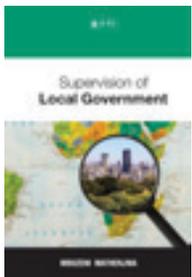
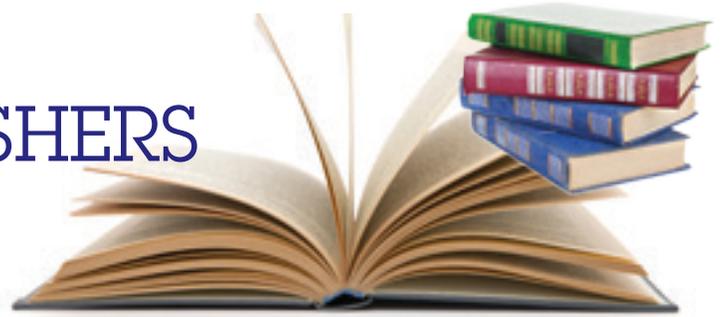


FROM THE PUBLISHERS



**Supervision
of Local
Government**
Prof. MJ
Mathenjwa
Juta (2017)
282 pp

I was drawn to undertake this book review because of its current relevance and because I had just read an insider's account of the capture of my own city's municipality; the Nelson Mandela Bay Metropolitan Municipality in Port Elizabeth. (*"How to Steal a City"* by Crispian Olver). As Prof. Mathenjwa observes in his opening sentences, local government is the interface between government and the people it serves and ours has been surrounded in controversy and widespread violent social unrest for over a decade.

The author is an admitted attorney and professor of public, constitutional and international law at UNISA, with a full basket of qualifications and an impressive array of publications, predominantly in the field of local government within the southern African context as a whole. Given all of this, perhaps I was expecting too much from the book.

There is no foreword or other explanatory introduction, so I assume that this book was written as a first year text book for the author's students. Even that being so, it suffers from being written in a traditionally bland and compartmentalised academic style, that makes for dry reading and few meaningful insights, beyond stating direct consequences.

The book is certainly comprehensive and academically sound, covering as it does the source of municipal power; the legislative framework; and comparative African and European local government institutions and systems. There is then a chapter on case studies and finally, again, neatly compartmentalised, certain conclusions drawn by the author, principally about strengthening co-operative governance.

I found the case studies' chapter to be rather limited, covering as it does examples from KwaZulu-Natal and two from the Western Cape where the intervention by the provincial government was hostile, and often *mala fide*. This was motivated either because different political parties controlled the provincial government and the municipality in question, or because different factions of the ruling party controlled the provincial government and the municipality in question. As the author observes, in virtually all of these cases the intervention was unlawful and, where challenged, held not to be in accordance with the constitutional and statutory requirements, let alone the spirit of co-operative governance. Not explored is the scope for mischief when such parties become better at compliance and do jump through the statutory hoops required.

But the biggest deficiency, in my view, is the complete absence of any examination of the situation which has become endemic in the Eastern Cape (and elsewhere), where the municipal administration is dysfunctional and the province is compelled to intervene (without ulterior motive) simply to discharge its

statutory obligations in terms of section 139(1) of the Constitution and the Local Government Municipal Systems Act, no. 32 of 2000. We know, because we live here, that these measures have almost all failed and continue to do so. Why? How can this be fixed?

Another missed opportunity, perhaps too late to be included, was the decision of the national government, announced at the beginning of 2015, to withdraw the allocation of funds for human settlements from all metropolitan municipalities and, instead, to allocate this funding (and function) to a national body, the Housing Development Agency (HDA) from the end of the 2015/16 financial year. The reason for this step was because of the wholesale looting of this budget that was occurring nationally and the inability of metropolitan municipalities to control and stop it. The measure is stated to be temporary ...

There is no consideration of the role of civil society and the litigation instituted by private individuals and organisations, which in my view is probably the most effective supervision one can ever have over any form of government, but that is perhaps beyond the scope of this work.

In short, I would welcome a discussion with the author about his experiences and views on constitutionalism and the structure of local government, but I am less enthusiastic about enrolling for his first year class.

Mark Euijen SC
Chambers, Port Elizabeth