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LOCAL GOVERNMENT IN RURAL AREAS: IMPLICATIONS FOR DEVELOPMENT

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A decentralized local government system in South Africa's rural areas has the potential to unlock many of the institutional impediments to rural development which existed during the apartheid period. This paper outlines some of the problems associated with previous systems of rural administration, and suggest how a decentralized local government system might be expected to overcome some of these problems. The final section discusses of some of the shortcomings of local government transition process in rural areas in the run up to the elections and its implications for the future.

1. Introduction

This paper argues that a decentralized local government system in South Africa's rural areas has the potential to unlock many of the institutional impediments to rural development which existed during the apartheid period. Although such potential has been acknowledged in government policy thinking, insufficient attention has been given to developing a vision for rural local government or to processes for implementing such a vision. The consequence is that many of the aberrations we have inherited during the apartheid period might be expected to continue in the period after the first democratic local government local government elections, and without remedial action, into the future. The paper will outline some of the problems associated with previous systems of rural administration (section 1), and suggest how a decentralized local government system might be expected to overcome some of these (section 2). The final section discusses of some of the shortcomings of local government transition process in rural areas in the run up to the elections and its implications for the future (in section 3).

2. South Africa's institutional legacy

What might normally regarded as local government services have rarely been provided by local government bodies in South Africa's rural areas. Responsibility has generally been split between provincial administrations, national government departments, homeland governments and various parastatals. As autonomous representative structures with capacity to provide services, local government only existed in South Africa's towns and cities. Even these only existed in any real sense within white group areas, the largely discredited Indian and Coloured Management Committees or Local Affairs Councils and the Black Local Authorities, largely relying on government line ministries to provide services and finance.

Within the white commercial farming areas, responsibility for providing various services vested in central line ministries or departments of the provincial administration (like education, transport, agriculture, welfare etc.). Since, in terms of the tricameral system, these responsibilities were also racially defined, different central ministries were responsible for providing the same services to different racial groups, whether falling within the House of Assembly (whites), the House of Delegates (Indians) or the House of Representatives (Coloureds). Since Africans resident on white farmlands were deemed to be citizens of the various Bantustans, less emphasis was placed on their requirements, nominal attention being given certain services (like farm schools and clinics) by the various departments responsible for Africans in 'white' South Africa (including the Department of Development Aid which was formerly

known as Bantu and Native Affairs). As far as the so-called 'black spot' areas - or the areas in which Africans had purchased land - and had managed to evade removal to the Bantustans, a deliberate policy of neglect by the relevant ministries, resulted in many of these areas receiving no infrastructure or services until the latter part of the apartheid period.

In practice, the bulk of the population within the white farming areas, namely farm workers, have obtained most 'local government' services from their employers. Although some farm workers resided in neighbouring Bantustan areas, with other farmers using migrant labour, many farm-workers have remained resident on farms and as such rely on the farmer for housing, water and even transport and recreation in many cases.

Administration within the Bantustans has also been highly centralized within the regional or central administrations created in the various national states and self-governing territories during the apartheid period. In this sense, the system might be described as similar to the system of administration during the colonial or pre-apartheid period which preceded it. This is because service delivery had previously been centralized within the Department of Native Affairs. There was one significant difference, however. The Department of Native/Bantu Affairs had made extensive use of Commissioners and magistrates to administer local affairs. As the government's supreme representative in a locality it was the task of this officer to assure implementation of government policy in accordance with local conditions. The magistrate/commissioner thus had an important coordinating role at a local level and had authority over the various divisions of the department providing services locally. Since commissioners and magistrates also did not have extensive policing or military forces at their immediate disposal, they also tended to consult with traditional leaders to ensure that government policy was implemented in a way which did not foster significant opposition. In this sense, traditional leaders effectively became intermediaries between government and communities through the office of magistrates and commissioners.

Apartheid reforms saw the powers and functions of the commissioners and magistrates being undermined in favour of the new 'national' governments established in terms of apartheid policy. This took the form of establishing regional authorities (amalgams of tribal authorities) and subsequently territorial authorities in which service provision was centralized within various functional departments falling under the various Legislative Assemblies and Cabinets. Whereas decision-making regarding service provision had been via the magistrate (with traditional leaders as intermediaries), decision-making regarding service

provision was now centralized within line departments without mechanisms for coordination at a local level (see McIntosh, 1992).

