Metamorphosis of Local Government in South Africa

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In November 1995 the first democratic elections for local government were held in South Africa. This was one of the most important political developments in South Africa since the abolition of the apartheid system.[1] Several experts on government and administration had expressed their opinion on the fact that local government was the Achilles' heel of the apartheid system. The apartheid legislation was primarily implemented at local level. It was at this level that the consequences of the system were most strongly felt by the local population. Especially there, the first signs became manifest that the apartheid system as a social, political, and consequently economic, system was untenable. It was at local level, and in particular in the black townships near the big cities, that the massive resistance against the system arose. The future development and solution of the South Africa's social and political crises will depend to a large extent on what will happen at local level. This opinion was voiced as early as 1988 when the black townships near Johannesburg were ablaze.

SPECIAL FEATURES OF THE SOCIAL POLITICAL SITUATION

During the vital years at the beginning of the 1990s' South Africa was a strange mixture of well-organized government and administration on the levels of central government, provinces and cities. But on the other hand, it showed signs of unimaginable administrative neglect and alarming backwardness in many local areas. There existed, and still does, dramatic differences in welfare and the quality of public services.

South Africa is marked by a great heterogeneity of the different population groups. The dominant group consisted of the white population. Besides, over a period of three hundred years a large group of coloured people, who are a mixture of different races had been born. Thirdly, there was the Indian-Malaysian group, which plays an important role in trade of all kinds. But unquestinably the largest group consisted of the blacks, who descend from various traditional tribes and a massive imigrant population coming from the neighbouring African countries.

The policy of the South African government regarding the three non-white population groups, i.e. the racist policy of apartheid which started in the last century, was increasinly codified in an extensive network of laws and regulations concerning the political, social and economic rights (and limitations) as well as obligations for the non-white groups. This concerned as well the system and the operation of those racial communities.

The legal arrangements for the black communities and their implementation constitutes the main problem for a number of reasons. Originally the policy for that population group was strongly inspired by a negative judgment about the capability of the "blacks" to develop themselves and to organize their local communities. But fear of the white population for the black masses played an increasing role. Governmental and administrative structures for black communities which might undermine the white government should be avoided. The basis of the government policy was maintenance of the power position of the white population.

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[1] The major characteristics of the apartheid system were the following: Fundamental segregation of different racial groups (white, black, coloured and Indian). Communities were geographically separated along these racial lines. Inhabitants of black, coloured and Indian had generally restrictions on moving outside their own communities by a system of passes (passports). They were not permitted to use white public transport, or at least it was strictly restricted, nor to lie on beaches reserved for the whites nor bathe in their swimmingpools, nor to visit their cultural institutions etc. The white race was kept apart from the other races in educational institutions and at hospitals.

CENTRALISTIC SYSTEM OF GOVERNMENT

Before its breakdown around 1990 the system was extremely centralistic. From 1948 until 1992 the National Party was uninterruptedly in power. There existed no effective opposition. This resulted in a dominant position of the executive: President and Cabinet. The Parliament and voters (only whites had the right to vote) granted, or accepted, increasingly greater powers to the executive authorities. These proved to be masters in stimulating and exploiting fears among the white population for a breakdown of the state as a result of growing violent opposition by the black population. In the mid-eighties this led among other things to the proclamation of a state of emergency.

The syndrome of State security also resulted in the creation of a State Security Committee which even undermined the power of the Cabinet. The President chaired the committee. He was no more bound by the opinions of the majority of Parliament. In fact he assumed almost dictatorial powers. Provincial and local government were fully dependent on central government. The fears among the white population for loss of their political and economic power position and for chaos in the whole country assured an almost uncritical although declining support to President Botha. It is interesting to note that the crisis which led to the breakdown of the system came from the lowest level of government, the local communities, and in particular from the black communities in urban areas.

GOVERNMENT AND ADMINISTRATION OF BLACK COMMUNITIES

As was stated earlier, local government in South Africa was considered the Achilles' heel of the apartheid system. Since this system concerned particularly the black communities and the open resistance against that system came mainly from the side of the black population, it is necessary here to give a picture of the governmental/administrative system of the black communities. Little attention will be given to the traditional black authorities, as in most parts of the country they play no, or a minor role. The major exception are the Zulu areas in Natal.

