

## 4

## Local government in South Africa

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*Transformation of any society is judged by the extent to which it affects local government. Until and unless you bring fundamental change into the sphere of government closest to and directly involved in the affairs of communities, your social transformation is hollow and incomplete.*  
(City Press, 2000)

The conviction, by most South Africans and the rest of the world, that the April 1994 democratic elections in South Africa became a milestone in the history of South Africa, is overwhelming. Several scholars in all fields of study have sought to enquire about what came to be known as the ‘*South African miracle*’, a phenomenon that involved a negotiated and relatively peaceful settlement of the South African national question. Lemon and Fox (2000:337) assert that “*the 1994 general elections was by common consent a defining moment in South African history, and one of global significance, marking the peaceful transfer of power by a racial oligarchy to the population as a whole*”. Wakelin and Simelane (1995:40) also agree that 1994 was “*a year of fundamental change in South Africa*”. As a result of this peaceful transition, there has been “*since 1994, a concerted effort ... to improve the living conditions of all South Africans*” (Møller & Jackson, 1997:169). While it is true and acceptable that the 1994 breakthrough became a catalyst in South African political discourse, it is, however, simplistic to pretend that a negotiated settlement is equal to the *total* solution to the South African problem. An emphasis on the events around negotiations and the 1994 elections tends to blur and obscure the ethos, the content, and the *realpolitik* inherent in the South African problem.

It is the improvement of the conditions of living, particularly of black South Africans, that has been at the centre of the liberation struggle in South Africa. McKinley (1997:98) recalls that the ANC’s main objective was to “*address the political and economic situation of the black population*”. This position is confirmed by a host of ANC policy documents, the African Claims, 1943; the Freedom Charter, 1955;

Morogoro Conference resolutions, 1969; Kabwe Conference resolutions, 1985 etc (Tambo, 1987). Tambo (1987:246), summarises even more emphatically: "*liberation must entail the transfer of power to the people of South Africa so that we can collectively determine and shape the society we desire, create the institutions and structures required and decide by whom and how they will be operated*". Mbeki (1992:98), in the same vein, accedes that "*the [ANC] is the spearhead of the National Democratic Revolution, which aims at destroying apartheid and correcting the historical injustices that have been perpetrated for so long against so many*". Tapping on the two assertions above, it would appear that the 1994 breakthrough presents opportunities to create democratic *institutions and structures* that must *correct historical injustices*. In essence, this breakthrough has over time become a new paradigm arousing a new philosophy and a new methodology in the analysis of the current South African human landscape. An SACP (1999:8-9) evaluation of the five year post-1994 General Election period reflects that " ... *indeed one of the most important lessons of the past five years is that the enormous progress made in the social upliftment of our people, has been as a result of development and social delivery*". A comment such as this is most significant to this particular study as it is against this background of transition from the old order to the new order that the essence of this study is contextualised.

In the first instance, the chapter will attempt to locate local government within the present international governance paradigm and then situate that context within the current phase of transformation taking place in South Africa. A brief history of local government in South Africa will follow. Its history will be traced from the colonial era to present day South Africa in such a way that the historical dimension will provide an understanding of the present situation. The discussion will also attempt to argue the case of rural local government.

## **4.1. International trends**

### **4.1.1. Local government in decline**

A consistent international trend since the end of World War II, has been a notable drive for democratisation of nation states — be it through wars of liberation, political reform or armed insurrection. All nations that had been colonised or occupied,



demonstrated a strong desire for self-rule and independence. As a result, most countries in Africa, Latin America and South East Asia saw the granting of independence in the late 1950s and 1960s. The take-over of administration by indigenous leadership heralded a new era of governance of the newly found states characterised by centralised forms of government. Immediately after independence, there was a demise of local government as new leaders consolidated their power around the ruling party and the central-national administration. Urban Foundation (1993:4) observes that *"the immediate post-independence period in Africa [particularly], saw a remarkable strengthening of the central government at the expense of local government"*. To the effect that in countries like Tanzania, Ghana, Senegal, Guinea and *Cote d'Ivoire* local government elections were abolished. The speed with which decentralised governments were dismantled is surprising (Mahood, 1993). However, their removal is universal and related to at least four reasons why the rulers of the newly found states opted for centralisation at the expense of decentralisation:

- Most ruling parties believed in a one party state where national cohesion was seen as reducing counter-revolutionary tendencies like tribalism and cessation. Though a socialist strategy of development might seem to require the initiatives of the working class and the peasantry, and thus provide reason for decentralisation, cases of socialism in the Third World and Africa, meant a centralised administration as the commanding height in nation-building for most ruling parties.
- Another factor was that of a development paradigm which equated development with growth in the per capita income of the country. This prompted development agencies and finance institutions to centralise decision-making, thus setting national goals with the hope of enhancing socio-economic change, the belief being that rational planning for rapid economic development required centralised government.
- In addition, the political culture bequeathed by colonial empires *"contained the notions that authoritarianism was an appropriate mode of rule and that political activity was merely a disguised form of self interest, subversive of the public welfare"*.
- Colonial rule was styled on military administration, and most Third World nationals grew under this command system, so that a command administration was viewed as more effective (Mahood, 1993:33).

The dominance of a centralised government in most developing areas of the world in both the Second and the Third World, could no longer sustain the nation-state. With the passage of time, the commanding centres could no longer hold sway and things began to fall apart. The political discontent that rocked most parts of Eastern Europe in the late 1980s and the phenomena of *coups d'état* in Africa in the 1970s is evidence of the alienation of the people by the centralised government. Independence and freedom lost meaning, as the centres became corrupt, thus alienating themselves from the popular masses.

A notable factor is that centralisation has not been the phenomenon of developing countries only. Developed countries also experienced a move towards centralisation. The British local government is a typical example. Up to the mid-1970s there was little conflict between central and local government in Britain. However, after this, local government became the target of a series of reforms as the country experienced the decline of a welfare state. To deal with the economic problems, local government was targeted. Grants to local councils were reduced and the Thatcher government in the early 1980s hastened the centralisation process by introducing legal measures (Local Government and Planning Act, 1980) that further pruned the local councils of their autonomy. Endorsing this, Cochrane (1993:31) notes that, *"the overwhelming academic consensus, about local government in the early 1980s...was that the various reforms...were fundamentally undermining the position of local government within the British political system. It was a period of centralisation"*.

