accounting officer to inform the mayor, the MEC for local government, and the Auditor-General of wasteful expenditure to ensure transparency in municipal financial management and enable these oversight bodies to monitor and evaluate municipal spending.¹¹³ The accounting officer must also inform these oversight bodies if a particular person is responsible for unauthorised, irregular, or fruitless and wasteful expenditure so that appropriate action may be taken to recoup the funds.¹¹⁴ In informing these oversight bodies, the accounting officer must also detail any steps

¹¹⁰ Section 32(1) of the *Municipal Finance Management Act*.

¹¹¹ Section 32(2) of the *Municipal Finance Management Act*. There are exceptions to this provision, as stipulated in section 32(2) of the *Municipal Finance Management Act*.

¹¹² Section 32(3) of the *Municipal Finance Management Act*.

¹¹³ Section 32(4) of the *Municipal Finance Management Act*.

¹¹⁴ Section 32(4)(a) of the *Municipal Finance Management Act*.

taken to recover or rectify the expenditure and prevent the recurrence of such expenditures.¹¹⁵ This may be seen as a proactive measure for improving financial discipline in the municipality.

Fifth, the *Municipal Finance Management Act* provides that although unauthorised, irregular, fruitless and wasteful expenditure may be written off in terms of section 32(2), such writing-off does not excuse the responsible person from criminal and disciplinary proceedings.¹¹⁶ This underscores the seriousness of the legislature's views on financial mismanagement. Hence, the accounting officer must report all irregular expenditures that are criminal offences to the South African Police Service.¹¹⁷ Accounting officers must also report any theft or fraud in the municipality.¹¹⁸ If the person suspected of these offences is an accounting officer, the municipal council must take all steps to report the accounting officer to the South African Police Service.¹¹⁹ In short, all municipal funds must be spent in terms of an adopted budget, the failure of which may have personal consequences for liable individuals. The following section examines annual reports that can be used by local government to create public value.

5.5 Annual reports

Annual reporting in local government refers to the process by which municipalities document and present their performance, financial statements, and activities over the fiscal year to stakeholders, which can include residents, local businesses, government officials, and oversight bodies such as the Auditor-General.¹²⁰ This process is mandated by law and aims to ensure transparency, accountability, and effective governance, all of which are core tenets of public value, as analysed in Chapter 2 of this study. As indicated in 6.1 above, annual reports serve as a local government instrument that can be used to create public value. It was also indicated that annual reports serve as an accountability mechanism by offering retrospective views of the

¹¹⁵ Section 32(4)(c) of the *Municipal Finance Management Act*.

¹¹⁶ Section 32(5) of the *Municipal Finance Management Act*.

¹¹⁷ Section 32(6)(a) of the *Municipal Finance Management Act*.

¹¹⁸ Section 32(6)(b) of the *Municipal Finance Management Act*.

¹¹⁹ Section 32(7) of the *Municipal Finance Management Act*.

¹²⁰ Matlala and Uwizeyimana 2020 *African Evaluation Journal* 1-11.

achievements and challenges of municipalities over the past fiscal year. This section explores three types of annual reports: those by municipalities, the MEC, and the minister. All of these reports are regulated by the *Municipal Systems Act*, as discussed in this section. The justification for the inclusion of MEC and Minister's reports is that the municipal annual reports are consolidated into MEC reports for each province. The Minister, in turn, consolidates the MEC reports. Hence, the reports build up from the local level to the national level and should be seen in that light, as discussed below.

5.5.1 Annual municipal reports

5.5.2 Overview of annual municipal reports

Section 46 of the *Municipal Systems Act* provides preparation for annual reports by a municipality as follows:

46. (1) A municipality must prepare for each financial year an annual report consisting of—

(a) a performance report reflecting—

(i) the municipality's, and any service provider's, performance during that financial year, also in comparison with targets of and with performance in the previous financial year;

(ii) the development and service delivery priorities and the performance targets set by the municipality for the following financial year; and

(iii) measures that were or are to be taken to improve performance;

(b) the financial statements for that financial year prepared in accordance with the standards of generally recognised accounting practise referred to in section 89 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

(c) an audit report on the financial statements and the report on the audit performed in terms of section 45(b); and

(d) any other reporting requirements in terms of other applicable legislation.

This section helps to advance public value by mandating transparent reporting of the municipality's performance and that of its service providers.¹²¹ Through a comparison with the previous year's targets and performance, such reporting fosters accountability

¹²¹ Section 46(1)(a)(i) of the *Municipal Systems Act*.

and allows communities and stakeholders to evaluate the progress and efficiency of the municipality.¹²² The requirement for reporting development and service delivery priorities underpins strategic planning and goal setting, both of which are critical for creating public value.¹²³ It can be submitted that establishing development and service delivery priorities along with the performance targets for the upcoming year ensures that the municipality commits to specific outcomes that align with the views, needs, expectations and preferences of their local communities.¹²⁴ The requirement for the annual report to stipulate measures to improve performance in the municipality promotes a culture of continuous reflection and improvement in municipal operations to ensure proactive management that enhances service delivery, thereby creating public value.¹²⁵

In the analysis of annual budgets above, it was noted that safeguarding the financial resources of a municipality through drafting and approving a budget and action against unauthorised, irregular, fruitless, and wasteful expenditure is a necessary component of creating public value in the local government.¹²⁶ The *Municipal Systems Act* recognises the importance of this and stipulates that the municipality's annual report must also contain financial statements to ensure financial accountability and transparency, particularly given that financial statements should be prepared in accordance with prescribed accounting practices.¹²⁷ The integrity of such financial statements is protected through their audit reports of municipalities, which act as a check on the proper use of municipal funds.¹²⁸ Section 46(1)(d) of the *Municipal Systems Act*, which provides for the annual report to include other reporting requirements, acknowledges that the creation of public value is multidimensional and not confined to financial and performance reporting. Hence, compliance with the broader statutory framework ensures that municipal reporting is sound and in line with the prescriptions of the national government.

¹²² Section 46(1)(a)(i) of the *Municipal Systems Act*.

¹²³ Section 46(1)(a)(ii) of the *Municipal Systems Act*.

¹²⁴ Section 46(1)(a)(ii) of the *Municipal Systems Act*.

¹²⁵ Section 46(1)(a)(iii) of the *Municipal Systems Act*.

¹²⁶ See 5.4 above.

¹²⁷ Section 46(1)(b) of the *Municipal Systems Act*.

¹²⁸ Section 46(1)(c) of the *Municipal Systems Act*.

5.5.3 Procedural requirements for annual municipal reports

The procedural requirements for tabling and discussing annual municipal reports found in sections 46(2)–(3) of the *Municipal Systems Act* can be used to create public value. As discussed below, these requirements collectively construct an architecture for governance that mandates transparency, enforces accountability, encourages public participation, and enables oversight, all of which are foundational tenets of public values. Section 46(2) of the *Municipal Systems Act* creates public value through timely accountability in that it mandates the municipality to present its annual report within one month after receiving the audit report referred to in section 46(1)(c) of the same Act. This requirement ensures the prompt disclosure of financial performance and operational requirements, thereby facilitating accountability.

Section 46(3)(a)(i) of the *Municipal Systems Act* requires the municipal manager to publicise council meetings in which the report will be tabled or discussed, and that such meetings must be open to the public. This provision creates public value because it enhances municipal transparency and promotes public engagement. It allows community members to sit in council meetings and hear what councillors have to say about the municipality's performance. In addition, the municipal manager must give the Auditor-General and MEC of local government in the province notice of such meetings¹²⁹ and supply them with copies of the minutes of those meetings.¹³⁰ These obligations enable these oversight bodies to send representatives to attend, speak, and ask questions to the municipal manager at such meetings and understand the performance of a municipality.¹³¹ The requirement for the municipal manager to answer questions from representatives of the Auditor-General and the MEC for the local government concerning the annual report ensures responsive governance. Hence, municipal managers are seen as not merely reporting but also actively engaging with oversight bodies to foster responsive local governance. It also fosters institutional cooperation by allowing the two oversight bodies to scrutinise the annual municipal report.

¹²⁹ Section 46(3)(a)(ii) of the *Municipal Systems Act*.

¹³⁰ Section 46(3)(a)(iii) of the *Municipal Systems Act*.

¹³¹ Section 46(3)(b) of the *Municipal Systems Act*.

5.5.4 Adoption and distribution of annual municipal reports

The *Municipal Systems Act* indirectly creates public value by prescribing the manner of adopting and distributing annual municipal reports. It says that within 14 days of tabling, a municipality must adopt the annual report, make copies of it publicly available, and submit it to the MEC for local government in the province, the Auditor-General, and other institutions, as may be prescribed by regulation. The requirement for adopting an annual report within 14 days and making it available to the public and stakeholders creates public value through disclosure, in that the public has access to critical information in the report. This facilitates transparency and enables the local community and stakeholders to evaluate the performance of the municipality and draw their own conclusions. The requirement to submit the report to the MEC, Auditor-General, and other prescribed institutions creates public value by enabling oversight bodies to assess whether municipal affairs are managed in compliance with legislation. This also enhances regulatory compliance.

5.5.5 Reports by the MEC and Minister

Throughout this chapter, it has been noted that oversight of local government affairs is a critical component of creating public value. This section briefly looks at how such oversight can create public value through reports by the MEC in terms of section 47 of the *Municipal Systems Act*, which outlines the reporting responsibilities of the MECs of local government. Section 47(1) mandates the MECs of local government to compile and submit an annual consolidated report on municipal performance within the province to provincial legislatures and the minister. This systematic review serves as an essential tool for performance management across provinces and provides a comprehensive assessment of municipal functions and services. Such reporting fosters accountability and transparency and provides an opportunity for timely intervention in distressed municipalities, as seen in section 47(2)(a) of the *Municipal Systems Act*, which obligates the MEC's report to identify municipalities that underperformed and to identify the proposed remedial action.¹³² It can be seen that the requirement to propose remedial action (which may include provincial intervention) is not only

¹³² Section 47(2)(b) of the *Municipal Systems Act*.

prescriptive but also enables the report to offer tangible solutions to address deficiencies in the municipality's governance.

This chapter shows that the disclosure of municipal documents such as the IDP, annual budget, and annual municipal report is a critical component of creating public value in local government by facilitating access to information. Similarly, section 47(2)(c) of the *Municipal Systems Act* requires the publication of the report by MEC in the Provincial Gazette to inform the public and reinforce the public's role in demanding better services and accountability. This should be seen in the context of section 47(3) of the *Municipal Systems Act*, which requires the MEC to submit a copy of the report to the National Council of Provinces, thereby ensuring that municipal performance is integrated into the national discourse. This enables broader oversight and facilitates intergovernmental relations (IGRs). The chain of reporting from the municipality does not end with an MEC report. However, it extends to the Minister of Cooperative Governance and Traditional Affairs, who must annually compile and submit a report to Parliament and MECs for local government, detailing local government performance based on key performance indicators.¹³³ Such a report must be published in the Gazette to give South Africans access to consolidated information on local government performance.¹³⁴ This indicates that the *Municipal Systems Act* values transparency and disclosure of critical local government information.

5.6 Chapter conclusion

This chapter examined local government instruments that can be used to create public value, such as IDPs, annual budgets, and annual municipal reports. The analysis showed interconnectedness among the instruments. The chapter showed that IDPs operate as comprehensive strategic plans for local government and outline the long-term visions and immediate developmental objectives of municipalities. Hence, IDPs can serve as indicators of local government's commitment to generating public value. Annual budgets provide concrete information on the allocation of financial resources

¹³³ Section 48(1) of the *Municipal Systems Act*.

¹³⁴ Section 48(2) of the *Municipal Systems Act*.

by municipalities and reveal the extent to which the priorities expressed in IDPs correspond with actual financial commitments.

The analysis in this chapter showed that budgets are not mere financial statements but are pivotal in translating the aspirations of IDPs into tangible allocations. This is because budgets reflect municipal dedication to the stated objective. The discussion also showed that, from preparation to approval, the budget process embodies a commitment to accountability and transparency, both of which are integral tenets of public value. The mechanisms for addressing unauthorised and wasteful expenditure in this chapter, in connection with the budget, show a strong commitment to accountability.

The analysis of annual municipal reports shows that they serve as accountability mechanisms by offering retrospective views of the achievements and challenges of municipalities over the past fiscal year. Their retrospective insights can be useful for determining the creation of public value by exposing adverse service delivery performance. Hence, annual municipal reports function as accountability tools by offering a narrative on the extent to which public value has been actualised through municipal actions over the financial year. The feedback loop provided by these reports is essential for corrective measures and strategic realignment, ensuring that service delivery aligns with public value expectations and that proper and timely intervention can be made where there are serious lapses. This is seen in the MEC report and the Minister of Cooperative Governance and Traditional Affairs report. Collectively, the three local government instruments for creating public value – IDPs, budgets, and annual reports – form a triad of tools that advance the public value agenda in local governance. They are not isolated mechanisms but interconnected in facilitating a strategic, financial, and evaluative framework that underpins public value creation in South African municipalities.

The following chapter considers the cities of Ekurhuleni, Tshwane and Johannesburg to illustrate how IDPs, annual budgets and annual reports may, in actual terms, be leveraged to create public value.

CHAPTER 6

CASE STUDY ANALYSIS: EKURHULENI, TSHWANE AND JOHANNESBURG MUNICIPALITIES

6.1 Introduction

This chapter uses case studies from metropolitan municipalities in Gauteng Province, South Africa, to examine whether and how the most recent versions of their IDPs, budgets and annual municipal reports cater for some of the key features of public value discussed in Chapters 2 and 5 of this study. The chapter seeks to show the usefulness of these local government instruments in creating public value from a municipality-specific perspective. The chosen municipalities are the Ekurhuleni Metropolitan Municipality, the City of Tshwane Metropolitan Municipality and the City of Johannesburg Metropolitan Municipality. These municipalities are situated in the same province, represent three out of eight metropolitan municipalities in South Africa and comprise all the metros in Gauteng.¹ The socio-economic environment and administrative challenges in the Gauteng Province provide a rich setting for determining how city-level instruments manifest a public value approach to local governance.² This is because of the unique histories, demographic profiles, and governance issues faced by local government in the province.³ In addition, local government in Gauteng face many challenges that may undermine public value, such as service delivery shortfalls,⁴ infrastructural limitations,⁵ and a complex socio-political environment that makes their approach to public value of interest in a study of this magnitude.⁶ However, it should be noted that the chosen municipalities are

¹ See Statistics South Africa *Provincial Profile: Gauteng Community Survey 2016*.

