

DECENTRALISATION TO NON-METROPOLITAN LOCAL
GOVERNMENT IN SOUTH AFRICA

Paper presented at International Association of Schools and Institutes
Annual Conference, Miami, 14-18 September 2003.

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INTRODUCTION

South African local government has been transformed fundamentally in the last 10 years from structures catering for the needs of a small segment of the population to a more democratic system. (Cameron, 2001). The policy of 'developmental local government' has been introduced in order to deal with the huge service backlog in primarily Black areas that the new government inherited from the apartheid regime (Parnell *et al*, 2002). Constitutional decentralisation of functions and powers to local government is a fundamental feature of this new system.

A two-tier system of local government consisting of district and local municipalities was introduced in non-metropolitan areas to promote service-delivery. This paper is an analysis of how this new system of local government has been functioning since it was implemented after the December 2000 elections.

This paper focuses on two specific themes. Firstly, it examines the relationship between district and local municipalities. While the state is committed to decentralising powers to local government it is not clear whether the district or the local should be the primary beneficiary of this policy. Secondly, it looks at the contested decision to include both secondary towns and rural areas in local municipalities.

A two-part decentralisation framework was developed to guide this analysis. Firstly, there is an examination of the theoretical material on decentralisation. The paper argues that this literature does not deal adequately with situations where there are two-tiers of local government sharing functions and powers. When there is expectation amongst both tiers of local government that they would be the primary beneficiaries of a decentralisation policy, this often leads to conflict. Secondly, it also looks at the socio-geographic or settlements pattern approach to demarcation which attempts to correlate local government boundaries with their respective interdependent socio-economic areas. This approach influenced the Municipal Demarcation Board in South Africa into including urban and rural areas in the same jurisdiction.

After the theoretical discussion the paper traces the macro-analysis of the state's evolving policy towards non-metropolitan local government. This is followed by an examination of the perceptions of key local government stakeholders on the impact of this new local government policy, namely their 'experience of transformation/consolidation from below'. A number of qualitative interviews (around 50) were conducted primarily with senior officials and politicians in district and local municipalities as part

of a number of concurrent research projects between April and December 2002. In addition interviews were also conducted with private sector consultants, academics and programme experts. The information used in this paper is derived from some of these interviews.

FRAMEWORK FOR DECENTRALISATION

Political decentralisation to local government is favoured for a number of reasons. Some of the more important arguments are that it enables minorities to avail themselves of government power, it can keep power close to citizens, it can prevent arbitrary central government rule, it can promote political participation and it ensures more efficient service delivery of local government services (Maass, 1959; Sharpe, 1970; Grindle, 2000; Wunch and Olowu, 1990).

There is little conformity amongst various authors on the meaning of the term decentralisation. One of the most commonly accepted distinctions is to regard decentralisation as a blanket term encompassing a number of sub-categories: devolution (or democratic decentralisation), decentralisation and delegation (Rondinelli, 1981, also see Widmalm, 2003).

Devolution (democratic decentralisation) is the most extensive form of decentralisation. According to Manor (1999: 6) it is the transfer of resources and power to lower level authorities which are largely or wholly independent of higher levels of government and which are democratic in some way and to some degree.

Devolution/democratic decentralisation generally has the following characteristics:

- Local government should be separate constitutionally from central government. It should be responsible for a significant range of services.
- They should have their own treasury, separate budget and accounts and their own taxes to produce a significant part of their revenue.
- Local authorities should have the right to allocate substantial resources including the power to decide over expenditure, vary revenue and the appointment and promotion of staff.
- Policy should be decided by local councils, consisting predominantly of elected representatives.
- Central government administrators should play an indirect, advisory and inspectorate role only

(Mawhood, 1993:9-10, as adapted)

Deconcentration is normally the least extensive form of decentralisation. It often involves the transfer of workload from the central government head offices to regional branches located out of the executive capital. It may involve limited discretion for field staff to perform factors within the constraints of central government policy. Effective control over major policy decisions resides at central level (Rondinelli, 1981:137).

Delegation entails the transfer of broad authority to plan and implement decisions concerning specific activities to organisations outside the national public service such as local government that are technically and administratively capable of exercising them (Rondinelli, 1981:138). Although delegated power is normally controlled by the attachment of conditions by the delegating body, this form of delegation can lead to the exercise of a certain amount of judgement and discretion on the part of the local authorities.

It is worth briefly mentioned a couple of other definitions to illustrate the divergent views about decentralisation. In terms of Mawhood's (1993) definition, decentralisation would be equivalent to the foregoing definition of devolution while deconcentration would seem to cover the foregoing definition of both deconcentration and delegation.

Manor (1999) has yet another definition. He suggests that there are three different definitions of decentralisation. Firstly, there is deconcentration or administrative decentralisation which refers to the dispersal of agents of higher levels of administration into lower level arenas. Secondly, it refers to downward fiscal transfers by which higher levels of government cedes influence over budgets and financial decisions to lower levels. This may be to deconcentrated bureaucrats who are accountable to higher levels of government only. Thirdly, there is devolution which as already mentioned is described as the transfer of resources, powers and functions to lower level authorities which are largely or wholly independent of higher levels of government and which are democratic in some way, and which are democratic to some degree. In terms of this definition there would be general consensus with Rondinelli's definition of decentralisation but there is a slightly different conceptualisation of deconcentration and delegation.

The definition of devolution/democratic decentralisation is a useful starting point. It is however a necessary but not a sufficient condition. An over-reliance on legal intergovernmental relations sometimes obscures the real nature of power at local government. Constitutional

lawyers are often guilty of an overemphasis of legal intergovernmental provisions at the expense of political relationship (1). For example, Migdal (1988) argues that although many Third World states ascribe huge powers to themselves, they are often extremely weak and unable to implement their own legislation. This means that a nominally centralised country could in practice, at least outside the national capital, be rather decentralised by default in that the state apparatus lacks capacity in rural areas.

The role of party politics in gauging the extent of political decentralisation is also very important. Elazar's 1968 argument that the existence of the non-centralised party system is perhaps the most important element in a decentralised system is perhaps still valid today (1968:37). Studies have shown that the effects of political decentralisation are negated by party centralisation. (Cameron, 2003) If important local government decisions are made by party bosses of centrally or regionally based political parties it will undermine the principle of local democracy, namely that local decisions should be made by elected local representatives.

Another point is that decentralisation per se does not empower local government. Manor (1999:10) makes the important point that there is a difference between decentralisation policies at intermediate as opposed to local levels. Federal states in particular tend to empower the second tier of government whether it is the state or the province often at the expense of local government. In fact, in the Third World there has often been conflict between federal authorities and local governments. In countries such as Nigeria and Brazil, second tier authorities have in the past been particularly centralist towards local authorities, often denying them financial resources. This is because they regard third tier structures as a threat to their power (Mawhood, 1989:5-6).

What the decentralisation literature is largely silent on is the implications of when there is more than one local government operating in the same jurisdiction and sharing functions and powers. There is some literature on how two-tier metropolitan authorities relate to each other. For example, Barlow (1991:26 as adapted) suggests that are three possible models of two-tier relationships in metropolitan areas:

- The lower-tier units are subordinate to the metropolitan authority, i. e. the upper tier dominant model;

- The lower-tier units are superior in that they are considered the primary agents of local government, i.e. the lower tier dominant model;
- The lower-tier and metropolitan authorities are considered complementary, having equal status and rank in the governmental system, i.e. the complementary model.