#### 4.1.2. The new beginning

The end of the Cold War<sup>9</sup> during the closing years of the previous millennium, defined the world order as an uni-polar world power situation. That single fact has reduced the ideological contestation in the world, and has hastened the tempo of acceptance of democratic ideals. Mabogunje (2000:182) notes that this situation *"is already forcing an end to autocratic rule [particularly in Africa] whether of the military or one-party state. Indeed, the current progress of the democratic movement around the world is bound to give greater fillip to the need for decentralisation"*. A

<sup>9</sup> This was a 20<sup>th</sup> century ideological tension between the Capitalist bloc led by the USA and the Communist bloc led by the USSR. It was a tug-o-war for world domination.



decentralised local government is bound to enhance participatory democracy and promote greater transparency and accountability in government.

As a response to this changed world order, the 1990s saw central governments in many parts of Africa, Asia and Latin America beginning to examine ways of decentralising powers to the local government (McCarney, 2000:16). The World Bank, in its 1995 Report, indicates that, of the seventy-five developing countries with populations of over 5 million, all but twelve had initiated some form of transfer of power to local government (World Bank, 1995:vii). However, McCarney (2000:16) observes that although power was transferred to local government, real financial autonomy - the power to act on newly acquired local functions – was not effectively transferred in many countries and *"local government remains the weak partner in the governing relationship. Without this requisite power, [it] suffers a profound legitimacy crisis in its newly evolving relationship to civil society"*. It is against this backdrop that changes at local government level in South Africa should be understood. The decline and demise of the highly-centralised apartheid nation-state, has brought a new paradigm in the South African local socio-economic and political milieu. Jones (1998:960) notes that there is an international *"shift from structured government to fluid governance. Because governance emphasises interorganisational and intersystematic steering, this discourse is deemed appropriate ... for strategic decision making and service delivery at localities"*. The debates around a self-sustainable and developmental local government, strengthens the notion that *"what is currently occurring in South Africa must be seen as a mirror of international trends, particularly in Western Europe and North America where an increasing pro-active role is assumed by the local authorities"* (Rogerson, 1997:176-177).

## 4.2. The making of local government in South Africa

There are several discernible factors that have helped to shape the development of local government in South Africa. Outstanding of them all, are the colonial intervention that the country has had; the apartheid experience; and the impetus of the anti-colonial and anti-apartheid resistance movement in South Africa. It would appear that a combination of these factors has carved an historical antithetical path that has helped to deliver a product that epitomises present day local government in South Africa. A 'local' government has been described as *"a unique experience"*



(Curtis, 1998:85). Unique because the South African Constitution, “entrusts local government with a daunting responsibility in the transformation and building of the new South Africa” (Harris, 1999:184). It is within the context of transformation and the building of the new South Africa that this treatise has sought to establish itself.

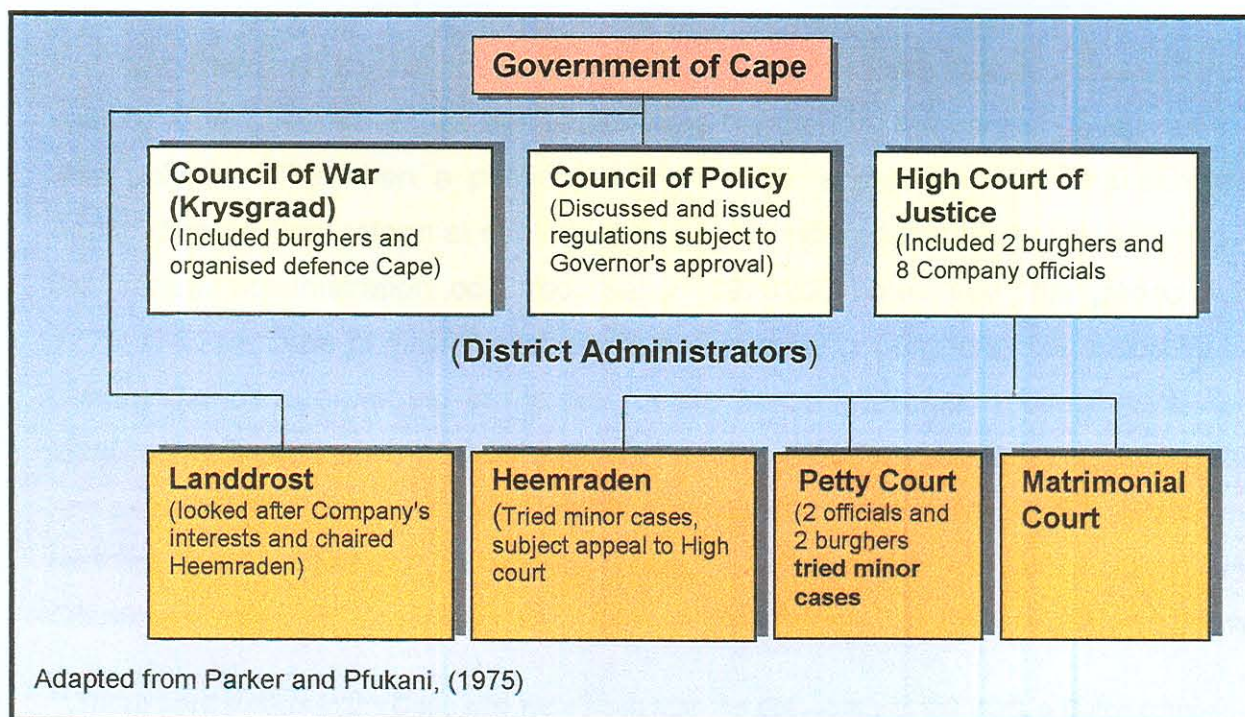
#### 4.2.1. The colonial period

The influences of Holland and Britain laid the foundation of the present system of local government in South Africa. Although having occupied South Africa at different times, sometimes together, sometimes separately, the legacy of these two powers continues to influence South African life even to today. The application of Roman-Dutch law in South Africa's judicial system is a typical example. First was the Dutch rule (1652-1795 and 1803-1806) then came the British rule (1795-1803 and 1806-1910). Both Dutch and British practices have left deep impressions on the tradition and structure of local government (Vosloo, *et al.*, 1974:17).

