TWENTY YEARS LATER

The Municipal Demarcation Board reflects on it’s contributions, experiences and lessons learnt
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PREFACE

The Municipal Demarcation Board (MDB) proudly celebrates 20 years on 1 February 2019. This book reflects on its major contribution to deepening South Africa's constitutional democracy. I cannot claim that the two-decades-long spatial transformation story is captured without omission on these pages, but the words are an attempt to retrace its first footsteps; highlight the milestones, selfless contributions and lived experiences of the key actors who influenced and shaped the organisation, as well as consolidate lessons learnt.

The chapters are outlined to cover five categories. Our story starts with a reflection of the MDB's experiences, accomplishments and milestones, following with stakeholder and public wisdom that have informed restructuring of the organisational and legislative environment. We look then at the upscaling of the Board's advisory mandate to facilitate stability of the local government sector, mainly in ward delimitation and municipal capacity assessments. Some behind-the-scene activities will give the reader an appreciation of the extent of unjustified criticism and public wrath the MDB endures, often on matters that have nothing to do with its mandate and responsibilities, and frequently at the hands of those responsible for creating the problem.

The Newsroom constitutes a compendium of some media coverage depicting public perceptions and opinions on the MDBs work since its inception.

The book closes with an epilogue that classically sums up our story, at the same time passing the baton to the next Board that takes over on 20 February 2019.

My sincere appreciation goes to the Executive and Board members whose valuable contributions made this compilation possible. I am specifically indebted to three members of the MDB team who made major sacrifices, namely Thabiso Plank, Bongiwe Baloyi and Pikkie Holland.

Ms Jane Thupana
Chairperson
CHAPTER 1  REFLECTING ON THE FORMATIVE YEARS

A REFLECTION ON THE FORMATIVE YEARS
The interim Constitution is passed (March) The Local Government Negotiating Forum is launched. With three working groups: the Legal and Constitutional Working Group, the Service and Finance Working Group and the Management, Administration and Training Working Group.

The Local Government Transition Act is passed, which enables the establishment of countrywide pre-interim local government bodies and of provincial demarcation boards to redemarcate local government areas.

Negotiated settlements are formalised during a National Summit for Local Government. The Local Government Transition Election Regulations Act is passed. The national general election is held.

The first local government elections are held across the country, except in KwaZulu-Natal, Western Cape rural areas and certain places in other provinces. The 1 262 racially segregated local government bodies are replaced with 843 local authorities. The elections result in transitional metropolitan councils with substructures in metropolitan areas, transitional local councils for urban areas and district councils for rural areas.

The national Constitution is enacted, providing for three categories of municipalities: Category A (metropolitan), Category B (local) and Category C (district).

The Demarcation Act of 1998 is promulgated, providing for, among others, the establishment of the Municipal Demarcation Board, its mandate, appointment of members of the Board, conditions of service, powers, functions and operating procedures as well as objectives and factors for redetermination of municipal boundaries.

The Municipal Structures Act is enacted, expanding on the Constitution by defining the categories and types of municipalities, criteria for areas to qualify as Category A municipalities, the establishment of municipalities and aspects of the municipal councils such as the composition, membership, operation and dissolution; internal structures, powers and functions.
Board members are appointed and the Municipal Demarcation Board is established. Municipal boundaries are redetermined.

Delimitation of ward boundaries takes place and elections are held in the new local government areas under the supervision of the Independent Electoral Commission. The number of municipalities is reduced from 843 to 284.

The first municipal capacity assessment reports are produced, whose recommendations are used by MECs to adjust powers and functions between district and local municipalities.

The Constitution Twelfth Amendment Act is promulgated and cross-boundaries legislation repealed. Provincial boundaries are amended to do away with cross-boundary municipalities.

District management areas are withdrawn (to be effective on the date of the local elections in 2011). All areas that were occupied by district management areas are incorporated into the neighbouring local municipalities and local elections are held without the need to stretch the electoral system to ensure that former district management areas are represented in municipal councils.
This chapter constitutes mainly a narration of activities, events and milestones of the early years of the Municipal Demarcation Board (MDB), including appointment of the first Board members by the first President of a democratic South Africa, His Excellency, Nelson Rolihlahla Mandela, subsequent establishment of the organisation, carving of the countryside into boundaries that facilitated the first democratic local government elections, as well as the anger, anxiety, at times even fear, that characterised Board members’ consultations with the public.

**LOCAL GOVERNMENT SITUATION PRE-1994**

The legal framework for the racialisation of local government was at its peak in the 1980s. The racially driven, local government system comprised mainly black local authorities (BLAs), which serviced local township areas, and white local authorities (WLAs), which serviced mainly white areas. Black areas not only had limited powers but almost no rates base; even the revenue received from the limited commercial or business sites was collected by the WLAs. White areas, on the other hand, were managed by fully fledged municipalities with adequate powers and functions and rates income for services rendered. According to the White Paper on Local Government (1998), ‘apartheid aimed to limit the extent to which affluent white municipalities would bear the financial burden of servicing disadvantaged black areas’. It enabled this through the establishment of local authorities within the framework of the Group Areas Act, which resulted in a system of local government that was fragmented and racially based. The lack of legitimacy of the BLAs, coupled with deteriorating conditions in township areas, became the rallying points for mass mobilisation during the 1980s, with violent protests, extensive rent and consumer boycotts (SALGA, 2015).

In an initial response to the need for change, the Nationalist government in 1991 began to backtrack from racial segregation with the promulgation of the Interim Measures for Local Government Act, 1991. This Act was an attempt to integrate black, white, coloured and Indian local authorities, but the result was still a racially based structure. Nevertheless, it was a base that started to provide a context for serious discussion and negotiation around transformation. These discussions eventually led to the formation in March 1993 of the Local Government Negotiating Forum, which discussed the transformation of local government while the Conference for a Democratic South Africa (Codesa) negotiations were underway dealing with national and provincial government. This body consisted of non-statutory members led by the South African National Civics Organisation and statutory members that included organised local government, provincial and national government. The first Act that resulted from the forum’s discussions was the Local Government Transition Act 209 of 1993. This legislation outlined the process for the transformation of the local government system. This process provided for a pre-interim phase before the 1995/1996 elections. During this period, the local forums were required to negotiate the appointment of temporary councils that would govern until the municipal elections. White municipalities were enlarged to include black areas and municipalities were governed for a time by a combination of elected councillors and non-elected representatives.

In terms of the Act, nine provincial demarcation boards were set up. The boards were required to demarcate the boundaries for the local government elections that were held in 1995 in most parts of the country and in 1996 in KwaZulu-Natal and the rural areas of the Western Cape. The Act also provided for an interim phase, which began after the 1995/1996 local government elections. This election replaced the appointed members of the transitional authorities with elected members. The following structures were elected:

- Transitional metropolitan councils with substructures in metropolitan areas;
- Transitional local councils for urban areas;
- District councils for rural areas accompanied by a network of transitional representative councils and rural local councils.

Taking into consideration the apartheid legacy, the 1995/1996 local government elections were a unique event in the process to establish legitimate local government. They culminated in 843 new local authorities. However, the legislation offered only limited criteria for demarcation, resulting in different standards being applied in the provinces. There was no coherent strategy or system although, broadly, the 50:50 rule
was applied. This meant that half of the wards were allocated to an area that had been traditionally white, coloured and Indian areas of local government and the other half allocated to areas that had been traditionally black. The final stage outlined in the legislation would begin when a new local government system was in place. This occurred after the local government elections held across the country on 5 December 2000. Against this background there certainly was much work ahead to ensure the transformation of local government in South Africa.

TRANSITION PROCESS

The establishment of democratic local government has been a long and difficult process, which still is evolving. The transformation of the sector was undertaken, given the complexity, in three phases, namely the pre-interim, the interim and the democratic phase. The pre-interim phase, began with the implementation of the Local Government Transition Act (LGTA) 209 of 1993, and the establishment of the negotiating forums in local authorities pending the first local government election. The second phase followed when the first local government elections were held in 1996, establishing integrated municipalities, although these were not yet fully democratically elected. The final phase was the local government election on 5 December 2000, establishing the current municipalities. Underpinning the transition process were the interim Constitution of 1993 and the final Constitution of 1996. The three phases are explained in detail below:

The pre-interim phase (1993-95)

The pre-interim phase began the process of legitimising local government by unifying and deracialising local authorities and making them more inclusive. This was done through local negotiating forums that negotiated the establishment of transitional councils, which unified previously racially divided black, white, Indian and coloured local authority areas. These transitional councils comprised an equal number of appointed members from the statutory and non-statutory sides, and were, therefore, more legitimate than the old racially based local government bodies.

The LGTA incorporated, to some extent, some of the provisions of the Interim Measures Act, thus also providing for bodies such as demarcation boards to investigate the redemarcation of local government areas in terms of certain criteria. The LGTA provided for certain types of pre-interim local government bodies across the country until elections could be held for interim bodies. The types of structures that could be established in terms of the LGTA for the pre-interim phase, were:

- a transitional council for a primary local authority in a non-metropolitan area, and a transitional metropolitan council with substructures for a metropolitan area, based on an appointed council comprised on a 50/50 statutory/non-statutory basis; and
- a local government coordinating committee with representatives of the local government bodies in the forum area for a non-metropolitan area, the basis of representation to be determined by the local negotiating forum and to include a non-statutory component.

In both of the above cases a local negotiating forum determined what type of structure would be created.

The interim phase (1995-99)

Some 843 transitional councils were established throughout South Africa during the interim phase from racially defined local municipal units. During this phase, provincial demarcation boards were established to prepare the outer boundaries and ward boundaries for the transitional councils. In total, 843 local government structures were established. The metropolitan municipalities established for this period included a number of metropolitan transitional substructures. The transitional local councils were formed using largely the ‘nearest neighbour principle’ of the white town with the adjacent township areas.

A complicated system of rural local government was established outside of the main cities and towns to include district councils, districts with remaining areas, transitional rural councils and transitional representative councils. The rapid demarcation of boundaries was aimed at facilitating
the local government elections for the interim phase. The boundary preparation took place during the finalisation of the interim Constitution, the first democratic elections and the establishment of the provincial legislatures and administration. The provincial demarcation boards made recommendations to the Member of the Executive Council (MEC), who was then empowered to amend the boundaries if necessary.

During the interim phase, much of the foundation for the final phase in local government transformation was established. This included the adoption of the final Constitution, which outlined the framework for democratic and developmental local government. This was further supported by the drafting of the Green and White Paper on Local Government, the passing of the Organised Local Government Act, 52 of 1997, Local Government Municipal Demarcation Act, 27 of 1998, and the Local Government Municipal Structures Act, 117 of 1998. The MDB was established in February 1999, tasked with demarcating the outer boundaries and ward boundaries for the December 2000 local government elections.

**The final phase**

The 1996 Constitution, and a range of new local government Acts adopted after its enactment, provided the final legislative framework for the transformation of local government in South Africa.

The Constitution provided for three categories of municipalities:

- Category A (metropolitan municipality): a municipality that has exclusive municipal executive and legislative authority in its area;
- Category B (local municipality): a municipality that shares municipal executive and legislative authority in its area with a Category C municipality within whose area it falls; and
- Category C (district municipality): a municipality that has municipal executive and legislative authority in an area that includes more than one municipality.

The Constitution introduced, for the first time in our history, a wall-to-wall local government system by providing that municipalities ‘must be established for the whole of the territory of the Republic’. This system of local government was established in December 2000 as the first term of fully democratic non-racial local government. The two-tier system, which had been in place within the metros during the interim phase, was abolished and single-tier metros were established. In addition, the two-tier system of local and district municipalities was introduced in areas where such a system was new.

