

The evolution of regional and local government

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Abstract

Although regional and local government has been in existence in Namibia since the colonial times, it never existed in the communal areas of the territory. As a consequence of this, tribal authorities governed these parts of the territory. This underscored the importance of local government that time and also inhibited people from taking part in the decision-making process on matters pertaining to their lives. This scenario reduced citizens to mere recipients of predetermined decisions of the colonial authorities. In some parts of the Police Zone, where regional and local government was practiced, local governments were mere extensions of the state in that all decisions were taken in colonial capitals and handed down to local governments for implementation. This effectively meant that regional and local government was subjected to central control, and also that, extensive centrally determined rules governed activities such as development planning and policy-making at sub national levels.

In order to out craft the extraneous factors that consolidated the foregoing, government of the Republic of Namibia created regional and local government to enhance democracy and quality governance. This article reveals that regional and local authorities are statutory bodies constitutionally created to share the responsibility of governing the sovereignty of the people of Namibia with the central government, an arrangement that places regional and local authorities as second and third tier governments within the polity. Complementing these sub national governments in the governance process are traditional authorities. Although they are not accorded status of regional and local authorities, traditional authorities assist sub national governments in the implementation of government programmes and projects in communal areas. Although the Constitution of the Republic of Namibia separates powers between the central government, regional councils and local authorities, this article further reveals that formal institutional arrangements alone, cannot adequately address the complementary and competing functional relationships of the central government, regional and local authorities. This chapter advocates creation of informal institutional arrangements and formulation of rules of conduct by the Ministry of Regional and Local Government, Housing and Rural Development that are both aimed at creation of a harmonious working relationship between regional and local authorities.

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Introduction

Namibia's regional and local government system, those of other Anglophone and francophone African countries, has evolved through six phases, each with multifaceted features. As Reddy (1999, pp.11-12) observes, two of the phases were colonial and four were post independence. These phases according to Moshi (1992, pp.32-34) and Olowu (1995, pp.2-5) as cited in (Reddy 1999, pp.11-12) , include: the indirect rule, discretionary trends, central penetration of the localities, centralised decentralisation, back on the devolution track, and the return of decentralisation. Namibia, Botswana and Zambia's regional and local government systems evolved through various political developments inclined to the six phases referred here to. For instance, Namibia, Zambia and Botswana's regional and local government systems, prior to independence, were based on the indirect rule systems.

In the cases of Zambia and Botswana, the British colonial authorities indirectly ruled these territories through indigenous/traditional institutions where they existed and created new ones where they did not. As Reddy (1999, p.11) observes, prominent features and structures included the traditional chief and his council and elders, the native court system, a colonial local tax and a treasury. This same practice was applied to the then South West Africa territory during the colonial occupation of the German and the then South African colonial authorities who governed the territory between 1884 up to 1989. Under this arrangement, colonial authorities practiced highly centralised systems of government whereby citizens were not allowed to have a say in matters that affect their political and social life. Although some form of regional governments existed in communal areas of the territory where Chiefs and headmen governed the affairs of the people as part of the indirect rule, decisions pertaining to what amenities and developments programs were to be provided to the people were made in the colonial capitals and were handed down for implementation by the colonial agents. Under these arrangements, the policy of racial segregation dominated the economic, political and social policies of the then colonial authorities. To that end, urban local government was divided on the basis of race.

Decisions regarding what amenities and development programs were to be implemented in such areas were made in colonial capitals and handed down for implementation at the local level.

Following the Second World War, were political developments that ushered in some form of self-local government. For instance, in Zambia and Botswana that were both under the British colony, the rule demanded social services and political participation that ultimately led to establishment of some form of self-local government. The aim was to enhance efficiency in the administration and management of local governments and ensure the involvement of the people in decision making process. In spite all these developments, political developments in the local government system of Zambia were varied by the policies of the three Republics. The second Republic came into be in 19964 when Zambia attained its independence. During this second Republic, Zambia pursued a multiparty democratic system that was later changed to a one party system with socialist policies that lasted for 19 years (Katongo 1996, p.1). The socialist policies of the second Republic referred hereto were among the political developments that set in motion agitation in 1989 for a change in the political system. In deed, in December1990, Zambia's political system changed to a multiparty democracy (Mutumba 2004, p.7). Among the notable changes in respect of the constitutional and legislative amendments following the reinstatement of multiparty democracy are: (a) introduction of pluralism and (b) the enactment of the

Local government Act of 1991 and 1992 Acts, Act 22 of 1991 and 1992 Amendment Act, Act 19 of 1992. This piece of legislation enabled local authorities to take a more active role and greater responsibility in planning, implementing and monitoring development activities within their localities. Various other initiatives that were aimed at strengthening regional and local government in Zambia were ushered in by the third Republic. For example, the Local Government Support Project (LOGOSP) formulated and implemented between August 1991 and end of 1997, was aimed at institutional capacity building.

