



*National Democratic
Institute for
International
Affairs*

**THE ANGOLAN STUDY MISSION
ON LOCAL GOVERNMENT AND
INTERGOVERNMENTAL RELATIONS
TO SOUTH AFRICA**

July 1 to 12, 1996



NATIONAL DEMOCRATIC INSTITUTE FOR INTERNATIONAL AFFAIRS

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NATIONAL DEMOCRATIC INSTITUTE FOR INTERNATIONAL AFFAIRS

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The Angolan Study Mission was organized by
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EXECUTIVE SUMMARY

From July 1 to 12, 1996, the National Democratic Institute for International Affairs (NDI) sponsored a study mission to South Africa on local government and intergovernmental relations. A joint delegation composed of three Angolan government officials and two representatives of the National Union for Total Independence of Angola (UNITA) party held meetings with national, provincial, and local level officials who have been directly involved in South Africa's democratic transformation. All of the Angolan delegates will be involved in the design and implementation of new local government structures in Angola once the Lusaka Accord has been fully implemented and peace and stability secured. They will also be directly involved in the political integration of opposition officials into a unity government at central, provincial and local levels toward the end of this year. (Appendix I: Biographies of the Members of the Delegation).

This study mission was the second in a series of study missions and workshops NDI is conducting in the context of the Angola Democracy Studies Program. The goal of these study missions is to provide opportunities for Angolan civic leaders, government officials, and politicians to gain firsthand knowledge of certain aspects of successful democratic transitions in countries that have faced challenges similar to those in Angola. The Angola Democracy Studies Program is funded by the National Endowment for Democracy.

Angola is faced with the political and logistical challenge of developing a multiparty democracy, establishing the rule of law and incorporating UNITA into the government at the national and local levels in a society divided by more than 30 years of war. As part of that process, UNITA officials are to begin before the end of this year to assume specific posts in provincial, municipal and communal administration, and the government has begun a three-year decentralization plan that will increase the powers of provincial government and lead to development of autonomous, elected municipal administration. Currently, state administration is highly centralized, with provincial and local government officials acting essentially as representatives of the central government.

Integration and decentralization are being conducted in an atmosphere of profound distrust and within local institutions and a civil society underdeveloped and fractured due to a legacy of centralized control and the effects of war. In this environment, UNITA is expected to transform itself from a hierarchical military organization into a political and administrative organization, while the former one-party government is expected to share power at all levels and rebuild and develop a local administration that virtually ceased to exist during the war.

This study mission aimed to facilitate these processes by exposing those who will be involved in carrying out these changes to relevant aspects of the South African democratic transformation, which was also characterized by profound distrust between the parties that would eventually work together to create an entirely new political system. Other important parallels between the South African and Angolan situations include the prominent role of traditional authorities at local levels and the need not simply to create democratic government structures but to incorporate people of parties who were once violently opposed to one another in order to make the new structures work.

In addition to providing factual information that might afford insights into ways of addressing the technical and political challenges Angola faces as it reconstitutes its political system, the study mission was designed to provide a shared experience of South Africa's successful transition and reconciliation process for Angolan government and UNITA officials who will be centrally involved in their own transition. The study mission afforded government and UNITA officials a rare opportunity to live and work side by side as a group of Angolans gathering information for a shared enterprise, rather than as two groups sitting on opposite sides of a negotiating table. This is the first time that government and UNITA officials have ever discussed these issues together outside of the Joint Commission, a multilateral body responsible for overseeing the implementation of the Lusaka Protocol. For all but one of the delegates, this was the first time that they had ever participated in joint activities on a professional level with members of the 'opposing' side. The exception was a member of the Joint Commission, although he pointed out that his role in the Joint Commission had never permitted him the opportunity for the kind of sustained contact, both informal and professional, with members of the government that the study mission afforded him.

The study mission focused on two broad themes: the political and technical challenges surrounding the restructuring of local government authorities in South Africa, to provide for integrated, representative, and democratically-elected local structures; and the establishment of new relationships between central, provincial, and local government. (Appendix II: Terms of Reference).

Within these two themes, the mission addressed five specific issues, which reflect the concerns raised in consultations with relevant government and UNITA officials during the planning of the study mission:

- the negotiation process leading to the transformation of government structures at all levels, but particularly new local government bodies;
- the division of powers and functions between central, provincial, and local government;
- political integration in the new government structures, especially at provincial and local levels;
- the role of traditional authorities in local government; and
- political accommodation and reconciliation at the community level, and the role of government, religious entities, and civil society in this process.

To address these issues, the delegation met with national, provincial and local level politicians and civil servants who were directly involved in designing and implementing new government structures in South Africa. South African participants included national and provincial cabinet ministers, national and provincial directors of government departments, multiparty commissions created to deal with key transition issues, such as the Commission on Provincial Government and the Fiscal and Financial Commission, members of national and provincial parliament, local mayors and councillors, traditional leaders, community activists, members of religious organizations, and civil servants. The South African participants represented a range of political perspectives, as members of the African National Congress (ANC), the Inkatha Freedom Party (IFP), and the National Party (NP) all figured in the program. (Appendix III: The Itinerary of the Angolan Study Mission).

The Angolan delegates came away from the experience with the conclusion that the South African transformation is not a 'miracle', but the result of careful, self-conscious and determined efforts by people on all sides and at all levels to bring about change. One member of the delegation praised the relevance of the study

mission, saying, "... in particular to meet with various political and nonpolitical people all working with the same objective is something we can take home as we continue to implement the Lusaka Protocol." The Angolans gained a deep appreciation for the importance, and the difficulty, of consciously creating and sustaining a climate of tolerance and reconciliation. While reluctant to draw conclusions about the implications of the South African experience for Angola's own situation, all of the delegates pointed to this realization as the most important point of the trip. The delegates were particularly interested in examining how compromises negotiated between high level officials could be successfully transmitted to each party's social base, without endangering that base as a source of support.

The delegates also agreed in identifying what they believe is a crucial weakness in the South African transformation: the failure of socioeconomic transformation to keep pace with political integration. While the Angolan participants realized it was not possible to effect major economic change over night, they questioned whether representatives of nonwhite communities had done enough during the negotiation process to ensure that historically disadvantaged areas will ever be able to catch up. In the Angolans' view, the extremes of wealth and poverty that still exist side by side could eventually be the undoing of South Africa's hard won political change.

KEY FINDINGS OF THE ANGOLAN DELEGATION

Because of the political context in Angola, specifically the fact that political integration has not yet taken place, the participants on this joint government-UNITA delegation were not asked to draw conclusions as a group. As a rule, members of the delegation were reluctant to specify the lessons they would take away from the experience for Angola, saying they wanted to wait until they had had time to digest the information they had gathered, make a comparative study or discuss the mission with colleagues in Angola. This reticence was also no doubt due partly to a reluctance to speak freely about Angolan politics in a politically mixed group. However, there was a good deal of common ground in the individual responses NDI received about 'lessons learned' from the trip.

- *"It is necessary that the two sides deliver themselves completely, and with good faith and a spirit of tolerance, to one another...."* On the overall experience of participating in a mixed government-UNITA delegation, the delegates were overwhelmingly positive. Although they arrived at the airport in Johannesburg on the same plane, they had not yet met one another and when NDI staff introduced the government and UNITA delegates to one another, the tension was visible. Within a very short time however the group seemed completely at ease and spent a good deal of their free time together as one group. After the first day, there was very little to indicate that the delegation was composed of representatives of two distinct political groups that have been at war with one another for thirty years.

All of the delegates said that this was the first time they had had the opportunity for prolonged social and professional contact with anyone from 'the other side'. As one delegate put it, "the way in which the visit was organized permitted the 'reunion' of the Angolan delegates [of the government and UNITA].... This was quite a positive experience as it emphasized what we learned during this trip, which is that first and foremost, it is necessary that the two sides deliver themselves completely, and with good faith and a spirit of tolerance, to one another...." They agreed that finding ways to build constructive dialogue and confidence between parties in conflict was one of the most important topics raised by the study mission.

- *The South African transition is, in fact, relevant to the Angolan situation.* The delegates came away with a new perspective on the South African transformation. Viewed from afar, many had seen it as a unique case, a 'miracle' with few lessons for the rest of the world, or little relevance to the Angolan situation. However, on the study mission the Angolans gained an appreciation of the difficulty of the process and the exhaustive negotiations and determination required to make it work. While they expressed the belief that the experience still could not be copied elsewhere, they were surprised to find that key elements of the South African case, such as the challenges of the negotiation processes that went on at all levels, were similar to Angola's own challenges.
- *Other nations should be encouraged by South Africa's success.* The delegation was encouraged by the success of South Africa's negotiated transition. As one delegate said, "I concluded that, through permanent dialogue, national reconciliation among different parties with very different perspectives is possible. It is important to cultivate a culture of tolerance and mutual respect to build a single country that will serve everyone."
- *There existed a sense of nationhood among South African national negotiators from all parties and they were committed to separating party interests from the national interest.* The delegation found this to be surprising in light of the conflict and enforced separation that has characterized South Africa for so long. One delegate commented on the fact that the key negotiators and new government officials

even seemed to have developed a personal interest in seeing the process through to a successful conclusion.

- *There is a correlation between the success of the political transformation and progress on social and economic development and integration.* Usually this was expressed as a fear that if greater progress is not made in the socioeconomic development for disadvantaged zones in South Africa, the new democracy could be in danger. One member of the delegation wondered whether the negotiators had not acted precipitously by placing too much emphasis on gaining a political settlement without creating guarantees for socioeconomic improvement for disadvantaged populations. The group was clearly struck by the contrasts between the townships of Alexandra and Soweto and the prosperous areas of Sandton and Rosebank.
- *In comparison to their South African counterparts, Angolan local governments do not have the same motivation for finding solutions to their problems.* With the extreme socioeconomic disparities it had created, the apartheid system produced strong motivations for South Africans to attempt to push for change and to try to find solutions together. One member of the delegation pointed out that the existence of so much initiative at all levels, from national level to the grassroots, was a positive factor in South Africa's transformation, and he contrasted it with the situation in Angola, where local government is accustomed to playing a very limited role, awaiting instructions from the central government. He added that this was likely to make restructuring local government very difficult in Angola.
- *Political transformation carried out through multiparty negotiations, rather than through formal legal institutions, could weaken the rule of law.* One member expressed concern that a negotiation process could have the effect of weakening legal institutions and the rule of law in general, as it put power in people rather than institutions.
- *South Africa's practice of giving more power for the provinces could be usefully applied in Angola.* One participant ventured on his written evaluation that the idea of giving more power to the provinces is one that could usefully be applied to Angola, partly as a way to encourage decentralized economic development. Currently, only *municipal* government is expected to be fully autonomous.

BACKGROUND TO THE ANGOLAN SITUATION

Angola is faced with the political and logistical challenge of developing a multiparty democracy, establishing the rule of law and incorporating UNITA into the government at the national and local levels in a society divided by more than 30 years of war. As part of that process, UNITA officials are to begin this summer to assume specific posts in provincial, municipal and communal administration, and the government has begun a three-year decentralization plan that will increase the powers of provincial government and lead to development of autonomous, elected municipal administration. Currently, state administration is highly centralized, with provincial and local government officials acting essentially as representatives of the central government.

Integration and decentralization are being conducted in an atmosphere of profound distrust and within local institutions and a civil society underdeveloped and fractured due to a legacy of centralized control and the effects of war. In this environment, UNITA is expected to transform itself from a hierarchical military organization into a political and administrative organization, while the former one-party government is expected to share power at all levels and rebuild and develop a local administration that virtually ceased to exist during the war.

Recent Political History

Following years of civil war involving the governing Popular Movement for the Liberation of Angola (MPLA) and the rebel UNITA, Angola is attempting to restore itself politically, economically and socially. The same political party has ruled Angola since independence in 1975, when the MPLA came to power as the result of an armed struggle that pitted it not only against the Portuguese colonial power, but against other armed liberation movements in Angola, notably UNITA and the National Liberation Front of Angola (FNLA) as well. The MPLA was established as both a guerrilla movement and a political party, in which the military and civil service were perceived as the party's instruments. Until very recently, there has been little distinction between the ruling party and the state, or between central and local policy making.

In 1990, the government moved to abandon the one-party system and allow political competition. The 1991 Bicesse accords provided for a cease-fire between the warring parties, the establishment of a unified armed forces and multiparty parliamentary and presidential elections. The results of the 1992 elections, in which the MPLA gained a majority of votes for the presidency and parliament, were not accepted by UNITA and the country was plunged back into civil war.

The 1994 Lusaka Protocol and the subsequent United Nations (UN) approval of the UN Angola Verification Mission (UNAVEM III) laid the foundation for the current cease-fire and peace process to begin anew the transition to reconciliation and democracy. On March 1, 1996, the President of Angola, Eduardo dos Santos, and the President of UNITA, Dr. Jonas Savimbi, met in Libreville, Gabon, in what was their fourth meeting since the signing of the Lusaka Protocol. The two leaders agreed that 18 UNITA generals would be integrated into the national army and concurred on extending the mandate of the National Assembly. They also agreed that by July 1996 UNITA should be integrated into government positions at the national legislative, provincial and local level specified in the Protocol. In May, dos Santos declared general amnesty for participants in the civil war since 1991, which began the process of integrating UNITA officers into the army. Also in May, the UN voted to extend the mandate of UNAVEM III for three more months, eliciting promises from UNITA that the numbers and quality of soldiers being quartered would improve.

To date, an estimated 52,000 of UNITA's 62,500 soldiers have entered quartering camps. In June,

increased discontent over socioeconomic conditions led to calls for protest demonstrations and compelled dos Santos to strengthen measures to stabilize the economy and replace the prime minister and members of his cabinet. While the move reflects the desperate state of the economy, it may result in a stronger commitment to improving the economic, political, and social problems in Angola. UNITA leader Jonas Savimbi rejected President dos Santos' long-standing offer for one of two vice-presidencies in the planned national unity government, citing his reluctance to share the post. It remains unclear how this move will impact the political transition process.

Local Government and Decentralization

The Lusaka Protocol grants UNITA specific posts in provincial, municipal and communal administration, including three provincial governorships, seven deputy provincial governorships, and 140 local administrative positions. This integration process is being conducted in an atmosphere of profound mutual distrust and within underdeveloped local institutions. At the same time, the government of Angola has begun a three-year decentralization plan with the elaboration of the legislation concerning local administration and eventual municipal elections. Local governments are to be modeled on the Portuguese system of municipal councils with elected councillors and council presidents. The council reportedly will be responsible for such local duties as water and electricity provision, trash disposal and control of markets and will have the authority to tax.

With decentralization, provincial level government organs will remain partially subordinate to the central government but will be given increased autonomy in investment and human resource management. Currently, in areas where provincial and local government is functioning, these bodies receive resources from the central government, as well as from international NGOs, and have some say over how the money is spent.

As this wholesale reform of local government takes place, the Angolan government faces the immediate task of establishing provincial and local administration in areas where it has not existed due to the war, primarily in UNITA-controlled areas. This includes the installation of appointed MPLA and UNITA administrators with adequate resources to provide basic services during the transitional period until local elections are held.

BACKGROUND ON THE SOUTH AFRICAN POLITICAL TRANSITION¹

Negotiating the Transition

At the end of 1991, four years after the government and Nelson Mandela first began 'talks about talks', and almost two full years after the unbanning of the ANC and other opposition political organizations, twenty representatives of political groupings from across the ideological and racial spectrum sat down to discuss the construction of a fully representative, nonracial and democratic system of government for South Africa. This initiative, known as CODESA (Convention for a Democratic South Africa), marked the beginning of a long, broken, and difficult series of inclusive negotiations that would eventually lead to democratic, nonracial elections for President and national parliament, elections for local government councils, and a new Constitution written by an elected Constitutional Assembly.

CODESA was followed five months later by CODESA II, which collapsed shortly after it began because of fundamental disagreements between the parties and the ANC's perception that the government was not committed to full-fledged democratic change. Intensification of township violence, supported at least passively by the government, and an ANC-organized mass action campaign of strikes, rallies and boycotts combined to intensify the pressure on all sides to resume the search for negotiated solutions.

In March 1993, multiparty talks resumed in Kempton Park, Johannesburg, under the name of the Multiparty Negotiating Process. This forum produced an Interim Constitution, which was formally approved by the National Assembly on December 22, 1993. The final Constitution would be drafted by the elected Constitutional Assembly.

From April 26 to 29, 1994, South Africa held its first nonracial, democratic national elections. The ANC received 62.6 percent of the national vote, with the NP commanding 20.4 percent and the IFP winning 10.5 percent of the votes cast. These three parties formed a government of national unity. Unity governments were also formed at provincial levels, with parties sharing positions in provincial cabinets.

After the national elections, all parties turned toward preparations for South Africa's first all inclusive local government elections, which were held in all but two provinces in November 1995. Elections were delayed in Western Cape and KwaZulu-Natal provinces, due to political and technical disputes. Local elections were finally held in the Western Cape on May 29 and in KwaZulu-Natal on June 26, 1996.

Local Government

Prior to the approval of a new Interim Constitution in 1993, all levels of government in South Africa were segregated on the basis of race. Local government in urban areas followed strict racial lines, with Black Local Authorities, White Local Authorities, and Indian and Colored Management Committees created to oversee local affairs in each of these areas. In rural areas, there were virtually no formal local government structures.

¹ This section draws on some of the briefing materials the delegation received prior to the beginning of the study mission. In addition to providing background on the creation of new local government structures, these briefing materials included information on the role of traditional authorities in local government and on the three levels of government in South Africa and the relationships between them, as well as a chronology of the transformation process from February 2, 1990 to June 26, 1996. (Appendix IV: Chronology of the Political Transition in South Africa; Three Tiers of Government; Local Government Restructuring; The Process of Local Democracy).

Urban local authorities were responsible for service delivery and local regulations like health codes, town planning, and building codes. By 1982, local authorities, including elected councils, for all racial groups had been created. However, Black Local Authorities enjoyed very little legitimacy in the eyes of the communities they were supposed to serve, as these structures were seen as collaborators with the apartheid government. Moreover, Black Local Authorities often had neither the administrative nor the financial resources to deliver services effectively in their communities. Black Local Authorities received about 10 percent of the resources white areas received.

As a result, black communities in the urban areas and towns did not participate in significant numbers in the elections for these local authorities, and they organized rent and service boycotts. By the late 1980s, the 'townships' had become virtually ungovernable, as a combined result of boycotts and violence. Beginning in the early 1990s, some urban areas independently began their own processes of negotiation between white, black, and Indian and Colored local authorities in an attempt to address the problems that led to rent and service boycotts in the nonwhite areas. In Soweto, Alexandra, Kimberly, and Benoni, these talks led to formal agreements to create joint local authority structures for white and nonwhite areas, well before national legislation provided legal authority for such arrangements. Civic associations played a crucial role in these negotiations as representatives of the black community and in 1991 'the civics' came together to forge the South African National Civics Organization (SANCO).

Also in 1991, the South African government passed the Interim Measures for Local Government Act, which sought to formalize and control the informal negotiation processes that had begun spontaneously at local levels. This Act, which was widely perceived as an attempt to limit the extent of the new arrangements, was superseded by the Local Government Transition Act (LGTA) of 1993.

The LGTA was the product of negotiations which began in March, 1993 between SANCO and other allied institutions (such as the ANC, the Congress of South African Trade Unions, and the South African Communist Party) on the one hand and the government Ministry of Local Government on the other. The Local Government Negotiating Forum, as the negotiating group came to be called, included 30 representatives from each side and was carried out under the umbrella of the larger CODESA negotiating process.

The Local Government Negotiating Forum also produced the draft for Chapter 10 of the Interim Constitution, which together with the LGTA and the Agreement on Finance, Services, and Service Rendering provided the legal framework for the restructuring of local government in South Africa.

The transition from the apartheid structures to democratic, integrated and representative local government was to occur in three steps. In the first phase, which comprised the period between the promulgation of the LGTA in February 1994 and the first local elections in November 1995, two things happened. First, integrated local government negotiating forums were created. Next, these forums were given the task of choosing one of three models for creating transitional integrated local government structures. These structures were Transitional Local Councils (TLCs), Transitional Metropolitan Councils, and Local Government Coordinating Committees. In the first two options, entirely new entities were to be created, with half of the council members coming from existing governmental bodies and half nominated by those groups that had previously been excluded from power. Local Government Coordinating Committees would be created wherever the local forum decided to leave existing structures in place and create an umbrella body to coordinate service delivery in the different areas. By February 1995, 91 percent of the new transitional structures had been created.

The next phase began with local elections, which were held in all but two provinces in November 1995. Because of technical and political disputes, elections were delayed in the Western Cape and in KwaZulu-Natal.

Local elections were held in the Western Cape in May 1996 and in KwaZulu-Natal in June 1996.

The newly-elected local councils are still known as 'transitional councils', since they were elected in terms of the Interim Constitution of 1993, which provided for guaranteed representation of minorities. The next elections will be held in three to five years' time, and will be governed by the final Constitution, which was passed by the elected, multiparty Constitutional Assembly on May 8, 1996 and is awaiting final approval from the Constitutional Court.

THE REPORT OF THE ANGOLAN STUDY MISSION CONSULTATIONS

This study mission was designed to provide the Angolan delegation with both factual information and more subjective, personal accounts by the people who were directly involved in the process of building politically integrated and democratic national, provincial, and local government structures in the 'new South Africa'. The mission was structured so as to expose the delegation to participants in these processes from across the South African political spectrum, and highlighted issues such as the following: the extensive role that negotiation, compromise, and flexibility played in bringing about the South African transformation; confidence-building during the negotiation process; and the productive role that well-planned interaction between technical teams and the political principals they serve can play both in building trust and in creating technically and politically sound compromises.

What follows is an account of South Africa's transformation process as presented to the delegation over the course of the study mission, with emphasis on the five concrete themes outlined in the Executive Summary. The report is structured in this way in order to give the reader a sense of the exchange between South African and Angolan participants, as well as a clear idea of what the Angolans gained from the experience.

Constitutional Negotiations and the Government of National Unity

The delegation had the opportunity to discuss the challenges of the transitional period, the constitution-making process and the dynamics of the government of national unity with Mohammed Valli Moosa, Roelf Meyer, and Ben Ngubane, who served as top negotiators for the ANC, NP, and IFP, respectively, during the first constitutional negotiations from 1991 to 1993. All three men went on to become cabinet ministers in the government of national unity. Moosa is currently Minister of Provincial Affairs and Constitutional Development; Meyer was Moosa's predecessor in that position and is now Secretary-General of the NP; and Ngubane is Minister of Arts, Culture, Science and Technology. The delegation also met with Pravin Gordhan of the ANC, who is a member of the National Assembly and the chairman of the parliamentary committee on constitutional affairs. As chair of the national negotiations at Kempton Park, Gordhan presided over key moments in the transition process.

For Moosa, a longtime official of the ANC, the two most difficult hurdles in the transition were getting the government to agree to talks in the first place, and then creating the proper climate for negotiations. With respect to the latter, he raised the question of what it means to trust the other side, and suggested that some believed it meant becoming friends with them. Moosa disagreed with that perception, saying that if the two sides were, in fact, friends and had treated each other as such, there would be no need for a formal negotiated settlement. Instead, he argued that trust is created when both sides comply with commitments, and that it was not necessary to befriend former enemies in order to reach an agreement.

After both sides agreed to negotiate, they were faced with the question of deciding who else should be invited to sit at the table. There were many parties created by the apartheid system which the ANC and its allies considered illegitimate, just as the South African Communist Party and others were anathema to the government. In order to avoid battles over legitimacy, the two sides agreed to include everyone, which meant that there were twenty parties at the table.

