South Africa’s cumbersome local government system was one of the compromises to facilitate the country’s 1994 move from apartheid to democracy. When it should be on the frontline of social transformation, it is one of the major obstacles to change. Ahead of South Africa’s 18 May local government elections, Deputy Cooperative Governance Minister Yunus Carrim outlines plans by the ruling African National Congress to reform local government.

**YUNUS CARRIM**

Institutional weaknesses, non-existent tax bases, tardy delivery herald total review of three-tier government system

Southern Africa Report: Deputy Minister, how would you characterise the problems of governance in local government, specifically non-political issues, issues that are always going to be there whether the ANC is involved in the particular municipality or someone else. We want to look at solutions post 18 May to fix the long-term problems. If you could start by setting out in your view what are the areas you would highlight as being particularly problematic in local government.

Yunus Carrim, deputy minister for Cooperative Governance and Traditional Affairs
government model as part of a review of the respective powers and functions of all three spheres of government: national, provincial and local. This review is being undertaken in two parallel processes. The government itself, specifically the Cooperative Governance and Traditional Affairs [Cogta] Ministry, is working on a green paper on cooperative governance and is reviewing the white paper on local government.

For its part the ANC, in preparing for its December 2012 conference, is also looking at reviewing the model and to some extent government is waiting to see what emerges at the ANC conference next December because that will provide the guidelines and the broad frameworks within which we as [the ministry] will take issues further and process them into policy and legislation. In any democracy it is the majority party that guides the government of the day and so the same will apply here. So because you are dealing here with an entire sphere of government and because you have very vested interests in it, both in the party and the state and in fact the broader society, it is not going to be easy to make changes. You have to negotiate around the changes you are going to make, especially as the model that we currently have comes out of maximum consultation, the widest possible consultation between the period 1992 parallel to Codesa [Convention for a Democratic South Africa] to the finalisation of the white paper after having shaped the 1996 constitution; and then, following from the white paper, we had the various pieces of legislation emerging. Now it is clear that while the model is very progressive and advanced, it is perhaps too ambitious in what it seeks to do and we need to look at how we can ensure its more effective implementation.

So the first set of issues around the model is within the two spheres of district and local municipalities. The original intentions were that district municipalities would cater for a cluster of municipalities that are joining each other with the aim of encouraging economies of scale and boarder regional planning and development, and assisting municipalities that are poorer by getting the better of municipalities within the district to give them some support services like offering engineers and town planners and so on, so it has a slightly redistributive element. But what we have found is that the model has turned out to be somewhat complex for those required to implement it – the councilors and the officials. It has led to turf battles around powers and functions between district municipalities and local municipalities and often there has been a blurring between roles and responsibilities so I think we will have to look at this two-tier system. There are two views emerging in the discussion. The first is to scrap the district sphere altogether and have single tier municipalities like we have in the metros throughout the country. The second view is that we need districts but not in all the areas outside the cities and metros. We need them in certain specific areas where there are rural municipalities. And secondly their powers and functions should change from the current ones.

So that is a debate. It is more likely that we will take the latter option – have them in a truncated form, a different form. So that is the one area within the model that is being reviewed.

The other area within the model that is being reviewed is the relationship between the administration and the councilors. The need to clarify precisely what the relationship is is because politicians and administrators cannot find themselves playing the roles that are not set out for them in the law, so we obviously have to tighten those regulations and provisions of the law.

The third area is that, because there has always been enabling legislation as far as local government is concerned, national parliament cannot prescribe entirely what municipalities should do since they have got their own powers and functions enshrined in the constitution. The legislation we have devised is enabling. It means that the municipalities have some leeway – quite a lot of leeway – to shape within the framework their options. So there is no clarity on what the precise role of the speaker is at distinct level from the mayor and now we have the new concept of a chief whip within a party, so we need to clarify roles.