To give effect to the Constitutional provisions, an independent MDB was established on 1 February 1999 in terms of the Local Government: Municipal Demarcation Board Act. The Board was tasked with demarcating all municipal boundaries and ward boundaries in preparation for the local government elections in 2000. This Board rationalised the existing 843 municipalities into six metropolitan municipalities, 47 district municipalities and 231 local municipalities. Elections in these new areas were held under the supervision of the Independent Electoral Commission (IEC) on 5 December 2000.

**ESTABLISHMENT OF THE MDB**

**The Constitution**

Chapter 7 of the 1996 Constitution deals exclusively with local government and addresses issues such as the objects of local government; the status of municipalities, their developmental duties and powers and functions; their establishment, categories and types, local elections, internal procedures, privileges, bylaws and organised local government. The roots of the MDB can also be found in this chapter of the Constitution, which states: ‘National legislation must establish criteria and procedures for the determination of municipal boundaries by an independent authority.’ For the first time in the constitutional history of South Africa, the 1996 Constitution made provision for an independent authority to demarcate municipal boundaries. The Local Government: Municipal Demarcation Act, 1998, providing for the establishment of the Demarcation Board, was the first piece of local government legislation enacted after the adoption of our new Constitution.
The 1996 Constitution made provision in section 155(3)(a) for the creation of an independent body to deal with the demarcation of municipal boundaries. Section 2 of the Local Government: Municipal Demarcation Act of 1998 gave effect to this constitutional provision by establishing the MDB. The Local Government: Municipal Structures Act, 1998 provided the MDB with additional functions, which included determination of ward boundaries for local elections, declaration of district management areas, and assessment of the capacity of local and district municipalities to perform their functions.

The Demarcation Steering Committee

In January 1998, the Demarcation Steering Committee was established by the Department of Constitutional Development to undertake the basic, technical and preparatory work for the independent body that was to become the MDB. The committee comprised representatives of:

- The Department of Constitutional Development
- The nine provincial administrations
- South African Local Government Association (SALGA)
- Central Statistical Services
- Independent Electoral Commission
- Department of Justice
- Department of Land Affairs
- Department of Health
- South African Police Service
- Office of the Surveyor-General

This committee performed a number of key functions. It compiled a document detailing the information required from municipalities for the determination of boundaries; drafted an implementation strategy; prepared terms of reference for an independent investigation on the data required for demarcation, the availability of such data and the information technology infrastructure needed; and considered the staff requirements for the Board. Through its work, the committee found that there was a gap in the work that had already been set for the MDB. There was the need for the functional alignment of the new municipal boundaries with service delivery boundaries. These included magisterial district, police and health boundaries, for example.

Members of the first Board

The President of South Africa appointed the members who served the first term of office of the MDB from recommendations made through a public and transparent process. Members of the first Board were appointed on 1 February 1999, namely Dr Michael Oliver Sutcliffe (chair), Nkaro Aldefrida Mateta (deputy chair), Vuyo Mlokoti, Renee Hartsief, Prince Duke Dludla, Rosemary Monyamane, Abraham Petrus Marais, Kaobitsa Maape, Jacqueline Marion Subban, Khosi Tshililo Jeffrey Ramovha and Professor Robert Greig Cameron.

Functions of the Board

From the Constitution and the abovementioned legislation, the MDB had the following core functions:

- determination or redetermination of municipal boundaries;
- delimitation of wards;
- assessment of the capacity of municipalities; and
- declaration of district management areas.

Developing the institution

The first task that the Board faced was to create the institutional framework for the new organisation to operate. The Department of Constitutional Development agreed to provide an office for the fledgling MDB, which started with only a full-time chair (the other members of the Board being appointed on a part-time basis). Robert Willemse, who had been chair of the Demarcation Steering Committee, took up a position as a special adviser to the Board. Two deputy managers were appointed from 1 April 1999: Hillary Monare, who went on to become manager of the Board was the deputy manager (professional services) and his responsibility was to manage the programme of finalising all boundaries and other functions of the Board. While Roy Naidoo was appointed deputy manager (corporate services) to ensure that administrative support backup was available for the Board’s programme of work. Two temporary employees assisted with administrative work in the early days.
Human resources capacity and the use of consultants

As this was the first demarcation process done nationally and by an independent body, there was little experience on which to draw. Although Board members had important skills, most had little knowledge of demarcation when they were appointed.

As a result of the lack of all the skills needed to fulfill its functions, the Board decided to make use of consultants, with a particular focus on women and black consultants. In fact, the Board is certain that it used the highest proportion of black and women consultants of any agency linked to government at that time. Outsourcing was particularly vital with GIS, essentially a geographically or spatially based information management system. It is a powerful computer mapping system that manages information based on locality for the production of maps showing specifically required information. In fact, GIS was the main tool used to draw boundaries in the initial demarcation process.

It was the first time that GIS had been used on such a large scale in South Africa, and the first time that many South Africans were exposed to the technology and its benefits for functions such as mapping management information and synthesising contrasting information, and the Board received a major international award for its approach. In addition, the Board invested in developing its own GIS infrastructure, the short-term goal having been to build a database of all available spatial data in South Africa applicable to its demarcation work. The long-term vision was for the Board to develop its own GIS capacity once the initial demarcation was complete.

The data collection formed the basis of the analytical process of the Board demarcating South Africa in terms of the criteria set out in the Municipal Demarcation Act. The spatial database was the foundation that informed the Board throughout the demarcation process. The information also assisted in its role in guiding national and provincial government departments to realign their functional boundaries with the new municipal boundaries. While GIS played an important role in determining the boundaries, the maps developed by the Board were even more significant. At every stage in the process the Board distributed maps. Downloadable maps were available on its website. In fact, it produced more than one million printed maps in 11 months from November 1999 to October 2000.

The power of information and communication technology

The Board made extensive use during the demarcation process of its website, which was set up to enable the public to obtain immediate access to information on demarcation activities and maps of new boundaries. The initiative was so successful that the site received more than one million visits between October 1999 and February 2000, which was the peak period for the demarcation of outer boundaries of municipalities. On the day that demarcation maps were released, the site recorded more than 100,000 visitors. The site enabled the Board to save costs on staff expenses, printing and other means of communication. Users of the site included government, non-governmental organisations, civics groups, political parties and other organisations throughout the country. The Board believed that this site provided some balance given the fact that it was more resourced agencies that usually engaged with it through formal processes.

Communication was also enhanced through a call centre facility with a toll free line, which was operated by the Institute for Democracy in South Africa (Idasa) on behalf of the Board. In March 2000, the Board released a free CD rom entitled SA Explorer, which was a basic tool for discovering how and why the new municipal boundaries were demarcated and proclaimed before the elections in 2000. It was so popular that an updated version was produced.

THE DEMARCATION PROCESS

Section 21 of the Municipal Demarcation Act states that the Board must determine, or redetermine, municipal boundaries in South Africa. It also states that any person aggrieved by such determination can object to the Board, and that the Board, after considering the objection, can either confirm, vary or withdraw its determination.
Sections 24 and 25 of the Municipal Demarcation Act set out the criteria for demarcation and, more specifically, the objectives of demarcation and factors to be taken into account by the Board when it determines a municipal boundary. Section 2 of the Municipal Structures Act (MSA) set out the factors for determination of areas that must have a Category A municipality or metro. These objectives and factors informed the entire demarcation procedure followed by the Board.

The Board ensured that the process is as inclusive as possible. For example, national stakeholders' workshops were held where presentations were made on the demarcation process and research undertaken by the Board, policy and discussion documents (including An Integrated Framework of Nodal Points for Metropolitan and District Council Areas in South Africa, released in June 1999) compiled by the Board were released to the public for comment. Numerous ad hoc meetings were held with interested parties, including business organisations, residents' associations, and traditional leaders.

With elections due by the end of 2000, the Board set a number of target dates for completion of its work. The first phase focused on developing policy statements on rationalising municipalities and draft frameworks for demarcation. This was followed by finalisation of metropolitan, district and municipal boundaries. Ward boundaries were the last to be finalised, giving the IEC a few months for the final election preparation. Demarcation had to take into account more than 800 traditional authority areas in the country, 15 000 voting districts (the administrative areas within which voters register and vote), 48 health regions and 180 health districts, 86 000 census enumerator areas, more than 400 magisterial districts and 8.5 million land parcels.

The Board not only rationalised the country in less than a year, but complied with all legal requirements. The MDB began its work by preparing a number of key policy documents to guide the demarcation process, which included determining Category A and Category C municipalities, determining Category B municipalities, determining cross-boundary municipalities, approach to district management areas, and the requirements for section 24 (objectives) and section 25 (factors) for the demarcation.

Consulting with the people

The Board decided soon after it was inaugurated to emphasise the need for consultation during the demarcation process. The MDB is required by law to send out notices of demarcations only to stakeholders, but Board members felt that visiting municipalities and holding district workshops were vital, thus going beyond the prescripts of the legislation.

Throughout the process, consultation with stakeholders was a key aspect. The Board formed a committee of representatives from SALGA and its provincial affiliates, provincial MECs, the national minister and representatives from the Department of Provincial and Local Government, representatives from other affected national departments, elected officials, the National Council of Provinces, and national and provincial houses of traditional leaders. This committee met monthly to discuss issues and enable the Board to give information to stakeholders.

The organisational structure of the MDB had not been put in place before the demarcation process began. As a result, Board members had to travel extensively throughout the country, often with very little executive support, even taking their own minutes.

By the end of the process, 148 public meetings had been held, attended by 7 200 people, and more than 2 300 objections were entertained by the Board. This was in addition to the extensive use of the media, including communication and information technology. However, the Board still came in for criticism for not consulting sufficiently. It was accused through the media of not being transparent enough and not consulting with individual community forums, specifically with certain groups of traditional leaders.

Traditional leaders and demarcation

Significant community-liason time was spent trying to resolve the conflict about traditional leaders and demarcation. Often the issues raised by traditional leaders were related to constitutional provisions, which could not be solved through demarcation. These included concerns about the powers and functions of traditional leaders. The Constitution recognised the importance of traditional leaders, but did not define their role in a democratic South Africa.
Some traditional leaders argued that people in rural areas would have to pay high rates after demarcation and that land was being taken away from rural people. There were various attempts to persuade traditional leaders that the demarcation process was separate from defining their powers and role. The negative views and hostility could be attributed to factors such as:

- The perception that the MDB was demarcating traditional authority boundaries;
- The feeling that demarcation was introducing a new kind of local government that some did not like;
- Fears that demarcation was dispossessing traditional communities of their land;
- Lack of clarity from government on the powers and functions of traditional leaders in municipalities;
- The lack of resolution of issues relating to landless traditional leaders in some provinces; and
- The belief that huge service delivery backlogs were in traditional areas and that government was not doing enough to address this.

Despite the initial antagonism, engagements with traditional leaders throughout the country resulted in boundaries of several municipalities and wards in traditional areas being aligned before the elections in 2000, which turned around the relationship between traditional leaders and the MDB.

**Delivering a ‘near miracle’**

After finalising the boundaries of municipalities, the MDB had to finalise the delimitation of wards for the 5 December 2000 election, as required by the Constitution, which states (Section 157(4)(a)): ‘If the electoral system includes ward representation, the delimitation of wards must be done by an independent authority appointed in terms of, and operating according to, procedures and criteria described by national legislation.’ The procedures and criteria are detailed in the MSA.