Decisions regarding the provision of services were usually made by senior officials within the homeland centre, who had little knowledge of local conditions or priorities. The field officers who interacted with the public were usually very junior, without significant departmental support, and their accountability was upwards to their line department rather than to their community. The homeland line ministries themselves were also usually very insular. Since local government or coordinating mechanisms did not exist at a local level, cooperation between departments at the point of implementation could usually not take place. It would consequently be very difficult to mount health education programmes in conjunction with spring protection programmes, for example, as both these functions fell under different departments. Not only was coordination usually weak in the locality but also at central levels, the imperatives of the line departments usually taking precedence over joint planning structures which were put in place at a 'national' level (see McIntosh 1994 for a case study dealing with these issues).

Finally, it has been argued that traditional authorities as institutions were undermined during the apartheid period. Since local services were often provided independently of tribal authorities by officers of the line ministries, traditional leaders were bypassed in respect of decision-making about service delivery and development. Concerns of Amakhosi were meant to be channelled through Regional Authorities, to the Chief Ministers Office and, in turn, to the various line departments. This was a cumbersome and lengthy process which never really worked effectively (see McIntosh, 1990). What this meant was that the de-facto powers and functions of traditional leaders were fairly limited to various judicial functions in terms of customary law, to dispute resolution, and most importantly, to land allocation.

However, even in respect of these functions, traditional authorities were severely neglected by the responsible government departments and obtained little funding in the performance of these functions. Indeed, greater emphasis was placed on the traditional leaders as individuals, they often being drawn into the party political arena as members of legislative assemblies, functions which often undermined their roles as traditional authorities within their own areas.

The common shortcomings of local administration across the different contexts described above might be summarized in terms of the highly centralized, fragmented, non responsive and unrepresentative character of local administration and service delivery, as well as the fragmentation of administration. It is apparent that this took place along ethnic lines, taking inter-governmental and intra-governmental forms.

3. Towards a decentralized system of local government

Local government is not the only mechanism that can be used to coordinate and inform the activities of disparate and distant administrative entities with responsibilities in a locality. During much of the colonial period and in much of today's developing world, deconcentrated systems of administration which vest powers of coordination over various government agencies in locally-based District Officers (or prefects) have been used for these purposes to overcome some of the worst excesses of centralism and fragmentation. Discretion vests in this officer to implement

government policy in accordance with local conditions. This is because of the authority he or she holds in relation to various departmental staff within a locality.

It has become apparent in the previous section that within much of South Africa, such systems were largely jettisoned in pursuit of homeland policies. Deconcentrated systems, in any event, do not adequately address questions of democratic control at the local level. Rather, they provide a mechanism for alleviating some of the worst excesses of centralized arrangements.

It is in this light that local government has been touted as an important mechanism by which many institutional constraints to development might be overcome in the rural areas. It is argued that a strong decentralized local government system should facilitate accountable and responsive delivery of services and that rural local government bodies should effect the coordination of various services provided by provincial and national line departments and parastatals. This should enable the provision of related services in an integrated way.

These principles appear to have been accepted at a fairly early stage in South Africa's transition process, the requirement for elected local government structures within rural and urban areas being recognised and, indeed, required in terms of the interim constitution. However, the national and provincial governments have neither given sufficient attention to developing nor implementing a vision of rural local government which will overcome the various difficulties that are presently being encountered.

The difficulties that might have been anticipated from the beginning, include the fact that much of the revenue that local government can expect to generate lies within South Africa's major urban centres and not in the commercial farming or former homeland areas.

They include the reality that local government has to be built from scratch in the rural areas. There are no pre-existing local authorities to build upon which have historically been responsible for providing local government services.

They include the challenge of establishing structures of accountability and representation in contexts of highly uneven power relations, including those between landlords and tenants (with the former black-spot areas), between farmers and farm-workers (in commercial farming areas) and between traditional leaders and their subjects.

Much of the initial thinking around how some of these difficulties might be overcome included the idea of attaching locally-based generalist officers from provincial or national local government ministries to rural local government bodies. This would be to support them in relation to other provincial and national line ministries, and to ensure that these worked in conjunction with the variety of line agencies active within particular localities.

To overcome some of the financial and capacity problems, a two tier local government system was also argued for. The second tier (or District Council level) would include major towns, commercial farming areas as well as the former homeland areas, providing a mechanism whereby revenue generated in richer urban areas could be utilized in poorer urban areas. Secondary level (or District) Councils could also assist primary rural councils where these lacked capacity and required certain services to be undertaken on their behalf.

