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**REPORT OF THE COMMISSION ON THE  
DEMARCATIION/DELIMITATION OF SPRs**

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**31 JULY 1993**

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***STRICTLY EMBARGOED UNTIL TABLING AT THE  
NEGOTIATION COUNCIL ON MONDAY 2 AUGUST 1993***

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- \* MINORITY OPINION: MS ANN BERNSTEIN

COMMISSION ON THE DELIMITATION/DEMARCATON OF  
REGIONS/STATES/PROVINCES



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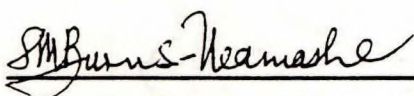


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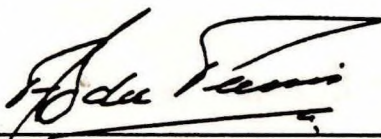
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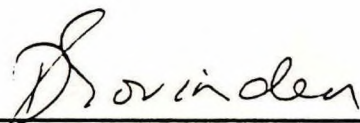
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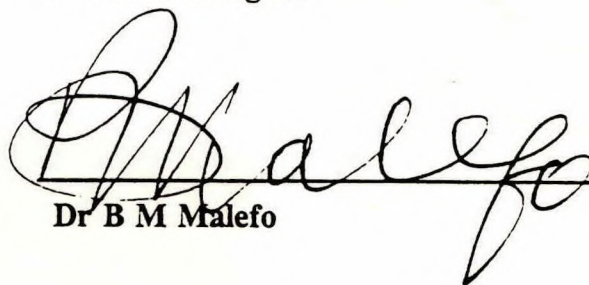
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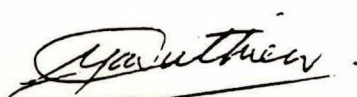
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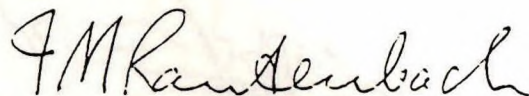
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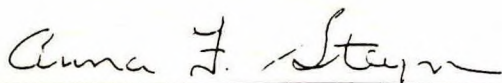


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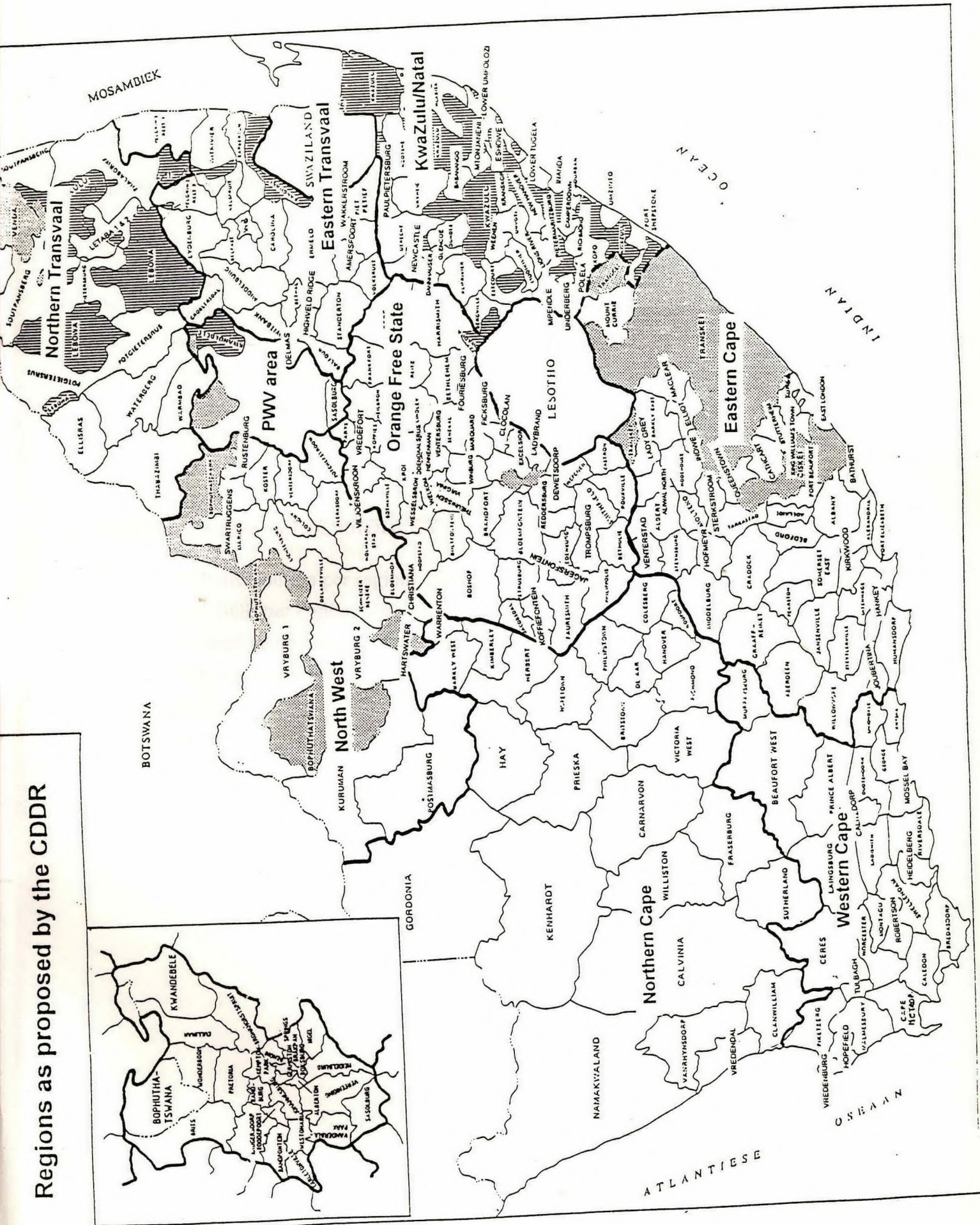


