

# Locating the public in a process of strengthening accountability in local government

**PRESENTED BY**

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**STATE  
CAPTURE**

**AND ITS AFTERMATH**

22-24 OCTOBER 2018

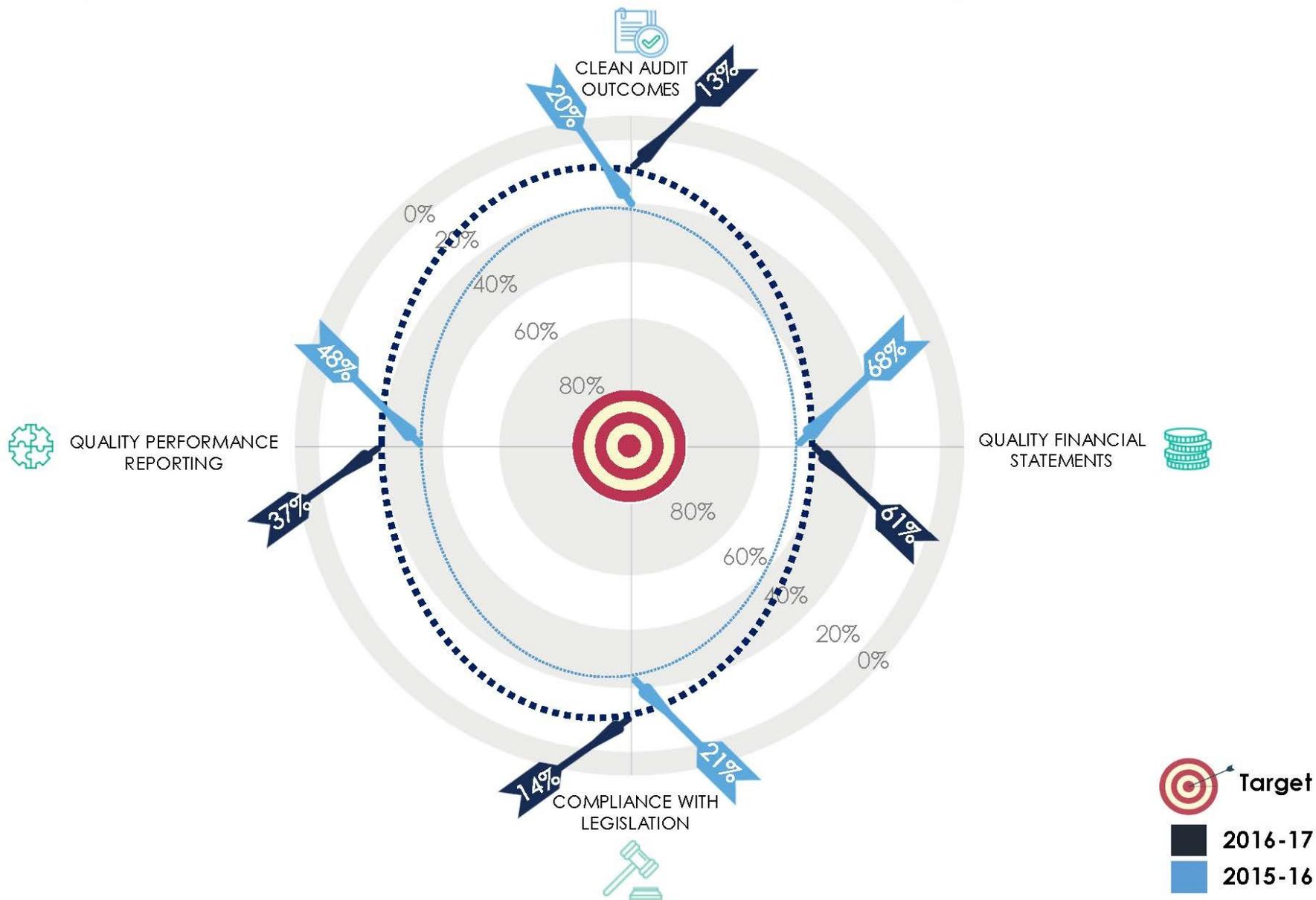
**building  
responsiveness  
through  
state reform**

