

Rocky road in next lap to democracy

By Van Zyl Slabbert



Local crisis

Process of local government change

PRE-INTERIM PHASE		INTERIM PHASE	
<p>Phase of negotiating forums</p> <ul style="list-style-type: none"> ☛ Negotiating forums have been established for every economically and historically bound area. ☛ Membership has to be inclusive and representative of communities in the forum area. ☛ Forums negotiate on the establishment of appointed councils. 	<p>Phase of appointed councils</p> <ul style="list-style-type: none"> ☛ After agreement has been reached in the forum, councillors are appointed by the forum. ☛ New councils will assume responsibility for the functions of local government. ☛ The appointments of councillors will extend until local government elections. ☛ Appointed councils will prepare the way for democratic elections. 	<p>E L E C T I O N S</p>	<p>Phase of elected councils</p> <ul style="list-style-type: none"> ☛ Elections will take place on the same day throughout South Africa. ☛ Elections will fully legitimise local government in South Africa. ☛ Elected councillors will remain in office for three to five years until new elections are held in terms of the final Constitution.

TRANSITION at the local government level is still saddled with a crisis of legitimacy. We came through the legitimacy crisis at the national and regional levels with such flying colours that it is almost assumed now that we have solved the problem at the local level as well. Nothing could be further from the truth.

Constitutional transition at the local level follows very much the same logic as it did at the national level. At the national level we first went through a period of negotiation, then a brief period of government by appointment (the so-called Transitional Executive Council phase) and finally the phase of elected government.

The Local Government Transition Act determines the same three phases for transition at local level. In the negotiation phase, local government players must negotiate the establishment of a Transitional Metropolitan Council (TMC) or a Transitional Local Council (TLC), depending on whether theirs is a "stand alone town" or a metropolitan area.

Once this negotiation has been completed, the appointed phase follows. An appointed TMC or TLC effectively governs at the local level until local government elections. These

elections seem likely to be held in October or November next year.

Despite a similar logic, there are important differences between transition at the local level and transition at the national level. One of the most significant differences is that far greater responsibility for finalising transition at the local level rests on the people who have to negotiate. For example, at the national level, small expert teams settled such contentious issues as the number of provinces and the contents of the Bill of Rights and, in fact, most of the clauses of the interim Constitution. The full plenary of the Multi-Party Negotiating Process was seldom involved in prolonged debate about problematic or contentious points.

When national negotiations were concluded, there was an Independent Electoral Commission to oversee the process of elections in terms of the Electoral Act. The elections were conducted on the basis of proportional representation within regions and nationally, and the interim Constitution provided the framework within which the newly

The future at a glance

elected government could begin to govern.

The situation is far less organised at local level. Negotiating forums (or smaller negotiating committees) and/or the subsequently appointed TLCs or TMCs will have to determine a number of crucial issues, including: the powers and duties of the TMC in relation to metropolitan sub-structures; the number of metropolitan sub-structures; and the number of wards within sub-structures.

Appointed councils, with or without input from negotiating forums, will also have to organise the drawing up of voters' rolls and preparations for local government elections.

In other words, the Local Government Transition Act expects ordinary people to take a range of critically important decisions, without the technical competence to do so. For example, should all the services listed in Schedule 2 of the Act – such as the bulk supply of electricity, water and sewerage; maintenance of cemeteries; administration of libraries – fall under the TMC, or should responsibility for some services be devolved to metropolitan sub-structures? Such questions must be decided by negotiating forums and/or the transitional local or metropolitan council appointed after negotiations.

Another important difference between the transitions at local and national level is that the public were reasonably well-informed by the media about progress in negotiations and the issues that were involved at national level. Local government negotiations have not enjoyed similar media attention. It is likely that responsibility for the vast task of informing people about such changes will fall to the transitional councils.

Perhaps the most important difference of all is that transition at the local level will affect people in a very concrete and immediate sense. It will affect them in terms of basic services that they have taken for granted or expect to be improved. The redistribution role that local government will have to play, in order to abolish the very severe inequalities and imbalances inherited from the past, will have a particularly dramatic impact.

This brings me to the final difference between the transition at national and local level. At national level, the legitimacy crisis was solved before the problem of delivery – in terms of promises made by leaders and expectations held by the mass of the people – had to be faced. At local level, the problems of legitimacy and delivery will have to be confronted at the same time.

BEFORE local government elections take place, some structure must prepare for the elections and manage our towns as effectively and democratically as possible. This is the job of the transitional local and metropolitan councils (TLCs and MLCs) that are being appointed now.

These are temporary structures. When the elections happen, they will be replaced by non-racial, democratically elected councils. But even these new councils will only be able to last until the South African Constitution is finalised by the Constitutional Assembly. For this reason they are referred to as interim structures even though they will be elected.

Everybody will elect councillors for a structure which will govern their town. In a large, heavily populated city (which is called a metropolitan region), there will also be a structure which draws together a number of linked towns or municipalities. These are called "metropolitan substructures".

Every town or metropolitan substructure will be divided into wards. These are smaller geographic areas (like a neighbourhood) and everybody living in that ward will have a chance to elect a councillor to represent them.