Given the Constitutional deadline for the local government elections to take place not later than January 2001, the MDB faced a virtually impossible task: very shortly after the establishment of municipalities, it had to demarcate the whole country into wards. The delimitation process was kick-started by the Board releasing a discussion document that dealt with the process of finalising ward boundaries and data on the number of registered voters and existing councillors in each municipal area.

On 10 April 2000, the Board subsequently made available to the public draft ward boundaries and then held public hearings throughout South Africa to further enhance public participation in the delimitation process. The hearings allowed the Board to explain ward delimitation and request stakeholders and the public to make suggestions on the delimitation of wards in specific municipalities.

After publishing the final ward boundaries in early May and allowing for two weeks of objections, the Board met and considered more than 700 objections responding to its delimitation of wards. Any objection that did not satisfy the criterion that wards must be within 15% of the norm for each ward was rejected. The ward boundaries were gazetted between 6 and 10 June 2000 and some technical corrections were subsequently published.

The 3 754 wards in 229 municipalities were put in place in time for the IEC to prepare for the elections of 5 December 2000. Given the societal and political sensitivities around boundaries, the IEC applauded the MDB for having delivered a ‘near miracle’ (IEC, 2000).

The diagram below captures the demarcation journey from establishment of the institution to closing of the outer boundaries and ward delimitations.
CREATING WALL-TO-WALL MUNICIPALITIES 1999 - 2000

1999

FEBRUARY
March
April
May
June
July
August
September
October
November
December

First MDB meeting
Policy preparation
Category A and C section 26
Published Category A and C nodes for comment
Category B section 26
Re-pub of Category A and C section 26
Published Category B section 21 notices
Section 21 objections closed C and As
Section 28 Public hearings
Section 21 notice for Category A and C municipalities

2000

February
March
April
May
June
July
August
September
October
November
December

Category A, B and C final determinations
Ward boundary delimitation
Some outer boundaries reconsidered
Final outer boundary determinations
Local Government Elections

Adapted from SALGA, 2015.
ESTABLISHMENT AND DISESTABLISHMENT OF CROSS-BOUNDARY MUNICIPALITIES

The concept of cross-boundary municipalities is a new phenomenon in local government administration. It was introduced in the 1996 Constitution and the Municipal Structures Act, Act 117 of 1998. For the 2000 local elections, 16 such municipalities were demarcated and established. These were necessary to bring into one municipality interdependent communities and economies on different sides of a provincial boundary.

The demarcation of cross-boundary municipalities required provincial legislatures to concur with the Board, and national legislation authorising the establishment of cross-boundary municipalities had to be enacted. This legislation was promulgated in late 1999. However, the Board published for public comment proposed boundaries for these municipalities, and also submitted its proposals to the relevant provincial legislatures for consideration and agreement. Parliament passed the Local Government: Cross-Boundary Act in June 2000, authorising the establishment of cross-boundary municipalities in the areas proposed by the Board. Cross-boundary municipalities were established involving the following five provinces:

- Gauteng/North West: one metropolitan municipality, one district municipality and one local municipality;
- Gauteng/Mpumalanga: one metropolitan municipality, one district municipality; and one local municipality;
- Limpopo/Mpumalanga: two district municipalities and four local municipalities;
- Northern Cape/North West: two district municipalities and two local municipalities.

The governance of the cross-boundary municipalities, requiring the cooperation and coordination of two provinces, proved to be problematic and ineffective. It was found after the elections that the cross-boundary municipalities were very difficult to manage within the legal framework, given the complications that arise when, on one hand, political practice is defined by three separate and vertical spheres of government and, on the other, cross-boundary municipalities brought together spheres at horizontal level.

In July 2003, the Board proposed the amendment of legislation to do away with cross-boundary municipalities and recommended that municipalities be clustered as building blocks to form provinces. This would, however, require a change in provincial boundaries, which requires a Constitutional amendment.

Following the Constitutional Twelfth Amendment Act, 23 of 2005, cross-boundary municipalities were abolished and the new redetermined municipal boundaries in the affected provinces took effect on the date of the local government elections in March 2006.

TECHNICAL ALIGNMENT OF BOUNDARIES AND MAPPING

Following the 5 December 2000 local elections, the MDB started to improve municipal boundaries using advanced technology. Some 600 to 1 000 technical corrections were effected to municipal boundaries.

Evaluation of municipal boundaries superimposed on satellite and orthophoto imagery has indicated that several boundaries were ‘splitting’ villages and smaller settlements and are not aligned to features such as rivers, fences and roads.

Due to the continued establishment of settlements across municipal boundaries, the technical alignment process is ongoing and every Board finds itself having to do some technical alignments. This problem is more prevalent in areas under traditional councils as most land is not surveyed, proclamations that outline the boundaries of traditional authorities are absent, and skills and equipment are lacking physically to identify municipal boundaries.
CHAPTER 1  |  REFLECTING ON THE FORMATIVE YEARS

ESTABLISHMENT AND WITHDRAWAL OF DISTRICT MANAGEMENT AREAS

The legal framework for the establishment of district management areas (DMAs) is laid down in the MSA. These areas in which a Category B municipality would not be viable, such as state-owned national and provincial parks and protected areas, as well as desert regions where low population density over an extended area would make fulfilling the objectives of local government difficult.

During the first tenure of the Board, 25 areas were declared DMAs in terms of section 6 of the MSA. The areas covered 192 500 square kilometres of South Africa and affected about 84 000 people, 35 000 of whom were registered voters. The DMAs comprised:

- Ten areas of low population spread in Northern Cape, Western Cape and Eastern Cape;
- Two world heritage sites;
- Nine provincial parks;
- Four national parks.

A study by the Human Science Research Council (HSRC) found that areas under DMAs had serious service delivery backlogs and depressed economic activity (HSRC, 2005). Of concern were the lack of meaningful community participation (as DMAs did not have ward councillors) and a national framework guiding service delivery in DMAs.

In addition, the Board found that district municipalities were not always ‘local’ enough, and that local municipalities were serving adjoining areas with the same dynamics as DMAs and were generally in a better position to service the DMAs. Furthermore, local municipalities were more service driven than district municipalities, which were more development oriented.

In 2008, the Board resolved to withdraw the declaration of all DMAs in the territory. All areas that were occupied by DMAs were incorporated into neighbouring municipalities and with effect from the date of the local government elections in 2011, the full territory of the Republic of South Africa was covered by Category B municipalities.

ASSESSMENT OF MUNICIPAL CAPACITY, POWERS AND FUNCTIONS

Other functions of the MDB are conducting municipal capacity assessments when determining or redetermining boundaries of district and local municipalities, and making recommendations to provincial MECs for local government on the capacity of each municipality to perform the functions and powers outlined in the Constitution and the MSA. This is undertaken to enhance service delivery and efficiency.

This ongoing process, which started in 2000, was perhaps one of the most challenging aspects of the Board’s work. The Board is required to determine whether powers and functions are performed and to make recommendations to provincial MECs. In addition, it must determine the capacity of municipalities and advise MECs on whether powers and functions should be adjusted. In dividing powers and functions between Category B (local) and Category C (district) municipalities, legislators aimed to ensure that municipal services were provided equitably and were sustainable. In the context of the Constitution, the term ‘equitable’ means that the allocation of resources is according to need. Providing sustainable services means that there is efficient and effective delivery of services in the long run. The underlying principle is that the inequities of the past should be addressed by the appropriate allocation of powers and functions and resources.

The process of assessing capacity had begun in a small way when the Board demarcated municipal boundaries prior to the local elections. The Board examined the potential administrative and financial capacity and infrastructure of each local and district municipality. In February and March 2001, the Board held district-wide workshops to assess the status quo in each district area. Reports were prepared and assessments verified with the cooperation of provincial MECs. In addition, special investigations were conducted on the functions of water and waste water, health and electricity. Subsequent to these investigations, however, these
four areas were taken away from the Board’s capacity assessments by an amendment to the legislation and given to the Minister responsible for local and provincial government, due largely to these powers being competences of both national and local government.

The capacity assessments of the Board found that most district municipalities were authorised to provide services to areas with huge backlogs – areas in which the majority of the poor lived. However, district municipalities had the weakest capacity because of the way local government operated during apartheid. The Board found that people formerly classified as white, coloured and Indian and a few Africans lived in areas that were fairly well serviced, but the vast majority of Africans were in areas with limited local government capacity. There was, however, some capacity for service provision in formerly African areas but this was at national government level. For example, former white municipalities distributed electricity in their own areas but Eskom and national government distributed electricity in former African areas. The situation was similar for water, sanitation and health although the level of provision of all four services was very limited in most formerly African areas.

As a result of these investigations, the Board decided it important for municipalities to develop a delivery-based approach that did not pick communities on the basis of who could afford what. What was needed was a district-wide servicing plan delivered in the most economical way and that served residents properly in terms of national and provincial policy and local integrated development plans.

Better-resourced Category B municipalities argued that they must be given authority to provide water, sanitation, health and electricity. However, it was argued in return that it was unlikely that they had the capacity to ensure collectively that the whole of their district municipal area would be adequately serviced. In areas where such attempts were made, service agreements continued with agencies such as Eskom, water boards and private sector bodies to address service provision in the formerly African areas.

On the other hand, the argument was that shifting the complete authority to the district municipality could lead to a stand-off in that districts would want to bring all assets (and liabilities) relating to the service provision to their municipalities from throughout the district. This could create huge operational difficulties and lead to non-delivery. The Board, however, argued that district and local municipalities should act collectively and cooperatively and that district-wide servicing plans should clearly define the role, operations and contract areas of service providers. The Board was of the view that if the authority remained at district level and service delivery agreements were entered into with local municipalities and other providers, the contract could be negotiated based on cost efficiency, economies of scale and sustainability issues, for example. Contract areas could also be extended across more than one local authority.

The first municipal capacity assessments were initiated in 2002. As a result of these and overall functioning of certain municipalities, the Board recommended that some district municipality boundaries in Free State, Mpumalanga, Limpopo and North West provinces be re-examined, in addition to a number of local municipal boundaries. The investigation also revealed that many municipalities were not performing all of their core functions as outlined in legislation, but were doing activities such as agriculture, HIV/Aids programmes and tourism projects. Some municipalities so lacked the capacity to perform key functions that the Board thought it important to discuss whether these municipalities should be in existence. The Board produced the first municipal capacity assessments, making recommendations to MECs to inform the adjustments that took effect in July 2003.

ALIGNMENT OF SERVICE DELIVERY BOUNDARIES WITH MUNICIPAL BOUNDARIES

Municipal boundaries determined in 2000 were the spatial cornerstone of the new constitutional dispensation and all other functional boundaries had to be aligned to municipal boundaries. Because of this, Cabinet mandated the MDB to facilitate the alignment of all service-delivery boundaries used by line-function departments with municipal boundaries. Departments included justice, the South African Police
Service, health, transport, education, correctional services and social welfare.

The rationale for the alignment was that government as a whole would be able to plan one-stop service centres to provide governmental assistance to citizens. Government planning, the monitoring of delivery and even ensuring officials from different departments and spheres related to each other as they planned for similar areas were but some of the benefits from aligned boundaries. In addition, they were expected to improve equity and access to services.

The Board focused on this aspect primarily during 2002/2003 and made considerable progress in assisting government departments to align their service-delivery boundaries with municipal boundaries. It was hoped that aligned boundaries would lead to cooperative programmes between spheres of government and within spheres of governance. This would further reinforce the integrated approach to governance evidenced by the national and provincial departmental clusters and the development of local integrated development plans.

Alignments continued into the following two terms of the Board under the Department of Justice and Constitutional Development, with the Board playing a supportive but critical role.