**#AfterCapture**

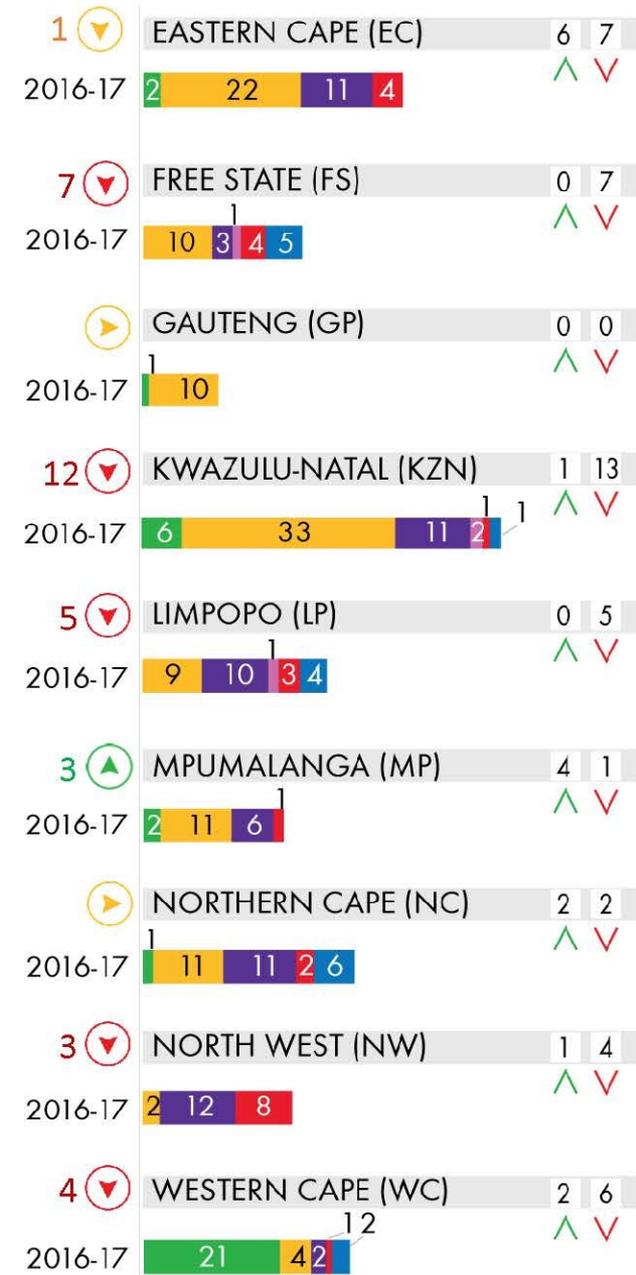