The first law which gave a general framework for black communities was the Native Urban Areas Act of 1923 which provided for Advisory Councils. This act was based on a racial princi-

ple of organization. The councils had no truly advisory powers. During the fifties, government and administration of the black urban areas were in fact carried out by white local governments on behalf of the central government.

In 1971 the Bantu (black population) Affairs Administration Board Act transferred the executive and administrative powers from the white city councils to special "social engineers" who were closely linked to central government. They were indoctrinated with the apartheid philosophy, and were charged to implement this in the black communities, within the governments's systematic and uniform policy of "grand apartheid" for urban black communities. This implied a considerable strenghtening of the central government control on these communities.

However, during the seventies and eighties developed an increasingly ambivalent policy. Thus, in 1977 a Community Councils Act provided for a possibility to introduce elected councils in black communities. This was the first effort to introduce quasi-local governments with more than merely advisory powers. In 1982 this was followed by the Black Local Authorities Act (BLA's) and several more elaborate regulations concerning the structures and powers of black communities. However, the participation in the elections of 1983 was very low ranging from 3.9 to 36.6 percent. An important cause for this failure of the election was the rejection of the BLA's because they were not considered truly representative of the local population. The progressive black leaders therefore advised not to participate in the voting. The traditional leaders were in any case mostly opposed to democratic elections.

The tensions in (black) townships increased gradually and led to outbursts of violence which were put down by the police and the army with many casualities. Government officials could not enter townships without armed police. Although the Minister of Justice forbid the creation of alternative local government structures, para-revolutionary groups seized the power in many townships. They created street and area committees as organs of people's power (compare the revolutions in France 1789 and Russia 1917). Many townships set up teams of city planners giving them the task to design development plans.

It came high time for the government to take drastic measures. Fortunately it opted for a radical change of the system of government as part of a thorough transformation of the whole society. An oppressive policy would have led to massive uncontrollable bloodshed.

THE ROAD TO A NEW SYSTEM OF LOCAL GOVERNMENT

The resignation of the hawkish President Botha in 1990, under the great pressure of his own party, the National Party, and his replacement by President de Klerk, who was a reformist, opened the door to drastic reform. As early as May 1990 he pronounced a declaration on the future nature of local government. This was a clear sign of the importance the government attached to local government. The emphasis was put on a fully democratic local government. The constitutional objective would be: full and equal suffrage and participation together with effective protection of minorities.

The road to the post-apartheid system of local government was an extraordinary one. There existed an enormous gap between the existing local government, in which the non-white population had hardly any say and which was primarily based on the interests of the white class, and on the other hand, on the views of the black leadership, who aspired a local government system largely based on western concepts. It was evident that there would be sharp conflicts between the major participants in the reform process. Clearly it would be hard to reach a consensus or at least compromises acceptable to both parties.

However, two principles marked the process and its outcome. In the first place, the process was thoroughly democratic, i.e. the whole population could participate in the process and the elections. This was expressed in the Interim Measures for Local Government Bodies Act which allowed local negotiations to be validated pending the introduction of the post-apartheid system. This meant a radical change in the way of thinking of the government, which had been utterly centralistic.

The second pillar in the success of the reform process was its very tight time schedule. Because of the enormous complexity of the very wide-ranging process, as well as the fundamental and controversial issues involved, one could expect it to last quite long. But clearly the pressures of the existing tense situation, and the limits of patience of the underdog masses of the population, and their leadership, demanded early effects of the change process. Rapid changes were badly needed, in view of the tendency of the black townships in urban areas, to take the situation in their own hands and set up power organs of the people. This was stimulated by the slow and unsatisfactory change in local government structures and powers at the grassroots during the eighties.

THE REFORM PROCESS AT THE NATIONAL LEVEL

At the end of 1991 ANC set up the South African Civic Association (SANCO) as a body to push the local government reform. At its initiative the Minister of Local Government created the Local Government Negotiation Forum (LGNF). This body was composed of 60 persons half of whom represented government bodies at national, provincial and local level, i.e. the statutory members; and the other half represented SANCO and the three major political parties (National Party, ANC and Democratic Party), i.e. the non-statutory members.