Prof A F Steyn



JC208276

# Regions as proposed by the CDDR



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# CHAPTER 1

## INTRODUCTION

### 1. Background

On Friday 28 May 1993, the Negotiating Council of the Multi-Party Negotiating Process established a Commission on the Delimitation / Demarcation of SPR's, on the recommendation of the Planning Committee. The Terms of Reference as well as the names of the 15-member Commission were agreed to at this meeting.

This Commission held its first meeting at the World Trade Centre on 8 June 1993, and has met regularly since that date in order to complete its work within the prescribed 6-week period. It should be stated at the outset that the Commission has faced a daunting task in attempting to establish an open and accessible process within very tight time constraints. Similar exercises in other countries have been carried out over substantially longer periods of time.

The Commission is also aware that it has been functioning within a volatile political environment, which has heightened sensitivity around regional boundary issues. It is hoped, therefore, that the recommendations and work of the Commission, carried out within the brief received from the Negotiating Council, will assist in addressing some of the problems that exist in relation to the issue of SPR's.

### 2. Brief of the Commission

At its meeting of 28 May 1993 the Negotiating Council gave a brief to the Commission to make recommendations on the demarcation of SPR's in South Africa, realising that regional boundaries will be relevant to the electoral process, as well as to the structures of the Constitution. The factors that the Commission was briefed to take into account are listed in the annexured resolution. It should be noted that the question of structures, powers and functions of SPR's is not included in the Commission's Terms of Reference, but is assigned to the Technical Committee on Constitutional Issues.

The Commission was furthermore mandated to "hear representations from the public at large and from different areas of the country". In addition it was to "allow interested parties and persons to submit their views within a specific period, which should not be less than one month after an invitation in this regard has been published."

The Commission was also mandated to take cognisance of any material it might wish to collect and of any progress made in the Negotiating Council by way of agreements on constitutional matters.

### **3. Working procedure of the Commission**

The Commission decided to embark on its investigation by means of the following three stage process:

#### **3.1 The first stage of the Commission's work: The gathering of information and hearing of evidence**

- (i) An urgent decision that had to be taken by the Commission related to the publication of invitations to interested parties and persons to submit evidence to the Commission. It was decided that this be done through the media, both printed and electronic, as well as through the participants in the Multi-Party Negotiating Process.
- (ii) A second decision was required about the form of the submissions so tendered. It was decided that this should principally be in writing, but that parties and persons should be free to apply to make an oral submission to the Commission.
- (iii) Given the issues at stake, it was further decided that the Commission receives submissions and hears evidence at the World Trade Centre and other parts of South Africa. Following an evaluation of the areas from which requests for oral submissions had been received, sittings of the Commission were arranged in the following centres:

- \* Cape Town
- \* Port Elizabeth
- \* Durban
- \* Umzimkulu

#### **3.2 The second stage of the Commission's work: The processing of evidence**

In the second stage, the Commission (and the Technical Support Team appointed by the Commission) processed the information that had been gathered. During this stage several reports were produced by the Technical Support Team, which assisted the Commission in assessing the proposals.

#### **3.3 The third stage of the Commission's work: The preparation of the final report**

The final stage of the Commission's work consisted of the finalisation of its recommendations and the preparation of a report to the Negotiating Council.

#### 4. Support staff involved

Given the technical nature of the Commission's work, it was decided that a distinction should be made between two categories of support staff:

- \* Administrative and secretarial support staff provided by the Administration of the Multi-Party Negotiating Process.
- \* Technical support staff with knowledge and expertise required to support the Commission in its task. These persons were drawn from amongst professional people, and were appointed on recommendation of the Commission to assist with specific aspects of the work.

## CHAPTER 2

### AGREEMENTS ON REGIONAL GOVERNMENT BY THE NEGOTIATING COUNCIL

#### 1. Introduction

In approaching its task, the Commission has made certain general assumptions based on the criteria provided in its terms of reference, and the constitutional principles recommended to the Negotiating Forum by the Negotiating Council to guide the Commission's work.

The Commission did not try to predetermine the appropriate number of SPR's to be demarcated, nor their size. Rather, it sought to obtain guidance on these issues through an examination of the submissions received, the application of the criteria provided, and the Constitutional Principles agreed upon by the Negotiation Council.