REFERENCES

TWENTY YEARS LATER
Chapter 2

CONTEXTUAL BACKGROUND

Public discontent

The Municipal Demarcation Board (MDB) has prepared ward boundaries now for three electoral periods. The insidious criticism for its ward delimitation outcome escalated post the 2006 and 2011 local government elections, with the Board receiving extensive negative press with complaints that included:

- The Board constantly increases the number of wards, with a negative impact on local government;
- Constantly changing ward boundaries destabilises planning by municipalities;
- Ward boundaries are not developmental in nature; and
- Ward boundaries split communities.

What is clear is that the criticism is generally linked to a lack of knowledge of the process and the role-players involved in determining the number of wards, and confusion about the need to address local development imperatives with the Constitutional obligation for ensuring local democracy. The Board undertook a comprehensive analysis of the ward delimitation process in the previous cycles to inform ward delimitations for the 2016 local government elections. The need became clear for a better understanding of the role played by the Minister for Local Government and the Members of the Executive Council (MECs) for Local Government and the cascading effect on the number of wards.

This chapter explores each of the key roles and responsibilities performed by the Minister for Local Government, the MECs for Local Government and the MDB and their concomitant impact on the three electoral periods.

The legal framework towards delimitation of wards

The process for the determination of the number of councillors, which includes the role of the Minister and MECs for Local Government and the responsibilities of the MDB in the delimitation of the ward boundaries, is wholly contained in the Municipal Structures Act, 117 of 1998 (MSA) as amended. The discussion on the legal framework in this section reflects the required process for the preparation and finalisation of the delimitation of ward boundaries.
**Role of the Minister for Local Government**

Having received the segment of the national common voters roll for each municipality, the Minister is required, in terms of section 20(1), to determine the number of councillors in a municipal council in accordance with a formula. A local or a district municipality may have no more than 90 councillors and no fewer than three. In terms of section 20(3), metropolitan municipalities may not have more than 270 councillors. Section 20(2) makes provision for the Minister to prepare different formulae for the different categories of municipalities. The Minister must publish the formulae before any other work can be completed on delimitation of ward boundaries.

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**Role of the MEC for Local Government**

Once the formulae have been published, section 20(3) of the MSA allows the MEC for Local Government to deviate from the number of councillors determined for a municipality, with restrictions. Section 20(4) states that municipalities with 30 or fewer councillors may be varied by three, with the restriction that councils with fewer than seven councillors may not be decreased. If a municipality has more than 30 councillors, the MEC may vary the number up or down by 10% but with the restrictions of section 20(1)(b) that a local and district municipality may not have more than 90 councillors nor more than 270 councillors for metropolitan municipalities.

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### PARAMETERS FOR MEC DEVIATIONS FROM THE MINISTER’S FORMULAE

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<th>30 or fewer councillors</th>
<th>May increase but not reduce if fewer than seven councillors in terms of the Minister’s formulae</th>
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<tr>
<td>30 or more councillors</td>
<td>Metros may not exceed 270 councillors and local and district municipalities 90 councillors</td>
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The Act also outlines the circumstances under which the MEC may increase or decrease the number of councillors per municipality. Section 20(3) states that the province may deviate from the number of councillors by:

(a) **increasing** the number of councillors if extreme distances, a lack of effective communication in the municipality or other exceptional circumstances render it necessary; or

(b) **decreasing** the number of councillors if it is necessary to achieve the most effective size for:
(i) active participation by all councillors at council meetings;
(ii) good and timely executive and legislative decisions;
(iii) responsiveness and accountability of councillors, taking into account the possible use of modern communication techniques and facilities; or
(iv) the optimum use of municipal funds for councillor allowances and administrative support facilities.

It is evident, when reading this provision, that the options allow for wide interpretation that could be made to suit a range of municipal scenarios.

**Role of the Municipal Demarcation Board**

Schedule 1, subsection 2 of the MSA states that the MDB must delimit all metro and local municipality wards. This must be done after consultation with the Independent Electoral Commission (IEC) and with the wards being determined for the ‘purposes of an election’. The number of wards, per local or metropolitan municipality, must be 50% of the total number of councillors determined for the municipality, with uneven numbers rounded up.

Subsection 4 of schedule 1 of the MSA outlines the delimitation criteria. It states that each ward must have the same number of voters and may not vary by more than 15% from the norm determined for that municipality. The norm is determined by dividing the total number of registered voters in the municipality by the total number of wards. In addition, the MDB must also consider:

- The need to avoid as far as possible the fragmentation of communities
- The object of a ward committee as set out in section 72(3), which is to enhance participatory democracy in local government
- The availability and location of a suitable place or places for voting and counting if appropriate, taking into consideration:
  - communication and accessibility;
  - density of population;
  - topography and physical characteristics;
  - the number of voters entitled to vote within the required timeframe;
  - the safety and security of voters and election material; and
  - identifiable ward boundaries

From the criteria, it is evident that wards are meant to support the local electoral process. Wards are about ensuring local participatory democracy and not about achieving developmental objectives of local government. Importantly, there is no legal imperative for undertaking and maintaining ward-based plans.

Unlike the determination of municipal outer boundaries, the legal requirement for the public process towards the delimitation of wards is extremely limited. Subsection 5 of schedule 1 states that the MDB must publish its delimitation of wards for a municipality in the Provincial Gazette. Any person aggrieved by ward delimitation may submit
objections in writing to the Board within 14 days of publication. After considering the objections, the Board must confirm, vary or withdraw its determination. However, the MDB is not required to hold public meetings and/or ward hearings in either the process toward determination or ward boundary finalisation. Once the ward boundary is confirmed, the matter is final and the wards are submitted to the IEC. Expanding the consultation process and the manner in which it is done is based entirely on the Board’s own initiative and policy approaches.

The Minister’s formulae

**Municipal categories**

The following formulae to determine the number of councillors were first published in the Government Gazette in April 2000 and used for 2000, 2006 and 2011:

| CATEGORY A (METROPOLITAN) MUNICIPALITIES | | CATEGORY B (LOCAL) MUNICIPALITIES |
| y - represents the number of councillors | x - represents the number of registered voters | |
| **Municipality with fewer than 7 501 registered voters on the national common voters roll** | **Municipality with between 7 500 and 100 000 registered voters on the national common voters roll** | **Municipality with more than 100 000 registered voters on the national common voters roll** |
| y = (x ÷ 10 000) + 60 | y = (x ÷ 1 682) + 1 | y = (x ÷ 8 333 ) + 48 |

In applying the formulae, y represents the number of councillors and x the number of registered voters on the municipality’s segment of the national common voters roll. Fractions are disregarded.

**Minister’s formulae for the 2006 and 2011 local government elections**

As outlined in the Government Gazette in April 2004 and July 2009, the formulae used in the 2000 local government election were retained for the 2006 and 2011 local government elections. Hence, any significant increase in the number of voters on the municipality’s segment of the common voters roll may have resulted in an increase in the proposed number of councillors in any of the local and metropolitan municipalities. Given that the Minister is not legally required to consult any stakeholders in determining the formulae, it is not possible to assess the possible reason or motivation for their retention.

**Changes in the number of registered voters**

As is apparent in the chart below, the number of registered voters has increased significantly over time. Thus, the retention of the formulae by the Minister would automatically result in a growth in the number of councillors.
Increasing the number of wards and the impact on voters

In 2006, greater effort was made to retain the number of councillors and, as a result, the number of wards. More municipalities demonstrated an increase in the number of voters per ward than in 2000. However, in 2011, with the significant increase in many instances in the number of councillors and wards per municipality, there was a reduction in the number of registered voters per ward.

ANALYSIS OF THE CHALLENGES FOR DETERMINATION OF THE NUMBER OF COUNCILLORS AND THE WARD DELIMITATION PROCESS

Increasingly at national, provincial and local government level, an argument has been made for the retention of not only the number of wards per municipality but the ward boundaries from one local government election to another. To date, this has not proven possible.

The MDB has endured significant criticism, certainly after the 2006 and 2011 local government elections, about the ward delimitation process. While some of the criticism may well be valid, the interrelated role performed by a number of stakeholders has gone unnoticed. Examination in this book of the provincial variations in the ward delimitation process highlights the consequence of certain action or inaction by a range of role-players. Often evident is the domino effect that moves from one role-player to the next, impacting not only the number of wards per municipality but the need in some instances to modify ward boundaries.
When examining the results of the assessment undertaken, it is useful to cluster the findings according to the key role-players in the process, namely the IEC, the Minister for Local Government, the MEC for Local Government and the MDB.

**The IEC**

There are three core areas in which the work of the IEC can impact not only the number of municipal wards but ward boundary configuration. These are ongoing voter registration, amendments to the voter district boundaries and voter registration post the finalisation of the ward boundaries but prior to the local government elections.

**Voter registration**

Ongoing voter registration is an essential part of our democracy. Registration processes not only capture voters who have come of age but those who may have been previously eligible but are registering for the first time. Unless a municipality experiences a negative population growth rate, it is likely that the number of registered voters will increase for each electoral period. This would include areas with stable populations and those experiencing population growth, the latter showing more profound changes. Unless mechanisms are put in place to accommodate the growth in the number of registered voters, the increase could result in an increase in the number of both councillors and wards.

**Changing voting district boundaries**

The IEC constantly refines its voter district boundaries to take account of factors such as urban growth, densification and accessibility to voting stations. Again this is necessary for a fair electoral process. The updated voter district boundary set to be used for the local government elections is provided to the MDB when the municipal segment of the voters roll is provided to the Minister for Local Government. This gives the Board sufficient time to compare the boundary set from the previous period with that for the delimitation of ward boundaries for the next election. While some changes to the voter districts have no material impact, others could contribute to the need to change ward boundaries, notwithstanding that a municipality has retained the same number of wards.

While this is not a common cause for ward boundary amendments, it is a factor that cannot be changed and needs to be accommodated.

**Voter registration post the finalisation of ward boundaries**

The delimitation of wards begins with the IEC providing the Minister for Local Government with the municipal segment of the national common voters roll. Given the separation of the national/provincial and local government elections, the segment is based on the most recent number of registered voters per voter district, which would then be the national/provincial process.

Once the MDB has completed the ward delimitation process and the final boundary set is handed over to the IEC to facilitate the local government elections, a further voter registration process is held. The addition or removal of voters from the roll can impact a ward's compliance with the 15% variation from the norm, resulting in some wards exceeding or having too few registered voters. Given the legislative timeframe for the determination of ward boundaries, it is not possible to rectify any anomalies before upcoming local government elections.

It could be argued that fair access to democratic representation is undermined especially if the variation far exceeds the 15% allowed, but more importantly this creates a potential challenge in the next ward delimitation process, where the non-compliance would need to be rectified. Invariably, this would require an amendment to the ward boundaries even if the number of wards in a municipality remains unchanged. This scenario is more likely to occur in areas of high population growth and/or movement. Until national/provincial and local government elections are aligned, a problem such as this cannot be circumvented.
The Minister for Local Government

Two key aspects exist when examining the Minister for Local Government’s role in the process of ward delimitation, namely the determination of the formulae and the formulae themselves.

Formulae determination

Section 20(1)(a) requires the Minister to prepare formulae for the determination of the number of councillors per municipality based on the number of registered voters on the municipality’s segment of the national common voters roll. There are no other legal criteria for the Minister to consider, including the cost implications of any increase in the number of councillors, the possible impact on the number of wards and implications for ward boundary modifications.