Gordhan's account of the breakdown of CODESA provided the delegation with insight into the kind of negotiating strategy that enabled the ANC to remain firm on its positions without running the risk of destroying whatever goodwill had been established. In May 1992, talks finally failed because the government was not

willing to permit the new Constitution to be drafted by an elected body. The ANC was not prepared to give in on this point, and subsequently announced that it was withdrawing from talks. However, a channel remained open between designated contact people in the ANC and the government (Ramaphosa and Meyer), and this channel was kept open even while the ANC and NP were publicly at each others' throats. Four months later, the government and the ANC signed a Record of Understanding, in which the government agreed that the new Constitution would be written by an elected Constitutional Assembly.

This story is reminiscent of Milne's account of joint technical committees who worked behind the scenes to reach agreements that their political negotiators could accept (see section on local government negotiations, below). Although Ramaphosa and Meyer are not technical advisors but top political negotiators, several accounts of this period suggest that the personal relationship they forged in the course of the negotiating process was crucial to the successful conclusion of negotiations. Again, this evokes Milne's point, which was reinforced in the group's discussion with Moosa, that personalities and interpersonal relationships, rather than ideology, played a preponderant role in negotiations at all levels.

Ngubane, top negotiator for the IFP during national level negotiations at CODESA and Kempton Park, for the most part echoed these conclusions. He also emphasized the importance of the fact that on all sides there was a strong desire to find a solution, and that even when groups like the IFP withdrew from formal negotiations, channels were kept open and dialogue continued.

For Ngubane, the greatest difficulty in the negotiation process was the fact that the IFP, along with the other parties, came to the table with very strong ideas and attempted to impose these ideas on the other parties. For example, the IFP was coming from a position of power in the KwaZulu-Natal homeland and had a strong constituency of traditional authorities, whose support they feared losing. However, as talks moved on from discussing each party's ideas and fears to discussion of concrete issues, progress was made. According to Ngubane, the negotiations provided an important lesson: that the party could stand firm on what it considered fundamental principles but still reach compromises with other parties.

The Angolan delegation was interested to hear about the dynamics of the government of national unity, and the significance of the NP's decision to withdraw from it in May 1996, after the final Constitution was passed. In this as in other meetings that dealt with multiparty negotiations at various levels, the Angolan delegation was interested to know how cooperation with the opposition affected a political party's social base, since much of that base had been built on the idea that the opposition was the enemy.

Meyer downplayed the difficulties of participating in a unity government, despite his party's recent decision to pull out of that government. He did provide an important insight into unity government dynamics, however, by pointing out that there were often clashes between members of the NP serving in the national cabinet and those serving in parliament. While the former were part of the government, the latter were the opposition. This created a good deal of tension within the party, especially over particular issues such as the creation of the Truth and Reconciliation Commission and the Labor Relations Act, both of which were supported by NP cabinet members and opposed by most NP members of parliament. In addition to providing a strong test of party leadership, this tension had the potential to affect the NP's social base, as it made it difficult to campaign with a distinct position.

Meyer was asked whether the withdrawal of the NP from the unity government will endanger the process of reconciliation in South Africa. He acknowledged that since the party would no longer be contributing to government decisions, it would be easier for them to doubt and criticize the government. He said it would be

important for the NP to try to play a constructive role as a main opposition party, placing the national interest above party interests, while acknowledging that this would not be easy.

Meyer pointed out that the process of national reconciliation in South Africa has been constructed to a great extent around Nelson Mandela and former president FW de Klerk. Their cooperation was a visible symbol of national reconciliation, and after they are gone the NP will have to find other ways to guarantee continued cooperation.

He noted that South Africa's transformation process over the last six years has been characterized by 'heroes', people whose commitment to making the process to work through peaceful negotiations has made them larger than life. However, he argued that if reconciliation is to continue and if the system is to be consolidated over the next six years, it will have to do so not around heroes but around common interests. The ordinary politician's job will be to identify the common interests that bring South Africans together.

Building New Local Government Structures: The Negotiating Process

The delegation received a comprehensive overview of the history of local government in South Africa over the last twenty years and of the processes leading up to negotiations and construction of the current system. Minister of Provincial Affairs and Constitutional Development Mohammed Valli Moosa, former chair of the Johannesburg local government forum and current coordinator of the Local Elections Task Group Vic Milne, former mayor of Pietermaritzburg Rob Haswell, and local councillors all shared their insights and experiences on these issues. Their detailed treatment of this transition process helped to clarify that South Africa's transformation was not a miracle, but is instead the product of long-term, painstaking negotiation, whose future is by no means guaranteed.

Negotiations in Gauteng Province

Milne, who has been involved in Johannesburg city government for forty years, sketched the backdrop to the first formal talks on improving local government in the nonwhite areas, which took place in Johannesburg at the end of the 1980s. Prior to 1973, all urban areas had municipalities for each part of the city, for each racial group. During that time there was one municipality that included Soweto, Dobsonville, and Johannesburg. In 1973, the system changed when the NP government ordered all 'black areas' to be removed from the city limits. Different local authorities were created for black, white, Indian and coloured areas. In the early 1980s, the tricameral parliament was instituted, which had separate representation for whites, Indians, and Coloreds. At the same time, Black Local Authorities, or 'black municipalities', were created in an attempt to justify the exclusion of blacks from the tricameral system.

The new municipalities created for black areas had two major problems. First, the new structures were seen as part of the racist system and were therefore considered to be illegitimate in the eyes of the majority of the population. In the first elections for the Soweto local council, only 6 percent of the people voted. Second, the new municipalities had a very limited financial base and therefore could never be on an equal footing with white authorities that had more resources to provide better services to their communities.

In the 1980s, the government searched for ways to calm the growing unrest in the 'black areas'. In 1984, Regional Service Councils (RSCs) were created as a first attempt at multiracial local government. White Local Authorities, Black Local Authorities, and the Indian and Colored Management Committees all nominated representatives to the RSCs, which were responsible for providing 'bulk services' to all of the areas represented,

and for generating and distributing financial resources. According to Milne, this represented a real step forward, as it allowed people of different races to sit around the same table and discuss local problems and the distribution of resources.

In 1986, serious boycotts against race-based local authorities began, and people stopped paying the RSCs for housing and services. These boycotts were prompted by objection to the principle of race-based local authorities, coupled with higher charges for services and lower standards of service delivery.

In 1988, the next municipal elections were held for all of the local councils -- white, black, Indian and Colored. In the run up to these elections, the government made a special effort to get people to participate and to see local government as important. Interestingly, Milne described the government's efforts as an attempt to 'depoliticize' the elections. This is an idea that recurred several times in later meetings -- the notion that local government has always been somehow 'apolitical' and has now been politicized under the new system, with negative implications.

The number of people participating in the 1988 elections increased only slightly from the last time, as local authority structures were still viewed as illegitimate by the majority. In Johannesburg, though, these elections brought about two significant changes. First, a completely new council was elected in Soweto. Second, the civic associations, which wielded a great deal of influence in the nonwhite communities, changed their policy and decided to engage with the new local councillors to a limited degree.

At the same time, a number of prominent members of Soweto formed the Soweto People's Delegation (SPD). The delegation included Archbishop Desmond Tutu, Reverend Frank Chikane, Cyril Ramaphosa, Albertina Sisulu, and Isaac Mokgase, among others. These were all high profile people living in Soweto, whom the government could not easily suppress.

In October 1989, the first talks were held between the government and the 'non-statutory groups' (groups that were not part of the current government, such as the civic organizations and the SPD) to try to "remove the political elements from the boycott." By this time, rent and services boycotts had spread throughout the Transvaal. Central government had begun to feel the financial pinch, as without money coming in from service payments the budget previously set aside for the townships was no longer sufficient. These first discussions involved the administrator of the Transvaal province and his executive committee, together with the SPD and the city councillors of Soweto. The SPD demanded improved services, the removal of illegitimate black councillors, the reuniting of the Johannesburg city council, transfers of rental housing, and the writing off of arrears.

At this first meeting, a joint technical committee was appointed to investigate and report on the facts regarding service delivery and the costs and means of improving it. Milne, who was involved in local government negotiations from beginning to end, cites this as an important precedent for the South African transition as a whole. The mechanism of joint technical committees, with no political mandate to negotiate or reach compromise, would come to play a key role in negotiations at all levels throughout the process. Although these technical committees had limited formal mandates, in practice they often became the place where serious political impasses were overcome.

Following the October 1989 negotiations, FW de Klerk's landmark speech of February 2, 1990, diverted attention away from local level to national level negotiations. Local discussions did not resume until July 1990, although between October and July, senior technical advisers from both sides continued to meet, to get to know one another, and to come to a common understanding of their shared problem of how to provide and finance

municipal services.

When the negotiations on local government resumed in July, there were many more participants on the non-statutory side, as a number of organizations had been unbanned in February. Cyril Ramaphosa, who would later become chief negotiator for the ANC in national negotiations at CODESA and Kempton Park and then chair of the Constitutional Assembly, was the first leader of the non-statutory delegation to local government talks.

One of the most interesting and important aspects of these early negotiations on local government is that, while talks began to seek so-called 'technical solutions' to problems of service financing and delivery, they soon were obliged to address the very structure of local government, including racial integration of these structures. These discussions took place four years before South Africa became a nonracial republic. Indeed, these questions had not yet even been broached in national level negotiations. Milne suggested that the joint technical committees unwittingly played a key role in ratcheting the discussions up a notch to address these highly sensitive political issues. The technical committees allowed the two sides to come to a shared understanding of the problems they faced, working as they were in a non-politicized forum. The members of these committees were expected to take technical stands, not political ones, and this allowed them to find some common, objective ground more easily. This shared understanding of the problem faced paved the way for political agreement. The operating rules of the negotiating forum maximized these advantages, since whenever a political impasse was reached among the negotiators, the issue was submitted to the technical committees to be worked over. In their understanding of what had to be done to resolve the problem of governance in the townships, local level negotiators were far ahead of national political leaders.

Milne also cited the importance in these early negotiations of personalities, rather than of institutionalized parties or other organizations. The influence, the perceived impartiality, and each player's understanding of the other players was critical. Some of the most powerful negotiators represented organizations that had little influence in terms of popular support.

The local level negotiations in Johannesburg which began in July 1990 culminated in an agreement in September of that year to establish a metropolitan chamber for Johannesburg, which would consist of representatives of all relevant statutory and non-statutory bodies. This chamber, called the Central Witwatersrand Metropolitan Chamber, began operating in April 1991.

The Chamber divided itself into seven working groups, which were responsible for reaching agreement on specific policy issues and sending these recommendations to the new local bodies. Working groups existed for the Soweto services crisis, constitutional development, institutional development, physical, social, and economic development, and finances.

The Chamber had 17 members, representing provincial and local government and the civic organizations. Initially, political parties were deliberately excluded, in an attempt to depoliticize the process. Later, the Chamber decided that it was neither possible nor appropriate to exclude political parties, since if the Chamber's decisions were to have any impact, they needed the support of the parties. Once political parties were included, the Chamber grew from 17 to 53 members (members were organizations, represented on the Chamber by individuals).

In making the shift from trying to artificially depoliticize the local government reform process to including political parties, the Chamber faced three key problems: convincing the political parties to join the Chamber; deciding which parties to include and which to exclude, if any; and leveling the playing field for the

nonstatutory participants, who had far fewer resources and no experience in local government. Toward this end, financial assistance was given to the nonstatutory representatives to support their participation in the Chamber. Another important question was whether to count the opinions of all participants equally. Should a tiny party representing a small minority of the population be given the same weight as the ANC?

With its new Metropolitan Chamber, the Johannesburg area served as a model for the national level negotiations on local government. Lessons offered by the Johannesburg experience, in addition to those mentioned above on the importance of technical committees and the need to include the legitimate political representatives of all sectors of the community, include the following:

- the importance of continuity in terms of the people who are participating, given the importance of personality and personal understandings in the negotiating process;
- the need to ensure the participation of representatives who have sufficiently broad power and authority to make decisions on behalf of their constituents, without always needing specific approval for every decision; and
- and the importance of enabling legislation (which came very late, in the form of the LGTA of 1993), to provide a framework and the power of law to the negotiations.

As Moosa confirmed, many of these same problems were experienced in national level -- deciding who should be invited to sit at the table, breaking down mistrust between the parties and creating a shared understanding of what kind of changes needed to be made.

Negotiations in KwaZulu-Natal Province

Haswell, now Deputy Town Clerk and former mayor of Pietermaritzburg during the period when the ANC, IFP, and other parties came together for the first time to form a transitional local council, provided a more politically oriented picture of the local government negotiations.

KwaZulu-Natal is one of two provinces in South Africa in which the ANC does not enjoy a majority in the provincial government. The IFP won 51 percent of the votes in the 1994 general election, with the ANC holding 31 percent. Of the ten cabinet seats on the provincial executive council, six are occupied by members of the IFP, and three by the ANC. The cabinet composition mirrors that of the provincial legislature. This means that all parties find themselves forced to come to terms with the others in order to accomplish their goals. This is no easy task given the province's bloody history of political violence between the ANC and the IFP.

Pietermaritzburg, the provincial capital of KwaZulu-Natal, is one of the cities in which the first outbreaks of violence occurred between the ANC and the IFP in 1987. They were also the first and one of the more successful towns in the province to form a multiparty transitional local council.

Eighteen months ago, the first meetings were held in Pietermaritzburg between the IFP and the ANC to discuss arrangements for creating a transitional local government. Both sides regarded each other with a great deal of mistrust. As chair of that first meeting of the local government negotiating forum, Haswell had a number of concerns. First, he was anxious to ensure that the attempt to create a multiparty transitional council not be seen as an attempt to merge the two parties, nor as a surrender of one party to the other. Second, he needed to find a way to overcome mistrust and to emphasize common ground between the two parties, rather than differences.

Haswell reminded those present at the forum that the ANC and IFP had started out very close to one another and had since parted ways, and then he pointed out that the two issues which had separated the parties in the first place no longer existed. The first was whether it was justifiable to use violence to overthrow the apartheid system; the second was over capitalism versus communism.

At this first, hour-long discussion, Haswell asked the IFP and the ANC to answer the same two questions: what was their primary goal in participating in local government; and who made up their constituency. The IFP was asked to answer first on the first question, the ANC was to answer first for the second question. Both parties answered that they were involved in local government in order to help 'their people'. Both maintained that the people they sought to represent were poor blacks. The group as a whole then discussed the fact that these two political enemies had the same objectives. This simple exercise allowed the forum to move fairly quickly on to substantive issues with relative ease. By the end of what was meant to be a 'get acquainted' opening session, the IFP and the ANC were inviting one another to nominate people to fill the positions on the council. At one point, the ANC asked the IFP to nominate someone for mayor, and the IFP representatives admitted that they did not believe they had anyone capable of being mayor, and they asked the ANC to fill the post. In response, an ANC hardliner invited the IFP to nominate a deputy mayor.

With this process, Pietermaritzburg became unique in the province. In other towns and cities in KwaZulu-Natal, the IFP and the NP tended to try to form coalitions to oppose the ANC on the transitional councils. According to Haswell, in Pietermaritzburg ANC and IFP officials worked so well together that senior national level ANC and IFP leaders reportedly became suspicious of their own members there.

The first steps toward multiparty local government were not without problems, however. Haswell noted that some of the white-based parties went to great lengths to undermine ANC-IFP cooperation in Pietermaritzburg, and that they are doing so again at the provincial level. Haswell complained that while the NP campaigned for local government elections on the notion that the IFP and ANC are perpetually in conflict and only the NP could restore peace, after the elections, when the ANC and IFP have begun to explore ways of working together, the NP has done everything to try to thwart those efforts.

The Angolan delegates wanted to know whether the climate of cooperation and understanding growing between the ANC and IFP at high levels in the province was successfully transmitted to the grassroots, and if so how. Haswell said that this spirit had not been successfully communicated to community levels, where the violence between the two parties actually takes place. He blames this partly on national level ANC leadership who initially did not understand the nature of the political conflict in KwaZulu-Natal and therefore failed to call for appropriate action against the violence. However, relations have improved noticeably over the past year, particularly following Mandela's dressing down by traditional leaders of the province, who were assembled to talk about the conflict. During this meeting, Mandela was jeered, insulted and criticized by traditional leaders who were mainly aligned with IFP. At the end of the meeting, instead of getting angry or calling in reinforcements, Mandela said it was clear to him people would have to rethink the situation. This marked, in Haswell's view, the beginning of a new understanding by political leaders on both sides that a solution to the violence in the province could not be found without involving community level leaders, particularly chiefs, in that solution. More importantly, Mandela earned respect as a leader by not 'pulling rank' when challenged. "The drive for peace must come from the local level," Haswell concluded.

The newly-elected Mayor of Port Shepstone, Pauline Duncan, provided an account of the process of building an integrated local council in Port Shepstone. Unlike Pietermaritzburg, Port Shepstone's initial meetings did not go smoothly. In 1993, Port Shepstone was an extremely divided town, with profound distrust between

different races and political communities. Duncan credits the eventual success of the process to the two co-chairmen, who were able to work through the anger and mistrust on both sides. Her central message was a positive one, and echoed what the group heard in a number of meetings: the South African transformation has not been a miracle, but an extremely difficult process which looked fairly hopeless at the beginning. The force of individual personalities and political will were both essential in seeing the process through to a successful conclusion.

In Port Shepstone, there were two major decisions to be made: where to draw the boundaries for the new municipality; and who should participate as nominated transitional local councillors. The local government negotiating forum agreed that half of the councillors would come from statutory and half from nonstatutory, or historically disenfranchised, entities. However, a more difficult question was whether to include local traditional authorities on the council. (According to the Interim Constitution, traditional authorities may be appointed to local councils as *ex officio* members.) In the end, it was the traditional authorities who decided not to participate in the council, despite the invitation of the council, fearing it would undermine their own power.

In April 1995, a forty-member council was constituted, which was, in Duncan's words, a "recipe for disaster" right from the start. The council included significant numbers of people who had extreme views on both sides -- that there should be no change, or that there should be revolution overnight. Duncan attributes a great deal of the success of the council to the chairman, who was able to put aside his own strong political convictions and get the council to focus on developing Port Shepstone.

The newly-elected council, which replaced the transitional council following local elections at the end of June, has 16 members, representing a mix of political parties and independent ratepayers' associations.

Other local councillors and officials that the group spoke with repeatedly cited the importance of the fact that the LGTA, which provided the legal framework for the creation of transitional local councils, was a negotiated law, and that it therefore had at least the formal acceptance of all parties. This made implementing the law at local level much easier. Implementing the law, of course, implied its own separate negotiation process, at the end of which all participants signed an accord which would govern the functioning of the transitional council until the first local elections were held.

Many of the South African participants also cited the importance of this pre-local elections transition period as a period of capacity building, giving those who had never participated in government before the opportunity to learn. This is one of the reasons why the nominated transitional councils were so large. The other reason why is that they had to be inclusive in order to facilitate political reconciliation. The transitional councils were created not only to provide an integrated service delivery base, but to serve as the place where political integration, accommodation, and reconciliation could take place. They were essentially representative negotiating structures, and therefore had to cast their net as widely as possible to ensure that all interested groups would have a stake in the creation of new local government structures.

While the processes of integration and reconciliation are far from finished, the new structures are officially expected to fulfill only the much more limited functions of policymaking and service delivery. In practice, of course, these new local structures will have to carry on the careful work of political accommodation, relying on those people selected through the electoral process, rather than all those who might possibly have a stake in these issues.

Understanding New Urban and Rural Local Government

The delegation had the opportunity to meet with local councillors and officials from six different town and metropolitan councils in the provinces of Gauteng and KwaZulu-Natal: Soweto, Alexandra, Port Shepstone, Margate, Pietermaritzburg, and the Durban Metro Council. The group also discussed the rural local government system that is to be implemented in KwaZulu-Natal. In addition, the delegation was given an overview of new local government structures by Andrew Boraine, National Deputy Director-General for Local Government.

New Local Government Structures

There are 811 newly-elected local authorities in South Africa. These new local government councils are still considered transitional structures, as they were elected in terms of the Interim Constitution, which provided special guarantees for minority groups. Local councils for small cities and towns, called Transitional Local Councils (TLCs) were elected through a mixture of proportional representation and single-member ward systems. Forty percent of council seats were reserved for members elected through proportional representation, while sixty percent of members were elected from wards. The ward seats were further divided into seats from former white and nonwhite areas, so that white communities were guaranteed half of the ward seats on the council, in addition to whatever votes the predominantly white parties gained in the proportional vote. Of course, these guarantees can work in favor of nonwhite communities as well.

For example, the municipality of Margate was created by consolidating four separate 'white' towns and one former township, Gamalakhe. There were 12 wards for all of Margate. Six were split between the four former 'white' areas, and six were allocated for Gamalakhe alone. Thus there were six councillors representing Gamalakhe, which has a voting population of 6,000, while the four former white areas had six councillors representing 12,000 voters. There were seven other councillors who were elected on the basis of proportional representation. The political breakout for the Margate local council is nine ANC councillors, six NP councillors, two independents, and one each from the IFP and the Democratic Party.

For large cities, Metropolitan Councils were created, with representation from the smaller Metropolitan Substructures that constitute them. Each Metro Substructure, which is essentially a local council for a given part of a city, sends representatives to sit on the Metro Council. These nominated representatives make up 60 percent of the Metro Council. The other 40 percent of seats are elected directly to the Metro Council. Substructure councils are elected in exactly the way as the TLCs described above. There are currently five major metropolitan areas in South Africa.

The delegation was interested in hearing about the way in which metropolitan areas were defined, and what criteria were followed in including some surrounding areas, particularly poorer areas, and excluding others. The LGTA of 1993 provides broad guidelines for defining metro areas. They are to be relatively large, densely populated areas which contain several interdependent commercial areas. The LGTA also sets out the powers, functions and duties of the Provincial Ministers for Local Government, in conjunction with a multiparty Provincial Committee on Local Government (PCLG), in creating metropolitan areas. Finally, in each province a demarcation board existed to determine the boundaries of the metro areas, a function which turned out to be highly controversial. So while the 1993 national legislation laid out general guidelines, final decisions on metro areas were made at provincial and local level.

While the demarcation committee could make recommendations, it was the Provincial Minister for Local Government, together with the Provincial Committee on Local Government, who made final decisions on metro

boundaries. In KwaZulu-Natal, the PCLG consisted of three ANC members and three 'opposition' party members. Decisions were made on the basis of a two thirds majority. Ties would be settled in a special electoral court, consisting of South African appeals court justices and their auxiliaries.

Haygarth cited an example of a disagreement over boundaries in the western area of Durban. The ANC wanted to annex 'tribal areas' to the metro area. The PCLG vote on the issue resulted in a tie, and the special electoral court was called to Durban to hear evidence. The final decision was to exclude these areas from Durban, as their population density was too low.

The size of TLCs depends on the size of the population served. In Soweto, for example, there are 70 councillors: 53 from the ANC, 13 from the NP, two from the IFP and one from the PAC and one from the ratepayers' association. In all of the councils we visited, the councils were significantly reduced in size after the elections. For example, Port Shepstone's appointed transitional council had 40 members; its newly-elected council has 16. Similarly, Margate's appointed transitional council had 46 members, whereas the elected council has 19. As mentioned above, this reflects the fact that the first, nominated transitional councils had a very important symbolic significance for the reconciliation process, and had to be more inclusive as a result, as well as serve as a training ground for future local councillors with little experience in government.