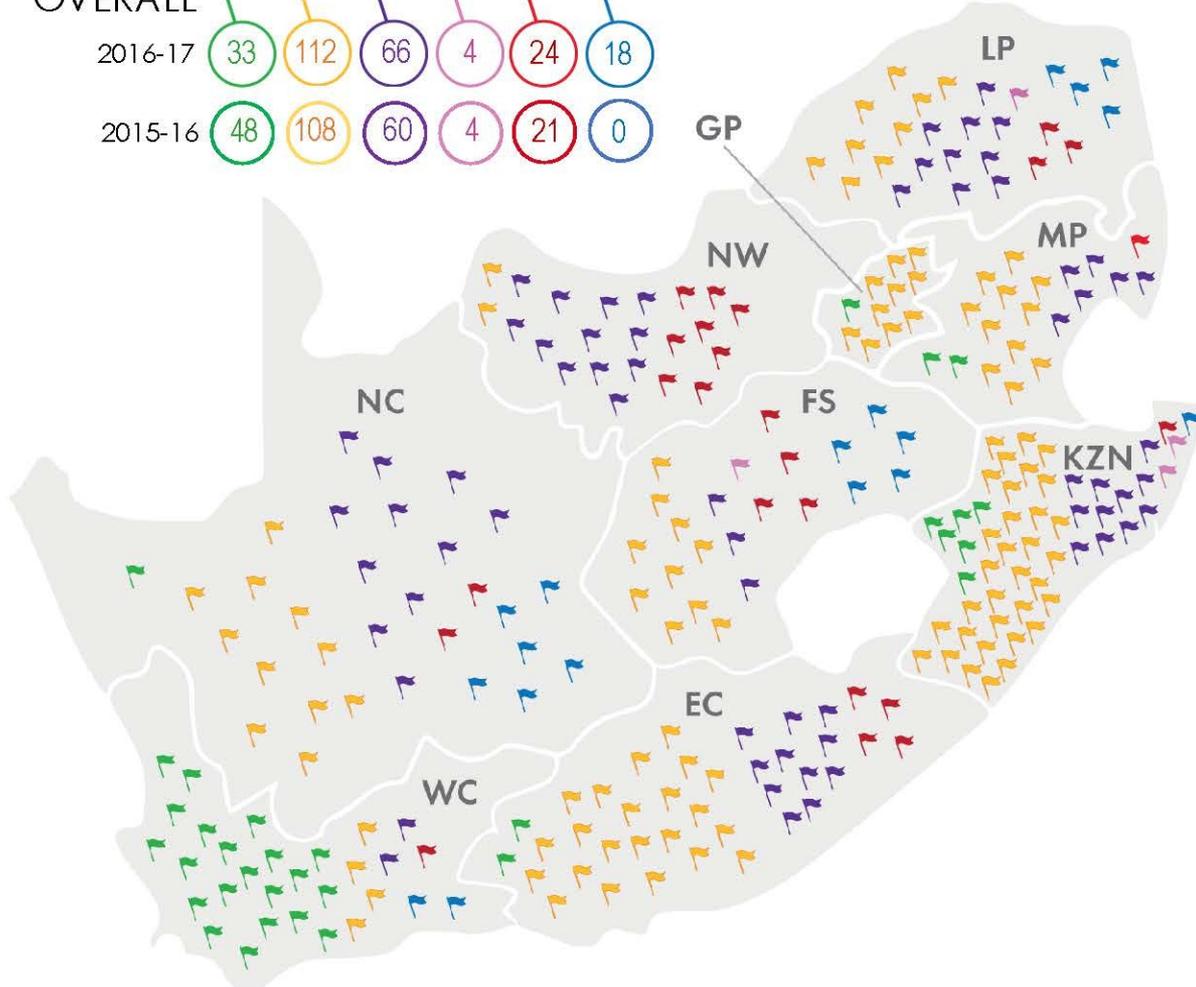
# Context