#### 2. Criteria for the Demarcation/Delimitation of SPR's

The Commission was instructed to take into account the following criteria:  
(For the Commission's approach to these criteria see Chapter 3)

- 2.1 Historical boundaries, including provincial, magisterial and district boundaries and infrastructure;
- 2.2 Administrative considerations including the availability or non-availability of infrastructures and nodal points for services;
- 2.3 The need or otherwise to rationalise existing structures (including TBVC States, self-governing and regional governments);
- 2.4 The necessity of limiting financial and other costs as much as is reasonably possible;
- 2.5 The need to minimise inconvenience to the people;
- 2.6 The need to minimise the dislocation of services;
- 2.7 Demographic considerations;
- 2.8 Economic viability;
- 2.9 Development potential; and

### 3. Constitutional Principles

With regard to the Constitutional Principles recommended by the Negotiating Council to the Negotiating Forum on 2 July 1993, the ones listed below were considered to be particularly pertinent.

- 3.1 "The Constitution of South Africa shall provide for the establishment of one sovereign state with a democratic system of government a common South African citizenship and a democratic system of government committed to achieving equality between men and women and people of all races."
- 3.2 "The Constitution shall be the supreme law of the land, shall be binding on organs of government, shall prohibit racial, gender and all other forms of discrimination and promote racial and gender equality and national unity."
- 3.3 "There shall be a separation of powers between the legislature, executive and judiciary, with appropriate checks and balances to ensure accountability, responsiveness and openness."
- 3.4 "Government shall be structured at national, SPR (states, provinces, regions) and local levels."
- 3.5 "At each level of government there shall be democratic representation ...."
- 3.6 "Each level of government shall have appropriate and adequate legislative and executive powers and functions that will enable each level to function effectively. The allocation of powers between different levels of government shall be made on a basis which is conducive to financial viability at each level of government and to effective public administration, and which promotes national unity, legitimate regional autonomy and cultural diversity."
- 3.7 "The powers and functions of the national and SPR levels of government shall include exclusive and concurrent powers as well as the power to perform functions for other levels of government on an agency or delegation basis."
- 3.8 "National and SPR governments shall have fiscal powers and functions which will be defined in the Constitution."
- 3.9 "Each level of government shall have a constitutional right to an equitable share of revenue collected nationally so as to ensure that SPR's and local governments are able to provide basic services and execute the functions allocated to them in the Constitution."
- 3.10 "A Financial and Fiscal Commission, representing *inter alia* each of the

SPR's, shall recommend fiscal and financial allocations to the SPR governments from revenue collected nationally, after taking into account the national interest, disparities within the SPR's as well as the population and developmental needs, administrative responsibilities and other legitimate interests of each of the SPR's."

- 3.11 "The following criteria shall be applied in the allocation of powers to the national government and the SPR governments:..."
- 3.12 "The national government shall not exercise its powers (exclusive or concurrent) so as to encroach upon the geographical, functional or institutional integrity of the SPR's."
- 3.13 "Where it is necessary for the maintenance of essential national standards, the maintenance of economic unity, the maintenance of national security or the prevention of unreasonable action taken by one SPR which is prejudicial to the interests of another SPR or the country as a whole, the constitution shall empower the national government to intervene through legislation or such other steps as may be defined in the constitution."
- 3.14 "The essential principles of the constitution including the fundamental rights contained therein shall apply to all organs of the state at all levels of government."

#### **National government**

- 3.15 "Where there is necessity for South Africa to speak with one voice, or to act as a single entity - in particular in relation to other states - powers should be allocated to the national government."
- 3.16 "Where uniformity across the nation is required for a particular function, then legislative power over that function should be allocated predominantly, if not wholly, to the national government."
- 3.17 "Where minimum standards across the nation are required for the delivery of public services, the power to set such standards should be allocated to the national government."
- 3.18 "The determination of national economic policies, and the power to promote inter-SPR commerce and protect the common market in respect of the mobility of goods, services, capital and labour, should be allocated to the national government."

## SPR government

- 3.19 "SPR governments shall have such powers, either exclusively or concurrently with the national government, as may be necessary, *inter alia*, for the purpose of regional planning and development, and the delivery of services and aspects of health, welfare and education, within their boundaries.

It was agreed that the Technical Committee reformulate this principle."

## Concurrent powers

- 3.20 "Where mutual co-operation is essential or desirable or where it is required to guarantee equality of opportunity or access to a government service, the powers should be allocated concurrently to the national government and the SPR governments."
- 3.21 "In the event of a dispute concerning the legislative powers allocated by the Constitution concurrently to the national and SPR governments which cannot be resolved by a court on a construction of the Constitution, precedence shall be given to the legislative powers of the national government."

## Residual powers

- 3.22 "The Constitution shall specify how powers which are not specifically allocated in the constitution to the national government or to an SPR government, shall be dealt with as necessary ancillary powers pertaining to the powers and functions allocated either to the national or SPR governments."