There is no legal provision for the Minister to consult with, for example, the MECs for Local Government, SALGA or the MDB when preparing the formulae. And once published in the Government Gazette, the formulae are final, with no opportunity for public comment, engagement with stakeholders on possible implications of the formulae, cross-department/organisation projection of costs or possible downstream implications for the number of wards and ward boundaries.

There is also no indication of the time the Minister may take in determining the formulae after receiving the segment of the voters roll. As a result, there can be a significant time lag between the two processes. Any significant delay in the publication of the formulae shortens the time available for the MECs’ variations and the time available to the Board to delimit ward boundaries, which includes effective consultation. Simply, the MECs cannot begin their variations for the number of councillors without the formulae and the MDB cannot launch the ward delimitation without the MEC publishing the number of councillors.

Application of the formulae

Minister Sydney Mufamadi was responsible for the publication of the formulae for the determination of the number of councillors in 2000 and 2004 and Minister Sicelo Shiceka in 2009 for the 2011 local government elections.

Both ministers retained the 2000 formulae. When examining the number of registered voters per municipality for the 2006 to 2011 period, only nine local municipalities nationally demonstrated a decline in the number of registered voters. At least one of these was as a result of changes that had occurred to the outer boundary and not as a result of declining population levels.

While a marginal increase in the number of registered voters may not result in an increase in the number of councillors, any significant growth would. Consequently, areas experiencing rapid urbanisation and those with large populations, including rural municipalities with large traditional communities, would see an increase in the number of councillors.

When examining the average increase in the number of wards across the three electoral periods for different types of municipalities, some interesting trends emerge. The greatest increase in wards generally was found between the 2006 and 2011 local government elections. The average increase in the number of wards for Category A municipalities was 10.12 wards. B1 municipalities (secondary city) receiving an additional 2.2 wards and B2 (large town) and B4 (rural) municipalities gained an average of 1.8 wards. The least movement is the number of wards tends to be found in B3 (small town) municipalities.

MECs for Local Government

Varying the number of councillors

In varying the number of councillors, MECs have changed their approach since 2000. For the 2000 local government elections, all provinces varied the number of councillors, while for the 2011 elections, no variations were found for four of the nine provinces, i.e. the Minister’s formulae were applied and the results retained by the four provinces. In addition, very few changes were made for the majority of Eastern Cape municipalities and Free State was the only province with no changes for both the 2006 and the 2011 elections.
Retention of the number of councillors as per the formulae increased the number of wards in most municipalities in affected provinces. In most instances, had the MEC considered the impact of the formulae and reduced the number of councillors, the number of wards would also have been retained from 2006 to 2011.

**MECs variation in the number of councillors 2000 to 2011**

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Western Cape and KwaZulu-Natal appear to have actively considered the impact on the number of councillors in each of the municipalities, but each driven by a different agenda. Western Cape retained an odd number of councillors per council to prevent hung councils and KwaZulu-Natal reduced the number of councillors and thereby the costs for the affected municipalities.

There is no legal obligation for MECs to consult municipalities and/or SALGA on their approach to the number of councillors. Similarly, the MECS do not need to engage the MDB to discuss the formulae implications before publication of the number of councillors. Conversely, there is no legal obstacle to the MDB proactively approaching MECs to discuss possible outcomes.

To stabilise the ward configuration, it may be beneficial for the MDB to work with the MECs on the implications of the formulae application and the possible impact on councillor numbers. This may allow the provinces to play a more informed role and heighten awareness of the link between the number of councillors and the impact on wards. This link often escapes the provinces once the blame game starts after the local government elections.

**Provincial capacity**

The evaluation revealed that Western Cape, KwaZulu-Natal and Limpopo and, to some extent Northern Cape, retained capacity in demarcation matters over more than a decade. However, Mpumalanga and Free State appeared to be particularly vulnerable, with no or few officials having been part of processes consistently.

Most provinces were not able to separate outer boundary and ward boundary matters, with the more recent process undertaken by the Board clouding all demarcation matters. Very few provinces mentioned challenges with existing ward boundaries. The inability to separate processes has historically hampered the start of MDB processes, whether an outer boundary or a ward matter.

With the exception of Northern Cape, Western Cape and KwaZulu-Natal, provinces did not demonstrate the ability to operate strategically in the determination of councillor numbers. It is possible that some provinces were unaware of the provisions of section 20(3), which outlines the possible reason for either increasing or decreasing the number of
councillors per municipality. To protect, as far as possible, the integrity of the current ward boundary set, it will be necessary for the MDB to analyse the formulae implications and the possibility of using the MECs variations to retain existing councillor numbers. These results should be shared with the MECs and senior department officials to guide their internal processes. This should not be viewed as interfering with the duties of the MEC but as a commitment to cooperative governance – sharing of information that the MEC may accept or reject based on the province’s own political imperatives.

WARD DELIMITATION

More active engagement with the Minister and MECs

In the last three electoral periods, the Board has viewed the processes of the Minister and MECs as their ‘sole’ responsibility and, as such, has minimised any meaningful engagement on possible implications of their actions. The emphasis has been focused largely on ensuring the Minister published the formulae and the MECs gazetted the number of councillors within a timeframe that would allow the MDB sufficient time to complete the ward delimitation process.

While the Minister and the MECs have their own legislative obligations, there is nothing preventing the MDB from engaging them to discuss at least the following:

- The Minister – the implications of retaining the formula, the associated increase in councillor numbers and the resultant increase in the number of wards, resulting in ward boundary changes.
- The MEC – applying the formulae and then working with the MECs to advise on the increase or the decrease in councillor numbers to ensure that, as far as possible, the existing status quo is retained.

The MDB would need to prepare at least the following for meaningful engagement with the Minister and the MECs:

<table>
<thead>
<tr>
<th>Responsibility</th>
<th>Proposed MDB preparation</th>
</tr>
</thead>
</table>
| Minister       | - Having received the segmentation of the national common voters roll per municipality, the MDB should apply the formulae used from 2000 to 2011 to determine the possible increase in councillor numbers per municipality  
- The results should then be shared with the Minister to demonstrate the implications of retaining the formulae and of the possible increase in ward numbers. |

*However, the final decision to retain or modify the formulae remains with the Minister*
The proposals made above are within the framework of promoting cooperative governance. They should not be viewed as taking over the role of either the Minister and or the MECs, but working collectively toward a common goal of, as far as possible, retaining existing councillor numbers and, consequently, the same number of wards and ward boundaries.

### Engaging communities meaningfully

The existing approach of making presentations to municipalities and stakeholders to explain the ward delimitation process, its criteria and timeframes, has not yielded positive results. Even if this is followed by further engagements and ward hearings, communities still complain of insufficient consultation.

The criticism of insufficient community consultation will not be resolved by holding more meetings. Crucial is the quality of the meetings held and manner in which key information is communicated. The training of community development workers and other interested stakeholders should be encouraged – the Board must move from informing to educating. This requires a significant rethink of the MDB’s community engagement processes. Given the Board’s capacity constraints, it may be useful to appoint a service provider to assist with the training and related community participation processes.

### RECOMMENDATIONS

The recommendations are based on the following:

- The ongoing increase in the number of councillors is creating a financial burden for many municipalities;
- Every attempt should be made to retain the current number of councillors;
- As far as possible, the same number of wards should be retained per municipality.
- Disruptions to current ward delimitations should be minimised to facilitate local stability.
- The MDB should work closely with the Minister in preparing formulae that will not significantly increase councillor or ward numbers;
- The MDB should collaborate with the MECs to optimise their right to vary councillor numbers to, as far as possible, retain current councillor numbers; and
- The MDB’s ward delimitation policy should be modified in line with issues raised in this evaluation.
“My congratulations to the MDB celebrating its 20 years in office. May there be many more successful years to come. It was an honour and an enriching experience for me to be part of the MDB team for a major part of the past 20 years, and to serve under the leadership of Michael Sutcliffe, Vuyo Mlokoti, Landiwe Mahlangu and Jane Thupana.

The appointment of Board members on 1 February 1999, and its work was an important and integral part of the transformation of South Africa following the deeply divided apartheid era – not only along racial, social and economic lines, but also spatially. During that era our country comprised of four provinces, 10 homelands, and 1 262 local government bodies which was reduced to 843 in the transition to democracy. Local government was fragmented and comprised of a range of local government bodies such as R293 black townships, Coloured and Indian Management Committees, Black Administration Boards, White local authorities, Community Councils, and Black local authorities.

The Board started with no internal structure, no budget, no accommodation, no staff, no furniture, no computers, and no GIS system – absolute nothing. The DPLG assisted with two offices while we were trying to find suitable accommodation. After a few months we moved into one office in the iParioli office park. This new office block in Hatfield was under construction, and a board room and more offices could only be made available at a later stage. Consequently Board meetings were held in other available venues, and GIS work was outsourced. There was no room for delays. The Board had to rationalize the total number of municipalities, make provision for District Management Areas, cross-boundary municipalities and the three categories of municipalities, do assessments of the capacity of municipalities to perform their functions, consult all stakeholders, hold public meetings, and finalise the demarcation of municipal boundaries by March 2000 and the delimitation of wards soon thereafter, so as to allow for the electoral process before the local government elections on 5 December 2000. The process was complicated by litigation in the High and Constitutional courts.

The MDB Team can proudly look back and say: We have done it, and will do even better in the years to come”

Robert Willemse was appointed special advisor to the Board in April 1999. He is now on pension, having retired from active involvement in demarcation only in March 2016
The last review of municipal boundaries was in the latter part of 2013, about four months before the end of term of the third Board. Municipality numbers were reduced from 278 to 267, effective from the date of the local government elections in 2016. The change affected particularly KwaZulu-Natal, where the number of municipalities was reduced by seven, from 61 to 54. In Gauteng, Randfontein and Westonaria municipalities were merged.

A formal notification was published in August 2013 (circular 2/2013) to announce the closing of the 2011-2013 municipal redetermination cycle and that no further redeterminations would be considered until after the 2016 local government elections. This was later relied upon by those who argued through the courts that the MDB had no legal right to entertain the Minister’s proposal.

The ward delimitation process was launched in Ugu District Municipality in KwaZulu-Natal in December 2014, the intention being that the MDB would finalise delimitation of all wards in August 2015, allowing sufficient time for the Independent Electoral Commission (IEC) to prepare for the 2016 local government elections. However, the Minister of the Department of Cooperative and Traditional Affairs (CoGTA) invoked his right in terms of section 22(2) of the Local Government: Municipal Demarcation Act (MDA) to apply to have boundaries of about 90 municipalities redetermined before the 2016 elections. The Minister’s proposal was motivated by his department’s Back-to-Basics report, which had concluded that only a third of municipalities were viable and able to discharge their constitutional duties, another third required some intervention, while the remaining were totally dysfunctional.

The Board’s programme was adjusted to consider the Minister’s proposals and allow for some municipal boundary redeterminations to take place during the ward delimitation process. At that stage, ward delimitations could proceed only in municipalities that were not affected by the Minister’s proposal.

REQUESTS OR APPLICATIONS FROM THE MINISTER

For the first time since the MDA was promulgated, section 22(2) was used as a trigger for municipal boundaries to be redetermined outside the ordinary redetermination cycle of the Municipal Demarcation Board (MDB). It was proposed that three new metropolitan municipalities be created – the entire uMgungundlovu District with Pietermaritzburg as its core, the controversial ‘Nkandla rural metro’ comprising the entire uThungulu District, and a West Rand District Municipality in Gauteng. The application attracted much criticism, protest and litigation, with
opposition parties arguing that it was gerrymandering (ANC using demarcation to influence the outcome of the 2016 local government elections) and that the Board was dancing to the Minister’s tune.