The Local Government Transition Act of 1993, product of the negotiation process at the national level, laid down three phases of the total reform process. The first, pre-interim phase is the period from the commencement of the Act until the day after the first elections, which was the 1 of November 1995. During this phase the negotiations about the new system of local government were held and the elections prepared. The second, i.e. interim phase started on the day after the elections for the transitional councils, and will terminate when the country's final Constitution has been enacted, probably in 1999. During this phase the new local government will be designed, taking into account the relevant articles of the Constitution. The third phase will be governed by the provisions in the final Constitution. The actual contents of this phase are still open.

The principal idea behind the LGNF was formulated as follows: The body was to contribute to the democratization of local government and bringing about a democratic non-racial, non-sexist and financially viable local government system. It was also aiming at giving equal opportunities for women.

The Forum had to give special attention to a number of issues. Of these we mention those which were typical for the South African situation:
• Drawing up guidelines for negotiations at the local level.
• Boycotts of houserent payments and service charges in black communities. This was a very widespread problem, particularly in townships. This costed the government millions of rands.
• Establishment of standards of services and

physical and economic development planning. This was a vital issue because of the alarmingly low level of public services such as water, sewage, electricity, as well as health and education in many non-white communities.

• Framing models for financing local government.

• Setting a framework for the demarcation of boundaries of local authorities.

The Local Government Transition Act of 1993 moreover prescribed a Code of Conduct for local Councillors. This was of special importance because it could be expected that many of the future members of local councils would have little knowledge of, and no experience with local government and administration. And it would also be likely that many of them might be influenced by different values for behaviour and performance.

REFORM ACTIVITIES AT THE PROVINCIAL LEVEL

The Transitional Act provided for the establishment of a Provincial Committee of local government in each province to assist the executive council and the Administrator of the province. The six members of the Committee should be broadly representative of the stakeholders of local government. The committee should monitor the process of change in the province.

Its functions were: the establishment of negotiating forums at the local level, establishment of transitional local councils in the pre-interim phase, demarcation of areas of the jurisdiction of local councils, and election of transitional councils.

FRAMEWORK FOR REFORM AT THE LOCAL LEVEL

The most remarkable and vital aspect of shaping the structure and functioning of new local authorities was the creation of negotiation forums at the local level. These were the essential instruments for democratic contributions by the local communities within the framework of the law. The forum could determine to a large extent the organization and functioning of their own local authority.

The composition of the forum was of course of great importance for its functioning as well as for the shaping of the new local authority. In composing forums it was in many cases necessary

to bring together different racial communities in regions where they had been artificially separated as a consequence of the apartheid system. Forums could themselves design the areas of their competence, and of their future local authority – of course they need a final approval by the provincial authority concerned. Guidelines for determining the areas were: commercial and industrial linkages, daily communication patterns, provision of services and current jurisdiction. Decision on the merger of local communities (or authorities) of different racial composition might of course influence the outcome of the negotiations, and ultimately of the local elections. There might be an element of gerrymandering.

As for the composition of forums, the Transitional Act stated that a forum should be inclusive of all the relevant community actors which have a stake in the political structuring of local government. The way it defined the composition in further detail called up the risk of uncertainties and conflicts. Especially the intention of the LGNF to develop a system which would secure a balance of power – such as between the National Party and the ANC – was not always realized. This might adversely affect the realization of the concept of powersharing which was basic for the government policy.

The forum had rather wide duties and functions:

• to make recommendations to the Provincial Administrator on the boundaries, size and constitution of the forum,

• to determine the name of the new transitional council and the number of its seats,

• to decide on the traditional model of the authority, and its functions,

• to demarcate the wards for the elections,

• to rationalize and reallocate services, staff, and assets.

A strict deadline was set for the final reporting by the forum to the provincial Administrator. If the forum did not reach an agreement, the Administrator had to take the necessary measures.

EVALUATION OF THE LOCAL GOVERNMENT NEGOTIATION AND REFORM PROCESS

It has been a remarkable achievement that the very complex negotiation and reform process has been completed almost within the short time set, in spite of the enormous range of organizations and people involved. Moreover, the difference of opinion on many subjects between the parties

were often very hard to bridge. Apparently the widespread eagerness between opposite parties to reach a satisfactory degree of consensus together with the big stick of the deadline set by the law were conductive to reach this remarkable achievement. Among the factors contributing to the quality of the decisions in the negotiating process were: firstly the presence of politicians and officials from both sides i.e. National Party and ANC in the negotiations which guaranteed that different perspectives were put forward, considered and assimilated. And secondly, the participation of many officials involved in local administration. Their expertise facilitated progress in the negotiations.

