

COMMENT

RDP performance

IS still too early to begin measuring the success of the reconstruction and development programme either by the amount of money spent or by the units of houses or dams built, children taught, improvements in life expectancy or any other of a number of aerial yardsticks. So the information conveyed to Parliament on Monday by Minister Jay Naidoo that 45% of the monies available to the RDP fund last year have been disbursed is not the issue.

What the Ministry is taking care to distribute funds without proper consideration of proposed projects and before proper infrastructure planning is in place is to its credit, particularly given that the government's constituents do expect some results of democracy to manifest themselves sooner rather than later. Whether the problem of unmet expectations can yet be said to be serious is difficult to assess.

The extent of this phenomenon is exaggerated by populist politicians pursuing their own agendas. The government anticipated it by establishing a few high-profile presidential projects — most notably primary school nutrition and free health care for children and pregnant women — which have given as much symbolic as practical indication of a will to deliver. And government is benefiting from Eskom's massive electrification programme, even though that programme was in place long before the election of the new government. Many of the bottlenecks were in place. The question is how suc-

cessfully they are being addressed. In some respects the answer is: quite well, for example in the housing sphere and, though there is a way to go, the campaign to end township boycotts. In others, though, warning bells are ringing.

Firstly, the Development Bank of Southern Africa, a vital element of any development strategy, has been in limbo for months awaiting its restructuring fate at the hands of Naidoo. Insiders fear the outcome may be a less effective institution.

More generally, Naidoo's liking for complex structures and procedures may be counterproductive. And it is unclear how effective the RDP ministry has been in "leveraging" reprioritisation in key ministries. Where it has happened (say housing) this has been a function of strong leadership in those ministries. Where it has not (education and health, for example) the explanation appears to be weak direction. It seems to have little to do with action, or inaction, in the RDP ministry.

The RDP Minister — who, one might say around Parliament holds, is Minister of Everything yet of Nothing — can hardly be happy at his fund being used to reconstruct police stations. Once a precedent of that sort is set, the fund could become little more than government's contingency fund for dealing with any crisis that may arise.

The RDP Ministry is becoming the target of criticism, some legitimate some unfair, by politicians and ordinary people. Its own alarm bells should be ringing.

Looking for slack

THE height of the Cuban missile crisis, Soviet premier Nikita Khrushchev warned US president John Kennedy they were tugging at two ends of a rope with a knot tied in it. The tighter they tugged, the tighter the knot became.

Is the same happening in international mediation saga. South Africa, through renewed threats to hold the local elections, and the ANC, through its increasing obduracy in turning a political molehill into a mountain.

Let us restate the case: there was agreement to allow mediation of outstanding issues in the interim constitution. Terms of reference

The ANC can force through its constitutional vision, particularly now that Inkatha has withdrawn from the Constitutional Assembly, but this can only drive the IFP further from the political mainstream and encourage its destructive brinkmanship and spoiling in the province it controls.

One or both sides of the rope must be released so that the knot can be untied. An opportunity lies in FW de Klerk's face-saving proposal of a summit of leaders to establish a task force on mediation.

Inkatha has endorsed the proposal, and has flexibly indicated that the task team could re-examine the vexed issue of terms of reference

THE vigour of the ANC's response to media criticism of the allegedly centrist nature of its latest constitutional proposals has gone beyond normal political discourse.

ANC leaders display signs of genuine hurt, confusion and anger at the implication that the proposals are a cynical sleight of hand to restore all power to the centre. They suspect they are victims of a knee-jerk response on the part of publications and commentators ill-disposed towards the organisation and who, therefore, are unwilling to assess the proposals on their merits. Alternatively, the criticism is seen as an attempt to force the ANC to accept a constitution which would eliminate the majority party's ability to govern effectively.

ANC secretary-general Cyril Ramaphosa's article (Business Day, April 10) reflects these perceptions which are evident, too, among a range of ANC MPs. Is it possible that the ANC proposals have been so grossly misunderstood? Are they a genuine attempt to disperse power away from the centre and limit that trend only insofar as it is necessary to prevent the balkanisation of the country? (The strong suspicion is that Inkatha Freedom Party leader Mangosuthu Buthelezi will not be satisfied until he has an autonomous kingdom free from central government control — something perilously close to secession.)

With the proposed new Senate representing regional interests and enjoying the power to initiate legislation and to veto National Assembly legislation affecting them, the ANC argument goes, provincial power would be enhanced far beyond that which exists now and would make SA's constitution very similar to that of Germany — one of the most advanced federal states.

This is a good starting point for deepening the debate. The ANC is probably justified in believing insufficient credit has been given to it for the Senate proposal, devised at the recent constitutional conference at the insistence of the party's regional interests — specifically those in Gauteng. And there are many similarities to the German system.

The ANC's proposed Senate's composition would be similar to its Ger-

man equivalent, the Bundesrat. And the Senate would, in fact, have greater powers. It would be able to block legislation emanating from the National Assembly; in Germany the Bundesrat's objections can be overridden by that country's national assembly, the Bundestag.

There are also similarities between the two documents — the ANC constitutional proposals and the German Basic Law — where relations between different levels of government are spelled out. The idea of "co-operative government" between regions at Senate level, championed by the ANC, is an integral part of the German system.

The Basic Law spells out areas where central government has exclusive power: foreign affairs, defence, national citizenship, currency, customs and the freedom of movement of goods, federal railroads and air transport, posts and telecommunications, property rights and copyright, federal statistics and the establishment of a federal criminal police office.