There is little literature dealing with similar two-tier problems in rural local government which because of the sparseness of the population often have larger jurisdictions than more densely inhabited metropolitan areas. Arguably, Barlow's model would also be generally applicable to rural local government. Unless the complementary model applied, there would be winners and losers. If the upper tier dominant model applied, the lower-tier would be largely disempowered and conversely if the lower-tier dominant model applied, the upper-tier would be largely disempowered.

What this means is that while there may be consensus amongst government planners that decentralisation to local government should be promoted it does not necessarily mean that all structures of local government will be empowered. Sometimes this is not contentious; for example an upper-tier authority may be set up a service coordinating body rather than a fully-fledged level of local government. However, when there is expectation amongst both tiers of local government that they would be the primary beneficiaries of a decentralisation policy, this would often lead to conflict between the two tiers. This is the problem area in South Africa which will be addressed in this paper.

FRAMEWORK FOR DEMARCATION

One of the most important approaches used when demarcating local government boundaries is the socio-geographic or settlement patterns approach which attempts to correlate local government boundaries with their respective interdependent socio-economic areas. (see Cameron, 1999). This approach influenced the demarcation of local government boundaries in South Africa in 1999/2000 (Cameron, 2000). Human settlement patterns refer primarily to the geographical or spatial patterns of settlement (Mabin, 1997). A belief that government areas no longer correspond to settlement patterns and the spatial behaviour of communities has often led to the reform of local government systems (Smith, 1985:64).

Sharpe (1988:103-104) describes the socio-geographic approach objective as an

‘attempt to bring the boundaries of local authorities more into line with present-day settlement patterns by joining up the continuously built-up areas of cities with their burgeoning suburbs and beyond’.

These spatial behaviour studies attempt to map the areas of influence of urban areas by analysing economic and social activity, showing the socio-economic interdependent area for which cities provide marketing and financial facilities. This requires a great deal of knowledge, not only about the spatial distribution of settlements, but also the spatial patterns of socio-economic activity. This requires systematic research into behavioural relationships between spatially defined groups, economic transactions, employment catchment areas most notably commuter patterns, spending patterns, cultural linkages and recreational habits. (Smith, 1985:64-66 and 1993:18-19).

Bennett (1989:34-35) introduces the notion of ‘truly-bounded’. Here, there is direct correlation between activity spaces and administrative structures. More commonly, administrative structures are ‘under-bounded’: the activity space crosses over many local government boundaries with resultant ‘spillover’ problems. ‘Over-bounding’ occurs where the activity space is only a small part of an administrative division. Local government reforms in countries such as Britain, Sweden and Eastern Europe have been influenced by the ‘truly-bounded’ concept. The less developed the social and economic life of the community is, the easier it is to identify the ‘natural’ boundaries of communities (Smith, 1993:18-19).

There are problems in achieving ‘truly bounded’ administrative spaces. For example, there is no consensus about the level of aggregation of preferences and activity spaces that is required. Another problem is the frequency of journeys and activities – some are frequent, while others are infrequent. There are also different types of activities, such as commuting, recreation and shopping. The functional concept therefore tends to increase administrative size beyond the range of normal activities of the majority of people. As a result, ‘over bounding’ is a frequent outcome of reforms based on activity spaces (Cameron, 1999:44–45, Bennett, 1989, Sharpe, 1995:22-23). Nevertheless, it is still a useful demarcation approach to apply.

LOCAL GOVERNMENT TRANSFORMATION: STRUCTURAL REFORM

The Interim Constitution (1993A) and the Local Government Transition Act (LGTA) (1993B) provided the framework for local government

transformation in South Africa. Three phases were provided for transformation, namely, the pre-interim, interim and final phases. The *pre-interim phase* was the period after the first national elections in 1994, but before the first local government elections, which were held in 1995/6. The *interim phase* was the period after the first local government elections until the implementation of the final constitution model and was characterised by power-sharing mechanisms. The *final phase* commenced with the implementation of the final constitutional model at local level.

In the pre-interim phase, local negotiating forums were established. *Transitional local councils* (TLCs) were created in non-metropolitan areas and *transitional metropolitan councils* (TMCs) with substructures for metropolitan areas. These forums were supposed to represent 'economically and historically bound' areas, which included criteria such as commercial and industrial linkages, daily commuting patterns and the area of jurisdictions of government bodies that existed before 1971 (the year black townships were excised from their 'mother' white local governments).

The Interim Constitution had made provision for three different categories of local government, namely, metropolitan, rural and urban. The LGTA was initially silent on the issue of rural local government and was clearly designed for negotiations in metropolitan and urban areas. It needs to be pointed out that there was no tradition of democratic rural local government amongst whites in South Africa. It was only in the former Cape Province that there were democratically elected rural local government structures (Cameron, 1999:94–97).

The central government decided that the pre-interim phase should not be applied strictly in rural areas. Some TLCs did include rural areas within their boundaries, but this was the exception rather than the norm.

To give effect to the provisions of the Interim Constitution, a belated 1995 amendment to the LGTA (about six months before the local government elections) made provision for rural local government structures. Provision was made for a two-tier structure. The upper tier was the *district council* (regional council in KwaZulu-Natal province). At the lower-tier level, provision was made for a menu of options. A *transitional rural council* was a fully-fledged local government structure elected on the 60% ward and 40% proportional representation formula. A *transitional representative council* (TRC) was elected on a proportional representation system only and had no executive powers, its functions being performed by district councils. 'Remaining areas' were areas not

covered by any primary local government. They were elected on a proportional formula at district council level only. Provinces had the discretion to decide which of the local government models they wished to adopt.

For the TRC and ‘remaining areas’ options, provision was made for *nominated interest group representation* at district council level, with the proviso that there would be a maximum of 10% seats per group and on condition that interest groups did not exceed 20% of the total number. The four interest groups were farmers, landowners or levy payers; farm labourers; women; and traditional leaders.

Although TLCs had representation on district councils, the upper-tier councils did not have any authority over the functioning of these urban municipalities (Cameron, 1999:98–99, Pycroft, 1996).

THE FINAL SYSTEM OF LOCAL GOVERNMENT

RSA CONSTITUTION OF 1996

Section 155(1) of the final Constitution makes provision for category A, B and C municipalities. The definitions are:

- (a) Category A: A municipality that has exclusive municipal executive and legislative authority in its area
- (b) Category B: A municipality that shares municipal executive and legislative authority in its area with a Category C municipality within whose area it falls.
- (c) Category C: A municipality that has municipal executive and legislative authority in an area that includes more than one municipality.

The Interim Constitution had made provision for three different categories of local government, namely, metropolitan, rural and urban. However these rather rigid definitions had led to numerous demarcation disputes that had delayed the local government elections in the KwaZulu and Western Cape provinces. The intention of the more vague Category A, B and C categories were to provide sufficient flexibility to policy-makers when it came to the establishment of local structures (Cameron, 1999:231).

The next important policy initiative was the White Paper on Local Government which was released in March 1998. The White Paper made provision for a more powerful and strategic role for districts. Strong district municipalities were seen as necessary to, *inter alia*, promote district-wide integrated development planning, provide bulk services and build capacity in local areas.