##### 4.2.1.1. The Dutch influence

Early local government in the Cape was organised around the system of the College of **Landdrost** (magistrate or sheriff) and **Heemraden** (local court council), which was

**Figure 4.1: Landdrost and Heemraden System of Government**





inherited from Holland. Figure 4.1 is a representation of how the Landdrost and Heemraden were arranged during the Dutch rule in the Cape. The first College of Landdrost and Heemraden, which was established at Stellenbosch consisted of a landdrost who was a paid chairperson and four *heemraden* who were free burghers<sup>10</sup>. The *landdrost* acted as local representative of the central government in Cape Town and the Heemraden were councillors representing local interests (Vosloo, 1974:18). Figure 4.1 shows the structural arrangement of this system of landdrost and Heemraden. The College had multiple functions, including its role as a lower court of justice and providing municipal services to the settlers. As a local authority the College dealt with the construction and maintenance of roads and bridges, water supply, public safety and fire protection. Decisions of the College were arrived at by a popular vote. This implied that, in some instances, the opinions of the landdrost were sometimes vetoed. This system later spread to Swellendam (1779) and in 1789 to Graaff-Reinet (Ismail *et al.*, 1998:41). Walker, (1934:65) in a lamentous tone against this system as a cause of the Great Trek<sup>11</sup>, complains that, *"at each local centre there was a landdrost, a magistrate, armed with executive and judicial powers. The landdrost was checked by a board of local heemrade, the field-commandants and the field-cornets of the wards, ... the powers of these popular representatives, deacons, elders, heemraden, burgher councillors and the rest were greater in practice than on paper"*.

In Cape Town, which was the seat of the VOC (Dutch East India Company), there was no local government, as all matters were handled by the central government. It was only in 1779 when a petition, and, in 1785, a delegation of free burghers demanding political reform at central level, were honoured that some restructuring of the central administration occurred. Selby (1973:32) notes that *"the period from 1778-1795 was one of turmoil and rebellion. A number of burghers, influenced by the democratic ideas emerging at the time of the French Revolution, used these as a justification for demands of freer treatment by the Company's officials and for direct representation in the Cape government"*. Consequent to the demands for reform, the restructuring introduced in Cape Town, a committee called *Kollege van Commissarissen uit den Raad van Justisia* (the College of Commissioners to the

<sup>10</sup> These were settlers in the Cape who were freed from the obligations of the VOC, a Dutch company that settled at the Cape in 1652.

Council of Justice) (Vosloo *et al.*, 1974:19). This Committee which, in essence, was a municipal commission, consisted of three officials from the VOC and three free burghers.

#### 4.2.1.2. *The British influence*

When Britain occupied the Cape for the first time in 1796, after the French defeat in India, the Burgher Senate replaced the Dutch-fashioned municipal committee in Cape Town. The Senate comprised six burghers appointed by the Governor for a five-year term. This structure performed all municipal functions. The Peace of Amiens between France and Britain compelled Britain to return the Cape to Holland under the Batavian Republic. From 1803-1806 the Cape was once again under the influence of Holland. The new Commissioner-General at the Cape, De Mist sought to undo the burgher Senate and replace it with an elected *raad der gemeenten* (Community Council). Governor Janssens, who preferred the system of appointment and co-optation rather than elections, rejected this. However, the new name of Community Council replaced the Senate and more powers were given to the new-styled Community Council.

The reoccupation of the Cape by Britain in 1806 led to the changing of the local structures as Britain preferred the anglicisation of the Cape Colony. Commenting on the British reoccupation of the Cape particularly after the arrival of the 1820 settlers, Selby (1974:46-47) notes that "*the number of English-speakers was doubled, and British sports, pastimes and institutions were introduced. Houses, churches and halls were built in English style, and independent newspapers were started [and] there were renewed demands for wider representation on the governing councils*". After the re-occupation, the Burgher Senate was re-introduced in Cape Town and the Landdrost and Heemraden Colleges in the Cape rural areas were abolished. The British Administration introduced districts and divided the Colony into several administrative districts. A notable feature of the districts was the division of functions. While the Dutch structures amalgamated judicial and civil functions, the Districts distinguished between the two. While a magistrate headed the judicial side, a District civil commissioner headed the civil side. The Governor of the Cape appointed both officials.

<sup>11</sup> An 1836 exodus by the Cape Dutch farmers in protest against a range of issues at the Cape Colony.



It was the Cape Municipal Ordinance of 1836, that provided the basic framework for local government as it is known today. British local government terminology such as mayor, town clerk, councillors, by-law powers, the standing committee system and the concept of municipal corporation (Ismail, 1998:42) were introduced. This heralded to some South Africans, a long and a bitter history of local government in South Africa.

Speaking on behalf of the Afrikaners, Van Jaarsveld (1974:53), notes that, *“one must also take into account the influence exerted by shifting frontiers, local government bodies (such as the burgher and heem councils), which in addition to Calvinism and the patriotic movement, gave rise to democratic ideas, ideas such as the belief in rebellion against unsympathetic authorities which gave the Afrikaner an exceptional yearning for the republican form of government”*. Reflecting an African perspective on the historical role of the oppressive local government in the African areas, Tambo (1983:214) agitates that, *“we have maintained an uninterrupted offensive against the puppet local government authorities in the black urban areas. In struggle, we must make it impossible for our enemy to govern us in the new way. We must confront and defeat its new organs of government in the townships”*. So, for all population groups the colonial period had significant impact.