Each new local council is served by a smaller executive committee, made up of council members appointed in proportion to their parties' representation in the council. Members of the executive council are assigned specific responsibilities such as housing or health.

The delegation's examination of rural government structures was focused on KwaZulu-Natal. The rural structures set up differ slightly from province to province, as each provincial government was given a choice between a number of models. In KwaZulu-Natal, local elections in the rural areas were to select members of Regional Service Councils (RSCs), which will comprise directly elected members from the rural areas, nominated representatives from local councils in the nearby cities and towns, representatives of commercial farming interests, and traditional authorities. These regional councils are responsible for providing local government services for the region. The bulk of the funding for RSCs is to come from the urban areas in each region. RSCs will be quite large, as the entire province is divided into only seven regions. There could be 100 or more members on any RSC.

One of the key reasons cited for why rural areas were not more often integrated into municipal structures, aside from the reluctance of chiefs and certainly the reluctance of individual urban areas to include them, is the fact that land ownership in large parts of rural areas is communal, held in trust by the chief. This makes it very difficult to collect the basic source of revenue for local government -- property taxes.

Functions of Local Government

Local councils are responsible for the provision of basic services such as water, electricity, refuse removal, and sewerage treatment. In metropolitan areas, the substructures, equivalent to local councils but serving only one part of the metro area, attend to very local issues such as decisions about parks and sports fields, or the construction of a local library. Metro councils then provide basic services like water and electricity for the entire metropolitan area. Local councils can offer these services directly or subcontract them out.

In rural areas, authority is somewhat divided between traditional leaders and the formal structures of rural government. Because elections in KwaZulu-Natal were held only one week before the study mission, the precise

role of traditional authorities in local government is still unclear. In the past, traditional leaders have been responsible for overseeing customary, indigenous law. They have had no authority over infrastructure, budgeting, or the provision of services in local areas. Traditional authorities will be automatically represented on the RSC, although the exact number of seats they will be allocated is still under discussion.

RSCs are responsible for service provision and budgeting in rural areas. KwaZulu-Natal is divided into seven regions, each with its own council. The largest of these regions has 1.3 million people, the smallest 750,000. At the moment, RSCs are the only place rural residents are represented, and they serve as 'primary local authorities' for rural residents. However, over the next ten years or so there are plans to create local councils for 'tribal areas' (where land is communally owned and administered by traditional leaders) and for commercial farming areas. The RSC's will then be responsible merely for coordinating the work of these different councils.

The Angolan delegates expressed concern that this system of separate forms of local government for rural areas would delay socioeconomic integration of these areas. Peter Miller, Member of the Executive Council (MEC) for Local Government and Housing, agreed but cited different systems of property ownership (discussed above) as the reason for maintaining separate local government structures.

Financing of Local Government

Town and metropolitan councils raise money primarily from property taxes and from the sale of basic services, such as water and electricity, to local residents and businesses. Businesses pay property taxes and a turnover levy to the local council, and they frequently pay higher rates for services in order to subsidize residents. Normally, the turnover levy is used to pay for infrastructure development, such as roads, which benefit business.

Rural areas are to be funded through the RSCs, who in turn receive most of their funding from the urban municipalities in the regions. The funds generated for RSCs by the municipalities come from two types of taxes: a tax paid by businesses on their turnover; and a tax paid by factories and big businesses on their payrolls.

Local governments also receive a small amount of funding from central government, and an even smaller sum from provincial government, but this funding may be tied to special programs such as housing or health care. In Soweto, for example, the local council receives less than 1/3 of its revenues from the national government. Provincial funding comes mainly in support of projects, such as those falling under the Reconstruction and Development Program. For example, the province has provided money for the upgrading of hostels and for health clinics in Soweto.

One of the difficulties for new local governments is that they must contend with a culture of nonpayment for rent and services inherited from the days when boycotts were an important weapon in the struggle against apartheid. Ironically, many of the new local leaders, like the Mayor of Soweto, were among those organizing and leading the boycotts, and are now struggling to reverse their residual effects in order to raise enough revenues for local government to function properly. One of the strategies of the new government is the Masakhane Campaign ("Let's Build Together"), a national level program which seeks to mobilize people to pay rent and service charges. This campaign was announced by President Mandela at his inauguration, and followed an earlier agreement between the government and the ANC to write off all of the debts that had accumulated in the townships as a result of rent and service boycotts. At the moment, the rate of payment for services in black communities is about twenty percent.

Another way local councils, especially in the former townships, are seeking to raise the level of service payments is to transfer rental housing, so that people will own their own houses and thereby be willing to pay for the services they receive. Soweto is currently transferring 64,000 rental houses to private ownership.

Integration and Training of the New Civil Service

Local councils are responsible for training their own officials and councillors, as local government officials are not part of the national civil service, but are instead direct employees of local governments. However, to assist them in this process, the central government has developed a network of National Training Centers which were initially called upon to train officials only (i.e. civil servants, administrative personnel). These Training Centers are overseen by the National Training Board and financed by a central government fund to which all local councils must contribute. The Ministry of Provincial Affairs and Constitutional Development, which is home to the Department of Local Government, also pays into the fund. Now, in addition to training programs for local administrative officials, new councillor orientation courses are being offered as well.

Andrew Boraine, Deputy Director-General of the Department of Local Government, gave the group insight into the challenges of integrating the national civil service, which at the time of the national elections in 1994 was 80 percent white and male. The Ministry is therefore developing strategies and programs for bringing in people who have been outside the system, using criteria that are outside of the normal civil service guidelines. For example, instead of looking simply at a job candidate's formal education and job experience, they look at his or her life experiences and potential to develop on the job. However, he stressed that recruiting for the civil service is still a formal process, in that the position is widely advertised, and candidates are subject to thorough interviews and selection criteria.

Political and Socioeconomic Integration

One of the primary concerns of delegation members was how the process of political integration that was initiated with elections and the drafting of a new constitution would be consolidated and contribute to the socioeconomic improvement of underdeveloped areas. The group had the opportunity to visit what is undoubtedly one of the most diverse of the new municipalities, the Eastern Metropolitan Substructure of Johannesburg. This substructure includes the former township of Alexandra and the neighboring, extremely affluent area of Sandton, thereby consolidating one of the richest and one of the poorest areas in Johannesburg under the same local government structure. The delegation was met by Alexandra resident and councillor Linda Twala, who runs a community center, and accompanied into area. On the way in, Twala told the group that he and other Alexandra councillors had tried to encourage the white councillors from Sandton to visit the area, so that they would understand why Alexandra needed so much of the municipal budget. The first time the white councillors tried to enter the township unaccompanied, however, they were carjacked.

After meeting with Twala, the delegation proceeded to Sandton, the seat of the Eastern Metropolitan Substructure. The contrast could not have been more striking. The council offices are in a multistory, modern building overlooking Sandton City shopping mall and Sandton Square, with its enormous fountain and upscale restaurants. Alexandra, in an area of one square mile, is home to 400,000 people. Sandton, just across the highway and much larger in surface area, has just 200 families. The current mayor of the substructure, Justice Hlomuka-Ngidi, grew up going to Linda Twala's Alexandra community center and spent time in ANC camps in Angola.

Ngidi pointed out that the integration of these two communities did not come easily. Whites resisted the inclusion of Alexandra within the substructure, but Alexandra representatives took the case to court and won. The struggle did not end there, however. There was a lot of contention during the budgetmaking process, with disagreement over how much of the budget should be earmarked for development in Alexandra. Ngidi also stressed the importance of his role in trying to build up the confidence of the white community in him as a black mayor and in the capabilities of black government officials.

Gordon Haygarth, a current member of the KwaZulu-Natal legislature for the NP who has been involved in Durban city government for fifty years, stressed the importance of proportional representation in local government structures to ensure successful political and socioeconomic integration. Forty percent of local councillors are elected on the basis of proportional representation. The executive committees of local councils are also chosen on a proportional basis. These and other safeguards, such as the requirement of a two-thirds majority to pass the annual budget and town planning issues, help to ensure that highly politicized issues will be treated with due care by the new structures. Successful political integration on the government structures is, in turn, key to socioeconomic development, as local councils will be responsible for collecting equitable payment for equitable services. This is a challenging task, considering the culture of nonpayment for services that grew up in many townships during the 1980s.

Citing the Durban Metro Council in particular, Haygarth noted that the development problems facing urban local government are daunting. For example, more than fifty percent of the people in the Durban Metro area live in 'informal' housing.

For housing, which has always been a serious problem in the townships, the central government's Resource and Development Program has set aside a sizable budget. Unfortunately, because of the complicated, bureaucratic process of applying for RDP funds, very little money has been released. According to the Soweto local councillor responsible for housing, the government stopped building houses in black areas in 1972. He estimates that they would have to build 200,000 houses each year for five years in order to catch up with current demand.

Haswell, in Pietermaritzburg, provided the group with another angle on political and socioeconomic integration, this time focusing on the urban-rural divide. The results of the June 1996 local government elections in KwaZulu-Natal gave the ANC control of most of the cities and towns, with the vast majority of the rural areas voting IFP. Voting in each area tended to be overwhelmingly in favor of one party or the other, with some areas voting 90 percent for one side. This creates difficulties for rural-urban integration. For example, within the Pietermaritzburg city limits live half a million people, who are now governed by a municipal council with an ANC majority. The city is surrounded by a peri-urban area that is home to half a million people, and is controlled by the IFP. Yet urban well-being depends to a great extent on improvements in rural living standards as well, suggesting that the ANC and IFP would need to coordinate their actions, if not cooperate entirely. For example, every improvement in urban services and facilities without an equal improvement in rural areas will bring an influx of rural residents into the city. Unfortunately, there is very little precedent in the province for ANC-IFP cooperation, and current local government structures work to keep urban and rural areas separate, from a planning and development perspective.

The group inquired into job creation efforts in Soweto and Alexandra and efforts to encourage socioeconomic integration of the poorer, nonwhite areas with nearby affluent neighborhoods. The Soweto local council participates in several city-wide job creation projects. It also stipulates that any subcontractor providing municipal services must use labor intensive techniques and employ local people, in order to create as many jobs

as possible. Soweto also participates in a province-wide project to strengthen small business and microenterprises.

The Role of Traditional Authorities in Local Government

There are approximately 800 traditional or 'tribal' authorities in South Africa. As previously mentioned, the role of traditional authorities in local government in South Africa is not well-defined. The issue is further complicated by the existence of two separate, politically aligned blocs of traditional leaders: the Congress of Traditional Leaders of South Africa (CONTRALESAs), which is historically aligned with, and in part created by, the ANC; and the majority of traditional chiefs in KwaZulu-Natal, aligned with the IFP. Also a factor in political rivalry between the ANC and the IFP is the Zulu monarchy, headed by King Goodwill Zwelethini, who has been successfully wooed by the ANC, though historically associated with Buthelezi and the IFP. (Appendix V: Traditional Chief's Role; The Clash That Had to Come: African Nationalism and the 'Problem' of Traditional Authority; News Article).

The Angolan delegation had the opportunity to meet with Chief S.C. Mhinga, Secretary-General of CONTRALESAs, a traditional leader in Mpumalanga province, and with Nkosi Mavundla, and with a traditional leader from near Port Shepstone, in KwaZulu-Natal. Mhinga is an attorney who gave up his practice to work full-time as a chief and Mavundla is a young business graduate.

The delegates were very interested in the role of traditional authorities in South Africa, as they are in the process of developing a policy on traditional leadership in Angola. They were particularly struck by the fact that young, educated people are willing to take on traditional leadership positions in South Africa, in contrast to Angola where most traditional leaders are elderly men. They were also impressed by the confidence, independence and self-possession of the two traditional leaders they met here, and they got the impression that institutions of traditional authority are widely respected here by everyone, as evidenced by the fact that traditional leaders did not need or want any outward signs of their status, such as uniforms. This is in stark contrast to Angola, where government-issued uniforms are very important to traditional leaders.

Mhinga gave the group a brief overview of the status of traditional authorities in South Africa from colonial times, and discussed the creation of CONTRALESAs. According to Mhinga, the 1912 constitution of the ANC gave a formal role to traditional leaders by creating two houses -- an 'upper house' comprised of traditional leaders, and a 'lower house' of elected representatives. Traditional leaders like Chief Albert Luthuli, longtime chairperson of the ANC and winner of the Nobel Peace Prize, have held leading positions in the ANC. However, during the 1980s, traditional leaders were sometimes marginalized by politically mobilized youth. In the late 1980s, Oliver Tambo sought to reach out to traditional leaders again, and in 1987 CONTRALESAs was formed, with the idea of mobilizing traditional authorities and bringing them into the democratic system.

CONTRALESAs's position is that the institutions of traditional authority are democratic in their own way, and that traditional and constitutional systems of democracy must find ways to coexist and work together. However, the 1994 general elections saw a falling out between CONTRALESAs and the ANC, because CONTRALESAs believed the ANC was not fulfilling its promise to give traditional leadership its rightful place in local government. For CONTRALESAs, traditional authorities are the primary local authority.

While the Interim Constitution recognizes and entrenches traditional authority, CONTRALESAs feels this recognition has not been put into practice. The group further feels that the new Constitution seeks to diminish the power of traditional leaders, and has therefore filed a challenge in the Constitutional Court. The

Angolan delegation was impressed that traditional authorities were integrated into the mainstream political system to the extent that they filed a complaint with the Constitutional Court.

The Interim Constitution called for each province to establish a House of Traditional Leaders within six months of taking power after the 1994 elections. The role of the House was to advise provincial government on all matters affecting the institution of traditional authority. If the provincial government wanted to pass legislation on these matters, the bill would have to be submitted to the House of Traditional Leaders for their consideration. The House did not have veto power, but if the membership did not approve of the bill, the government was obliged to wait 30 days before passing it.

CONTRALESA sought to challenge this provision, calling for a House of Traditional Leaders with veto power, or at least for a required joint sitting of the House and the provincial legislature on matters relating to traditional authority.

The Interim Constitution also called for a twenty-member National Council of Traditional Leaders, with members nominated by the provincial houses. However, this National Council has not yet been created because two provinces still have not established provincial houses.

While CONTRALESA was not entirely satisfied with these provisions of the Interim Constitution, it regards the final Constitution as worse in this regard. The new Constitution does not require provinces to create Houses of Traditional Leaders, and CONTRALESA argues that this violates the 32 constitutional principles agreed upon during national negotiations at Kempton Park. Three hundred traditional leaders traveled to Cape Town to give evidence and make inputs on the Constitution before the elected Constitutional Assembly.

In his discussion of concrete examples regarding the role of traditional leaders in local government, Mhinga left no doubt that he believed traditional leaders are the first line of authority, and local government officials are essentially there to assist them by delivering services and acting as a liaison with other levels of government. Mavundla was more diffident with regard to the role of local government in 'tribal areas'. When asked how he sees the role of local government authorities, he replied "we have no problem with them, we are all equal." He said he was satisfied that their rights as traditional leaders were recognized and were being maintained, and that, since there would be a Council of Traditional Leaders at the national level, traditional leaders were participating fully in government structures and were not being left out. However, he later noted that traditional leaders are the key people in the country side, and that even politicians were 'below the *amakhosi*' (traditional chiefs). "If the government leaves the *amakhosi* behind they will be sending this country into darkness," he said.

In any case, the practical power of traditional authorities is limited by the fact that they cannot levy taxes. While they are to receive a salary from the national government, traditional leaders are dependent for development in their areas on funds coming from elected government bodies. Traditional leaders themselves can play a crucial liaison role, however. For example, Mhinga told the group that he had recently secured 37 million Rand for a housing project in his community, after sitting down with his people and ascertaining their needs. Traditional authorities, in his view, should be the driving force of development at the ground level. As a leader with education and experience of the outside world, he brings government resources to the community level. For example, he is aware that it is national government policy to provide electricity to rural areas. As a traditional chief, he is in a position both to mobilize the community to take advantage of this, and to liaise with government to follow the procedures necessary to bring electricity to his areas.

On the other hand, in Mhinga's view, local councillors "have not been properly briefed on their role," because too often they fail to work through or even consult the chief when attempting to mobilize or work with the community. Communications are often poor between local councillors and chiefs. Mhinga would like to ensure that all traditional leaders are properly informed of the government development resources at their disposal, and CONTRALESA is currently organizing workshops toward this end. CONTRALESA is also organizing a workshop, together with a South African local government NGO called INLOGOV, to train members of the Provincial Houses of Traditional Leaders about how to debate issues, produce reports, etc.

Traditional leaders have the right to sit on local government councils as *ex officio* members. However, in KwaZulu-Natal, traditional leaders rejected the invitation to participate in municipal councils, as it would mean bringing their lands under the jurisdiction of formal government structures and paying taxes to those structures, thereby potential undermining their own authority. Traditional leaders will be represented on the RSCs which represent rural areas, although the number of seats they will be given is still undetermined.

Intergovernmental Relations: The Division of Power

The division of powers and responsibilities between central, provincial, and local level is an issue that surfaced in most meetings of this study mission. The delegation heard the perspectives of national, provincial, and local officials on these issues.

The South African Constitution provides for three separate tiers of government, each with constitutional rights governing their role. There is a section of the final Constitution called 'Cooperative Government', which addresses the interrelationships of central, provincial and local government. As explained to the delegation by KwaZulu-Natal MEC for Local Government Peter Miller, each level of government is guaranteed a certain degree of autonomy from the others.

For example, national and provincial government can pass laws that regulate local government, but they cannot impede the functioning of local government as a separate sphere. For Miller, a system of good local government provides the foundation for development, accountability, and legitimacy on which sound provincial and national government can be built.

Miller also pointed out that provincial and local government vary slightly in character from province to province. For example, the province of Gauteng has no tribal areas, whereas KwaZulu-Natal is predominantly rural in terms of land use and is home to both commercial farmers and 'tribal communities' living on communally-owned land.

The constitution specifies powers that are shared by provincial and national levels, and powers that are exclusive to national and provincial levels respectively. Central government has sole responsibility for activities that affect the nation as a whole: foreign affairs, defense, international transport, etc. Sole provincial powers include overseeing local government, conservation, payment of pensions and welfare, and promotion of provincial level economic activity. Central and provincial levels are jointly responsible for things like education, housing, regional planning, and health care. In addition, central government can empower provinces to perform other functions.

Only the central government and local government currently have the power to tax. All citizens pay income tax and sales tax to the central government. Large business firms pay a corporate tax to the central government. Central government, advised by the Fiscal and Financial Commission (FFC), then divides that

money up between itself and the nine provinces.

Property taxes, on the other hand, are paid exclusively to local government and are one of local governments' main sources of revenue, together with profits on services like electricity sold to local residents by local government. Local government also receives a tax on business turnover and on business payrolls. Provincial governments currently have no taxing power, and their funds come exclusively from the central government. KwaZulu-Natal is negotiating with the central government to allow a fixed percentage of the taxes paid by the province to central government to stay in the region. In Miller's view, the key to successful three-tier government is to ensure that each tier is able to raise its own revenue.

Peter Mansfield, a former member of the KwaZulu-Natal Provincial Committee on Local Government, reinforced this picture. Local governments in South Africa now have widely-varying powers of discretion in determining their own budget priorities, depending on their tax base. Most money that comes from central or provincial level is tied to specific programs. Local governments without a significant ability to raise their own funds will have spending priorities dictated by provincial and central government.

The Role of Joint Technical Committees

The important role that joint technical committees played in local government negotiations and throughout the negotiation process at all levels was highlighted by a number of the South African participants in the study mission. The delegation had the opportunity to meet with two such commissions that have played a crucial role in the transition at the national level: the Commission on Provincial Government (CPG), and the FFC.

The CPG was established in the Interim Constitution to provide advice during the drafting of the final Constitution on issues relating to the provinces and their relationships with national and local government. The Commission is comprised of one member from each of the nine provinces, who are appointed by the state President with concurrence of the provincial Premiers. Once on the Commission, members are not to represent their provinces or their parties, but the national interest. The Commission is scheduled to stop functioning once the final Constitution has been approved by the Constitutional Court.

Specific responsibilities of the CPG include:

- making recommendations on what powers provincial and local government should have in the final Constitution;
- facilitating the establishment of administrative structures in the provinces;
- providing advice on the boundaries of the provinces (nine provinces were formed out of four during the transition from the apartheid system)
- providing advice in case of disputes over ownership of property that are inherited from the apartheid system.

The CPG reports directly to the President, but its recommendations are not binding. It has a strictly advisory role, although members noted that its recommendations have tended to be persuasive. The CPG has tried to maintain a low profile, as they were not an elected body and the bodies they were advising frequently were.

Members of the CPG were very sensitive to the issue of building trust and confidence among members of the Commission and in the eyes of the public. They therefore took care to ensure that their work was transparent, and to work on the basis of consensus among members. Another key responsibility of the CPG was to ensure that all three levels of government, all of which could be affected by CPG decisions, felt that they were treated fairly by the Commission. The CPG took care to ensure that each level of government received its own report and was getting exactly the same information about the work of the Commission. The CPG also had to inspire the trust of all political parties in their work.

In order to strengthen its legitimacy and hence its authority in the eyes of those it was advising and in the eyes of the public, the CPG called in international experts to discuss key issues, inviting all interested parties to attend. Workshops were held on the most sensitive issues, such as the role of traditional authorities, or the allocation of funds between different levels of government. Interested parties were invited to attend and voice their opinions, under the moderation of national and international experts. The goal of these workshops was to provide a forum in which people could discuss what were often emotional issues in concrete and relatively objective terms.

Members of the CPG stressed that negotiation was essential to their work, noting that such negotiation will go on for a long time as the new system is consolidated.

The FFC arose out of the national multiparty negotiations at Kempton Park. The FFC was created to play an independent, expert advisory role on the distribution of resources between the newly restructured local, provincial and national levels of government. This would normally be the role of a national government ministry. However, in light of the wholly new governmental structures being created and the degree of mistrust that existed among parties that had to work together in government, an independent commission was created, in order to take the allocation of resources out of the subjective, political arena. Initially, the FFC was to last only as long as the Interim Constitution was in effect, but it has now been made a permanent institution.

The FFC consists of 18 commissioners who serve full-time. Sixteen of the commissioners serve for two years; the chair and deputy chair serve for five years. Members of the commission are experts in fields such as economics, finance, taxation, local government, or public management. Nine members are appointed from national level -- they are nominated by the cabinet or the President himself. The other nine are nominated by the provinces and appointed by the President. At least one member of the commission must be an expert in local government. Members, once appointed to the commission, are not to represent their provinces or their parties, but the national interest. To ensure that they do so, commissioners can only be dismissed by the state President.

The FFC makes recommendations and provides advice to different levels of government regarding the distribution of resources. If any of the tiers of government seeks to institute a new tax, for example, the FFC must review the tax, with a view to its effects on the other levels of government, and make recommendations on it.

The FFC has developed a framework to guide the creation of new fiscal and financial arrangements for the country. Its aim is to help the body politic to focus on three key principles when deliberating on fiscal and financial issues: equity; public accountability; and transparency. The FFC deems these principles particularly important in light of the country's past history of conflict and institutionalized inequality.

The FFC has elaborated this framework in a document that has been distributed to members of provincial and local governments, eighty to ninety percent of whom have never before served in government. The document

is designed to help these new officials to understand both the new fiscal and financial arrangements and the role of the FFC.

The first task of the FFC was therefore to begin to educate new government officials. The second was to make recommendations about how finances should be structured between central government and the provinces. Members of the FFC provided a good deal of insight into the practical division of powers in South Africa, in response to the delegation's questions about fiscal power at each level.