The White Paper argued that many boundaries had divided settlements irrationally, and that there was a need to create municipal institutions that recognised the linkages between urban and rural settlements. It suggested that almost all towns are linked functionally to rural areas, relying on their hinterlands for productive economic activity and providing critical centres for the delivery of social services (Provincial Affairs and Constitutional Development, 1998:14–15, 96–98). In particular, concern was raised that the service needs of farm workers and those forcibly removed to Bantustans (homelands) during apartheid were not catered for under the existing system of rural local government. Rural local government structures that were set up in the interim phase were largely political shells without any formal administration, with district councils providing most of the functions on an agency basis. The Local Government Municipal Structures Act (RSA, 1998A) embodied the spirit of the White Paper recommendations and made provision for more hierarchical two-tier local government systems in non-metropolitan areas. District councils became *district municipalities* and became the upper-tier (category C) authority. One fundamental change has been in functions, with district municipalities now assuming many responsibilities. In the past, districts had no jurisdiction in large urban towns. Now, district municipalities have assumed upper-tier responsibilities for some local government functions.

The major responsibilities of districts were given as:

- integrated development planning for the district as a whole;
- promoting bulk infrastructure development and services for the district as a whole;
- building the capacity of local municipalities where such capacity is lacking; and
- promoting the equitable distribution of resources between the local municipalities in the district to ensure appropriate levels of services.

At the lower-tier level, there were category B structures. Provision was made for only one form of B local government structure, namely *local*

municipalities. The Structures Act did not distinguish between urban and rural local government. This legislation both strengthened the role of districts and proposed one integrated form of non-metropolitan local government (Cameron, 2001).

5. THE MUNICIPAL DEMARCATION BOARD

It was within this policy framework that the newly established Municipal Demarcation Board stepped. One national board had replaced nine provincial boards. The major reasons for this were the need to have uniform national policy around local government policy and the tendency of provincial ministers for local government to demarcate boundaries they could win in the 1995/6 elections rather than supporting proposals that would facilitate service delivery and promote development (Cameron, 1999).

Unlike the provincial boards, the national Municipal Demarcation Board was the final decision-making body when it came to the demarcation of boundaries.

A major aim of the demarcation exercise was to rationalise the number of municipalities. The number of municipalities was reduced from 843 to 284. Sections 24 and 25 of the Demarcation Act (RSA, 1998B) laid down the objectives and criteria that the Board had to take into account. There was no weighting of the criteria and the Board had discretion on how to interpret them. When it came to the rationalisation of B municipalities, the Board decided on the following *principles*, based on Sections 24 and 25 of the Demarcation Act.

- Geographical Continuity and Coherence: Because municipal government is so closely tied to local identity and accessibility to local representatives, rationalisation should generally follow ‘nearest neighbour’ principles – that is, there should be geographically coherent, consolidated category B municipalities.
- Capacity Development: There should be a critical mass of municipal capacity (staff, assets, finances) especially where there were under-resourced municipalities.
- Resource Sharing: Wherever possible, existing municipalities should be combined with the view to realising fiscally sustainable units with weaker areas being paired with stronger areas to achieve a sharing of existing or potential sources.
- Manageable Size: A statistical derived indicator of 3 500 km² and 80 000 persons was suggested as the possible norm for category B municipalities. However, deviations from the norm were inevitable given the uneven geographical distribution of population and

economic activity throughout the country. The Board's empirical research suggested that populations of less than 20 000 are generally undesirable for category B municipalities given the objectives of realising economies of scale in municipalities.

- Functionality: Amalgamation of places with commuting, shopping and social links was another important consideration. This linked rural areas and ex-homeland (the nominally independent states created for Blacks during the apartheid era) areas with urban towns.

These principles attempted to redress the effects of apartheid-era displacement and made provision for future growth.

The Board felt that the best means of determining the interdependence of people, communities and economies was through commuting patterns. This was because commuting is probably the best single measure of the relationship between human settlements on the one hand, and employment spending and amenity usage patterns on the other. The Board was of the view that a metropolitan or local council should encompass at least 50% of all people who live, work and shop within that area (Municipal Demarcation Board, 1999).

Due to time constraints (which were extremely tight given the electoral timetable), the Board did not debate appropriate theoretical models of demarcation that could guide the process. Nevertheless, the Board was influenced implicitly by some of these models, most notably the socio-geographic or settlement pattern approach.

As pointed out, the socio-geographic approach attempts to look at the socio-economic interdependent areas for cities and towns. It looks at commuting and spending patterns, cultural linkages and recreational habits (see Cameron, 1999:41–45). The socio-geographical approach was seen as a way of redressing apartheid social patterns by including poor blacks from rural areas and ex-bantustans in towns and in so doing implementing a key goal of the White Paper.

Bennett's bounded concepts were described in the first part of the paper but for the purposes of this section will be briefly repeated. (1989:34–35). 'Truly bounded' is when there is direct correlation between activity spaces and administrative structures. 'Under bounded' is when the activity space crosses over many local government boundaries. 'Over bounding' occurs where the activity space is only a small part of an administrative division (Bennett, 1989:34-35).

Historically, South Africa's local government boundaries were 'under bounded' because of apartheid fragmentation. The results of provincial demarcation in 1994/5 were quite uneven. Some boundaries were 'truly bounded', others became less 'under bounded', and some were as fragmented as they were under apartheid.

The Board primarily used commuting as a means of dealing with the illogical spatial apartheid distortions in attempt to create) 'truly bounded' boundaries. However, this approach was hotly contested and this urban/rural debate has turned out to be one of the central issues in post-2000 non-metropolitan local government.

FINANCE

The Final Constitution gives local government the right to impose taxes on property and surcharges on fees for services provided. Municipal own revenue is obtained through property taxes, regional council levies and service charges and fees. Many municipalities make profits from the reticulation of water and electricity. Own revenue covers more than 90% of the operating income of local government as a whole. Local government is entitled to an 'equitable share' of revenue raised nationally. However grants from national government comprise only about 7% of total local government budgets.

In practice different types of local government have different responsibilities. In larger urban areas, municipalities are often responsible for a range of functions and services, while rural local governments generally provide fewer services. Prior to the 2000 amalgamations, rural councils had little or no fiscal capacity and a limited economic and tax base. The district council usually performed all the fiscal functions assigned to its rural municipalities (National Treasury, 2000A: 100).

The Department of Finance is of the view that local government should be primarily self-financing. The view of the department is that the major financial problem of many local authorities is not the lack of income per se, but rather poor financial management. Problems include poor budgeting systems, inadequate revenue collection systems and lack of basic treasury functions (National Treasury, 2000B: 103).

The department's focus is aimed at improving local government financial management. The Local Government: Municipal Finance Management

Bill, 2003, is aimed at making local government more efficient and effective. It is intended to modernise the budgeting, financial reporting and financial management systems of local government (RSA, 2003).

The alternative view, held by the South African Local Government Association (SALGA), the Municipal Demarcation Board and many non-governmental organisations (NGOs), is that central government is not providing local government, faced with apartheid backlogs, with sufficient revenue sources to execute its constitutional responsibilities. There are many municipalities, particularly local governments which are largely rural based, which have no tax base at all. While financial management could be improved, it is not the major financial problem facing municipalities. Those who hold this view would argue that the equitable share has to be increased significantly so local government can deal with the development burden (Cameron, 2002).

THE DEMARCATION DISPUTE: 1999–2000

This tension around local government finance manifested itself in a major conflict around the demarcation of local government boundaries in 1999/2000. As pointed out, the Demarcation Board, with its final decision-making powers, rationalised municipalities from 843 to 284. The Board primarily used functional interdependence of communities and minimum sizes to achieve economies of scale as the basis of its demarcation. The aim was to create bigger municipalities with larger tax bases that would be able to promote services and development in a sustainable manner. In order to achieve this, urban and rural local authorities were combined into single municipalities (Cameron, 2000).