² See Letlape *The Reconfiguration of the Gauteng City Region* 14-32; Wray and Cheruiyot 2015 *South African Journal of Geomatics* 14-35, for a synopsis of the challenges faces Gauteng Province.

³ See Letlape *The Reconfiguration of the Gauteng City Region* 14-32.

⁴ For a discussion of service delivery challenges in Gauteng, see Chauke *Basic Service Delivery Challenges with Regards to Water and Sanitation in Gauteng Province: A Case of City of Johannesburg and City of Tshwane Metropolitan Municipalities* 1-10.

⁵ For a full exposition of infrastructural issues facing Gauteng, see Gauteng Provincial Government *State of Municipal Infrastructure: Progress in Building Viable Municipal Infrastructure for Effective Delivery of Services to Communities* 1-31.

⁶ See Ebrahim and Everatt 2023 *Urbanisation* 22-40 for a discussion of politics and planning in Gauteng.

not the same (as no two places are the same) in that despite their geographical proximity, the cities of Johannesburg, Ekurhuleni, and Tshwane face distinct realities. This chapter shows the extent to which these municipalities manifest a public value approach in their IDPs, budgets and annual reports.

Each of the municipalities is considered along the lines of the following parts: Part 1 of every case study introduces the municipality. Part 2 critically discusses the IDP as an instrument for creating public value. Part 3 analyses the municipal budget, while Part 4 discusses the annual report. In all instances, the objective is to determine the extent to which each instrument advances public value.

It must be noted in advance that only the latest IDPs, annual budgets and annual reports have been used for purposes of the case study analysis. Although it would have been ideal to normalise these instruments through the use of a common year's monetary value, this has not been possible for several reasons. First, IDPs are multi-year plans that may be revised every year for budget purposes and may not always be adopted in the same year in each municipality. Second, annual budgets are for future fiscal planning and should be prepared with a multi-year outline, as discussed in 5.4. Annual reports, on the other hand, look at past performance and may not necessarily link with the current IDP or budget entirely but will be reflected on a previous period. Hence, there will always be a difference in the applicable years for these instruments if one uses the latest instruments in each category, as has been done in this study. The differences in the years should be understood in the context that in as much as these local government instruments cover different years, municipalities operate in distinct political and socio-economic environments that influence the timing and content of strategic planning documents. This is not a negative matter, given that using different years allows for capturing the specific context and needs of each municipality at a given point in time, thereby ensuring relevance and accuracy.

6.2 Case 1: City of Ekurhuleni Metropolitan Municipality

6.2.1 Background to the Municipality

The City of Ekurhuleni is a metropolitan municipality that governs the former East Rand region of the Gauteng Province in South Africa.⁷ It was administered from Germiston. The City of Ekurhuleni is one of the most densely populated areas in the province and country, as its inhabitants surpass 3.3 million people.⁸ It covers a land mass of 1 975km².⁹ The City of Ekurhuleni comprises various townships, residential areas, and industrial zones, making it a strategic economic hub for the province.¹⁰ It is home to OR Tambo International Airport, which is South Africa's busiest airport.¹¹ OR Tambo is located in Kempton Park, a strategic location that makes the City of Ekurhuleni a crucial domestic and international travel centre, as well as an industrial and logistical centre in the Gauteng City Region.¹²

The City of Ekurhuleni was established through the merger of various local councils and administrations through an amalgamation of regional entities such as the Kyalami Metropolitan and the Eastern Gauteng Services Council.¹³ This City has both affluent suburban and high-density areas, including informal settlements.¹⁴ This is a result of colonial and apartheid spatial planning, which ensured that as many people as possible flocked to the cities and that black people resided on the periphery of these cities, just like in most parts of South Africa.¹⁵ The impact of this is that the City of Ekurhuleni has to contend with challenges of service delivery, informal settlements, and a growing population that derives from the fact that an increasing number of people are moving into it, just as they are in the City of Johannesburg and the City of Tshwane.¹⁶ Despite post-apartheid attempts to address service challenges occasioned by the apartheid

⁷ World Cities 2022 <https://world-cities.eu/regions/2017-2018/eu-south-africa/erkuhuleni/>.

⁸ City of Ekurhuleni Integrated Development Plan (2022) 2.3.

⁹ *City of Ekurhuleni IDP 2.2.*

¹⁰ *City of Ekurhuleni IDP 2.1.3.*

¹¹ *City of Ekurhuleni IDP 2.2.*

¹² *City of Ekurhuleni IDP 2.2.*

¹³ *City of Ekurhuleni IDP 2.2.*

¹⁴ *City of Ekurhuleni IDP 2.2.*

¹⁵ For a general historical outline of how colonial and apartheid spatial influenced the layout and demographics of South African cities, see Chapter 3 of this study.

¹⁶ *City of Ekurhuleni IDP 2.3.*

system, the City of Ekurhuleni faces challenges which impinge on public value, such as spatial inequality, poor service delivery, governance and other administrative shortcomings, environmental concerns, crime, and risks to the environment.¹⁷ The following discussion examines how the City of Ekurhuleni may create public value through three local government instruments: the IDP, the annual budget, and the annual report, in response to the above challenges.

6.2.2 IDP

This section shows the extent to which the City of Ekurhuleni's 2022 IDP manifest features of public value creation. The section does not consider the IDP in full, given its length of 275 pages. Instead, this section considers selected parts of the IDP that seem to create public value in the Municipality. The selected issues include the context in which the IDP was adopted, its strategic focus, the process followed for its adoption, and its strategic content. The IDP was adopted in terms of section 25 of the *Municipal Systems Act*.¹⁸ The City of Ekurhuleni IDP stipulates that its objective is "the continuous improvement of the implementation of the municipality's five-year objectives and ensuring improved service delivery and responsiveness to the citizens of Ekurhuleni."¹⁹ The development of the IDP was influenced by legislative requirements,²⁰ directives from the national and provincial governments,²¹ and assessment of the City of Ekurhuleni's developmental needs against strategic objectives,²² financial issues, and community and stakeholder engagement processes.²³ Concerning community and stakeholder engagement, the IDP outlines extensive processes in terms of the *Municipal Systems Act* and the *Municipal Financial Management Act*.²⁴ These processes reflect a wide and intensive consultative and

¹⁷ See *City of Ekurhuleni IDP* 2.1-2.5.

¹⁸ See also *City of Ekurhuleni IDP* 1.4.

¹⁹ *City of Ekurhuleni IDP* 1.

²⁰ *City of Ekurhuleni IDP* 1.1; section 151 of the *Constitution*; and section 153 of the *Constitution - City of Ekurhuleni IDP* 1.2.

²¹ *City of Ekurhuleni IDP* 1.2.

²² *City of Ekurhuleni IDP* 1.3.

²³ *City of Ekurhuleni IDP* 1.4.

²⁴ *City of Ekurhuleni IDP* 1.4.

engagement process that led to the IDP, thus confirming the legislative requirements for communities to be consulted in the development or revision of the IDP.

The City of Ekurhuleni's IDP provides the strategic context in which it was adopted. It stipulates that it was adopted against the realisation of the need for service delivery, important city developmental interventions, the need to provide strategic direction to the Municipality, and to complete national, provincial, and localised planning directives for the Gauteng City Region.²⁵ The IDP outlines the Ekurhuleni Growth and Developmental Trajectory for 2055, which is a long-term strategy for the Municipality's development.²⁶ This Growth and Developmental Strategy is built upon the realisation of the negative consequences of historical challenges on the well-being of the City of Ekurhuleni and the need to design a Growth and Development Trajectory that can take the City of Ekurhuleni into the future.²⁷

The City of Ekurhuleni's IDP stipulates that the Growth and Development Trajectory of 2012-2055 will be achieved through re-urbanising to achieve sustainable urban integration, re-industrialisation to create jobs and economic opportunities, ensure a safe and healthy environment to promote environmental well-being, re-mobilising communities to empower communities, and re-governing to ensure effective cooperative governance.²⁸ The IDP stipulates that the future vision of the City of Ekurhuleni through this Growth and Development Trajectory is to ensure that the City becomes a Delivering City by making sure that it is managed well-resourced, financially sustainable, and without service delivery challenges.²⁹ The IDP further stipulates that the vision from 2020-2030 is to make the City of Ekurhuleni a Capable City whose economy is industrially inclusive and has lower employment and poverty rates.³⁰ According to the IDP, from 2030 to 2055, it is envisaged that the City will be a

²⁵ *City of Ekurhuleni IDP 3.1.*

²⁶ *City of Ekurhuleni IDP 3.2.*

²⁷ *City of Ekurhuleni IDP 3.2.*

²⁸ *City of Ekurhuleni IDP 3.2.*

²⁹ *City of Ekurhuleni IDP 3.2.*

³⁰ *City of Ekurhuleni IDP 3.2.*

Sustainable City, which is "a clean, green, and sustainable African manufacturing complex" with a city development network.³¹

The IDP lists critical political priorities that, if followed through, may create public value. These include paying more attention to the basic service delivery needs of communities, such as reliable, clean, and running water that is safe for human consumption, modernising water management and preventing water leaks, preventing untreated wastewater from contaminating the environment, and the homes of community members, streets, and sidewalks.³² In addition to protecting the environment through service delivery by supplying water and properly managing waste, the IDP says the City of Ekurhuleni intends to promote the right to a healthy and safe environment by keeping the environment in a hygienic state by, among other things, collecting refuse and disposing of rubbish, ensuring compliance with environmental legislation, and ensuring that landfills are properly managed and that recycling programs are at their best performance.³³

Regarding the electricity supply constraints, the IDP stipulates that the City of Ekurhuleni would reduce the vulnerability of communities to load shedding by, among other things, enhancing access to reliable, affordable, and sustainable electricity and incentivising the uptake of pre-paid meters and private generation of electricity by residents.³⁴ Arguably, this is a rather ambitious target given the intensifying electricity supply challenges facing the rest of South Africa. In addition, it would have been possible to view electricity alleviation priorities if the City of Ekurhuleni had set a clear roadmap and outlined resources on how it would achieve this target. Therefore, it is argued that the reference to electricity supply issues in the IDP is no more than the recognition that public value is eroded by persistent load shedding.

The IDP may further create public value through the political priority of the City to invest in safe, reliable, and affordable transport in an environment in which roads are well-maintained and in which e-tolling is eliminated to reduce the financial burden on

³¹ *City of Ekurhuleni IDP 3.2.*

³² *City of Ekurhuleni IDP 3.3.*

³³ *City of Ekurhuleni IDP 3.3.*

³⁴ *City of Ekurhuleni IDP 3.3.*

the residents of the city.³⁵ In addition to giving residents a reprieve from persistent transport challenges, the IDP sets the municipality's political priority on developing an infrastructure strategy that is holistic and combined with the proper maintenance and protection of infrastructure from vandalism.³⁶ This priority should be seen as a response to the realisation that the City of Ekurhuleni's communities are suffering as a result of a lack of proper infrastructure for service delivery and as a consequence of criminality.

The IDP recognises the importance of accountability in the City of Ekurhuleni by stipulating that another political priority is to eliminate corruption and adopt the best practices for good governance.³⁷ This position shows commitment to consequence management. The IDP further provides that another political priority is to devolve power so that ward committees can function smoothly to provide administrative support to residents.³⁸ This can be seen as a way to make the Municipality accessible to the people to ensure its responsiveness to their needs.

In addition to creating public value through the political priorities outlined above, the City of Ekurhuleni's IDP may further create public value through its outcome-based planning model, which emphasises the need to redirect performance planning, monitoring, and reporting on the achievement of outcomes, as opposed to merely focusing on outputs and activities.³⁹ This model entails an analysis of the problem in a particular area (such as a service delivery deficiency), understanding the assumptions behind choices on how to deal with that problem, local intervention, and determination of ensuring clear indicators, baselines, and targets to be achieved to address the problem.⁴⁰ This approach can create public value by ensuring that problems that erode public perceptions of the City's job are identified and corrected. In addition to the above, the outcome approach entails several detailed steps, which include the identification of desired outcomes; outputs linked to outcomes, that is,

³⁵ *City of Ekurhuleni IDP* 3.3.

³⁶ *City of Ekurhuleni IDP* 3.3.

³⁷ *City of Ekurhuleni IDP* 3.3.

³⁸ *City of Ekurhuleni IDP* 3.3.

³⁹ *City of Ekurhuleni IDP* 3.6.

⁴⁰ *City of Ekurhuleni IDP* 3.6.

what the City intends to produce or deliver to its communities; activities linked to outputs, that is, what the City of Ekurhuleni does; and inputs required, that is, what is required to achieve the outcomes.⁴¹

In its section on strategic planning and the policy environment,⁴² the IDP may create public value through its acknowledgement of the need to strive towards the achievement of the Sustainable Development Goals⁴³ through a systematic process that addresses the need for economic development, social inclusion and environmental sustainability. These tripartite elements of the principle of sustainable development may be used to create public value in various ways to improve human well-being and protect the environment. The IDP also refers to the African Union Agenda 2063, whose implementation may create public value through respect for human rights, attainment of justice, equal participation, and several other targets, such as increasing the standard of living.⁴⁴ It can thus be argued that the IDP is framed within the border of global and continental aspirations to improve well-being, protect the environment, and ensure democratic governance, all of which are tenets of public value, as discussed in Chapter 2 of this study.

Within the national context, the IDP refers to the need to fulfil the aspirations of the National Development Plan, which is the blueprint of South Africa's government.⁴⁵ In this regard, the IDP stipulates that it should be implemented to ensure adequate service delivery regarding water supply, electricity and sanitation, safety and security, social protection, and safe and reliable transport, among others.⁴⁶ The IDP stipulates that these will be achieved in compliance with National Treasury Planning and Reporting protocols as well as through partnership with the Auditor-General.⁴⁷ This approach may create public value through compliance with national legislation and

⁴¹ *City of Ekurhuleni IDP* 3.6.

⁴² *City of Ekurhuleni IDP* 3.7.

⁴³ *City of Ekurhuleni IDP* 3.7.1.

⁴⁴ *City of Ekurhuleni IDP* 3.7.1.

⁴⁵ *City of Ekurhuleni IDP* 3.7.1.

⁴⁶ *City of Ekurhuleni IDP* 66-77.

⁴⁷ *City of Ekurhuleni IDP* 67.

also through the accountability that these institutions provide regarding the expenditure of public resources.