The FFC has elaborated an objective formula to govern provincial allocations, based on the principles of equity, efficiency, and accountability. Each province receives grants for education, health, the financing of teaching hospitals, and the establishment of provincial legislatures. Provinces are then given another grant, whose purpose is not predetermined, which is based on the population of the province. Rural population is weighted more heavily than urban population in calculating the amount of this grant. Finally, each province receives a 'compensating component' based on the tax base of each province. Poorer provinces without much revenue potential of their own receive more than wealthier provinces. According to members, the FFC's current challenge is to make this formula simple and easily understood by government officials.

This formula recognizes that up to now, most of the taxing power in the country rested with central government. The FFC is now arguing that provinces should be given the power to levy a surcharge on personal income tax which is paid to central government. Members of the FFC pointed out that the greater the capacity of each tier of government to raise its own revenues from taxes on its own electorate, the greater the accountability of government to that population.

However, the FFC recognizes that in practice it would be difficult for provincial governments to fund their activities themselves, since they are responsible for expensive services like education, health, and welfare. Provinces will continue to receive most of their funding through transfers from the national level.

The next task of the FFC will be to focus on local government finances. A Transitional Local Government Democracy bill, which will address these issues, is currently under consideration in parliament. Local authorities now have the power to tax, and in theory locally raised taxes should be sufficient, although there are large discrepancies between rich and poor areas. Currently, local governments receive small transfers from both central and provincial government.

Peace and Reconciliation: The Role of Civil Society

One of the issues of primary interest to the delegation in examining the South African experience was the process of reconciliation and accommodation, both between government officials from different parties working together for the first time, and at community level between ordinary citizens. Accommodation in government institutions has been addressed in earlier sections of this report. This section briefly discusses the meetings the delegation had on the involvement of church and civic organizations in efforts to promote peace and reconciliation at community level.

The group met with Bruce Walker, Director of the KwaZulu-Natal Peace Committee, and with members of the Diakonia Council of Churches, who did community level monitoring of violence and carried out voter education before the local elections in KwaZulu-Natal in June.

The KwaZulu-Natal Peace Committee was established as part of the national peace committee structure which was set up to implement the National Peace Accord in 1992.2 National funding for the program has since stopped, and the provincial government assumed responsibility for supporting the Peace Committee.

The Peace Committee is unusual as a peacekeeping operation in that it is staffed and run entirely by local people, including members of NGOs, churches, businessmen, and private individuals. Because it is staffed locally, the Peace Committee has run into difficulties finding people who are both willing to do the dangerous and demanding work required and who do not have a political agenda of their own. It is essential that the personnel of the Peace Committee have access to all communities, regardless of the communities' political sympathies. Initially Walker and his colleagues sought to hire people who were politically unbiased, but they found it difficult to find anyone who fit that description and who was willing to work for the Committee. In the end they settled for hiring sympathizers of all the parties concerned, asking the political parties to second people to the Peace Committee. The Peace Committee now has staff members from the IFP, ANC, and NP working on it. As a result, individual members of the Committee cannot work in all areas, but the Peace Committee has trusted monitors in all areas, which allows them to cross-check reports, drawing on both IFP and ANC accounts of incidents.

The KwaZulu-Natal Peace Committee now has five offices in the provinces, and they have established a reputation in the communities where they work for impartiality and independence. They are not, and are not seen as, part of the government or of the police. Officially, senior police officers sit on the executive committee of the Peace Committee, to ensure good cooperation with the police. The Peace Committee essentially asks as a peacekeeping agency by gathering information about what is happening or about to happen in communities and then reporting this to the police. Direct intervention by Peace Committee members is limited to discussion.

In addition to monitoring and limited intervention in community disputes, the Peace Committee is designing a program to integrate former members of the Self Defense Units of the ANC and the Self Protection Units of the IFP into private security companies, as well as the creation of a training academy for this purpose in Durban.

The Diakonia Council of Churches has also been involved in peace monitoring activities, but their program, called the Ecumenical Peacemakers Program, paired international monitors with local ones, in an effort to provide added credibility and higher visibility for the program. The program director attributes its success to the links peacemakers had to the police and the SADF, and to the KwaZulu-Natal Church Leaders' Group, a high profile, independent and well-respected group of Christian church leaders who had good access to high level political leaders in the ANC and IFP. The program also collaborated with the provincial Peace Committees and other peace structures in the province.

The Ecumenical Peacemakers Program began in March and went through local elections at the end of June. Twenty international peacemakers were paired with 200 local counterparts, and teams were deployed to attend rallies, mass meetings, and political funerals.

The Angolan delegates were interested to know how the political parties reacted to the program. The program director said that this time, the parties were cooperative and helpful, unlike prior to the 1994 elections when they were suspicious of the peacemaker program. He added that it has taken time to cultivate relationships with high level party officials, but that it was absolutely essential to make contact with the key players on all sides and explain the program to them, so that they are on board.

APPENDIX I

Biographies of the Delegation Members

The Angolan Study Mission on Local Government and Intergovernmental Relations

Biographies of the Delegation Members

Denis Peter Njamba Kawindima

Mr. Kawandima is presently the Director for Public Information for UNITA. He spent his early years in Zambia as a result of his parents' persecution by the Portuguese secret police for their involvement in the independence movement. After studying journalism at Evelyn Hone College in Lusaka, Mr. Kawandima returned to Angola and worked as a journalist for the Kwacha United Press (KUP). He then became involved with civic and voter education efforts in preparation for the national elections in 1992. He has been nominated as Deputy Provincial Governor in the unity government to be formed by the end of 1996.

Franco Marcolino Nhany

Mr. Nhany serves as the Director for Organization for UNITA. He was elected in 1992 as a Member of Parliament for Lobito, in the Benguela province. Mr. Nhany also served as Deputy Representative for UNITA to the Joint Commission responsible for overseeing the implementation of the Lusaka Protocol. Prior to his current post, Mr. Nhany was the Secretary General for UNITA's Labor Union of Free Angolan Workers.

Laurenço Saturnino de Nascimento

Dr. Nascimento is the National Director for Planning in the Ministry of Territorial Administration. He is also the Coordinator of a UNDP-sponsored program for the modernization of provincial and local administration. Previously, Dr. Nascimento served as the Adjunct Chair of the National Accounting Department in the Ministry of Planning, and in the Methodology and Coordination of Planning Department. He is a graduate of the Institute of Commercial Cooperation in Moscow, where he studied economy.

Aarão dos Santos

Dr. dos Santos is an advisor to the Vice Minister for Territorial Administration. Dr. dos Santos graduated from the University of Sofia, Bulgaria, with a degree in geography. He has served as the National Director for Territorial Planning, and as the National Director of both the Urban Planning Department and the Regional Planning Department.

Roldão Sebastião

Dr. Sebastião is the National Director of the Office of Legal Affairs in the Ministry of Territorial Administration. He has been involved in restructuring of local government in Angola since 1993, when he was appointed to the technical commission charged with drafting legislation for the decentralization and deconcentration of administrative powers. He earned a J.D. from the University of Leipzig, Germany, and is an attorney.

APPENDIX II

Terms of Reference

The Angolan Study Mission on Local Government and Intergovernmental Relations

Terms of Reference

This memorandum outlines the objectives and expectations of the study mission on local government and intergovernmental relations to South Africa. The visit is scheduled for July 1 to 12, 1996 (the 1st and 12th are travel days). A final itinerary will be given to the participants upon their arrival.

In 1993, South Africa faced the challenge of reconciling the populist political culture of the townships with the technical mind set of the white local authorities. The participants in this process recognized that dialogue and understanding amongst leaders that represented the entire population, particularly at the level of local governments where the general population could participate directly in the political process, was necessary for sustainable reconciliation. The result of these negotiations was the Local Government Transition Act, which outlined a plan for political integration at the central, provincial and local levels. During the implementation of this plan, South African political and technical officials gained valuable experience and laid the foundation for a political culture that reflected the transformation underway in the country. Their achievements encourage other nations in the southern Africa region at a time when other countries are preparing for the restructuring of local government.

As you know, the principle objective of the study mission is to facilitate an exchange of experience between the political and technical officials who participated in the process of restructuring local power in South Africa and members of the Angolan government and of UNITA who are preparing to initiate a similar process. The study mission will focus on two main issues: the political and technical challenges surrounding the restructuring of local authority in South Africa to provide for integrated, representative and democratically elected local government structures; and the establishment of new relationships between central, provincial and local government.

Within these two themes, the mission will address the following specific issues: the process of creating new local government structures; the division of powers between central, provincial and local government, including the division of fiscal powers amongst the three tiers; political integration in the new government, with an emphasis on the provincial and local levels; reconciliation at the community level, and the role of the government, church organizations and civil society in this process; and the role of traditional authorities in local government.

The purpose of this mission is not to promote the experience or the solutions developed in South Africa as a model for Angola. There are many differences between Angola and South Africa, and each country must arrive at its own solutions that reflect its particular history and political context. However, a discussion of the negotiation process in South Africa will illuminate some of the obstacles and accommodations that the new government of Angola will likely face as it begins to integrate all levels of government and to develop a plan for the restructuring of local government.



PICTURE: STEVE NAIDOO
Appreciative President Mandela
at Clermont, near Pinetown, at

IFP man
ed to resign

Court backs KZN legislation on salaries for chiefs

POLITICAL CORRESPONDENT
Cape Town

A CONSTITUTIONAL court's ruling in favour of legislation passed by KZN's legislature allowing the province to continue paying its chiefs and the Zulu king, could result - theoretically at least - in traditional leaders being paid salaries from both central and provincial government. The court did not nullify national legislation allowing it also to pay chiefs.

This was acknowledged by ANC Provincial Affairs and Constitutional Development Minister Valli Moosa's spokesman, Mr Mpho Mosimane, last night. But he hastened to emphasise that Mr Moosa would discuss the issue with premiers - including Inkatha Premier Frank Mdlalose - at the intergovernmental forum to avoid this possibility arising.

While chiefs are paid vastly different rates in six provinces, President Mandela has suggested that they get paid in line with members of parliament - who earn just under R200 000 a year.

The constitutional court on Friday ruled that two statutes passed last year - the KwaZulu Natal Amakhosi and Iziphakanyiswa Amendment Bill and the Payment of Salaries, Allowances and other Privileges to the Ingomyama Bill - did not conflict with the national constitution.

Dr Mdlalose said the ruling reinforced his view that the payment was a provincial concern. "This is a victory for the KZN parliament."

In terms of the Payment of Tra-

ditional Leaders Act, rushed through the national parliament before the July recess last year, the national government sets norms and standards of payment of traditional leaders. The legislation also sought to abolish provincial government control over chief's purse strings.

Mr Mosimane said his department had already begun setting up a data base of chiefs and was in the process of appointing a chief director of traditional authority affairs to administer the payments.

He said even if the province paid the chiefs, the level of payment would be in line with recommendations made by the Steyn commission which determines the pay of public representatives. It still had to make public its recommendation for chiefs' pay, he said.

Dr Mdlalose said the level of payment of chiefs - including differences in qualification and authority over communities - would have to take its cue from all other provinces. He would discuss the matter further with Mr Moosa. "Our doors are open . . . we are democrats."

The NP representative on the traditional affairs committee of the provincial legislature, Mr Tino Volker, said the ruling was a victory for KwaZulu Natal. The payment of chiefs could in no way be regarded as a national function.

He did not believe the ruling would lead to a duplication of payment. The provincial budget had already made allocation for chiefs and this had been done "in co-operation with the national treasury".

POLITICALSCAN

Mbeki to lead delegation to truth commission

JOHANNESBURG—Deputy President Mbeki will head a high-powered delegation to the truth and reconciliation commission next Friday on the ANC's conduct during the apartheid struggle.

Political parties are expected to make their submissions to the reconciliation body in Cape Town next week.

Mr Mbeki's delegation will also

President Mandela will be on a state visit to England and France and will not be present at the historic proceedings.

The submission is the culmination of months of deliberation within the ANC national executive committee's sub-committee on truth and reconciliation.

The ANC has said its leadership

Specific Themes of the Study Mission

1. *The negotiation process which led to the establishment of new local government structures.* The delegation will meet with government officials and representatives of civil society who were involved in the process of negotiation carried out at the central, provincial and local levels in order to draft and execute the Local Government Transition Act of 1993, which provided guidelines for local government restructuring in South Africa. How were these negotiations carried out? How much input did local and provincial authorities have in the final decision? What was the impact of their participation?
2. *The division of powers between the central, provincial and local government, and how this division was determined.* What political and technical challenges does this particular arrangement address? How do local and provincial governments make their concerns heard at the national level? What is the role of the central government in facilitating political integration in KwaZulu-Natal and other parts of the country? What are the fiscal powers of each level? How are financial resources channeled from the center to the provinces and local government structures?
3. *Political integration in the new government, focusing on provincial and local levels.* Politicians of opposing political parties now find themselves sharing power at all levels. How well are the new, politically-integrated provincial and local government structures functioning? Aside from questions of how consensus is reached or decisions made at a purely political level, how well are these decisions implemented? What political or technical problems have arisen as the provincial government has begun integrating the civil service and creating executive bodies to deliver services and carry out policy decisions?

This part of the study mission will take place primarily in KwaZulu-Natal, although to some extent, the question of how members of political parties who were recently sworn enemies can work together on government structures will surface in most of the meetings.

To address these questions, the group will meet with provincial and local government and opposition party officials who have been centrally involved in key interparty negotiations and policy decisions. We will focus on a particular issue, such as the provincial constitution-making process or arrangements for local elections.

4. *Reconciliation at the community level.* (also in KwaZulu-Natal) What governmental and nongovernmental activities have been undertaken to deal with political conflict, which has intensified in the province over the course of South Africa's democratic transition process? What initiatives are in place to facilitate the establishment of democratic local government structures in a province suffering from intense political violence, and what are the roles of the government, of community and traditional leaders, and civic organizations in this process?

5. *Traditional Authority.* What is the role of traditional authorities in the new local government structures? What are the representative structures of traditional power that have been incorporated into formal power structures?

This study mission was made possible by a grant from the National Endowment for Democracy. In organizing the mission, NDI collaborated with the government, political parties and other central participants in the democratic transitions in South Africa and Angola. We would like to thank everyone for the support and assistance they provided for this study mission.

APPENDIX III

The Itinerary for The Angolan Study Mission

The Angolan Study Mission on Local Government and Intergovernmental Relations

Itinerary

Monday, July 1

- 15:30 South African Airways 55 departs from Luanda
- 19:55 South African Airways 55 arrives in Johannesburg
- 21:00 Check into The Courtyard Hotel. Introduction and briefing with NDI staff regarding the itinerary and logistical details.

The Courtyard Hotel
Rosebank, Johannesburg
phone (27)(11) 880-2989
fax (27)(11) 880-8425

Tuesday, July 2

- 8:00 Creating an Environment for the Local Government Transition
NDI Office

The Minister, who was the principal negotiator for the ANC at CODESA and Kempton Park, will provide an overview of the negotiation process which led to the establishment of new local government structures.

Mohammed Valli Moosa
Minister
Provincial Affairs and Constitutional Development
ANC

- 10:00 The Role of Traditional Authorities in Local Government
NDI Office

The Secretary General of a national council of traditional authorities will discuss the role of traditional leaders in newly-created government structures at both national and local levels.

Chief S.C. Mhinga
Secretary General
Congress of Traditional Leaders of South Africa (CONTRALESA)

12:00 Lunch
NDI Office, Catered by Nino's Restaurant

The delegation will be joined by Chief Mhinga and the NDI staff from the Johannesburg regional office.

14:00 New Local Government in Soweto
The Office of the Mayor, Jabulani, Soweto

The Mayor, who is a former activist and organizer of the Soweto rent and services boycott, and members of the Southern Metropolitan Substructure (Soweto) will discuss the practical challenges of creating new local government structures in areas that had been rendered "ungovernable" during the struggle against apartheid.

Sophie Masite
Mayor
Southern Metropolitan Substructure of Johannesburg
ANC

20:00 Dinner Briefing: National Reconciliation
Cento Restaurant
Kensington, Johannesburg

A respected human rights activist and attorney will outline efforts to promote reconciliation in South Africa through formal structures and at the community level. The delegation will be joined by U.S. Embassy and South African ministerial personnel.

Graeme Simpson
Director
Centre for the Study of Violence and Reconciliation

Wednesday, July 3

9:00

Alexandra and Sandton: The Challenge of Integration in the New Local Government Structures

Alexandra and Sandton, Eastern Metro Substructure of Johannesburg

Mr. Twala and Mayor Ngidi will discuss the challenges faced in integrating Alexandra, one of the poorest and most densely populated areas in Johannesburg, with the white and extremely affluent suburb of Sandton. Mayor Ngidi spent several years in ANC camps in Angola.

Linda Twala
Local Councillor and Community Activist in Alexandra
Eastern Metro Substructure of Johannesburg (seat in Sandton)

Justice Hlomuka-Ngidi
Mayor
Eastern Metro Substructure of Johannesburg (seat in Sandton)

15:00

National Level Transition Issues: Negotiations and the Government of National Unity

The Office of the National Party, Pretoria

Mr. Meyer was the chief negotiator for the government at CODESA and Kempton Park, and is the former Deputy Minister for Law and Order, and the former Minister of Defense. He will discuss the challenges of initiating and maintaining negotiations with the ANC, and the pros and cons of a national unity government.

Roelf Meyer
General Secretary
NP

Thursday, July 4

8:00 The Local Government Negotiation Process
Local Elections Task Force, Pretoria

Vic Milne was one of the principal participants in the local government negotiation process both in Johannesburg and at the national level. He will give an overview of the impetus, the process, and the consensus behind South Africa's local government transition.

Vic Milne
National Coordinator
Local Elections Task Force

10:00 Meeting with the Angolan Ambassador to South Africa
Ambassador's Residence, Pretoria

Ambassador Rodrigues was a principal negotiator for the Angolan government during talks with South Africa on the independence of Namibia and the removal of Cuban troops from Angola.

Ambassador Alexandre Rodrigues
Angolan Ambassador to South Africa

12:00 The Structure of Local Government
Department of Local Government, Pretoria

Mr. Boraine and his colleagues will provide an overview of the newly-established local government structures, and the political and technical challenges that these particular arrangements address.

Andrew Boraine
Deputy Director-General
Department of Local Government

14:00 The Role of Representative Technical Committees in the Creation of the New Dispensation: Defining Provincial Government
Commission on Provincial Government, Pretoria

Members of the advisory commission will discuss their role in helping to establish the parameters of provincial government in the new constitution.

Mkumbuzi Titus
Chair
Commission on Provincial Government

Friday, July 5

9:00 The Role of Representative Technical Committees: Financial Powers and Responsibilities in the Three Tiers of Government
Financial and Fiscal Commission, Montrose

The Director of the FFC will discuss the commission's role in determining the allocation of resources between central, provincial and local government.

Murphy Morobe
Director
Financial and Fiscal Commission

11:00 Implementing Political Compromise at the Grassroots
Local Elections Task Force, Johannesburg

Mr. Shubane, a long time community activist and scholar of political transitions, will discuss the challenges of implementing nationally negotiated compromises at the community level.

Khehla Shubane
Co-Chair
Local Elections Task Force

16:00 Political Reconciliation: Making the Government of National Unity Work
Pretoria

Minister Ngubane, who was a high-ranking representative of the IFP at CODESA, will discuss how power-sharing in the Government of National Unity was brokered.

Baldwin Siphon Ngubane
Minister
Arts, Culture, Science and Technology
IFP

Sunday, July 7

14:00 South Africa Airways 533 departs Johannesburg

15:00 South Africa Airways 533 arrives in Durban

17:00 Check into Kapenta Bay Hotel

Kapenta Bay Hotel

Port Sheptone

phone (27)(391) 825-528

fax (27)(391) 824-930

20:00 Dinner with Marion Wessels, Councillor and Former Mayor of Port Shepstone
Kapenta Bay Restaurant, Port Shepstone

Monday, July 8

9:00 Political Integration and Reconciliation at the Community Level: Port Shepstone
Peace Committee Office, Port Shepstone

The former mayor of Port Shepstone has been a community activist for many years. She will organize a day of meetings which will include traditional leaders; members of Transitional Local Councils in Port Shepstone and Margate; members of groups working for peace and reconciliation; local election officials; and national Senator Dr. Siyabonga Cwele.

Marion Wessels

Councillor and Former Mayor

Port Shepstone

Dr. Siyabonga Cwele

Senator

Tuesday, July 9

7:00 Depart Port Shepstone for Pietermaritzburg

10:00 The Politics of Reconciliation: Multiparty Politics in Pietermaritzburg and KwaZulu-Natal
City Hall, Pietermaritzburg

Rob Haswell has been Member of Parliament and the Mayor of Pietermaritzburg and is a longtime ANC member and activist. He will give an overview of the how the first discussions between the ANC, IFP and other parties were held to form transitional local councils.

Rob Haswell
Deputy Town Clerk
ANC

14:00 Division of Powers: Provincial and Local Government Structures
Provincial Legislature, Pietermaritzburg

As the member of the Provincial Executive Council responsible for local government, Mr. Miller will detail the practical implications of the political integration and restructuring, and how the new structures are functioning in the politically diverse province of KwaZulu-Natal.

Peter Miller, MPL
Member of the Executive Council for Local Government and Housing
IFP

16:00 Depart Pietermaritzburg for Durban

17:30 Check into Holiday Inn Garden Court

Holiday Inn Garden Court - South Beach
Durban
phone (27)(31) 372-231
fax (27)(31) 379-183

Wednesday, July 10

8:00 Metropolitan Councils: Durban
Durban

After fifty years in local government as a member of the National Party, Mr. Haygarth will provide insights on the party's perspective on local government, particularly how it is reflected in their approach and policies on the metropolitan council of Durban.

Gordon Haygarth
Provincial Director for Local Government for the National Party

11:00 Intergovernmental Relations: National, Provincial and Local Levels
Holiday Inn Crown Plaza, Durban

As former Chair of the Durban Metro Council management committee and member of the provincial committee on local government, Mr. Mansfield is an expert both on city government and on the division of powers and responsibilities in the three tiers of government. He will discuss the politics of local and provincial government in the politically polarized province of KwaZulu-Natal.

Peter Mansfield
Co-Chair
KwaZulu Natal Demarcation Committee

13:00 Lunch
Holiday Inn Crown Plaza, Durban

The delegation will be joined by Peter Mansfield for an informal lunch.

15:00 Confidence-Building and Other Challenges in the Negotiations for a New Constitution

A long-time political activist and principal negotiator during the local government transition will address how different parties involved in this process overcame their profound mistrust of each other to create a new legislative framework for the transformation underway in South Africa.

Pravin Gordhan, MP
Chair of the National Assembly's Committee on Constitutional Affairs
ANC

17:00 The Work of Church Groups in Peace Monitoring Activities
Diakonia Council of Churches, Durban

Cooperative efforts amongst church organizations have made a substantial contribution to monitoring and maintaining peace in the province of KwaZulu-Natal, which has been characterized by violence and mistrust throughout South Africa's political transition. Members will discuss their efforts in peace-keeping and promoting democracy within local communities.

Paddy Kearney
Director
Diakonia Council of Churches

Thursday, July 11

7:00 Comair 442 departs Durban

8:00 Comair 442 arrives in Johannesburg

16:00 Debriefing: Evaluation of Study Mission
Rosebank, Johannesburg

The delegation will be asked to complete and discuss an evaluation form including general organizational aspects, individual consultations held, "lessons learned" that might be applicable to the Angolan situation and any recommendations the delegation might make for future missions.