The Department of Finance (informally supported by a number of B municipalities) virulently opposed the Board's preliminary proposals. A memorandum by the Director-General of Finance to the Board argued that the Board's proposed boundaries would weaken the fiscal position of non-metropolitan cities and towns structurally and as a consequence constrain rather than enhance their ability to raise capital and develop infrastructure (water, power, etc.), which is their key responsibility. Already before demarcation, the long-term debt market had largely dried up (Department of Finance, 2000:106). The concern was that the resultant diminished creditworthiness would mean that the only source of capital available in some municipalities would be government transfers.

The department made an analysis of three existing towns in which it was shown that non-metropolitan towns (B municipalities) generally would

face a marked structural decline in their fiscal position as a result of the inclusion of considerably more disadvantaged black areas into their jurisdictions. It found that in the case of Welkom, the inclusion of additional territory with large amounts of poor rural households would lead to a 25% decline in total income per capita, a 23% decline in rates and general income per capita, a 34% decline in trading service income per capita and, as a corollary, a 29% rise in dependence on equitable share grant allocations. A similar scenario in East London would lead to a 36% decline in total income per capita, a 35% decline in rates and general income per capita, a 37% decline in trading service income per capita, and a consequential rise in dependence on equitable share allocations. The Board was asked to revisit its demarcation of non-metropolitan towns and cities (Department of Finance, 2000).

The Board responded by disputing the methodology used by the department. It argued that the Department of Finance's report gave no indication of what power and functions were being analysed against available income; ignored the fact that the smaller the boundaries the greater would be the spatial inequalities and the greater the correlation to the old apartheid order; and incorrectly presumed that boundary demarcation of financial viability and creditworthiness. The Board accused the department of boundary determinism because of the latter's inference that boundaries are the prime determinant of creditworthiness and financial viability. The Board did not change its boundary proposals, which were used for the December 2000 local government elections. (Municipal Demarcation Board, 2000).

The Board also responded to the department by emphasising that it had never stated that all its municipalities would be financially viable. Its own research showed that 102 new municipalities – mostly B categories in the former independent and self-governing territories – are weak and have limited financial resources. Given spatial inequalities arising from apartheid underdevelopment, the task of making all municipalities viable was always going to be nearly impossible. This was exacerbated by lack of finality on national financial policy for local government. The Board made a number of recommendations for extra sources of revenue, including a surcharge on personal income tax and a substantial increase in the equitable share (Municipal Demarcation Board, 2000). This was not accepted by national government.

What this meant is that many local governments were established without the extra sources of revenue recommended by the Board. What is also important for the understanding of this paper is that this integrated urban

and rural local government models were contested even before the new system was introduced. It was perhaps then not surprising that this issue flared up soon after the new system was introduced, an issue that will be looked at later in the paper.

POWERS AND FUNCTIONS

The Constitution (RSA, 1996) states in section 156(1) that a municipality has executive authority in respect of, and has the right to administer the local government matters listed in Part B of Schedule 4 and Part B of Schedule 5. These functions are contained in the table below.

Schedule 4 Part B	Schedule 5 Part B
<ul style="list-style-type: none"> • Air pollution • Building regulations • Child care facilities • Electricity and gas reticulation • Firefighting services • Local tourism • Municipal airports • Municipal planning • Municipal health services • Municipal public transport • Municipal public works • Pontoons, ferries, jetties, piers and harbours, • Stormwater management systems in built-up areas • Trading regulations • Water and sanitation services 	<ul style="list-style-type: none"> • Beaches and amusement facilities • Billboards and the display of advertisements in public places • Cemeteries, funeral parlours and crematoria • Cleansing • Control of public nuisances • Control of undertakings that sell liquor to the public • Facilities for the accommodation, care and burial of animals • Fencing and fences • Licensing of dogs • Licensing and control of undertakings that sell food to the public • Local amenities • Local sport facilities • Markets • Municipal abattoirs • Municipal parks and recreation • Municipal roads • Noise pollution • Pounds • Public places • Refuse removal, refuse dumps and solid waste disposal • Street trading

	<ul style="list-style-type: none"> • Street lighting • Traffic and parking
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Category A municipalities (metropolitan areas) have all the above listed functions. However, Section 154(3)(c) then states that subject to section 229, national legislation must make provision for an appropriate division of powers and functions between municipalities when an area has municipalities of both category B and category C. In addition, a division of powers and functions between a category B municipality and a category C municipality may differ from the division of powers and functions between another category B municipality and that category C municipality. (Section 155(3)(C)).

The Constitution introduces the principle of ‘shared authority’ in a district area. The division of powers and functions between Category B and C municipalities must be done in a way that promotes municipal services in an equitable and sustainable manner. (Section 155(4)).

Section 84 of the Municipal Structures Act (RSA, 1998A) as amended (RSA, 2000) divides the powers and functions between these two categories of municipalities. Section 84(1) states that a district municipality has the following functions and powers:

- (a) Integrated development planning for the district municipality as a whole, including a framework for integrated development plans of all municipalities in the area of the district municipality.
- (b) Potable water supply systems.
- (c) Bulk supply of electricity, which includes for the purposes of such supply, the transmission, distribution and, where applicable, the generation of electricity.
- (d) Domestic waste-water and sewage disposal systems.
- (e) Solid waste disposal sites, in so far as it relates to-
 - (i) the determination of a waste disposal strategy;
 - (ii) the regulation of waste disposal;
 - (iii) the establishment, operation and control of waste disposal sites, bulk waste transfer facilities and waste disposal facilities for more than one local municipality in the district.

- (f) Municipal roads which form an integral part of a road transport system for the area of the district municipality as a whole.
- (g) Regulation of passenger transport services.
- (h) Municipal airports serving the area of the district municipality as a whole.
- (i) Municipal health services.
- (j) Fire fighting services serving the area of the district municipality as a whole, which includes-
 - (i) planning, co-ordination and regulation of fire services;
 - (ii) specialised fire fighting services such as mountain, veld and chemical fire services;
 - (iii) co-ordination of the standardisation of infrastructure, vehicles, equipment and procedures;
 - (iv) training of fire officers.
- (k) The establishment, conduct and control of fresh produce markets and abattoirs serving the area of a major proportion of the municipalities in the district.
- (l) The establishment, conduct and control of cemeteries and crematoria serving the area of a major proportion of municipalities in the district.
- (m) Promotion of local tourism for the area of the district municipality.
- (n) Municipal public works relating to any of the above functions or any other functions assigned to the district municipality.
- (o) The receipt, allocation and, if applicable, the distribution of grants made to the district municipality.
- (p) The imposition and collection of taxes, levies and duties as related to the above functions or as may be assigned to the district municipality in terms of national legislation.

Section 84(2) then states that a local municipality has the functions and powers in Schedule 4 Part B and Schedule 5 Part B as listed in the Constitution, excluding those functions and powers vested in terms of section 84(1) in the district municipality in whose area it falls.