#### 4.2.2. The apartheid era

The apartheid era is usually associated with the coming into power of the National Party in 1948. However, the idea of racial separation had been the practice of successive White governments since the formation of the Union of South Africa in 1910. After his election as a leader of the National Party in 1953, J.G. Strydom defined apartheid as follows: *“apartheid or separation, between black and White has been a traditional policy of both the Afrikaans and English speaking people for centuries. Its object is to regulate life between Whites and Blacks, to eliminate friction between the two groups, and to ensure the safety of the White minority”*<sup>12</sup>. The 1913 Land Act, which gave 13% of the land to African people, and 87% to the Whites, is a testimony to segregation long before the National Party (NP) took power in 1948. It is, however, not incorrect to associate apartheid with the National Party, because it is after its assumption of political power, that apartheid became law and state policy.

Commenting on the National Party's take-over Govan Mbeki recollects: "we woke up one morning and are told that Malan has won the election, and that meant he shuts the door on our faces"<sup>13</sup>. Commenting on the same event, Nelson Mandela also remembers "Oliver [Tambo] said well, I like this, because it is going to put further momentum to the Resistance Movement. We now know that we have an enemy in power, and difficult days are coming for us, and I think we are going to have a better opportunity of mobilising our people"<sup>14</sup>

From the quotations mentioned above, it is evident that the NP take-over was not welcomed by the African people, as it meant the beginning of a bitter struggle for them. Indeed apartheid proved in time, to be the most heinous policy ever. As a state policy it affected the lives of many South Africans and penetrated the social fabric across the board. Mbeki (1992:65) describes it as "a plan that was painstakingly designed to wipe out millions of people subjecting them to a slow death by starvation, so that the Afrikaner could live out his life in a place without fear of the 'swart gevaar' - the Bantu".

The introduction of apartheid removed the last vestige of African political representation in South Africa. The Bunga, which was a Council of Chiefs for the African reserves (Bantustans/Homelands), the Advisory Boards, which were local structures for the urban Africans, and the Natives Representative Council, the only African voice in Parliament, were abolished (Mbeki, 1992). These structures were the only available platforms prior to apartheid for airing African views.

#### **4.2.2.1. Apartheid designs**

Local government in South Africa, like many other institutions of human endeavour, could not escape the effects of apartheid. In 1950 the Group Areas Act and in 1951 the National Party government introduced the Bantu Authorities Act. On one hand the Group Areas Act defined land use zones of South Africa according to race. There came into being White areas, Coloured, Indian and African townships. On the other hand the Bantu Authorities Act, further defined African people as urban and rural residents. The zoning of African townships was according to ethnic orientation. In

<sup>12</sup>Interview with BBC 1953. From Ulibambe Lingashoni- Hold Up the Sun. Video Material Episode 1

<sup>13</sup>Interview on Ulibambe Lingashoni- Hold up the Sun. Video Material Episode 1.

<sup>14</sup> Interview on Ulibambe Lingashoni-Hold Up the Sun, Video Material Episode 1.



Soweto<sup>15</sup> for example, there is Tsakane, which is predominantly Tsonga speaking, Dube, predominantly Zulu and Jabavu, Xhosa oriented. This pattern is repeated throughout major cosmopolitan urban centres of the country.

The 1950s could not, nor did not, produce significant local government structures. The only legislative exercise was a battery of laws that aimed at introducing racial segregation and a reversal of gains achieved in this sphere. For instance, "*the Native Laws Act of 1952, 1956, and 1957, restricted blacks into the cities and the Reservation and Separate Amenities Act of 1953, enforced segregation in schools, hospitals, churches, public transport, hotels, toilets and [many other services]*" (Guise, 1993:14). As a matter of fact, there was no conspicuous form of local government in the urban and rural areas that could be associated with South Africa as a country.

On May 31, 1961, South Africa became a Whites-only Republic, excluding the majority of South Africans from any form of decision-making. The 'new' dispensation placed municipal affairs under the control of Provincial Councils. This meant that local government became the responsibility of the four Provinces (Natal, The Orange Free State, The Cape and The Transvaal) that constituted the 1961 Republic. Racially divided, municipalities became different for different race groups. The new order provided for Coloured and Indian Management Committees. These were mere advisory structures that had no effect in terms of real decision-making mechanisms.

It was the belief of the apartheid administration that the African people were not part of the new-found Republic; that their place was in the Bantu Reserves. Slovo (1995:74) defines these reserves as "*the African rural ghettos (now graced by the name of Bantustan) allocated in the final dispensation after the crushing of the long, drawn-out indigenous wars of resistance. They cover in total the land area of 13%; the balance of 87% was proclaimed as a permanent exclusive homeland of the English, Dutch, French, German colonisers and settlers and their descendants*". To effect this, in 1959 the Promotion of Black Self-Government Act was passed, providing for the self-governing of Africans in what came to be known as 'homelands'. Guise, (1993:16) agrees that "*this grand apartheid strategy was aimed to secure White South Africa, by carving off those areas where most blacks lived, as*

<sup>15</sup> South Western Townships, an African urban sprawl, west of Johannesburg.

*viable independent homelands*". To ensure that Africans become sojourners in the urban areas, their movement in and out of the so-called White areas was controlled through a barrage of influx control measures. Dr H.F. Verwoerd regarded this state policy, as "*providing justice to both black and White and creating a permanent (final) solution for White and black*".<sup>16</sup>

#### 4.2.2.1.1. Local administration in the Non-White areas

In 1971 the Bantu Administration Act was passed. This Act provided for administration Boards that were responsible for African municipal services in the black townships. These Boards were instituted with the hope that they would perform better after the failure of the structures created in terms of the Urban Blacks Council Act of 1961. The same year, 1971, the Cape Provincial Council proclaimed that only voters who were registered to vote for members of Parliament could register for municipal elections. This move removed the Coloured people from representation in the Provincial Councils, which were responsible for Coloured municipal affairs. This implied that the Coloured people were effectively disenfranchised of the voting rights they had held until the proclamation. This then revoked the 1950 Group Areas Act and its amendments, which provided for Advisory Boards and committees for the local governance of the Coloured people.

Up until 1971, Indians in the Cape, with its more liberal tradition, had enjoyed municipal voting rights. Natal had removed these rights in 1924. In both Natal and the Cape, franchise qualification was linked to property qualification for both Indians and Coloureds. (South Africa, 1993:11). Contrary to the situation of the Coloured people, the South African Indian Council, was never empowered to control local government. Only Provinces were given powers over 'Indian affairs'. Noting this *status quo*, it is quite evident that local government was a question of political manipulation during the apartheid period. The Group Areas Act and its subsidiary racial amendments had shaped local government to come to mean nothing to the black people<sup>17</sup> of South Africa.

