

Creating Geographies of Peace: Provinces, Referenda and Spatial Decision-Making in South Africa

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Introduction

There are few places in the world better than South Africa for the studying the reciprocal relationship between politics and geography. The apartheid regime used spatial engineering to maintain and enforce political control by a white elite. The post-apartheid government must use spatial engineering to allow formerly repressed peoples more access to land and power (both political and economic). Dramatic changes since 1994 have included the absorption of the nominally 'independent' homelands, the cession of Walvis Bay to Namibia, the re-drawing of every metropolitan and municipal boundary in the country, and the transformation of the four old provinces into nine new ones (Griggs, 1995).

Of these spatial changes, only one has posed a problem of national security: the provincial boundaries. First, the national treasury is being drained to support multiple systems of local government that are neither viable nor affordable. Second, there have been riots, arson attacks, violent confrontations with security forces, and murders in association with boundary disputes left unresolved by the state. This article attributes these problems to the dominance of spatial decision-making by party elites who produced too many provinces with too much conflict potential and then prevented local stake-holders from accessing the constitutional mechanisms for resolving them.

From Four To Nine Provinces

South Africa's political transformation to democracy was facilitated by a series of multi-party talks held between 1990, when the National Party admitted the failure of apartheid, and April 1994 when the first democratic elections were held. One of the longest-debated and most heated issues in these talks was whether South Africa would be federalist or centralist. The outcome would affect the sub-national boundaries of the state. A centralist state could be administered through small-scale regional councils (e.g., Namibia) but a

federalist state would require large 'states' or provinces.

By 1993 it was certain that some quasi-federal system of states, provinces, or regions (then called SPRs because each term alone was politically loaded) would emerge as a compromise between centralist, federalist, and even separatist forces. The Multi-Party Negotiating Process talks in Kempton Park (near Johannesburg) then established a 15-person commission to make proposals for new internal boundaries. The Commission on the Demarcation/Delimitation of SPRs (the CDDR) held their first meeting on 8 June 1993 and reached a decision by 31 July 1993. It effectively took six weeks of deliberations to propose more than doubling the number of provinces (by comparison, the recent reorganisation of Britain's counties was negotiated over six years).

Only one month of the CDDR's itinerary was devoted to gathering testimony. Many stake-holders failed to receive the notices on time or could not organise a submission on such short notice. Worse yet, few commissioners read more than a fraction of the reports that were submitted (Hulley, 1994). There was broad public criticism when the commission's report was submitted and therefore the multiparty negotiating committee allocated another three months from August for the commission to take additional testimony regarding certain "*sensitive areas*." This second phase of commission work was largely a public relations exercise and effected no change in the commission's recommendations.

The clumsy manner of taking last-minute testimony to appease the public indicates that more time was required than that allocated to assess the needs of local actors. It was simply deemed less relevant to the political party negotiators at Kempton Park who needed a base map for their territorial horse-trading (Khosa and Muthien, 1997). Indeed, there was a rush to prepare for the April 1994 elections and major parts of the constitution then being debated depended on knowledge of South Africa's

Figure 1: Present Status of Affected Areas

Affected Area	Affected Province	Status	Mechanism for Resolution
Bushbuckridge	Northern Province Mpumalanga	Active	Negotiations between Provincial Premiers.
Namaqualand	Western Cape Northern Cape	Dormant	Political party negotiations.
Groblersdal	Northern Province Mpumalanga	Active	Negotiations between Provincial Premiers. Joint provincial commission.
Northern Transkei / Pondoland	Eastern Cape Kwazulu-Natal	Active	Presidential Commission of Inquiry
Umzimkulu	Eastern Cape Kwazulu-Natal	Active	Presidential Commission of Inquiry
Debated split of Former PWV.	Gauteng Mpumalanga	Dormant	Political party negotiations.
Debated split of the Eastern Cape.	Eastern Cape	Dormant	Failed attempt at referendum.
Debated absorption of the Northern Cape into neighbouring provinces.	Western Cape North-West Northern Cape	Dormant	Political party negotiations.
Moutse, Mathanjana districts of KwaNdebele Homeland	Gauteng Mpumalanga	Active	Provincial-led Commission of Inquiry and political party negotiations.
Sasolburg	Gauteng Free State	Dormant	Political party negotiations.
Clanwilliam, Vredendal, Van Rhynsdorp	Western Cape Northern Cape	Dormant	Political party negotiations.
East Griqualand	Kwazulu-Natal Eastern Cape	Active	Presidential Commission of Inquiry.
Kuruman, Postmasburg, Kudumane, Taung	North-West Northern Cape	Active	Joint Provincial Commission, Presidential Commission of Inquiry.
Brits, Moretete, Odi, Ga-Rankuwa area	North-West Gauteng	Active	Local protest.