The IDP also refers to the *Integrated Urban Development Framework*, which is said to be the government's policy position regarding the growth and management of cities and towns.⁴⁸ In this regard, it can be argued that the IDP may create public value, as it aligns with the *Integrated Urban Development Framework* on "making cities and human settlements inclusive, safe, resilient and sustainable."⁴⁹ Implementing commitments in the *Integrated Urban Development Framework* may create public value by enhancing urban mobility investments, efficiency, inclusive growth, inclusive access, effective governance, and strategic priorities.⁵⁰ In this study, these aspects of the Integrated Urban Development Framework have already been shown to create public value.⁵¹

Regarding governance and institutional arrangements, the IDP may create public value by facilitating democratic and accountable governance of local communities, sustainable provision of services, promotion of social and economic development, protection of the environment, making it safe and healthy, and encouraging the involvement of local communities in their governance.⁵² All these are core tenets of public value, as discussed in Chapter 2 of this study.⁵³

6.2.3 Annual budget

This section examines the core elements of the City of Ekurhuleni's Budget.⁵⁴ This budget is the latest available for the City and was adopted to give effect to the IDP.⁵⁵ Like the IDP, the City of Ekurhuleni's Budget is huge, covering 231 pages. Hence, the entire budget was not analysed. Instead, only selected portions of the budget relevant to the core of this study are analysed.

⁴⁸ *City of Ekurhuleni IDP* 66.

⁴⁹ Goal 11 of the *Integrated Urban Development Framework* 69.

⁵⁰ *City of Ekurhuleni IDP* 70.

⁵¹ See the discussion of the *Integrated Urban Development Framework* in 4.3.5 above.

⁵² *City of Ekurhuleni IDP* 78.

⁵³ See 2.3 above.

⁵⁴ City of Ekurhuleni Budget (2021/22 - 2023/24).

⁵⁵ *City of Ekurhuleni Budget* 15.

Given the technical nature of the Budget, this section will not review the entirety of its public value-creating attributes. It will show that the tabling and adoption of the Budget, as well as its contents, satisfy the basic legislative requirements for budgets, as discussed in section 5.4, including alignment with the IDP.⁵⁶

The Budget was tabled on March 25, 2021, and followed the provisions of the *Municipal Finance Management Act* on the tabling and adoption of annual municipal budgets.⁵⁷ As expected from a technical document of its nature, the City's 2021/22 - 2023/24 Budget covers various issues, such as collection of rates,⁵⁸ charges, water and sanitation services,⁵⁹ sale of electricity,⁶⁰ waste removal,⁶¹ and free basic services for the indigent.⁶² The City's Budget complies with the *Municipal Finance Management Act* regarding the separation of capital expenditure from operating expenses.⁶³ The Budget also comprises documents that are required to support it, such as budget process overview, financial modelling and key planning drivers,⁶⁴ community consultation followed before its adoption,⁶⁵ and an overview of how the budget aligns with the IDP.⁶⁶ The provision of these documents complies with the process of tabling and adopting budgets in terms of the *Municipal Finance Management Act*.⁶⁷

There appears to be an alignment between the Budget and the IDP of the City of Ekurhuleni. The Budget acknowledges the obligation of municipalities to adopt IDPs, which must be reviewed annually to align with the resources and capacity of each municipality.⁶⁸ It further observes that it was adopted to achieve Ekurhuleni's IDP Strategic Objectives, which align with the Growth and Development Strategy 2055.⁶⁹

⁵⁶ *City of Ekurhuleni Budget* 15.

⁵⁷ *City of Ekurhuleni Budget* 15.

⁵⁸ *City of Ekurhuleni Budget* 24.

⁵⁹ *City of Ekurhuleni Budget* 27.

⁶⁰ *City of Ekurhuleni Budget* 30.

⁶¹ *City of Ekurhuleni Budget* 33.

⁶² *City of Ekurhuleni Budget* 45.

⁶³ *City of Ekurhuleni Budget* 46.

⁶⁴ *City of Ekurhuleni Budget* 83.

⁶⁵ *City of Ekurhuleni Budget* 83.

⁶⁶ *City of Ekurhuleni Budget* 86.

⁶⁷ See chapter 4 of the *Municipal Finance Management Act*.

⁶⁸ *City of Ekurhuleni Budget* 86.

⁶⁹ *City of Ekurhuleni Budget* 86.

The City's Budget outlines a comprehensive table that reconciles the IDP's strategic objectives with the budgeted revenue to ensure that the budget fulfils the IDP's service delivery and infrastructural aspirations.

6.2.4 Annual report

The City of Ekurhuleni's 2021/2022 Annual Report is the latest annual report.⁷⁰ This report was prepared in compliance with statutory procedural requirements stipulated in the *Municipal Systems Act*.⁷¹ As has been done with the IDP and City of Ekurhuleni 2021/22 - 2023/24 Budget, this section does not intend to examine the entirety of the City Ekurhuleni 2021/2022 Annual Report but rather focuses on selected aspects that may enhance public value in this Municipality. In this regard, the report notes that the City of Ekurhuleni adhered to statutory timelines on reporting, ensured that the information in the report was credible, useful, and reliable, and took all possible reasonable steps to ensure factual correctness.⁷² Importantly, the Report notes that the City of Ekurhuleni aligned its IDP objectives with the Service Delivery and Budget Implementation Plan to ensure that its reporting is for the purposes of accountability and transparency.⁷³ The steps taken in the preparation of the City Ekurhuleni 2021/2022 Annual Report are also outlined.⁷⁴ Therefore, it can be assumed that the City's 2021/2022 Annual Report is a true reflection of the Municipality's performance in the given year and that it accurately captures all the public value-creating activities of the Municipality in the reporting year.

The Report outlines how the City of Ekurhuleni prioritised service delivery and infrastructural development during the period under review. In this regard, the Report details the City of Ekurhuleni's performance regarding its IDP-stated and budgeted processes regarding enhancing access to reliable, affordable, and sustainable electricity; enabling communities to access reliable, clean, and running water that is safe for human consumption; investments in public transport; maintaining roads and renewing the infrastructure; promoting affordable housing; fighting crime and

⁷⁰ City of Ekurhuleni Annual Report (2021/22).

⁷¹ *City of Ekurhuleni 2021/2022 Annual Report* 28.

⁷² *City of Ekurhuleni 2021/2022 Annual Report* 29.

⁷³ *City of Ekurhuleni 2021/2022 Annual Report* 29.

⁷⁴ *City of Ekurhuleni 2021/2022 Annual Report* 29.

ensuring safety; promoting health and well-being; and becoming financially stable and attracting investment.⁷⁵ These are the main priorities in Ekurhuleni's strategic vision.⁷⁶

The City Ekurhuleni 2021/2022 Annual Report notes that the increasing population has led to a higher demand for the provision of basic services and that it has strained service delivery infrastructure and created backlogs in service delivery. In this regard, the City Ekurhuleni 2021/2022 Annual Report provides a breakdown of population increases since 2019 by age group and gender to illustrate these increases.⁷⁷

The Annual Report acknowledges that with regard to service delivery, its role as a municipality is critical because it is close to local communities, and its mandate in schedules 4 and 5 of the *Constitution* endows it with development and basic service delivery obligations.⁷⁸ This acknowledgement is a recognition of its role within the constitutional framework as far as basic service delivery is concerned, as discussed in Chapters 4 and 5 of this study. The City's Annual Report links the City of Ekurhuleni's performance in the 2021/22 year to the Growth and Development Strategy 2022, particularly its ethos on Back-to-Basic such as re-urbanisation, re-governing, re-mobilisation, regeneration, and re-industrialisation, discussed above.⁷⁹

The Annual Report notes that, in the year in question, the City inspected 92 % of premises for food safety in formal areas as part of its drive to protect health and reduce rodent infestation in informal settlements.⁸⁰ In both formal and informal settlements, the City ensured comprehensive waste management services, such as the collection of waste.⁸¹ The Report illustrates the increase in the provision of water to households as budgeted.⁸²

⁷⁵ *City of Ekurhuleni 2021/2022 Annual Report* 7.

⁷⁶ *City of Ekurhuleni 2021/2022 Annual Report* 7.

⁷⁷ *City of Ekurhuleni 2021/2022 Annual Report* 12-13.

⁷⁸ *City of Ekurhuleni 2021/2022 Annual Report* 23.

⁷⁹ *City of Ekurhuleni 2021/2022 Annual Report* 23.

⁸⁰ *City of Ekurhuleni 2021/2022 Annual Report* 23-34.

⁸¹ *City of Ekurhuleni 2021/2022 Annual Report* 24.

⁸² *City of Ekurhuleni 2021/2022 Annual Report* 24.

Regarding revenue collection, the City Ekurhuleni 2021/2022 Annual Report shows that the Municipality improved operational revenue by 4% and that it spent all budgeted funds.⁸³ Importantly, the Auditor-General gave the City of Ekurhuleni an unqualified audit opinion with no findings.⁸⁴ Such a clean audit shows that the Auditor-General did not find any abuse of financial resources, including fruitless, wasteful, or irregular expenditures.⁸⁵

In line with accountability requirements, the City's Annual Report notes the Municipality's commitment to upholding high ethical standards, service delivery, and good governance.⁸⁶ In addition to these public value-creating tenets, the Report notes that it does so to serve its communities well with dignity, respect, and integrity to promote transparency and responsiveness to the needs of its communities.⁸⁷ For this to be possible, the report notes that the City of Ekurhuleni took zero tolerance for fraud and that it raised its fraud awareness activities among employers and relevant stakeholders regarding acceptable conduct and behaviour.⁸⁸ To bring the Municipality's accountability aspirations to reality, the City used its ethics and anti-fraud management program to manage risk, promote ethics, conduct anti-fraud campaigns, review policies and strategies, and train its staff.⁸⁹ Ekurhuleni also implemented an integrity-management framework.⁹⁰ This framework was supplemented by an independent Audit Committee and Risk Management Committee.⁹¹ This shows a commitment to upholding the tenets of public value, such as accountability, transparency, and anti-corruption, as discussed in Chapter 2 of this study.

In addition to obtaining a clean audit through its anti-corruption strategies and proper financial handling in the year, the City of Ekurhuleni also created public value by

⁸³ *City of Ekurhuleni 2021/2022 Annual Report* 25.

⁸⁴ *City of Ekurhuleni 2021/2022 Annual Report* 26.

⁸⁵ *City of Ekurhuleni 2021/2022 Annual Report* 26.

⁸⁶ *City of Ekurhuleni 2021/2022 Annual Report* 93.

⁸⁷ *City of Ekurhuleni 2021/2022 Annual Report* 93.

⁸⁸ *City of Ekurhuleni 2021/2022 Annual Report* 94.

⁸⁹ *City of Ekurhuleni 2021/2022 Annual Report* 94.

⁹⁰ *City of Ekurhuleni 2021/2022 Annual Report* 94.

⁹¹ *City of Ekurhuleni 2021/2022 Annual Report* 94.

promoting public participation in its by-law-making processes.⁹² It advertised draft by-laws in the Provincial Gazette and let them lie for inspection for at least 30 days to enable members of the community to know the laws it intended to enact to allow them to regulate their conduct accordingly.⁹³

The last aspect of the City Ekurhuleni 2021/2022 Annual Report that creates public value is found under the heading 'Public satisfaction with municipal services.' It has already been noted in the second chapter of this study that public value is created when communities perceive that the government is doing what it is supposed to do by serving them and that they are satisfied with the manner and quantity of public goods and services provided to them. Although it does not mention public value, the City Ekurhuleni 2021/2022 Annual Report outlines public satisfaction levels regarding the municipality's performance in 2021/22.⁹⁴ In this regard, it is noted that the City of Ekurhuleni conducted a resident-based survey in May 2021 using a sample of 3 564 respondents.⁹⁵ This survey was representative of each ward and measured individual perceptions of how the municipality's activities affected their quality of life, socio-economic circumstances, perceptions of service delivery quality, and value-based characteristics.⁹⁶ In this regard, the City of Ekurhuleni notes in the Annual Report that the survey on these and other issues served "as a tracking and diagnostic tool, affording a rich information resource with critical local level data for analysis and program targeting purposes."⁹⁷ In using a survey to measure community satisfaction with its activities, the City of Ekurhuleni used one of the measurement tools for public value discussed in Chapter 2 of this study, namely, surveys.⁹⁸

According to the City Ekurhuleni 2021/2022 Annual Report, residents of the municipality were generally satisfied with the quality of services provided by the City of Ekurhuleni.⁹⁹ The Annual Report outlines satisfaction with specific issues. Regarding

⁹² *City of Ekurhuleni 2021/2022 Annual Report* 97.

⁹³ *City of Ekurhuleni 2021/2022 Annual Report* 97.

⁹⁴ *City of Ekurhuleni 2021/2022 Annual Report* 99.

⁹⁵ *City of Ekurhuleni 2021/2022 Annual Report* 99.

⁹⁶ *City of Ekurhuleni 2021/2022 Annual Report* 100.

⁹⁷ *City of Ekurhuleni 2021/2022 Annual Report* 100.

⁹⁸ See 2.6.2 of this study on surveys and other methodological tools for measuring public value.

⁹⁹ *City of Ekurhuleni 2021/2022 Annual Report* 100.

access to housing, it notes that 85% of the respondents expressed satisfaction and that the majority of respondents lived in formal dwellings.¹⁰⁰ A 93% satisfaction rate was observed with regard to piped water because of a 1% increase in the number of dwellings with piped water.¹⁰¹ A high satisfaction rate of 96% was recorded for access to adequate sanitation, indicating that sanitation services increased in response to the growth of the population in the City of Ekurhuleni.¹⁰² Finally, the survey recorded a 95% satisfaction rate with access to electricity and lighting, even in the face of load shedding.¹⁰³

Although the IDP and the City of Ekurhuleni's 2021/22 - 2023/24 Budget placed emphasis on economic development, the Annual Report notes that there is a need for ample efforts towards the attainment of this priority and that it can be partly achieved by reducing community indebtedness to the City for services rendered, increasing public transport, and boosting access to services to underserved communities.¹⁰⁴ This acknowledgement of areas needing improvement illustrates transparency with what has been achieved and what needs improvement.

Chapter 3 of the City's 2021/2022 Annual Report outlines the Municipality's service delivery performance. Using the back-to-basics principle, the Municipality speedily resolved blockages, addressed service backlogs, and improved its ageing infrastructure.¹⁰⁵ It also repaired and upgraded the water infrastructure, improved refuse collection, recycling, and disposal, and decentralised its model for refuse collection to ensure maximum collection through its ten depots.¹⁰⁶ This illustrates the commitment to protect the environment and ensure that communities live in a safe and healthy environment.