It was nevertheless conceded that revenue generated through such mechanisms would be insufficient to establish a viable rural local government system and that additional tied and discretionary funding would need to supplement local sources of revenue.

Finally direct, ward systems of representation were advocated for primary local councils and indirect systems of representation for the secondary (or District Councils). This was intended to protect the integrity of the primary level councils relative to the secondary level.

4. Shortcomings of the local government transition process

Initially, many of these ideas appeared to have been accepted by government, being reflected in initial documentation from the TEC as well as in the constitutional requirements for elected local government with devolved powers right across the country. However, insufficient effort has been put into fine tuning these ideas or into setting adequate processes in place for their implementation.

These ideas were not reflected in the process for local government transition laid out in the Local Government Transition Act. The Act makes provision for the establishment of local or metropolitan negotiating forums comprising statutory and non-statutory members (that is representatives of organizations which have participated in local government and/or local government elections and who have not). Transitional councils (which are made up of representatives chosen from lists drawn up by statutory and non-statutory sides within the forums) then replace existing local authorities until local government elections are held. In terms of the Act, decisions regarding these processes are made by the Provincial Premier acting in concurrence with multi-party Provincial Committees on local government, which have been set up within each of the nine Provinces. Provision is also made for the establishment of Demarcation Boards which make recommendations in the event of disputes around the demarcation of forum and council areas.

While the Act theoretically applied to the whole country, the process it set out for local government transition, for establishing forums and TLCs in the pre-interim period, could not practically be applied in rural areas where there are no pre-existing local authorities.

When this anomaly was pointed out to the Transitional Executive Council's sub-council on Provincial, Local government and Traditional Authorities, a similar sub-committee was established which developed a set of similar but more detailed principles and recommendations (see Working Group, 1994). By this time, however, the TEC had run its course and these recommendations were simply handed on for the new government to deal with.

Since the national election, it has only been relatively recently that the Ministry of Constitutional Development and Provincial Government has taken up the issue, by establishing a national task team on rural local government whose job it has been to liaise with the provinces and to ensure that the provinces meet the requirements of the interim constitution for elected local government right across the country. Since, by this time, local government had become a provincial competence in terms of the interim constitution, no national vision or framework for local government had formally been articulated for rural areas. This, at a time shortly before local government elections were meant to occur throughout the country.

Why so little was done so late at a national level includes the fact that urban related crises rather than rural concerns have dominated local government negotiations at a national level, particularly the crisis around service and rates arrears arising from boycotts within South Africa's major urban centres.

It includes the reality that local government has been given less national priority than it should have, this being reflected in the failure of national government to establish a strong national ministry dedicated to local government issues.

The fact that national and provincial elections have preceded local government elections is another important factor. This has meant that political and bureaucratic interests have already been entrenched at provincial levels, making it difficult to anticipate a significant devolution of powers to smaller urban local authorities or to rural areas. The general weaknesses of the transition process discussed previously have had a number of consequences.

i) *Delays in finalizing rural local government models*

Firstly, there have been considerable delays in finalizing provincial models for rural local government. Although a similar framework is emerging regarding rural local government in South Africa, most provinces had only recently finalized their approach. In other cases, an approach to the rural local government question remains to be finalized. This at a time shortly before the elections, and at a time when the voter registration process has already been set in motion. Difficulties around voter registration have undoubtedly arisen from a lack of knowledge of what local government is amongst rural constituencies without any experience of local government, or specific clarity as to which local government bodies they will be voting for. Other difficulties arising out of delays in formulating and implementing policies on rural local government are also apparent or will become apparent in the run up to elections include the local government demarcation process and well as the process for ward demarcation, which has been affected by the slow registration process.

ii) *Lack of pre-interim arrangements*

Secondly, while pre-interim arrangements have been set in motion in most of the towns and cities, this has not happened within the rural areas. Pre-interim structures, it will be recalled, are designed to fulfil a similar role to the TEC. To provide legitimate multi-party bodies to take decisions prior to elections and to oversee election preparation. The procedure outlined in the Local Government Transition Act was generally for forums to be established to decide on boundaries and to appoint statutory and non statutory representatives to Transitional Local Councils which effectively took over existing local government administrations.

