

**RECENT DEVELOPMENTS IN REGIONAL GOVERNMENT IN SOUTH AFRICA
WITH SPECIAL REFERENCE TO REGIONAL SERVICES COUNCILS**

by

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1. Introduction: the Background of Local and Provincial Government

South Africa inherited its formal state structure from Britain. Until the late 1970s, sub-central government in any proper sense existed only for the White community.¹ Since this was one of the few parts of the state structure that exhibited a major deviation from the British "model", its distinct features require brief mention.² The main one was a provincial level of administration comprising three elements - an administrator, an executive committee, and a provincial council. The administrator was appointed and dismissed by central government. The executive committee was elected by the provincial council, and from 1970 provincial elections were held simultaneously with general elections, electing the same number of representatives for each province as that province had MPs. This provincial level of authority exercised fairly close control over the lower-level authorities, whose precise configuration and nomenclature varied from province to province and were regulated by provincial ordinances.

The system of local government for Whites was, arguably, fairly authoritarian but it was recognizably local government. Tacked on to this system were other systems for the local level administration of Indians, Coloureds and Blacks. It is not necessary to review these here, other than to indicate the significant differences between the treatment of Indians/Coloureds, on the one hand, and Blacks, on the other. From 1971 to 1977 the affairs of urban Blacks were run virtually exclusively by Administration Boards under the aegis of the Department of Cooperation and Development.³ The official view was that Blacks were in "white" areas for purely economic reasons and could exercise no political rights outside the Homelands structures. Within the ideology of apartheid, neither Coloureds nor Indians belonged to Homelands and therefore segregated local government was conceded to them, at least in principle, as early as 1962.

The changes that have taken place since the 1970s are twofold. There have been those in the central core of the local government structure which affect all the racial groups. Simultaneously, there has been a series of attempts to bring, first, Indians/Coloureds and then Blacks within this central core, in an effort to create a uniform but not universal system of local government: a structure, in other words, in which all racial groups would have roughly the same powers but would exercise them within their "own" communities, this being the expression at local level of the distinction between "general" affairs and "own" affairs built into the 1983 constitution.

In practice, the shift of ground on local government for Indians, Coloureds and Blacks has induced the necessity for considerable reconstruction of the local government system. As far as Indian and Coloured local government is concerned, the broad outline of the structures is clear though not the precise institutional detail. For these communities, local government is an "own" affair, dealt with by an appropriate minister in the Indian or Coloured Ministers Councils. The precise delimitation of new authorities will be carried out by the Municipal Development Board and the Demarcation Board, both working under the supervision of the Department of Constitutional Development and Planning (henceforth CDP - the internal structure of this department has now changed but here I use what is now the

familiar name). Because the Black population do not participate in the tricameral Parliament, their local government situation is rather different and its emergence has been more protracted.

The government first conceded the possibility of urban local government for Blacks in 1977, in the form of Community Councils which were to operate under considerable ministerial supervision of their powers and activities. The Administration Boards remained in place and the minister was empowered to transfer Council powers to the appropriate Board. The failure of this measure led to considerable rethinking by the government, which culminated in the Black Local Authorities Act (102 of 1982) which conceded full local government powers to urban Blacks, the only major difference being its supervision by the Department of Cooperation and Development rather than the provincial authorities (and, in fact, a closer supervision).

Complementary to this council legislation was the Black Communities Development Act (4 of 1984), which altered the position of the Administration Boards (relabelling them Development Boards), beginning a process in which they would lose their local government functions to town councils, where these existed, while they would play a "development" role, in practice envisaged as the establishment of Housing schemes and the training of local authority personnel. Even as this legislation was passed, it was evident that the Boards' days were numbered as they were clearly hopelessly anomalous within the government's emerging new design for local government. They were abolished in June 1986, their functions and personnel being transferred to provincial administrations, central government departments and Black local authorities.

These changes, culminating in the admission within a uniform system of local government of Indians, Coloureds and Blacks, have engendered major difficulties, given other aspects of South African economic and political life. In a narrowly administrative sense, the major problem of the incorporation process is a financial one. The two main effects of the apartheid system have been to ensure that, firstly, Indian, Coloured and, especially, Black areas do not have large commercial and industrial undertakings within their boundaries, and, secondly, they contain populations with low per capita incomes. Thus, generally speaking they do not provide an adequate revenue base for local authorities.