¹⁰⁰ *City of Ekurhuleni 2021/2022 Annual Report* 100.

¹⁰¹ *City of Ekurhuleni 2021/2022 Annual Report* 100.

¹⁰² *City of Ekurhuleni 2021/2022 Annual Report* 100.

¹⁰³ *City of Ekurhuleni 2021/2022 Annual Report* 100.

¹⁰⁴ *City of Ekurhuleni 2021/2022 Annual Report* 102-103.

¹⁰⁵ *City of Ekurhuleni 2021/2022 Annual Report* 106.

¹⁰⁶ *City of Ekurhuleni 2021/2022 Annual Report* 106-107.

6.3 Case 2: City of Tshwane Metropolitan Municipality

6.3.1 Background to the Municipality

The City of Tshwane Metropolitan Municipality was established in 2000 through the integration of several municipalities and councils in Pretoria.¹⁰⁷ Unlike its counterparts in Johannesburg and Ekurhuleni, the City of Tshwane is the administrative capital of the country. As such, it houses the executive branch of the government, which includes Union Buildings, a construction of the colonial government.¹⁰⁸ Although the City of Tshwane has a complicated colonial and apartheid history, like its counterparts in Ekurhuleni and Johannesburg, it has tried to bring together various towns and townships under its administrative umbrella as part of its national efforts to restructure municipal governance and promote integrated development.¹⁰⁹

Tshwane's demographic composition reflects its status as a metropolitan hub in South Africa. It is one of the country's most populous cities with a population that exhibits a broad spectrum of diversity in terms of ethnicity, language, and culture.¹¹⁰ The multilingual character of the City of Tshwane is marked by a predominance of indigenous African languages, such as Sepedi, Setswana, isiZulu, and isiNdebele, with English and Afrikaans being widely spoken.¹¹¹ This demographic is indicative of historical socio-economic divisions, with varying degrees of population density and disparate living conditions across different areas. Urban centres within the City of Tshwane often display higher population densities and younger demographics, while peripheral areas have more diverse age distributions and lower densities.¹¹²

6.3.2 IDP

The City of Tshwane Metropolitan Municipality's IDP was tabled and adopted at a special council on May 26, 2022.¹¹³ This IDP was adopted to provide strategic and

¹⁰⁷ City of Tshwane Integrated Development Plan (2022-2026).

¹⁰⁸ The Presidency 2023 <https://www.thepresidency.gov.za/content/union-buildings>.

¹⁰⁹ *City of Tshwane IDP* 9.

¹¹⁰ *City of Tshwane IDP* 8-9.

¹¹¹ Statistics South Africa 2022 https://www.statssa.gov.za/?page_id=1021&id=city-of-cape-town-municipality.

¹¹² *City of Tshwane IDP* 8-10.

¹¹³ City of Tshwane Resolution Tabling the City of Tshwane IDP 1.

operational planning for the City of Tshwane regarding its present needs, future service delivery, and infrastructural development needs. The implementation of Strategic Priority 9 may create public value in that it calls for "a professional public service that drives accountability and transparency in the City of Tshwane."¹¹⁴ The City of Tshwane IDP was tabled on the realisation that the City of Tshwane, like its counterparts in local government, is obligated by the *Constitution* to take all measures that are reasonable within its financial and other means to ensure that communities in its jurisdictions have access to adequate housing, healthcare, food, water, education, and social security.¹¹⁵

In adopting the City of Tshwane IDP, the City of Tshwane IDP notes that integrated development planning is essential and should be pursued to provide "acceptable solutions systematically and transparently within given time frames regarding allocating resources to service delivery."¹¹⁶ In this context, it is bound by section 152 of the *Constitution* to provide democratic and accountable local governance, provide sustainable services to its communities, protect environmental rights, and encourage community involvement in its affairs.¹¹⁷ This shows the City's appreciation of the importance of advancing public value through its IDP.¹¹⁸

The City of Tshwane IDP further states that it is based on fundamental principles such as accountability, transparency, good governance, openness and ensuring accessibility of the city's information, accessible government and responsiveness, fighting corruption and eliminating maladministration, addressing historical injustices, and removing nepotism in appointments.¹¹⁹ These principles are aligned with the core tenets of public value discussed in Chapter 2 of this study. The City of Tshwane IDP states that the key political objective of the City of Tshwane is to deliver on several functional areas that, in the context of this study, create public value. These include ensuring access to reliable and clean water that is not detrimental to public health;

¹¹⁴ City of Tshwane Resolution Tabling the City of Tshwane IDP 1.

¹¹⁵ City of Tshwane Resolution Tabling the City of Tshwane IDP 1.

¹¹⁶ City of Tshwane Resolution Tabling the City of Tshwane IDP 2.

¹¹⁷ City of Tshwane Resolution Tabling the City of Tshwane IDP 2.

¹¹⁸ City of Tshwane Resolution Tabling the City of Tshwane IDP 2.

¹¹⁹ *City of Tshwane IDP* 31.

ensuring that the environment is hygienic and that waste and rubbish are collected; landfill sites are properly managed and that recycling programs are operating at their optimal;¹²⁰ reducing the vulnerability of communities to the impacts of load shedding;¹²¹ provision of safe, reliable, and affordable public transportation, which is defined by well-maintained roads;¹²² protecting communities from crime and creating safety;¹²³ delivering affordable housing; ensuring clean governance by eliminating corruption and nepotism;¹²⁴ and cost-effectiveness in running municipal affairs.¹²⁵ The City of Tshwane IDP further states that in order to deliver the preceding objectives, several priorities will be pursued to fulfil these aspirations.¹²⁶

In addition, the City of Tshwane IDP provides that in order for the City to deliver on its IDP strategic objectives and priorities, it will implement stringent financial management and oversight.¹²⁷ This can be seen as a public value-creating measure, particularly given that the City of Tshwane IDP states that its formulation of the budget, which is discussed in 6.3.2 below, the allocation of resources and procurement of goods must prioritise the needs of the residents of the City of Tshwane.¹²⁸ The City of Tshwane IDP further indicates that it is necessary to ensure that residents are accurately and consistently billed to maintain a steady revenue stream and fulfil the city's service delivery obligations.¹²⁹ To achieve this, the City of Tshwane IDP provides that the City will monitor and address customer complaints, be transparent in its budgeting and promote public participation, structure its budget for service delivery, provide value for money in the procurement of goods and services by the city, ensure robust monitoring of supply chain management, be open and transparent in tendering, have no tolerance for wasteful and irregular expenditure, and implement consequence management, among others.¹³⁰

¹²⁰ *City of Tshwane IDP 33.*

¹²¹ *City of Tshwane IDP 33.*

¹²² *City of Tshwane IDP 33.*

¹²³ *City of Tshwane IDP 33.*

¹²⁴ *City of Tshwane IDP 34.*

¹²⁵ *City of Tshwane IDP 34.*

¹²⁶ *City of Tshwane IDP 34.*

¹²⁷ *City of Tshwane IDP 35.*

¹²⁸ *City of Tshwane IDP 35.*

¹²⁹ *City of Tshwane IDP 35.*

¹³⁰ *City of Tshwane IDP 36.*

Regarding the protection of the environment, the City of Tshwane IDP stipulates that the City aims to advance the climate change agenda, maintain reliable and cost-effective waste management services, enhance recycling of waste, promote separation of waste at its source and diversion to landfills, facilitate partnership with local communities to safeguard natural spaces, and encourage green sustainability.¹³¹ These are public value-creating aspects of environmental protection and promotion of well-being, as discussed in Chapter 2 of this study. If these commitments are implemented, the City will promote public value from an environmental perspective.

The City of Tshwane IDP expresses a commitment to operate its administration openly and transparently so as to enable residents to scrutinise and engage with it regarding its actions.¹³² It recognises that municipal decisions cannot be taken in secrecy and then imposed on residents, as this would undermine the need for transparency.¹³³ It further states that to ensure accountability, misconduct by city officials and employees, including poor performance, must be dealt with strictly to maintain the city's integrity and promote good governance.¹³⁴ This provision contributes to enhancing accountability, as discussed in 2.3.2.

The public value-creating aspects of the City of Tshwane IDP in relation to governance are discussed in section 3, which provides for oversight arrangements for the Council, administrative arrangements for the City, and a regional services model.¹³⁵ This section discusses the need for the City of Tshwane to enhance service delivery by improving its institutional arrangements, improving the Council's oversight through oversight committees, and permitting interactive decision-making processes in the City.¹³⁶ For the purposes of this study, it is noted that the council oversight committees are the most public value-creating structures in the governance framework of the City of Tshwane, as far as oversight over services infrastructure, transport, human settlements, community safety, integrated development planning, environmental

¹³¹ *City of Tshwane IDP* 38.

¹³² *City of Tshwane IDP* 39.

¹³³ *City of Tshwane IDP* 39.

¹³⁴ *City of Tshwane IDP* 39.

¹³⁵ *City of Tshwane IDP* 41.

¹³⁶ *City of Tshwane IDP* 41.

management, and finance is concerned.¹³⁷ The role of these oversight committees is to scrutinise all reports referred to by the council, oversee the performance of the executive, and provide an advisory legislative role.¹³⁸

Concerning administrative arrangements, the City of Tshwane IDP provides that the City intended to restructure the organisation to help it respond and deliver on its local government priorities.¹³⁹ It has already been seen that responsiveness and service delivery are fundamental tenets of public value. In structuring its administrative arrangements in a way that creates public value, the City of Tshwane IDP provides that an institutional review is required to ensure that the City is stable, has minimal disruptions, continues to provide essential services, revitalises itself to respond to the needs of service delivery communities, and ensures the efficient, effective, and economical provision of essential services. These are all public value-creating endeavours, as seen in Chapter 2.

It has already been seen in Chapters 2 and 5 of the study that community participation in local governance is a vital aspect of creating public value, which is mandated by local government legislation. Hence, section 5 of the City of Tshwane IDP expresses the City's commitment to promoting public participation and consultation based on constitutional and legal mandates.¹⁴⁰ The City of Tshwane IDP commits to promoting participatory engagement with communities, including in the development of the IDP.¹⁴¹ It states that the idea is to ensure honest engagement with communities so that they are informed of community priorities.¹⁴² To actualise community participation, the City of Tshwane IDP provides for the submission of community needs through ward councillors, who play a role in facilitating and guiding IDP planning in their communities.¹⁴³ The City of Tshwane IDP envisages that ward councillors will convene community and stakeholder meetings in their respective wards to identify

¹³⁷ *City of Tshwane IDP* 43.

¹³⁸ *City of Tshwane IDP* 43.

¹³⁹ *City of Tshwane IDP* 60.

¹⁴⁰ *City of Tshwane IDP* 59.

¹⁴¹ *City of Tshwane IDP* 59.

¹⁴² *City of Tshwane IDP* 59.

¹⁴³ *City of Tshwane IDP* 61.

priority needs for specific communities in order to guide the City of Tshwane in planning.¹⁴⁴ This is a public value-creating measure.

Although the City of Tshwane IDP, like all IDPs, does not outline budgeting processes, it provides for a capital expenditure framework in section 7 to communicate the City's capital planning process and major projects.¹⁴⁵ This framework outlines how the City of Tshwane will realise its spatial vision by guiding principles and ensuring spatial targeting areas for functional and priority development areas of the City.¹⁴⁶ Capital expenditure is dealt with in section 7.5 of the City of Tshwane IDP and will not be discussed here, as it is the budget's responsibility to outline issues of capital expenditure in depth.

The other public value-creating attributes of the City of Tshwane IDP are found in section 8, which outlines the key deliverables for the City of Tshwane for 2022-2026. The City of Tshwane IDP outlines these key deliverables through what it terms the 2022-26 IDP Scorecard, which spells out developmental priorities regarding water, sanitation, and electricity infrastructure, among others.¹⁴⁷

The last aspect of the City of Tshwane IDP that may create public value when the IDP is implemented is performance management, which is found in section 9. The City of Tshwane IDP says that in order for the City to realise its priorities regarding service delivery, as stipulated in the 2022-26 IDP scorecard, it must have a performance management system that complies with the legislation on local government performance, adheres to principles of managing organisational performance, monitoring performance, reporting on performance, and the roles and responsibilities of organisational performance management.¹⁴⁸

However, it must be noted that as much as performance management is a public value-creating attribute in local government, it is not the focus of this study in that this thesis is at an organisational level regarding instruments for creating public value

¹⁴⁴ *City of Tshwane IDP* 61.

¹⁴⁵ *City of Tshwane IDP* 144.

¹⁴⁶ *City of Tshwane IDP* 146.

¹⁴⁷ *City of Tshwane IDP* 8.1.

¹⁴⁸ *City of Tshwane IDP* 91.

– it is not based on how individual officials and employees of municipalities are handled. This is done for practical purposes, although it must be noted that there is always a conflation of organisational and individual responsibility and accountability when it comes to local government. Nonetheless, it is observed that the performance management principles stipulated by the City of Tshwane IDP to realise what this study views as public value-creating attributes of the IDP, including evidence-based management and performance, integrity, timeliness, understandability, accountability, transparency, integration, learning, and continuous improvement.¹⁴⁹

The modalities for the implementation of performance monitoring are outlined in section 9.5 of the City of Tshwane IDP. These include line function performance monitoring, which entails assessing the execution of activities according to a plan, determining whether persons who have service delivery mandates perform them in accordance with procedures and timelines, assessing whether tasks are monitored daily and whether there is day-to-day collection and collation of performance data, among others.¹⁵⁰ In addition, the City of Tshwane IDP provides for political oversight over line function performance monitoring through council oversight committees, research to support the council in its work, focusing on intervention studies, reviewing and adopting quarterly organisational reports on performance, and oversight, monitoring, and management of petitions to the city.¹⁵¹

6.3.3 Annual budget

The City of Tshwane Budget¹⁵² was adopted through a Special Council Resolution on May 27, 2021.¹⁵³ From the beginning, it seems that the City of Tshwane's Budget advances public value in that it is based on the strategic pillar of "a city that is open,

¹⁴⁹ *City of Tshwane IDP 220-222.*

¹⁵⁰ *City of Tshwane IDP 222-223.*

¹⁵¹ *City of Tshwane IDP 237.*

¹⁵² *City of Tshwane Budget 2021/22 (2021).*

¹⁵³ *Special Resolution for the Adoption of the 2021/22 City of Tshwane Budget 1.*

honest, and responsive."¹⁵⁴ After the City of Tshwane Budget was tabled, it called for and received stakeholder input, which was used to finalise the R43,1 billion budget.¹⁵⁵

The mayor's report, which is one of the documents accompanying the City of Tshwane Budget, states that the budget was adopted in order to prioritise the issues laid in the City's IDP, mainly access to electricity and water, reliable refuse removal, stringent financial management and oversight, safety, well-being, and responsiveness through cutting red tape.¹⁵⁶ Like the City of Ekurhuleni 2021/22 - 2023/24 Budget, the City of Tshwane Budget is dense with technical accounting information that falls outside the scope of this study, except that the budget outlines projected revenues, capital expenditure, and operating expenditure. Although dense accounting information is technical, it is useful to understand how the budget may create public value when one looks at the figures for expenditure on service delivery and other public value-creating activities of the City of Tshwane. For instance, the City's Budget states that community safety has been allocated R7 million for emergency service stations, R7 million for emergency services tools and equipment, and R20,5 million for the purchase of cameras that will be fixed and fitted on mobile systems to detect and deal with crime.¹⁵⁷ This is a public value-creating endeavour, as it has been noted in this study that positive perceptions of community safety are public value-creating.¹⁵⁸

The City of Tshwane Budget further states that R15 million has been allocated to the provision of waste containers. This allocation is augmented with other amounts of water and sanitation, energy and electricity, and road and transport infrastructure. All of these run into more than half a billion Rands.¹⁵⁹ In short, it can be argued that the City of Tshwane's Budget aligns with its 2022-2026 IDP. This is explained as follows.