A legal opinion (Kennedy, 2003) suggests that a district municipality has only such functions and powers as set out in Section 84(1) and that a local municipality has all other functions and powers in terms of the

Constitution and legislation. Kennedy states that it is accordingly apparent that the legislature intends that ordinarily the functions and powers of a district municipality and those of the local municipalities in its area will be *mutually exclusive* (unless otherwise qualified in sec 84 by words such as “for the area of the district municipality”)

The implementation of this Act would have necessitated a fundamental reallocation of functions and powers between the district and the local municipalities after the December 2000 elections. However it became apparent that it would not be logistically possible to transfer all these functions and powers and the Municipal Structures Act was amended making provision for temporary authorisations (RSA, 2000). This amendment also appeared to have vested large operational responsibility for large-scale service provision at district level. This includes significant services such as water, electricity, waste and health services. This indicates a shift away from the strategic oversight rule and bulk provision role initially envisaged for districts. This amendment appears to have reduced the functions and powers of local municipalities. This caused a storm of protest from B municipalities who argued that the amendment would disempower local municipalities. It was argued that this victory for the pro-redistribution lobby within the state who saw a strong district as a means of redistributing resources from urban towns through to rural areas which included ex-homelands areas and contained some of the poorest parts of South Africa.

However the effects of this amendment was mitigated by the blanket authorisations of the Minister enabling local municipalities to continue performing these functions on a temporary basis. In terms of Section 84(3) of the amended Act, the National Minister of Provincial and Local Government could authorise a local municipality to perform a function or exercise a power mentioned in Section 84(1)(b) (potable water supply systems); (c) bulk supply of electricity, which includes for the purpose of such supply, the transmission, distribution and, where applicable, the generation of electricity; (all domestic waste water and sewerage disposal systems); and (i) (municipal health services). The minister must do this after consultation with the cabinet member responsible for the functional area in question and the MEC (Member of Executive Committee) for local government in the province concerned.

On 28 November 2000, the minister authorised local municipalities to perform the functions and assume the powers mentioned above, all of which before the election date were performed by the disestablished TLCs or transitional rural councils (but not TRCs), but only within the

areas of such disestablished councils. However, this authorisation was not a blanket exemption. The new local councils could only provide services to the portion of TLCs and rural councils they were servicing before the election. For example, in some cases, TLCs did not provide the services to ex-BLA areas included in their jurisdiction after the 1995/6 municipal elections) (RSA, 2000A). These temporary authorisations were for many, an attempt to freeze the status quo given the poverty that existed in many rural areas. An analysis by the Demarcation Board showed that the greatest backlog for major services lay outside the ex-TLC areas authorised by the Minister to provide health, electricity, water and sanitation (Municipal Demarcation Board, 2001).

Unlike the powers that the Provincial Member of Executive Committee (MEC) has, the minister is not subject to a recommendation from the Demarcation Board in exercising ministerial power. The minister has ongoing discretion in the authorisation of municipalities for these factors.

With regard to the other municipal functions, the Provincial Minister for Local Government (the MEC) in a province may in terms of Section 18 of the Municipal Structures Amendment Act (subject to the recommendations of the Demarcation Board) authorise a local municipality to perform and exercise in its area the other functions provided for in Section 84. This includes integrated development planning, solid waste disposal, municipal roads, municipal airports, municipal health services, fire-fighting services, fresh-produce markets, cemeteries and crematoria, promotion of local tourism and municipal public works. A district municipality may also be authorised to perform the functions of a local municipality. Basically, these temporary authorisations were designed to ensure service continuity during the transition to the reallocation of functions and powers between the local and district.

The Demarcation Board submitted recommendations in this regard to MECs for local government on 18 April 2001, and most MECs gazetted authorisations to give effect to the recommendations of the Board. All authorisations by MECs should have lapsed by 5 December 2002 but an extension was granted to 1 July 2003 so that the transfer of functions and powers could conform to the beginning of the financial year for municipalities.

In some municipalities there has been intensive conflict between functions and powers. This has been reflected in the debate around the Minister's four functions.

WATER AND SANITATION

Big cities and urban towns had historically made surpluses on the sale of water which had been used to cross-subsidise the general operating budget. In November 2001, the position of the Department of Water Affairs (DWA) was that no long-term authorisations for the water and sanitation service function should be given to local municipalities and this function should remain with district municipalities in terms of the provisions of the Municipal Structures Amendment Act.

The DWA's position was that there should be one water service authority (governance) for the area that may enter into contracts with separate providers to do bulk and retail water supply.

However, in its policy paper on 31 January 2002, the Department of Provincial and Local Government (DPLG) recommended that 62% of category B municipalities should be authorised to perform the water and sanitation functions. This was largely a U-turn of the DWA position. There was heavyweight support from treasury and senior elements of the DPLG to keep water and sanitation at B level because of concerns about the financial implications of secondary cities losing this source of revenue. In terms of departmental influence, the DWA is rather lightweight and in effect, it lost this battle.

Subsequently, the DPLG and DWA had consultation meetings that resulted in a modification of the DPLG position with B municipalities now being authorised to perform 54% of the water functions. It needs to be noted that this authorisation is for the entire function. B municipalities can still contract bodies such as water boards to provide the function. In some provinces (the Free State, Gauteng, the Northern Cape, the Western Cape and Mpumalanga), all municipalities are authorised; some provinces have mixed authorisation (North-West and Limpopo); while other provinces have limited authorisation (the Eastern Cape and KwaZulu-Natal). What this means is that the system will not be uniform between and within provinces. Given the income-generating nature of water and the need to consider adjusting a number of related functions to the level of local government level that provides this function, it can be argued that there are going to be some municipalities that have a weak district-strong local relationship and others where there is strong district-weak local relationship (Municipal Demarcation Board, 2002A).

Electricity

The Department of Mineral and Energy Affairs has overall responsibility for the electricity function in South Africa. Its policy position is that it needs to restructure the electrification industry due to the national electrification needs, price inequalities, service and skill disparities, fragmentation resulting in wide disparities in tariff structures, and economies of scale.

Six economic centres and models around the six metros have been identified. They will form the basis of regional electricity distributors (REDs) that are going to be established in the country and that will take responsibility for the electricity distribution.

Currently, Eskom provides the bulk supply of electricity. About 130 B municipalities provide electricity reticulation, while Eskom provides electricity directly to consumers in most of the other municipalities.

As with water, the 'status quo' authorisation of the national minister in November 2000 authorised the B municipalities to perform the electricity function only in the TLC areas, and category C municipalities were authorised to perform the functions in the remaining areas.

Most municipalities use the surpluses of trading services to cross-subsidise rates accounts. There is serious concern about the impacts of REDs on the financial viability of municipalities. SALGA and the treasury have commissioned a study into the impact of electricity restructuring on local government finance. It has been estimated that the costs of restructuring the electricity are R512 million (Municipal Demarcation Board, 2002B).

Health

Municipal health is a local government constitutional function and a district function in terms of the Municipal Structures Amendment Act. Along with electricity, potable water, and domestic water and sewerage systems, health is one of the four national functions the authorisation of which is the responsibility of the Minister of Provincial and Local Government.

B municipalities were authorised to continue performing this function in terms of the temporary authorisations of November 2000. 64 category B municipalities were authorised to render the district municipal function of municipal health services. This means that B municipalities provide a

range of health services within the service area of the former TLCs, while district municipalities perform these functions in all other areas within the newly demarcated local municipality. The effect of this is a duplication of structures with a consequent waste of scarce resources.