### Summary of proposals received from the Minister

<table>
<thead>
<tr>
<th>Province</th>
<th>Number of cases</th>
<th>Number of affected municipalities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Cape</td>
<td>5</td>
<td>13</td>
</tr>
<tr>
<td>Free State</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>Gauteng</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>KwaZulu-Natal</td>
<td>11</td>
<td>32</td>
</tr>
<tr>
<td>Limpopo</td>
<td>5</td>
<td>16</td>
</tr>
<tr>
<td>Mpumalanga</td>
<td>5</td>
<td>10</td>
</tr>
<tr>
<td>Northern Cape</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>North West</td>
<td>4</td>
<td>10</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>34</strong></td>
<td><strong>93</strong></td>
</tr>
</tbody>
</table>

### LEGAL PROCESS

#### Options

The following legal options were available to the Board in dealing with the Minister’s requests:

- The provision in section 21 of the DMA, which would result in almost no public consultation (subject to concurrence by the affected MECs and municipalities), as the public would have an opportunity to object only when the Board’s determinations or redeterminations were published in terms of section 21;
- Section 26 and 21 processes, which would allow 21 days for public views and 30 days for objections; or
- A full process, which would include public meetings and investigations in terms of sections 27 and 28.

While the Minister suggested that the MDB follow the first option to save time, the Board opted, in view of the significance of public participation and the magnitude of the proposed changes, to follow the full process, which included public meetings and the commissioning of studies/investigations.

### Public engagements

The MDA requires that:

- Before the Board entertains an application, its intention to consider that request must be published in the media in terms of section 26, and a minimum of 21 days must be allowed for the public to submit views and representations to the MDB.
- The MDB must – after the 21 days – consider all views and representations submitted to it by the public.
- The MDB may then redetermine the boundaries in terms of section 21 and allow 30 days for public objections. The onus is on any aggrieved person to submit objections within this period.
- Should the Board decide not to publish section 21 notices, it may hold public meetings, conduct formal investigations, or do both. This is thus optional in terms of the legislation.
- If the MDB decided to hold public meetings, it must, in terms of section 28, publish a notice in the newspaper circulating in the area concerned stating the time, date and place of the meeting or of each meeting; and invite the public to attend the meeting or meetings.
- When the Board publishes a section 28 notice, it must convey, where appropriate, by radio or other appropriate means of communication the contents of the notice in the area concerned.
- At a public meeting a representative of the Board must explain the issues the Board has to consider, including any options open to the Board; allow members of the public attending the meeting to air their views on these issues; and answer relevant questions.
- If the Board decides to conduct an investigation it may – in terms of section 29 – conduct the investigation itself; or designate one or more Board members or other persons as an investigating committee to conduct the investigation on its behalf (in terms of section 18). If an investigation committee has been appointed, the committee must report and make recommendations to the Board. (An alternative
to the option of formal investigations the Board may commission studies under its general powers provided for in section 5).

- For the purposes of its investigation, the Board or an investigating committee may – in terms of section 30 – by written notice summon a person who in its opinion has information that is material to the investigation to appear before the Board or the committee to give evidence; or to produce a document available to that person and specified in the summons.

- The MDB may also – in terms of section 30 – call a person present at a Board or committee meeting, whether summoned or not to give evidence before the Board or committee; or to produce a document in that person’s custody.

- Furthermore, the MDB may – also in terms of section 30 – administer an oath or solemn affirmation to that person; question that person, or have such a person questioned by a person designated by the Board or committee; and retain for a reasonable period a document produced.

- After the public meetings and/or investigations, the MDB may redetermine the boundaries, and must allow a minimum period of 30 days for public objections.

- Once objections have been considered, the Board can either confirm, vary or withdraw its determination and publish its decision in terms of section 21(5).

PUBLIC NOTIFICATIONS IN TERMS OF SECTION 26

To announce an intention to consider the Minister’s proposals and test public opinion, section 26 notices were published as follows:

<table>
<thead>
<tr>
<th>Municipalities in province</th>
<th>Newspapers</th>
<th>Published date</th>
<th>Closing date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Cape</td>
<td>Herald</td>
<td>10/2/2015</td>
<td>3/3/2015</td>
</tr>
<tr>
<td></td>
<td>Daily Dispatch</td>
<td>10/2/2015</td>
<td>3/3/2015</td>
</tr>
<tr>
<td>Eastern Cape (DEM 4500)</td>
<td>Die Burger</td>
<td>26/2/2015</td>
<td>20/3/2015</td>
</tr>
<tr>
<td></td>
<td>Die Sonskynuus</td>
<td>9/7/2015</td>
<td>30/7/2015</td>
</tr>
<tr>
<td></td>
<td>Die Burger</td>
<td>9/7/2015</td>
<td>30/7/2015</td>
</tr>
<tr>
<td>Eastern Cape (DEM4502)</td>
<td>Volksblad</td>
<td>06/3/2015</td>
<td>27/3/2015</td>
</tr>
<tr>
<td></td>
<td>Die Burger</td>
<td>06/3/2015</td>
<td>27/3/2015</td>
</tr>
<tr>
<td></td>
<td>Volksblad</td>
<td>18/3/2015</td>
<td>8/4/2015</td>
</tr>
<tr>
<td>Gauteng (DEM4074)</td>
<td>Daily Sun</td>
<td>15/5/2015</td>
<td>5/6/2015</td>
</tr>
<tr>
<td></td>
<td>Sowetan</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>The Star</td>
<td></td>
<td></td>
</tr>
<tr>
<td>KwaZulu-Natal</td>
<td>Isolezwe</td>
<td>6/2/2015</td>
<td>27/2/2015</td>
</tr>
<tr>
<td>Limpopo</td>
<td>Beeld</td>
<td>9/2/2015</td>
<td>2/3/2015</td>
</tr>
<tr>
<td></td>
<td>Sowetan</td>
<td>10/2/2015</td>
<td>3/3/2015</td>
</tr>
</tbody>
</table>
Municipalities in province | Newspapers                  | Published date | Closing date |
---|---|---|---|
Mpumlanga | Sowetan/Beeld | 18/2/2015 | 11/3/2015 |
| | | 19/2/2015 | 12/3/2015 |
Northern Cape | Sowetan/Beeld | 18/2/2015 | 11/3/2015 |
| | | 19/2/2015 | 12/3/2015 |
North West | New Age | 10/2/2015 | 3/3/2015 |
North West | New Age | 16/2/2015 | 9/3/2015 |

To accommodate members of the public with no access to print media, radio announcements were made on stations popular in the affected municipalities.

**Section 26 radio announcements**

**Eastern Cape**

<table>
<thead>
<tr>
<th>Location</th>
<th>Newspapers</th>
<th>Published date</th>
<th>Closing date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ikwezi LM (EC103), Baviaans LM (EC107) and Camdeboo LM (EC101)</td>
<td>Umhloho Wenene FM and SAFM</td>
<td>23/02/2015 – 01/03/2015</td>
<td></td>
</tr>
<tr>
<td>Round 2 (that resulted from an interdict by Baviaans)</td>
<td>Radio Sonder Grense, Umhloho Wenene FM and SAFM</td>
<td>10/07/2015 – 16/07/2015</td>
<td></td>
</tr>
<tr>
<td>Gariep LM and Maletswai LM (EC143)</td>
<td>SAFM and Mhlobo Wenene FM</td>
<td>23/02/2015 – 01/03/2015</td>
<td></td>
</tr>
<tr>
<td>Nxuba LM and Nkonkobe LM (EC127)</td>
<td>SAFM and Mhlobo Wenene FM</td>
<td>23/02/2015 – 01/03/2015</td>
<td></td>
</tr>
<tr>
<td>Inkwanca LM, Tsolwana LM (EC132) and Lukhanji LM (EC134)</td>
<td>Umhloho Wenene FM and SAFM</td>
<td>23/02/2015 – 01/03/2015</td>
<td></td>
</tr>
</tbody>
</table>

**KwaZulu-Natal**

<table>
<thead>
<tr>
<th>Location</th>
<th>Newspapers</th>
<th>Published date</th>
<th>Closing date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mpofana LM and uMngeni LM (KZN222)</td>
<td>Ukhozi FM and SAFM</td>
<td>23/02/2015 – 01/03/2015</td>
<td></td>
</tr>
</tbody>
</table>

**Free State**

<table>
<thead>
<tr>
<th>Location</th>
<th>Newspapers</th>
<th>Published date</th>
<th>Closing date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incorporate Naledi LM into Mangaung MM</td>
<td>Motheo FM and OFM</td>
<td>23/03/2015 – 29/03/2015</td>
<td></td>
</tr>
</tbody>
</table>

**Limpopo**

<table>
<thead>
<tr>
<th>Location</th>
<th>Newspapers</th>
<th>Published date</th>
<th>Closing date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disestablish Mutale LM</td>
<td>Phalaphala, Thobela, Munghana and SAFM</td>
<td>23/02/2015 – 01/03/2015</td>
<td></td>
</tr>
<tr>
<td>Disestablish Aganang LM</td>
<td>Phalaphala, Thobela, Munghana and SAFM</td>
<td>23/02/2015 – 01/03/2015</td>
<td></td>
</tr>
<tr>
<td>Disestablish Maruleng LM</td>
<td>Phalaphala, Thobela, Munghana and SAFM</td>
<td>23/02/2015 – 01/03/2015</td>
<td></td>
</tr>
<tr>
<td>Disestablish Fetakgomo LM</td>
<td>Phalaphala, Thobela, Munghana and SAFM</td>
<td>23/02/2015 – 01/03/2015</td>
<td></td>
</tr>
<tr>
<td>Amalgamate Modimolle LM and Mookgopong LM</td>
<td>Munghana lo n ne, Phalaphala FC, Thobela FM and SAFM</td>
<td>23/02/2015 – 01/03/2015</td>
<td></td>
</tr>
</tbody>
</table>
Stakeholders were provided with copies of the notices under cover of circular 2/2015 (Limpopo, North West, Eastern Cape and KwaZulu-Natal) dated 5 February 2015, circular 3/2015 (Mpumalanga, North West and Northern Cape) dated 12 February 2015, circular 4/2015 (Free State) dated 11 March 2015 and circular 7/2015 (Gauteng) dated 12 May 2014. The circulation was extended to non-statutory stakeholders, traditional leaders and municipalities, with the request that they use their public participation structures to extend the reach of the message to their constituencies.

### Number of section 26 written submissions received per province

<table>
<thead>
<tr>
<th>Province</th>
<th>Section 26 submissions received</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Objection</td>
</tr>
<tr>
<td>Eastern Cape</td>
<td>31</td>
</tr>
<tr>
<td>KwaZulu-Natal</td>
<td>2</td>
</tr>
<tr>
<td>Limpopo</td>
<td>7</td>
</tr>
<tr>
<td>Mpumalanga</td>
<td>16 (317 petition type)</td>
</tr>
<tr>
<td>North West</td>
<td>4</td>
</tr>
<tr>
<td>Northern Cape</td>
<td>0</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>60</td>
</tr>
</tbody>
</table>

Note: Two section 26 submissions were received later from the proposed West Rand metropolitan municipality.