Given that legislation requires the annual budget of a municipality to align with the IDP, the City of Tshwane's Budget dedicates a section to its alignment with the City's

¹⁵⁴ Special Resolution for the Adoption of the 2021/22 Medium-Term Revenue and Expenditure Framework for the City of Tshwane 1.

¹⁵⁵ *City of Tshwane Budget* 769.

¹⁵⁶ *City of Tshwane Budget* 769.

¹⁵⁷ *City of Tshwane Budget* 790.

¹⁵⁸ See 2.5.3.

¹⁵⁹ *City of Tshwane Budget* 791.

IDP. It stipulates that the budget is underpinned by five strategic pillars that correspond to IDP priorities, as discussed above.¹⁶⁰ The City of Tshwane Budget states that the budget aligns with the City of Tshwane IDP in that it is based on facilitating economic growth and job creation, caring for residents and promoting inclusivity, delivering excellent services and protecting the environment, keeping residents safe, being open, honest, and responsive.¹⁶¹ All these strategic pillars of the City of Tshwane IDP are public value-creating, as seen in the discussion on the tenets of public value in Chapter 2 of this study. To illustrate how these strategic pillars of the City of Tshwane IDP are consolidated, the City of Tshwane Budget provides a graphical illustration of the reconciliation of IDP priorities and budgeted operating revenue, as well as a reconciliation of IDP strategic pillars with budgeted operating expenditures.¹⁶²

To ensure its implementation, the City of Tshwane Budget provides measurable performance objectives and indicators, which are outlined in section 2.3. These are already covered in Chapter 9 of the City of Tshwane IDP and are analysed in the City's Budget with reference to the legislative environment that governs performance management, basic principles for organisation performance, monitoring and reporting of performance, and the roles and responsibilities inherent in organisational performance management.¹⁶³ These create public value in that they affirm that the budget is not merely for ticking boxes but that there is a solid plan for its implementation. The plan to implement the City of Tshwane Budget entails linking the strategic objectives of the City of Tshwane IDP to the city's operations, connecting individual performance to organisational performance, integrating risk management and audits with performance management, aligning indicators with the city's plans, and linking the city's entities to the performance management system.¹⁶⁴

¹⁶⁰ *City of Tshwane Budget* 2.2.

¹⁶¹ *City of Tshwane Budget* 812.

¹⁶² *City of Tshwane Budget* 814.

¹⁶³ *City of Tshwane Budget* 815.

¹⁶⁴ *City of Tshwane Budget* 815.

6.3.4 Annual report

The City of Tshwane Audited Annual Report 2021-2022 Financial Year addresses the City's strategic priority to provide "a professional public service that drives accountability and transparency."¹⁶⁵ This shows that even though the report does not mention public value, it is intended to advance public value-creating attributes of the City of Tshwane's operations, as far as fulfilment of the strategic objectives and priorities of both the City of Tshwane IDP and the City of Tshwane Budget are concerned. This report was approved by the City Council on January 26, 2023.¹⁶⁶ This annual report is extensive, covering 1212 when considered with all its annexures. Hence, the purpose of this section is not to provide a complete analysis of the report, as this would not be practical. Instead, the purpose of this section is to analyse selected aspects of the report that align with the main argument of this chapter, which is that annual reports are some of the local government instruments for creating public value. Given the volume of the Tshwane Annual Report, this section focuses more on Chapter 3, which presents the performance of the City of Tshwane with regard to service delivery, including the performance of the IDP and implementation of the City of Tshwane Budget. This choice should not be understood to mean that other parts of the report are not public value-creating.

The City of Tshwane Annual Report notes that, in the financial year in question, the City of Tshwane committed to 87 performance indicators in the approved budget scorecard, and 52 targets were achieved (59.77%) and 35 were not achieved (40.23%).¹⁶⁷ This shows that there was a serious failure to create public value, particularly considering that the targets that were not achieved were related to basic service delivery issues such as wastewater treatment, failure to ensure that all new sewer systems meet minimum standards, failure to provide free basic electricity to

¹⁶⁵ Resolution of the Council of City of Tshwane regarding the Audited Annual Report for the City of Tshwane and its Entities for the End of the Financial Year Submitted in Terms of Section 127(2) of the *Local Government: Municipal Finance Management Act* and section 46 of the *Municipal Systems Act*.

¹⁶⁶ Resolution of the Council of City of Tshwane regarding the Audited Annual Report for the City of Tshwane and its Entities.

¹⁶⁷ Resolution of the Council of City of Tshwane regarding the Audited Annual Report for the City of Tshwane and its Entities 7.

indigent households, failure to remove refuse in some households, and failure to adequately report on the operations of the city.¹⁶⁸

The Tshwane Annual Report also records that the City did not meet its budgetary targets. It failed to collect enough revenue, lost water due to failure to repair and replace infrastructure, and lost electricity revenue due to cable theft, illegal connections and other forms of tampering. The report also shows that the City of Tshwane failed to provide a wide range of basic services due to underperformance, poor infrastructure development and maintenance, and inability to "establish ward committees posing a risk to participatory governance."¹⁶⁹

In addition to the above failures in creating public value through the budget and implementation of the IDP, the Tshwane Annual Report notes that an audit found that the City faced many performance weaknesses that undermined accountability, transparency, and responsiveness.¹⁷⁰ These include poor management, poor administration, failure to implement quality assurance, untimely submission of information, poor record keeping, processing unverified information for filing quarterly reports, and misinterpretation of key performance indicators.¹⁷¹ These failures illustrate serious weaknesses in Tshwane's handling of its service delivery obligations and should be understood as the most glaring failure to create public value. The failure of the City of Tshwane to create public value in the 2021/22 year is seen in that, despite failing to provide basic service delivery, it closed the year with a net supply of over R37 billion, funds that could have been used to provide basic services.¹⁷²

¹⁶⁸ Resolution of the Council of City of Tshwane regarding the Audited Annual Report for the City of Tshwane and its Entities 7.

¹⁶⁹ Resolution of the Council of City of Tshwane regarding the Audited Annual Report for the City of Tshwane and its Entities 4.

¹⁷⁰ Resolution of the Council of City of Tshwane regarding the Audited Annual Report for the City of Tshwane and its Entities 9.

¹⁷¹ Resolution of the Council of City of Tshwane regarding the Audited Annual Report for the City of Tshwane and its Entities 9.

¹⁷² Resolution of the Council of City of Tshwane regarding the Audited Annual Report for the City of Tshwane and its Entities 10.

6.4 Case 3: City of Johannesburg Metropolitan Municipality

6.4.1 Background to the municipality

The land on which the City of Johannesburg Metropolitan Municipality (hereafter City of Johannesburg) is located started as a small settlement in 1886. When prospectors found gold in the Witwatersrand, the settlement quickly changed into an economic heartland of South Africa in the former Transvaal.¹⁷³ Estimations suggest that today, Johannesburg has over six million inhabitants, making it the largest metro in terms of population size in South Africa.¹⁷⁴ In Gauteng Province, 40% of the inhabitants reside in the City of Johannesburg, which houses 10% of the population nationally.¹⁷⁵

Despite being South Africa's economic heartland, the City of Johannesburg faces many socio-economic issues, such as poverty, inequality, crime, and crumbling infrastructure.¹⁷⁶ People who face poverty in the City of Johannesburg also suffer from food insecurity due to lack of income, high housing costs, social tensions, and high healthcare costs, among other necessities.¹⁷⁷ Due to overcrowding and other social problems, the City of Johannesburg experiences high infection rates, although deaths from epidemics such as AIDS are declining.¹⁷⁸ One of the most serious concerns for the residents of Johannesburg is the lack of safety and security due to overcrowding, social problems, and unemployment.¹⁷⁹

Regarding service delivery, the City of Johannesburg grapples to provide clean water and a healthy environment for its residents owing to internal and external migration, lack of adequate housing, old infrastructure, and crime.¹⁸⁰ The City of Johannesburg also faces a problem with its transport infrastructure due to poor road networks and an inefficient public transportation system made worse by apartheid spatial planning,

¹⁷³ City of Johannesburg Integrated Development Plan (2022) 20.

¹⁷⁴ *City of Johannesburg IDP* 20.

¹⁷⁵ *City of Johannesburg IDP* 20.

¹⁷⁶ *City of Johannesburg IDP* 22.

¹⁷⁷ *City of Johannesburg IDP* 23.

¹⁷⁸ *City of Johannesburg IDP* 24.

¹⁷⁹ *City of Johannesburg IDP* 25.

¹⁸⁰ *City of Johannesburg IDP* 28.

which places many people who work in the City of Johannesburg in locations and informal settlements on the outskirts of the city.¹⁸¹

The social and economic problems facing Johannesburg are compounded by governance challenges, such as political instability resulting from differences among coalition partners.¹⁸² Political instability arises because the City of Johannesburg has not had a party that won an outright majority in the 2021 local government elections, meaning that for any party to govern, coalition partners are required.¹⁸³ While this is not a bad issue per se, given that it gives even smaller parties a say in the City's leadership and operations, thereby deepening democracy, it has the unintended result of creating uncertainties and a lack of accountability regarding public value-creating aspects of the city's political leadership, administration, and operations.¹⁸⁴ This is evident in that there has been worsening underperformance in the City of Johannesburg, signalling that the City can do better to be well-run.¹⁸⁵

6.4.2 IDP

The City of Johannesburg IDP lists seven mayoral priorities for the given period: being well-run, safe, caring, business-friendly, smart, inclusive, and getting the basics right.¹⁸⁶ All of these are public value-creating, although they are not explicitly stated. The City of Johannesburg IDP states that it is intended to be a foundation for addressing poverty and inequality and to establish an "honest and responsive government – one that listens to the people and prioritises their needs."¹⁸⁷ The reference to these core tenets of public value shows that the City of Johannesburg IDP was adopted with the needs, expectations, and preferences of the residents of Johannesburg in mind. This is also evident in that the City of Johannesburg IDP was developed and adopted after a consultative process "establishing a social contract that allows the community to hold the political leadership and administrative officials to

¹⁸¹ *City of Johannesburg IDP* 28.

¹⁸² *City of Johannesburg IDP* 30.

¹⁸³ *City of Johannesburg IDP* 30.

¹⁸⁴ *City of Johannesburg IDP* 30

¹⁸⁵ *City of Johannesburg IDP* 30-33.

¹⁸⁶ *City of Johannesburg IDP* 2; 14.

¹⁸⁷ *City of Johannesburg IDP* 15.

account."¹⁸⁸ Another expression of public value creation in the City of Johannesburg IDP is that "it is informed by local government imperatives, the challenges the city faces, the requests by residents, and the financial resources available."¹⁸⁹

The City of Johannesburg IDP, like its counterparts in the City of Tshwane and the City of Ekurhuleni, is huge as it covers 330 pages. This means that it is not possible to analyse it in full as far as public value is concerned. Hence, this section examines selected public value-creating attributes of the City of Johannesburg IDP to determine how this local government instrument creates public value. This section focuses on the aforementioned priorities, namely, making the City of Johannesburg secure, safe, caring, business-friendly, inclusive, well-run, smart and getting the basics right. These are analysed chronologically below:

The City of Johannesburg IDP stipulates that making Johannesburg a city that gets the basics right entails providing and maintaining essential infrastructure such as roads to avoid potholes, making sure street lights work, providing quality and affordable basic services, and maintaining public spaces.¹⁹⁰ It also implements strategic interventions to fix, replace, and upgrade roads, maintain wastewater treatment plants, provide access to clean water, fix potholes within three days, recycle at source, clean streets, improve waste management collections, and interventions such as *A Re-Sebetseng*.¹⁹¹ These strategic interventions may enhance public value by providing a safe, clean, and healthy environment and by ensuring that residents live in dignity and are free from danger caused by potholes to their lives and vehicles.

The second priority of the City of Johannesburg IDP may be to create public value if implemented in a way that entails making the city safe and secure.¹⁹² It was borne out of the realisation that a lack of safety and security due to high levels of violent crimes erodes public confidence in the City of Johannesburg in that residents feel that it is unresponsive to their concerns for a safe and secure city.¹⁹³ Hence, the City of

¹⁸⁸ *City of Johannesburg IDP* 15.

¹⁸⁹ *City of Johannesburg IDP* 15.

¹⁹⁰ *City of Johannesburg IDP* 59.

¹⁹¹ *City of Johannesburg IDP* 59.

¹⁹² *City of Johannesburg IDP* 60.

¹⁹³ *City of Johannesburg IDP* 60.

Johannesburg IDP contains strategic interventions to ensure safety and security. These include using by-laws to reduce lawlessness, integrating policing and sharing capacity with provincial and national police, fighting land invasions, reclaiming public spaces from criminals, and cracking down on illegal land uses and illegal buildings.¹⁹⁴

The third public value-creating priority of the City of Johannesburg IDP entails making the City of Johannesburg care for its residents by supporting the indigent, fighting exclusion, and making the city diverse and inclusive. Public value-creating strategic interventions in this regard include support for vulnerable residents through rebates on services, reducing waiting times in health facilities, increasing nursing and other healthcare staff, assisting the homeless instead of treating them like criminals, providing drug treatment and rehabilitation centres, mitigating hunger through food security programs, making old-age homes conducive for those who need them, and consistently looking after marginalised communities.