## SPR's

- 3.23 "That the powers, functions and structures of regions for the transition period shall be incorporated in the Constitution for the transition period."
- 3.24 "That the election of Regional Legislatures and the establishment of Regional Governments in the transitional period shall be provided for in the Constitution for the transitional period."

## Constitution for the transition period and the Constitution-Making Body

"That the Technical Committee shall draft a constitution for the transition period which shall make provision for:"

- 3.25 "The election according to a system of proportional representation of a Constitution-Making Body, legislature and national government for the transitional phase which will include a national and regional component. With regard to constitution making, this Constitution shall provide for dead-lock breaking and special majorities by which decisions will be taken;"
- 3.26 "The election of regional legislatures and the establishment of regional governments in the transitional period;"
- 3.27 "The powers, functions and structures of regions for the transitional period;"
- 3.28 "Fundamental human rights on a justiciable basis during the transitional period;"
- 3.29 "A constitutional Court/Tribunal to ensure the justiciability of the Constitutional Principles, of the fundamental rights and of the Constitution itself."

## 4. Overarching National Concerns

There are three overarching national concerns, pertaining to the formation and demarcation of SPR's, which the Commission considered important:

- \* The need to fashion a democratic culture by bringing government closer to the people;
- \* The need to create an environment that is conducive for economic growth and development; and
- \* The need to build one nation through the acknowledgment of diversity and the reduction of conflict.

## 5. Assumptions.

Based on all the above, there are some assumptions underpinning the discussions and recommendations that the Commission arrived at. These assumptions are as follows:

- \* That South Africa will be one sovereign state with a democratic system of government committed to achieving equality between men and women and people of all races.
- \* That there will be strong SPR governments with legislative and executive powers.
- \* That there will be a free flow of goods, services, labour and capital across SPR boundaries.

## CHAPTER 3

# INTERNATIONAL EXPERIENCE ON THE DEMARCATION OF REGIONS

### 1. Introduction

The unique circumstances of various countries make it very difficult, if not virtually impossible, to formulate rigid and fixed norms and principles upon which the demarcation of regions should be based. Various countries with regional-type dispensations have approached demarcation from their own historical background and circumstances, rather than from a standard set of universally applicable rules. South Africa also has to approach the process of demarcation with its own particular circumstances in mind and apply international lessons creatively to local problems. The unique circumstances of the respective countries do not mean that South Africa cannot learn any lessons from their experience. On the contrary, South Africa can take cognizance of the successes and failures of other countries in their efforts to find a successful formula for demarcation.

There are four areas in particular where South Africans can benefit from international experience, namely the **process** of demarcation, the **criteria** for demarcation, the weight or **value** attached to the respective criteria and subsequent **alterations** of regional boundaries. Although it was not the purpose of the Commission to launch a full investigation into international experiences concerning these matters, it did take cognizance of the following:

### 2. Process of demarcation

The process of demarcation is of crucial importance, especially in a unitary country with no generally accepted regional boundaries. In countries such as the United States, Canada and Australia where historical states embarked upon a process of forming a closer union, the demarcation of regions was never as contested an issue as in countries where regions had to be demarcated anew. However, in Switzerland with its long history of cantonal government, the issue of demarcation of half-cantons went hand in hand with intense emotion and conflict. As a general rule, in the traditional federal-type dispensations with strong historically rooted regions, any amendment or alteration of regional boundaries has to be preceded by an extensive process of investigation, consultation and legislative procedures. The history of various regional and federal-type dispensations show an inclination to reshape boundaries from time to time in order to improve the operation of the system and especially to meet the demands of local cultural, economic and other groups.

The process of demarcation in countries that have moved from a highly centralized to a more decentralized regional-type dispensation, has been far more controversial than in countries with generally accepted historical boundaries and regions. The experience of countries such as India, Germany, Nigeria, Spain and Italy illustrates the importance of the process leading up to the actual demarcation of regions. In these and other countries with similar

experiences, ample provision was made to involve the public in the process of demarcation and to employ expertise. The role of the media and the work of demarcation commissions in an inclusive demarcation process has proved pivotal in these countries.

The South African Commission on Demarcation wishes to highlight the following lessons from international experience on the **process** of demarcation:

- 2.1 The process of demarcation should be as inclusive as possible, to allow a wide range of interested parties and groups enough time and opportunity to make submissions.
- 2.2 The process should be facilitated by a demarcation commission consisting of a legitimate group of experts. The appointment of a demarcation commission could remove the matter from the political arena, involve civil and political society in the process, and ensure that the various criteria are applied in a balanced manner.
- 2.3 The process is in many cases as important as its eventual outcome. If interest groups feel that the process has not been sufficiently inclusive, the outcome may be rejected, which could lead to conflict and instability. Any future alteration of boundaries in South Africa should preferably be preceded by an acceptable process.
- 2.4 The process of demarcation could encourage and even compel various parties, interest groups and communities to co-operate at a regional level, discuss options and where possible present a common position.

### 3. Criteria for demarcation

The criteria for demarcating regions are of cardinal importance in ensuring a balanced and acceptable outcome. There are various approaches to the identification of criteria for demarcation. In some cases the constitution contains the criteria that have to be applied, while in others the criteria are identified by statutory or *ad hoc* provisions as the need for demarcation arises.