In compliance with section 27, the MDB considered all views and representations as well as time available, and decided to proceed with only 21 out of the 34 requests/proposals by the Minister before the 2016 local elections. The 13 cases eliminated included declaration of the three metropolitan municipalities. The Board also decided to commission studies and to hold public meetings.
Section 22(2) cases proceeded with

<table>
<thead>
<tr>
<th>COUNTY</th>
<th>DEM4500</th>
<th>DEM4502</th>
<th>DEM4503</th>
<th>DEM4505</th>
</tr>
</thead>
<tbody>
<tr>
<td>EASTERN CAPE</td>
<td>Amalgamate Ikwezi LM (EC103), Baviaans LM (EC107) and Camdeboo LM (EC101) to optimise the financial viability of the new municipality.</td>
<td>Amalgamate Gariep LM with Maletswai LM (EC143) to optimise the financial viability of the new municipality.</td>
<td>Amalgamate Nxuba LM with Nkonkobe LM (EC127) to optimise the financial viability of the new municipality.</td>
<td>Amalgamate Inkwanca LM, Tsolwana LM (EC132) and Lukhanji LM (EC134) to optimise the financial viability of the new municipality.</td>
</tr>
<tr>
<td>NORTH WEST</td>
<td>Amalgamate Kagisano Molopo LM (NW397) and Naledi LM (NW392) to optimise the financial viability of the new municipality.</td>
<td>Amalgamate Ventersdorp LM and Tlokwe LM, and optimise the financial viability of the new municipality by incorporating wards from the Matlosana LM.</td>
<td>Amalgamate Kgetleng Rivier LM with Rustenburg LM to optimise the financial viability of the new municipality.</td>
<td>Disestablish Ratlou LM and amalgamate with Mahikeng and Tswaing LMs to optimise the financial viability of the new municipalities.</td>
</tr>
<tr>
<td>KWAZULU-NATAL</td>
<td>Disestablish Mpofana LM and amalgamate its portions with Umvoti LM and Impendle LM.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LIMPOPO</td>
<td>Amalgamate Mutale LM to optimise the financial viability of all the municipalities in the Vhembe DM.</td>
<td>Disestablish Aganang LM to optimise the financial viability of municipalities in the Capricorn DM.</td>
<td>Disestablish Maruleng LM to optimise the financial viability of Tzaneen LM and Ba-Phalaborwa LM in the Mopani DM</td>
<td>Disestablish Fetakgomo LM to optimise the financial viability of Tubatse LM and Makhuduthamaga LM in the Sekhukhune DM.</td>
</tr>
<tr>
<td>NORTHERN CAPE</td>
<td>Amalgamate Mier LM and //Khara Hais LM to optimise the financial viability of the new municipality.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FREE STATE</td>
<td>Incorporate Naledi LM into Mangaung MM to optimise the financial viability of the new municipality.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
STUDIES COMMISSIONED

Sections 28 and 30 provide for formal investigations, which may also require the appointment of committees in terms of section 18. However, section 5 states, among others, that the MDB may do all that is necessary or expedient to perform its function, which includes the power to obtain, by agreement, the services of any person, including any organ of state, for the performance of any specific act or function. There were thus two options open to the Board: formal investigation as provided for in sections 27, 29 and 30 read with section 18, or studies commissioned under the MDB’s general powers provided for in section 5. The Board opted for the latter.

Following a supply chain process, consultants were appointed to conduct the studies: one company for the studies in Eastern Cape and North West, the other for studies in Northern Cape, Limpopo, Mpumalanga and KwaZulu-Natal. In addition to reporting on the criteria in sections 24 and 25 of the MDA, the terms of reference also covered capacity assessments as required by section 85 of the Local Government: Municipal Structures Act, 1998 (MSA).

PUBLIC MEETINGS, CONFRONTATIONS AND PROTESTS

Meetings were scheduled and announced in advance via print media and local radio stations for the public to engage further on the proposed redeterminations. Most meetings were well attended and communities used the platform to air their views on the proposed boundary changes.

The meetings did not pass without drama emanating from hostilities that escalated into anger and violent protests in some areas. In the North West, Board member Lebina Tsotetsi had to take cover when two politically aligned groups clashed over internal service delivery issues and began hurling chairs. Meetings in Makhado Local Municipality, Limpopo, were rescheduled on the advice of law enforcement agencies when threats were made to disrupt proceedings by bussing in people from Vuwani, a community vehemently opposed to the proposed municipal demarcation. Following the final redetermination, litigation and a judgment in the Limpopo High Court in favour of the MDB in April 2016, violent protests flared up in Vuwani, leading to a total shut-down and torching of schools. Threats were also made by community members on national TV, to torch the Chairperson’s house in Polokwane.

In Balfour, Mpumalanga, violent protests, accompanied by shut-downs of schools and businesses, had erupted in March 2015, following publication of the Board’s intention to consider the Minister’s proposals. The community of Balfour, some 80km south east of Johannesburg and about 340km from the capital of Mpumalanga province, Mbombela (Nelspruit), had, since 2009, wanted to be incorporated into Gauteng. The Minister’s proposal or ‘desire’ to have the municipality (Dipaleseng) merged with Lekwa Local Municipality was viewed as a bold statement that incorporation into Gauteng was off the cards. Consequently, this was the only area where public meetings were not held.

A meeting in Howick (KwaZulu-Natal) descended into chaos and Board member Professor Isobel Konyn had to call it off. There were threats and hackling among residents who were for and those against the disestablishment of Mpofana Local Municipality and incorporation of portions into adjacent municipalities. The meeting took an unfortunate racist tone when some of the group supporting disestablishment sang ‘Dubul’ iBhunu (shoot the boer).

In spite of threats and calls for boycotts in some areas, the MDB held public meetings in all affected municipalities. Meetings were rescheduled when threats or disruptions prevented the original meetings from taking place. This was more so in the Eastern Cape.

BOUNDARY REDETERMINATIONS CONCLUDED

Board decisions were made on the strength of information that included the investigation reports, reports by the Auditor-General and Treasury and the Local Government Handbook – SA.

The MDA requires that all objectives and factors be considered when determining or redetermining municipal boundaries. Although the Minister’s proposal had the sole interest of municipal financial viability,
the Board must take all factors into consideration. To enhance objectivity and apply the demarcation criteria in a balanced manner, an evaluation matrix was developed to assist the Board in its decision making. This tool was meant to evaluate reports (including consultants reports, Auditor-General and National Treasury reports) and public submissions against the demarcation criteria in sections 24 and 25 of the MDA. The matrix clustered the objectives and factors into the following four areas:

- Interdependence of people, communities and economies;
- Spatial and development planning;
- Governance and functionality; and
- Finance and administration.

On conclusion of the redetermination cycle in 2015 (after objections were considered), only 13 out of the 34 proposals by the Minister were approved. This number included a case in KwaZulu-Natal that was a minor adjustment of municipal boundaries as opposed to the disestablishment of Mpofana Local Municipality and amalgamation that the Minister had requested. One case in North West and one in Limpopo were not redetermined exactly as the Minister proposed. On average, only a third of the Minister’s proposals were finally approved by the Board.

### Approved and gazetted cases per province

<table>
<thead>
<tr>
<th>PROVINCE</th>
<th>DECISION AND AFFECTED MUNICIPALITIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>EASTERN CAPE</td>
<td>Amalgamate Gariep and Maletswai local municipalities into one municipal area.</td>
</tr>
<tr>
<td></td>
<td>Amalgamate Nxuba and Nkonkobe local municipalities into one municipal area.</td>
</tr>
<tr>
<td></td>
<td>Amalgamate Ikwezi, Camdeboo and Baviaans local municipalities into one municipal area.</td>
</tr>
<tr>
<td></td>
<td>Amalgamate Inkwanca, Tsolwana and Lukhanji local municipalities into one municipal area.</td>
</tr>
<tr>
<td>FREE STATE</td>
<td>Incorporate Naledi Local Municipality into Mangaung Metropolitan Municipality.</td>
</tr>
<tr>
<td>LIMPOPO</td>
<td>Amalgamate Fetakgomo and Greater Tubatse local municipalities into one municipal area.</td>
</tr>
<tr>
<td></td>
<td>Amalgamate Modimolle and Mookgopong local municipalities into one municipal area.</td>
</tr>
<tr>
<td></td>
<td>Disestablish Mutale Local Municipality and incorporate its portions into areas of Musina and Thulamela local municipalities.</td>
</tr>
<tr>
<td></td>
<td>Establish a new municipality comprising portions of Makhado and Thulamela local municipalities.</td>
</tr>
<tr>
<td></td>
<td>Disestablish Aganang Local Municipality and incorporate its portions into areas of Polokwane, Molemole and Blouberg local municipalities.</td>
</tr>
<tr>
<td>MPUMALANGA</td>
<td>Amalgamate Mbombela and Umjindi local municipalities into one municipal area.</td>
</tr>
<tr>
<td>NORTHERN CAPE</td>
<td>Amalgamate Mier and Khara Hais local municipalities into one municipal area.</td>
</tr>
</tbody>
</table>
### Province Decision and Affected Municipalities

<table>
<thead>
<tr>
<th>Province</th>
<th>Decision and Affected Municipalities</th>
</tr>
</thead>
<tbody>
<tr>
<td>North West</td>
<td>Amalgamate Tlokwe and Ventersdorp local municipalities into one municipal area.</td>
</tr>
<tr>
<td>Kwazulu-Natal</td>
<td>Redetermine the boundaries of Mpofana Local Municipality, Umgungundlovu District Municipality, Umvoti Local Municipality and Umzinyathi District Municipality by excluding a portion from Mpofana Local Municipality (Cadham voting district) and including that into Umvoti Local Municipality.</td>
</tr>
</tbody>
</table>

---

**Final Reconfiguration of Municipal Boundaries in 2015**

| Eastern Cape Province | 1. Dr Beyers Naude  
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2. Walter Sisulu</td>
</tr>
<tr>
<td></td>
<td>3. Enoch Mgijima</td>
</tr>
<tr>
<td></td>
<td>4. Raymond Mhlaba</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Free State Province</th>
<th>5. Mangaung</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Kwazulu-Natal Province</th>
<th>6. Umvoti</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>7. Mpofana</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Limpopo Province</th>
<th>8. Bloubberg</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>9. Molemole</td>
</tr>
<tr>
<td></td>
<td>10. Polowane</td>
</tr>
<tr>
<td></td>
<td>11. Modimolle/Mookgopong</td>
</tr>
<tr>
<td></td>
<td>12. Fetakgomo/Tubatse</td>
</tr>
<tr>
<td></td>
<td>13. Musina</td>
</tr>
<tr>
<td></td>
<td>14. Thulamela</td>
</tr>
<tr>
<td></td>
<td>15. Makhado</td>
</tr>
<tr>
<td></td>
<td>16. Collins Chabane</td>
</tr>
</tbody>
</table>

| Mpumalanga Province   | 17. City of Mbombela         |

| Northern Cape Province| 18. Dawid Kruiper            |

| North West Province   | 19. JB Marks                 |

---

**Provinces**: Eastern Cape, Free State, Kwazulu-Natal, Limpopo, Mpumalanga, Northern Cape, North West, Western Cape.
Municipalities were categorised as follows from 3 August 2016:

### Total municipalities per province from 3 August 2016

<table>
<thead>
<tr>
<th>PROVINCE</th>
<th>CATEGORY A</th>
<th>CATEGORY B</th>
<th>CATEGORY C</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Cape</td>
<td>2</td>
<td>31</td>
<td>6</td>
<td>39</td>
</tr>
<tr>
<td>Free State</td>
<td>1</td>
<td>18</td>
<td>4</td>
<td>23</td>
</tr>
<tr>
<td>Gauteng</td>
<td>3</td>
<td>6</td>
<td>2</td>
<td>11</td>
</tr>
<tr>
<td>KwaZulu-Natal</td>
<td>1</td>
<td>43</td>
<td>10</td>
<td>54</td>
</tr>
<tr>
<td>Limpopo</td>
<td>0</td>
<td>22</td>
<td>5</td>
<td>27</td>
</tr>
<tr>
<td>Mpumalanga</td>
<td>0</td>
<td>17</td>
<td>3</td>
<td>20</td>
</tr>
<tr>
<td>Northern Cape</td>
<td>0</td>
<td>26</td>
<td>5</td>
<td>31</td>
</tr>
<tr>
<td>North West</td>
<td>0</td>
<td>18</td>
<td>4</td>
<td>22</td>
</tr>
<tr>
<td>Western Cape</td>
<td>1</td>
<td>24</td>
<td>5</td>
<td>30</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>8</strong></td>
<td><strong>205</strong></td>
<td><strong>44</strong></td>
<td><strong>257</strong></td>
</tr>
</tbody>
</table>

### Reduction in number of municipalities since 1996

- 1994: 1262
- 1996: 843
- 2000: 284
- 2006: 283
- 2011: 278
- 2016: 257

**Municipalities**
LITIGATIONS

Three cases were brought against the Board, by the Baviaans Local Municipality, Democratic Alliance and Masia Traditional Council & others (Vuwani community). These are analysed in Chapter 5.