Similarly, Botswana, that attained her independence in 1966 furthered the political developments of the then British colonial through the creation of a two tier system of government namely, central and local levels. Being a unitary state, the Supreme law of the land (the Constitution) bestows competence in the legislature in all areas of jurisdiction. As an attempt to share decision making powers with the governed, local councils are established by subordinate legislation (Cap 40:02). Regional and local authorities in Botswana are responsible for: (a) overall district/urban development; (b) initiation and implementation of programmes on local infrastructure and service; (c) preparation of district/urban development plans and budgets etc. Councillors in Botswana are elected to office through elections and are also empowered by legislation to hire staff members. (Mutumba 2004, p.80)

This article analyses the evolution of regional and local government in Namibia. It provides a brief analysis of what pertained before independence and what pertains now. The article concludes with comments on the future of regional and local government in Namibia.

Local government situation before independence

Prior to independence, the Bantustan regime viewed regional and local authorities as subordinate bodies that mediated between the Administrator General representing the South African Government in Namibia and the governed, implying that the structures were merely a medium through which the powers of the state were channeled. The new phenomenon comes a long way since the German occupation of South West Africa in 1884 and remained unchanged till 1915 when South Africa conquered the Germans and continued to govern this territory in terms of the Versailles Treaty after the First World War. To that end, regional and local government institutions were effectively influenced by the culture of each colonial population group. However, it is quite interesting to note here that, such division reflected different attitudes on the part of the German authorities towards the administration of the three areas. This is obvious in that the police zone was under the direct control of German authorities. The areas within the Police Zone were commercialised, including mining areas.

The northern sector and the Eastern Caprivi Zipfel were not developed at all. The German colonists did not seem to have had interest in those parts of the territory as compared to the areas that were within the then police zone. The division of the territory into three areas promoted a further heterogeneity amongst the population groups. Therefore, it was easy at that time to distinguish a population group from the other on basis of heterogeneous political, legal and social systems. The political history of German South West Africa has it that the northern sector was never subject to German control except to a limited extent in Kaokoveld and Caprivi. The Eastern Caprivi Zipfel, where the town of Katima Mulilo is situated, was indirectly controlled through the use of tribal authorities. Because of its remoteness and inaccessibility from Windhoek, German rule was never effectively

exercised in the area (Vosloo et al, 1974, p.105). The convoluted history of the territory and its intricate pattern of settlement followed by its various population groups were maintained by the South African Colonial system that began in 1915. Little if not nothing was done to change the status quo in the territory in spite of South Africa's mandatory governance being subject to supervision and advice of the League of Nations' Permanent Mandates Commission in Geneva (Vosloo et al, 1974, p. 100).

When the legislative assembly for the Territory was created under South African Colonial rule (for participation of White inhabitants), the control of Black people was excluded from its powers (Vosloo et al, 1974, p. 108). South Africa regarded policy formulation for the whole Territory as its own domain and hence responsibility. This function was exercised through the administration of the Territory until 1955 when it was transferred to the relevant executive department of the central government in Pretoria. This department was designated as the Department of Bantu Administration and Development (DBAD). Yet, the State President of South Africa was the supreme chief of the indigenous people. In terms of South West Africa Native Affairs Administration Act no. 56 of 1954, he delegated certain powers vested in him in terms of this piece of legislation to the Minister of Bantu Administration and Development (proclamation nos. 87 of 1955 and 119 of 1958). To that end, contact between the State President and the different population groups, was through the field representatives of the Chief Bantu Affairs Commissioner who was stationed in Windhoek. An executive department of the South African Republic's central government handled the administration of Coloured and Rehoboth affairs, namely Department of Coloured Relations and Rehoboth affairs.

From 1925 only White inhabitants in South West Africa participated in the institution of regional government. This came into being with the promulgation of the South West Africa Constitution Act of 1925. This piece of legislation provided for the establishment of the legislative assembly consisting of eighteen members elected by White inhabitants in the Territory. This body had legislative powers to make ordinances consistent with any Act of the South African Parliament. Furthermore, the South African Government maintained a direct control through the appointment of a Territorial Administrator by its President. He was the Chief Executive Officer of the Territory. An executive committee comprising four additional members chosen by the legislative assembly assisted the Administrator. He acted in collaboration with the executive committee on matters on which the assembly proved competent to make ordinances. However, the Secretary for South West Africa was the Chief Administrative Officer of the Territory. He performed on agency basis for executive departments of the South African Central government. The Department of Bantu Administration and Development's Territorial Administration administered matters pertaining to Blacks.