This set of problems has attracted substantial attention from the government, and the outlines of its general response are now clear. More or less simultaneously it has tightened its control of the provincial level of government and set up a new kind of local authority institution to handle, in principle at least, the resource problem. The provincial legislatures have been abolished and replaced by new executive authorities appointed by the State President and headed by an administrator. The government has taken the opportunity of replacing an elected body by an appointed one, on to which it can co-opt Indians, Blacks and Coloureds. These authorities have responsibility for the administration of "general" affairs at provincial level but also for Black "own" affairs, because there is no equivalent at national level of the Indian, Coloured and White chambers and Ministers' Councils which would otherwise fulfil this role.

2. Regional Services Councils: Background and Rationale

The second part of the government's response has been the Regional Services Council. The emergence of this institution was the result of a complex process which, at the moment, is only superficially understood. Although there has been a considerable amount of discussion of RSCs in South Africa, almost all of it has been either judgemental or recapitulatory. In the latter mode it restricts itself to a rather mechanical reworking of the statutory and other official formulations - it takes the state at its word, so to speak. This mode is, of course, buttressed by the division within South African academia between political science and public administration, the latter taught and researched almost exclusively at the Afrikaans universities and regarded there as essentially the handmaiden of administration. In the judgemental mode, one finds the deployment of some categories assumed to be virtuous (democracy or devolution or whatever) and one then examines the shortfall from the

ideal. In this mode great attention is devoted to what RSCs are not, which does not tell us very much about what they are. In such circumstances, it is possible to outline with reasonable precision the formal progress of government thinking and suggest some analytical themes that need further work.

The RSC idea can clearly be related to a long history of debate and proposals about the rationalization of services supplied by White local authorities by means of regionalization going back to the reports of the Borckenhagen committee, of 1964. However, in the absence of a serious study, the more recent developments can be followed through a series of official documents, beginning with the Browne Committee of Enquiry into the Finances of Local Authorities appointed by the Minister of Finance in 1976. Although it had been asked to look at the financial problems of White local authorities midway through its deliberations, it was asked to examine the finances of non-White authorities. Already convinced that bigger was better, it saw no reason not to extend that principle across the board. It took the view that, "In the development and establishment of separate local authorities for the non-white population groups, the advantages of the joint provision of services should be exploited as far as possible, and to this end Joint Services Committees should be established in which the core city or town retains a say commensurate with its financial responsibility in the provision of such services".

This committee's report formed the basis for a number of official studies and further considerations of the subject, perhaps the most important of which was the Croeser Working Group (later the Permanent Finance Liaison Committee) which accepted most of Browne's recommendations but balked at the idea of mandatory transfer payment from rich White local authorities to poor non-White ones. The reason for this appears to have been resistance from White municipalities but this episode is not researched and the details remain obscure. In 1982 the President's Council Report on Local and Regional Management Systems appeared and reiterated the general thrust of government thinking. Finally, the government referred the whole matter to a committee of the Coordinating Council for Local Government Affairs (a body set up in 1984) under the chairmanship of Eugene Louw, the Cape Administrator. This committee recommended that RSCs be established, be charged with particular functions, be representative of local authorities, and have access to new sources of revenue. Most of these recommendations formed part of a bill tabled in May 1984 providing for RSCs comprising White, Indian and Coloured local authorities. This bill was withdrawn and an amended bill providing for participation by Black local authorities was tabled in 1985 and became the Regional Services Councils Act (109 of 1985 - there has subsequently been some amending legislation).

The South African government, by its own standards at least, has made considerable efforts to present the process of legislation of RSCs as a consensual one. A major part of this claim has been the role of the Coordinating Council on Local Government Affairs, in which, it is said, the representatives of various interests have participated. Much of this is bogus, as the members of the Council and its committees are not there as representatives (except in a purely formal sense) but rather as members of a working group under the close supervision (some would say direction) of senior planners at CDP.