In rural areas, where there are no existing local government administrations, such pre-interim processes have generally not taken place. Under these conditions, many provincial governments have tasked the Regional Services Councils with

voter registration and other aspects of election preparation. This is somewhat controversial in some provinces since in their structure and composition, RSCs remain untransformed apartheid institutions. The Provinces have usually had little choice in this since they are obliged to make use of whatever capacity exists to meet existing deadlines around voter registration.

There is recognition nationally and within the Provinces that the procedures laid down for the pre-interim phase are not appropriate for the rural areas. They would, in any event, be impossible to apply given the very tight schedules that are faced in meeting the election deadline. This was one of the reasons for amendments being made to the Local Government Transition Act, which among other things enable pre-interim structures to be established according to procedures other than those outlined in the Act. These include the possibility of representatives for pre-interim structures being elected at public meetings. For many provinces, however, it is even questionable whether such 'fast track' pre-interim solutions will be possible to implement.

iv) *Poor management of conflict between stakeholders*

Thirdly, the absence of a pre-interim process for rural areas and the failure to consult timeously in developing and implementing rural local government systems has led to conflict amongst certain rural stake holders.

In the case of traditional leaders there remains a lack of clarity about their own future role. In this regard, chapter 11 of the interim constitution recognises traditional authorities and makes provision for advisory roles at provincial and national levels. However, it does not specify what the roles of such authorities should be at a local level except by reference to other applicable laws. Since the various self-governing territories and independent states which promulgated much of this legislation have now been dissolved, much of the legislation which has typically underlaid traditional authorities will probably be repealed. It is unclear, however, what the new provinces will replace this legislation with.

It is perhaps understandable that the national negotiation processes which preceded the framing of the interim constitution should have fudged this particular issue, particularly in the light of the national elections which followed. As one of the most organized rural constituencies, the need to address the interests of the traditional leaders had to be set against (the largely urban-based) objections of the women's lobbies to discriminatory aspects of customary law as well as to competing claims around what local democracy should consist in from the South African National Civic Association.

Arising out of the constitution's failure to address the roles of traditional authorities at a local level, is the question of how they should relate to elected local government entities. In terms of Chapter 10 of the interim constitution these 'shall

be established for residents of areas demarcated by law of a competent authority'. It further specifies a service delivery role for elected local government in providing access to water, sanitation, transportation facilities, electricity etc. Service delivery and development, have rarely been the prerogative of traditional authorities in practice, but of the various line departments of the homeland governments. The role of traditional authorities has usually been limited to cultural, ceremonial or religious roles; dispute resolution and judicial functions in terms of customary law; and, importantly, land allocation. However, existing legislation (promulgated by the former homeland governments) which governs the operation of traditional authorities provides wide-ranging powers to traditional authorities, including those of a service delivery nature.

Difficulties arising out of this situation include a perception by civics in certain areas that the national election presages the imminent dissolution of chieftaincy and a perception by traditional leaders in other places that their role will not change (see McIntosh and Vaughan, 1994 and 1994a for the case of the Northern and Eastern Transvaal). Generally, however, there is great uncertainty amongst traditional leaders arising out of the dissolution of their former patrons - the former homeland governments - and a lack of clarity as to whether and to what extent the new provincial governments will become suitable substitutes. Such insecurity could well discourage traditional leaders from willingly giving up existing de-jure powers, even those which have not been exercised in practice.

The failure to establish houses of traditional leaders or to deal with some of the other insecurities felt by traditional leaders has seen some reluctance to encourage the voter registration process in certain provinces or to accept a minority role in elected local government structures.

To argue that traditional authorities should participate in decision-making regarding service delivery matters, is not to suggest that they should be responsible for providing such services or at least to be seen to carry such responsibility. In instances where traditional authorities have been viewed by communities as responsible for providing services, their legitimacy and authority has been undermined owing to non-delivery. Ex-officio representation of traditional leaders in local government thus implies participation in decision-making regarding local government services, but not responsibility for providing such services. A potential difficulty which arises where a large proportion of councillors are traditional leaders is the perception that might be created that service provision is a responsibility of traditional leaders rather than elected local government.

What needs to be emphasized, however, is that such insecurities and the potential for conflict could have been better managed in many of the provinces. The Eastern Transvaal provides one example. The early establishment of a task team

to negotiate the composition of the Provincial House of Traditional leaders, provided a structure which also could also be used to negotiate a workable relationship between envisaged rural local government structures and traditional authorities. This involved establishing councils of traditional leaders from each proposed rural council area which would elect representatives to serve ex-officio on that elected local council.