- The capturing of the state did not happen in national institutions only, but permeated across all of government
- The Gupta-Zuma capture has and continues to occupy public debate with the Zondo Commission underway, however the capture of local government for political and personal gain has remained under the spotlight
- One only has to look at Nelson Mandela today, to see the prevalent culture in local government
- The audit outcomes of local government and the recent treasury assessment of the state of LG points to dire state of affairs in LG

# In first year of administration, audit outcomes regressed



# Movement in audit outcomes



# Objectives of public participation in LG

- To ensure that political parties remain accountable and work within their mandate;
- To allow the public to participate in policy formulation;
- To allow service consumers to have a say in the manner services are delivered; and
- To afford civil society an opportunity to enter into partnerships with LG to mobilize additional resources

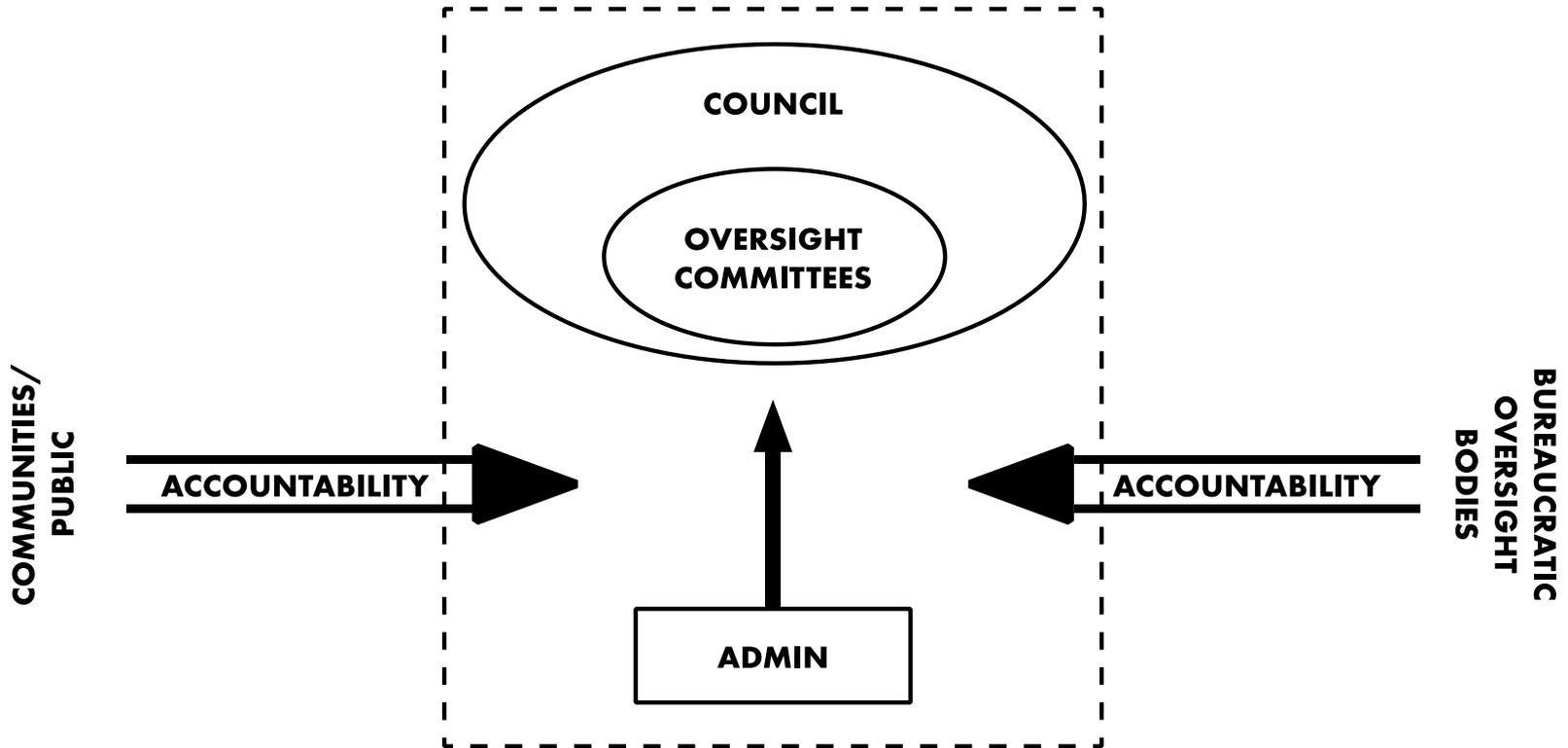
(White paper, 1998:4-5)

# What do we know...

- 63% of municipalities are dysfunctional or almost dysfunctional and in need of serious reform in order to meet the minimum standard of proficiency (CoGTA, 2018)
- Public participation in local government is ineffective and this contributes to poor oversight and lack of accountability
- Poor public participation has also led to a weak public-government relationship, lack of trust and increased service delivery protests
- Public participation is a defensible right, in fact it is so important that it is the only requirement, as the Constitutional Court has affirmed, for which exception cannot be given