Local governments currently provide primary health services, which refers to the operation of clinics and environmental health services. In reality, there is a great deal of variation in the range and level of services provided by municipalities. A Task Team on the Division of Powers and Functions between category B and category C municipalities for health services was put together in early 2002. It consisted of officials of both the Department of Health and the DPLG. This task team put together a consensus report recommending that the definition of municipal health services be linked to environmental health services (for example, the control of air pollution, the care and burial of animals, markets, municipal abattoirs). The balance of primary health care packages would become the responsibility of the provincial health authorities. The Department of Health believed that in all cases the district should be the service authority in that it would set policy and tariffs. It was hoped that many B municipalities currently providing the service would be contracted to be the service provider for health (Municipal Demarcation Board, 2002C).

However the provisions of the National Health Bill, 2003 did not reflect this understanding and may lead to considerable confusion at local level. 'Municipal health services' is a district function in terms of the Municipal Structures Act, but 'municipal health services' as defined in the National Health Bill, also includes functions vested in local municipalities. In terms of the Municipal Structures Act these local functions cannot be allocated to district municipalities if capacity exists at local level to perform them (Municipal Demarcation Board, 2003).

There is also a disjunction between the water and health functional allocations. The water service authority for about 54% of all B municipalities will be the B authority, while the service authority for health, at least in terms of the Municipal Structure Act, is going to be the C authority. Given the obvious linkages between health and water functions, this is problematic.

THE INTERVIEWS

In this part of the paper the perceptions of key local government stakeholders on the impact of this new local government policy, namely

their ‘experience of transformation/consolidation from below’ was examined. The following information was obtained in the interviews mainly with senior managers and councillors but to a lesser extent with private sector consultants, academics and programme experts.

POWERS AND FUNCTIONS

Probably the biggest problem facing municipal managers was the lack of clarity about powers and functions. These temporary authorisations meant that there was great uncertainty about whether key functions would remain local functions or be transferred to be the districts. This manifested itself in uncertainty about future functions and powers and a complex set of transitional service arrangements [Respective ministerial authorisation for Bs and Cs were re-issued only in January 2003 and took effect from 1 July 2003, two years since the *status quo ante* was put in place in December 2000).

There were severe criticisms from some of the interviewees about this division of functions and powers, most notably from senior officials from B municipalities. The most problematic function was that of water. Many B municipalities have big water engineering departments. B municipalities make surpluses from the reticulation of water to cross-subsidise other activities. There was concern that the loss of this function to the district would lead to the loss of a major source of revenue. It would, for example, prevent B municipalities from offering cheaper tariffs as part of a water intensive industry programme. There were also concerns raised about accountability. If water were transferred to the C municipality, it would blur accountability. People would still complain to the B municipality about non service-delivery but the C municipality would control the infrastructure and the tariff policy.

The current system of temporary authorisations of both the National Minister and respective MECs was described by interviewees as ‘complex’, ‘a nightmare’ and leading to ‘a lack of clarity’. For example, in George, to supply water to rural areas in the old TRC areas formerly residing under the district council and now part of George meant getting permission from the new district to supply George’s own water to its own community. (This was because in terms of the current authorisations the Minister of Provincial and Local Government only authorised B municipalities to provide water in the ex-TLC areas. The district municipality is still the service delivery agent for the rural areas and George has to get permission to deliver its water to such areas.)

The implications of electricity restructuring have alarmed officials and councillors of many municipalities. Some treasurers said that there would be massive increase in rates and services if electricity revenue is taken away and given to the proposed REDS. Councils' credit rating could be affected. Payment for electricity is also an important element of the cash flow. In some municipalities as much as 87% of its 29 000 consumers are using prepaid meters. One treasurer said that 'if electricity goes to REDS, the municipality might as well just close up shop'.

Although councils are guaranteed a share of the profit of REDS, there is no clarity about when it is going to be paid these profits or what the profits would be. Most councils would need this money upfront rather than at the end of the financial year. Theoretically, there could be savings from the fact that billing and collections would no longer be a B municipality function, but no municipality interviewed has quantified this amount.

The health function was also problematic. As pointed out in terms of proposed national health legislation, the service authority for primary health will be the district. The view of one B manager is that primary health is a function they would do well to get rid of. While this municipality has not quite adopted a scorched earth policy toward this function, there is clearly no incentive to invest in infrastructure for this function. This is generally true for most of the local municipalities where interviews were conducted.

There were also criticisms of the MECs of local government who delayed the allocation of functions and powers through temporary authorisations. This has frozen the status quo and makes forward planning difficult.

Another problem that was raised is that financial institutions are reluctant to rate local authorities until there is clarity about powers and functions. This affects their ability to borrow money on capital market.

A number of interviewees argued that it is difficult to promote development under such circumstances. It is difficult to plan service-delivery under such complex service-agreement arrangements. One interviewee complained that B municipality officials are not interested in promoting development outside their core urban areas. This is not surprising when they do not provide most services to newly incorporated rural territory and have little knowledge of such areas.

There are also problems around accountability. In some B municipalities, the mayor of the new town stays in rural areas that were incorporated into the town in 2000. This portion of the new municipality is still serviced by the district municipality. Democratic theory suggests that local voters should hold local politicians accountable for local services that they provide. If municipalities are unable even to determine services in their own areas, this creates accountability difficulties. What exacerbates matters is that local politicians and consultants (who have been heavily involved in the drafting of Integrated Development Plans- IDPs) sometimes do not understand these complexities of service-delivery.

There was an alternative viewpoint which suggested that the lack of clarity around powers and functions was used as an excuse by some managers for their own inaction.

INTEGRATED DEVELOPMENT PLANS

IDPs are the flagship development tools of municipalities. An IDP must reflect a council's vision for the long-term development of the municipality with special emphasis on the municipality's most critical development and internal transformation needs. Strategy should in turn structure and the Municipal Systems Act correctly says that budget should reflect IDP priorities. Performance indicators also need to be used to measure IDP processes.

District municipalities after consultation with local municipalities must adopt a framework for integrated development planning in its area as a whole. This framework binds both the district municipality and local municipalities in the area of the district municipality. A local municipality must in turn align its integrated development plan taking into account the integrated development processes of, and proposals submitted to it by the district municipality.

Interim IDPs were put in place for 2001 which were basically a combination of the IDPs of previously incorporated municipalities. The intention was that final IDPs should reflect the development needs of the new municipality as a whole. At least in terms of the information given by interviewees, IDPs are progressing better than expected. Many reflect strategic priorities and while the level of public participation is uneven, all IDPs reflect some level of public participation in this process. Many district municipalities have aided under capacitated B municipalities in putting their IDPs together.

This is not to say there are not problems with IDPs. Some of the consultants interviewed said that some IDPs were merely wishlists reflecting community wishes and there was no strategic prioritisation of such wishes. There was no sense of a development vision amongst many of the municipalities. Other interviewees suggested that IDPs created unrealistic expectations about services, particularly amongst rural citizens about the extent of services that could be delivered to them. Some interviewees felt that the public participation exercise had been somewhat rushed, but many expressed the view that next year there would be more time to consult the public. In some cases ward committees¹ had just been set up or were about to be set up. It was felt that this should promote better public participation in future.

From the IDP point of view the current allocation of powers and functions was highly problematic. They created a huge amount of uncertainty. As one manager said 'I do not care whether a function should be performed by B or C municipalities, but please allocate it finally to one of them. If you do so, I am confident of making the system work'.