South Africa adopted a policy of Indirect Rule when it replaced the German Protectorate and assumed its mandate in South West Africa in 1919. The arrangement was racially discriminatory, and was designed mainly for the purpose of ensuring socio-political stratification between different races.

However, the policy was easily applied in areas of the northern sector and the Eastern Caprivi Zipfel that were territories outside the police zone. In these areas, tribal organization was in operation. The areas included the then Owamboland, Okavango and the Caprivi Zipfel. Each of these tribal groups had hereditary chiefs, elected or appointed headmen who dealt with the governmental affairs of the tribe.

The operation of these tribal authorities was subject to the guidance of White officials who served as Commissioners under the mandatory government. However, it became difficult for Indirect Rule to be applied in areas within the police zone. This was due to inter-group hostilities, which were a result of the warfare of the past. Hence, the situation manifested itself into the disintegration of their tribal life and institutions (Vosloo et al, 1974, p.110).

The situation prompted establishment of the so-called Homelands for the Nama, Damara, Herero, Bushmen and other groups. In view of the problem encountered by the government in planning further developments for these Homelands, the Odendaal Commission was appointed in 1962 to inquire into the welfare of the indigenous population. In 1964, the Commission's report included matters such as relocation of governmental powers, promotion of self-government and allocation of land and financial resources. In terms of the Odendaal report, the idea of Central Authority, which existed, was not at all a solution to the irreconcilable differences between different population groups.

It was, therefore, recommended by this Commission that a policy of "separate development" for each identified ethnic/tribal group be implemented within the Territory. This meant that various population groups were to be given their own areas under the auspices of their own governing institutions. This is related to discrimination on the basis of colour and ethnicity.

Proposals of this Commission included the creation of the following "Homelands": Hereroland, Damaraland, Tswanaland, Bushmanland, Okavangoland, Kaokoland, Eastern Caprivi, Buserland and Namaland (Vosloo et al, 1974, p.111). To allow partial self-government in the territory, the South African government passed an Act on the development of self-government for native nations in South West Africa (Act no. 54 of 1968). This was a subtle measure for the transfer of "self-government" to the various population groups. This approach was so designed that it had to be supplemented by proclamations by the State President of South Africa. Act no. 54 of 1968 made provision for the establishment of a legislative council by population groups after consultation with the President of the Republic of South Africa.

Tribal Councils referred in here as Legislative councils, could legislate on matters concerning welfare services, establish and maintain clinics, control business and trading undertakings, construction and maintenance of roads, administration of justice according to custom and traditional laws observed by tribes and communities, registration of the members of the Black communities, direct taxation of members of such communities and taxation on property. An executive of the above councils was constituted from among the members of the legislative Council that would establish departments in connection with the matters listed above subject to the State President's approval. The administration of such departments was the responsibility of such executive council. Furthermore, the executive council after consultation with the Minister of Bantu Administration and Development could nominate a member to represent them in the urban areas. The duty of such a member was mainly to advise them on matters affecting the general interests of members of the nation residing in these areas (Vosloo et al, 1974, p.112).

Tribal, community and regional authorities could only be recognised by the State President. He also sanctioned the establishment of such authorities. Finally, these authorities exercised such powers and performed duties as determined by him. The

legislative assemblies and executive councils for Owambo, Okavango and Caprivi were all established in terms of the stipulations of the 1968 Act (Government Proclamations, R. 290, 1968, no. r. 1970. no. r. 6 1972).

The governmental arrangements for Coloureds were such that a distinction between Rehoboth Basters and other Coloureds was made. Although the Rehoboth Gebiet resided within the jurisdiction of the Administrator for South West Africa in 1969, local government authority was vested in the magistrate of Rehoboth who was assisted by an advisory board of six elected members. This constituted the local council. Its functions included regulating the planning of township, construction of buildings and trading professions, provision of services such as water, roads, and preservation of public health.

In terms of ordinance 34 of 1961, a Coloured council comprising appointed members was established. This was merely advisory in nature. The South African Minister for Coloured people appointed eleven members of this council. The role of that council was to advise the Minister on matters relating to cultural interests, education, and matters of social and economic nature. The council also served as a medium of contact between the Minister and the Coloured people (Vosloo et al, 1974, p.113).

