



Talking about a Devolution: Getting Passenger Rail Back on Track

*Don't you know/They're talking about a revolution?
It sounds like a whisper
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It sounds like a whisper*
Tracy Chapman

1. Introduction

When Statistics South Africa conducted its National Household Travel Survey in 2013,¹ more than 10% of Western Cape households surveyed reported using trains – in 2020 this dropped to just 3.1%. In 2013, 13% of workers used trains as their main mode of transport, but in 2020 that percentage dropped to less than 2%. The main reason cited for this decrease is the non-availability of train services.

In its 2020 report the International Rail Journal stated that “hundreds of kilometres of overhead cables, signalling wires and catenary masts have been stolen, affecting every Metrorail route in Gauteng.”² It went on to say that on the “once-busy 35km main line between Johannesburg Park Station and the western mining town of Randfontein, around 60km of cable was stolen during the lockdown alone. No commuter trains are running on this line, while the handful of Transnet-operated freight trains still running are often caught in cables left dangling by the thieves.”

So for a long time the whispers have been growing louder that South Africa's rail system needs to get back on track; to return to when it was the go-to mode of transport for millions of South Africans. To do this effectively, national government realised that it would need the help of the

other tiers of government. This briefing paper will provide an overview of passenger rail devolution, especially as it may play out in the City of Cape Town.

2. The State of Play

According to the 2020 National Household Travel Survey, the use of trains as a means of transport has declined considerably. Households either use private transport, walk, or travel by taxi more than they use trains. This is despite the fact that the cost of rail travel is considerably lower than travelling by private vehicles or by taxi. The decline of the rail infrastructure and service due to mismanagement, corruption and theft has left South African commuters frustrated for many years.

But it is not only commuter rail that has been in decline. The White Paper on National Rail Policy,³ published in May 2022, acknowledges this decline: “...it has become increasingly evident that the rail sector is past its peak in terms of contributing to the national freight and passenger transport tasks.”

Devolving rail management to cities is not a new idea, and has proven to be successful in getting passengers back into trains. The UK is a prime example of how this can work. According to the

Urban Transport Group in the UK,⁴ rail devolution has led to more “satisfied passengers, stronger communities, improved economic prosperity and increased accountability.” Rail devolution has also resulted in innovative approaches to ticketing and pricing, such as half-price tickets for 16 to 18-year-olds to provide fairer and wider access to education and employment. The Group argues that local authorities have seized the opportunity to improve services which they “know are vital to their wider economic, social and environmental priorities.”

3. The Legal Framework for Devolving Powers

Devolution – the transfer or delegation of power to a lower level of government – is very much part of how the South African government works in many spheres, such as transport. The Constitution lists public transport as a concurrent national and provincial function, which means that provinces are legally entitled to play a much bigger role in facilitating public transport – including passenger rail.⁵ The roles of the main stakeholders – municipalities, national government, and the Passenger Rail Agency of South Africa (PRASA) – are further set out in the National Land Transport Act (NLTA)⁶ and the Legal Succession to the South African Transport Services Act (SATSA)⁷.

The NLTA empowers national government to formulate transport policy and strategy (for air, maritime, public transport and road transport); regulate these matters; ensure co-ordination between the three spheres of government and public entities to guarantee efficient and effective performance of the land transport function; provide capacity building in all functional areas; and exercise monitoring, evaluation and oversight over all functional areas. Section 22 of SATSA (as amended in 2008) establishes PRASA and mandates it, together with the Minister of Transport, to deliver commuter rail services in the metropolitan areas of South Africa, and long-distance (inter-city) rail and bus services within, to and from the borders of South Africa. While PRASA’s ownership lies with the national department of transport, it has independent financial and operational authority to provide rail services.

While national government is responsible for developing transport policy for the country, local government is responsible for executing the transport policy mandate. Legally this can be

done through by-laws, integrated transport plans, municipal plans, etc. The responsibilities of municipalities to provide public transport, which includes rail, are further provided for under sections 11(1)(c), (2) and (3) of the NLTA⁸. Thabile Chonco, a researcher at the University of the Western Cape, notes that the Minister of Transport may assign any of the transport functions set out in section 11(1)(a) of the NLTA to municipalities, “subject to sections 99 and 156(4) of the Constitution and sections 9 and 10 of the [Municipal] Systems Act, to achieve the objectives of the Constitution and [the] Act”⁹. However, this assignment of functions can only be done if the municipality has an acceptable integrated transport plan.

National government recognised the role of municipalities in its 2017 Draft National Rail Policy and explicitly stated, “urban rail will be devolved and ultimately assigned to local government. This will enable it to be nurtured in a setting where it will be valued and integrated into other local transport initiatives.”¹⁰ This position has been further entrenched in the final version of the White Paper, approved by cabinet and published in March 2022.¹¹ The White Paper on National Rail Policy acknowledges the “importance of devolving public transport functions to the lowest level of government” and that the policy will require “the development and approval of a Devolution Strategy for Commuter Rail to guide the assignment of the commuter rail function to the municipal sphere of government.”

