

DEMOCRACY IN ACTION

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It is important to remind ourselves that transition at the local government level is still saddled with the crisis of legitimacy. Because we came through the crisis of legitimacy at the national and regional level with such flying colours, one almost assumes that we have solved the problem at the local level as well. Nothing can be further from the truth. Constitutional transition at the local level very much follows the same logic as constitutional transition at the national level. At the national level we first went through a period of negotiation, then a very brief period of an appointed phase, the so called TEC phase, and now finally into the elected phase. The local government Act determines the same three phases for transition at this level. There is a negotiated phase during which you either negotiate a TMC (Transitional Metropolitan Council) or a TLC (Transitional Local Council) depending on whether it is a "stand alone town" or a metropolitan area. Once these have been negotiated, you are then into an appointed phase, and you have an appointed TMC or TLC and these then effectively govern at the local level until the elections. The elections appear to be due towards the end of next year, in other words round about October/November, 1995. Although transition at the local level follows the same kind of logic as the national level, there are also very important differences. One of the most important differences is

that far greater responsibility for finalising transition at the local level rests on the people who have to negotiate. For example, at the national level, small expert teams determined the number of provinces, determine the contents of a Bill of Rights, determined in fact most of the clauses of an Interim Constitution. The full plenary of the negotiating group at the World Trade Centre very seldom were involved in prolonged debate about every one of these problems. Secondly, when the negotiations were concluded there was an Independent Electoral Commission who could oversee the process of elections in terms of the Electoral Act. We were then confronted with an Interim Constitution in terms of which the new government could begin to govern and the election itself was on the basis of proportional representation within regions and nationally. At the local level, it is expected that negotiating committees as well as the subsequently appointed TMC's determine the powers and duties of the Transitional Metropolitan Council in relation to metropolitan sub-structures to determine the number of metropolitan sub-structures, as well as the number of wards within them and also to set up voters rolls and prepare for local government elections. In fact, the Act expects ordinary people to take a range of critically important decisions over matters where they simply do not have the technical competence to take such decisions. For example, whether in terms of Schedule 2 of the Act all the services proclaimed under this section should fall under a Metropolitan Council or whether some of them should be wound down to metropolitan sub-structures, i.e. such as the bulk supply of electricity, water, and sewerage. The whole question

of looking after cemeteries, libraries and so forth. The negotiating committee as well as subsequently appointed councils will have to take responsibility for the administration of these services. Another important difference is that to a certain extent given the high profile nature of the negotiations at the national level, the public out there were much better informed about progress in negotiations and the issues that were involved. This is certainly not the case at the local level. In most cases the general public have very little appreciation or understanding of the ramifications of the Local Government Transition Act, nor of the outcome of negotiations as such. So there is an enormous responsibility for communicating the kind of changes that will take place in the very near future at the local level. Perhaps the most important difference of all is that transition at the local level will affect people in a very concrete and immediate sense. It will affect them in terms of basic services that they have taken for granted or expect to be improved, as well as the redistribution role that local government will have to play in order to do away with the very severe inequalities and imbalances that have been inherited from the past.

The reason why I stress the crisis of legitimacy at the local level, as well as these additional and important problems just mentioned, is that at a national level, having solved the crisis of legitimacy, we are now squarely faced with the problem of delivery. The promises that have been made and the expectations that people have of how transition is going to improve the quality of life for them. Most of this is contained in the

Reconstruction and Development programme. This programme is formulated at a fairly high level of abstraction at a national and regional level. It is at the local level that this programme will enjoy concrete manifestation and at the local level where the crisis of delivery will be felt most acutely. Consequently we face the daunting prospect at the local level that the problems of legitimacy and delivery will have to be confronted at the same time. Let me give a concrete example. Since the mid-80's until now, we have had a rates and rent boycott in most of the black townships. The reason why we have had such a boycott has often been justified because of the lack of legitimacy of local government bodies governing the townships. The argument has always been that once the crisis of legitimacy has been solved, then people will return to the previous system of being prepared to pay for such services. Well, we are now beginning to approach the resolution of this problem. However, before elections at the local level can take place, we have to move through an appointed phase and we move into this appointed phase exactly at the time when expectations for delivery are at a premium. It is the difficult task of an appointed local body to now tell inhabitants of townships, not only that they will have to pay for services, but that if they do not pay for such services, there will be some kind of punitive action taken against them. This they have to do in a run up to a period of local government elections, as well as try and implement the projects and programmes of the Reconstruction and Development Programme. It does not take a super intelligence to conclude that somewhere along the line people are going to turn around and

say, "But who are you? Who elected you? What legitimacy do you have to demand of us that we should do these things that you command us to do?"