Indeed, it is suggested that the threat traditional leaders pose to establishing a strong local government system derives more from their current insecurities than a principled objection to an elected rural local government system. It could be argued that ultimately, an elected local government system would serve their interests. For, quite apart from the problems created by the politicisation of the chieftaincy during the apartheid period, traditional leaders have been compromised by their inability to orchestrate the delivery of development resources in their localities, due to centralised and poorly co-ordinated service delivery. Elected structures which are responsible for accessing or delivering such resources would distance traditional leaders from these immediate pressures. At the same time, a devolved and rationalised local government system would facilitate locally accountable and responsive service delivery. Under these conditions, traditional leaders, in their ex-officio capacities on elected local councils could, conceivably, have much greater influence over local affairs, in spite of the fact that their de-jure powers might be more limited. More intensive education and negotiation processes emphasizing these points might have done much to limit the threat posed by traditional leaders to the local government transition process.

It is necessary to concede, however, that such difficulties have been magnified in Kwazulu Natal by the IFP's linkage of participation in local government elections to the international mediation around the future of the Zulu Kingdom, the resulting withdrawal of many Zulu traditional leaders from local government transition processes and to the controversy around the Provincial House of Traditional Leaders. This has resulted in limiting the role of the King within that House and in making the IFP leader the chair of the House (see McIntosh, Vaughan and Xaba, 1995).

However, it is not only traditional leaders who have laid claim to ex-officio representation. The white farming community has also done so on the basis of their likely tax contribution to rural local government revenue. These lobbying efforts have been followed by rural-based NGOs laying claim to special representation for rural women (on the basis of their relatively powerless position in society) and for farm-workers on similar grounds.

Attempts have been made by the national government to accommodate these competing claims by allowing the Provinces to provide for special representation of these interest groups, but limiting the proportion of non-elected representatives (to 20% of any single council).

However, this has, in turn, raised the ire of certain traditional leader groups for reducing their representation in rural local government bodies and for placing them on a similar footing to other 'interest groups'.

Quite how representatives of these 'interest groups' are going to be selected is unclear, given the fact that many of these groups are not organized. However, the knee-jerk reactions of government to such pressures highlights shortcomings in processes which should have been managing these competing interests.

v) *Fragmentation of line functions in relation to rural local government*

Fourthly, the inadequate process of local government transition has discouraged provincial and national line ministries to gear their activities in terms of an anticipated rural local government system. Rather than placing emphasis on channelling their activities into local government, or at least a local coordinating administration upon which local councils could be built, the trend is toward establishing parallel statutory or semi-statutory bodies which relate directly to the relevant line ministries. These include water committees in the case of Water Affairs, Community Land Trusts in the case of Land Affairs, as well as proposed structures for rural housing, including trusts, Section 21 companies and Utility Companies. In addition, the RDP office has been pushing hard for RDP committees at a local level "... which have access to funding to manage and implement development projects" (see Westaway, 1995).

The *raison d'être* of some ministries for establishing what could become parallel and competing structures of local government, is that these are interim mechanisms for providing services in the absence of local government, and that they should ultimately be integrated into the local government system. Whether they will be remains to be seen. Many of the provincial officials and politicians have not experienced or developed local government perspectives. Since power is already entrenched at the provincial and national levels, they may well be reluctant to devolve powers to local government or to undertake their activities through or in conjunction with newly established local government bodies. The temptation to dispense patronage through their own sectorally-based user committees might be overwhelming under these circumstances.

5. Conclusion

Such consequences do not suggest conditions conducive to local government serving as a mechanism by which the activities of disparate agencies can be integrated, and accountable and responsive local services developed. They suggest that South Africa may well take a centrist route in which structures of representation exist, but lack the authority or finance to be effective and become agents of higher government tiers, rather than effective governments in their own right.

The question that remains is whether this rather bleak scenario can be reversed during the interim period and before the second local government election, which will be held in terms of the new constitution. There are possibilities in this respect. Opportunity are made available by the fact that much of the detail regarding rural local government arrangements must still be finalized. Scope thus exists for establishing processes for negotiating future arrangements and accommodating conflicting interests in respect of primary structures of local government which have yet to be established in the rural areas. Much can also be done in rationalizing the operation of national and provincial line ministries to ensure that they provide services through or in conjunction with emerging rural local government structures.

Making the most of the opportunities which still exist requires a much more focused government commitment, however.

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