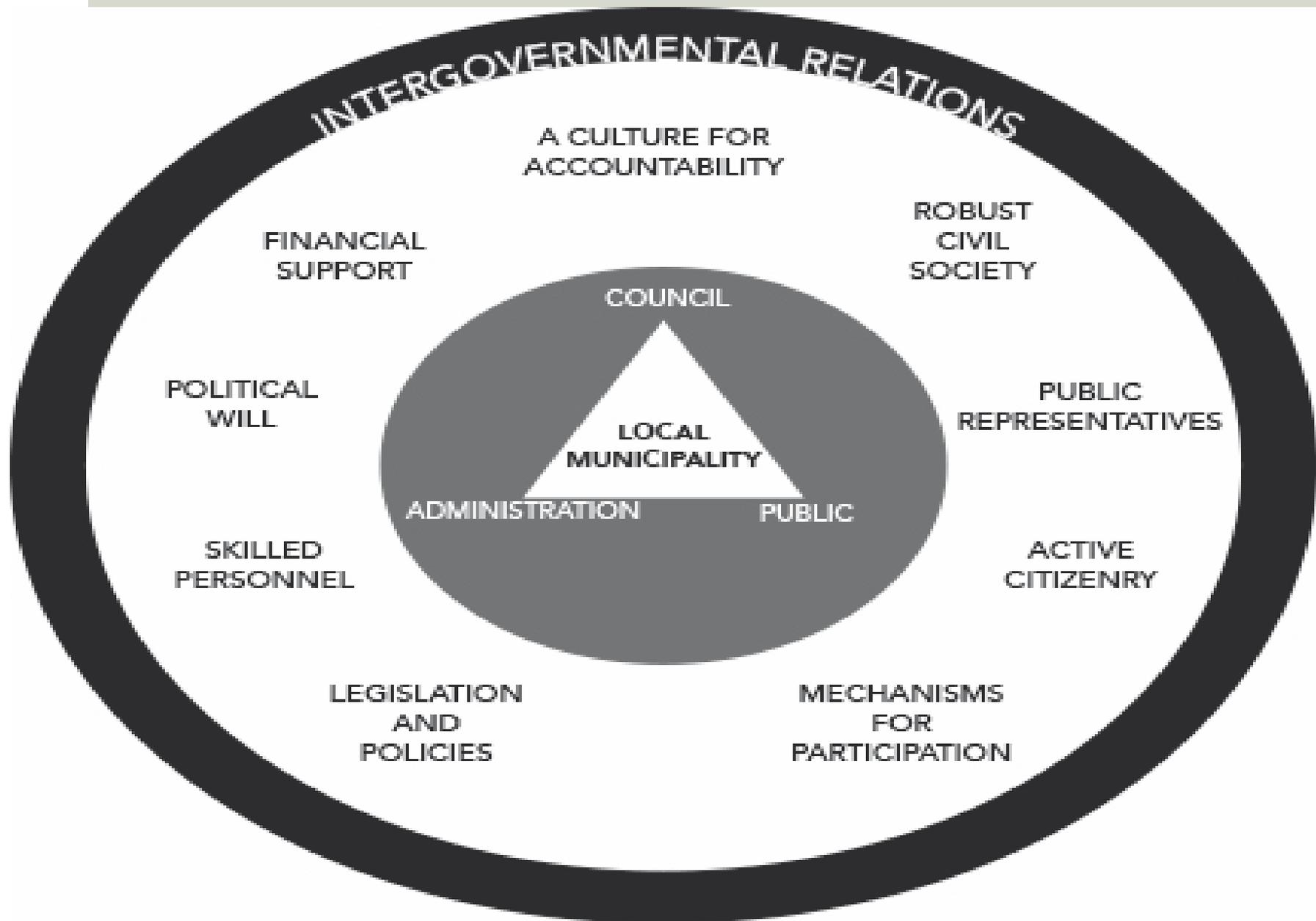
“[t]he original conceptual framework for citizen participation in local government is limiting and robs local government of the opportunity to tap into the capacity, the energy and resources that rests within citizens to drive change. There is a need to rethink the role of active citizens in local governance as co-drivers of change. The existing framework for citizen participation only enables the public to participate as invited guests in local government processes as opposed to partners and co-creators. This argument is derived from the emphasis on the term to ‘encourage and to consult’ in Section 152 (1) of the Constitution, in Sections 1 and 4 of the Municipal Systems Act, and in Section 19 of the Municipal Structures Act.” (The High Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change, 2017, pp441)

# Framework for accountability in local government



Source: Author's own

- The murkiness of today's politics demand that people establish organs of people's power through which they can exercise their agency, the legislated ones are relatively hopeless
- There is a strong push to strengthen accountability through the bureaucratic oversight system of government but little effort given to rethink the manner in which public participation happens. This is as important.
- The accountability loops in local government have to be strengthened and this goes beyond just the institutionalized oversight mechanisms.
- The entire infrastructure for public participation in local government requires a serious overhaul



Source: Author's Own

# Elements of the infrastructure for public participation

- The legislative and policy framework
- The electoral process and calibre of elected leaders
- A culture of accountability
- Political will
- An active citizenry
- A robust civil society
- Capacity and skills of civil servants tasked with public participation
- Financial resourcing of public participation