provincial boundaries (e.g., composition of the Senate). However, the minimum input from ground-level resulted in proposed boundaries that contained a high level of conflict potential. Mounting protests were allayed with an 'annexure' to the interim constitution that defined fourteen different disputed boundaries (Figure 1). The negotiators promised all interested parties that these disputes would be re-addressed after the elections (that this was never satisfactorily done according to any of the mechanisms outlined in the interim constitution will be addressed later).

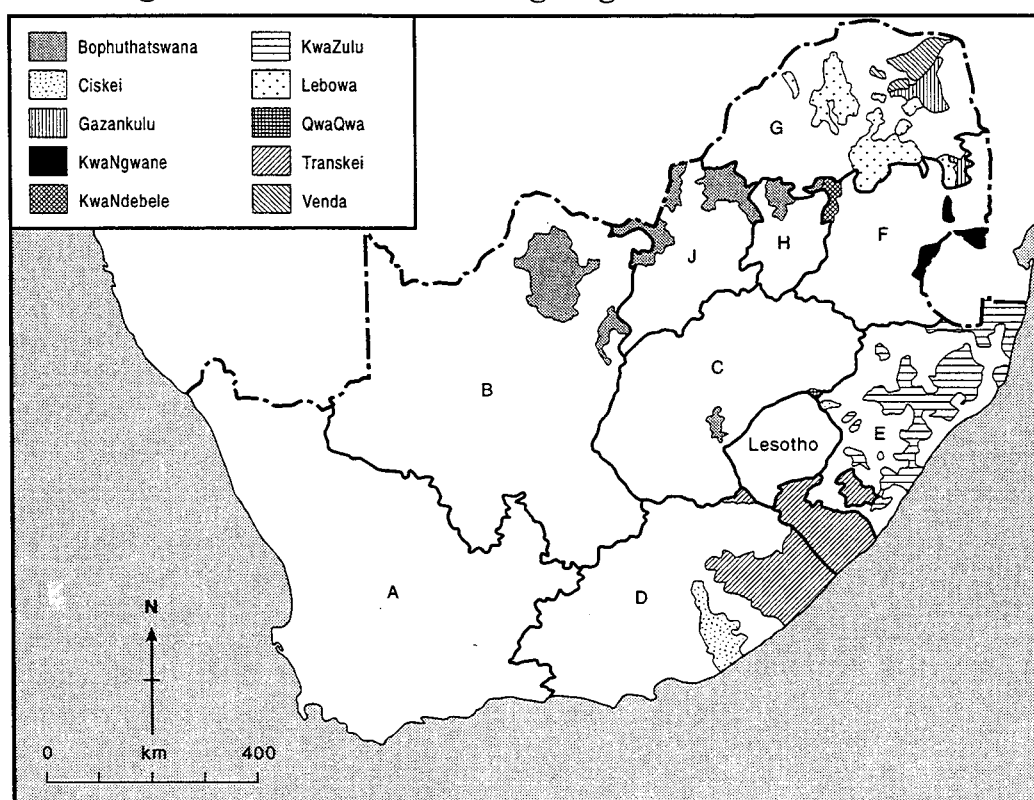
The political party approach to boundary making explains the number of provinces that resulted. Since no meaningful time was allotted or available for public consultation, the commissioners took as their initial draft the nine planning regions established by the Development Bank of Southern Africa between 1982 and 1988. These planning areas appealed to all parties because they crossed the boundaries of both provinces and homelands (i.e., appeasing the ANC's policy on integration) and were authoritative documents of the apartheid era (familiar to the NP). The planning regions and homelands are shown in Figure 2. Modifications were made by the commission and again by politicians (some reversing the work of the commission) during secret multi-party talks but the nine divisions remained intact. Each minority party

could take some slice of the power pie while the ANC was guaranteed ample pieces for its new majority party role (including powers of patronage: numerous veterans of the struggle were rewarded with positions of power).