However, that should not obscure the point that the RSC institution is the result of a complex set of political processes, of which, I would suggest, three are central. The first, and probably the most important, is relations between government departments. There are a number of aspects to this. One is the relations between the Department of Finance and CDP. The bureaucratic culture of Finance *vis-a-vis* local government is one of considerable suspicion (indeed, some senior municipal officials would say contempt). Finance's own preference was to abolish all existing authorities and reconstitute them on some more rational basis, though the Department recognized this was politically not feasible. CDP has been much more concerned with building support for RSCs and, amongst some at least of its planners, pushing RSCs as part of a wider process of **political** reform. Again, with reference to the redistributive effects of RSCs, Finance has accepted this as desirable but has tended to support RSC levies as part of its own effort to reduce central government subsidy to lower level authorities, whereas CDP has seen the redistributive effects as essential to buttressing the legitimacy and effective

functioning of Black local authorities. Finance persuaded the Cabinet to install in the legislation reserve powers for the department to curtail "irresponsible" behaviour by local authorities.

Secondly, there have been complex struggles between the old Department of Cooperation and Development and CDP. The latter was constituted out of parts of the Prime Minister's Office, given a heavy-weight political head (Heunis) who assembled a team of reformers (many drawn from Afrikaans academia), though Heunis runs the department of a tight leash. CDP regarded Cooperation and Development as obstructive and reactionary (which it was). Part of the process of change involved CDP gaining control of all matters pertaining to sub-central government for Whites and all matters pertaining to urban Blacks (with the exception of education). As a result, obstructive parts of the bureaucracy were marginalized or abolished (e.g. the old Administration Board people were pensioned off or transferred to Provincial administrations or central government departments). It could be argued that this is part of a general process of restructuring the bureaucracy to make it more change-orientated (it is connected, for example, with the whole question of privatization and deregulation, a number of activities of the Commission for Administration which I cannot go into here, etc). But there are organizational and almost certainly party political constraints on this process, and particularly its pace.

A second set of political processes, again with both "political" and "administrative" aspects, is relations between central and local government. White local authorities, grouped together as the United Municipal Executive, vigorously rejected the Browne Committee's ideas about automatic transfer payments and had seen the idea of joint service committees as relatively unformalized systems of co-operation. As the government's plans took shape and acquired a much more "political" aspect, i.e. Black participation in government, White councils realized they would lose power and influence as participants in a process of reform which many of them, both on the right and the left, did not support. The government, in turn, as it became aware of the reluctance of many municipalities to go along with its proposals, included powers in the legislation that would enable it to force compliance on recalcitrant White councils. There is no question that Heunis leaned very hard on White municipal politicians and officials to be supportive publicly of the RSC idea.

A third set of processes concerns relations between the central government and Blacks (here, obviously, my remarks are limited to that segment of Black opinion that is prepared to co-operate with the institutional reforms). The Black local authorities that came into existence under the 1982 legislation were resentful of the continuing role of the Administration Boards (and their supervising department), even in their "developmental" guise, and it is reasonable to assume that most Board personnel were quite incapable of making the transition from punitive control functions and attitudes to supportive developmental functions and attitudes. The attempt to win over "moderate" Black opinion was two-pronged. Firstly, the formal announcement by the State President in January 1985 that Blacks would be represented on "general" affairs structures, starting with local government. This gave the green light to bringing Black local authorities on to RSCs (and related advisory structures). Secondly, there were promises (public and private) to Black councillors that the RSCs would go a long way to solving their financial problems.⁸ Again, the understanding of most observers is that Heunis's role in these negotiations was crucial.

The cumulative effect of these various political processes is that the RSCs have acquired a number of legitimating rationales to which the government has stuck steadfastly in its official pronouncements, despite a certain degree of implausibility. RSCs are supposed to achieve cost-effectiveness in the delivery of council services, redistributive effects from richer to poorer (though this is invariably presented in the politically least painful way as the up-grading of infrastructure in the Black areas), and, finally, participation in "general" affairs structures - the latter usually articulated in a "bottom-up" terminology somewhat reminiscent of pre-Independence colonial discourse (though there is a more sophisticated variant relying on concepts of devolution and free markets). The structure of RSCs exhibit the effects of these political processes and it is to this I now turn.