# The legislative and policy framework

- It fails to provide mechanisms through which unstructured, uncensored and innovative forms of participation can thrive;
- It delegitimizes democratic innovation that falls outside the legislated mechanisms;
- There are no mechanisms built into the legislated mechanisms to ensure the transfer of power, all decision-making power rests with government
- By enforcing compliance through one size fit all mechanisms, it does not facilitate the brokering of relationships between the state and citizens which is sometimes complex, long and time consuming.
- Does not provide any meaningful consequences for not facilitating public participation

# The electoral process

- The nature of the beast demands that constituency-based candidates align with political parties for financial and other resources as well as caucus support and influence
- Ordinarily, this influences accountability of these individuals but then again, the legislative framework does not give the constituency power to remove from office these constituency elected representatives
- The process of rising through the ranks in political parties is murky, and has influenced even the most public-spirited of public representatives
- The PR system is one in which the public receives as public representatives candidates drawn from a list they did not help select. It is not surprising that these individuals would account to the political party that has elected them

# A culture of accountability

- Mechanisms for accountability in local government have borne little fruit over the years;
- Existing mechanisms have failed to inculcate a culture of accountability in political parties and the municipal councils to which they are deployed;
- Oversight functions in local government are in shambles and so are oversight structures within political parties
- For a culture of accountability to emerge will require political will, ethical, leadership, fit-for-purpose institutional mechanisms and capable and active citizens;

# Political will

- A political culture that has been allowed to thrive in SA has been one in which political and individual interests were allowed to undermine public good.
- The secrecy around political party funding has been one area in which political parties refused to live up to values of transparency and openness. This allowed for the collusion between business, state and political party to thrive.
- Local government with its dependence on consultants for service delivery meant that it was a fertile ground for this unholy relationship between business, state and political parties to thrive.
- Curbing this requires political will; a willingness to put public good before that of the political party

# Active citizenry

- The Bill of Rights proclaimed that “the people shall govern”
- However, the demobilization of organized civic movements in the early 1990s meant that the space for civic agency became occupied by political parties;
- The service delivery protests and rise of social movements attest to the recognition by citizens that existing mechanisms in both government and political parties are limited and are not offering an opportunity for people to govern.
- The strength of our democracy depends on strong institutional mechanisms but also on the creation of opportunities for citizens to engage the state outside of these legislated mechanisms, in creative and innovative ways

# A robust civil society

- Government generally undermines the value of civil society.
- In our country, education levels are low, poverty stands at alarming rates and the electorate is easily manipulated. The strength and quality of our democracy depends on strategic civic education and the harnessing of civic agency. Civil society is best placed to deliver on this.
- Civil society is not homogenous and has made its own mistakes over the years but still it remains best placed, located within communities with levels of trust that are built over time to support the vision of a developmental local government

# Capacity of civil servants

- Mismatch of skills
- No proper training, no institution offers the kind of training that would build the capacity of public participation officials in a manner that is in line with their function as understood in this paper
- Public participation officials are to build agency, strengthen relationships between state and citizens, facilitate the transfer of power in decision-making platforms, and rally public energy to meet municipal goals. This is complex and is not supported by present legislated mechanisms or the powers that be. As a result, public participation personnel retreat into events managing

# Financial resourcing of public participation

- Local government receives the tiniest slice of our national transfers (about 10% of the national transfer, compared to about 43% that goes to provinces and 47% that goes to national). This is understandable as a means to encourage local government to be creative about raising its own revenue
- With limited resources, public participation gets the smallest share of this tiny slice of a pie
- The Demarcation Board is working hard to restructure municipal boundaries in ways that are meant to unlock the economic opportunities for a number of municipalities, however, these efforts have fallen short so far because of a lack of meaningful participation

# Conclusion

- ▣ Accountability remains at the heart of the state capture debate. We are asking ourselves, how do we build the culture of accountability across all of government
- ▣ This paper argues that in local government, we have to strengthen the entire infrastructure for public participation, not just some parts of it, not only the formal and institutionalized mechanism, but all of its parts.

*“Parliament should consider identifying and reviewing all legislation that includes a public participation component,... so that where provision is made for the public to be consulted, this consultation is meaningful and effective.” (HLPKL, 2017)*

# THANK YOU

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Promoting active citizenship and good governance