Priority 4 of the City of Johannesburg IDP concerns creating a business-friendly city in order to enhance economic growth, create jobs, and provide an enabling environment for residents to improve their lives through entrepreneurship.¹⁹⁵ The City of Johannesburg IDP envisages that this priority will be implemented through strategic interventions that remove regulatory hurdles to doing business in the City of Johannesburg, making use of online systems for business applications, integrating transport services to enhance mobility, and **revitalising** townships, among others.

Johannesburg IDP's fifth priority concerns making the city inclusive by enhancing community participation and partnerships.¹⁹⁶ This priority is aligned with public value-creation in that its strategic interventions entail "hearing and listening to the voices of stakeholders from all parts of society."¹⁹⁷ It has already been observed that ascertaining the needs, expectations, and preferences of communities entails hearing them out and, where possible, partnering with them in delivering services. In this regard, the City of Johannesburg IDP stipulates that the City of Johannesburg will

¹⁹⁴ *City of Johannesburg IDP* 60.

¹⁹⁵ *City of Johannesburg IDP* 61.

¹⁹⁶ *City of Johannesburg IDP* 61.

¹⁹⁷ *City of Johannesburg IDP* 61.

increase its support sites, accelerate the fulfilment of housing needs, upgrade informal settlements, and provide free Internet in community libraries.¹⁹⁸

The sixth priority of the City of Johannesburg IDP is aligned with public value creation. Just by looking at its title, it seems to make Johannesburg a well-run city.¹⁹⁹ This priority is borne out of the city's realisation that "an honest, responsive, and productive government is key to achieving a well-run city."²⁰⁰ This study observed that efficient service delivery requires honest and responsive governance. The City of Johannesburg IDP envisages that a well-run City of Johannesburg can only be created through strategic interventions, such as making it financially sustainable, strengthening prudent financial measures, proper billing and debt collections, leveraging online licence renewal systems, adopting zero tolerance to corruption, ensuring that budgets are properly funded, making customer-centric service delivery, and plug revenue leakages.²⁰¹

The seventh priority of the City of Johannesburg IDP is to make Johannesburg a smart city, which entails leveraging technology to improve coordination and monitoring of the city's projects.²⁰² Strategic interventions for bringing this priority into fruition entail improvement of supply chain management and accountability in procurement through open tenders, centralising electronic records, remotely detecting and restating services, intelligence predictive modelling, collaborating with innovators, and introducing waste treatment technologies.²⁰³ These strategies can create public value by enhancing service delivery, efficiency and accountability.

6.4.3 Annual budget

The City of Johannesburg Budget²⁰⁴ was adopted in May 2021, following the process mandated by the *Municipal Finance Management Act*, as discussed above.²⁰⁵ Like its

¹⁹⁸ *City of Johannesburg IDP* 61-62.

¹⁹⁹ *City of Johannesburg IDP* 62.

²⁰⁰ *City of Johannesburg IDP* 62.

²⁰¹ *City of Johannesburg IDP* 62.

²⁰² *City of Johannesburg IDP* 62.

²⁰³ *City of Johannesburg IDP* 63.

²⁰⁴ City of Johannesburg Budget (2021/22 to 2023/24).

²⁰⁵ *City of Johannesburg Budget* 8; 2.1.

counterparts in the City of Ekurhuleni and the City of Tshwane, the City of Johannesburg Budget is a huge and technical document covering 205 pages. As with the other budgets, this section will not focus on the financial and technical aspects of the budget but is confined to public value-creating attributes, such as how the budget aligns with the IDP as mandated by legislation.

As noted above, a municipality's budget must align with the IDP. This is the case with the City of Johannesburg Budget, which also provides an overview of how its budget aligns with the IDP.²⁰⁶ The budget recognises the seven strategic priorities outlined in the IDP and stipulates that these will be achieved by increasing visible service delivery and re-introducing co-production in basic service delivery.²⁰⁷ It has already been observed in this study that co-production is one of the key ways of creating public value.²⁰⁸ The City of Johannesburg Budget also stipulates that it will achieve the seven strategic priorities of the IDP by improving and strengthening Johannesburg's financial position, improving houses, making the city safe, creating jobs, supporting small businesses, engaging in community-based planning, assisting communities who are displaced and homeless, combatting drug use, combatting illegal land invasions, and formalising informal settlements.²⁰⁹ By aligning with the IDP, this budget can create public value for the residents of Johannesburg.

To ensure that its leadership, officials, and other employees work in line with the budget, the City of Johannesburg Budget stipulates measurable performance objectives and indicators.²¹⁰ These are intended to ensure that, in all its operations, Johannesburg is committed to fulfilling its budget and IDP priorities.²¹¹ The performance indicators include borrowing management, liquidity, revenue management, and creditors' management.²¹² These indicators may create public

²⁰⁶ *City of Johannesburg Budget 2.2.*

²⁰⁷ *City of Johannesburg Budget 70.*

²⁰⁸ See 2.3.8.

²⁰⁹ *City of Johannesburg Budget 70.*

²¹⁰ *City of Johannesburg Budget 77.*

²¹¹ *City of Johannesburg Budget 77.*

²¹² *City of Johannesburg Budget 79.*

value by ensuring accountability, transparency, and efficiency in the utilisation of a city's budget.

The City of Johannesburg Budget further creates public value by setting service standards for its departments and entities to ensure that there are clear timelines for the provision of core services.²¹³ For instance, the budget envisages that it should not take more than two days to repair logged streetlight queries. Importantly, the budget sets a timeframe of seven days as the average time within which to communicate logged service interruptions to ensure that residents are aware of the interruption and can plan their lives accordingly. This is public value-creating in that it shows that the city is caring.

6.4.4 Annual report

The Citizen's Report 2021/22, which is the City of Johannesburg's 2021/22 Annual Report, provides details on the progress made by the City in fulfilling the priorities in its 2021-2021 IDP.²¹⁴ The City claims that this annual report is a rigorous and candid feedback on its activities carried out towards fulfilling the commitments that it made regarding IDP priorities and budget mandates.²¹⁵ The City of Johannesburg Annual Report states that notwithstanding the constrained economic environment in which it operated, it had a surplus of R1.2 billion, which is itself not a good or a bad thing per se.²¹⁶ This is because surplus funds may signify better revenue collection and financial prudence, while they can also represent a failure to utilise budgeted funds for the benefit of communities.²¹⁷

Chapter 5 of the City's Annual Report outlines its performance with regard to basic service delivery in the context of the seven IDP priorities outlined in both the City of Johannesburg IDP and the City of Johannesburg Budget. As part of getting the basics right (IDP priority 1), the City of Johannesburg ensured that communities had access

²¹³ *City of Johannesburg Budget* 81.

²¹⁴ The Citizens' Report 2021/22 (2022) 6.

²¹⁵ *City of Johannesburg Annual Report* 6.

²¹⁶ *City of Johannesburg Annual Report* 33.

²¹⁷ *City of Johannesburg Annual Report* 33.

to quality services in the functional areas of housing, water, sanitation, and refuse removal.²¹⁸

Although the report shows tremendous strides towards basic service delivery regarding water, sanitation, and refuse removal, several challenges remain. These include ageing infrastructure, failure to protect city property from theft, vandalism, and illegal tampering, a worsening financial position, inadequate capital expenditure, and illegal dumping.²¹⁹ These weaknesses illustrate serious failures in creating public value in line with the IDP and budget requirements. Other challenges noted by the Annual Report include the increasing proliferation of informal settlements, overcrowding in public hostels, an unregulated increase in backyard rentals, and increasing homelessness in the City of Johannesburg.²²⁰

6.5 Chapter conclusion

This chapter used case studies from Gauteng Province's three metropolitan municipalities to assess whether and how recent versions of city-level instruments such as IDPs, annual municipal budgets and annual municipal reports contribute to the creation of public value. The main issues analysed in this chapter revolve around how effectively the identified local government instruments (IDPs, budgets, and annual reports) cater to the tenets of public value in different socio-economic and political contexts and how these instruments can be used as tools for addressing the unique challenges faced by metropolitan municipalities in Gauteng Province. The analyses confirm earlier findings in the preceding chapter that the three local government instruments are interlinked and can be used to create public value through mechanisms that promote accountability, transparency, effective service delivery and legitimacy, among other tenets of public value discussed in Chapter 2 of the study.²²¹

This chapter further shows that IDPs provide a blueprint for annual budgets and annual reports in that they outline the strategic planning framework of each

²¹⁸ *City of Johannesburg Annual Report* 39.

²¹⁹ *City of Johannesburg Annual Report* 40.

²²⁰ *City of Johannesburg Annual Report* 42.

²²¹ See 2.3 above.

municipality regarding local governance and development; public participation and engagement; service delivery and infrastructure development; integration and coordination; sustainability; and community welfare, among others. It further shows that annual municipal budgets seek to fulfil the visions expressed in IDPs in that they allocate financial resources for the fulfilment of such aspirations, outline prioritisation of initiatives in the IDPs, detail implementation plans regarding expenditure, involve local communities and provide for transparency and accountability regarding municipal revenue and funds received from national government. The annual municipal reports, on the other hand, provide a feedback mechanism through which local communities can assess the extent to which the activities of their municipalities in the given year have fulfilled the aspirations of the IDPs in line with the adopted budgets. In this context, and in view of the analysis in previous chapters, the following chapter concludes the study by presenting conclusions and proffering recommendations.

CHAPTER 7

CONCLUSION AND RECOMMENDATIONS

7.1 Background

This study examined South African law perspectives on the promotion and maintenance of public value in local government. It comes at an opportune moment when the dysfunction of the local government sphere is intensifying, as seen from the failure of an increasing number of municipalities to fulfil their service delivery obligations in terms of the *Constitution* and legislation. The ability of municipalities to deliver on their obligations is undermined by many issues, which include forms of lack of accountability such as corruption, nepotism, unauthorised investment of public funds and many breaches of trust in the handling of public finances.¹ As a result, municipalities are increasingly becoming dysfunctional.² In addition, most have become unresponsive to the plight of their local communities, leading to perceptions that local government does not care about the needs, preferences and expectations of communities.³ As a consequence of the lack of accountability and responsiveness, South African municipalities are unstable financially, leading to fears that local government may collapse in most parts of the country.⁴ The end result of a combination of lack of accountability, lack of responsiveness and financial instability is an increasing failure of municipalities to provide effective and efficient delivery of basic services to their communities.⁵

One of the underlying causes of local government dysfunction is the failure to implement a public value approach in municipalities.⁶ Public value is a concept of public administration and management that refers to the collective rights and social, economic and environmental benefits which communities are entitled to receive from the government as part of its mandate to meet their needs and improve human well-

¹ See 4.7.1.

² See 1.2.

³ See 4.7.2.

⁴ See 4.7.3.

⁵ See 4.7.4.

⁶ See 3.7.

being.⁷ Creating public value entails prioritising service delivery through the provision of public goods and services such as water, sanitation, electricity, transportation, safety, education, healthcare, and environmental protection, among others.⁸ Given that municipalities are responsible for providing basic services to communities, public value is applicable to local government in that fulfilling its tenets may improve service delivery.⁹

7.2 Research question and objective

The main question posed in this study was whether South African law and national and local policy instruments promote a public value approach in local government. To address this question, the study was unpacked along the lines of five sub-questions alluded to in 1.5. This study sought to critically examine the extent to which South African local government laws and policy instruments promote a public value approach.¹⁰

7.3 Research methodology, scope and limitations of the study

This study was based on a doctrinal legal analysis of how constitutional, policy and legislative framework promote a public value approach to local government in South Africa. Given that public value is a concept of public administration and management, as noted in Chapter 1, the scope of the study entailed an analysis that connects public value, politics, history and law. This was because one cannot, with any degree of confidence, undertake a study on local government law without examining the politics that inform it, given that elected public office-bearers (politicians) design local government policies and enact them into legislation.

Despite its legal nature and the unavoidability of dealing with local government politics, history and policies, this study faced several limitations. The first limitation was that public value is not a legal concept but a public administration and management concept. As such, linking these disciplines and coming up with a coherent

⁷ See 2.2.4.

⁸ See 2.2.4.

⁹ See Chapter 6 of the study.

¹⁰ See 1.6.

analysis was a mammoth task. This challenge was overcome by first identifying the main tenets of public value in literature (accountability, responsiveness, transparency, trust and legitimacy, and efficient and effective service delivery, for example) and then realising that these major tenets of public value find application in the *Constitution*, local government legislation and policies adopted by the national government. The study succeeded in this approach in that it established that the *Constitution* creates an expectation of public value that is enabled through various pieces of municipal legislation, policies and instruments.

Another limitation of the study was that it did not have the benefit of scholarship that specifically links public value to local government regulation through constitutional law, national policies and local government legislation. The bulk of the literature is on public value as a concept of public administration and management. Hence, it became incumbent upon this study to break the ground on the connection between public value and the law regulating local government. In this regard, the study established that as much as there is intercourse of public value, local politics and relevant laws, it is imperative for local government to understand the basic administrative and constitutional laws, as these influence how they should make decisions, consult the public and remedy issues that arise in the day-to-day running of state affairs such as service delivery.¹¹

The study also overcame the foregoing challenge by establishing that while public value (as a concept of public administration and management) focuses on efficiency and effectiveness in the provision of public goods and services, politics determine the legislative representativeness¹² and responsiveness of the executive. Also, it established that the law determines the mechanisms for accountability and compliance, procedural integrity, individual rights and duties, and judicial review of government decisions.

¹¹ See Hartley *et al* 2015 *Public Administration* 197.

¹² In the South African context, see Chapter 4 of the *Constitution* on the parameters for legislative representation.

Another limitation of this study pertains to the chosen research methods. As noted above, this study is based on both literature review (as far as the theoretical framework is concerned) and doctrinal legal research. Given that this study is primarily legal in nature, these methods were the most ideal.¹³ However, it is admitted that this study would have immensely benefited from an empirical research method if it were not for its principal legal nature. This proposition is based on the results of the analysis of measurement standards¹⁴ and methodological tools for measuring public value,¹⁵ which show that public value is measured through surveys, multi-criteria analysis, cluster-driven framework, and competing values framework methods, all of which are empirical in nature. Since this study is not about measuring public value in local government but about the South African legal perspectives on public value in local government, an empirical approach would not have been ideal.