20:00 Farewell Dinner
Ambassador's Residence
Pretoria

Host: Ambassador Alexandre Rodrigues
Angolan Ambassador to South Africa

Friday, July 12

15:20 TAAG 578 departs from Johannesburg

17:20 TAAG 578 arrives in Luanda

National Democratic Institute

for

International Affairs

and

Angolan Delegation

visit to the Lower South Coast of Kwazulu Natal

8-07-1996

Proposed Programme

0900	Brief background to Local Government Elections. Briefing on differing voting systems Briefing on election planning
0945	Depart Margate TLC
1030	Meeting with Margate TLC Councillors and officials
1200 - 1300	Lunch
1300 - 1330	Travel to KwaNdwalane area
1330 - 1430	Meeting with KwaNdwalane representatives
1430	Travel to Peace Office
1500	Meeting with Senator Cwele and other delegates

APPENDIX IV

**Chronology of the Political Transition in South Africa; Three Tiers of Government;
Local Government Restructuring; The Process of Local Democracy**

A Chronology of the Political Transition in South Africa

- February 2, 1990* President FW de Klerk of the National Party (NP) announced that peace could only be attained through negotiations between leaders who represented all sectors of South African society.
- May 4, 1990* Groote Schuur Minute, signed by the African National Congress (ANC) and the government. Both sides agreed to peaceful negotiations, and the government agreed to revoke the State of Emergency declared in June, except in the province of KwaZulu-Natal.
- July 22, 1990* Confrontations amongst members of the Inkatha Freedom Party (IFP) and sympathizers of the ANC in the township of Sebokeng, in the south of Johannesburg, left thirty people dead. There was evidence that the police helped IFP members in the attack in order to provoke instability in the townships. The violence continued in the townships around Johannesburg over the next several months.
- August 6, 1990* The ANC agreed to suspend the violent struggle. As part of an accord signed with the government, target dates were established for the release of political prisoners and the return of those living in exile.
- February 12, 1991* DF Malan Accord signed. The Accord stipulated that the ANC guerrilla forces did not have to disband, but that their arms would remain under the control of the transitional authority.
- May, 1991* President de Klerk called an all-party conference to address the issue of violence in the country, in response to a series of complaints lodged by the ANC calling for the dismissal of the Ministers of Law and Order and of Defense, the dismantling of the special internal security units, and the creation of a commission to investigate violence. Not satisfied with the response of President de Klerk, the ANC suspended talks with the government.
- September 14, 1991* The National Peace Accord was signed by representatives of the government, political parties, the private sector and religious organizations. The Accord established procedures and structures to reduce violence in the country.
- December 20, 1991* Launching of CODESA (Conference for Democratic South Africa) in Johannesburg. CODESA was the first forum for negotiations between the government, the ANC and other South African political parties. There were 18 delegations representing the entire political spectrum.

CODESA adopted a declaration of intent, in which the ANC, the government and the majority of the other parties pledged to strive for a unified South Africa governed by a constitution that established a multiparty democratic system of governance. The IFP did not sign the declaration of intent, alleging that the clause about a unified country implied the impossibility of a federalist system, which the IFP supported. The participants in CODESA also defined a protocol for multiparty negotiations.

CODESA I lasted only two days, but the working groups continued to meet until the commencement of CODESA II.

March 17, 1992

Concerned by the defeat of the NP in a municipal election in the heart of NP territory, President de Klerk announced a referendum for white South African voters to verify the level of support for the series of reforms the government was instituting. The vote demonstrated that the majority were in favor of the government's measures -- 69% of white voters supported the negotiations.

May 15, 1992

The beginning of CODESA II. The government and the ANC arrived at the table with a joint proposal for the formation of a transitional government. However, disputes remained over constitutional matters. After two days, the negotiations dissolved, and subsequently the government and the ANC agreed to continue bilateral talks in order to resolve constitutional issues.

June 16, 1992

The ANC initiated a mass action campaign that consisted of rallies, strikes and boycotts and culminated in a two-day strike, planned for August 3-4. The purpose of this campaign was to demonstrate the impatience of the general population with the shortcomings and delays in the creation of an inclusive democratic system.

June 17, 1992

Armed IFP members attacked residents of the Boipatong township, in the Vaal Triangle near Johannesburg, killing 46 people, mostly women and children. Since the government did not make any effort to stem this type of violence, and even appeared to support its perpetrators, the ANC suspended talks with the government.

August 3-4, 1992

The ANC mass action campaign culminated in the largest political strike ever staged in the history of South Africa. More than four million workers went on strike.

September 7, 1992

70,000 ANC supporters tried to stage a rally in Bisho, the capital of the Ciskei Bantustan (now Western Cape), where the leader was opposed to the ANC. The rally was broken up by Ciskei security forces, resulting in

29 deaths and more than 200 injuries.

September 26, 1992 President de Klerk and Nelson Mandela signed a memorandum of understanding in order to try to bring an end to the violence in the country. The memorandum established an investigative commission to examine police behavior, and took measures to reduce violence between IFP and ANC supporters, for example, prohibiting the presence of traditional weapons at meetings.

The memorandum also overcame the impasse of CODESA II, defining a model for constitution development and how the country would be governed before the elections.

As a result of this memorandum between the government and the ANC, the IFP announced that it would pull out of all negotiations.

November 18, 1992 The ANC agreed to the principle of power-sharing, opening up the possibility of a government of national unity.

February, 1993 The government and the ANC announced an agreement on the government of national unity, which would last for five years, with ministerial portfolios for any party that won 5% of the votes in the general elections. After five years, the government would become a government of the majority.

March, 1993 The multiparty negotiations initiated at CODESA resumed, this time under the name of the Multiparty Negotiation Process (MPNP).

March 22, 1993 The Local Government Negotiation Forum, which would discuss the restructuring and integration of local government, began work. The Forum was composed of two delegations, representing the two main interested parties. One delegation represented the local formal authorities (civil servants and councillors of the old regime), and the other represented the "non-statutory" entities, which were civic organizations and other entities which had played an important role at the local level but were not legally recognized as such. These non-statutory bodies included the ANC, SANCO (South African National Civic Organizations) and the unions. Each delegation had thirty members. Decisions were made by consensus, and the Forum was not allowed to contradict the agreements made by CODESA or by the MPNP.

The Forum had three working groups: one for legal and constitutional issues; one for services and finances; and one for management, administration and training. Each delegation had the right to nominate eight members for each working group.

- October, 1993* The National Assembly approved a bill which established the Transitional Executive Council, a multiparty body which would guarantee the creation of adequate conditions for the first elections, scheduled for April, 1994.
- December 22, 1993* The National Assembly adopted the Interim Constitution, which had been drafted by the Multiparty Negotiation Process.
- February 12, 1994* The beginning of the registration period for political parties that wanted to participate in the general elections. The IFP and the Conservative Party did not register, and the government of the Bophuthatswana Bantustan refused to participate in the elections. Violence associated with the electoral campaign continued in KwaZulu-Natal, where candidates were killed.
- February 1994* The National Assembly met in an extraordinary session to revise the Constitution to satisfy those political parties that demanded more power and autonomy in the provinces, the possibility of an Afrikaner homeland, the principle of cultural self-determination, and recognition for traditional authorities at the provincial level. These changes were eventually approved only one day before the general elections.
- March 28, 1994* The IFP staged a rally in Johannesburg in which participants tried to enter Shell House, the ANC headquarters. 53 people were killed.
- April 13, 1994* In attempt to put an end to the violence, an international mediating team, including Lord Carrington and Henry Kissinger, arrived in the country to discuss the concerns of the IFP. However, the IFP refused to talk to the team when it became clear that the date of the elections was not going to change (the IFP wanted to delay the elections).
- April 19, 1994* Chief Buthelezi, the IFP leader, agreed to participate in the general elections after securing guarantees for a constitutional role for the Zulu monarchy.
- April 26-29, 1994* The first general elections in South Africa in which every race could participate. The ANC received 62.6% of the national vote (252 of the 400 seats in the National Assembly), which was not sufficient to allow the ANC to draft and approve a new constitution without the support of the other parties. The NP, which had been the party in power, won 20.4% of the national vote (84 seats in the National Assembly). The IFP won 10.5% (43 seats). Four other parties also won seats in the National Assembly: the Freedom Front (9 seats), the Democratic Party (7), the Pan-African Congress (5) and the African Christian Democratic Party (2).
- In KwaZulu-Natal province, the IFP won the majority of seats in the

provincial assembly, with 50.3% of 41 seats. The ANC followed with 32.2% (26 seats), and the NP with 11.2% or 9 seats.

July 1995

The establishment of the Truth and Reconciliation Committee.

November 1995

The first non-racial local elections were held in the majority of provinces (except for KwaZulu-Natal and Western Cape). The elections were delayed in Western Cape due to disputes over municipal boundaries and over a model for local government in rural areas. In KwaZulu-Natal, the delay was due to disputes over the status of traditional authorities and over the boundaries of certain municipalities.

May 8, 1996

The new Constitution was ratified.

May 29, 1996

The first non-racial local elections were held in Western Cape. The NP won the majority of seats on the metropolitan councils.

June 26, 1996

The first non-racial local elections were held in KwaZulu-Natal.

Outline

The Three Tiers of Government in South Africa

[Note: The interim Constitution was approved in December 1993 and is in effect until the new Constitution, approved by the Constitutional Assembly on May 8, 1996, is certified by the Constitutional Court, which will most likely be sometime before the end of this year. The government of national unity was established in terms of the interim Constitution, and will last no longer than five years (or until 1999). After the new Constitution was approved by the Constitutional Assembly in May, the National Party withdrew from the unity government at national and provincial levels. The Inkatha Freedom Party continues in the unity government, although they too are considering withdrawing.]

The National Level

At the national level, as at the provincial level, government is divided into an executive and a legislative branch.

The Executive

(Under the terms of the unity government)

The head of the national executive is the President of the Republic, Nelson Mandela. The national executive as a whole is called the Cabinet, and consists of the President, two Vice Presidents, and a maximum of 28 Ministers. The Cabinet has executive authority over all questions in which the national government has jurisdiction.

This Cabinet constitutes the so-called government of national unity at central level. All parties which won more than 5% of the national vote in the first nonracial, general elections of 1994 are entitled to Cabinet posts, with the exact number of posts to be determined by the share of the vote received.

The President of the Republic. The President of the Republic is elected by the members of the National Assembly in its first plenary session, and the President himself is, before being elected, a member of the National Assembly. The term of the President is, in principle, five years, but it can be cut short as the result of a vote of no confidence by the national parliament.

In terms of the government of national unity, the President of the Republic has to consult with the two Deputy Presidents on certain questions, including:

the nomination of people for certain posts;

participation in international negotiations;

the development and implementation of national government policies;

the management of the Cabinet;

and the definition of the functions of the Deputy Presidents.

The two Deputy Presidents. Each political party that won at least 80 seats (20% of the total) in the National Assembly has the right to name a Deputy President. The two Deputy Presidents in the unity government were Thabo Mbeki, of the ANC, and FW de Klerk, of the National Party. (FW de Klerk resigned his post when the NP pulled out of the unity government.)

The term of a Deputy President is for a maximum of five years.

The responsibilities and functions of the Deputy Presidents are defined in the Constitution in general terms, and are determined in concrete terms by the President.

The rest of the Cabinet. In addition to the President and the two Deputy Presidents, the Cabinet consists of a maximum of 28 Ministers. Each party with at least 20 seats (5% of the total) in the National Assembly has the right to Cabinet posts, with the number of posts determined by the proportion of the vote received. The three parties that initially participated in the government of national unity are the ANC, the NP, and the IFP. The ANC held 18 Cabinet posts; the NP held 6; and the IFP held 3.

The President, in collaboration with the two Deputy Presidents and the relevant party leaders, determines which posts will be allocated to each party.

The interim Constitution stipulates that the Cabinet must function in a spirit of consensus.

The Ministers are responsible individually to the President and to the national parliament in the discharge of their duties.

The Legislative Branch

The national parliament is the seat of national legislative power. Parliament consists of two houses: the National Assembly, and the National Council of the Provinces (formerly called the National Senate).

The National Assembly. The National Assembly represents the people and guarantees government by the people in terms of the Constitution. According to the newly approved final Constitution, the National Assembly elects the President of the Republic; serves as a national forum for the consideration of public affairs; passes national legislation; and oversees the national executive.

The National Assembly has 400 members, who are elected on a system of proportional representation. The term of members of the National Assembly is five years.

The current distribution of seats in the National Assembly is as follows:

ANC	252 seats
NP	82 seats
IFP	43 seats
Freedom Front	9 seats
Democratic Party	7 seats
PAC	5 seats
ACDP	2 seats

The National Council of the Provinces. The National Council of the Provinces represents the provinces at the national level and guarantees that their interests are taken into account by the national government. The Council therefore participates in the legislative process and serves as a national forum for the consideration of issues that affect the provinces.

The National Council of the Provinces is comprised of one delegation from each of the nine provinces. Provincial delegations consist of 10 members nominated by the members of the provincial legislature. Of the 10 delegates from each province, six are permanent and four, including the Premier of the province, are special delegates, who are called to participate in the Council only when necessary, and who can change from one session to the next, depending on the nature of the issue to be discussed.

In addition to the provincial delegates, a maximum of 10 representatives of organized local government, representing the different types of municipal government, can participate in the proceedings of the Council when necessary, but they may not vote.

Members of the national Cabinet can attend sessions of the Council, but they do not have the right to speak on the floor or to vote.

The Provincial Level

At the provincial level, as at the national level, power is divided between executive and legislative bodies.

The Executive

In the provincial executive, the Premier is elected by the provincial legislature from among its members. The Premier works with the Executive Council, as a kind of provincial Cabinet, which consists of 5-10 members chosen from the members of the provincial legislature. Each party that won at least 10% of the seats in the provincial legislature has the right to nominate at least one Member of the Executive Council (MEC), with the number of posts to be determined on the basis of the proportion of votes the party received.

Each MEC has a specific area of responsibility, such as safety and security, health, local government, etc. The posts to be given to each party are determined by the Premier in collaboration with the leaders of the participating parties.

The Premier and the Executive Council are jointly responsible for the development and implementation of provincial policy and the administration of all provincial and national laws. However, provincial authority can be limited by the administrative capacity of the province. Provinces have the right to draft their own constitutions, which must be approved by a two thirds vote of the provincial legislature. Provincial constitutions cannot contradict the national Constitution. However, provinces are allowed to design government structures that differ from those at national level, and the provinces can develop their own rules, within limits, on the status of traditional authorities and their participation in provincial and local government. Provincial constitutions must be certified by the Constitutional Court.

The Provincial Legislature

Each province has its legislature, elected for a term of five years. All of the executive organs of the province are responsible to the provincial legislature, which must also develop the means to guarantee this relationship. The legislature may call any person before it to give testimony, and can receive the petitions of citizens.

Relations between the national government and the provinces

The Constitution provides for three tiers of government which are distinct but linked, and calls for the creation of structures and institutions that promote and facilitate good relations between them, including mechanisms for the resolution of disputes between the different levels.

Generally, national legislation prevails over provincial legislation when the issue is one of national interest. The national level can also define the types of municipalities that can be established at local level, as well as the financial powers and functions of each type of municipality. It also defines the criteria for the demarcation of municipalities, a subject which has been highly controversial in the recent local elections.

The national parliament cannot approve legislation that will significantly affect the provinces without having first submitted the legislation to the provincial assemblies for their consideration. Any bill that would affect the powers, borders, or functions of a province must be approved in the National Council of the Provinces by at least six of the nine provincial delegations.

Provincial governments are responsible for establishing municipalities and for overseeing and supporting local government in the province, as well as for building local government capacity.

Local Government

Local government in urban areas consists of municipalities, which have both executive and legislative powers. Each municipality has the right to govern its own affairs, in accordance with national and provincial law.

According to the new Constitution, local government has the following objectives:

to govern in a democratic and transparent manner;

to guarantee the provision of municipal services to the communities they serve, in a sustainable manner;

to promote economic and social development;

to promote the protection of the environment;

to encourage the participation of communities and community organizations in the process of local government.

Specifically, municipalities are responsible for structuring and executing local administration, developing the budget, conducting local planning in such a way as to give priority to the community and promote its socioeconomic development. Municipalities are required to participate in the development programs of the national and provincial government. Beyond these broad mandates, the powers of local government are defined by national and provincial government, and not by the Constitution.

There are a number of different types of municipalities, depending on the nature of the community. Each municipality has a council, whose members are elected on the basis of either proportional representation or a combination of proportional representation and single member wards.

Local government in rural areas is not as well defined as it is for urban areas, and has been the object of political conflict in some provinces, such as KwaZulu Natal.

* 1 POLITIKON vol 21 1994

LOCAL GOVERNMENT RESTRUCTURING

FANIE CLOETE*

ABSTRACT

The apartheid value system in South Africa manifested the strongest at the local governmental level where racial communities were separated by law in every sphere of society. This situation became increasingly unacceptable to the black communities in the country. The National Party government was forced into negotiations at local level in 1993 by deadlocks developing in various communities between activist civic associations in especially the black communities and the discredited ethnically based local authorities in those communities. Over a period of ten months, a bilateral negotiated settlement about future local government was hammered out between them, and the principles on which this settlement was based, were formulated in three historic documents: The Local Government Transition Act, 1993; the 1994 Agreement on Services; and chapter 10 of the Interim Constitution, 1993. The process through which a settlement was reached among the different stakeholders and the contents of this settlement are summarised and assessed in this article.

1 INTRODUCTION TO LOCAL GOVERNMENT RESTRUCTURING

Local government comprises local community management and administration. It denotes the political and bureaucratic structures and processes through which community activities are promoted and regulated (Lockard 1968: 451). The apartheid value system in South Africa manifested the strongest at the local governmental level where racial communities were separated by law in every sphere of society, and where the white community enjoyed all sorts of privileges at the cost of the other racial communities (Cloete 1991). Since 1985 political resistance against apartheid at local community level in South Africa led to the escalation of conflict to the point that a national state of emergency had to be established to restore law and order. The intensity of the conflict at this level of government and the virtually total stalemate produced as a result, eventually substantially contributed to the demise of apartheid (Gilliomee & Schlemmer 1989; Lee & Schlemmer 1991).

At the end of 1992, the two major conflicting parties at local government level, the National Party, and the ANC, decided to settle their differences in a more peaceful way (LGNFI 1993: 1). Over a period of ten months (between April 1993 and January 1994), a bilateral negotiated settlement about future local government was hammered out between them, and the main principles on which this settlement was based, were formulated in the Local Government Transition Act, Act No. 209 of 1993 (hereafter the Transition Act), and in the 1993 Interim

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(Constitution, Act No. 200 of 1993 (hereafter the Constitution). The process through which a settlement was reached among the different stakeholders and the contents of this settlement will be summarised and assessed in the rest of this article.

2 ORIGINS OF LOCAL GOVERNMENT NEGOTIATIONS

Separate racially based local authorities were created since 1948 by the apartheid regime for each of the four racial groups in the country. This situation paralleled the position at national level, and became increasingly unacceptable to the black communities in the country.

The National Party government was forced into negotiations at local level by deadlocks developing in various communities between activist civic associations in especially the black communities and the discredited ethnically based local authorities in those communities (Bekker & Humphries 1985; Heymans & Totemeyer 1988; Swilling, Humphries & Shubane 1991; Atkinson 1993). At first ad-hoc bi-lateral negotiations started between the respective local civic organisations and the authorities in those areas. The civics wanted new unified non-racial, democratic local authorities through which they could participate fully in local government as well as in the redistribution of resources among communities. They refused to pay for the services which they received and forced incumbent local councillors to resign. This caused a total breakdown of government in many black residential areas (Atkinson, Heymans & Humphries 1987).

The major structural problem which caused the deadlock, was the unwillingness of the central government to transform local government in any substantial way, although it acknowledged the fact that this was necessary. The main reason for its refusal was the fact that the National Party was at the time not sure in its own mind whether it should accept this principle of non-racialism at central level. The conflict was dithering at top decision making level and an escalation of political conflict and violence at community level which led to a national state of emergency in 1985 and to an increasingly important role played by the South African Defence Force in black local government across the country (Boraine 1989).

The slowly expanding breakdown of local government in black communities as a result of the rent and service charges boycotts and the continuing resignation of the remaining local councillors, all initiated by and under the leadership of mainly ANC oriented civics, increased the pressures on national government to find a solution for the local government crisis.

By the end of 1991 the ANC oriented civics and had organised themselves into a SOUTH AFRICAN NATIONAL CIVIC ASSOCIATION (SANCO). During 1992 they started discussions with the Minister of Local Government regarding the restructuring of the local government arena. By then, more clarity about the future existed among the most important political actors in the national negotia-

tions, and the shortfalls on the budgets of the black local authorities had risen to an estimated 2 thousand million rands, with this astronomical figure rapidly rising further.

By early 1993 SANCO had persuaded the Minister of Local Government to establish a formal national LOCAL GOVERNMENT NEGOTIATING FORUM (LGNF). This body served as the main negotiating forum on local government. Its recommendations were later substantially ratified by the Multi-Party Negotiation Process (MPNP), and incorporated into the formal documents mentioned above.

3 FORMALISING LOCAL GOVERNMENT NEGOTIATIONS

The LGNF was established on 22 March 1993 as a two sided forum between representatives of central, provincial and organised local government in all provinces (the statutory delegation) on the one hand, and SANCO (the non-statutory delegation) on the other. The terms of reference of the LGNF were to try to compile and analyse the necessary data and to seek agreement among the two delegations on the process and contents of local government restructuring in close co-operation with, and within the framework of agreements in, the national negotiations process (LGNF1 1993: 7). The LGNF consisted of 60 delegates, half from each delegation at the table. Most of the bargaining and negotiations on local government transformation were done in different working groups, in *ad hoc* task teams of those groups and in the Management Committee. Initially the different stakeholders stuck to their respective policy positions, but as time constraints increased, they compromised and eventually came up with a model of local government restructuring which was eventually set out in the Constitution and in the Transition Act.

4 CHAPTER 10 OF THE INTERIM CONSTITUTION

Chapter 10 of the Interim Constitution lays down the policy framework of the future elected interim local government system in the country in the proposed interim phase of transformation. Section 245 provides for these provisions of the Constitution to be applied only after the first local government elections have been held, (probably during 1995). Until then, local government restructuring will be governed by the provisions of the Transition Act, 1993.

4.1 Classification of Local Government

Differentiated categories of autonomous elected local governments are acknowledged in chapter 10 for metropolitan, urban and rural areas with different structures, powers and functions, according to the needs of the area concerned (section 174). It also entrenches local government by specifying that Parliament and Provincial legislatures shall not encroach on local government to such an extent that it compromises the fundamental autonomous status, purpose and character

of local government. This is concretely applied in a further subsection which specifies that proposed legislation by these legislatures which materially affects this "fundamental status, purpose and character of local government", must be published to allow interested stakeholders a reasonable opportunity for written comments.

Wide statutory regulatory and executive powers and functions are also conceptualised in the Constitution for elected local government in order to enable it to maintain and promote the wellbeing of all persons in its jurisdiction (section 175). The same section provides for the controversial principle of ward councils. If an elected local council is satisfied that the assignment of certain powers or functions to a local body or submunicipal entity in its jurisdiction will promote or facilitate good governance in the public interest, the adherence to by-laws or the provision or administration of services, it may do so by resolution, provided it is a legal assignment which does not diminish the accountability of that local government. This opens the door to neighbourhood interests and civics to take over certain responsibilities themselves, provided the local authority concurs. It may be of practical value in those cases where different non-racial local authorities combine for certain purposes, but still want to be separated entities for other purposes.