The Council performed all other administrative duties entrusted to it by the Minister. In terms of the mandate given to South Africa, it is clear that the urban areas, which had forms of local government, were mainly those within the Police Zone such as Windhoek, Gobabis, Okahandja, Keetmanshoop and Mariental. A few other commercial centres in the northern sector like Tsumeb had formal local government. White inhabitants controlled all these areas. In urban areas where Whites and Blacks lived together, two forms of urban local governments existed. These were the Municipal Councils and Advisory Boards. White urban areas were known as Municipalities and were governed by Municipal Councils whereas Advisory Boards governed Black urban areas. However, the difference between the two forms of local government was that decisions of the Advisory Boards were merely recommendations that were subjected to approval or disapproval by municipal councils. This meant that the Advisory Boards were subordinate bodies to municipal councils. All these arrangements further cemented Apartheid in the Territory. The Municipal Councils acted in terms of the provisions of the South West Africa's Municipal Ordinance no. 13 of 1963.

Town Councils such as Windhoek, Okahandja, Keetmanshoop, Mariental, Tsumeb and Gobabis were all regulated by the above-mentioned ordinance. These were towns, which were classified as commercial areas. Municipal Councils in these towns comprised seven councillors, elected by the White inhabitants who conformed to fixed property qualifications. Among the duties of these councils was the management and administration of Native Affairs in the urban area. This effectively meant that Blacks were not represented in the council, and that they never participated in local policy making.

Elected White representatives of the municipalities undemocratically decided upon policies concerning the Blacks. In the Black areas of a town, Advisory Boards were established. These had no executive functions. The municipal council used its discretion to accept or reject proposals from Advisory Boards in the Black townships of municipal areas. In spite of their existence, these two forms of local government served as subordinate bodies and as extensions of the government.

Regional and local government after independence

Following the attainment of independence on 21 March 1990, Namibia had to change the inherited system of independence in line with the new political dispensation. Immediately after independence, the new government set up a Delimitation Commission to eliminate the Bantustan policy of the colonial regime, which was founded on ethnic/tribal/racial criteria (Totemeyer 2000, p.85). The Delimitation Commission recommended the subdivision of Namibia into 13 regions, based predominantly on geographic and economic factors (Totemeyer 2000, p.85). It should also be noted here that, upon the attainment of independence local authorities were made to cater for all the members of the communities irrespective of race, tribe or ethnicity.

The above mentioned recommendation of the Delimitation Commission was enshrined in the national constitution. As already noted in Chapter 1 of this book, Chapter 12 of the national constitution provides for a system of regional and local government in the country. Two years after independence, parliament put into effect the constitutional provision under Chapter 12 by enacting the Regional Councils Act, 1992 (No. 22 of 1992) and the Local Authorities Act, 1992 (No. 23 of 1992). The structure and functions of the current system of regional and local government are already outlined in Chapter 1 of this book.

The new system of regional and local government has not performed to expectations. As Mukwena (2000: 120) noted, the institutional capacity of regional and local government has been limited. In the case of regional councils, as Mukwena (2004, p.120) further noted, their capacity to carry out their present functions of regional development planning and the establishment and management of settlement areas is inadequate. As pointed out by Mukwena and Drake (2000), the major factors accounting for the institutional incapacities of regional councils include lack of suitably qualified and experienced staff in key areas such as finance and accounting and inadequate revenue sources.

In the case of local authorities, the range of problems confronting them include the difficulty to settle their monthly accounts with parastatals responsible for providing bulk water (NamWater) and electricity (NamPower), corruption, mismanagement of funds, self-enrichment, nepotism and favouritism (Mukwena 2004, p.120).

In recognition of the institutional incapacities existing in regional and local government, the government decided in 1996 to consult stakeholders to determine whether decentralisation was on course and chart a way forward. Following the consultations, which indeed revealed that decentralisation was not proceeding as expected, the government approved the Decentralisation Policy in December 1996 and launched the Policy in March 1998 (Godana and Mukwena 2004). The details of the Decentralisation Policy and its implementation status are discussed in Chapter 3 of this book.

Conclusion

Namibia has succeeded in discarding the inherited discriminatory regional and local government system that excluded the majority of her citizens and putting in its place an inclusive and non-discriminatory regional and local government system that is based on adult universal suffrage.

Namibia has recognised that there is need to strengthen the current regional and local government system in order to make it more efficient and effective, hence the decision to

reform the system through implementation of the Decentralisation Policy. In this regard, the future of the country's regional and local government system will depend on the degree to which the country successfully implements the Decentralisation Policy.

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