



The ANC, *the* opposition, and prospects for federalism in South Africa

BY JAMES LORIMER

South Africa's young, post-apartheid federal system is in a state of flux. Some forces are pulling it towards greater decentralization while others pull it towards greater centralization. Analysts in South Africa are divided on which direction it will move.

Technically, there is still argument as to whether or not South Africa could really be said to have a federal system of government.

Professor Harold Rudolph of the University of the Witwatersrand says South Africa can't really be called 'federal' because none of the competencies of South Africa's nine provincial governments are exclusive.

"When push comes to shove," Rudolph says, "the central government prevails."

For most analysts this definition of federalism is too demanding and flies in the face of day-to-day practice whereby provinces make most of their own decisions about health, education, and a number of lesser areas.

But the fact remains that the central government has not been reluctant to assert its own power aggressively in the six years since the democratic system was introduced in South Africa.

The power of the ANC

This struggle between the central government and other areas of power raises a number of contentious issues.

South Africa's ruling African National Congress (ANC) government has a powerful majority in parliament, controls outright the governments in seven of the nine provinces, and is in a coalition government in an eighth.

The ANC's traditional structure and modus operandi encourage a centralized hierarchy which, if newspaper pundits are to be believed, has been strengthened by President Thabo Mbeki's preference for strong central control.

Recent political developments have appeared to underline this, with local grassroots democracy being pushed aside in favour of the appointment of candidates for provincial or metropolitan leadership by the ANC's National Executive Committee or one of its offshoots, the Redeployment Committee. This latter not only assigns political posts, but also names members of the ruling party to head government departments or para-state companies, such as the national electrical utility and the national railways.

Analyst Thabo Rapoo of Johannesburg's Centre for Policy Studies says the perception that Mbeki's government is bent on centralizing everything is "a bit superficial".

Rapoo points to ongoing efforts by the government of Kwazulu Natal province to secure tax-raising powers and for permission to set up export processing zones. Kwazulu Natal is ruled by the opposition Inkatha Freedom Party, which is the senior party in coalition with the ANC.

That view is supported by Professor Jonathan Klaaren of the School of Law at the University of the Witwatersrand. In his view the argument that greater centralization is taking place has only limited validity. He says there are a number of pieces of legislation from the national parliament which are, in essence, "framework legislation". In

these cases the central government has set norms and standards but left it to the provinces to fill in the details.

Rapoo also points to the relatively small number of times that the central government has intervened, on the basis of its constitutional powers, in the functions that are assigned to provinces.

One of the more spectacular examples was in 1998 when the central government stepped into the Eastern Cape Province and took over the payment of pensions. It did this because inefficiency and disorganization in the provincial government meant many elderly people were not getting their pensions. The national government acted on the grounds of a section of the constitution that gives it the power to intervene when provinces fail to fulfill their constitutional obligations. Officials were seconded from Pretoria and the welfare functions were run by them, until provincial authorities could undertake to run those functions with a greater degree of efficiency.

A federal framework and a centralizing ruling party

Colin Eglin, a veteran politician from the liberal and federalist opposition Democratic Party has no doubt that there is a centralizing tendency within the ruling party. But Eglin, who was closely involved in the drawing up of South Africa's constitution, says this tendency has been checked by the constitution. And, he points out, there has been no attempt on the part of the ANC to change the constitution and make centralization easier.

The key tension, he believes, is that the ANC as a political movement has a more centralizing tendency than the constitution. Because the constitution was the product of negotiation with other political parties that firmly believed in federalism, the ANC was forced to compromise and accept a system with more federal characteristics than it might have liked.

This combination of a federal framework with a ruling party with centralist tendencies has, to a certain extent, undermined the elaborately written constitutional measures aimed at protecting the rights of provinces.

For instance, all officials of the ruling party are appointed or dismissed from the centre, and they naturally follow the orders of head office.

An even stronger factor in the movement towards the centre is the apparent inability of many provinces to run an efficient government that delivers infrastructure and social services to the people who were disadvantaged by the apartheid system. This has been exacerbated by the purging of qualified white officials from the civil service to make way for other races, in line with the government's policy of "transformation".

The constitution did provide for an institution that was supposed to give the provinces a voice in decision-making: the National Council of Provinces (the upper house of parliament). But it has thus far proved ineffective. Thabo Rapoo points to a weak administration and the fact that appointees are mostly from provinces controlled by the same party that controls the central government. That means they rarely contradict the legislative views of the lower house.

The upper chamber showed some dissent when it was chaired by Mosiuoa Lekota, an independent-minded ANC stalwart. Lekota's budding career as government conscience ended, however, when the newly inaugurated President Mbeki gave him the defense portfolio in the federal cabinet.

This exposes the weaknesses of a federal system which is dominated by a single party. It also exposes federalism to the charge that it may simply not be workable when the amount of talent in government is limited.

The forces for decentralization

Closer examination however, shows that these political and practical pulls towards the centre are not the only factors determining the health of federalism in South Africa.

There are counterbalancing forces.

In the devolutionary corner are the two largest and pro-federalist opposition parties: Inkatha and the Democratic Party. Thus far they have been unsuccessful in their attempts to devolve power to the provinces. But their efforts have at least kept the demand for provincial powers on the national agenda.

More importantly, the current system that devolves some degree of authority and responsibility to the provinces has created vested interests in the ruling party that stand to profit by any enhancement of provincial power.

This push for devolution from within the ruling party has appeared more muted since President Mbeki took over from Nelson Mandela, but Rapoo believes this is a perception only. He says the style of Mbeki's government is to keep dissent behind closed doors, and simply because provincial premiers are no longer making statements to newspapers does not mean they are no longer agitating for more powers.

As for the future, Professor Klaaren believes that South Africa will see the provinces flexing their muscles as they find there is still a lot of room in the system for exploiting devolution.

"In many cases," he says, "it is the provincial governments which perform the key step between the policy of central government and its implementation."

As provinces grow in capacity and confidence, they will use this role as an opportunity to interpret central government policies in their own way.

The role of cities

Another area where one ought to watch for the growth of alternative centres of power is that of the newly constituted metropolitan areas, mainly the six "mega-cities". In contrast to the provinces, these "mega-cities" have powers to raise revenue, and often greater budgets than provincial administrations.

Although they have little devolved power, their day-to-day role in the lives of millions of people means the "mega-cities" have considerable power to fill in the framework of government legislation. The cities and district councils to watch in this regard are those where opposition parties have a great degree of political support.

Colin Eglin believes that this shift of power to a local level will eventually assert itself. He points out that local and provincial structures controlled by the ruling party are already showing signs that they resent the federal imposition of candidates for elected office at the provincial and local levels.

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Perhaps the final word on the long-term view should belong to Eglin. He warns that in order for a federal system to work properly the philosophy of the various political parties has to be in accord with the federal philosophy of the constitution. He believes there is no such consensus in South Africa at the moment.

Still, Eglin is convinced there's a good chance that both the center and the regional forces will eventually find themselves moving along same, or at least, similar paths. This will happen, he argues, as nature takes its course—that is, as the inherently decentralizing forces in the system assert themselves. (e)