Like the ANC proposals, it also encompasses the notion of concurrent powers. These cover an extensive range of matters. Twenty-four areas of governance fall into this category, among them civil and criminal law and law relating to association and assembly, weapons and explosives, public welfare, economics — including mining, industry, land transfer, commerce, banking, insurance, stock exchanges and

MINE violence such as that which erupted at Vaal Reefs this week is not a new phenomenon and can be traced back to so-called "faction fights" or "drunken brawls" a cen-

Black worker conflicts on SA gold mines 1973-82, said: "Factions emerge in situations in which there is a conflict over power or resources which cannot be obtained through

ANC's proposals are flawed in two important areas

ALAN FINE

labour — hospital fees and the economic viability of hospitals, and the environment.

The central government may also enact framework provisions regarding "the general principles governing higher education", regional planning and a few other matters.

In these areas, the German Länder (provinces) may legislate "as long as, and to the extent that, the federation does not exercise its right to legislate". As with the ANC proposal, central government law overrides that of the provinces where concurrent powers are concerned.

But Germany's Basic Law and the ANC proposals part company in two fundamental respects, and this divergence helps to explain the conflict over the ANC's proposals.

Firstly, the Basic Law gives the central government the right to legislate in areas where it holds concurrent powers only on three grounds: ☐ Where a matter cannot be effectively regulated by individual Länder; ☐ Where the regulation of a matter by a Land law might prejudice the interests of other Länder; or ☐ Where it is necessary to maintain legal or economic uniformity throughout the country.

Section 126 (3) of SA's interim constitution contains the first and third of these conditions. Their scrapping

in the new ANC proposal is one of the two main shortcomings where the regional question is concerned. In Germany there are regular contests between Länder and the centre over what these conditions mean in practice. It is ultimately up to the Constitutional Court to adjudicate where necessary — which emphasises the importance of a universally credible and legitimate court.

Ramaphosa argues that in the ANC proposals "the tests which require the court to determine the desirability or necessity of the legislation have been replaced by the power of the provinces themselves to approve the national legislation in the first place. Can this be regarded as the diminution of provincial powers? Surely not."

The German example shows that the answer is surely "yes". This is especially so when notice is taken of the next point.

The second ANC shortcoming is the absence of the principle of subsidiarity, in terms of which provinces enjoy exclusive powers over matters not defined as exclusive for the central government or concurrent. In practice in the German case, according to a state publication, Facts about Germany, Länder are hence "responsible for education and culture almost in their entirety as a manifestation of their 'cultural sovereignty'". They are also responsible for local government law and the police.

Where does this leave the SA de-

bate? Firstly, it would seem to demonstrate that a German-style federal model would fall a long way short of granting autonomy to KwaZulu/Natal as the ANC seems to fear. Länder's exclusive powers are limited, and central government still has the power to govern effectively.

Naturally, SA need not follow the same pattern of various levels of power. For example, given our history of private paramilitary forces, including the KwaZulu Police, it would seem that a single police force should be controlled from the centre — perhaps with multiparty oversight as compensation for minority parties.

Another problem not facing modern Germany is the capacity deficiencies referred to by, among others, the auditor-general recently. Powers should be devolved only once regions have the ability to exercise them adequately. A constitutional mechanism can be found for this. One already exists in the interim constitution, but perhaps that puts too much power to decide in the hands of the central government, and an independent arbitrator should be given that role.

It may well be asked whether Inkatha would accept such a federal-type system, which falls some way short of the autonomous kingdom their forthcoming constitutional proposals are likely to advocate. ANC leaders fear any concession would be the first step on the slippery slope to secession.

There is no guarantee that Buthelezi would be willing to accept a compromise involving the mild German form of federation in place of an autonomous kingdom. But it seems foolish to provoke a destabilisation campaign by sticking to an unnecessarily centrist approach.

It is possible Inkatha will realise the limits of what is possible. After all, Inkatha only just squeezed a majority in KwaZulu/Natal (50.3%) in April last year, and with strong indications of widespread electoral fraud in some areas. Second, while Buthelezi took it to the brink, the April 19 agreement reflected a sense of awareness on Inkatha's part of those limits.

This, perhaps, is where the final constitutional compromise lies and where negotiation, assisted probably by mediation, is leading SA.

Mine violence is more than just faction fighting

RENEE GRAWITZKY

may result in intergroup conflict and, more specifically, tribal violence or faction fighting"; and

☐ External forces such as "the Russians", a terror gang seen as collud-

report found, non-compliance with calls for consumer boycotts by union structures were viewed as a direct attack on union authority, which provoked violence.

101.1	1.0
20.3	4.9
16.4	6.1
3.3	29.9
33.6	3.0
19.9	5.0
83.3	1.2
8.5	15.5
20.2	4.9
11.2	3.9
8.4	11.9
17.9	5.6
12.0	8.4
62.5	1.0
8.2	12.3
48.7	2.1
306.5	3
8.2	12.2
12.4	8.0

8.8	11.4
9.0	11.2
12.8	7.8
13.4	7.5
7.5	13.1
10.7	9.3
9.3	10.8
9.1	11.0
4.4	22.6
11.0	9.1

5.0	19.8
9.3	10.8
4.8	21.6
105.3	8
11.1	9.0

1.9	82.3
10.0	10.0
7.8	12.8
11.4	8.7
10.0	10.0

600.0	2
40.6	2.5
815.0	1

7.7	12.9
15.9	5.0
3.0	33.4
15.3	5.2
8.4	10.7
18.3	5.5

19.4	5.1
14.4	6.5
15.0	6.7

6.8	15.3
13.7	7.3
13.4	7.5

10.0	10.0
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11.5	5.7
27.0	3.7
5.2	12.2
13.9	7.2
9.8	10.4
24.5	4.1
15.6	6.4

2.8	35.2
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29.7	3.4
4.9	20.3