Section 178 *inter alia* accords the interim elected local government the power to levy and recover property rates, levies, fees, taxes and tariffs on a uniform basis throughout its area of jurisdiction. Local government shall also be entitled to an equitable allocation of funding from regional government on the basis of criteria to be formulated by the national Financial and Fiscal Commission.

4.2 Electoral arrangements

The Constitution provides that local authorities shall be elected democratically every three to five years, with the first election to take place on the same day in all nine provinces. The electoral system for local government shall include both ward and proportional representation, while every natural (and not a juristic) person who conforms to the following requirements can vote in local elections: Such a natural person can vote if he/she is -

* in terms of section 6 of the Constitution eligible as a voter for Parliament (i.e. normally a South African citizen over the age of 18 and not subject to the normal statutory disqualifications),

* ordinarily resident in the jurisdiction of that local government, or under law liable for the payment of property rates, rent, service charges or levies to that local government (i.e. including students, boarders or residents in informal settlements who meet these requirements and some absent landlords, but not hotel guests, tourists, visitors or contract workers), and

* is a registered voter on the voters' roll of that local government.

A local government voter can only bring out one vote per local government, while local government officials and members of Parliament or the Senate cannot become or remain local councillors (members of regional assemblies can, however, be local councillors). The Provincial Executive concerned can exempt local government officials from this restriction on becoming councillors in the same local government jurisdiction (see also section 9 of the Transition Act and Schedule 4 to that Act for implementation details). The local franchise is a "vic-tory" for SANCO who fought very hard to normalise voting qualifications in line with global trends. The National Party succumbed to these pressures in exchange for the provision about ward councils which it wanted for purposes of minority protection.

Section 245 further contains the transitional provision that the first local coun-cils which are elected after the promulgation of the Constitution, shall be consti-tuted as follows:

- * 40% of the councillors shall be elected by proportional representation, while
- * the remaining 60% of the councillors shall be elected on a single member ward basis:
 - Half of these ward representatives (30% of the councillors) shall represent traditional white, coloured and Indian areas in the jurisdiction of the new local government, while
 - the other half (30%) shall represent current black local authorities and other areas traditionally outside municipal boundaries, but now falling in the juris-diction of the new local government, (e.g. farms, as well as rural or informal villages in local or peri-urban areas).

Section 7 & 8 of Schedule 4 to the Transition Act also apply this formula to the composition of metropolitan substructures.

This relatively complicated formula is the result of a political compromise which was struck in the negotiations to protect the interest of minority com-munities in the first elections, irrespective of the racial background of such a community. It has the result of guaranteeing such minority community a mini-mum of 30% representation on the first council, while majority communities can make up for this possible overrepresentation by probably winning its fair share of the 40% proportional seats left. The result of this mechanism will be a *de facto* government of local unity (GLU), for a period of 3-5 years, analo-gous to the compromise at central level, resulting in a government of national unity (GNU) until 1999. This compromise was one of the most difficult settle-ments to achieve, and it was concluded in the death throes of the negotiations process.

4.3 *Ex officio* membership of local authority

Section 182 provides that the traditional leader of a community residing within the jurisdiction of an elected local government but which still observes indigen-ous law, is *ex officio* entitled to be a member of that local government in any capacity provided for by law.

5 THE LOCAL GOVERNMENT TRANSITION ACT

5.1 Stages of transition

In terms of the political agreements in the negotiations, local government trans-formation will take place in three distinct phases:

- * The first phase is called the pre-interim phase and can be described as the period from the promulgation of the Transition Act (on 2 February 1994), to the first elections for local governments in terms of the Interim Constitution, (section 1(xi) of the Transition Act), probably during October or November 1995 or 1996. This phase is regulated by the provisions of the Transition Act, while the contents of the Agreement are also applicable to this phase.
- * The second or interim phase starts with the first election of local governments under the Constitution during late 1944 or early 1995, and ends with the im-plementation of the final model of local government, probably by 1999. This phase is governed by the provisions of the Constitution as well as certain pro-visions of the Transition Act.
- * The third phase is the final phase, which will be governed by the provisions of the final Constitution. Scant details of this stage of transformation are cur-rently available (section 1).

The Transition Act provides for various arrangements which will apply during these different phases.

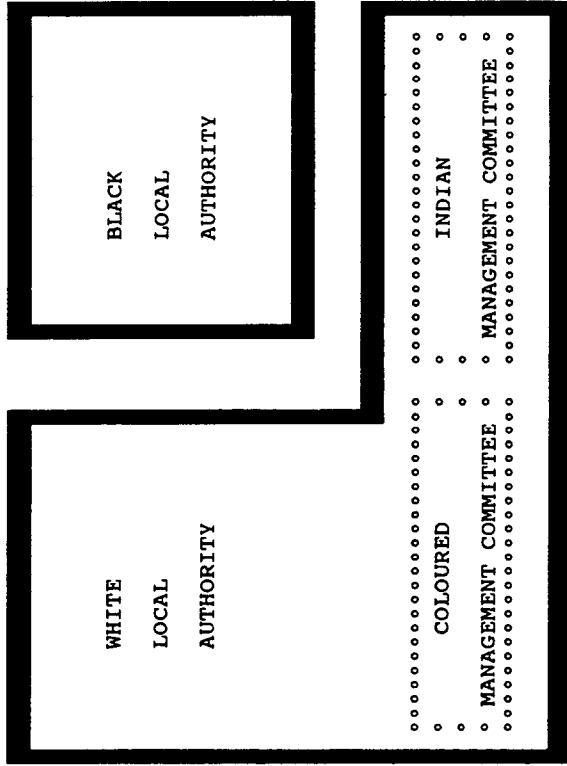
5.2 Provincial Committees of Local Government

The Act establishes a controlling mechanism for the first (pre-interim) phase (section 3). It provides for the establishment in each province of a Provincial Committee for Local Government consisting of a maximum of 6 members who are widely representative of the different stakeholders in local government. The Committees were deemed to be sub-committees of the Transitional Executive Council's Sub-Council on Regional and Local Government, and supposed to monitor and jointly control the implementation of the new local government system *in concurrence* with the provincial Executive Council concerned. Disputes between a Committee and the Executive Council will be settled by the Electoral Court, as provided for in the Constitution (section 4). The respective provincial committees will exist until local elections are held (section 3(1)(c)).

WHY TRANSFORMATION? :

CURRENT APARTHEID SYSTEM

PROPOSED FORUM/1 BOUNDARIES



5.3 Local Negotiation Forums

The Act also regulates the local negotiation process which must be undertaken in each community in order to select one of three appointed transitional options during the first phase which will take over either some or all of the functions of existing local government bodies. Section 6 and Schedule 1 to the Act therefore provides for the establishment of widely representative and inclusive local negotiation forums in so-called "economically and historically bound areas". This

provision is aimed at bringing together the different racial communities in a region which have been artificially separated in the past as a result of apartheid policies. Rural areas may also form part of the forum area if such areas conform to the requirements spelt out above, although this decision may also complicate the transition if differences of opinion exist in the forum about the mechanisms by which the rural area will be integrated into the current urban municipality.

The provincial government can only enforce the creation of a forum if it has not been established voluntarily, after 3 months or after a further extension of time (section 7(1) & 10). The provincial government may, however, also decide not to enforce the creation of a forum. A forum can decide itself how big it wants to be. The Act specifies that the forum must be inclusive and representative of all sectors of the community concerned with a stake in the political restructuring of local government (Schedule 1, section 3). Interest groups who are **directly** involved in the field of local government and local elections can apply to be represented on a forum. They include incumbent councillors, local government trade unions, residents and ratepayers' associations, civic organisations and local branches of political parties and allied movements.

Provision is also made for observer status of other interest groups on the approval of the forum. This includes interest groups who have only an **indirect** interest in local government in the forum area, like chambers of commerce, Escom, development associations, other labour unions, professional, technical, religious, cultural, welfare and recreational bodies. Interest groups from outside the forum area may also be allowed as observers (eg agricultural or farmers' associations and interest groups from adjacent local authorities or forums).

A controversial issue in the Act is the question whether only organisations or also individuals can become forum members. The Act is not clear on the issue (Schedule 1, section 3). It allows for persons representing organisations, but also states that "members of local government bodies" may become members. The principle of representativity underlying forums and the fact that any prospective member or observer must provide the forum with its constitution and other particulars about its activities, points in the direction that individuals can only represent organisations in a forum. This has been the approach preferred in the then Cape Province.

On the other hand the former Transvaal Provincial Government advised forums to allow all existing councillors in their individual capacities as forum members, each with a vote. This is apparently done in order to prevent Conservative Party controlled local councils who boycott forums from preventing individual members to participate in forum activities. This approach is problematical because it seems to be in contradiction to both the wording and the spirit of the Act (aiming at levelling the playing field among the insider (system) and outsider (struggle) parties to the negotiations, as happened in the Kempton Park negotiations where each of the parties involved had one vote, irrespective of its size or

support base). It further has the practical complication that the Cape Metropolitan Forum would then have to have as many as 1 000 members, while it becomes difficult to find equitable criteria to accord voting rights (eg Cape Town City Council will then have 28 votes in the forum while its ratepayers and civic associations will have only one each). As a result of this lack of clarity in the Act, forums probably have a very wide discretion relating to their admissions policy.

Forum members must further identify themselves with either the **statutory group** or the **non-statutory group** as defined in the Act. Organisations which took part in local government elections in that area in the past should in terms of section 5(2)(b) of schedule 1 to the Act, be regarded as statutory groups. These include political parties, ratepayers and residents associations and other organisations which were directly involved in local elections in 1988 and/or before that time. Organisations which did not exist at the time, which were inactive or not directly involved in such elections, qualify in terms of the wording of the Act to apply to the forum for recognition as non-statutory members, irrespective of their political orientations or sympathies.

This provision is probably the most controversial section in the Act, because it is contrary to the spirit within which negotiations were conducted in the LGNF. There, the statutory side to the table consisted of all the participants in the racially based so-called "tri-cameral" system of government irrespective of whether some organisations directly participated in past local government elections, while the non-statutory group comprised only the ANC-aligned opponents of this system. The transitional powersharing system which was eventually devised in the LGNF, provides for a balance of power in a government of local unity for the next approximately 5 years, between the participants in the current system and its opponents in the struggle for liberation.

The issue is politically sensitive because each of the two groups in the forum has to nominate half of the members of the transitional council which will take over either some or all of the current functions of existing local government bodies. Some organisations regard it as a shrewd strategy to try to sit at both sides of the table in order to manipulate this nomination of new councillors in their favour, in order to try to control decision making in the new councils. This strategy has led in the past to an escalation of tensions and conflict in and among local communities, and to the questioning of opponents' *bona fides* because they want to have their bread buttered on both sides: they will in effect be negotiating with themselves. In some cases this strategy led to opponents' demands to increase their membership on their side of the table in order to counter the perceived negative effects which this strategy will have on their bargaining position in the negotiations. In this way the issue tends to snowball, and the focus of negotiations is sidetracked into lesser important directions, while the main objectives of the forum are neglected and emotions are heightened. In the end, as a result of the ambiguity of the Act, the forum must regard the provisions of the Act only as guidelines and decide itself how to deal with this explosive issue.

A forum has wide powers and discretions in terms of the Act. The statutory functions of a forum are negotiations on and the determination of the following issues:

- * recommendations to the Administrator on the boundaries, the size and composition of the forum (statutory and non-statutory members, observers and advisors);
- * the name of the new transitional council and the number of seats on it, taking the existing number of seats in the various local bodies in its area as a departure point (the affordability of future councillors' pensions and allowances will probably be determining factors here);
- * which transitional model will be applied, and its functions, i.e. whether the new appointed transitional council will be replacing all existing local government bodies or only supplement them by taking over some of their functions in the form of a local government co-ordinating committee; and
- * which existing councillors are to be re-nominated and which are not, and which new councillors are to be nominated.

The provincial government is bound by the decisions of the forum on its statutory functions, if they conform to the provisions of the Act, while the forum can only make recommendations to it on other issues. The Premier or his/her representative then acts in his discretion (e.g. determining the forum area, the boundaries of metropolitan substructures or acting on unforeseen crises which may develop) (schedule 1, section 2&4). Forums originally had to notify the Provincial government within 90 days of the promulgation of the Transition Act, (2 May 1994, since extended to 2 October 1994) of the details of their agreements. If agreement is not reached within this time (or within such extension as had been allowed), the Premier or his/her representative must within 30 days thereafter facilitate a process of independent mediation in order to promote an agreement. If this still does not produce an agreement, the Administrator/Provincial Committee must appoint -

- * in metropolitan forums, a Transitional Metropolitan Council (TMC) and Transitional Metropolitan Substructures (TMS's), and

- * in non-metropolitan forums,

- in cases where such non-metropolitan forums only consist of grade 9 or higher local authorities, either a Transitional Local Council (TLC) or Local Government Co-ordinating Committee (LGCC); and in cases where such non-metropolitan forum has a grade 8 or lower local authority in its area, only a LGCC in addition to the existing local bodies;

* investigation of the rationalisation of the administration and personnel of the different local government bodies (section 7).

BOX 2:

POLICY INSTRUMENTS

FOR

LOCAL GOVERNMENT TRANSFORMATION

POLICY INSTRUMENT	PRE-INTERIM (APPOINTED)	INTERIM (ELECTED)	FINAL PHASE (ELECTED)
TRANSITION ACT	██████████	██████████	██████████
AGREEMENT ON FINANCE & SERVICES	██████████	██████████	██████████
INTERIM CONSTITUTION	██████████	██████████	██████████
FINAL CONSTITUTION	██████████	██████████	██████████

– possibly supplemented in rural areas with services, sub-regional or district councils to replace current regional services councils. The Act, however, contains no details about these supplementary councils.

The main reason for this difference in treatment between the bigger and smaller local authorities, is a compromise deal reached directly between SANCO and the Transvaal Municipal Association (TMA). The effect of the deal is that smaller local authorities who may be under the control of the TMA and its ally the Conservative Party, will not be forced to integrate the different racially-based local bodies before the first local government elections, (probably in 1995), if the forums in those areas cannot reach an agreement on the issue concerned.

5.4 Appointed Transitional Councils

The Act stipulates that persons who are nominated to the new transitional bodies should conform to the requirements for local councillors in any one of the *currently* participating local bodies in that area (i.e. the white or black local authority or any management or local affairs committee in the area concerned). In some cases this may mean that certain categories of people may be excluded from nomination to the new transitional bodies (e.g. black residents within the white local authority or some squatters who do not have municipal franchise now but will have such rights under the new system), unless the provincial government concerned rectifies the matter by amending the legislation concerned to bring it in line with the Transition Act's franchise provisions.

Half of the members of the new transitional councils must include existing councillors or other nominees by the statutory side in the forum, nominated in proportion to current power relationships between and among existing local government bodies in the forum area. The other half must be nominated by the non-statutory side, and equitably represent all those sectors of the community which did not participate in the past in local electoral processes in the area concerned. The statutory and non-statutory groups in the forum must each be satisfied with half of the nominations eventually decided upon by the forum. If the forum fails to nominate the required number of persons, the Premier or his/her representative must appoint a mediator to assist the forum to reach a decision (schedule 1, section 5).

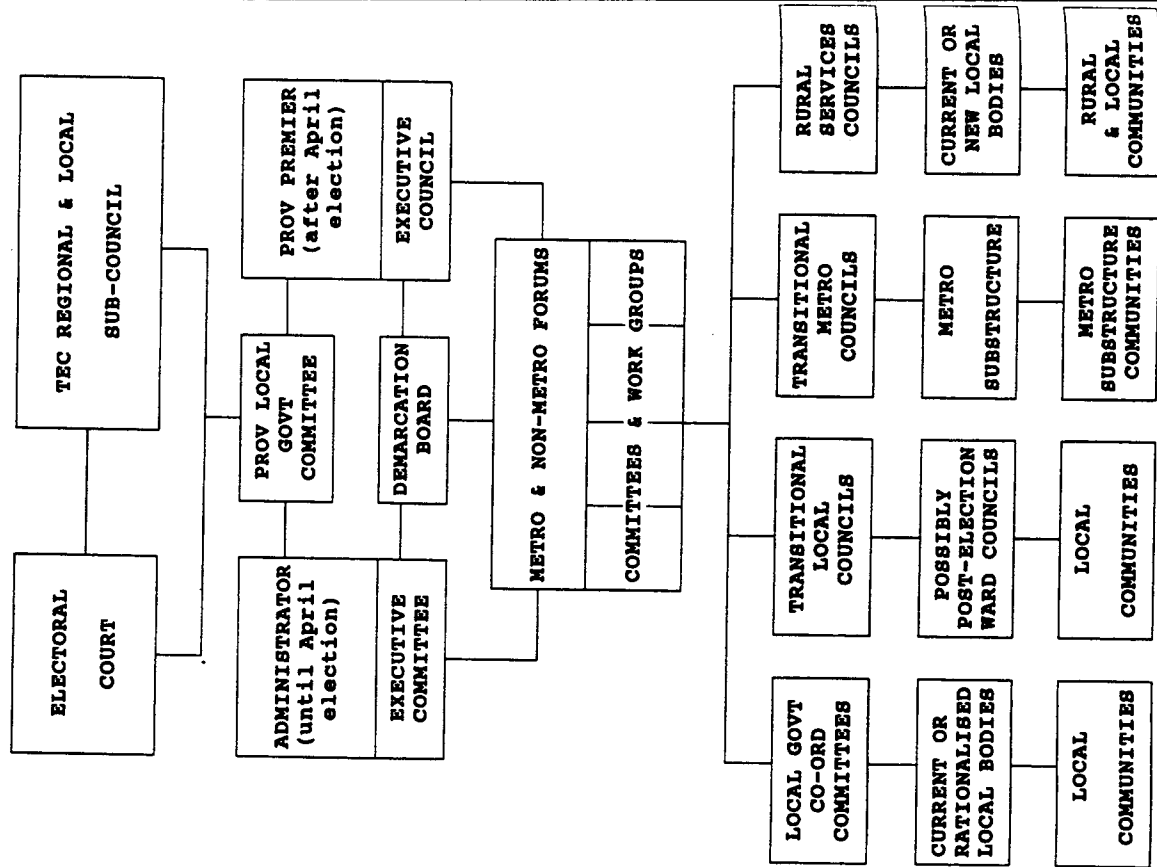
The powers and functions of LGCC's must entail at least the following:

- * access to water, sanitation, refuse removal, health services, electricity, roads and stormwater drainage, emergency services, financial administration and any other function agreed upon;
- * approval of the budget for these services, including at least 10% of the assessment rates of the various existing local bodies in the forum area for purposes of improvement or restoration of services as agreed upon, and other grants or funds to address service and developmental backlogs as agreed upon; and

These functions are all major policymaking and financial functions. All other minor functions remain with existing local government bodies.

BOX 3:

LOCAL GOVERNMENT CHANGE AGENTS



Where TLC's are established, they take over all local government functions, while existing local bodies are abolished.

The powers and functions of TMC's must entail at least all the potential powers and functions of regional services councils, irrespective of whether these functions have been transferred to RSC's or not. These powers can be supplemented by other additional powers and functions as agreed upon in forum negotiations.

TMS's retain their current powers and functions, minus those functions transferred to the TMC (section 7, 8 & 10 & schedule 2).

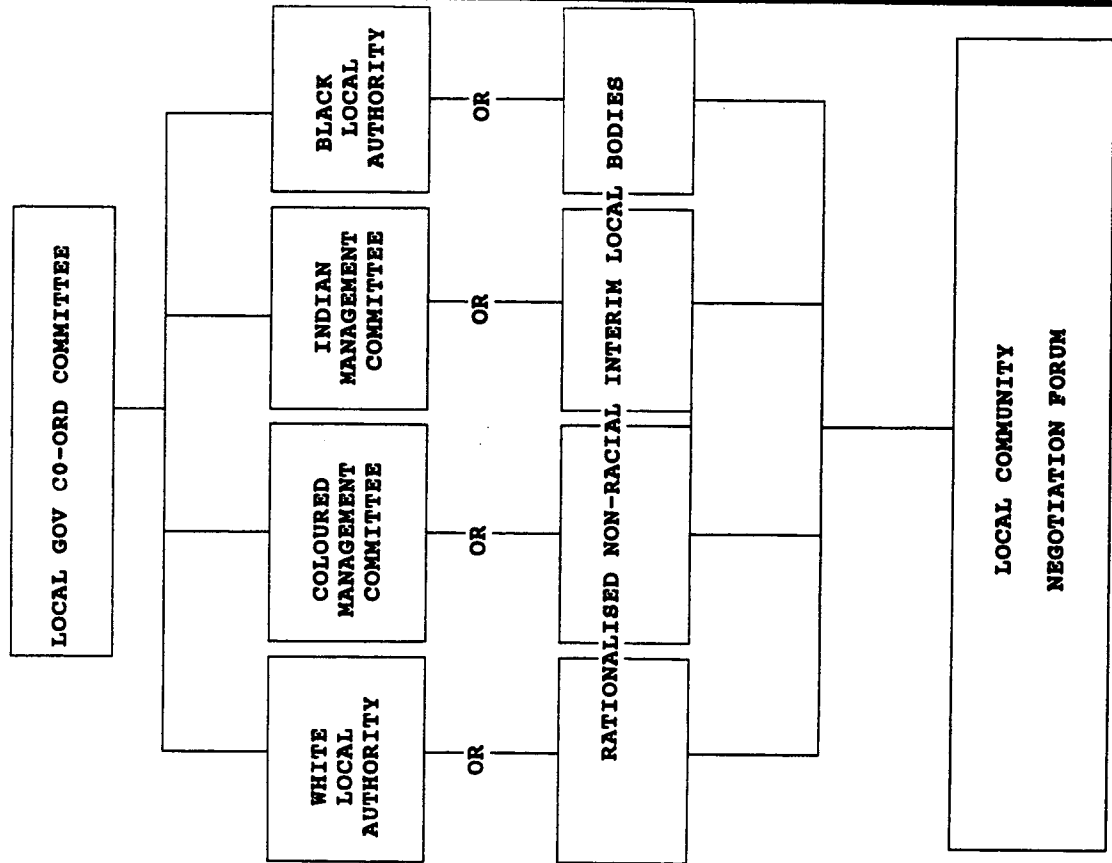
Section 16 further stipulates that decisions by a TLC/TMC/LGCC about budgetary matters must be taken by a two thirds majority of the members of the body, while decisions about town planning matters must be taken by absolute majority (50% + 1) of the members of such body. This means that a transitional body can itself decide on another decision making system applicable to other issues.

The most important differences between the TLC and the LGCC options can be summarised as follows: The acceptance of the LGCC model as a legitimate model in the pre-interim phase was an attempt by the NP and the ANC to placate the Conservative Party and TMA who still controls the majority of local authorities in the former Transvaal as well as important councils in the other provinces. It was further the first agreement negotiated directly between the ANC and the TMA. It amounts to an important victory for the right wing who had threatened mass action and large scale destabilisation campaigns if they were not accommodated in the transitional process.

If the LGCC option is chosen, the racially fragmented status quo remains until local government elections, with the addition of another umbrella local body. The existing local bodies, can, however, rationalise their boundaries in preparation for possible ward councils on the basis of these rationalised boundaries after the local elections. The new committee takes over all major functions of current bodies, including policy making and budgets, while the existing bodies are left with autonomy over only routine and minor implementation functions. This will inevitably increase the conflict potential of political turf battles among local bodies, while officials will have to be accountable to more than one superior until local elections have been held for a totally integrated municipality.