This lack of certainty reflected itself in the drafting of IDPs. Some C municipalities used the letter of the Municipal Structures Act to plan for functions; i.e. what was the original intention of the policy-makers before all these temporary authorisations were enacted. However, some B municipalities (such as George and Umlathuze Richards Bay)) planned for current functions, most notably, the National minister's four functions, i.e. water, electricity, sewerage disposal and health. The result is that in some cases, particularly around water and sanitation, the B and C municipalities, IDPs do not dovetail with each other.

At least one district municipality^{ies} had not linked the IDP with strategic priorities because of the problem of clarifying functions and powers. A couple of interviewees said that B municipalities were not aware that items on the IDP and budgets were responsibilities of the district municipalities. There were also items appearing on IDPs which were not local government functions such as agriculture.

One senior manager conceded that the philosophy of the Demarcation Board in combining urban and rural areas into single municipalities was sound. Although no substantial service delivery improvement has taken

¹ Ward committees consist of the councillor of the ward, along with up to 10 members of the local community. They took effect after the 2000 elections and are intended to be instruments of participatory democracy.

place in the former homeland part of his municipality, plans have been conceptualised on what needs to be done and there is now a qualified town planner working in the area. This view is not shared by all. One of the functions of the IDP process was to begin to address the amalgamation of rural and urban areas. Some interviewees argued that there has been no real thinking in some areas about how to address this role of local municipalities of an entirely new type.

Many municipalities had linked their budget to the IDP but some had not. The reasons given were that this was the first year of the final IDP – there was no time to link it to budget. It would however be done next year. Other municipalities, particularly C municipalities said there was not sufficient revenue to link budgets to the IDP. Finally, some municipalities were not linking IDPs to budgets until there was clarity about functions and powers.

FINANCE

Many respondents from both B and C municipalities complained about lack of finance. Many C municipalities struggling to define a role for themselves felt that the equitable share should be increased (bearing in mind that they initially did not get any equitable share in the 2001 allocation). Some interviewees argued that capacity-building support programmes to underdeveloped B municipalities would be cut if there were no proper equitable share allocation.

Some B municipalities however feel that they can ‘more or less’ get by with the income they have. Others said they would survive, but had to be frugal with expenditure. Other B managers felt that municipalities did not have the capacity to extend services into rural areas. The complaint was that the resources of the town were being spread too thin. The crucial question for some B managers was how to extend services into rural areas with existing sources of revenue. Some interviewees were of the view that the two-tier model of non-metropolitan government was not sustainable in many parts of the country. Other interviewees however thought the system could work financially, providing that the district focussed its attention on developing B municipalities without capacity and did not take over B functions from capacitated local municipalities.

One B manager said that the government was planning to download costly functions such as health on B municipalities while giving revenue-raising functions such as water to C municipalities.

Another major concern cited was the splitting of resources between the district and local municipalities. There are two executive mayors, two speakers, two sets of councillors and administrations and a complete duplication of resources, particularly within the context of scarcity. This duplication was also causing confusion amongst the public.

There was also conflict between the district and local when it comes to the allocation of resources. For example, Mbombela's capital expenditure is done in terms of its IDP, based on the Development Bank of South Africa's prioritisation model. There are examples of the district allocating resources to Mbombela with no consultation (e.g. the building of floodlights). This is distorting the priority list. Another problem that was cited was lack of co-ordination between B and C municipalities. For example, in one district the B municipality built 2 km of paved road in an area, while the C municipality built a community hall in the same area. However, due to a lack of co-ordination, the paved road did not extend to the community hall.

A related problem is that district municipalities promise constituents certain items. If the district does not deliver, the B municipality gets the blame. This is compounded by the fact that districts do not have ward councillors.

Some interviewees felt that the problem of local government in non-metropolitan areas was not necessarily splitting of resources between two tiers, but rather the more general shortage of local government revenue in the country as a whole. The lack of local government finance was a general problem of developing countries and even in some developed cities. Given the large-scale poverty in South Africa, it would have made little difference financially if there had been different boundaries or different structures put in place.

However, virtually all interviewees thought the equitable share should be increased so that local government could deal with the development burden more effectively. One manager made the interesting suggestion that he was quite prepared for extra funds to his local government to come in the form of conditional grants, whether it be for national or provincial mandates or even locally formulated projects. His council is quite prepared to put business plans and feasibility studies together as a basis for applying for conditional grants.

There was the concern ~~that~~—from B interviewees that if revenue-generating functions such as water and electricity were taken over by

districts and REDs respectively, this would lead to a massive increase in local rates. Other B municipalities felt that the REDs were not such a major problem because the municipality would still be a dominant actor in the RED.

There was also debate as to whether local government (whether B or C municipalities) should be the primary tier of government responsible for the upliftment of poorer areas (as envisaged in the two-tier non-metropolitan system). Some were of the view that this should be the prime responsibility of the national fiscus.

Underfunded or unfunded mandates were a common refrain of almost all interviewees from both B and C municipalities. There were a number of functions where provinces were accused of trying to devolve responsibilities to municipalities without the commensurate resources. Provincial health, libraries, museums, provincial traffic, transport plans and roads were the cited examples of underfunded or unfunded provincial mandates.

Others argued that expecting free water and electricity to come out of local governments budget was a form of an unfunded mandate.² Even although there has been an increase in the equitable share, it does not cover the extra costs of providing free services.

One municipality even argued that the inclusion of rural areas into urban towns after the 2000 elections was a form of an unfunded mandate. However they were not successful in persuading Treasury about the merits of their case.

LOCAL - DISTRICT RELATIONSHIPS

The interviews revealed there were different types of district-local relationships. The view of some C officials was that of a rather limited role for the district. They seemed to prefer a Regional Services Council (RSC)³ role for the district, namely the funding and development of infrastructure in areas of need. This view posits that the district is there to

² It has been national policy since the December 2000 elections that 6 kilolitres of water and 20 kilowatts of electricity be provided free by municipalities).

³ Regional Services Councils were a coordinating upper tier local government structures created in the 1980s primarily to develop infrastructure in poorer areas. In practice they had extremely limited jurisdiction over the functioning of primary local government. They were replaced by district councils/regional councils after the 1995/1996 local government elections (Humphries, 1991, Cameron, 1993).

support and guide municipalities and they do not see themselves as usurping the traditional functions and powers of B municipalities.

Some B managers felt that the two-tier system is a waste of resources in non-metropolitan areas when there is in any event limited revenue.

The two-tier system also led to slow decision-making. It was difficult to co-ordinate decisions across B and C municipalities when different aspects of the same function are split between these authorities. For example, when it comes to a particular project sidewalks and planning could be provided by the one municipality and water performed by the other.

Despite this, many B and C municipalities have common fora where they meet to discuss issues. There are often good relationships between many B and C municipalities despite differences around Section 84 functions. Only in a few cases was there limited or poor co-ordination between B and C municipalities.

If the B and C municipality are controlled by different political parties (as was the case in some municipalities in the Western Cape and KwaZulu-Natal provinces), co-operation is difficult. According to interviewees in George the relationship between the B and C municipalities has improved since the same political party (the Democratic Alliance) controlled the district municipality and George. Before the 2000 local government elections, the African National Congress (ANC) and the New National Party controlled the town and district respectively. This led to the politicisation of many technical matters.

However, political control of both the B and C municipality by a political party does not guarantee effective co-operation. It often depends on good personal relationships between the respective mayors and manager. A more profound reason was this conflict around functions and powers which has led to tension between B and C municipalities controlled by the same political party such as ANC-controlled Ehlanzeni and Mbombela and Inkatha Freedom Party (IFP)-controlled Uthungulu and Umlathuze.