3. Regional Services Councils - Structure and Functions

Like all local authority bodies, RSCs have an area of jurisdiction, a set of tasks, an organizational structure and sources of revenue. I will describe, first, the formal regulations and then illustrate some of the political processes involved, using the Eastern Cape as an example. The central role in the demarcation of RSC areas and the setting up of RSCs is played by the Administrators of the four provinces. The Administrators' powers are extensive and subject only to the concurrence of certain government ministers and to the requirement to consider the report of a duly appointed Demarcation Board which holds open public hearings. It is also required to consult with all the local public bodies to be affected. The possible functions of an RSC are laid down in a schedule to the Act (see Appendix 3). The statute tends to be permissive - RSCs may be charged with certain functions, or only a part of a particular function, and RSC functions may be executed on an agency basis by existing authorities. There is a general requirement, "that in determining the priorities in connection with the appropriation of funds, the council shall give preference to the establishment, improvement and maintenance of infrastructural services and infrastructural facilities in areas where the greatest needs therefore exist" (Section 12/6).

The Act provides that an RSC shall consist of a Chairman, appointed by the Administrator and representatives of all local authorities, management committees and other representative bodies within the region concerned. Members of an RSC are accountable to the local authority they represent. Individual local institutions are restricted to a maximum of five members on an RSC. Voting power is apportioned proportionally to the amounts paid for services used, excluding the use of services in an industrial area or central business district (the delimitation of the latter is also carried out by the Demarcation Board and the Administrator). No local body is entitled to a number of votes which is in excess of 50% of the total number of votes. All RSC decisions require at least 66% of the votes of those present at the meeting. Any local body within an RSC area may appeal against a decision of the RSC to an Appeal Board consisting of the Administrator, the three Local Government Ministers, and the minister in charge of Black local government. Finally, RSCs have three sources of revenue: money from services sold to users (local authorities); revenue from a levy based on total remuneration paid by employers, including the public sector (the rate is currently set at 0.25%); revenue from a regional establishment levy, based on the turnover of enterprises (currently set at 0.1%). The Act abolished a number of other levies previously imposed on employers. Overall control of the levies is vested in the Minister of Finance.

Although RSCs are to be set up in all four provinces (though it is not clear whether the whole country is to be covered), there are different complications in different provinces. A major one in the Cape is the position of Divisional Councils. These institutions had levied a rate and had roughly the same powers as a municipality but only exercised these powers in the rural portion of the divisional area. Traditionally, their most distinctive feature was the construction and maintenance of public roads, for which they received a government subsidy, but they also administered other services in the rural areas. Broadly speaking, as far as the demarcation process is concerned, metropolitan areas favoured smaller RSCs, and the government, for reasons which are not entirely clear, favoured much larger ones. Heunis has not hesitated to override not only the recommendations of the Demarcation Board but also the decisions of the Administrator, in his determination to see large RSCs come into being (as in the case of Greater Cape Town). It is reasonable to suggest that, as well as party political factors, there are administrative factors in play. There has been an unprecedented period of upheaval in the public service in recent years which has left many officials disorientated, and even angry. There is a limit to how far the South African government can go in jeopardizing the morale of the public service, given the state's low political legitimacy. In interview, CDP planners admit that their brief had been to design the RSC structure so as to minimize the destabilization of the existing local government system, and that, especially in the Cape, the Divisional Councils were a major vested interest.

Strange as it may seem, the period 1984-87 was one of incredible confusion about RSCs at the municipal level. The Divisional Council (DC) bureaucracy clearly felt threatened (as one Eastern Cape Town Clerk put, "they were fighting for their lives"). Port Elizabeth, Uitenhage and Despatch municipalities submitted a joint memorandum to the Demarcation Board proposing an RSC based on the already existing Greater Algoa Bay Planning Authority region. The Dias DC, on the other hand, proposed a much larger area, comprising the whole of Dias, Humansdorp and Winterhoek DCs, a proposal which had the support of the local government directorate of the provincial administration. Certain officials from the DC engaged in a campaign of "persuading" smaller local bodies in the Dias area, particularly Black councils and management committees, to support their proposal. They also successfully manipulated the fears of farming communities that they would be disfranchised and lose services they had come to rely on (these fears were not entirely without foundation, as CDP planners seem to have realized that there were problems about White rural representation only very late in the day).