Administrative rationalisation must take place in preparation for local elections, but this cannot take place fully in practice until after those elections, because of the continued existence of current racial administrative boundaries. This conclusion is important for the following reasons: current white local authorities will be weaker in the appointed phase because in most cases they will not be able to control appointed bodies, while they would also probably in most cases be in an even weaker position after local elections. It therefore makes sense from their

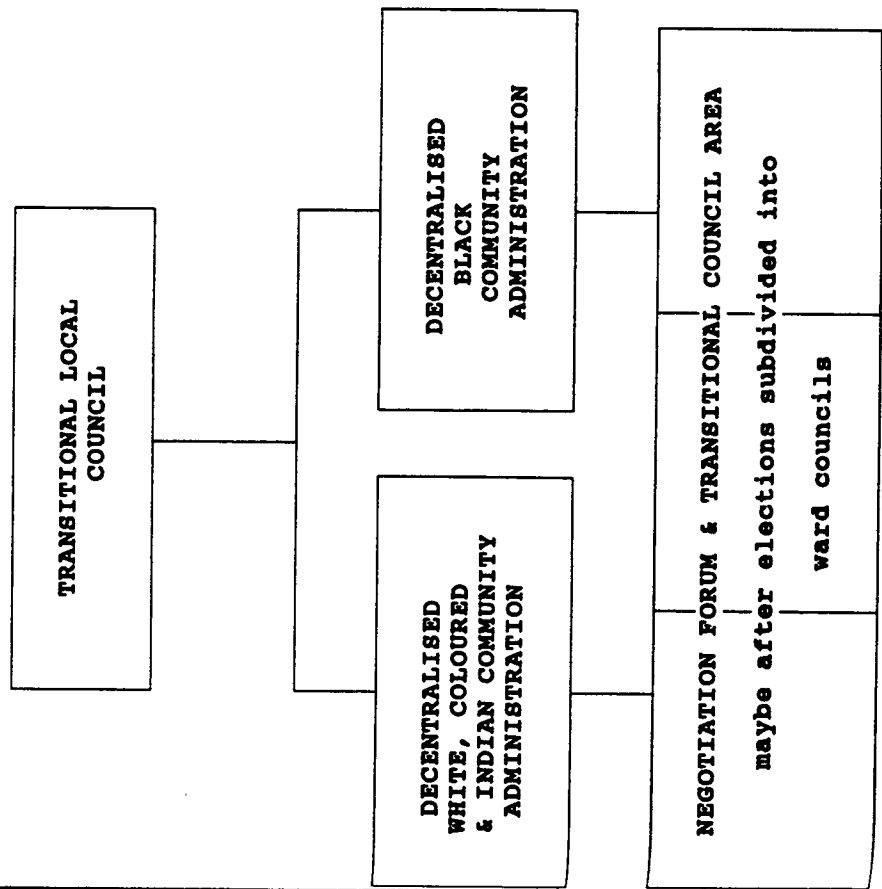
LOCAL GOVERNMENT CO-ORDINATING COMMITTEE



perspective to try to influence rationalisation already in the appointed phase as well as they can. This implies opting for the local council option rather than the LGCC one, because a TLC can maximise the impact of current bodies on re-organisation of local government administration before elections and in this way minimise the dangers of discontinuity after elections.

BOX 5:

TRANSITIONAL LOCAL COUNCIL



One of the most important implications of the new municipal franchise system is that the current corporate vote in the former Cape and OFS will totally lapse in the new system. Only individuals who conform to certain requirements will be able to vote. Another implication is that current voters' rolls based on occupancy and land ownership, will also be replaced with new rolls based on occupancy and liability to pay service charges and property taxes. This implies that absent owners of time share, share block or sectional title properties, will not be able to vote in a specific municipal area, unless he/she is "ordinarily resident" in that area or statutorily liable to pay taxes or service charges to the local authority (schedule 4).

5.6 Boundary Demarcation

The establishment, composition, powers and functions of Local Government Demarcation Boards to identify optimal areas of jurisdiction for the new local authorities which were mandated in part 5, are dealt with in this part of the Act (section 11 and schedule 5). The following criteria for the demarcation of TLC, TMC and TMS areas must be taken into account in the demarcation of boundaries (schedule 6):

- * the topographical and physical characteristics of the area;
- * population distribution;
- * existing administrative boundaries;
- * existing and potential land use;
- * economic functionality, efficiency and financial viability of service provision;
- * development potential of the area;
- * the degree of integration of the urban economy indicated by commercial, industrial and residential linkages; and
- * the degree of common interests among residents on the basis of residency, work, commuting and recreation.

It is clear that the Act has in mind the establishment of bigger, non-racial local government areas in order to achieve more financially viable local authorities. In addition to the above demarcation criteria, a metropolitan area is defined in part I of the Act as a region with multiple local governments, densely populated and extensively urbanised. Metropolitan areas are normally only considered in the biggest developed conurbations where the definition of a city may be inappropriate because of the density of the population and the intensity of activities in the region concerned. The Act provides only for a metropolitan forum in these areas.

and not explicitly for lower level forums. It does, however, stipulate that such a metropolitan forum can appoint one or more working groups, task teams or sub-committees (Annexure 1, section 12(5)). These organs of the metropolitan forum may comprise smaller "sub-structure forums" which may have developed in the metropolitan area.

5.7 Scope of and changes to the Act

The Act is applicable to the former self-governing territories and the TBVC states after their incorporation into the RSA (sections 1 & 2). The Provincial Premier can even amend Parliamentary legislation, (except for the Transition Act itself), by proclamation in order to provide for their inclusion (section 10(1)(b)).

6 IMPLEMENTATION OF NATIONAL AGREEMENTS

The Act was promulgated on 2 February 1994, and not on 20 January 1994, which is the date on which the Act and a multilateral AGREEMENT ON LOCAL GOVERNMENT FINANCES AND SERVICES were signed at the World Trade Centre in Kempton Park. In addition to the agreements about local government transformation contained in the Transition Act and in the Constitution, the negotiating parties in the LGNF as well as many other stakeholders in local government also agreed to a statement of intent regarding future financing and service delivery at local government level. In essence, the agreement provides for a joint undertaking by all signatories, to promote the implementation of the two acts in the pre-interim and interim phases.

TLC's shall immediately start with a visible and sustainable resumption, improvement, upgrading and extension of services in historically disadvantaged areas. Cost recovery is an important principle on which service delivery must be based, while tariff structures should address the problems of poverty and unemployment. A TLC may also determine interim tariffs in cases where services are deficient, until service delivery standards are met. TLC's shall further utilise all its resources efficiently and equitably, while all municipal finances must be based on the principle of one municipality, one tax base. Institutional debts of black local authorities which cannot be repaid, will be taken over by the state (approximately R360 million), except for liabilities regarding infrastructure which may generate revenue or can be used for the purposes for which they have been provided.

Individual service charges in arrears (approximately R2 billion) originally had to be dealt with within 30 days after the promulgation of the Local Government Transition Act by the appropriate policy making or legislative body (in most cases the local authority concerned), so that TLC's will not be burdened by accumulated liabilities. This deadline, however, could not be met. Forums must consider these individual debts and decide what to do about them. The provin-

cial government must approve debts which are to be written off by the local body concerned. Payment must be facilitated by updating of records, regular accounting to consumers, the availability of effective offices for payment and the issuing of receipts, while a failure to provide accurate statements will not absolve consumers from payment for services supplied. Payment for services should further resume on or before the date on which areas are written off, while equitable and fair default procedures should be developed by TLC's to deal with cases of non-payment.

7 PROCEDURAL ASSESSMENT

Within 10 months, local government negotiators at national level succeeded against huge odds to negotiate a workable system of local transformation into a more democratic and legitimate system. This writer regards the task of local government transformation as a more complex one than that of regional and national restructuring, because of considerations like the larger number of actors involved and the resulting interplay of different and more competing interests. It is therefore a near miracle that the outlines of the new system as summarised in this article did in the end materialise in this format. It was not easy to do, and there are still strong resistance against some elements of the agreement (e.g. from the DP, CP, PAC and AZAPO).

The most important defects in this process which complicated the work of the LGNF were the following:

- * The lack of representativeness of the forum, especially the absence of other stakeholders like the Democratic Party, the Inkatha Freedom Party and the Pan Africanist Congress was an important stumbling block. This issue was never resolved and complicated the adoption of the two laws until the very end when the DP still refused to accept some aspects of the agreements.
- * The time constraints on the negotiators led in some instances to ill advised decisions and a lack of time to report back to constituencies to obtain new or amended mandates. This in turn led to criticism of the elitist nature of the process and the lack of transparency.
- * The refusal or inability for various reasons of Cabinet to approve the progress in the LGNF and to issue political policy guidelines to negotiators stalled the process for extended periods because no commitments could be made by statutory representatives in the absence of the approval of their principals.
- * The absence of political commitment and leadership caused a lack of direction and a lack of consensus among the various component members of the statutory delegation, and forced officials to take the lead and even exceed their mandates in order to make progress.

* The heterogeneity of the statutory delegation (consisting of state departments, autonomous provincial representatives, different and competing local government associations and bodies, as well as representatives from the National Party and the Conservative Party in the same caucus), contributed largely to the policy formulation problems in this delegation. In contrast, the SANCO delegation was much more homogeneous with fewer interests to please. They were in every respect better prepared for negotiating sessions.

On the positive side, the following factors can be isolated:

- * The presence of both politicians and officials on both sides of the table and in all phases of the negotiations proved a success because of different perspectives which could be brought into play and synchronised.
- * Further, many of the negotiators were officials who were personally involved in local government. Their technocratic approach to the negotiations facilitated the process because most of the participants knew from first hand experience what they were talking about, and did not blindly adhere to theoretical or ideological policy positions. Only at the end of the process did the Kempton Park negotiators enter the fray. By then most issues were already settled among the practitioners, and mostly ratification was necessary.

The fact that negotiations in the LGNF continued simultaneously with the political talks in Kempton Park, kept local government out of the limelight and speeded up the process because other political crises did not materially push the talks off the political agenda, which is one of the reasons why Cabinet delayed its response to the preliminary agreements in some of the working groups of the LGNF.

* Another positive factor was the fact that a virtually total deadlock existed in the black local government arena: by the end of the process the deficit exceeded two thousand million rands, and the government was desperate to persuade SANCO to call off its rent and services boycotts. On the other side, white local authorities still fully controlled local decision making pertaining to the daily lives of millions of blacks who had no say in the spending priorities of the councils. SANCO and its ANC allies wanted to start immediately with a redistribution and re-allocation of the resources under local government control. This deadlock facilitated a negotiated settlement, because on both sides the alternatives of either a continuation of the mutually hurting deadlock or an escalation of violent conflict, were "too ghastly to contemplate". The time was therefore appropriate to negotiate, and the issue was "ripe for resolution".

8 ASSESSMENT OF THE OUTCOME OF NEGOTIATIONS

The most complicated and intractable issues which cropped up in the national level negotiations were the following:

- * extension of membership of the LGNF to other stakeholders like the DP, IFP, PAC, etc.;
- * composition of and decision making in the TLC's and TMC's;
- * organisational problems with amalgamation of local authority bodies;
- * restart of payment for services;
- * metropolitan outer and inner substructure boundaries;
- * the local government electoral date, system and franchise, and
- * ward councils: principles, composition, functions and resources.

The intractability of the different issues was caused by two major factors: a struggle for power in the new system on the one hand, and attempts to maximise minority protection in the new system for the power losers. In the end, however, most outstanding issues were resolved, and a workable compromise framework for sustainable local government transformation was devised with the concurrence of most of the major stakeholders in the field. It is significant that even the Conservative Party came to an agreement with the ANC after numerous direct bi-lateral negotiation sessions between them. A potentially explosive situation in local government was in this way defused, against the expectations of many commentators who despaired at the complexity of and the linkages among many of the actors and issues involved. The main bone of contention in future will probably be the degree of autonomy of local government from central government. Intergovernmental conflict of this nature is part of a normal worldwide trend (Humes 1991), and indications have already emerged that it will be the same in South Africa.

The end results of the local government negotiations can at this stage be regarded as one of the most successful outcomes of all the numerous negotiations that took place. An important outstanding question, however, is whether the implementation of the different phases will proceed according to plan. The time schedules set for these stages are very short, massive ignorance and resistance in some quarters against some of the agreements will have to be overcome through information, educational and training campaigns, and exhausting negotiations sessions in virtually every community lies ahead. These issues pose tremendous challenges to all stakeholders involved. By the end of September 1994 only a handful of transitional councils have been established, while negotiations in local forums about the establishment of many others are in different stages of advancement. It is not yet possible to speculate about the eventual outcomes of these processes.

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PROCESS



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The process of local democracy

Under the previous constitutional dispensation – in the old South Africa – all tiers of government were racially based and exclusive. Local government was fragmented, with local authorities existing for the different racial groupings in the urban areas. There were virtually no formal structures of local government in rural areas, although in some areas tribal authorities had legal status.

While it existed, local government outside of the white areas was challenged at every level and ultimately suffered a major crisis of legitimacy and economic viability. This resulted in the collapse of many local authorities across the country.

The transformation and democratisation of local government was not the central concern of the national negotiations in the Multi-Party Negotiating Forum. Negotiations on local government were conducted primarily in the Local Government Negotiating Forum (LGNF).

Local Government Negotiating Forum

As a result of the unrepresentative manner in which local government structures and advisory bodies such as the Council for the Co-ordination of Local Government Affairs were created, talks were launched in September 1992 to establish a more representative mechanism for local government. These negotiations

were conducted by the South African National Civic Organisation (Sanco), members of the Co-ordination Council, the MECs entrusted with local government of the former four provinces and the Minister of Local Government at that time.

The outcome of these negotiations was the creation of the LGNF in March 1993. The forum consisted of a delegation of 30 members, led by Sanco (the so-called "non-statutory" side), and a delegation of 30 members of organised local government (the "statutory" side).

It appointed a management committee and three working groups, dealing with legal and constitutional issues, services and finances, and management, administration and training. The working groups investigated aspects such as the suspension or adaptation of legislation, revised interim measures for local government, the suspension of rent and services boycotts, how to deal with personnel in the transitional phase and so on.

The LGNF's activities culminated in three critical documents: the Local Government Transition Act, 1993; Chapter 10 of the interim Constitution; and the Agreement on Finance, Services and Service Rendering. These documents marked the end of the road for the LGNF whose tasks were devolved to its management committee for further attention. At the national summit for local government, held on 20 January 1994, the new Act and agreements were signed in public, and the Inkatha Freedom Party also announced its full support for the local government restructuring and intention to fully participate in the future processes.

Local government will be transformed in three phases. The Act deals with the first two phases while the third and final phase will be dealt with by future provincial governments within the ambit of their legislative competence.

Pre-interim phase

In the first (pre-interim) phase, the aim is to accomplish co-operation at local level. This phase began the process of legitimising local government by unifying and deracialising local authorities and making them more inclusive.

This was done through local negotiating forums which were the transitional councils. Membership of

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These forums drew together communities that live in close proximity but in different worlds.

these forums was in accordance with the principle of inclusivity and representativeness and drew together communities that live in close proximity but in different worlds. In this manner these different communities were given time to get to know and understand each other.

The forums could decide on one of three options for transforming existing structures. The first was to establish a transitional local council in the forum area, appointed by the forum on a 50/50 representation basis for the statutory and non-statutory components.

In metropolitan areas transitional metropolitan councils with transitional metropolitan substructures could be instituted on the same basis. The third possibility was to maintain the existing councils in the forum area and appoint a local government co-ordinating committee on a 50/50 basis.

By the end of February 1995, 91 percent of the transitional structures were proclaimed. They have the same powers and duties as the local government bodies they replaced, with the added responsibility of preparing for the local government elections during October 1995.

The election

The interim phase begins with the local government elections in November 1995. These elections will replace the appointed members of the transitional authorities with elected members. They will serve for a term of three to five years.

The elected transitional councils take on a different form in different areas. They can be categorised for the following areas:

Metropolitan areas

In the six metropolitan areas in the country, there will be two levels or layers of local government, namely a transitional metropolitan council (TMC) and transitional metropolitan sub-structures (TMSs). The powers and duties of local government in metropolitan areas will be shared between these two levels.

Non-metropolitan urban areas

In non-metropolitan areas, which are the vast majority of urban areas, there will be only one elected transitional council that will cover an amalgamated area of the old white, black, Indian and coloured areas.

This council is known as a transitional local council (TLC).

Rural areas

In the past most rural areas did not have any structure of local government. However, the Local Government Transitional Act, as amended in November 1994, provides for the establishment of rural local government so that all voters, in both urban and rural areas, will be able to vote for their own transitional council in November 1995. As a result, the provinces currently are establishing transitional rural councils for the rural areas to be elected in November 1995.

A new but alternative model to the establishment of rural councils has lately been developed. In terms of this proposal, rural voters will elect representatives to the regional/services/district councils (provinces use different names) directly and these councils will be responsible for providing municipal services in the rural area. The proliferation of several rural councils will therefore be avoided while efficient service rendering will be ensured by these bodies which are already in existence and have the resources to meet the needs of rural areas.

Elections for local councils and metropolitan substructures will be held on a 60/40 basis. Sixty percent of the councillors will be elected on a ward basis and other 40 percent proportionally for the area as a whole. For metropolitan councils, 40 percent of the councillors will be elected directly on a proportional basis for the area as a whole, and 60 percent will be nominated by the substructures.

Task Group

The Local Government Elections Task Group, appointed in September 1994, is mainly a co-ordinating body and has no statutory powers as was the case with the former Independent Electoral Commission which supervised the first democratic general election in 1994. All the provinces and other relevant role players, such as the departments of Home Affairs and Constitutional Development, are represented on the Task Group.

Its first task was to finalise the regulations for the elections. Subsequently it identified strategies for the registration of voters - which began at the end of

What happens after the elections?

The Interim Phase will end after South Africa's Constitution is finally agreed on. Within the limits set by the Constitution, each province will design the local government system of its choice and then be able to hold fully democratic elections, hopefully by 2000.

The local government councils chosen in the forthcoming elections will not be completely democratic because at least half of the ward councillors will come from the old white, Indian or coloured local authority areas.

This decision was made by the Local Government Negotiating Forum in order to ensure that minority groups would be represented, even if they won no seats through proportional representation. This concession was made to win the support of all negotiating parties for the transition process.

During the Interim Phase local councils will exercise their new areas of responsibility, become accountable and democratic and help develop new relationships between elected councils, administrators and the general public.

January 1995 – so that each local authority could compile a voters' roll. The initial 90-day registration period was later extended. A campaign was also launched for prospective voters who were not in possession of identity documents.

RDP boost

South Africa's interim Constitution explicitly refers to the functions of local government and the role it will play in the future dispensation. With regard to its role in reconstruction and development, President Nelson Mandela announced in August 1994 that "Extension of Municipal Services" would be one of the Reconstruction and Development Programme's (RDP) lead projects.

An amount of R850 million was made available for allocation to the various local authorities via the provinces.

The aim of the lead project is to give impetus to the process of democratising and legitimising local government and to enhance local government's financial viability in a sustained manner.

The objective of the project is to improve the quality of life in as many as possible of the poorest sections of all communities.

Local government will therefore be an implementing agency in providing new basic services to communities.

APPENDIX V

**Traditional Chief's Role; The Clash That Had to Come: African Nationalism and the 'Problem' of
Traditional Authority; News Article**

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traditional leaders

from Graham, Paul. Governing at Local Level: A Resource for Community
Leaders. 1995: Idasa, Rondebosch.

Traditional leaders' role

Two diametrically opposed views on the role of traditional leaders in rural development often emerge in South African political discourse.

The first holds that the ties between traditional leaders and traditional communities were broken during the apartheid era when they became government functionaries, participating in the old homeland political parties. As such, they are seen to have compromised their legitimacy or capacity to play a positive role in rural development.

The contrary view is that, in spite of abuse during the apartheid period, traditional authorities maintain democratic systems of accountability and consultation, albeit through traditional rather than modern democratic systems, and that these have been held since time immemorial and remain widely respected. Thus, to by-pass traditional leaders in implementing rural development programmes is likely to undermine the legitimacy and effectiveness of such efforts.

It must be accepted that many traditional leaders have been manipulated at the expense of their communities, and recalcitrant chiefs even replaced - during the apartheid and colonial periods - by government appointees without "traditional" rights to succession.

At the same time, it should be recognised that many traditional communities still identify with their "tribe", their traditional leader and the values and practices underlying the traditional authority system. The failure of governmental systems and rural development programmes in other African countries in the post-independence period has in part been ascribed to attempts to actively undermine traditional authority systems or not adequately accommodate them.

Non-party political role

The starting point for suggesting what the role of traditional leaders should be in relation to rural development is encompassed in the commonly expressed statement that the "Inkosi is Inkosi by the people". In other words, she or he is obliged to represent the interests of the community as a whole,

and through traditional councillors and *Ndunas* (headmen) is accountable to the community as a whole.

Similar sentiments are expressed in relation to traditional landholdings which are held by the "Inkosi in trust for the people". This is often translated into the obligation of the traditional leader to make land available for citizens or members of the traditional community in a fairly equitable way.

The interim Constitution provides for the recognition of traditional authorities, for their ex-officio representation on local government structures as well as for providing for Houses of Traditional Leaders at provincial and national government levels with advisory powers on legislation affecting *Amakhosi*.

Of significance, however, is the fact that the powers and functions of local government are dealt with separately in another chapter of the Constitution. This makes provision for elected local government throughout the country with responsibility for providing local government services like water, sanitation, health and so on. The Constitution does not specify the powers of traditional authorities. It might be argued that its intention is clearly to place political decision making regarding resource allocation within the ambit of elected local government rather than with traditional authorities.

The interim Constitution seems to imply a non party-political role for traditional leaders whose primary role would be undertaking traditional functions (including dispute resolution, holding court and land allocation) in terms of common concerns.

Participation in local decision making

The fact that the Constitution provides for ex-officio representation of traditional leaders in local government structures also implies their active participation in decision making regarding the provision of local government services, however. This potentially enables traditional leaders to advise local government councillors on the implications of decisions in terms of the customs and values of traditional communities, and potentially assures the support of traditional leaders and their followers for rural development policies.

To argue that traditional authorities should

traditional leaders

One of the root causes of conflicts has been the exclusion of traditional authorities from decision making on development.

participate in decision making about service delivery does not mean that they should be responsible for providing such services. In instances where traditional authorities have been viewed by communities as responsible for providing services, their legitimacy and authority has been undermined owing to non-delivery.

In one province, the election of the ex-officio representatives is undertaken by a traditional council representing a number of traditional authorities. A potential difficulty which arises in another three provinces, however, is that provision is made for up to 50 percent representation of traditional leaders on local government structures (the other 50 percent comprising elected councillors). It is not clear in these circumstances whether the perception might be created that service provision is a responsibility of traditional leaders rather than elected local government.

Role at provincial and national levels

We have noted that the Constitution only makes provision for an advisory role of traditional leaders in the provincial and national houses of traditional leaders. Arguably, the greater scope for participation of traditional leaders in decision making of a local level (through the provision for ex officio representation) reflects their more positive potential role in unifying communities around common concerns within localities (rather than regional or national levels). Traditional communities, after all, often identify themselves in terms of the locality (usually in terms of the traditional authority) and the main concern of traditional leaders is usually the administration of the locality.

The major portion of traditional leaders' income did not derive from the stipend received from being a traditional leader, but from the salary obtained for being a member of a homeland legislative assembly.