A crucial question not only to South Africans but also to other countries facing the issue of demarcation, is what criteria should be included in the constitution or statutes. Various countries have, depending on their circumstances, identified different criteria on which demarcation ought to be based. Some have emphasized the importance of historical regions (e.g. the USA, Canada and Australia), others the role of language and culture (e.g. India, Nigeria and Belgium), while yet others have tried to achieve a balance between national and emotional criteria (i.e. Germany, Spain, Italy). It would seem from an overview of various countries, that the following criteria could be used as a general guideline for demarcation:

- 3.1 Historical matters such as
  - \* historical regions and local governments
  - \* the spontaneous development of communities
  - \* traditional authorities

- 3.2 Language and culture such as
  - \* language, religion and cultural formations
  - \* intercultural conflict and/or co-operation
  - \* migration patterns
- 3.3 Economic considerations such as
  - \* economic functions
  - \* resources and viability
  - \* economic dependencies
- 3.4 Institutional capacity such as
  - \* technical, administrative and professional know-how
  - \* political institutions and structures
  - \* management capacity
- 3.5 Natural and physical features such as
  - \* rivers, mountains
  - \* catchment areas
  - \* environmental considerations

#### **4. Value or weight of respective criteria**

The logical question arising from the identification of criteria for demarcation concerns the relative weight and value attached to the respective criteria. The natural inclination of interest groups is to overemphasize the importance of some criteria and to underplay the importance of others.

International experience and the requirements of the South African situation indicate the need for a balanced application of the respective criteria. Under certain circumstances, in certain towns, villages or communities, some criteria may be relatively more important, whereas in other cases, economic or language considerations may prove decisive. On balance however, the criteria should be applied equitably.

The South African situation in particular requires a balanced rational application of demarcation criteria. The overemphasis of certain criteria may plunge the whole process and its outcome into an acceptability and legitimacy crisis. International experience has shown that an overemphasis on language and cultural homogeneity may lead to the creation of non-viable regions, to duplication and interregional ethnic conflict. On the other hand, an overemphasis on economic and other national criteria may lead to the creation of regions that are too large to manage properly. Such regions may not share an adequate sense of belonging and regional identity, because they contain too many competing ethnic groups. It must be stressed that regions in which diversities in terms of language and cultural matters occur are usually not segregated so precisely that political boundaries could mark off completely homogeneous units.

The Commission has taken note of the experiences of various countries in demarcation. While keeping in mind South Africa's unique circumstances, the following general guidelines were identified from international experience regarding the value or weight attached to the respective criteria:

- 4.1 The criteria should be applied in a balanced manner to prevent a skewed picture from developing, in which certain criteria are overemphasized to the detriment of others. It may, however, in certain circumstances be necessary to highlight a particular criterion in order to decide the fate of a particular community.
- 4.2 In many of the countries analyzed, historical and language factors played a crucial role in demarcation. In some cases this was the logical consequence of historical patterns of living and government, while in others it led to the creation of regions and their alteration. Two remarks can be made about historical and language criteria. Firstly it should be stressed that "historical" criteria are only relevant to the extent that people regard regions as having historical significance. Secondly, as regards language criteria, it seems that regions should not be "gerrymandered" at the cost of geographical and economic cohesion merely for the sake of language homogeneity. The reorganization of homogeneous language and cultural regions may provide the opportunity for the exploiting of ethnic sentiments, claims and counter-claims, and constant new majorities and new minorities. On the other hand, regional boundaries should not cut across the spontaneously formed areas where particular language communities live.
- 4.3 There are circumstances in which metropolitan areas can fall in more than one regional. However, demarcation should, as far as possible, not cut across or separate highly urbanized and economically integrated regions where interdependency exists. In particular, regional boundaries should not divide highly industrialized areas, nor should they separate areas where people work from the corresponding residential areas. Metropolitan regions should not be too narrowly divided because inflexible boundaries may create difficulties when it comes to expansion, further development and urbanization.
- 4.4 International experience makes it difficult to identify an "ideal" number of regions for a given country. There are too many factors influencing the number of regions, making it basically impossible to justify a theoretically fixed number of regions. Based on international experience the following are but a few of the factors that have had an impact on the number of regions in various countries: historical regions (e.g. the USA, Canada and Switzerland), language diversity (e.g. Nigeria and Belgium), the size of the population and country (e.g. India and Brazil) and a combination of historical and economic considerations (e.g. Germany and Spain). The absolute **minimum** number of regions seems to be five or more. Fewer regions might encourage the dominance of one over the others (e.g. Nigeria with three regions in 1960); might lead to constant outvoting (e.g. difficulties experienced in Belgium) or to permanent voting blocs. The **maximum** number of regions is even more difficult to determine objectively, especially when one considers how many countries have between 10 and 50 regions. The Commission wishes to emphasize that, given the

South African situation, a balanced application of the respective criteria could prevent the establishment of an excessive number of regions.