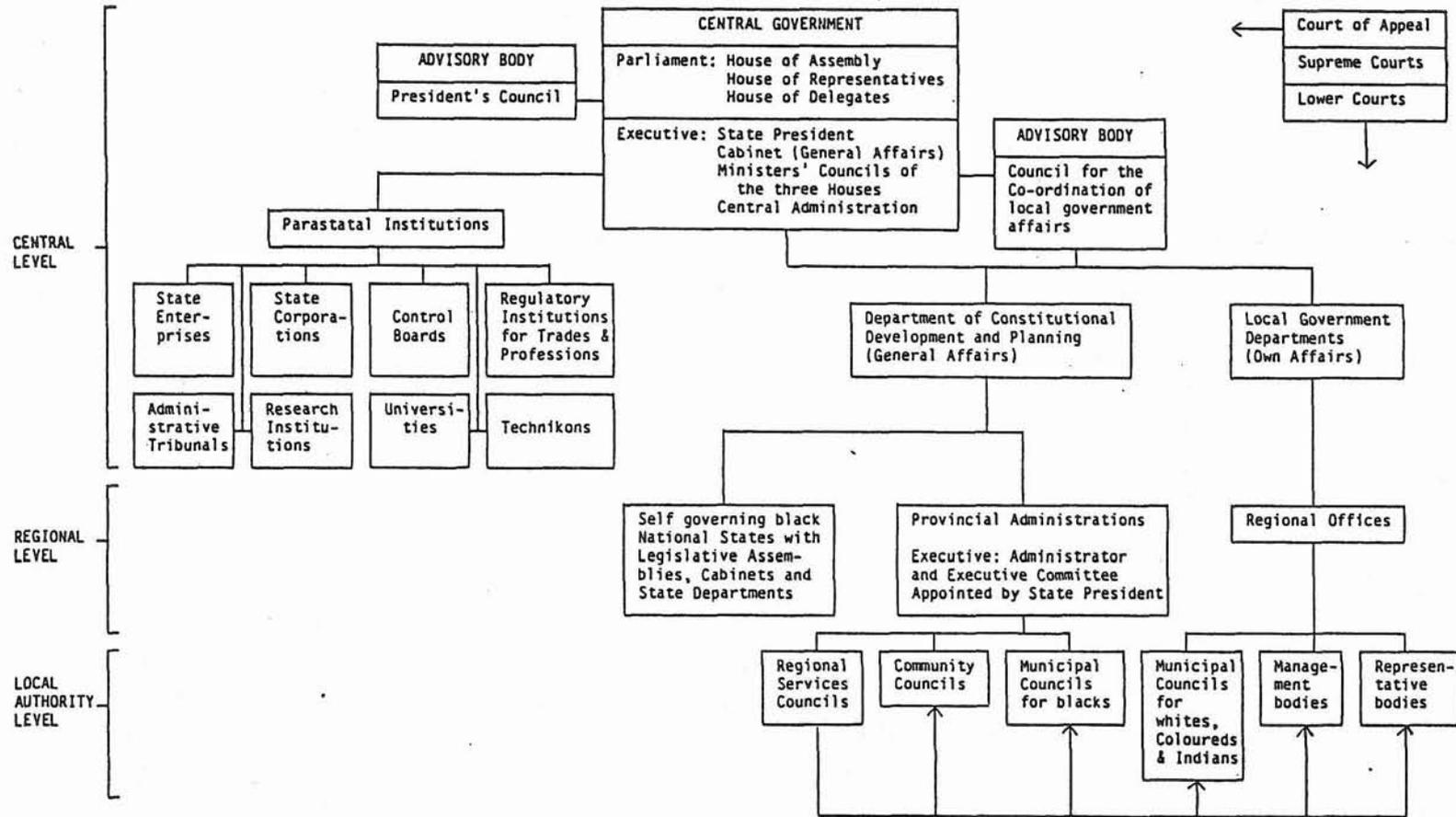
But, at the level of local politics, there were other factors involved. Grahamstown, for example, has long had pretensions to being a regional centre, and sought to mobilize the smaller municipalities in the South Eastern Areas Development Association on the basis that their interests would be neglected in an RSC dominated by PE/Uitenhage/Despatch. A number of towns to the north of Grahamstown preferred the Grahamstown proposal, perhaps on ethnic/cultural grounds.

