

Understanding the Community Councils Act

IT must be noted that these 'Impressions' relate to the initial Community Councils Act (125 of 1977) and do not take into account the amending legislation. For example, the Community Councils Amendment Act (28 of 1978) 'allows the minister to declare a by-election to fill seats on a community council either left vacant in the main election or vacant due to resignations, deaths, etc. Previously vacancies were filled by designation by the minister' (Survey of Race Relations, 1978:333).

1. What is a Community Council?

- It is a body of persons elected by residents with Section 19 rights from a particular area to carry out certain functions and duties in that area.

2. What power does the Minister of Co-operation and Development and the Administration Boards have over the Community Council system?

- The Minister takes the decision to establish a Community Council by notice in the Government Gazette. Prior to such decision he is required to consult the Urban Bantu Councils and Bantu Advisory Boards in the area. If none exist he is required to consult the residents in a manner he thinks fit.
- The Minister has the power to dissolve any Community Council at any stage, after consultation with the relevant Administration Board, when he deems it in the public interest

or when he is requested to do so by that Community Council.

- The Minister directs what powers and functions a Community Council shall have after consulting with the relevant Administration Board and that Community Council. These powers and functions, described below, are limited by statute.

- The Minister has the power after consulting the relevant Administration Board and a Community Council, to withdraw any power vested in a Community Council and may in turn confer or impose certain powers so withdrawn on the relevant Administration Board.

- The Minister or any body or persons authorised by him may take such steps as he may deem necessary to ensure the continuation of the functions of a Community Council.

- The Minister after consulting the relevant Administration Board and Community Council has the power to make regulations or apply existing regulations effecting a wide range of Community Council activity including elections to Community Councils, periods of office of members, their conditions of service and powers and duties, conduct of meetings, employment of staff, control over financial affairs and any other matter the regulation of which is in the opinion of the Minister necessary or desirable for the effective carrying out of the Community Councils Act.

3. What are the compositions, powers and

functions of the Community Councils?

- A person who is not a citizen of the Republic of South Africa (eg a citizen of the Transkei or BophuthaTswana) is not qualified to be a member or vote in the election of a Community Council.

- Where there is a shortfall in the number of persons elected to a Community Council or where no persons are elected in an election, the Minister has the power to designate so many persons not exceeding the shortfall in members, to the Council. (See the introduction above for an amendment to this provision).

- It is a punishable offence for a member or a person in the service of a Community Council to disclose information acquired by him in the course of his duties except under certain circumstances.

- Powers which may be vested in the Community Council by the Minister include matters relating to the administration and allocation of housing, the prevention and combatting of unlawful occupation of land and buildings, the approval of building plans and private dwellings, the removal and destruction of unauthorised or abandoned buildings or structures. The promotion of the moral and social welfare of persons living in its area and the promotion of sound community development. The administration of sport and recreational facilities and library services. The maintenance of services determined by the Minister.

- A Community Council may control and manage a community guard in its area.

- A Community Council may make recommendations to the Minister over a range of issues including area layout and renovation, transport services and schools.

COMMENT

IT is the intention of the Nationalist government, through the Community Council system, to grant a measure of self government to urban african communities. The system was designed to replace the ineffective and unpopular Urban Bantu Councils and Bantu Advisory Boards and has been advertised as a progressive and enlightened development in government policy as it affects africans in urban areas.

What is immediately evident is the crucial role which the Minister of Co-operation and Development plays in the operation of the Community Council system. His power over the Community Councils is absolute. The Community Councils in turn have no independent powers to determine the development of urban african communities.

The limited powers which they are accorded by statute lie totally within ministerial discretion. In effect the Act allows for aspects of township administration and policing to be placed in the hands of the Community Councils. These powers may be withdrawn at any stage by the Minister and placed in the hands of the Administration Boards and the South African Police.

The provision relating to operational secrecy is ominous and may inhibit free and open discussion of Community Council decisions.

The system is in itself inherently undemocratic. Thousands of migrant workers living in urban areas are not eligible as members nor may they vote in Community Council elections. Should those who are eligible to vote decide not to participate in elections, the Minister may step into the breach and designate persons as members of

the Community Council. (See comments in introduction).

The abiding impression one has of the Community Councils Act is that it seeks merely to replace white functionaries with black functionaries in the overall administration of the townships. What Bantu Affairs Administration Boards used to do the Community Council will now do. If they co-operate all will be well. If there are disputes and differences, the Minister may withdraw their power. There is no fundamental alteration in approach. The power to determine the destinies of africans in urban areas still lies very much in the hands of the state.

Community Councils: Control and Co-option

THE massive upsurge of popular struggle over the past months appears to be having its effects on the planning and implementation of the South African state's 'new' constitutional dispensation. Indeed, in recent weeks, two of its major planks - the 'Black' and 'Coloured' Councils - have been dropped with unsurprising rapidity (not to mention considerable side-stepping and double-talk

courtesy of PW Botha). The confusion and uncertainty obviously existent within the ranks of the dominant classes over the so-called 'constitutional question' has been mirrored by policy decisions taken about a lower level of state functioning: that of the community councils.

Here too, it is clear that things are not what they should be. On July 31, the Minister of Co-operation and Development (CAD), Piet Koornhof, acting on the request of Soweto's 'mayor', David Thebehali, announced that elections for the Soweto Council (scheduled for September 27) would be postponed to 1982 (RDM, 01.09.80). The government, Koornhof said, was to introduce legislation in 1981 providing for the development of community councils into fully-fledged local authorities - as recommended by the Riekert Commission. Council elections, therefore, should wait for this new era to dawn; all those councils whose elections fell before December, 1981, were eligible for this postponement - and all they had to do, like Thebehali, was ask.

The fact that the election for the widely discredited Soweto Council faced an enormous popular stayaway from the polls, in the context of mobilization over the issue of increased rents, was, of course, not mentioned.

The general reaction of community councils to Koornhof's statement is now awaited - although hardly with excitement.

Since the promulgation of the Community Councils Act in July, 1977, some 208 councils (with 1 500 councillors) have been established all over South Africa. A further 50 to 100 are still to come. The community council strategy represents a form of attempted state