<sup>16</sup> Public Address. Ulibambe Lingashoni- Hold Up the Sun. Episode 3.

<sup>17</sup> Africans, Indians and Coloured people of South Africa.



#### 4.2.2.1.2. *Local administration in the White-only areas*

From the inception of the Union of South Africa in 1910, the establishment of the Republic in 1961, up to 1994, White people of South Africa enjoyed exclusive rights in local government. This right existed with the exclusion of other fellow country people, especially African people. Noting this reality, Cloete (1995:1) asserts that "*it was at a local government level that the apartheid value system manifested itself most forcefully. This was where laws separated racial communities in every sphere of life and where Whites enjoyed privileges at the expense of other racial communities*".

The 1961 version of the South African constitution divided the country into four provinces. These provinces, headed each by an Administrator were responsible for provincial and local government. Subject to the approval of the Provincial administrator, of a particular province, local governments headed by mayors of different towns and cities were able to make by-laws in their municipal areas. Municipalities were also invested with executive powers of raising tax on fixed property. They then became responsible for providing to the White communities a wide range of services. These included *inter alia*, the building and maintenance of roads and streets, the provision of water and electricity, the provision of housing, traffic control, fire brigade services, granting of business and vehicle licenses and health services (South Africa, 1993). These services, which are rare commodities in the Black communities, were taken for granted by the White communities.

#### 4.2.2.1.3. *Local Administration in the Bantu homelands*

The 'homelands', defined as '*African rural ghettos*' (Slovo, 1995:74), '*the dumping grounds*' (Cosatu, 1987:39), "*overcrowded, eroded, and fragmented rural and semi-urban slums*" (Saspu, 1990:22), were regarded by the apartheid regime as permanent residences of the African people in South Africa. These homelands were founded through the Promotion of Bantu Self-government Act of 1959. Nel (1994:13) notes that, "*as part of the overall strategy of grand or homeland apartheid, the government created numerous ethnically distinguishable reserves or homelands for South Africa's major African tribal groupings...functioning as reservoirs of cheap labour*". Saspu (1990:22) supports this view, that, *bantustans* were "*economically designed to keep within their territories all those who are superfluous to the*

*immediate labour of the White industries, allowing them only when their labour is required by this or that branch of production."*

**Table 4.1: Total numbers removed from 1960-1982**

Eastern Cape	401 000
Western Cape	32 000 + 385 000 Group Areas Act removals, in 1980.
Northern Cape	150 000
Orange Free State	514 000
Natal	745 000
Transvaal	1 295 000
<b>TOTAL</b>	<b>3 522 900</b>
<i>Source: Cosatu, 1987</i>	

The creation of these homelands resulted in the removal of millions of people from the so-called White areas to the reserves. Table 4.1 shows the total number of black people force-fully removed from their settlements between 1960 and 1982. Nutall *et al.*, (1998:75) note that, "*after 1960, officials began forcing more and more Africans who lived in White areas to move to the bantustans. Many Africans who lived on White farms as labour tenants were made to move*".

The administration of the homelands centred on Tribal Authorities. These were tribal entities that were the building blocks of the homeland policy. They were in effect tribal councils, which belonged to paramount chiefs. A paramount chief would be responsible for a number of villages, each with a sub-chief or an *induna* (headman). Through village committees, headed by a sub-chief, tribal authorities would be co-ordinated from the villages to the region or sub-region. These structures became responsible for the administration of a particular region or sub-region. It is from these councils that the homeland administrations drew tribesmen who eventually served in their 'Parliaments'. It was the policy of apartheid that whenever homelands wanted 'independence', such would be given so that the homeland could run its own affairs. This distinguished the so-called TBVC states from the self-governing homelands. The TBVC states were Transkei, Bophuthatswana, Venda and Ciskei, which opted for 'independence'. The self-governing homelands were those, which did not opt for independence, namely, KwaNdebele, KwaZulu, Gazankulu, KaNgwane, Lebowa and Qwaqwa (Fig. 1.2). In both constellations, it was proclamation R293 that provided the



basis for the existence of town councils. These Councils were, however, limited to the 'capitals' of the homelands: Seshego later, Lebowakgomo in Lebowa, Siyabuswa later KwaMhlanga in KwaNdebele, Sibasa, later Thohoyandou in Venda, Mmabatho in Bophuthatswana, Umtata in the Transkei, Zwelitsha, later Bisho in the Ciskei, Ulundi in KwaZulu and KaNyamazane in KaNgwane. In Qwaqwa there was Phuthaditjhaba and Giyane in Gazankulu.

### **4.2.3. The role of the anti-apartheid Resistance Movement**

The 1976 student uprisings in Soweto and other major townships in South Africa stand as a watershed in the history of South Africa. The events, which continued throughout 1977, marked a turning point, because, for the first time after the banning of black political organisations in 1960, a serious challenge mounted against apartheid rule. Tambo (1987: 114) describes the 1976 events as having initiated "a popular protest that has kept the regime off balance ever since. What began as a student demonstration, became an uprising against the apartheid system". The intensity of the 1976 student revolt shook apartheid to its foundation.

As a direct effect from the instability in the country, concern grew within the National Party that apartheid could not work and the repressive measures adopted to maintain its grip were no longer justifiable (Guise 1993:23). In 1978, The Hon. P.W. Botha became Prime Minister of South Africa. During his election campaign he promised to introduce sweeping reforms that would change the face of South Africa. In 1979 Black Trade Unions were legalised. So it appeared that there was a change of heart on the part of the apartheid regime.