7.4 Insights from the study

Public value was understood in this study as the collective rights and social, economic and environmental benefits which communities are entitled to receive from the government as part of its mandate to meet their needs and improve human well-being.¹⁶ The study also determined that creating public value entails efficient and effective service delivery through the provision of public goods and services such as sanitation, transportation, safety, education, healthcare, and environmental protection, among others.¹⁷ In order to create public value, municipalities must provide avenues for public participation in decision-making so that the needs and expectations of their communities are prioritised.¹⁸ They must also provide goods and services transparently and be accountable in line with the law. The other tenets of public value are trust and legitimacy, responsiveness, public participation,

¹³ See Hutchinson and Duncan 2012 *Deakin Law Review* 83-119 for a discussion of doctrinal legal research as the main legal research method.

¹⁴ See 2.6.1 above.

¹⁵ See 2.6.2 above.

¹⁶ See 2.2.4.

¹⁷ See 2.2.4.

¹⁸ See 2.2.4.

collaboration and co-production, environmental sustainability and financial sustainability.¹⁹

Implementing the tenets of public value fulfils the various dimensions of public value, which refer to different perspectives that are used to evaluate the perceived value received from the government's decisions and activities in providing public goods and services.²⁰ There are four main dimensions to understanding public value, i.e., hedonistic-aesthetical, political-social, moral-ethical, and utilitarian-instrumental dimensions.²¹ To understand these four dimensions, it is necessary to also appreciate that certain processes in the public sector create public value and that maintaining public value depends on eliminating factors that negatively affect public value, such as corruption and lack of integrity in the public sector.²²

7.5 Key findings

7.5.1 Meaning, historical evolution and tenets of public value

The study found that public value is difficult to define due to linguistic ambiguities arising from its constituent terms – public and value- and diverging schools of thought on its meaning. The two schools of thought relate to Moore, who used the managerial approach to define public value, and Bozeman, who used the policy/societal level approach to define public value.²³

After analysing the linguistic difficulties and diverging schools of thought on the meaning of public value, this study concocted a working definition of public value as a reflection of the collective preferences of communities, which the government facilitates through trust and fair processes in service delivery.²⁴ The study also determined that tenets of public value include public participation in government decision-making regarding community needs, expectations and preferences; negotiation and collaboration between the government and communities through co-

¹⁹ See 2.3.

²⁰ See 2.7.

²¹ See 2.7.

²² See 2.7.

²³ See 2.2 above.

²⁴ See 2.2.4 above.

production; accountable, transparent and open use of public resources; responsive service delivery; public trust in the government; respect for the rule of law and legitimacy of the government.²⁵

Regarding the historical origins and evolution of the public value theory, the study ascertained that public value emerged from the fields of public administration and management and that historically and today, it was neither a legal nor political concept.²⁶ The analysis showed that public value emerged from public administration and management after a long history of theoretical uncertainty that started with bureaucracy in the late 19th to early 20th centuries.²⁷ Due to the lack of appeal for bureaucracy and its other shortcomings, public management has seen several successive theories, such as behavioural public administration, new public management, and performance management.²⁸ The analysis showed that performance management gave way to public value, which Moore proposed as an infusion of private sector shareholder principles into public administration in order to improve efficiency.²⁹

The analysis also showed that the public value approach in public administration and management emphasises procedural justice in the form of fairness, transparency, and accountability of government decision-making and delivery of public goods and services.³⁰ This is also because the public value theory anchors on process-based notions of public management and democracy and integrates government action with the needs and expectations of communities, the private sector, and NGOs regarding the government's provision of goods and services.³¹ As such, the public value approach aims to make the government more collaborative and democratic in providing goods and services. It achieves this by emphasising the engagement of communities in decision-making, public participation, and the maintenance of trust in

²⁵ See 2.3 above.

²⁶ See 2.2.

²⁷ See 2.4.

²⁸ See 2.4.

²⁹ Chapter 2 of the study.

³⁰ See 2.3.1.

³¹ See 2.3.

government.³² Collaboration between the government, on the one hand, and communities and civil society organisations, on the other hand, shows that public value is created through co-production.³³

The study also found that there are tangible and non-tangible criteria for public value.³⁴ The tangible criteria for creating public value include guarantees of public safety made by the government through the establishment of a proper security infrastructure for protecting communities from crime; establishment of local transportation hubs for the benefit of the public; creating conditions for the economy to thrive; building essential infrastructure for communities such as roads; sustainable use of resources; provision of adequate housing; and preparation for disasters.³⁵ The non-tangible criteria entail community capacity building; creating conditions for quality of life; provision of adult and civic education; effective and efficient use of resources; and establishing an aesthetically pleasing environment.³⁶ In simpler terms, these tangible and non-tangible criteria are about service delivery, which is the core function of local government.

Another finding from the analysis of the theoretical framework of public value is that public value has several dimensions, which are different perspectives used to evaluate the perceived value created by the government through its decisions and activities on service delivery.³⁷ These dimensions contain various factors with which communities interact daily and should be understood in the context that the factors that inform them may negatively affect public value – such as corruption and lack of integrity in the public sector. The four dimensions of public value are self-explanatory and include the moral-ethical; hedonistic-aesthetical; utilitarian-instrument; and political-social dimensions.³⁸

³² See 2.3.7.

³³ See 2.3.8.

³⁴ See 2.5.3 above.

³⁵ See 2.5.3.

³⁶ See 2.5.3.

³⁷ See 2.7.

³⁸ See 2.7.

7.5.2 *Erosion of public value by colonial and apartheid local government*

Although there is no shortage of literature on South Africa's history, this study identified a slight gap in the literature in that no study that analysed the colonial and apartheid history of local government from the perspective of public value could be found. As such, this study would not have been complete without a historical analysis, particularly given that in most societies, the past influences the present.³⁹ For South Africa, this is particularly true, given that the infrastructure backlogs which hamper local government from delivering services to many black communities are a result of deliberate colonial and apartheid spatial planning.⁴⁰

The study established that South Africa and its local government history resulted from commercial exploitation through the Dutch East India Company, which established a refreshment station in the Cape of Good Hope in 1652 and changed the country's history forever through colonisation.⁴¹ While the idea of establishing the refreshment station was not to establish a local government system, it became necessary to set up some infrastructure to enable the settlers to gain access to services. This led to the establishment of what is documented as the first municipality in South Africa – Stellenbosch Municipality.⁴²

The study also showed that while the Dutch settlers enjoyed the privileges of settling in the Cape and the enormous number of slaves that the environment provided them, they were soon overrun by the British, who imposed the English system of local government.⁴³ Notwithstanding the difficulties of providing a full historical account of Dutch and English feuds that led to the two South African Wars (often termed Anglo-Boer Wars in the bulk of the literature), the study ascertained that efforts to create peace between these settlers led to the establishment of the Union of South Africa in 1910.⁴⁴ The main Act of the Union Government was the *Native Land Act*, which deprived many South Africans of access to land and created a system in which they

³⁹ See 3.2.

⁴⁰ See 1.3.

⁴¹ Chapter 3 of the study.

⁴² See 3.3.3.

⁴³ See 3.4.

⁴⁴ See 3.5.1.

were pushed into classified rural areas where they did not receive any municipal services at a time when their white counterparts in cities and towns were enjoying basic municipal services.⁴⁵

Although the colonial government was extreme in its oppression, the third chapter showed that the apartheid government took segregation to a higher level. It created Bantustans and a system of regulation that deliberately excluded black people from cities and towns except when their presence was necessary to serve their white counterparts.⁴⁶ The study showed that apartheid legislation deliberately ensured that black municipalities, which were established in locations on the outskirts of cities, were subservient to their white counterparts and that they were deprived of revenue and tools to provide basic services to black people.⁴⁷ As a result, there was no public value, as demonstrated by protests against black councils and extreme opposition to the oppressive apartheid system.⁴⁸ Hence, it became necessary to overhaul the local government system when South Africa transitioned into a constitutional democracy.⁴⁹

7.5.3 The status of democratic local government

The study found that local government exercises a high degree of constitutional autonomy that gives it powers to regulate its legislative, executive and financial affairs.⁵⁰ However, the case law showed that these powers are not absolute, as municipalities need to work hand in hand with the provincial and national spheres of government. Also, it found that municipalities exercise their constitutional powers and enjoy their autonomy within the constitutional and legislative framework.⁵¹

7.5.4 Service delivery obligations of local government

The study found that local government has service delivery obligations in terms of Part B of Schedule 4 and Part B of Schedule 5 of the *Constitution*.⁵² Given the unique

⁴⁵ See 3.5.2.

⁴⁶ See 3.6.2.

⁴⁷ See 3.6.3.

⁴⁸ See 3.6.4.

⁴⁹ See 3.7.

⁵⁰ See 4.5.

⁵¹ See 4.2 and 4.4.

⁵² See 4.5.

position that puts it much closer to communities, local government is indeed at the coalface of service delivery and is thus responsible for creating public value to the extent that is perhaps higher than its provincial and national counterparts. The study also ascertained various forms of intergovernmental support initiatives that were intended to benefit local government in creating public value through service delivery.⁵³

However, the study established that local government is facing extreme challenges in South Africa, such as lack of accountability; poor consequence management; lack of responsiveness to community needs, preferences and expectations; financial challenges; and capacity deficiencies, among others.⁵⁴ These challenges point to the difficulties municipalities face in attempting to create public value. These challenges have led to the erosion of public trust in local government; loss of legitimacy in the eyes of the public; social unrest and public safety concerns; economic disruption; low quality of life and violations of constitutional rights; and overload of the justice system due to the many cases that come before the courts on public violence in protests against poor service delivery.⁵⁵

7.5.5 Intervention to restore failing municipalities

In realisation of this failure to create and maintain public value, the study ascertained that there are two types of interventions for helping to restore municipalities that are failing – discretionary and mandatory interventions.⁵⁶ It found that the former occurs when municipalities fail to perform constitutional obligations. Mandatory interventions, on the other hand, are about restoring basic services when municipalities face financial crises or are unable to approve budgets or other revenue-raising measures.⁵⁷ It can be argued that provincial interventions in local government are intended to create public value by restoring the provision of basic services.⁵⁸ However, the various interventions have not yielded the intended results in specific municipalities in which

⁵³ See 4.6.

⁵⁴ See 4.7 above.

⁵⁵ See 4.7.

⁵⁶ See 4.8.

⁵⁷ See 4.8.

⁵⁸ See 4.8.

they were made due to varying reasons, which include volatile political environments – the full analysis of which is beyond the purview of this study.

7.5.6 The need for a public value approach in local government

In view of the failure of municipalities to create public value, the study established the need for a public value approach in local government.⁵⁹ It found that the decay of local government and its inability to provide satisfactory service delivery are signs that a new approach is required to restore public value through the following:

- (i) fulfilling the needs, expectations and preferences of communities regarding service delivery;
- (ii) facilitating the democratic participation of communities in local governance and co-production through collaboration between government and communities;
- (iii) ensuring
 - a. community-centric service delivery
 - b. adherence to ethical standards, and
 - c. accountability;
- (iv) transparent and efficient management of public resources to extend their reach and impact on communities;
- (v) effective human resource management to ensure adequate staffing;
- (vi) participatory decision-making to ensure community buy-in, and sustainable development through the management of infrastructure and resources with a long-term vision in mind.

The study found there is a need for municipalities to comply with their duties, values, and principles provided in the Constitution, local government legislation and policies, which implicitly direct a public value approach to service delivery. These requirements comply with the points listed in (i) to (vi) above.

⁵⁹ See 4.9.

7.5.7 Constitutional provisions on local government mirror the tenets of public value

The study found that constitutional provisions on duties, powers and functions of local government can be interpreted and implemented through the prism of the public value approach.⁶⁰ The study established that the *Constitution* enjoins local government to provide basic services effectively and efficiently; accountable; responsively; transparently; and sustainably.⁶¹ It also found specific obligations that require local government to create trust and uphold its legitimacy, ensure sound financial management, follow ethics generally, ensure public participation, and fulfil all the tenets of public value, as discussed in Chapter 2 of this study.⁶²

The study found that the *Constitution* is relevant in discussing public value because it is the supreme law and imposes obligations that must be fulfilled.⁶³ Although the *Constitution* does not specifically refer to public value, the study discovered that its founding values and principles, as well as the obligations it imposes on local government, mirror all the definitional elements and tenets of public value.⁶⁴ For instance, the founding values and principles ensure accountable, open and responsive governance (all essential tenets of public value), compliance with the rule of law and respect for constitutional supremacy.⁶⁵ The Founding Provisions establish South Africa as a democratic state – and therefore, a state founded on public value because democracy and its various participatory elements like elections and public participation in government are essential features of public value.⁶⁶ Therefore, the Founding Provisions and principles of the South African *Constitution* can be read and understood through the lens of a public value approach when applied in general and to local government in particular.

The analysis of the constitutional framework also showed that the *Constitution* provides for several objects of local government in section 152.⁶⁷ These objects list

⁶⁰ See 4.2.

⁶¹ See 4.2.

⁶² See 4.2.

⁶³ See 4.2.

⁶⁴ See 4.2.

⁶⁵ See 4.2.2.

⁶⁶ See 4.2.2.

⁶⁷ See 4.2.4.

the main features of a public value approach as discussed in Chapter 2 of this study, namely, providing democratic and accountable local governance; promoting the sustainable provision of services; promoting social and economic development; promoting safety and healthy environment for local communities; and encouraging community involvement and participation in local government. It was seen in this study that providing a democratic and accountable government ensures that local government provides platforms for communities to be heard and make decisions in the best interests of communities and that this creates public trust and confidence in the government - thereby creating public value.⁶⁸ It was also argued that ensuring the provision of basic services in a sustainable manner promotes the well-being of communities and enhances the quality of life through efficient waste management, water and electricity among the list of basic services.⁶⁹

The provision of these basic services was seen as crucial to this study because the creation and maintenance of public value depend on them and on ensuring a safe and healthy environment that fulfils the environmental rights outlined in section 24 of the *Constitution*. The study showed that this can be achieved by protecting the environment through the adoption and enforcement of by-laws, ensuring public safety, and adopting emergency management strategies to enhance community resilience and preparedness for disasters.⁷⁰ Promoting social and economic development and a safe and healthy environment form part of the tangible and non-tangible criteria for creating public value.⁷¹ Last but not least, the requirement for local government to encourage the involvement of communities and community organisations in matters of local government promotes public participation and engagement, both of which are core elements of public value, as they enable the voices of communities to be heard.⁷² Therefore, section 152 of the *Constitution* can be seen as an outline of public value imperatives that local government must pursue.