Despite the recommendations of the Demarcation Board, the Cape Administration chose a much larger area, comprising the whole of Dias and parts of Humansdorp and Winterhoek DCs. On balance, it seems that Heunis's department, desperate to get RSCs off the ground, was inclined not to antagonize DC personnel and to use DCs, in a sense, to construct ready-made RSCs. So, despite the government's commitment to containing bureaucratic tendencies, the Greater Algoa RSC came into existence with some 1400 employees. At the end of 1987 relations between this structure and the PE municipality remained utterly confused. Senior municipal officials were convinced that such a large organization would want to be seen to be "doing things", and, since central government is determined to see them work, it would be better to transfer functions in a rational way. Their view remained, however, that this would involve serious organizational problems and potential conflicts.

It is the functions that provide the basis for the political weighting inside the RSCs; that is to say a local body has the same proportion of the vote as it contributes to the total revenue of the RSC for all the services the latter supplies. For the purposes of these allocations, consumption of services in Central Business Districts and industrial areas is not included. As the figures show, PE dominates the Greater Algoa RSC to an unusual degree, having nearly half the votes (by contrast, Cape Town has about 30% within the Greater Cape Town RSC). The only other significant proportions are Ibayi (Black City Council) and the PE Coloured Management Committee. My guess is that in these circumstances, where a considerable number of the forty councillors either have little local government experience or come from small White municipalities and the general situation is so confusing, the Algoa RSC will be dominated by its Chairman. All the RSC Chairmen have been selected with some care (and the appointments generally welcomed by informed White opinion that accepts RSCs). They are solid National Party members but all have considerable experience in regional and local government, and all of them have very clear ideas about what they want to do and do not envisage much interference from the central government (interviews).

- 1 Local government itself is, of course, subject to definitional dispute. For a useful discussion of some of these aspects in the South African context, see S Bekker, "Plaaslike Bestuur in Suid Afrika" (inaugural lecture delivered at UNISA, 1987), and S Bekker, "Devolution and the State's Programme of Reform at Local Level" (paper presented to Development Law Strategies Workshop at UNISA, April 1987). I am grateful to Professor Bekker for copies of these papers.
- 2 Given the dearth of serious literature about South African politics, the best review of sub-central government I know of (though it is not intended as such) is L Kritzinger van Niekerk and R F Boths, "An Optimal Set of Fiscal Principles Underpinning Local Government in a Decentralised South Africa - an historical and theoretical perspective". I am grateful to Mrs Kritzinger van Niekerk for a copy of this research. A little tedious but also useful is A van Rooyen, "History of Local Government in South Africa" (paper presented to ISER workshop "Does Local Government really matter?" (Rhodes University, 1987).
- 3 See S Bekker and R Humphries, From Control to Confusion: the changing role of administration boards in South Africa (Pietermaritzburg: Shuter and Shooter, 1985)
- 4 For a bird's eye view of the formal structure, see Appendix 1. For the insertion of the old Board functions into the provincial administration, see Appendix 2, which illustrates the situation in the Transvaal.
- 5 For the details of the appointments to the new bodies, see South African Digest, 15 August 1986.
- 6 Browne Committee, p. 64.
- 7 Interviews with Gerhard Croeser, Deputy Director-General, Department of Finance, in charge of Public Finance.
- 8 For work on Black local councillors, see R Humphries, "Recent Trends in Black Local Government Politics" (paper presented Rhodes University, September 1985), and D Atkinson, "The Search for Power and Legitimacy in Black Urban Areas: the role of the Urban Councils Association of South Africa" (Rhodes University, ISER Working Papers, No 20, 1984).

DIAGRAM 1 : LOCAL GOVERNMENT IN RELATION TO THE SOUTH AFRICAN HIERARCHY OF GOVERNMENTAL INSTITUTIONS



Appendix 2