Sixty percent of the council seats will be filled by these ward councillors. The other 40 percent of seats will be elected in the same way as the national and provincial MPs were elected. That is, by voters choosing a party and that party getting seats in proportion to the votes cast for them.

After this election, every town council will have these two types of councillors, so people can feel that they have a local councillor representing their area, and also know – because areas are still linked to apartheid divides – that the council represents the broader interests of black and white people living in the same town.

In a big metropolitan region, the metropolitan council will also have 40 percent of the councillors who have been elected by proportional representation. And 60 percent of the seats will be filled by representatives of the metropolitan substructures.

Because voting takes place in wards, it is going to be necessary in this local government election to have a voters' roll. People will only be allowed to vote if they are on the already approved list of voters. So during 1995, everybody who wants to vote will have to register. ■

The major vehicle for delivery of an improved quality of life is the Reconstruction and Development Programme (RDP). But the RDP is formulated at a fairly high level of abstraction at a national and regional level. It is at the local level that it will enjoy concrete manifestation and at the local level where the crisis of delivery will be felt most acutely.

Let me give a concrete example. Since the middle of the 1980s there has been a rent and service payment boycott in most of the black townships. The boycott is most often justified on the basis that existing local authorities in the townships enjoy no legitimacy.

The argument has always been that once the crisis of legitimacy has been solved, then people will return to the practice of payment for such services. Well, we are now beginning to approach the resolution of the legitimacy problem. But before elections at the local level can take place, we have to move through an appointed phase, and we move into this appointed phase exactly at the time when expectations for delivery are at a premium.

It will be the difficult task of an appointed local government body to tell township residents not only that they will have to pay for services, but that they will face punitive action if they fail to pay. What is worse is that this potentially fraught process will have to take place during the run-up to local government elections and at the same time as appointed transitional councils try to implement the projects and programmes of the RDP.

It does not take enormous intelligence to conclude that somewhere along the line people are going to turn around and say to the appointed councils: "But who are you? Who elected you? What legitimacy do you have to demand of us that we should do these things that you command us to do?"

There is no doubt that some tough and unpalatable decisions are going to have to be taken, at local or national level, if we are going to have effective reconstruction and development. For example, there is no way that an effective housing programme is going to get off the ground if the government is not prepared to take a tough line on people who invade vacant land destined for development purposes, or who illegally occupy houses intended for people on waiting-lists.

Is there a way out of this dilemma? I believe there is and it is of a two-fold nature. In the first place, the legitimacy that national and

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regional government enjoy will have to be used to assist the appointed bodies at local level to deal with some of these problems.

Appointed bodies at the local level cannot be expected to take tough decisions without legitimacy conferred on them by the national and regional structures of government. Firm guidance on land invasion, illegal occupancy of houses, and arbitrary and destructive political populism will have to come from the national and regional governments. If the national and regional leadership avoids coming to terms with these tough decisions, they will make the task of the appointed bodies at the local level virtually impossible.

Secondly, civil society also has an important role to play at local level. It is the task of voluntary associations and organisations at the local level to come forward and assist the appointed councils to function with the co-operation of communities in these difficult areas of decision making.

There must be effective community mobilisation around issues such as housing, payment of services, and the illegal action of certain groups, to ensure that delivery can take

place and that there is stability in government at the local level.

It is essential that elections take place as soon as possible. Again, here we face some grave logistical problems. Who, for example, is going to be an eligible voter at the local level? What about the foreigners who have settled in towns and metropolitan areas? How does one distinguish between them and genuine citizens of South Africa? How do we set up effective voters' rolls after wards have been demarcated?

Because of these and other problems, there is some trepidation about the possibility of holding elections at all in 1995. There is even talk in some quarters of postponing elections to the first quarter of 1996.

Whenever elections are held, appointed bodies will have the task of maintaining stability at the local level and providing efficient government services until then. This is indeed a daunting challenge.

An additional and perhaps complicating factor is that different political parties are in control at regional level in the three major metropolitan areas: the National Party in the Western Cape, the ANC in the PWV, and the Inkatha Freedom Party in the Durban/Pinetown/Westville area. The political differences between the three will impact on the manner in which transitional local government is implemented and works until the elections.

There is also the danger that local government

issues will be exploited for short-term political purposes and partisan gains.

It is necessary for us to have the kind of multi-party accord for local government elections that we had in the April general election. The accord, underwritten by a code of conduct and consultative structures, ensured that all parties contributed to stable, legitimate and – as far as possible – fair and free elections, so that we could tackle the problems of delivery with a high degree of legitimacy.

Of course, if we have this kind of commitment at the local level, many of the problems outlined here can be overcome. But, we have not got the luxury of being able to solve the crisis of legitimacy before tackling the problem of delivery at the local level.

It is often very hard for politicians to resist the temptation to use delivery issues to compound a crisis of legitimacy at the local level. It is going to take a strong commitment from all parties to prevent delivery problems from bedeviling our ability to solve the crisis of legitimacy at the local level. But, it can be done. ■

Van Zyl Slabbert is director of policy and planning at Idasa and co-chairperson of the task group that will plan the next local government elections.

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