⁶⁸ See 4.2.

⁶⁹ See 4.2.

⁷⁰ See 4.2.4 and 4.2.5.

⁷¹ See 2.5.3.

⁷² See 4.2.

The study also found that the developmental duties of municipalities in section 153 of the *Constitution* indirectly create public value by ensuring that the structuring and management of municipal administration, including budgeting and planning processes, prioritise the needs of local communities and that they promote socio-economic development.⁷³ The study concluded that these developmental obligations can improve efficiency and effectiveness in service delivery through ways that promote public value through transparency, accountability and sustainable fiscal management.⁷⁴

The study also showed that public consultation in government decision-making is a core tenet of democracy and that it creates public value through trust and legitimacy, which accrues when the government is open about its impending decisions and the factors that influence such decisions.⁷⁵ The study also found that the involvement of communities through public participation makes government decisions 'theirs' through a shared sense of ownership of public decisions, thereby promoting transparency and accountability in such ways that ensure that municipal decisions align with the values, needs, preferences and expectations of communities to which they apply.⁷⁶

The foregoing findings on the creation of public value through Founding Provisions, objects of local government and the developmental obligations of municipalities are complimented by the basic values and principles governing public administration. The study found that section 195 of the *Constitution* enshrines these values and principles: ethics; efficiency and effectiveness; impartial, fair, equitable and unbiased provision of services; responsiveness to the needs of communities; public participation in policy-making; transparency; and representation.⁷⁷ These values and principles governing public administration are core tenets of public value themselves.

⁷³ See 4.2.5.

⁷⁴ See 4.2.5.

⁷⁵ See 4.2.

⁷⁶ See 4.2.6.

⁷⁷ See 4.2.6.

7.5.8 National policies on local government support a public value approach

The study found that the national executive adopted several policies that indirectly create public value in the public sector in general and in local government in particular.⁷⁸ The relevant policies are the *White Paper on Transforming the Public Service*, the *White Paper on Transforming Public Service Delivery*, the *White Paper on Local Government* and the *Integrated Urban Development Framework*. These policy documents reflect a commitment to creating public value through participatory governance, social justice, sustainable development, and a service delivery model that is responsive to the unique needs and preferences of the local communities.⁷⁹ They also seek to ensure the implementation of strategies that foster economic growth and promote broader societal well-being, reflecting the government's comprehensive approach to enhancing public value at the local level.⁸⁰ Although the intention of this chapter is not to reiterate the content of these policies, it is worthwhile to provide overviews of how each of them sought to create public value.

The *White Paper on the Transformation of the Public Service* sought to create a system that is responsive to the needs of all South Africans, regardless of the localities in which they reside.⁸¹ This White Paper indirectly required municipalities to create public value through transformation, accountability, transparency, and the development of human resources that are fully capable of delivering public services, including those provided by local government. It sought to correct apartheid public service shortcomings by ensuring representativeness in the provision of services, ensuring democracy, eliminating authoritarianism in public service, providing information to the public, and doing away with inefficiency and ineffectiveness. The study found in this study that this White Paper set the tone for the transformation of the public service based on public value tenets such as democratic accountability, transparency, human resource development, people-centred and people-driven public service, equity,

⁷⁸ See 4.3.

⁷⁹ See 4.3.1.

⁸⁰ See 4.3.1.

⁸¹ See 4.3.2

quality, and adherence to ethics. This was meant to improve service delivery, community satisfaction, and quality of life for all South Africans.⁸²

The study also found that in order to enhance transformation as envisaged in the *White Paper on the Transformation of the Public Service*, it was vital to adopt eight principles for public service delivery.⁸³ This was achieved in the *White Paper on Transforming Public Service Delivery*, which further created public value by providing a policy framework for the practical implementation of the transformation of public service. It was found in this study that this White Paper sought to put people first by ensuring that their interests, needs, preferences, and expectations are considered in the formulation of government policy and other acts that affect them.⁸⁴ Hence, the *White Paper on Transforming Public Service Delivery* sought to create public value by:

- (i) promoting and maintaining professional ethics in service delivery;
- (ii) providing impartial, fair, equitable and unbiased services;
- (iii) efficient, economical and effective utilisation of resources; responding to the needs of the people;
- (iv) encouraging public participation in policy-making; and
- (v) governance is that accountable, transparent and oriented on development.⁸⁵

To support these public value-creating aspirations, the *White Paper on Transforming Public Service Delivery* adopted eight *Batho Pele* principles, namely:

- (i) public consultation;
- (ii) setting realistic standards for service delivery;
- (iii) ensuring equal access to services;
- (iv) courteous and considerate treatment of the public;
- (v) provision of accurate information to the public;

⁸² See the full discussion in 4.3.2.

⁸³ See 4.3.3.4.

⁸⁴ See 4.3.3.2.

⁸⁵ See 4.3.3.1.

- (vi) increasing openness and transparency;
- (vii) providing redress for poor services; and
- (viii) giving users of public services – 'customers' in the language of the *White Paper on Transforming Public Service Delivery* – value for money.⁸⁶

It can be argued that there can be no better way to create public value in local government than through these principles. These *Batho Pele* principles were found to be aligned with Moore's managerial approach to public value in that they emphasised the treatment of communities as 'customers.'⁸⁷

Although the *White Paper on the Transformation of the Public Service* and the *White Paper on Transforming Public Service Delivery* applied to the national, provincial and local spheres of government, the study concluded that the *White Paper on Local Government* was the most relevant to the creation of public value in local government due to its specific focus on municipalities. The *White Paper on Local Government* sought to provide a policy framework for addressing service delivery challenges designed by apartheid, such as skewed settlement patterns, extreme concentration of resources only in white areas, and backlogs in service delivery infrastructure in previously excluded communities.⁸⁸ Hence, this White Paper sought to create public value by addressing historical injustices and ensuring that municipalities are development-oriented.

Another policy instrument discussed in this study on the creation of public value is the *Integrated Urban Development Framework*, which is a policy initiative of the Department of Cooperative Governance and Traditional Affairs.⁸⁹ The *Integrated Urban Development Framework* recognises that there is a need to reorganise the urban settlement system so that cities and towns become more inclusive, resource-efficient, and better prepared for the future.⁹⁰ Hence, the IUDP recognises the critical role of cities and towns in shaping the country's future and promotes an integrated

⁸⁶ See 4.3.3.4.

⁸⁷ See 4.3.3.3.

⁸⁸ See 4.3.4.

⁸⁹ See 4.3.5.

⁹⁰ See 4.3.5.1.

approach to urban planning that enhances public value by emphasising spatial transformation, inclusive growth, and governance.⁹¹ The study found that the *Integrated Urban Development Framework* seeks to create public value through the following:

- (i) integrated urban development and management,
- (ii) integrated transport and mobility,
- (iii) integrated sustainable human settlements,
- (iv) integrated urban infrastructure, and
- (v) efficient land governance and management.⁹²

The study found that the fulfilment of these initiatives will fulfil a multidisciplinary approach to urban planning aimed at optimising public value through tangible and non-tangible criteria.⁹³

7.5.9 Local government legislation creates a public value approach

The study found that the national government enacted several pieces of legislation that sought to implement constitutional provisions and the policy framework for local government. The study found that the legislation incorporates the tenets of public value discussed in 2.3. The analysis of the *Municipal Structures Act* found that it regulates local government in a way that is intended to create public value through democracy and nation-building to alleviate some of the most egregious violations of apartheid, such as poverty, inequalities and poor living conditions.⁹⁴ Hence, the *Municipal Structures Act* seeks to increase public participation; provide efficient and effective services; ensure community and individual representation; and ensure that the conduct of public representatives aligns with the prescripts of public value.⁹⁵

⁹¹ See 4.3.5.

⁹² See 4.3.5.

⁹³ The tangible and non-tangible criteria for creating public value is discussed in 2.5.3.

⁹⁴ See 4.4.1.

⁹⁵ See 4.4.1.1.

The study also found that the *Municipal Systems Act* seeks to create public value in local government by advancing some of its tenets, such as access to basic services.⁹⁶ It seeks to create public value through performance management and the development of local government through community participation, performance management and participatory decision-making.⁹⁷ In addition to the *Municipal Systems Act*, the study found that local government legislation seeks to create public value by regulating financial management in municipalities to secure sound and sustainable financial management in municipalities and to deal with provincial and national spheres of government. This is achieved through the *Municipal Finance Management Act*.⁹⁸ This statute contributes to the creation and maintenance of public value in local government through securing sound and sustainable management of the fiscal and financial affairs of municipalities and municipal entities by establishing norms and standards and other requirements for transparency and accountability in the expenditure of public resources.⁹⁹ As discussed below, the study ascertained that the three pieces of legislation in this paragraph provide the instruments for creating public value.

7.5.10 Local government instruments seek to create public value

The study found that IDPs operate as comprehensive strategic plans of local government and outline long-term visions and immediate developmental objectives of municipalities.¹⁰⁰ They can also indicate local government commitment to generating public value. Annual budgets, in turn, supply information on the allocation of financial resources by municipalities and reveal the extent to which priorities expressed in IDPs correspond with actual financial commitments.¹⁰¹ Annual reports are accountability mechanisms that offer retrospective views of the achievements and challenges of municipalities over the past fiscal year.¹⁰² They can be useful in determining the creation of public value in that an annual report reveals, among others, any adverse

⁹⁶ See 4.4.2.

⁹⁷ See 4.4.2.1.

⁹⁸ See 4.4.3.

⁹⁹ See 4.4.3.

¹⁰⁰ See 5.3.

¹⁰¹ See 5.4.

¹⁰² See 5.5.

performance regarding service delivery, which implies that public value was undermined.¹⁰³

7.6 Recommendations

7.6.1 Infusing a public value approach into the discourse on local government

It is recommended that the public value approach should be infused into the discourse on local government in the following:

- (i) Conceptual alignment of local government objectives with the tenets of public value in policy documents, planning frameworks and strategic goals of municipalities.
- (ii) Operational integration may entail the implementation of performance metrics and key performance indicators for measuring public value creation in municipalities. Arguably, this may provide a quantifiable way to assess public value.
- (iii) Stakeholder engagement involving civil society, the business sector, and organised groups of citizens to enable them to bring diverse perspectives to enhance public value. This can be achieved through consultations and community-based participatory methods combined with empirical studies and policy evaluations to generate knowledge on public value. This can be particularly beneficial for learning purposes to enhance the incorporation of public value into local government operations.
- (iv) Incorporating public value management into training programs for local government officials in order to build their capacity on public value and ensure that municipalities have skilled personnel who understand and show commitment to public value creation.
- (v) Designation of the local government regulatory framework in ways that emphasise public value outcomes in all municipal processes.

¹⁰³ See 5.5.

In short, these recommendations can be viewed as a multifaceted approach to integrating public value into local government discourse, thereby fulfilling what could be seen as an overlooked but crucial academic and practical need.

7.6.2 Learning from history to improve public value in local government

This study proposes learning from history to improve public value in local government so that local communities do not have to resort to expressions of dissatisfaction for them to receive basic services. Learning from history can be achieved partly through incorporating local government history on public value into curricula on local government law. It can also be achieved by correcting past injustices through inclusive spatial planning by municipalities and by facilitating a more equitable distribution of revenue with a focus on previously excluded areas. Furthermore, it can be achieved by enhancing public participation in local government activities and access to basic services.

7.6.3 Addressing the current local government crisis through a public value approach

This study proposes the adoption and implementation of a public value approach into the workings of local government to mitigate and possibly resolve some of the root causes of municipal dysfunction. The findings above have already shown that whereas the law and policy framework provides for a public value approach in local government, implementation is lacking. To deal with this, municipalities can build local capacity to ensure legal compliance, rebuild broken relationships with communities, and fix inadequate service delivery. They can achieve this by prioritising efficiency and effectiveness in meeting the needs, expectations and preferences of their communities. This will reduce instances of protests and help restore the public trust that has been lost. The public value approach will also mitigate the dysfunction of local government by discouraging corruption and the mismanagement of municipal resources by eliminating rent-seeking practices and encouraging adherence to ethics, transparency and accountability.

Another way through which the public value approach can help restore public value is by encouraging sound financial management in municipalities to enable them to adequately budget and collect more revenue. This discourages practices such as the

adoption of unfunded budgets and instils a sense of financial responsibility among public representatives. Sound financial management will contribute to ensuring that municipalities have adequate financial resources to fund their service delivery initiatives, such as water treatment, sanitation, and other waste management services. The provision of these basic services will possibly restore public satisfaction and trust and quell service delivery protests as the needs and expectations of communities are met. The availability of more financial resources as a result of improved collection and reduction of corrupt expenditure would free more resources for municipalities to deal with infrastructure backlogs so that they are able to fulfil their developmental mandates and plan for a sustainable future in which they will be able to provide goods and services to an increased population without incapacity challenges.

7.6.4 Implementing performance metrics to enhance public value

There is a need to enhance public value in local government through the implementation of performance metrics that align with the tenets of public value in municipal reporting. This may be taken a step further by subjecting municipal administration officials to oversight by relevant authorities to ensure that they create public value. This can improve public value as a result of the introduction of more robust systems for holding local officials accountable for meeting public value objectives.

7.7 Remaining areas of research

Future research can address the following questions relating to public value. The questions are beyond the purview of this study and have been categorised into potential research methods for investigating public value:

- (a) From an empirical research viewpoint:
 - (i) How do community perceptions of public value in local government vary across different municipalities in South Africa?
 - (ii) What methodologies are most effective for measuring the perspectives and experiences of local government officials, civil society, and communities on public value?

- (iii) How can quantitative surveys be optimally designed to assess public value creation from the viewpoint of various stakeholders within local governance?
- (b) In view of the case studies and potential qualitative insights:
- (i) What are the qualitative dimensions of public value creation in selected municipalities, and how do these align with or diverge from quantitative findings?
 - (ii) Using semi-structured interviews and participant observations, which, if any, understandings can be garnered about the processes and outcomes of public value policies in local government?
- (c) Regarding the potential role of comparative studies and benchmarking analyses:
- (i) How does the creation of public value in South African local government compare with that in other jurisdictions beyond South Africa?
 - (ii) What best practices and common pitfalls can be identified through comparative studies of public value creation in local government across different jurisdictions?

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