

THE MAKANA RATES REVOLT



Revolutions do not occur in a vacuum. They are mostly the product of frustration in leadership, rules, disenabling laws and even constitutional order. And the common cause is a perceived lack of fairness or sense of desperation.

After years of mismanagement, failed interventions and inept leadership, Makana ratepayers are frustrated and angry. Some believe that community groups and well-governed NGO's do better than government in maintaining services and infrastructure. Ongoing campaigns to raise community donations have funded repairs, maintenance, improved security and litter removal. Ratepayers claim these efforts *have* delivered more efficiently and at a fraction of the cost of the municipality's sparse maintenance budget. Recently through social media, ratepayers called for redirecting rates payments to civil society structures tasked with doing the municipality's work.

Recorded tax revolts occur when rulers take people's hard-earned money without consent, or without providing reasonable value in return. There are countless examples. Even the bible refers to accusations of inciting tax avoidance against the Roman Empire by Jesus of Nazareth (*Luke 23:2*). 1000 Years after Christ's crucifixion, the legendary Lady Godiva (wife to Earl Leofric) successfully rebelled against her husband's tax edict by riding naked on horseback through the streets of Coventry. In 1853, Thomas Purvis, co-founder of the American Anti-Slavery Society, withheld tax in protest of whites-only classrooms. Recently, the boycott of the Gauteng Freeway toll stands as the most successful tax revolt in modern South Africa. The key to a successful revolt is in the critical number of support participants.

Soft-revolutions (like tax revolts) can also occur for less obvious reasons; like the shortcomings in a Constitutional order, lack of direct representation, poor governance and government policy - or a legal system that is both out of touch and reach of the common citizen.

But can ratepayers vote with their wallets?

Legalities

Experts point out that property owners are obliged to pay rates according to municipality rates policies and laws. Several court judgements reinforce a municipality's right to levy and collect property rates. More recent judgements such as the Agri EC vs. Eastern Cape Dept of Roads and Public Works (case: 3928/2015) indicate a cautious shift of attitude by the judiciary from idealism, towards practically protecting the common citizen against government. It will take further case law and a more forward looking judiciary to develop the context in which communities can be free to remedy some (or all) of the failings of the state.

Withholding rates can attract interest charges and a municipality may institute collection proceedings. They also have the right to disconnect electricity services (but not water supply, or electricity supply for indigents) to errant ratepayers. However, where relevant, due process must be followed, ie: – written notice, right of reply, remedy and appeal [sec 3(2)(b) of the Promotion of Administrative Justice Act & sec. 4(3) of the Water Services Act]. Only then can the Authority navigate the path of protracted civil proceedings.

Moreover, prior to the transfer of a property, a rates clearance certificate (indicating that outstanding amounts have been paid) is required.

The current position with ratepayers

There are three distinct groups making up prevailing opinion and action:

The first are the *non-payers*. According to tabled records, Makana Municipal rates collection averages under 70%. One-third of property owners just don't pay for municipal rates or services. Reasons vary – from wilful disregard of debt, to lack of affordability, destitution or disagreements on billing procedures and amounts.

The second are those who trust in the *rule of law*. This group envisions (and trusts) the regime as the primary provider of needs and expectations - and ultimate custodian of constitutional obligations. Law courts and statutory/Constitutional processes are viewed as the solution to the failings of the state.

Included in this group are those who may not be as reasoned, but are fearful of consequences, or simply uninformed about their rights and remedies.

The third group are *protest and action*-minded. These ratepayers believe taxes are misused and perpetuate the reported (and experienced) endemic wastage, patronage, nepotism and corruption. In short, they view paying rates as prolonging the shortcomings of a failed and dysfunctional system and see local government structures as the problem, not the solution.



Do Constitutional and lawful solutions work?

After three attempts at administration intervention and several years of broken promises, Makana's debt, infrastructure and service delivery ability has consistently deteriorated.

Since 1996, more than two-thirds of Makana's voters have returned the same political party to power in five elections. Party-appointed councillors (some of whom may have an understanding of economics or accounting) have presided over a municipality which has almost doubled its workforce, incurred several hundred million Rand of operational and long-term debt and is unable to carry out its Constitutional mandate.

Despite this, it is almost certain the current regime will remain in power beyond the 2021 local elections.

By will or Constitutional design, South Africa has become a society anchored in historical hurt and polarising wounds. Will the majority of voters be able to separate political party loyalty from government and the administration of community matters?

Most forms of legal action (compelling government to do its work) remain unaffordable and laborious. Outcomes are uncertain and implementation, impractical. Applicants have to self-fund legal actions, but if government decides to defend against its own obligations, tax money is used (often without limit). If one fully grasps the system, litigation can take months and sometimes years, if resolved at all. Add to that the incapacity of the judiciary and legal structures to implement practical solutions and the unhurried evolution of the law.

As a Makana resident said; 'It takes about 3 days just to draft papers for an urgent court interdict – the same amount of time for an untreated infant to die from pathogens in contaminated drinking water.'

And the pragmatic story?

Makana's remaining strained infrastructure would collapse if not for a small percentage of operational municipal management and workers, together with marginal numbers of committed businesses and citizens who work tirelessly with limited resources. These dedicated people often face a backlash of contempt, including snubs from municipal colleagues and even hostility from those in the Politburo and governing party alliances.

Fortunately, all is not rotten in the ruling party. It still commands the support of many ethical and honest people. But leadership is divided along moderate

pragmatists (those members who support the ideals and ethics of the pre-1999 Mandela era) and those who have embraced the centralisation of power, and wholesale state capture of the South African economy. The Eastern Cape endures the latter, and Makana can be regarded as 'captured', where merit and ability are less important than party loyalty. Smaller municipalities are comfortable destinations for the regime's less aspiring party sycophants. Deployed party cadres and lower-tier patronage beneficiaries are shielded in most political, employment and executive positions. As covered in the Kabuso Report, Makana is also a vehicle for dispensing favours - from employing excessive staff to orchestrated capital projects and tender fixing, supply chain paralysis and alleged tampering of social beneficiary lists. A classic top-down political pyramid scheme - all about power, controlling resources and people, with a lack of governance, empathy and accountability.

So what now?

Are imposed taxes collected by a dysfunctional municipality the answer to maintaining infrastructure and services for citizens?

Those who have unflinching trust in the rule of law and the ethical remnants of ruling party leadership, fail to equate an ideal Socialist society (where all personal agendas and politics have vanished), to the inconvenient shortcomings of human behaviour. A comparison of fantasy, unrestricted by the reality of how things actually *are*.

In such a comparison between fantasy and reality, reality will always lose.

Author James Peron (*Tyranny of a Dream*) cautions – 'There is a place for [such] comparisons in human understanding. Literature is such a place to fantasise about utopias unbridled by the inconvenient facts of human nature, politics, scarce resources and other such roadblocks. The danger from such dreaming is that [voters and people in power] confuse their dream with the real world and then try to force the real world to fit their dream.'

For those who will not suffer the tyranny of the dream, the re-deployment of rates to well-governed NGO's who address the failings of municipal structures is a considered solution. These ratepayers support the common good as much as they believe they have nothing further to lose.

And for those who trust in the sanctity and goodness of an effective legal and constitutional order, there is no law preventing them from paying up and hoping for a better future.

For pragmatists and idealists alike however, remember to boil Makana's water before drinking it – if one is fortunate enough to have a working supply.

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September 2018