The fourth area is on community participation. We need to strengthen the ward committees in particular. [We need to] give them more powers and functions, to expand their role, to provide for more consultation even from the ward committees with ward communities and the like. So it is around community participation.

The fifth area in the model that needs serious reconsideration is the funding system. Now, in the new [post-1994] model, we gave many more responsibilities to local government. Many of these new boundaries of municipalities were far more inclusive than the previous boundaries of municipalities. [There are] larger numbers of people, but particularly people who were poor and disadvantaged. Racial integration meant that African people were bought into the same municipalities as those that were previously restricted to whites and to a certain extent Indians and coloureds.

So now the responsibilities have increased, but the numbers to whom you have to deliver have increased, and yet the model is based on a view that municipalities will raise 95% of their revenue from their own sources. That was the pre-1994 era. So we are at the moment within Cogta engaging with the National Treasury, Finance and Fiscal Commission, South African Local Government Association and other stakeholders, to review what we call the inter-governmental fiscal review where we are looking at how we can allocate more funding to local government while insisting that they use their limited resources more effectively and productively.

It is not simply that they do not have enough resources and funding that explains their failure to deliver more ef-
flectively. It is also that they are not using their resources effectively.

**SAR: Could I just ask, the intergovernmental fiscal review is separate to the review of the model?**

**CARRIM:** It is part of the review of the model. When you are looking at the model you are looking at financial aspects, aspects of democracy, aspects of structure of the two-tier system, aspects of the system meaning how does the speaker relate to the mayor, mayor relate to the chief whip. So these are the different components of the way of reviewing the model. Another way to put it in a much more simple and direct way for your reader: what are the problems of the model? A, the model itself; B, the capacity. We don’t have enough capacity. C, resources and funding. D, lack of enough democracy. E, lack of active engagement by provinces and the national sphere in local government, meaning it is true that local government is distinct, but that same provision in that same constitution says it is distinct but interdependent and inter-related. What has not been happening, Vukani, is that we are not having the national and provincial government more actively supporting and monitoring the municipalities and assisting them to fulfill their functions. In fact in Section 154 of the Constitution it makes it very clear that national and provincial government have to monitor and assist municipalities. Instead what provinces often do, if a municipality is teetering on the brink of collapse, they apply what they call a Section 139 of the constitution intervention and take over those functions. We are saying to them, strictly speaking, that is a last resort. And if a municipality is falling apart, you as the province are co-responsible. You haven’t been monitoring and you haven’t been supporting. In fact we are meaning to bring a Bill to parliament in the second half of this year that links monitoring, support and intervention - that you must monitor and support more effectively so that it reduces the need to intervene.

So the sixth area in which there are problems is that national and provincial government has not come to the party.

**SAR: In what way?**

**CARRIM:** In that we have not monitored and supported municipalities. We haven’t done the oversight that we are supposed to do. We are supposed to, for example, receive annual reports from the MECs on the performance of the municipalities in their provinces. These nine reports are meant to be consolidated into a national report. That is meant to be presented to parliament. Parliament and the provincial legislatures are meant to look at these reports and guide municipalities on what should be done so they improve their performance. They are meant as parliament and legislatures to go to the MECs and the national minister and say, "We have looked at these reports and we can see that there are some things you have to do as government, please do it and we will hold you responsible for that". So in many ways, parliament, the provincial legislatures, national government, provincial government...we haven’t done enough. It is true to say that the councilors and officials must take their measure of responsibility for the failure of local government. But as national and provincial government, we too must take responsibility. And in some senses these community protests that you see, they are not just about issues that fall out of the strict purview of government. They are about crime, housing, education, and health and so on right? These are provincial functions really and quite frankly, those protests are not just a reflection on the inadequacies of local government but co-operative governance as a whole, the inability of the three spheres to work together more effectively.