There were also a number of factors which had a negative effect on the quality of the process and its outcome:

– The forums were not fully representative. The Democratic Party (to the left of the National Party), the Inkatha (Zulu) Freedom Party, and the very Pan African Congress were absent.

– Time constraints of the negotiation/decision process resulted in illadvised decisions. It did not allow time to report back to constituencies. This resulted in criticism and lack of transparency.

– The Cabinet was unable or unwilling to approve the negotiation process of the LGNF and to issue guidelines to negotiators. This delayed the process, as statutory representatives could not commit themselves without authorization of their principals.

During the negotiation process there existed a virtual deadlock in the black local government arena because of the financial deficit resulting from the boycott of paying rent and services. Whilst, on the other hand, white political authorities continued full control of local decisionmaking on matters affecting the daily life of millions of blacks. This was contrary to the wishes of SANCO and ANC to immediate redistribution and reallocation of resources controlled by local governments. Therefore all parties felt the urgent need to come to a settlement rather than a deadlock and further escalation of the violence.

THE ELECTORAL SYSTEM AND THE 1995 ELECTIONS

The system of local elections was a mixture of proportional representation and direct election in wards. The largest number local councillors, 60%, were directly elected in wards. As a result of the racial segregation by local authorities or urban settlements, many wards had a strongly one-sided racial population. Consequently race played a role in the elections. The remaining 40% of council members were elected through the system of proportional representation.

As it was the first time that local elections were held, it was understandable that there were many problems and hurdles. In the first place, there had to be a registration of voters. This was a very time-consuming task because of the size and complexity of the country. It brought with it many difficulties and undoubtedly this caused many mistakes in the registration. The final number of registered voters was 77,99% of the voting-age population.

The elections were held for the whole country except in KWA Zulu Natal (because of the violent conflict between ANC and Inkatha), and the metropolitan area of Capetown. Contrary to the pessimistic view of some people on ground of assumed apathy, the turnout of the elections was rather satisfactory: in total 51,37% of the population with the right to vote. In some areas, in particular in the West, North-West and North, the participation was much lower, ranging from 39,86 to 43,23%. It was highest in the Eastern Cape province: 59,40%.

A very fortunate aspect was that there was hardly any violence. The major cases were bomb attacks by the extreme-right white group around Johannesburg which caused a number of casualties.

However, there were quite a number of problems in running the elections. There were insufficient voting forms, or they came late, insufficient information, absence of the voting committee members, physical and infrastructural problems. As an example, in East Cape (where the turnout was highest) there was no established administrative experience nor experienced people to be recruited for the job.

The opinion about the election was generally rather positive. The good turnout of the election, as well as the outcome of the voting, were considered signs that an urge for democratic development had taken root among a large part of the population. Also, the outcome of the voting was seen as a victory for the two main parties, which were considered to be fairly moderate and a proper basis for a trend towards a consensus, which Mandela has been advocating. But the outcome of the voting was a considerable disappointment for the National Party. Of the votes on the basis of proportional representation only 16,22% were for that party, versus 66,37% for ANC. The ex-

treme parties on the right and the left hardly got 1% of the votes.

In terms of council seats ANC got 4.300 (63,70%) seats, and the National Party 1.123 (16,43%). Clearly the NP lost many seats to some other parties in the competition for "white" votes. ANC won an outright majority in 387 councils, and NP 45. An interesting fact was the success of independent candidates. They won 583 seats and the full control of 23 councils. This demonstrates a critical attitude towards the main parties – in particular towards the National Party.

It is too early to give a general picture of the functioning of the new councils and the new system of local government. Even a provisional evaluation is hard to make.

REFERENCES

Cloete, Fanie, Local Government restructuring, Politicon Vol 21 No 1, pp. 42–65.

Cloete, Fanie, Local Government Transformation in South Africa. J.L. van Schaick, Pretoria, 1995.

Rooyen, A. van, History of Local Government in South Africa, University of Stellenbosch, 1995 (stenc.).

Heymans, C. and Tötemeyer, G. ed.t, Government by the people, Cape Town, Johannesburg, 1988.