Although the proliferation of provinces resolved party political problems, it proved problematic in functional terms. Only Gauteng and the Western Cape, two provinces with thriving metropolitan regions and no former 'homelands', have the potential to generate enough income to finance their own administrations. Perhaps three others (KwaZulu-Natal, Mpumalanga, and the Free State) could achieve self-sufficiency with another decade of capacity building. The remaining four provinces may be deemed non-viable for the foreseeable future. The Eastern Cape and the Northwest province are deeply troubled by the absorption of former homelands while the Northern Cape and the Northern Province are desperately short of population, resources, infrastructure and capacity.

Since seven out of nine provinces need central government support, the organisation of revenue is necessarily centralised and re-distributive. The central government establishes development policies and then makes bulk allocations to provinces based on a formula that is meant to help the poorer provinces. The provinces then budget

Figure 2: The Nine Planning Regions and Homelands



the money and implement national policy. However, this approach sets targets without awarding either sufficient cash to deliver (e.g., provinces receive less than half of what is needed to meet national housing targets) or sufficient powers to manage change (e.g., provinces cannot lay-off civil servants yet more than 90% of their budgets are for salaries). The result is a large drain on central government revenue (after debt servicing, 57% of the national budget goes to the provinces) accompanied by ineffective provincial government. During 1997, the central government had to absorb 12 billion rand in provincial debt and by November refused to bail out the provinces any longer.

Since the provinces are key structures for delivering on central government promises of improved health care, education, housing, and employment, their ineffectiveness is a key security concern. The slow pace of transformation has led to discontent, which in turn creates incidents of mass mobilisation, strikes and other harmful responses from the electorate. Unfortunately, a 1997 audit of the provinces carried out by the Department of Public Services and Administration did not allay any fears. The *Provincial Review Report* cites widespread evidence of incompetence, mismanagement, inadequate accounting, ethnic rivalries, nepotism and corruption. Nearly all the provinces have been rocked by continuous scandals. Some 650 cases of government corruption and fraud are being investigated in the Eastern Cape alone.

In retrospect, a more manageable solution to territorial restructuring in 1994 would have been fewer provinces that inherited some capacity from past administrations. Four to six provinces designed by boundary specialists and approved by public referendum would have cost less and been more effective. However, the nine provinces that emerged from political party compromises are now constitutionally entrenched.

The only way forward is in terms of reviewing the relationship between national, provincial, and local government. This is what the Department of Constitutional Affairs is now doing but it effectively returns South Africa to the drawing board. The department and the ANC are strongly backing a redesign of local government structures into large rural municipalities and megacities that reduce provinces to purely administrative units. Regardless of the worth of such ideas, new plans come at a great cost both in terms of time and

money while the patience of the electorate wears thin.