#### **4.2.3.1. Local government as a crucible of political struggle**

If 1976 was a watershed in the history of South Africa, then, the 1980s were a catalyst, a milestone in the political strife that led to a new political discourse in South Africa. The interesting element is that, it was the struggle around local government, which assisted in shaping the new discourse. In 1982 the Black Local Authorities Act (BLA) came into effect. This Act provided for local government in African townships similar to those in White areas. At the same time, a Whites-only referendum was conducted in 1983 to determine whether the White community supported the idea of changing the Constitution so as to include Coloureds and Indians in what came to be

known as the 'Tricameral Parliament'. Meanwhile, in the townships, the BLA was put to test and local government elections were scheduled for 1983. As a response to these apartheid manoeuvres, 565 Black and White progressive organisations, representing women, youth, student, civic, worker, teacher, nurses' and church organisations representing 1,5 million supporters, (Mbeki, 1996:59) assembled at Mitchell's Plain on the Cape Flats on 20 August 1983 and launched the United Democratic Front (UDF). The aim of the UDF was to mobilise all and sundry against the Tricameral Parliament, the President's Council and BLA, Mbeki (1996:57) argues that the BLA "*gave the government a range of new powers and responsibilities, while the Coloureds and the Indians were given limited powers in the tricameral Parliament. Effectively they were being co-opted into the regime. In the guise of reform, the Nationalists were introducing legislation which aimed to plug the holes in apartheid*".

The 1983 local government elections in the African townships, met massive protest from the civic organisations, that had just come under the umbrella of the UDF. A call for a total boycott of the elections was instituted by the UDF. "*The effect of boycotting the elections was that in most cases, there were no candidates to be elected, in other cases, candidates had to nominate themselves to the councils. Even in places where there were candidates, the poll was very low - often below 20 percent*" (Mbeki, 1996:60).

In September 1984 a 'new' Constitution came into operation. It created three separate Parliaments at national government level for Whites, Coloureds and Indians. The Constitution provided for "general affairs", including foreign affairs, defence, state security, commerce and industry, law and order, Black affairs and "own affairs", including social welfare, education, housing hospital services and local government (Guise, 1993:24). The House of Representatives, which was a Coloured Parliament, became responsible for Coloured local government as an 'own affairs'. Subsequently the Development Act of 1987 and the Rural Areas Legislation of 1987, respectively provided for urban renewal and development in Coloured urban areas, and advisory boards in Coloured rural areas. The House of Delegates, an Indian Parliament of the tricameral system, was also responsible for its 'own affairs' local government. The House instituted new local authorities and management committees for Indians. Urnov, notes that, "*the idea of gradually admitting Coloureds*



and Asians to Parliament and government, was to bring them over to the White camp and thereby weaken or split the national liberation movement. Of course there was no question of these communities having real power ... and in this sense they largely resembled the 'legislative assemblies' of the bantustans" (1988:220).

The impact of the anti-apartheid movement in South Africa rendered most of the local government institutions in all areas moribund. In the African townships as soon as the councils took power they were confronted with a lack of cash and resources, they were then compelled to increase rents and rates. As Cosatu (1987:51) observes: "The system of Black Local Authorities was introduced as an attempt to transfer power in the townships. But the uselessness and the greed of those willing to serve on these councils soon showed. They simply could not deal with the basic needs of the townships because of the totally inadequate resources and funds available to them. And when they tried to increase rentals, this resulted in a massive backlash against the payment of any rentals at all".

**Plate 4: A rent protest march typical of the 1980's mass protests**



Source: New Era, 1990

The total boycott of rent and rates resulted in the collapse of many councils throughout the country. The boycotts were often followed by street protests that were interpreted by the government as a defiance of its authority. Plate 4 shows a typical protest march in Cape Town. Such protest marches against high rent were phenomenal throughout South Africa during the 1980s.

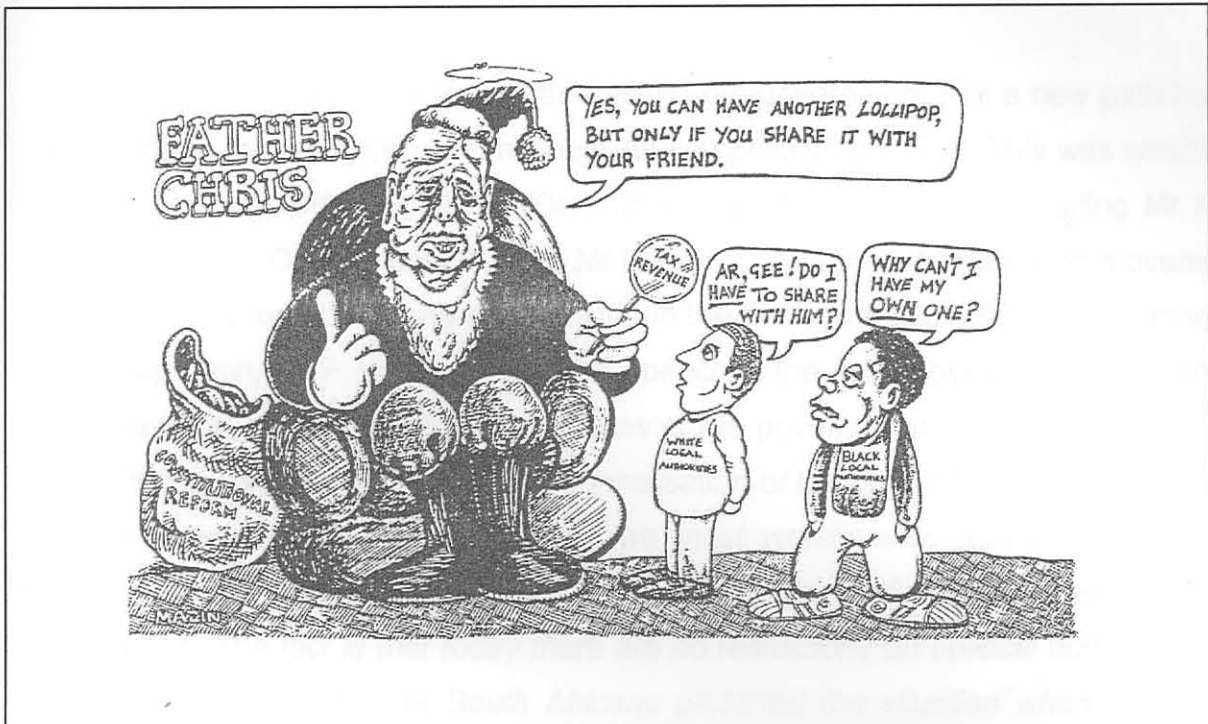
The reaction of the regime would normally be a violent dispersal of protesters that led in many instances to massacres. The events of March 1984 in Sebokeng, in the Vaal, after rent protesters were killed as a result of atrocious behaviour on the part of the police, are a typical example. A vicious circle of deaths in every protest, and deaths at every funeral of a victim of police brutality, deepened the political crisis in South Africa. In 1985 the situation had reached an almost civil war level and the government declared a partial state of emergency in several hotspots of the country. Like wild fire, protests spread rampantly throughout the country. The country had become ungovernable!