## 5. Alteration of regional boundaries

Most countries, especially those that do not have a long history of regional government, provide that if certain conditions are met, regional boundaries may be altered, amended or adjusted. In countries with a long history of regional government and undisputed regional boundaries, such as the United States of America, Australia and Canada, there has been little need to alter boundaries. However, even in a country with more than seven centuries of regional government such as Switzerland, there have been various successful efforts to alter cantonal boundaries by creating half-cantons.

In countries with fairly recent experience of regional government, such as India, Nigeria, Spain, Italy and Namibia, there is a more apparent need to provide for boundaries to be altered from time to time. The reasons for the alteration of boundaries may differ depending on each country's circumstances. In India and Nigeria, for instance, none of the regions remained unaffected by the efforts to redemarcate regions along linguistic lines. In Nigeria this has led to instability and uncertainty in that a virtually continuous process of redemarcation began in an effort to grant each minority its own region. In Germany there have been two demarcation efforts since the present constitution was promulgated and there is currently discussion on the appointment of a third demarcation commission which would, among other things, evaluate the success of the demarcation of the Eastern regionals.

The requirements for altering boundaries differ in the various countries. Normally the alteration of boundaries is not a matter for the central legislature alone. There is a variety of prerequisites and the following are but a few examples: investigation by a demarcation commission, public involvement and consultation, referenda among the affected populations, inputs from the regional legislatures, increased majorities, and special procedures by the central legislature.

It goes without saying that the alteration of regional boundaries also has to be approached in a balanced manner. Constantly changing boundaries may be worse and lead to greater insecurity than having no alterations at all. The dominance of emotional over rational and economic considerations may fuel intraregional and interregional instability, and may discourage the inhabitants of regions from developing closer ties, a common loyalty and a sense of belonging to a particular region.

The Commission would therefore, given the variety of experiences that countries have had in the alteration of boundaries, highlight the following guidelines:

- 5.1 Most countries provide for regional boundaries to be altered if certain requirements are fulfilled.
- 5.2 A balance should be achieved between altering the boundaries and encouraging regional inhabitants to develop a common understanding and destiny.

- 5.3 The requirements for the alteration of boundaries generally include not only popular involvement but also technical expertise.
- 5.4 The alteration of regions in countries with a shorter history of regional demarcation, may be easier than in cases where regional government has become a permanent and historic feature.

## CHAPTER 4

### CRITERIA FOR THE DEMARCATION/DELIMITATION OF SPR'S

#### 1. Introduction

The purpose of this chapter is to provide a framework for considering the criteria for the demarcation of SPR's, provided as a terms of reference for the Commission. The discussion of the criteria is undertaken in the context of the consensus reached by the Commission members that the boundaries demarcated/delimited must make sense in terms of economic aspects, institutional and administrative capacity, geographical coherence, and socio-cultural dimensions.

#### 2. On the concept of "Region."

A region may be defined as a geographic area which has evolved a social, economic and/or political milieu which distinguishes it from some other sub-national areas. An area can be considered a region due to economic functionality, for administrative purposes or because of its homogeneity.

An **economically functional region** exists when the level of interaction of components of the economy within an area is significant as compared with other places.

**Homogenous regions** are characterised by internal similarity based on common activities, such as culture, climate, or even level of economic development.

Regions are often formed for the exercise of particular **administrative, legislative, and judicial functions**. Unlike either functional or homogenous regions, such regions are usually more clearly delineated. Nonetheless, such regions may not be distinct from homogeneous or functional regions. Furthermore, the creation of an administrative region may itself foster homogeneity and functionality to emerge within an area.

The three different types of regions discussed above can occur at both the national and international level.

### 3. Criteria for the Demarcation/Delimitation of SPR's

The key question in the demarcation of SPR's pertains to the appropriate criteria to use. At its meeting of June 12, 1993, the Commission grouped the ten criteria provided, in the terms of reference, into categories in order to develop a framework for their application.

The following are the ten criteria provided as part of the Commission's brief.

- 3.1 Historical boundaries, including provincial, magisterial and district boundaries and infrastructures;
- 3.2 Administrative considerations including the availability or non-availability of infrastructures and nodal points for services;
- 3.3 The need or otherwise to rationalise existing structures (including the TBVC States, self-governing territories and regional governments);
- 3.4 The necessity of limiting financial and other costs as much as is reasonably possible;
- 3.5 The need to minimise inconvenience to the people;
- 3.6 The need to minimise the dislocation of services;
- 3.7 Demographic considerations;
- 3.8 Economic viability;
- 3.9 Development potential; and
- 3.10 Cultural and language realities.

The above criteria were categorised into four broad groups, namely:

- A. Economic Aspects - (criteria (3.4-3.6), and (3.9) )
- B. Geographic Coherence (criterion (3.1) )
- C. Institutional and Administrative Capacity ( criteria (3.2-3.6))
- D. Socio-Cultural Issues (criteria (3.7 and 3.10))

### 3.1 ECONOMIC ASPECTS

Several dimensions have been identified as critical to consider as part of the Economic criterion. These are, economic functionality, economic viability, fiscal capacity, development potential, and infrastructure (social and physical). Given the challenges facing South Africa, the overriding concerns with regard to this criterion are economic growth and development. That is, that the regions demarcated/delimited must contribute to meeting these concerns.