**SAR: The fact that there are these problems with protests and a lot of them have to do with non-municipal powers and functions raises an issue for yourselves in the review. Are you looking at moving some functions... I’m not aware of what the specific constitutional imperatives are going to be, but are you looking at moving some functions to the local level in order to help communities because the local sphere of government is where people interact with the state and you find that a lot of the services that they need, they actually have to look at provincial government rather than their local municipalities?**

**CARRIM:** Firstly as I said, this review of the local government model is part of the review of the powers and functions of all three spheres and that’s why I mentioned the co-operative governance green paper and the review of the white paper. In that process, we are also looking at the issues of what powers and functions should be allocated to local government and what [powers and functions] to the other two spheres. We also want more integrated service at local level. So what is being suggested is that consideration be given to giving local government more power with respect to housing where it has capacity to deliver. More power in terms of transport, more power in terms of health. However, we are also thinking that we should not allocate the same blanket set of powers to all municipalities because of the huge capacity differences. If you look at Ekurhuleni and Cape Town on the other and you look at your small rural municipalities, they can’t both do the same. So one of the major elements of the new model we are evolving ... and the model is not going to mean fundamental changes to the current model ... it is going to mean changes to aspects of it but the core principles and values of the current model remain. Aspects of it will change. But one area in which we are thinking of change is to say, this is the menu of powers and functions of local government. Some municipalities can exercise the full menu; others will only be able to execute one in every 10 powers or function. As they grow in
strength, they will be able to exercise two or three. So we are talking about a differentiated model. In that context, while some municipalities will have less to do, other municipalities will have more to do. Like Joburg can handle housing, eThekwini is doing well with housing. In fact, as you know, the Minister of Human Settlements has accredited more municipalities which are strong enough to take greater responsibility for housing. The importance of that is that you can allow for integrated delivery. You don’t have a situation where a house is there but the municipal infrastructure of water, roads and electricity is not there. So you are right, what is happening is that there are going to be more powers and functions allocated to local government, but not all municipalities will exercise them. And furthermore, if you are giving them more power, you have to give them both the funding and resources on the one hand and the capacity on the other. So you can’t just dump on local government provincial functions and powers and then fold your arms. So it has to be accompanied by the resources, capacity and funding.

SAR: That was my next question, this movement of powers - those mandates have to be funded. What are the fiscal and financial implications for the provincial sphere of government - because a lot of these powers will be taken from the provinces?

CARRIM: Those systems will be technical systems that will be decided. As far as the politics is concerned, I think that provinces have been complaining for some time that they are unable to spend the money on actual bricks and mortar for houses because the municipality hasn’t given them the infrastructure of water and electricity. So you can’t just go put a house there. That was the argument by Maggie Govender in KwaZulu-Natal. She said she couldn’t spend all that money because the sites for which it is allocated in the municipality have not got the services which the municipality has promised that they would deliver. And the municipalities say, we don’t have the money, moreover, we wanted it here, and you said have it there. But if we had it here it would be cheaper for us to provide services. Now if the municipalities have a site, the area in which the houses are going to be built would take into consideration that it is cheaper in this area rather than another for water and electricity to be provided. So actually the provinces are under pressure to spend their budgets and they can’t do so without greater co-operation from municipalities, so to some extent at least, they will be pleased to forego the money to the municipalities to actually use for housing. Ultimately they will also benefit from the number of houses that a province delivers.

In terms of how, in terms of formula and systems and processes, those matters will be dealt with, I think those will be shaped over time. There is nothing that is insurmountable... the issue simply is, are they going to feel that they are going to lose power? Are they going to feel, “What is the point of having a human settlements department in the provinces”? Yes, in the long term that issue may arise, but given where we are at the moment, there is no chance that human settlements departments in the provinces will dissipate. Their responsibility will remain to provide houses outside of the few municipalities that will have the capacity to take full responsibility for housing. They will be responsible maybe even for managing the flow of funds so it doesn’t go directly from the national fiscus to the municipality. It may go to the province. Thirdly, they will continue to act with the national government in respect of policy issues. So you don’t find a situation where each municipality develops its own independent policy on housing simply because now it has the power to deliver houses. There will be a broad framework where they may make local choices, but we have to have the format for houses whether you are living in Ehlumayo or in Soweto, you know, so the provincial department will develop.