#### **4.2.3.2. The final collapse**

To stem the tide of the deepening political crisis in South Africa, a nation-wide state of emergency was imposed by the apartheid administration on 12 June 1986. Under the cover of the state of emergency, the regime sought new strategies of regaining authority. To try and regain the initiative, Sarakinsky in (Benjamin and Gregory, 1992: 128) observes that the apartheid government set in motion a three-phase programme: *The first phase was the re-establishment of law and order, second was socio-economic upliftment, and third was political reform*". In the first phase, the security forces worked hard to muzzle, repress and curtail the protest actions of the anti-apartheid movement in an attempt to stabilise the townships. On one-hand, state institutions like the Department of Finance and the newly established Regional Services Councils (RSC) made resources available for improving the living conditions in the townships. The RSCs provided resources from rich local authorities, despite resistance from the White councils (The cartoon in Plate 5 illustrates white resistance against sharing of the municipal resources) to the inclusion of their poor black counterparts. With well-funded townships, the apartheid government hoped that township residents would accept the Councils, and thus diffuse the wave of protests.



## Plate 5: White Councils were reluctant to share with Black Councils



The combined effects of international pressure and mounting internal mass protests, there was a realisation on the part of the regime that a new political dispensation that would include African people was required. At the same time, argues Sarakinsky, "it is of utmost importance to note that the government had also realised that the internal and exiled black opposition movements had established a presence that could no longer be ignored" (Benjamin and Gregory, 1996:129). This then motivated the regime to contemplate a reform programme that would isolate the liberatory forces and bring to the centre-stage moderate organisations to establish political presence. The African National Congress (ANC), in its policy document notes that, "one of the chief elements in the regime's strategy has been to seek auxiliaries among the oppressed themselves. Through the tricameral Parliament and local government structures the regime has sought to expand the base of collaborators" (ANC, 1991).

The acid test to this strategic agenda came in the form of the national African, Coloured, Indian and White municipal elections that were held on October 26 1988. With these elections, it was hoped that a large number of people would be drawn into the local government structures and thereby support the various councillors who had

opted to be candidates. The turnout at the polls was low, the elections were a failure, and it became clear that the government's strategy was unworkable.

By the end of 1988, there was a realisation from government that a new path had to be found in the resolution of the South African political problem. This was confirmed after former President F.W. De Klerk, took over the reins from the ailing Mr P.W. Botha in 1989. On February 2 1990, Mr De Klerk unbanned the liberation movements and thus opened up a totally new chapter in the history of South Africa. Declaring the new approach, Mr F. W. De Klerk in his speech to the Joint Session of Parliament on 7 June 1990 said: *"Among the objectives of the government in respect of which we obtained a mandate have been the normalisation of the political process inside South Africa ... whether we like it or not , we must wrestle also with the international realities of the present and secure for our country its rightful place in the community of nations. The fact is that today there are no restrictions on political activities in our country ... Many [White] South Africans preferred the situation when unpleasant political realities could be swept under the carpet. It was much less troubling to pretend that these realities did not exist and to continue to live in comfort and complacency"* (South African History Archive, 1990:22). This new approach set in motion a train of events that finally led to April 27, 1994 when a new Government of National Unity took over from the apartheid administration. The period between February 1990 and April 1994 can be described as the most difficult period in the history of South Africa. It was characterised by uncertainty, violence, assassinations and an increased level of mass protests as political parties wrestled for political space in a terrain that was to define once and for all the future of South Africa. It is this period that finally came with the new Constitution and eradicated apartheid from the face of the land.

#### **4.2.4. The transitional period**

The effect of mass mobilisation in the 1980s that led to the collapse of local government in the townships prevented the government from implementing its agenda. It did not, however, give the resistance movement the power to implement an alternative. There was also recognition by the resistance movement that the boycott tactic had, for understandable reasons, undermined the principle of service payment. There was a concern that, should this culture perpetuate, the survival of a



new local government would be in jeopardy. These and other considerations, particularly the government's acceptance of a non-racial local government, and a need to "create a single tax base" (Urban Foundation, 1993:20), led to the commencement of a negotiated local government process.

#### **4.2.4.1. The negotiation process**

The period following the 1990 political breakthrough witnessed an intensified process of political negotiations at both national and local level. The talks that started through CODESA (Convention for a Democratic South Africa), culminated in a national settlement reached at Kempton Park, a settlement that produced a national consensus for a democratic South Africa.

While negotiations were underway at the national level, there was simultaneously an escalation of the political crisis at the local level. Rent boycotts continued, councillors resigned and most councils in black residential areas had collapsed. This compelled the national government, through its statutory status to engender a process that sought to normalise local politics. The end of 1991 saw the formation of the South African National Civic Organisation (SANCO), an ANC aligned national residents' organisation. It immediately engaged with the Minister of Local Government and Constitutional Development to prepare a framework for a local government negotiation process.

On 22 March 1993, the Local Government Negotiation Forum (LGNF) was established (Cloete, 1995:4). This became a bilateral Forum consisting of representatives from central, provincial and local government – the statutory delegation and the non-statutory delegations represented by SANCO and SAMWU (South African Municipal Workers' Union) (Cameron, 1996:2). The principal task of the LGNF was to negotiate and agree on a process that would "contribute to the bringing about of a democratic, non-racial, non-sexist and financially viable local government system" (LGNF, 1993:4).

The process of negotiations was handled through various task teams:

- the legal and constitutional working group;
- the services and finance working group; and
- the management, administration and training working group.