#### 3.1.1 Economic functionality

The notion of economic functionality refers to a situation whereby the level of interaction of components within a region is significant compared with other places. An economically functional region could take many forms. For example, nodal regions have a centre of concentrated economic activity which serves other sub-centres or residential areas. The functionality of region is measured by the flow of goods and services, labour flows, and to an extent by the market areas for the local production sector. Therefore, economic functionality is related to the activities that occur around an urban core and the extent of its impact on the welfare of its hinterland.

#### 3.1.2 Economic Viability

Economic viability relates to the extent to which a particular region has an adequate resource base to provide for the welfare of its population. This includes an economic base to provide jobs, produce goods and services and a sufficient tax base to provide fiscal capacity. With respect to fiscal capacity, economically viable regions generally also have the capability to generate a significant tax base.

It is important to note several issues with regard to the questions of economic functionality and viability. First, economic functionality is a necessary but not sufficient condition for economic viability. In short, an economically functional region is not necessarily economically viable in all respects, particularly in terms of tax base. Second, it is not possible in the demarcation of regions to create regions which are equal in terms of economic viability because this may in fact interfere with their functionality. Finally, having economically functional regions has the potential of nurturing economic viability in the future. Therefore, everything equal, economic functionality should be considered as a critical criterion for the demarcation of SPR's; however this does not mean that economic viability should not be taken into account.

The question of economic viability as it relates to the fiscal capacity of SPR's is also important given the recommendations of the Negotiating Council to the Negotiating Forum on constitutional principles<sup>1</sup>.

### 3.1.3 Infrastructure

Infrastructure is an important factor in determining the economic functionality and development potential of an area. In this regard both physical and social infrastructure needs to be considered.

**Physical infrastructure** includes, transport, energy, and telecommunications. Physical infrastructure is critical to development and economic functionality because it impacts on production and consumption costs. In many cases the cost of particular aspects of infrastructure are factored into the price of inputs and those of final goods and services. For example, energy is often part of the cost of production and transportation directly impacts on the cost of distribution of goods and by implication on the price of the final good. The major issues to be considered in the demarcation of SPR's is both the amount of infrastructure that exists and how effective and efficient it is in promoting intra- and interregional linkages.

Other than its impact on economic viability and functionality, physical infrastructure also impacts on the quality of life of citizens because it has a direct effect on access to services (e.g., transport) and information (e.g. energy and telecommunications).

**Social infrastructure** includes health, housing, education and social welfare facilities, and their relative accessibility to the regional population. Social infrastructure impacts on the quality of life of the regional population. Particular aspects of social infrastructure, especially

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<sup>1</sup> The following principles are important in this regard.

- 2.17 *Each level of government shall have appropriate and adequate legislative and executive powers and function that will enable each level to function effectively. The allocation of powers between different levels of government shall be made on a basis which is conducive to financial viability at each level of government and to effective public administration, and which promotes national unity, legitimate regional autonomy and cultural diversity.*
- 2.21 *National and SPR governments shall have fiscal powers and functions which will be defined in the Constitution. The framework for local governments referred to in paragraph 2.19 shall make provision for appropriate fiscal powers and functions for different categories of local government.*
- 2.23 *A Financial and Fiscal Commission, representing inter alia each of the SPR's shall recommend equitable fiscal and financial allocations to the SPR governments from revenue collected nationally after taking into account the national interest, disparities within the SPR's as well as the population and development needs, administrative responsibilities and other legitimate interest of each of the SPR's.*

health and education, affect the quality of human capital a region has and hence its economic viability and development potential.

While it may not be possible to equalise infrastructure among different SPR's, there is a need to assess what capacity exists and how existing gaps could be met through a sharing of inter-regional capacity. Furthermore, in applying this criterion, the effect of the status quo and past policies on the orientation of infrastructure needs to be taken into account.

### **3.1.4 Development Potential.**

The goal of development is to improve the quality of life or standard of living of the population. One aspect of development is economic growth. Another dimension of development is the transformation of socio-economic and political institutions so that they contribute towards the growth and self-determination of communities. Given this, the issues of economic functionality, economic viability and infrastructure are clearly important components in determining the development potential of an area. Furthermore, it is clear that other dimensions to be dealt with later, particularly institutional and administrative capacity, are also important.

In considering the development potential of SPR's, one needs to take into account at least two issues. The first is the existing development needs as indicated by current socio-economic indicators. A second, is the economic viability of particular regional economies in the context of both national and international trends. That is, regions that are currently leading in terms of economic growth and development, may not necessarily be so in the future given their economic structure and comparative advantage. Therefore, development potential has to be looked at in terms of both a national and international context.

## **3.2 INSTITUTIONAL AND ADMINISTRATIVE CAPACITY.**

As indicated above, regions can exist for managerial and administrative purposes. The institutional and administrative capacity of the region ultimately determines their effectiveness, efficiency and performance of tasks in an accountable manner. This has direct bearing on the quality of goods and services that will be provided to regional populations as well as the calibre of governance.