There is no doubt that some tough and unpalatable decisions are going to have to be taken either at a local or the national level if we are going to have effective reconstruction and development. Let me give you an example in this regard. There is no way we are going to have an effective housing programme get off the ground if government is not prepared to take a tough line on people who invade vacant land destined for development purposes or who illegally occupy houses that are actually supposed to go to people who are on waiting lists. There is no way in which there can be any kind of effective development programme in communities if they are disrupted by arbitrary populist action in which people are taken hostage or public property is wilfully destroyed. It is going to be the unenviable task of local government to see to it that action is taken in this context. And they will do so without knowing to what extent they have the backing of the electorate at the local level.

Is there a way out of this dilemma. I believe there is and it is of a twofold nature. In the first place, the legitimacy that national and regional government enjoys will have to be used to assist the appointed bodies at local level to deal with some of these very difficult problems. It cannot be expected of appointed bodies at the local level to take tough decisions without the legitimacy conferred on to it by the national and

regional structures of government. Firm guidance on land invasion, illegal occupancy of houses, arbitrary and destructive political populism will have to come from the national and regional government, because if such leadership does come, it will facilitate the task of appointed bodies at the local level to act in accordance with such leadership. If the national and regional leadership avoids coming to terms with these very difficult and tough decisions, they will make the task of the appointed bodies at the local level virtually impossible. But secondly it is also the task of voluntary associations and organisations at the local level, the so-called components of civil society to come forward and assist these appointed bodies to bring about the co-operation of the communities in these difficult areas of decisionmaking. There must be effective community mobilisation around issues such as housing, payment of services and the illegal action of certain sections of the community to ensure that delivery can take place and that there is stability in government at the local level.

Of course what is absolutely essential is that elections take place as soon as possible. Again here we face some very grave and difficult logistical problems that will have to be overcome. Let me mention one or two. For example, who is going to be an eligible voter at the local level? What about a lot of foreigners who have settled down in towns and metropolitan areas. Are they entitled to vote? How does one distinguish between them and genuine citizens of South Africa? How do we set up effective voters' rolls after wards have been demarcated. These

are the kinds of logistical problems that will have to be solved before we can actually have effective elections at the local level. Because of these and other problems there is some trepidation about the possibility of holding elections at all in 1995, and there is even talk in some quarters that we may have to have elections only in the first quarter of 1996. This effectively means that from now until then, appointed bodies will be saddled with the task of maintaining stability at the local level and providing efficient government services. This is indeed a very serious and daunting challenge.

An additional and perhaps complicating factor is that in your three major metropolitan areas at regional level, you have different political parties in control. In the Western Cape, predominantly National Party, in the PWV ANC, and of course in Durban Pinetown Westville, the Inkatha Freedom Party. These political differences will also play a role in the manner in which local government is implemented and begins to work until the elections. And there is the additional danger that the local government issues will be exploited for short term political purposes and partisan gains. What is perhaps even more necessary at the local level, is what we had at the national elections. The determination on the part of all parties to contribute to stable and legitimate, and as far as possible fair and free elections so that we could tackle the problems of delivery with a high degree of legitimacy. Of course, if we have this kind of commitment at the local level, many of these problems can be overcome. However, as I pointed out right at the outset, we have

not got the luxury of first solving the crisis of legitimacy and then tackling the problem of delivery at the local level. Both these problems have to be faced at the same time, and it is often very difficult for politicians to resist the temptation to use delivery issues to compound a crisis of legitimacy at the local level. It is going to take a very strong commitment from all parties to prevent delivery problems from bedeviling our ability to solve the crisis of legitimacy at the local level. But, it can be done.