SAR: Other than the resource base and the funds to effect this, the other stumbling block is the skills base. Where are the skills going to come from?

CARRIM: Well the issue still remains the same, whether the responsibility is fulfilled by the province or the local government. Here the human settlements ministry and department as well as other stakeholders in this area have for some time now been working on ensuring that we do have the necessary skills. Now interestingly - you know more about this maybe than I do - post [Fifa 2010 Soccer] World Cup – the impression I get from the media is that the construction industry is going through a significant decline, because there are people around who are now unemployed and there are projects that these construction and development operators have projected to be fulfilling at the moment which are not taking place. So my sense is with this R810-billion investment by the state programmes and projects ... they are not getting off the ground fast enough. There was a Business Report piece a few months ago where people are complaining, I remember [Roger] Jardine for example was saying we are going into the continent because we have staff and skills but we haven’t got any contracts and this thing is very slow, this R810-billion, so I think that you may be right. I’m not sure, there are always generally skills shortages but it may be that in the construction sector it is less of the case.

SAR: You are speaking specifically on construction that relates to the provision of housing.

CARRIM: Do you mean the skills within the municipalities? You are right, when they allocate responsibilities to local government, which they up till now have been taking care of, they must give the staff that goes with it, as well as a certain capacity of resources. Now when Water Affairs transferred the projects from national to local, the
problem there was that they often did not transfer the staff, for a variety of reasons – staff didn’t want to move, labour relations issues and so on, and the municipalities also said who is going to pay the staff. We should avoid that in this case ... but let’s be clear, they will not be given the power until a skills assessment has been done. And then it is decided eThekwini can do it but Nelson Mandela Bay? Perhaps not. Umsunduzi can’t do it, Buffalo City maybe. So in other words, before they hand over the power, they have to do a skills audit. If there is a gap there, we will fill the gap for you.

SAR: What time frames are we looking at? When can we see a new or transformed municipal structure?

CARRIM: Firstly as I said, the government has got some work underway, but we are looking mainly to the December 2012 conference. Once the ANC has taken its positions, it will provide a broad framework obviously. Within the broad framework,Cogta will take responsibility with other relevant departments in processing policies and legislation. I would imagine that from the beginning of 2013 onwards, the elements of the new model will be put into effect through policy and law but the actual model will only for the most part come into effect with the next local government elections.

After the ANC has given its positions and government has turned them into policies and laws, we will in that process (even before we do it) have to consult with the widest range of stakeholders. So there is going to be a massive, massive consultation process – I would imagine it would be on the biggest scale since the shaping of the constitution in 1996. It is going to be massive consultation. My feeling is that there will be no major changes to the constitution as such.

There will be tinkering of the powers and functions across the spheres, and the aim is not ideological. There are people who feel that the ANC wants to truncate the provincial government. There are people who argue that the ANC wants to take over local government on the national sphere. That's not on the agenda. There are people who argue that the ANC wants to truncate the provincial government on the national sphere. That's not on the agenda. There are people who feel that the ANC wants to take over local government on the national sphere. That's not on the agenda.

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SAR: Well, if anything, these reforms will end up giving us more devolution than centralization in a sense that some key functions like health and housing could end up residing in the local sphere rather than in a national or provincial sphere.

CARRIM: In one part I think you are right. But I think I would reply by saying the outcome is likely to be a far more integrated co-operative government system in which we continue to have three spheres but we have a stronger system of local government, but at the same time a far more proactive national government, in particular working with the provinces in municipal issues where municipalities are given more support, resources, capacity, funding and so on.

I actually think what you are going to find is a more active intervention from, so to speak, above, from national and provincial state, and a more active intervention from below by a much more enhanced ward committee participatory system and a much more advanced community participation.