4. Making Devolution a Reality

The National Rail Policy requires the development and approval of a Devolution Strategy for Commuter Rail to guide the assignment of the passenger rail function to municipalities, which will detail any speedy roll-out of services by municipalities. However, the reality is that it is only the bigger metros, like the City of Cape Town (CoCT) and the City of Johannesburg, that will be able to take over the running of rail services. In July 2022 the CoCT launched a feasibility study into taking over the management of Cape Town’s urban rail network (which consists of approximately 270km of lines, with 119 stations, staging yards and depots), with the expectation that a first-stage report will be ready before the end of the year. The multi-disciplinary team conducting the study will explore the integration of existing transport networks; ticketing

and timetabling; railway operations; maintenance of assets; legal services focusing on contracts and concessions; and security planning, among others.¹²

Hopefully, the feasibility study will speak to some of the issues raised at a CPLO webinar¹³ earlier this year. Speakers highlighted that the CoCT will have to ensure that the management of the rail system forms part of an integrated transport system for the city that provides a cost-effective way of commuting. Jodi Allemeier, an independent urban development consultant, questioned whether the CoCT had considered all the associated financial risks. Professor Stephan Krygsman,¹⁴ an expert in transport economics at Stellenbosch University, echoed similar concerns when he argued that metros may not be willing to carry the initial costs to repair infrastructure. He further argued that metros will have to secure the infrastructure against theft and vandalism, which can only be done with the necessary policing, adequate funding and the right technology. This of course means that the initial costs of managing the rail system may be passed on to commuters. Another expert, Professor Roger Behrens,¹⁵ Director of the Centre for Transport Studies at the University of Cape Town, suggested that to mitigate costs, it would make sense that PRASA continues to maintain and acquire rolling stock, and leases it to private partners. Professor Krygsman suggested that the CoCT consider only managing the scheduling of the trains, providing the services, and collecting fare revenue, while paying a track access fee to PRASA to access the network.

Public transport is considered to be best managed at a local level and the rail system should not be any different. However careful consideration is needed before any metro embarks on a very expensive endeavour that could negatively affect the costs and sustainability of rail commuting.

5. A Bigger Transport Plan

The White Paper is not just about devolving the management of rail: it also acknowledges that, to move freight from the roads to rail, broader participation and investment from the private sector is needed. Transport Minister Fikile Mbalula emphasises that the policy “seeks to open the industry and give the private sector an opportunity, not through privatisation, but through participation, to bring resources and bigger support to ensure the rail system is in a position to deliver [according to the needs of the economy].”¹⁶ The participation of private partners will lead to less dependence on moving agricultural produce by road, to a more cost effective rail system. The challenges of accommodating more private sector participation are dependent on how well the White Paper is implemented; and on whether Transnet, which owns and operates the freight lines, avoids placing excessively onerous conditions on private players. For example, Transnet wants to limited third-party operators to two-year contracts, and requires them to be part of the Transnet bargaining council with its trade unions. It has also made it difficult for potential third-party operators to assess the state of the lines that their new rolling stock would have to travel on.¹⁷

6. Conclusion

A revolution is indeed needed to liberalise and revitalise South Africa’s ailing rail transport system. It is encouraging to see that commuter trains are slowly making their way back onto the tracks, but much more work has to be done if the vision of the White Paper is to be realised, and if South Africa’s ailing rail system is to wake up from its slumber. The ‘devolution revolution’ has begun and if a metro, like the City of Cape Town, wants to manage the rail services it will have to show that it has the necessary financial, technical and human resource capabilities; and that it can give commuters value for their money.

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² David Burroughs (2020): *Extensive cable thefts and looting halts South African rail services*. International Railway Journal. Available online at <https://tinyurl.com/yn6s4yck>

- ³ Department of Transport (2022): *White Paper on the National Rail Policy*. Government Gazette no 46356, 12 May 2022. Available online at <https://tinyurl.com/bdxm3c5b>
- ⁴ Urban Transport Group (2017): *Rail devolution works – here’s the proof*. Available online at <https://tinyurl.com/mwenx42u>
- ⁵ The Constitution of the Republic of South Africa, 1996: *Schedule 4A*
- ⁶ Act 5 of 2009: Available online at <https://tinyurl.com/5cvd25bj>
- ⁷ Act 9 of 1989, amended in 2008: The principal act and the amends are available online at: <https://tinyurl.com/4uan8dam>
- ⁸ Thabile Chonco (2022): *City of Cape Town wants to run the metro railway service*. Local Government Bulletin, Vol. 17, Issue 3, September 2022. Dullah Omar Institute, UWC. Available online at <https://tinyurl.com/2946dfrs>
- ⁹ *ibid*
- ¹⁰ Department of Transport (2017): *Draft National Rail Policy, First Draft, June 2017*. Available online at <https://tinyurl.com/26ftmdh2>
- ¹¹ White Paper on National Rail Policy
- ¹² The City of Cape Town (2022): *City’s rail feasibility study underway*. Available online at <https://tinyurl.com/mu7yfma4>
- ¹³ CPLD (2022): *Talking about a Devolution: Getting Passenger Rail Back on Track*. Available online at <https://www.youtube.com/watch?v=bNeR7HCx3eo>
- ¹⁴ Bulelwa Payi (2022): *Public transport experts support the City of Cape Town’s move to explore the privatisation of the rail network service*. Available online at <https://tinyurl.com/5ettk972>
- ¹⁵ *ibid*
- ¹⁶ Schalk Burger (2022): *Rail White Paper stresses private sector participation, move to standard gauge*. Engineering News. Available online at <https://tinyurl.com/4unpvv5n>
- ¹⁷ Hilary Joffe (2022): *Signs of saving the railways are not reassuring*. Business Day Online. Available online <https://tinyurl.com/3krk6vjs>