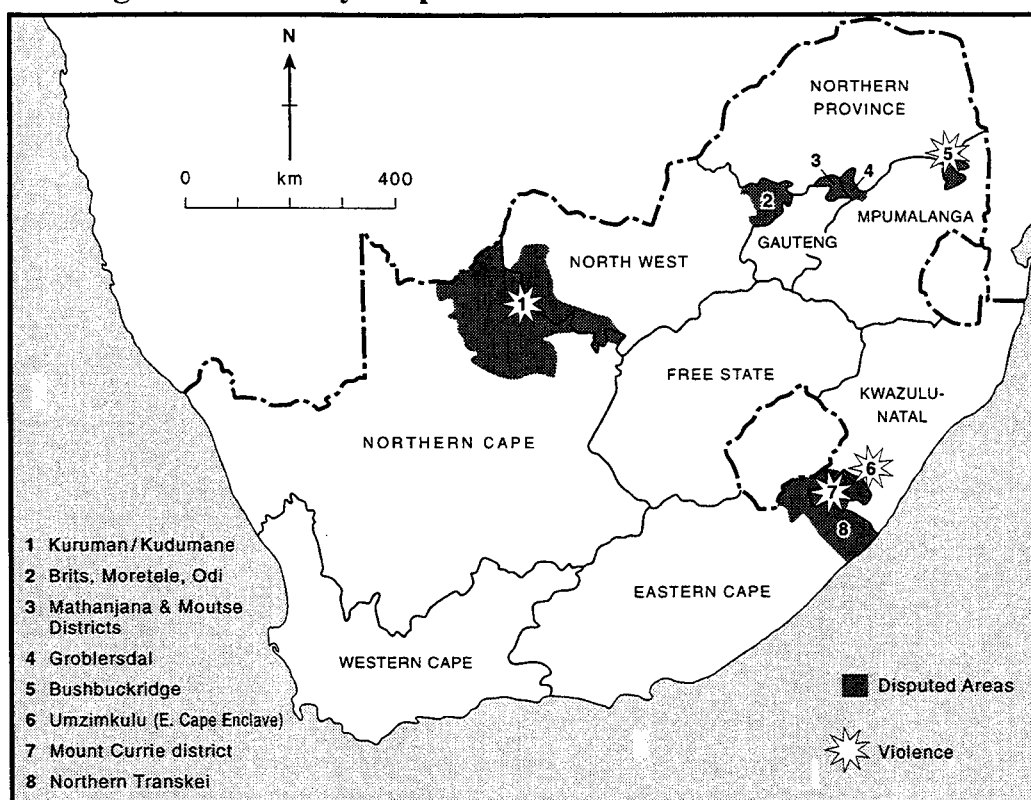
Mechanisms for Resolving Disputes

The second major security concern regards disputes between provinces and political parties over the original demarcations. After four years, there are still eight active disputes, three of which have involved violence including killings, burning of homes, petrol-bombings, land invasions, and road blockades (Figure 3). The army patrols two of the most violent areas: East Griqualand (between KwaZulu-Natal and the Eastern Cape) and Bushbuckridge (between Mpumalanga and the Northern Province). In both cases, military security, police investigations, material damage, and lost tourism revenue have cost hundreds of millions of rands.

Constitutional mechanisms were provided for resolving the fourteen disputes by the interim constitution, including the use of referenda. However, once the elections had passed, there was no effort to engage affected parties in a settlement. Many disputes were between ANC-dominated provinces so the party leadership discouraged referenda in favour of closed-door political party negotiations. Government commissions were only utilised where violent protests emerged (East Griqualand, Bushbuckridge, Kudumane/Taung) but the commission reports affected no change in provincial boundaries whatsoever.

The procedure for negotiations on provincial boundaries was given in Section 62 of the Interim Constitution and that applied until 1996. Any boundary changes had to be initiated at a joint sitting of the National Assembly and the Senate and passed by a majority of at least two-thirds of the total number of members of both houses. In turn, this legislation had to be approved in the same manner by the Houses of each affected province. In practice this meant that any recommendations, after spending nearly a year at either the commission or negotiation stage, still had to undergo a complex constitutional process.

On 27 October 1994, the six-month timeframe for referenda elapsed. Eighteen months later, the final constitution replaced the interim one wherein all references to public participation in spatial decision-making were replaced by a single line that reads, "*The boundaries of the provinces are those that existed when the Constitution took effect*" (Republic of South Africa 1996). This removed all

Figure 3: Actively Disputed Areas and the Nine Provinces

constitutional mechanisms for dealing with the boundary problems and effectively ignored their existence. In the meantime, the popular demand for referenda increased, indicating that this mechanism expired sooner than most groups could experience the boundaries, assess the problems, and organise a response.

With the expiration of the referendum, negotiations of various kinds became the only mechanism for resolving boundary disputes. None of these seem to be very workable and are perhaps neither as decisive nor as democratic as referenda might be. Commissions made recommendations but lacked the power of a decision-making body. Therefore back-room political party negotiations became the primary means to affect changes. Party politics has actually stalemated the process and therefore no territorial dispute has been resolved to the satisfaction of affected parties.