These groups were responsible for most of the bargaining and negotiations; they constituted the fibre of the negotiation process. The Local Government Transition Act of 1993, which became the basis of an agreement on the transitional local government was derived through the assistance of these technical groups.

#### 4.2.4.2 *The local government accord*

The significance of the negotiation process is that it produced for South Africa, the Local Government Transition Act. A crystallisation of an agreement reached by the Local Government Negotiation Forum and ratified by the MPNP at Kempton Park. The Act constitutes a framework that accepted the unitary nature of South Africa. It also laid a solid foundation for a non-racial local government, a significant departure from both colonial and apartheid models of local government.

It is not the aim of this chapter to detail the whole process of the LGNF, the intention is to point to those important highlights that enable a contextual comprehension of the evolution of local government in South Africa. The Act which constitutes the national consensus on local government, is divided into seven parts:

- **Part 1. The application of the Act.** This part, which is generally a section about definitions of the Act, contains agreement on the nature of an envisaged local government in South Africa. It defines and sets the agenda for the transformation process. It defines two important concepts of the agreement, the *pre-interim* phase and the *interim phase*. The pre-interim phase is a phase that began from February 2 1994 to the day of the first local government, which was November 1995. The agreement recognised local authorities within this period provided they were on a path to transforming themselves and/or were engaged in local negotiation process for transformation. Interim phase is a period from 1995 to the next local government election, which occurred in December 2000. The LGNF agreed on the local government transitional provisions, which will set a basis for a final dispensation to begin with the second local government elections.
- **Part 2. Provincial committee for local government.** This part reflects agreements on provincial structures set up by the TEC (Transitional Executive



Council)<sup>18</sup>. There was agreement that provincial structures of local government were to be set-up in all provinces so that they should monitor progress, liaise with the stake-holders, identify problems and attempt to resolve such at a provincial level. These Provincial committees were also responsible for voter education and were enabled to make submissions on legislation for transition.

- **Part 3. Exemptions from certain provisions.** The LGNF agreed that those local government bodies that can prove that they are non-racial in that their administration and financial base is beneficial to all race groups can be exempted from the pre-interim phase.
- **Part 4. Pre-interim Phase. Negotiation Forums.** This part primarily deals with an agreement on the local negotiation forums. These are local formed negotiation forums for the purpose of agreeing on a transitional model to be applied in their locality, the number of seats of the local transitional authority, the nomination of councillors on the new system and all other relevant duties that relate to the transition.
- **Part 5. Interim Phase: Transitional Councils.** This is perhaps the most important part of the Act as it reflects agreement on the type of transitional local government that finally got rid of the most controversial model of local government in South Africa, the colonial and apartheid types of local government. The LGNF agreed on several types of transitional structures, the Transitional Local Council (TLC) for non-metropolitan areas, Transitional Metropolitan Council (TMC) for metropolitan areas and Rural Transitional councils for the rural areas. This part also deals with the delimitation of wards, representation in the Council and procedures for the conduction of elections.
- **Part 6. Transitional measures for the *pre-interim* phase and *interim phase*.** In general this is an agreement on the mandate given to provincial administrators to be custodians of the transitional process, together with the

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<sup>18</sup> A National executive structure created by the MPNP to monitor and drive the transition in South Africa.

provincial committees. These are to guide, monitor and regulate the transformation process.

- **Part 7. Local government Demarcation Boards.** There was agreement by the LGNF that each province should have a Demarcation Board for the purpose of rezoning the country in such a way that the past compartmentalisation according to race can be addressed. This part therefore provides for such Boards.
- **Part 8. General Provisions.** This part empowers the minister, in consultation with the administrator, to bring into effect legislation that strives to meet the aspirations and the spirit of the Act. This part also repeals a host of racial legislation that epitomises the history of local government in South Africa.

It was noted during the discussion in this chapter that local government in South Africa is a product of various historical realities. During colonial times, local government served the interests of the trading companies and also those of the colonialists. Apartheid local government sought to perpetuate the racial philosophy of the White minority government that defined South Africa as a country of different races, captured in Dr. H.F. Verwoerd's address to the session of the Transkeian General Council, the Bunga in 1951, when he said, "*I do not believe in the intermixing of races, White and Bantu, ... the differentiation of races has been ordained and we must base all our policies on that fundamental fact*" (South Africa, 1951:1). This policy gave rise to a democratic movement that sought to undo apartheid policies. Tsenoli (in Reddy, 1995:33) asserts that "*one of the defining features of the liberation struggle is the way in which issues that rose at the local level were handled. One of the most important aspects of that struggle was the passion in which people resisted a series of illegitimate, toothless bodies to control and handle matters relating to African people, councillors, Bantu administration boards and black local authorities*". The fall of apartheid rule and, subsequently, the national consensus on a new local government dispensation, crafted through the Local Government Transition Act of 1993, is an important milestone in the history of South Africa.



Defined as a *developmental* local government by the South African Constitution, the new local government in South Africa, has been charged with three broad functions:

- to provide basic household infrastructure
- to plan for integrated cities towns, and rural areas and
- to promote local economic development.

Given the disparities that exist in South Africa between historically White and Black areas, the discrepancies between rural and urban areas, the developmental task faced by the new municipalities is a mammoth one indeed.

The South African local government history has shown that the phenomenon of local government has been at the centre of socio-political resistance in South Africa. The creation of local government structures at different times in history reveals that these structures were machinations of different political persuasions at different moments in history, whether it be the Burghers against British rule or the African people against apartheid formations. The resultant struggles have shaped a different local government landscape. The fact that there were no local government structures in the homeland-controlled rural areas, is an indication of the colonial and apartheid spatial policies. The Group Areas Act, Act No 41 of 1950, the Bantu Authorities Act of 1950, the Bantu Self-Government Bill of 1959 were legislation that defined South Africa as country of institutionalised racial spaces. It is these spaces like the Western Highveld Region that are a testimony to the spatial and structural history of South Africa. It is in these spaces that the present dispensation strives for redress and equity. Chapter 5 will report on whether the legacy of neglect and deprivation rife in the Western Highveld Region is addressed by the new structural changes that saw the introduction of local government structures in these rural geographies.