Introduction

The first democratic municipal elections on 5 December 2000 will bring to an end the interim system of local government and put in its place a democratic system based on our Constitution. While the present, interim stage of municipal governance is more democratic than previous municipal governments, it is still racially-based, particularly as there are equal numbers of African and White/coloured/Indian wards in each transitional municipality. At the same time, many rural South Africans of African origin have no municipal government serving their local needs.

Transforming Local Government

Given the complexity and rigidity of the system of apartheid local governance found (and in the case of rural areas not found!) in South Africa, in 1993 it was agreed after negotiations that the democratisation of local government would occur in three phases. The first phase (pre-Interim from 1994-1996) led to the establishment of local government structures through combining the existing apartheid councils (statutory bodies) with oppositional formations (non-statutory structures) and a nominated form of local government created.

The second phase (Interim from 1996-2000) began after the holding of local government elections in 1995 and 1996. The phase was Interim because it preceded the establishment of democratic municipalities in terms of the new Constitution. The Interim authorities were not completely democratic (for example, formerly Indian, Coloured and White areas have the same number of ward councillors as formerly African areas even though their respective populations differed quite considerably) and they did not extend throughout South Africa.

The Interim local governments tried simply to deracialise our country through combining formerly urban African areas with formerly urban white, coloured and Indian areas.

Democracy, redistribution and development remain the key challenges in the rural areas where over 60% of all persons previously defined as Africans reside. Programmes of meaningful rural development will inevitably require the redistribution of resources on a massive scale.

The final phase (Democratic) is ushered in with the holding of municipal elections on 5 December 2000. The municipalities have been established in terms of the new Constitution and suite of legislation embodying the policy of national government.

The new municipal system aims to ensure there are:

- More functional economic, financial and administrative bases (through the Municipal Demarcation Act)
- More representative and focused political structures which have significant powers (through the Municipal Structures Act)
• Better administrative systems allowing for greater participatory democracy (through the Municipal Systems Bill)
• More equitable, efficient and effective financial arrangements (through the Financial Management and Property Rating Bills)

Gone are ways of dividing people through categorising municipalities in terms of settlements (urban versus rural) or race (African, coloured, Indian and White) or population density/size (cities, towns, villages, etc.). Instead, the country will simply be divided into municipalities which might encompass some or all of this diversity.

These municipalities will operate as a sphere of government with constitutional functions assigned to them.

The Municipal Demarcation Process

The Municipal Demarcation Act requires the Board to (I) cover the whole territory of SA with municipalities and (ii) consider a range of objectives and factors dealing with social and economic functionality, viability and ability to deliver services.

In demarcating municipalities, the Board took into consideration the boundaries of traditional authorities, even though: (i) No complete record of all recognised traditional authority areas exists; (ii) there are difficulties around the legal description of each traditional authority; (iii) some traditional communities extending into ‘state’ and ‘privately-held’ land; and (iv) some traditional authorities consist of separate pieces of land.

Developmental challenges: Backlogs in service delivery

Huge developmental challenges in rural areas and specifically in areas of traditional rural communities. The extent of all backlogs in water, electricity, telephones, sanitation in traditional authority areas as a percentage of total provincial backlogs is as follows: Eastern Cape (50-60%), KwaZulu-Natal (60-80%), Northern Province (70-90%), Mpumalanga (40-60%), North-West (40-60%), Free State 20-30%)

As a general policy approach the Board has tried to ensure that outer boundaries of municipalities do not divide traditional authorities (Problems include topography, inadequate legal descriptions, de facto versus de jure authority). It should be noted, though, that independent of demarcation there are local disputes over land. As a general rule the Board believes that areas of traditional rural communities cannot be islands of poverty in a sea of development. Hence the approach to incorporate ‘urban’ areas into traditional areas. The approach was more difficult to apply for ward boundaries

The New Municipal System

The new municipal system consists of:

• 6 Metropolitan areas with 6.6 million voters, 1052 councillors (527 will be ward councillors). Four metropolitan areas (Johannesburg, Tshwane, East Rand and Nelson Mandela) will have Executive Mayoral systems with 2 metropolitan areas (Durban and Cape Town) having Executive Committee systems.
• 231 Local Municipalities with 11.7 million voters, 6376 councillors (3227 ward councillors). The majority of these will be Executive Mayoral systems.
• 47 District Municipalities with 1518 councillors serving them. Of these councillors 609 will be directly elected and the remainder will be nominated by their respective local municipalities.