**Institutional and administrative capacity** refers to the existence of workable structures and systems to execute governmental functions and provide the necessary public goods and social services. Thus, it relates not only to structures of governance, but also to institutions for the provision and management of social and physical infrastructure.

In addition, institutional capacity concerns the degree to which appropriate policy formulation, implementation, monitoring and planning of the region's development can be undertaken.

With regard to **administration**, international experience demonstrates that the evolution of appropriate bureaucracies to meet regional needs, is a long term process which requires systematic intervention and planning. Therefore, the nature of the existing capacity, particularly within the civil service structure, its possible configuration and rationalisation under a new constitutional dispensation, and the long term potential of regions to develop the necessary capacity, have to be considered. Furthermore, due consideration has to be given to minimising inconvenience to the people and the dislocation of services being rendered.

Finally, the issues of administrative and institutional capacity indicated above have fiscal implications. Therefore, the cost of governance and administration of an SPR needs to be taken into account when demarcating/delimiting regions. A balance has to be maintained between the benefits to be gained from economies of scale, and the costs that will be incurred by individuals using the SPR administrative and governmental structures, as they increase in size and complexity.

### **3.3 GEOGRAPHICAL COHERENCE**

In this report, geographical coherence pertains to the idea that SPR's must be compact and exhibit a high level of functional linkages between localities. This criterion is all the more important in relation to the history of South Africa and the creation of disjointed homeland territories.

### **3.4 SOCIO-CULTURAL ISSUES**

The issues that have been identified is essential to consider in this regard are, a sense of identity with the region, historical boundaries, and language and cultural considerations.

#### **3.4.1 Sense of Identity and Historical Boundaries**

As currently categorised, sense of regional identity is related to socio-cultural dimensions. However, it is important to note that sense of identity is a multifaceted concept in that it can be the result of social, cultural, political, geographic or economic factors. It is therefore important to balance these various dimensions in the demarcation of SPR's.

Related to a sense of regional identity, is the question of the role of historical boundaries in the delimitation of new SPR boundaries. The existing provincial boundaries in particular, have created a certain sense of identity and provide a useful starting point for the examination of the boundary issue. Existing boundaries which are not unduly tainted by the recent apartheid past take on an even greater relevance where the delimitation process has to take place within a short period. On a smaller scale as well, the existing magisterial districts are useful for the construction of a regional framework.

A further issue to be considered under historical boundaries is that of disputed land rights. Given the history of South Africa, along any boundary that is demarcated for the purpose of the establishment of SPR's, there is the potential of land claims being made by one party or another. The resolution of such claims can have an impact on demarcation.

### **3.4.2 Language and Culture Considerations**

There are two elements that need to be highlighted with regard to this issue. The first is the need for sensitivity toward sense of identity (however defined) without creating preconditions that may lead to problems of discrimination against minority interests and/or ethnic cleansing. Second, a clear understanding of what the objective of considering this particular criterion is, needs to be stated. Although SPR's should not be demarcated along language lines only, geographical areas with obvious homogenous linguistic patterns should be taken into account, particularly where language is an important component of regional educational policy.

## **4. Conclusion**

The above discussion has tried to highlight the key issues relating to the given criteria for the demarcation of SPR's. It is safe to surmise that the Commission would have to maintain a flexible framework in its deliberations. Certain criteria could be seen as carrying weight because of overarching national goals, such as economic growth, development and the creation of a democratic culture, facing the country. In other cases, the weight of criteria could differ depending on the case under consideration.

## CHAPTER 5

# RECOMMENDATIONS ON THE DEMARCATION/DELIMITATION OF SPR'S

### 1. Introduction

The objective of this chapter is to give a perspective on submissions received by the Commission on the Demarcation/Delimitation of SPR's, present the methodology and framework for analysis which was followed in evaluating and applying criteria for demarcation/delimitation, and to make recommendations on the delimitation of regions.

The recommendations on the demarcation of boundaries as discussed in this chapter should be seen in the context of related issues discussed in other parts of the report.

### 2. Perspective on Submissions Received

The Commission issued a media statement on June 8, 1993 inviting all interested individuals, parties and interested groups to make written and/or oral submissions on the demarcation of regions.

Despite the short time that was available for submissions to be made, the Commission received three hundred and four (304) written submissions and heard a total of eighty (80) oral presentations at various centres around the country. The Commission was generally impressed with the high standard of submissions, especially given the limited time available for the preparation of submissions.

The Commission was concerned about the inadequacy of local community involvement in the process. This was due to a number of factors such as:

- (i) the limited time that was allowed;
- (ii) the lack of capacity of many communities to respond, either orally or in written form; and
- (iii) the limited number of people and organisations that the notification of the Commission's brief was able to reach.

A list of those individuals and organisations who made written and/or oral submissions to the Commission is attached in the appendix.

It was noticeable that many presentations used the criteria provided by the Negotiating Council in order to argue their case. This approach has facilitated a rational rather than an