Localist rather than centralist or party loyalties must take priority if traditional leaders are to acquire a positive role in rural development. Limiting their role at provincial and national levels to an advisory one and emphasising their local role is therefore a step in the right direction.

Other mechanisms for ensuring their accountability have yet to be developed. Whether they will be able to

hold political offices while still acting as a traditional leader is one area that still needs to be given attention. The way in which traditional authorities are financed is another area which has accountability implications.

Traditional functions

Many traditional functions should be regarded as integral to initiating and sustaining rural development processes.

Indispensable in this regard are the convening of community meetings to consult with communities on needs and priorities and to provide information, the traditional court in maintaining law and order (in terms of customary law) as well as the dispute resolution function. The latter becomes much more important where development processes have been initiated, given the increased conflicts of interest.

Finally, it is quite apparent that since traditional leaders retain the right to allocate land, development processes which have a bearing on land need to be agreed to between the developer (or local government body) and the traditional authority.

Development processes would often be much more difficult, if not impossible, to initiate without their support. What needs to be added, however, is that many traditional functions are performed on a largely voluntary basis and would be much more expensive to fulfil if these were to be performed by local government employees. It is doubtful whether many rural local government bodies would be able to afford to fulfil such functions on a fully professional basis.

Relationship with CBOs

Many government departments are arguing that in addition to local government, various types of user committees (whether RDP, water committees and so on) will be required to prioritise local needs and/or to take responsibility for managing particular development projects.

Conflicts have often emerged between community-based organisations (CBOs) and traditional authorities, threatened by the fact that CBOs have been the recipients of resources and influence at their expense. Traditional authorities often do not have councillors and *Ndunas* with the expertise or interest to take on

responsibility for particular sectoral projects. CBOs nevertheless need to consult with traditional authorities on their activities to minimise potential conflict.

Capacity building

One of the root causes of such conflicts has been the exclusion of traditional authorities from decision-making on development processes at a local level.

Another has been the neglect of traditional authorities themselves. Apart from occasional one-off grants, and the *Inkosi's* stipend, the only additional source of government revenue for traditional authorities has been the traditional secretary's salary.

In some cases, traditional leaders have been known to block development initiatives precisely because they have not been well informed about such processes or because they feel unable manage the potential difficulties these entail.

These shortcomings have also, in many cases, made it difficult for traditional authorities to carry out their

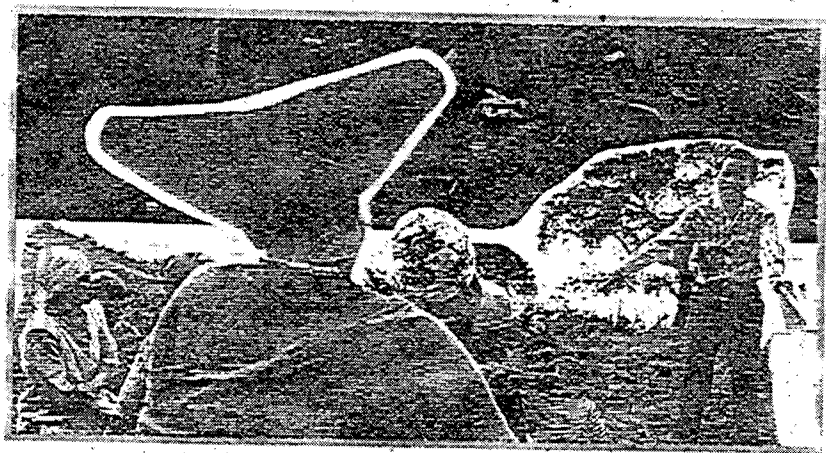
traditional functions effectively. It has also, arguably, left some open to corruption.

What this suggests is that unless a capacity building programme for traditional authorities is undertaken in conjunction with attempts to establish a rural local government system, traditional leaders might not have sufficient incentive to mobilise communities around rural development objectives or to co-operate with emerging local government and CBO bodies.

The education and training component of such a programme would also need to begin bringing customary practice in line with the constitution (on gender equality, for example).

Many traditional authority representatives are not familiar with legislation relating to customary law and amendments made to such legislation during the apartheid period.

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The question which hangs in the air is whether both the IFP and the province might not have been better served by a continuation of the Fernhill approach, with its steady building of an all-party consensus behind constitutional principles which were, actually, far more in line with IFP hopes for provincial autonomy than the document produced on 15 March. Once the IFP forsook the consensual Fernhill approach it had no consistent negotiating strategy and tended to slip and slide between attempts to make deals with the NP, then with the minorities, and finally with the ANC.

The attempt to override the legislature with the threatened Council of State seems particularly ill-advised and, in the eyes of many observers, simply reflected the IFP's inability to drop its old mind-set, inherited from the days of the KwaZulu Bantustan, when the IFP could get its way without any real need for negotiation. As the struggle for the constitution has graphically shown, the politics of the new KwaZulu-Natal are distinctly different from that old political world of Ulundi.

THE CLASH THAT HAD TO COME

AFRICAN NATIONALISM AND THE 'PROBLEM' OF TRADITIONAL AUTHORITY

Among the many ironies of South Africa's transformation, the constitutional recognition of the position of traditional leaders looms large. At a time when erosion and eventual extinction might reasonably have been predicted for the institution of traditional authority, its bearers have won for themselves guaranteed institutional roles in the national and KwaZulu-Natal constitutions. Moreover, their status as paid functionaries of the state is being strengthened, rather than weakened and they are being courted, individually and collectively, by political parties. Indeed, all parties which are bidding for a stake in African popular politics have to take traditional leaders into account and the struggle for their allegiance is one of the principal axes of conflict between the ANC and the IFP.

The 'problem'

Any review of the prospects of traditional authority in 1990 would have had to take the following negative factors into consideration:

- ➔ The terms of democratic discourse which would henceforth dominate South African politics were hostile to the hereditary, patriarchal and personal principles of traditional leadership. Even where traditional leaders could make some claim to be responsible to the communities they administered, this was not on the basis of electoral competition, which again violated the democratic standards of the new South Africa.

- ➔ Increasing urbanisation, the opening up of educational opportunities, and infrastructural development would mean that rural areas would cease to be isolated and that traditional rule would be undermined.
- ➔ In the new conditions of free political activity, the stigma of control by colonial rulers and the white minority would discredit traditional rulers, encouraging their rejection as puppets of the old regime.
- ➔ Those subject to traditional rule would, in any case, be caught up in the development of national popular politics and transfer their allegiance from parochial notables to broad-based national movements.

These confident oversimplifications about the ineluctable progress of democratisation and modernisation are not entirely inaccurate and it is probably inescapable that traditional leaders face long-term erosion of their status and powers. But the institution of traditional leadership has been more flexible and resilient and the development of a national political system has been more hesitant and incomplete than many would have predicted in the early 1990s. In their various ways, through Contralesa or the IFP, or as individuals, traditional leaders have fought a vigorous rearguard action, appropriating for themselves a significant role in an emerging political culture which is itself sufficiently patchy and ill-defined to be open to determined claimants.

But chieftaincy persists

The cause of traditional leaders has been advanced by a number of things:

- ➔ Their numbers - perhaps 800 in the whole country and 300 in KwaZulu-Natal - and the numbers of those who owe them allegiance, make them substantial brokers of electoral and other influence and, when grouped either nationally or provincially, they can form substantial pressure groups.
- ➔ Their character is not merely that of archaic and atavistic resisters of impersonal forces labelled 'modernisation'. Enough of them, through entrepreneurship and relations with institutions of government, are themselves bringers and interpreters of modernisation to their communities, for them to be a more dynamic and ambiguous force than the 'feudal' stereotype which recurs in the rhetoric of their detractors.
- ➔ Their ability to strike relationships with political parties on terms of incorporation, like the amakosi and the IFP, or the much less well-defined and increasingly ambiguous partnership between the Congress of Traditional Leaders of South Africa (Contralesa) and the ANC gives them direct political leverage.

The problems of finding an appropriate place for traditional authority in the developing political system are common throughout South Africa. They include reconciling notions of democratic accountability with the hereditary principle and personal rule; dovetailing universal civil rights with specific customary statuses; matching the claims of chiefs to be eligible for election to provincial and national assemblies with their guaranteed representation in Houses of Traditional Leaders.

KwaZulu-Natal: a special problem

Although these are issues of national relevance, they are addressed very differently in KwaZulu-Natal compared to other parts of the country. Elsewhere, traditional leaders constitute a special interest which lobbies government, makes representations to negotiating forums and, in the case of Contralesa, even operates within the structures of the ANC alliance. This special interest does not, however, participate directly in the competition for political power. By contrast, in KwaZulu-Natal, the vehicle for advancing and defending the interests of traditional leaders is the IFP,

the ANC's most substantial competitor for the votes of Africans.

The problem of traditional authority, then, has a very distinctive character in KwaZulu-Natal. It is the principal axis of political competition and conflict, permeating most, if not all conflict issues. In addition, it brings its own flavour to 'modernised' political debates - like federalism vs the unitary state, or the defence of pluralism and civil society - where one would not expect to find it. An illustrative list of issues involving disputed aspects of traditional authority in KwaZulu-Natal indicates the scope of the problem.

- ➔ One group of issues revolves around relations between tribal chiefs and their communities. 'Unpopular', 'reactionary' or 'oppressive' chiefs figure prominently in ANC accounts of KwaZulu-Natal's civil war. In the IFP's version, an anti-chief revolution led by young militants and orchestrated first by the UDF and since 1990 by the ANC itself, has been the main offensive front in a war to eliminate all substantial opposition to the liberation movement in the province. Whichever partisan, or non-partisan version of the struggle to control territory and the allegiance of people is accepted, chiefs are indeed central to the conflict. Their power to grant or withhold political space for parties and movements to mobilise is crucial to the question of political tolerance. Measures taken by successive homeland, provincial and national governments to arm or disarm chiefs, are among the most controversial law and order issues of recent years.

As is invariably the case with communal, paramilitary hostilities, the interpretative lines between 'offensive' and 'defensive' actions taken by chiefs are bitterly contested.

- ➔ A distinctive feature of the problem of traditional authority in KwaZulu-Natal is the fact that the forces of tradition are deeply divided. The monarchy and a minority of the amakosi (tribal chiefs) are at odds with the majority of the amakosi, a division which is signalled by the former's rapprochement with the ANC and the latter's closeness to the IFP.
- ➔ This division has led to numerous 'contests of authenticity' where each side disputes the other's claims in matters where ceremonies, offices and appointments are seen to invest individuals or groups of people with authority and legitimacy.

➔ These authenticity disputes have a bearing on another front of conflict, the negotiation of institutions of government for KwaZulu-Natal. The negotiations for a provincial constitution were greatly preoccupied with the rival claims and statuses of the monarchy and the amakosi, as was the controversial provincial act for the setting up of a House of Traditional Leaders.

➔ Underlying all these issues is a basic fault line which concerns the relationship between the politics of traditional authority and the politics of electoral competition. Essentially the ANC insists that these should be kept apart, while the IFP tolerates, indeed celebrates their fusion. The IFP finds traditional leadership compatible with membership of national and provincial assemblies and local government functions. The ANC believes that the traditional leaders should stay out of elected assemblies and that their role in local government should be circumscribed and confined to an advisory and consultative, rather than an executive role. Superficially, there is more agreement on the monarchy.

All parties to constitutional disputes involving traditional leadership acknowledge that the monarchy should be above or outside politics. Yet both the IFP and the ANC have roles for it in their political strategies. By supporting and encouraging the monarchy in its various disputes with Chief Buthelezi, the amakosi and the IFP, the ANC has tried to establish itself as a stakeholder in the world of KwaZulu-Natal's traditional politics. For the IFP, the monarchy provides a useful medium through which to demonstrate its own supremacy and that of the amakosi in this world. The IFP does this by trying to establish constitutional ascendancy over the monarchy through the House of Traditional Leaders and by fighting and winning contests of authenticity with it.

The contest for authenticity

The salience of issues of traditional leadership casts the political world of KwaZulu-Natal in forms which are difficult to analyse and contradictions which are difficult to resolve. This is especially true in the case of the authenticity contests which loom so large in the conflict between the ANC and IFP. Among them have been rival Shaka Day celebrations, and controversy over whether or not there is any such post as 'traditional prime minister' in royal tradition. The essential complement to this disagreement is whether or not

Chief Buthelezi is a legitimate claimant to the post, if it does indeed exist. The status of the king's royal council and of its most frequent spokesman, Prince Sifiso Zulu is also at issue. It is also worth noting that such questions of traditional legitimacy, expressed in terms of lineage and customary credentials also invade issues which can be expressed in other terms.

For instance the controversial question of financing the king's household can (and arguably *should*) be discussed in terms of accountability for government expenditure. The insistence of the ANC that traditional leaders should be paid from central government resources may be debated from the perspective of standardising state offices throughout the whole country.

The vexed question of choosing a provincial capital could be decided in terms of economic growth points, infrastructure and communications. In short, all of these issues can be debated in 'rational' and secular terms, but few could fail to notice that all of them are also part of a power struggle and an ongoing authenticity contest for possession of traditional authority.

Given that its continuity was ruptured in the destruction of the Zulu kingdom by the British, that its long subjection to the demands of colonial and minority rule was a corrupting influence and its association with the homelands system has been profoundly subversive of its legitimacy, it is hard to believe that there is a coherent enough body of 'Zulu tradition' against which rival claims to be its authentic custodians can be decided definitively. Indeed, it is precisely this context of cultural discontinuity and dispersal which encourages the colonisation of political debate by authenticity contests.

Ideology ends, conflict persists

This effect is also encouraged by the relative lack of ideological conflict at all levels of South African politics. It is true that there is an element of left-right polarisation between the ANC and the IFP, but curbs imposed by participation in the Government of National Unity, the palpable needs of reconstruction and development, the constraints on macroeconomic policy imposed by participation in the world economy, and the IFP's confinement to a regional power base, all ensure that despite the swapping of ideological epithets, party competition between the ANC and IFP has very little policy content. Arguably, authenticity contests around the question of traditional authority fill this ideological vacuum.

The weakness of the IFP's policy-making infrastructure by comparison with the ANC should also be noted. The IFP lacks the specialised contributions which academics, organised labour and overseas experts make to the ANC's policies.

This helps explain why constitutional issues loom larger than policy challenges in the IFP's efforts to compete with the ANC. But constitutional disputation, turning on fine points of comparative politics or constitutional law, is ill-suited to the mass mobilisation of the IFP's core constituency. Mass mobilisation is as important to the IFP now as it was to the ANC before it took power and authenticity contests serve to keep the faithful in a state of engagement and vigilance better than the bloodless abstractions of federalism.

It has already been noted that traditional issues are beyond the realm in which competing political claims are normally tested. The claim to traditional authority is not the same as the claims to policy innovation and managerial competence which are already important in South African politics (especially given that foreign investors and lending institutions must be satisfied as well as the electorate) and will increasingly become the norm, as the currency of revolutionary legitimacy loses its electoral value. The fractured and corrupted condition of Zulu tradition also means that even in its own realm, competing claims to authenticity are very difficult to assess.

The problems of traditional authority are more pervasive than this, however, because they are exclusionary and divisive. Party competition which is focused on rival claims to competence in economic management and to expertise in setting policy priorities is open to scrutiny, participation and assessment by all, although the level of sophistication at which observers or voters enter each of these activities might vary.

But issues of historical claims, credentials based on blood ties and claims to hereditary statuses exclude many of the KwaZulu-Natal electorate, most obviously (but not only) whites and Indians, who have nothing to do with tribal chiefs and to whom the monarchy is at best remote and at worst irrelevant.

This gulf was apparent during the negotiations for the provincial constitution when both the IFP and the ANC reacted angrily to the NP's and the DP's assertion that the Zulu monarch was not necessarily the king of the whole population of KwaZulu-Natal.

The world of Ulundi

This pragmatic coincidence of views should not, however, conceal the very basic differences between the ANC's and the IFP's views on the place of traditional authority in the politics of KwaZulu-Natal. The essential question in KwaZulu-Natal's post-1994 politics was whether the 'world of Ulundi', with its political preoccupations and administrative characteristics could be reproduced over the new province in the event of an IFP victory. Or, in the case of an ANC victory, whether the world of Ulundi could be consigned to the dustbin of history and the politics of KwaZulu-Natal be re-shaped as a provincial version of the ANC's national dominance. The narrow and disputed nature of the IFP's victory made certain the outcome which would probably have prevailed anyway, that the world of Ulundi would remain largely intact, but confined to its existing strongholds.

The IFP is rhetorically committed to being a party which is 'truly modern and at the same time truly African'. There is little real evidence, however, that it has enthusiastically embraced the task of exploring what this might mean. The party has seemed content to hold apart the two worlds whose existence is implied in its own slogan, while assuming the roles of broker and interpreter between them. This, in turn, is a deracialised revision of the roles it claimed to play between black and white in the last decade of minority rule.

The challenge to African nationalism

If the IFP stands for the preservation of the integrity of traditional authority (or at least its own version of that disputed commodity), the ANC's position is less easy to summarise. In many respects, the phenomenon of traditional authority contradicts the secular and democratic (though admittedly malleable) agenda which the ANC professes. On the other hand, traditional authority can neither be ignored, nor wished out of existence.

- ➔ A party which is called the *African National Congress* cannot lightly disdain, never mind destroy, such a characteristically *African* phenomenon as traditional authority.
- ➔ The ANC has, in any case, a disposition to incorporate potentially troublesome constituencies altogether, or at least detach them from political competitors, rather than confront them. Its critics see in this a residual one-partyism, while its admirers praise its nation-building efforts.



➔ The Zulu monarchy and KwaZulu-Natal's traditional leadership between them present an exposed flank on which the IFP could be engaged in a war of manoeuvre.

For these and other reasons, the ANC's attitude to traditional leaders is a lot more complex than its more militant rhetoric about the unacceptability of 'feudalism' might suggest. At various times, and in the versions of its various mouthpieces, the ANC sends conflicting signals about its attitude to traditional authority. Sometimes the principle of traditional leadership is condemned, at others it seems acceptable, provided the chiefs are 'progressive' and validated by the ANC. The association of chiefs with political parties is condemned, but this principle sits uneasily with the fact that Contralesa is closely associated with the ANC. These and other confusions have not been resolved by the increasing centralisation in President Mandela's hands of the ANC's diplomatic offensive in the direction of the IFP.

President Mandela's personal intervention has been necessary because the regional resources of the ANC have been unable to cope successfully with the entrenched alliance between Chief Buthelezi and the amakosi.

Contralesa has failed to make much headway in KwaZulu-Natal in the face of determined (and sometimes murderous) opposition. While the election of Jacob Zuma to the position of provincial leader, along with cultural coat-trailing like the *Sonke* festival (October 1993), were probably influential in persuading the king to drop his ties with the IFP, the amakosi are a tougher nut to crack.

Presidential diplomacy has, however, embodied rather than transcended the ANC's frustrations with a constituency which is at once alien and at the same time adaptable to its conception of African nationalism. The promises of constitutional recognition and state subsidy (paid from central coffers) have been mingled with threats of financial sanctions and stringent security measures if the price of political disengagement from the IFP and renunciation of violence is rejected.

The problem is that Mandela's offer is one of stage-managed decline. He is offering to preside benignly over the decline of the amakosi into dignified and subsidised impotence. The message is that their eclipse is inevitable and that the choice is simply whether it is handled the easy, or the hard way. The fact that a grateful monarch (whose real powers were considerably less than those of the chiefs who are nominally subject to him) has already chosen such an association with the President and his party, will cut very little ice with them.

The imbizo process sets the scene for the rival blandishments of a president whose ambiguous roles of nation-builder and partisan politician the amakosi are keenly aware of and, on the other hand, a champion from among their own ranks. President Mandela seeks to persuade them that their traditional world is incompatible with the one he is creating, but that they can be eased from the one to the other in stages and with honour. Chief Buthelezi is fervently convinced that the traditional world can - and must - be preserved intact, to flourish alongside the modern world, to which he and his party will be its ambassadors.

Thus the open clash between President Mandela and the amakosi at the pre-imbizo meeting at Nongoma on 15 March, though it might seem to derive its significance primarily from the context of the ANC vs IFP struggle in which it occurred, nonetheless signals a wider import. The 'problem' of traditional authority is not, after all, merely a KwaZulu-Natal phenomenon: traditional leaders around the country share some of the same trepidation as the amakosi about their future. In the Eastern Cape, ANC stronghold as it is, the confrontation between traditional leaders and modernist African nationalists has been both sharp and open.

This is a clash which both the new and the traditional authorities have tried to avoid and whose very reality both sides have sometimes been inclined to deny. For all that, the contradictions are real. In its numerous forms, it is a clash that had to come.



PICTURE: STEVE NAIDOO
Appreciative President Mandela
at Clermont, near Pinetown, at

IFP man
ed to resign

Court backs KZN legislation on salaries for chiefs

POLITICAL CORRESPONDENT
Cape Town

A CONSTITUTIONAL court's ruling in favour of legislation passed by KZN's legislature allowing the province to continue paying its chiefs and the Zulu king, could result - theoretically at least - in traditional leaders being paid salaries from both central and provincial government. The court did not nullify national legislation allowing it also to pay chiefs.

This was acknowledged by ANC Provincial Affairs and Constitutional Development Minister Valli Moosa's spokesman, Mr Mpho Mosimane, last night. But he hastened to emphasise that Mr Moosa would discuss the issue with premiers - including Inkatha Premier Frank Mdlalose - at the intergovernmental forum to avoid this possibility arising.

While chiefs are paid vastly different rates in six provinces, President Mandela has suggested that they get paid in line with members of parliament - who earn just under R200 000 a year.

The constitutional court on Friday ruled that two statutes passed last year - the KwaZulu Natal Amakhosi and Iziphakanyiswa Amendment Bill and the Payment of Salaries, Allowances and other Privileges to the Ingomyama Bill - did not conflict with the national constitution.

Dr Mdlalose said the ruling reinforced his view that the payment was a provincial concern. "This is a victory for the KZN parliament."

In terms of the Payment of Tra-

ditional Leaders Act, rushed through the national parliament before the July recess last year, the national government sets norms and standards of payment of traditional leaders. The legislation also sought to abolish provincial government control over chief's purse strings.

Mr Mosimane said his department had already begun setting up a data base of chiefs and was in the process of appointing a chief director of traditional authority affairs to administer the payments.

He said even if the province paid the chiefs, the level of payment would be in line with recommendations made by the Steyn commission which determines the pay of public representatives. It still had to make public its recommendation for chiefs' pay, he said.

Dr Mdlalose said the level of payment of chiefs - including differences in qualification and authority over communities - would have to take its cue from all other provinces. He would discuss the matter further with Mr Moosa. "Our doors are open . . . we are democrats."

The NP representative on the traditional affairs committee of the provincial legislature, Mr Tino Volker, said the ruling was a victory for KwaZulu Natal. The payment of chiefs could in no way be regarded as a national function.

He did not believe the ruling would lead to a duplication of payment. The provincial budget had already made allocation for chiefs and this had been done "in co-operation with the national treasury".

POLITICALSCAN

Mbeki to lead delegation to truth commission

JOHANNESBURG—Deputy President Mbeki will head a high-powered delegation to the truth and reconciliation commission next Friday on the ANC's conduct during the apartheid struggle.

Political parties are expected to make their submissions to the reconciliation body in Cape Town next week.

Mr Mbeki's delegation will also

President Mandela will be on a state visit to England and France and will not be present at the historic proceedings.

The submission is the culmination of months of deliberation within the ANC national executive committee's sub-committee on truth and reconciliation.

The ANC has said its leadership



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