You see the one thing about the Jacob Zuma administration that people must come to terms with is that we have been far more open about the fact that the state alone cannot deliver. That we need the active participation of people out there. Notwithstanding Ficksburg and some of the excesses that have come from the state, some of the insensitivities of municipal councillors and officials toward the community protests and the like, the fact of the matter is we really genuinely feel that without more active engagement of the people in their own development, without a more active engagement in governance, we are simply not going to be able to deliver as fast as we would like.

What you are going to have with the new model, really, is, I think, on the one hand more active provincial and national intervention municipalities than ever we had before, and then on the other, more active community participation from below. Now, that is what I think is pend-
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ing. Of course, I can’t predict what 3 000 delegates will decide in December [2012], nor can I foretell, once the matter is taken into the public domain, what will happen in the public hearings and the endless workshops we are going to have etc. But I really think that there is no overriding centralist commandist state notion of taking powers away. No, that would be foolhardy, we have gone beyond that debate.

SAR: Are you not worried about allocation of further resources to local government, given that there are often unpleasant scraps for resources at that level?
CARRIM: Yes we are acutely aware that if you give more funding, that if you give more resources, you can actually fuel more tensions. So you can’t give money unless you have the capacity to manage the money. Now there are a series of programmes that need to be accelerated to improve the financial management skills and other technical skills of municipalities, but also the political oversight skills of councilors.

We have programmes that bring together the auditor general, National Treasury, Co-operative Governance ministry and so on, Salga [Southern Africa Local Government Association] as well. We are just not doing enough or we are just not being effective enough and we need to considerably accelerate that. You are right, we are aware that problems could arise and we will try our best to manage them, so I think it should be incremental. It should be linked to as you get more capacity, you get more funding. It is not something that is a big bang approach; no, that will make things worse.

SAR: Lastly deputy minister, are we likely to see a reduction in the number or shape of municipalities?
CARRIM: I think that is on the cards, it is not going to be easy because, remember, no council official is going to let you close down his or her municipality, so it is a thing that has to be negotiated. It is a thing that has to be planned for and engaged around for a long time. But it is very clear that some of the municipalities do not have the economic or financial base to exist. They should never have been municipalities in the first place. We think they should be merged into adjoining municipalities. In fact MECs have identified – I think it in KwaZulu-Natal – there are many municipalities, perhaps a third, which should be absorbed into surrounding municipalities. The decisions around that are made by an independent demarcation board. As government we can go to them with proposals, and so can municipalities, but ultimately the board would use its criteria in terms of the Demarcation Act to decide on specific cases.

We must stress that we don’t think that, by absorbing municipalities that are not functional because they don’t have a financial or economic base, you are going to solve the problems. Actually it simply means that the less poor municipality next door is now going to be burdened. So we can’t look at numbers of municipalities without looking at capacity building, integrated governmental fiscal system and so on, the many issues we spoke about earlier. This is part of the review of the whole model and it’s an element of it, and so if you link it to the other issues discussed earlier, it might help you understand that we’re not giving a simplistic answer, “absorb them in the municipality next door, problem solved”, of course not.

SAR: Ultimately, what’s the solution for that long-term problem, because it seems clear that, as long as you have the levels of poverty we have in our rural areas, you’re never going to have the viable tax base in those municipalities?
CARRIM: Well, the long-term solution is growth - economic growth and development. The success of the New Growth Path, the creation of the five million jobs we’re ambitiously aiming for … it’s not beyond us if we get our act right. It’s about ensuring that all the elements of the new model are effected properly. It’s about ensuring that, if you have bigger municipalities, you take the advantage they provide, not always put into practice, of economies of scale and the like. But fundamentally it’s about economic growth: we need at least 6 to 8% growth rates.

Until that happens, we have this welfare system, and we can’t continue to give 27% of the population welfare grants. You’re familiar with the issues; in other words, it’s part of a broader set of problems that are not Cogta’s alone to address.