Some C managers. ~~They~~ felt that the core B municipality was promoting local economic development in a competitive way that was at the expense of the rest of the district. One positive sign is in Pietermaritzburg where

they planned to hold a summit where a co-operative framework could hopefully be thrashed out by all the municipalities in the district.

FUTURE CATEGORISATION OF MUNICIPALITIES

As discussed some interviewees were of the view that the two-tier system of non-metropolitan local government was neither financially sustainable nor conducive to optimum decision-making.

Some interviewees said that B municipalities should become metropolitan authorities or at least single-tier authorities. Some officials from B municipalities, particular the bigger secondary cities said there was no need for a district and that they could do all the required local government functions. However, one B manager who expressed this view also said his municipalities did not have capacity to extend services into rural areas. A number of these officials complained about the fact that the district services areas outside these core towns yet it derives most of its income from RSC levies generated in core urban areas.

It became apparent during the interviews that many of the B municipalities' arguments in favour of an A structure was simply about retaining RSC levies⁴ (2 taxes on businesses) within the core town and not about spreading them to needier poorer areas in other rural parts of the district municipalities (in many districts most of the RSCs levies are generated in the core town's commercial and industrial areas). RSC levies are the lifeblood of district municipalities and if secondary cities with narrowly drawn boundaries become A municipalities, district municipalities, the traditional service providers in rural areas, would lose a substantial portion of its income. This could severely affect rural development (as what happened in the Western Services District Council when the Nelson Mandela metropolitan government was created in the Eastern Cape). Some argued that this question of RSC levies had to be sorted out in a way that would not jeopardise rural development before there was any change in structure.

Other interviewees argued that the creation of new metros would, irrespective of whether there were new revenue sources, lead to the neglect of rural areas on the periphery. They argued that these new metros would attract investment at the expense of peripheral areas.

⁴ RSCs levies consisted of two taxes on businesses. They were a service levy on wages and salaries of all employers and an establishment levy calculated on total sales recorded by businesses.

One C municipality treasurer however argued that management reorganisation should be divorced from the question of levies. He suggested that other ways of funding district municipalities needed to be explored. He argued that if there is a good argument in favour of A municipalities based on sound economies of scale reasons, then it should be supported. However, the structural debate needs to be divorced from the question of RSC levies. It was suggested that RSC levies should be collected nationally by the South African Revenue Service (SARS) and distributed back on the basis of need. If RSC levies were not part of the metropolitan debate, the metro lobby may have a different view of things. In any event, the SARS is more efficient in collecting taxes.

There was a counter-argument from an interviewee which disputes the view that the rural dispossessed poor needs to be developed at the expense of urban areas. The one interviewee quoted international literature that suggests the stronger the cities, the more likely rural development will occur. Emphasis should be put on rural education, but the infrastructure should go primarily to urban areas.

It was suggested by one interviewee that the view expressed by the ANC a few years ago that provinces should be phased out was no longer valid. Provinces are important in that they give power bases to regional politicians. The intention that districts would take over provincial functions is therefore no longer valid. Some B municipalities such as Mangaung consist of urban and rural areas and undertake many district-wide functions such as planning anyway.

Another view was that there should be a mix and match system. Where district municipalities were not much bigger than existing B municipalities with large-scale capacity they should be phased out. However, in any areas which were geographically dispersed and/or had B municipalities that lacked capacity, districts should exist and play a strong development role.

Others interviewees were ~~moreless~~ circumspect arguing that a new system had just been in place and it should be given time to develop. This was the second reorganisation in five years. Local government is going through a major reorganisation and it would be catastrophic to change things again.

CONCLUSION

This paper has traced the evolving state policy towards non-metropolitan local government. There has been a move away from a fragmented system of secondary towns and rural areas towards an integrated approach of non-metropolitan government as a whole. The intention was that there should be a co-ordinated two-tier system of district and local municipalities.

South African non-metropolitan local government is a classical case of a policy of decentralisation gone awry. There is still strong commitment to decentralisation by the state but different central government actors have different on whether the district or local municipalities should be strengthened. This in turn has led to a confusing set of powers and functions arrangements between districts and locals.

The temporary authorisations have led to a hodgepodge set of arrangements. In some areas most notably in secondary cities, there are strong locals and weak districts, in some mainly rural areas there are strong districts and weak locals, in some areas (eg in Limpopo) where there are newly created districts there are both weak districts and weak locals while in the Western Cape (which is the only province with a strong tradition of rural local government in the apartheid era) there are strong districts and strong locals.

In terms of Barlow's model (1991) there are some districts where the upper tier dominant model is evident and in other cases the lower tier dominant model exists. There are some case where the district and local are considered complementary having equal status and rank in the governmental system, i.e. the complementary model. Two variants of the complementary system are evident, namely the weak complementary model where the district and local are equally disempowered and the strong complementary model where both the district and local have sufficient functions and powers.

The lack of clarity about powers and functions is a major impediment to the smooth running of many B and C municipalities. The financial implications of the REDs policy on the viability of municipalities have been poorly thought out. Similarly, the lack of clarity about functions such as water and sanitation and health has led to uncertainty about what municipalities' functions are and has affected future planning of such

services. This lack of clarity has led to delays in completing organograms. This has contributed to lack of staff morale. These temporary authorisations have led to a more fragmented form of service delivery than existed in the past, akin in some ways to United States of America cities. Ironically, this has, at least in the short term, negated the rationalisation intentions of demarcation.

The 1 July deadline has expired but in terms of section 85 of the Structures Act the MEC for local government in a province may adjust the division of functions and powers (MECs functions only) between a district and a local municipality by allocating functions or powers from the local to the district or from the district to local. This may only be done if the municipality in which the function or power is vested lacks the capacity to perform that function or exercise that power; and the MEC has consulted the Demarcation Board and considered its assessment of the capacity of the municipality concerned. These are the long-term adjustments for MECs functions only as opposed to the short-term authorisations.

It is not clear how many municipalities are now using the Section 85 provisions post-1 July but the early indications are that the functional fragmentation persists, with many districts performing local functions and many locals still performing district functions.

The second major issue that the paper addressed was the controversial decision to include both secondary towns and rural areas in local municipalities. Given the symbiotic relationship between urban and rural areas exacerbated by apartheid settlement patterns, there were good reasons for the Municipal Demarcation Board to go for this particular policy option. One must also remember that the adoption of the socio-geographic approach was an attempt to embody a goal of the White Paper. At one level, many of these boundaries appear to conform to the socio-economic interdependent areas. The problem, in terms of service delivery, is that the greater the degree of interdependence, the larger a municipality will become. Many B managers said that their municipalities were stretched financially and administratively in delivering services to the vast rural areas that were now part of urban municipalities. It was pointed out that this socio-geographic approach to demarcation approach tends to increase administrative size beyond the range of normal activities of the majority of people. If one uses Bennett's terminology, a case can certainly be made for saying that some of these municipalities are 'over bounded'.

Finally, the duplication of scarce services between the district and local is a matter of concern. Many B managers argued quite strongly for a unitary authority for their core urban area. However, the district would lose a significant portion of its revenue and would not have the resources to support poorer municipalities with little tax bases. Should the debate about unitary-tier structures be about economies of scale arguments and not about narrow concerns about towns retaining their RSC levies? If such levies are collected nationally and transferred back on the basis of some redistributive formula, then the merits of single-tier secondary towns can be more rationally considered.

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