One example of an area of protracted dispute is the boundary between the Eastern Cape and Kwa Zulu-Natal that is comprised of the historically disputed areas of East Griqualand, Pondoland, and Umzimkulu. Just prior to the so-called independence of the Transkei homeland in 1976, two magisterial districts that might logically have been part of Transkei (Matatiele and Mount Curry) were incorporated into the province of Natal. This

not only aroused some resentment but created an anomaly immediately recognisable on any map of provincial South Africa. Umzimkulu became an exclave of the Eastern Cape surrounded by Natal.

Twenty years later in 1996 the work of the Commission of Inquiry into the Finalisation of the Boundary between the Eastern Cape and KwaZulu-Natal (hence known as the Trengove Commission) was formed. The Trengove Commission took testimony from affected citizens and made a recommendation: all of the disputed areas should be placed in the Eastern Cape. Two of the commissioners, notably those from KwaZulu-Natal, filed a minority report disagreeing with these conclusions. Since the start of the commission neither the representatives from the Eastern Cape nor those from KwaZulu-Natal had ever budged on their initial positions. The final vote was the same as their initial positions even after eight months of discussion and testimony.

Owing to the longevity of the historic debate over the status of East Griqualand and the tensions associated with this decision, the authors recommended to the commission that a referendum be held and timed to coincide with the May 1996 local government elections. The commissioners responded that their role would be seen as superfluous if a referendum were to be held. Some

said that individuals on the ground were not competent to vote on such complex issues because of high rates of illiteracy. The concluding report of May 1996 argued that holding a referendum would be too expensive, logistically difficult, and was not in high demand.

The central government has also responded with a refusal to consider referenda citing three reasons. These include: (1) a 'Pandora's box' thesis that "*such moves will only lead to a spiral of similar demands*"; (2) the high cost of referenda; and (3) that South Africa has soft boundaries and therefore location is irrelevant.

Mass protests that included calls for referenda, the high costs of violence, and the focused areas in which these disputes have occurred do not support these views. In at least four areas of the country there have been popular calls for referenda on boundary disputes. For example, a mass protest of about 2,000 people was held in Kokstad in mid-May 1996 during which copies of the Trengove Commission report were burned in the streets. White National Party farmers marched arm in arm with black ANC members, supporting a referendum to redress the lack of consultation with the community.

The use of commissions opened rather than closed a Pandora's box. The KwaZulu-Natal legislature, regardless of political party or ethnic affiliation, unanimously rejected the Trengove commission report. The Eastern Cape parliamentarians favoured it in an equally substantive way. Thus, the commission had nearly no effect on the resolution to the problem. This remanded the entire decision to a political party process, far removed from people on the ground, and fuelled a violent reaction.

In many ways boundary commissions heighten tension by providing a focal point for argument, intimidation, and the mass mobilisation of individuals for and against inclusion in one or the other province. Along the Eastern Cape/KwaZulu-Natal boundary, various political forces focused on swaying the decision-making process by packing halls and sometimes using intimidation to create the impression of unanimity. Sometimes individual speakers claimed to represent communities and organisations that did not acknowledge them as leaders. Even now the commission report is a rallying point regarding government incompetence and indifference.

At the base of all these problems is that a commissioner's opinion cannot actually tell us about the consensus or the will of the affected people. That legitimacy or credibility which is the principle foundation for building consensus, rests with the affected people. The commission merely served to delay any resolution, probably into the next century, because existing constitutional mechanisms cannot solve the problem.

Even though referenda can be expensive, eight months of commission work is not cheaper. Millions of rands were expended on salaries, security forces, renting halls, secretarial services, publications and press releases, rental cars and four-wheel-drive vehicles, hotels, consultancy fees, translators, and airline tickets for both consultants and commissioners to meet around the country. In fact, a question on the boundaries attached to the ballot held in June 1996 would have cost next to nothing by comparison but the commission obtained two extensions beyond their original deadline and this cost the opportunity of a referendum in time for the elections.