The ward system ensures that within each municipality wards are approximately equal in terms of the number of registered voters.

These new municipalities are established through provincial proclamations which ensure that the assets, liabilities and existing programmes of local government are carried through into the new system.

**Cross Boundary Municipalities**

The Municipal Demarcation Board has also determined that there should be a number of Cross Boundary Municipalities (CBMs). These municipalities include areas which display an interdependence, but which straddle more than one province. In these cases, the MECs of Local Government in each affected province must jointly deal with local government matters for the CBM. But the municipalities themselves will operate as single entities no different from municipalities which are wholly in one province.

**District Management Areas**

In areas where the Municipal Demarcation Board believes municipal government could not be established to achieve the objects outlined in the Constitution, District Management Areas have been created. These areas have been confined to (i) Deserts and semi-desert areas and (ii) State-managed conservation areas. They are found in 26 of the District municipalities and municipal services for these areas will, if needed, be provided by the District Municipalities.

**Rationalisation and Traditional Authorities**

The municipal model which has been created in effect means the influence of traditional communities has been significantly broadened into the bases of economic and political power. Making traditional authorities municipalities would not make sense, given: (i) it would be like arguing that the colonial and apartheid boundaries of traditional authorities correctly describe areas of traditional communities, (ii) the developmental challenges found in these areas; (iii) the need for redistribution and sharing of resources; (iv) difficulties in legally defining these areas.

While there are not many overlaps between Municipal Powers and those of Traditional Leaders/Authorities, they are no different from those between Municipalities and the state and large-scale private land owners. In these cases, there must be effective conflict resolution.

**Alignment of Government Service Delivery boundaries**

The Cabinet has decided that Government’s service delivery boundaries must be aligned more properly. Presently, you may live in one municipality, go to a school in a different municipality, have to go to a magistrate’s court in another municipality, and so on.
The Municipal Demarcation Board is working with National and Provincial Government Departments to try and get the service delivery boundaries of government to be more effectively aligned with municipal government. Hopefully this will mean that government as a whole will be able to plan one-stop service centres where you can go to get governmental assistance. Also, it would be very good if organs of civil society (such as sport, business, trades unions, political parties, etc.) also align their districts with combinations of the new municipalities.

**Transition and Transformation**

Clearly, the new municipal system of governance is only just beginning to be transformed. In the short-term there will obviously be many teething problems as the system takes shape. When coupled with the serious shortfalls of capacity throughout our country and the existing spatial inequalities in resource provision it is clear that the transformation process will require intensive monitoring and adjustments to be made as the system evolves.

Many short-term matters will have to be addressed such as appointing the new CEOs who can guide the development of a new municipal administrative system, deciding on the ‘seat’ for the ‘new’ municipalities, and the like. These will be dealt with only after the elections and the new councils have been sworn in to office, although as the Facilitation Committees discuss the establishment of the new municipalities these issues will become much clearer.

**Concluding Comments**

Demarcation is an ongoing process and boundaries will continue to be refined after consultation with municipalities to achieve the objectives set by our Constitution. The concerns raised by traditional leaders about their role, status, functions and powers are also being addressed. The municipal establishment process is underway with some of the major problem areas being: (I) definition of functions and powers, (ii) assignment of particularly fiscal powers and (iii) issue of staff transfer. It is clear that longer-term capacity building programmes are going to be required.