Furthermore, the security costs associated with provincial boundary disputes include hundred of homes burnt to the ground, murder (in one case six people were hacked to death in Umzimkulu), troops to patrol roads and disrupted schools (15 were destroyed in the Bushbuckridge dispute).

The notion that boundaries do not matter also problematises rather than helps to resolve these disputes. Boundaries create the territorial space in which we live, distribute power to people who influence our lives, determine where we vote, create tax bases, construct regional identities, facilitate or impede easy transport, determine access to public services and become blueprints for development planning.

An alternative: public participation by referenda

An alternative method of boundary construction under time-constrained conditions might be to increase rather than decrease public participation. The advantages of a referendum on long-standing boundary disputes include: (1) a decisive answer that can result in a final settlement to a sensitive boundary; (2) maximum participation by all affected parties and therefore perceived legitimacy that often translates into acceptance of the findings.

1. *Decisiveness*

Boundaries have enormous social, cultural, economic, and political, ramifications that are felt most deeply in the affected border areas. For instance, twenty years after the incorporation of East Griqualand into KwaZulu-Natal, resentment was still voiced at nearly all the hearings of the Trengove Commission. Cultural memory can last even longer and many ethnic groups such as the Griqua or Pondo speak of resentments over boundary disputes dating to the previous century.

Thus, the element of decisiveness in referenda is welcome in situations where there has been long-standing debate or where any recommendation is going to so alienate some group as to lead to discontent, dissension, mass action, or even violence. The referendum result is usually accepted owing to perceptions of legitimacy. This is what makes the referenda particularly appealing with regard to the Eastern Cape/KwaZulu-Natal border area.

2. *Perceived Legitimacy*

Where decision-making power is concentrated, political parties will seldom act in the best interests of local peoples if party politics are at stake. A properly structured referenda allows citizens the opportunity to express a democratic will that may differ from that of their representatives. From empirical studies we know that public behaviour can be different than private behaviour. Referenda allow individuals to privatise a decision. This makes each voter feel responsible for the referenda result and then they seldom question it.

Secondly, referenda automatically include all relevant actors. No one is left out of the decision-making process. Again this makes the result legitimate and accepted. Otherwise, this process may go on for five more years at great public expense – something to remember when calling referenda expensive.

Third, the legitimacy of referenda raises citizen confidence in the democratic system and leads to a pride and stability that has huge pay-offs for the international standing of South Africa. In today's world, perceived legitimacy translates into investment because high levels of participatory democracy are linked to stability and economic advancement. In this sense, referenda are a strategic investment with pay-offs.

Disadvantages to Political Parties

The two main disadvantages of referenda are not to the general population but to politicians and political parties: (1) the unpredictability of the result can undermine the strategic plans of political parties and; (2) over time referenda can weaken the political party system to favour direct democracy. Most international surveys have shown that there is broad support for referenda at the local level even if the result does not serve the individual questioned.

Around the world referenda are notably unpopular with politicians because they prefer to keep the decision-making process to themselves. Usually politicians make the claim that referenda create the divisions that they are meant to resolve but there is little data to support such claims. There is much data to indicate that citizens will often make decisions that are unpopular with their representatives. This loss of political power is feared by both the individual politician and the political party generally which sees an erosion in its ability to maintain a hierarchy. Unpredictability can also make the geostrategic manipulation of peoples and territories for political gain more difficult.

Conclusion

In the context of South African boundary disputes, the use of referenda could have bypassed the geopolitics of political horse-trading that characterised both the creation of the provinces and the attempts to resolve ongoing disputes. Referenda, however, are not neutral objects in the construction of bounded spaces. They break the coalition of politicians against public access to the decision-making process and hence could play a role in building a culture of grassroots democracy in South Africa. Therefore support of referenda to resolve boundary disputes suggests an interest in moving the entire South African polity toward a system of more direct democracy and community empowerment.

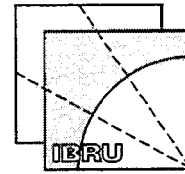
The construction of boundaries through the higher echelons of political parties assists those who fear that the masses lack the wisdom of more professional politicians. Based upon the manner in which all the decision-making on the provincial boundaries has been carried out, that is certainly an untested hypothesis.

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