CONCERNS RAISED WITH CoGTA

Engagements with the public and, in some instances, investigation reports revealed that the main challenges for a number of municipalities were poor leadership, financial mismanagement, corruption and political infighting. Government was urged to invoke other available constitutional mechanisms to deal with these cases rather than resort to the demarcation instrument.

Having approved certain cases does not suggest that those become automatically viable. Certain conditions had to be created by CoGTA and provinces to ensure efficient management of the transitions process and general support for the affected municipalities. Internationally, it is common to have governments not willing to adequately finance the short-term transactional costs of municipal mergers and this sets them up for failure.

The merging of municipalities, while leading to some economies of scale and reducing administrative overhead costs in the medium-term, creates large geographical areas that local councils have to serve. The two cases in Free State and Northern Cape are typical examples. For these entities to be able to provide efficient services, service centres or decentralised models that facilitate accessibility and proximity had to be set up before the new redeterminations could take effect.

Government has to determine and pronounce on the local government architecture, including the two-tier system, the future of district municipalities and the governance model for secondary cities, as all these have a bearing on demarcation. Debates on these issues have been taking place for far too long.

<table>
<thead>
<tr>
<th>Code</th>
<th>Municipality</th>
<th>Registered voters</th>
</tr>
</thead>
<tbody>
<tr>
<td>EC101</td>
<td>Dr Beyers Naude Local Municipality</td>
<td>39 319</td>
</tr>
<tr>
<td>EC129</td>
<td>Walter Sisulu Local Municipality</td>
<td>82 308</td>
</tr>
<tr>
<td>EC139</td>
<td>Enoch Mgijima Local Municipality</td>
<td>120 934</td>
</tr>
<tr>
<td>EC145</td>
<td>Raymond Mhlaba Local Municipality</td>
<td>36 305</td>
</tr>
<tr>
<td>MAN</td>
<td>Mangaung Metropolitan Municipality</td>
<td>416 327</td>
</tr>
<tr>
<td>EKU1</td>
<td>Ekurhuleni Metropolitan Municipality</td>
<td>1 547 459</td>
</tr>
<tr>
<td>GT4211</td>
<td>Emfuleni Local Municipality</td>
<td>358 891</td>
</tr>
<tr>
<td>GT4221</td>
<td>Middelaar Local Municipality</td>
<td>52 126</td>
</tr>
<tr>
<td>GT4231</td>
<td>Lesedi Local Municipality</td>
<td>46 948</td>
</tr>
<tr>
<td>KZN223</td>
<td>Mpofana Local Municipality</td>
<td>15 357</td>
</tr>
<tr>
<td>KZN245</td>
<td>Umvoti Local Municipality</td>
<td>54 763</td>
</tr>
<tr>
<td>LIM341</td>
<td>Musina Local Municipality</td>
<td>40 613</td>
</tr>
<tr>
<td>LIM343</td>
<td>Thulamela Local Municipality</td>
<td>219 578</td>
</tr>
<tr>
<td>LIM344</td>
<td>Makhado Local Municipality</td>
<td>179 060</td>
</tr>
<tr>
<td>LIM345</td>
<td>Collins Chabane Local Municipality</td>
<td>147 102</td>
</tr>
<tr>
<td>LIM351</td>
<td>Blouberg Local Municipality</td>
<td>79 911</td>
</tr>
<tr>
<td>LIM353</td>
<td>Molemole Local Municipality</td>
<td>56 477</td>
</tr>
</tbody>
</table>

1 The court order of 22 September 2015 reversed the Board's 2013 decision to incorporate Lesedi Local Municipality into Ekurhuleni Metropolitan Municipality, and the establishment of a new metropolitan municipality by merging Middelaar Local Municipality with Emfuleni Local Municipality.
<table>
<thead>
<tr>
<th>Code</th>
<th>Municipality</th>
<th>Registered voters</th>
</tr>
</thead>
<tbody>
<tr>
<td>LIM354</td>
<td>Polokwane Local Municipality</td>
<td>304 572</td>
</tr>
<tr>
<td>LIM368</td>
<td>Modimolle/Mookgopong Local Municipality</td>
<td>47 912</td>
</tr>
<tr>
<td>LIM476</td>
<td>Fetakgomo /Tubatse Local Municipality</td>
<td>186 693</td>
</tr>
<tr>
<td>MP326</td>
<td>City of Mbombela Local Municipality</td>
<td>306 854</td>
</tr>
<tr>
<td>NC087</td>
<td>Dawid Kruiper Local Municipality</td>
<td>55 259</td>
</tr>
<tr>
<td>NW405</td>
<td>JB Marks Local Municipality</td>
<td>113 949</td>
</tr>
</tbody>
</table>
PREPARING FOR THE 2016 LOCAL GOVERNMENT ELECTIONS
Between 2014 and 2015, the Municipal Demarcation Board (MDB) successfully prepared and finalised its fourth ward delimitation process leading to local government elections on 3 August 2016. The approach was different from those of the past. Previously, the Board would, on its own and guided by the criteria, prepare the first set of wards to kick-start the consultation process. Informed by the 2000 to 2011 ward delimitation review, major improvements were built into the process, including early collaborative engagements with key stakeholders, including during the ward delimitation project.

For the first time, the Minister was engaged based on projections of possible outcomes and implications of the formulae. Consultative sessions towards the first set of maps were held with municipal and provincial technical/geographic information system (GIS) staff familiar with local dynamics such as distances that can be a challenge for participation in ward committee meetings, and the topography and physical characteristics of the municipal areas that needed to be considered in drawing identifiable ward boundaries.

Prior to the publication of the formulae for the determination of councillor numbers and the subsequent publication of these numbers, the MDB staged national, district and provincial campaigns from July to September 2014 to make key role-players aware of the delimitation of wards for the 2016 local government elections. In addition to national and provincial information sessions, around 52 district information sessions were held across the Republic.

The educational value of such information sessions cannot be underestimated. Other preparatory work – such as close cooperation and planning with the Independent Electoral Commission (IEC) and other stakeholders, the verification and updating of spatial and other datasets, and the improvement of the infrastructure for the ward delimitation process – could have contributed more to an effective and efficient process.

Preparations for the ward delimitation – prior to the publication of the number of councillors – are just as important, if not more so, than the legal and public processes.
DIVISION OF THE NATIONAL COMMON VOTERS ROLL AND PUBLICATION OF THE FORMULAE

Division of the national common voters roll

As the formulae for councillor numbers were under the prevailing legislation based on the number of registered voters, the IEC divided the voters roll into municipal segments and published it on 5 March 2014. This included a breakdown of the number of registered voters per municipality, which is essentially all that is necessary to inform the Minister’s determination of the formulae.

Publication of the formulae

Before the MDB starts the ward delimitation process, the Minister of Cooperative Governance and Traditional Affairs publishes the formulae for the determination of the number of councillors for all categories of municipalities.

A new political administration took over after the national elections in May 2014 and a new Minister was deployed to CoGTA, watering down the MDB’s efforts to engage with the Minister. The process was repeated with the new Minister too late to secure early publication of the formulae. The Minister took his time to consider determination of formulae that would avoid the consequences highlighted in projections. The delay was worthwhile as new formulae were determined for the first time since year 2000.

The new formulae were published on 9 September 2014 in Government Gazette no: 37988, Notice no: 712. Only then could the MDB roll out the ward delimitation process.

The formulae for determination of number of councillors

### Category A (metropolitan) municipalities

<table>
<thead>
<tr>
<th>y - represents the number of councillors</th>
<th>x - represents the number of registered voters</th>
</tr>
</thead>
<tbody>
<tr>
<td>y = (x ÷ 10 000) + 50</td>
<td></td>
</tr>
</tbody>
</table>

### Category B (local) municipalities

<table>
<thead>
<tr>
<th>y - represents the number of councillors</th>
<th>x - represents the number of registered voters</th>
</tr>
</thead>
<tbody>
<tr>
<td>Municipality with fewer than 7 501 registered voters on the national common voters roll</td>
<td>y = 5</td>
</tr>
<tr>
<td>Municipality with between 7 500 and 100 000 registered voters on the national common voters roll</td>
<td>y = (x ÷ 2 005) + 2</td>
</tr>
<tr>
<td>Municipality with more than 100 000 registered voters on the national common voters roll</td>
<td>y = (x ÷ 18 333) + 58</td>
</tr>
</tbody>
</table>

In applying the formulae, y represents the number of councillors and x the number of registered voters on the municipality’s segment of the national common voters roll on 5 March 2014. Fractions are disregarded.

DETERMINATION OF NUMBER OF COUNCILLORS

Section 18 read with section 20 of the Municipal Structures Act (MSA), requires that the Members of the Executive Council (MECs) responsible for local government determine the number of councillors for each municipality. The number is determined by MECs responsible for local government based on formulae published by the Minister responsible for local government. In terms of section 20 of the MSA, the number of councillors of a municipal council may not be fewer than three or more than 90 councillors if it is a local or district municipality, and may not be more than 270 councillors if it is a metropolitan municipality. MECs may deviate from the formulae under certain conditions of section 20.
Province gazette notice on number of councillors

<table>
<thead>
<tr>
<th>Province</th>
<th>Notice number</th>
<th>Provincial Gazette no</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Cape</td>
<td>49</td>
<td>3 284</td>
<td>6 October 2014</td>
</tr>
<tr>
<td>Free State</td>
<td>91</td>
<td>62/65/81</td>
<td>10/17/5 December 2014</td>
</tr>
<tr>
<td>Gauteng</td>
<td>3 335</td>
<td>291</td>
<td>10 October 2014</td>
</tr>
<tr>
<td>KwaZulu-Natal</td>
<td>144</td>
<td>1 264</td>
<td>31 October 2014</td>
</tr>
<tr>
<td>Limpopo</td>
<td>367</td>
<td>2 429</td>
<td>9 October 2014</td>
</tr>
<tr>
<td>Mpumalanga</td>
<td>521</td>
<td>2 372</td>
<td>8 October 2014</td>
</tr>
<tr>
<td>Northern Cape</td>
<td>137</td>
<td>1 852</td>
<td>30 October 2014</td>
</tr>
<tr>
<td>North West</td>
<td>452</td>
<td>7 355</td>
<td>3 October 2014</td>
</tr>
<tr>
<td>Western Cape</td>
<td>264</td>
<td>7 314</td>
<td>6 October 2014</td>
</tr>
</tbody>
</table>

It was a battle to convince Free State that the number of councillors for one municipality was wrongly calculated, but eventually, on 5 December 2014, a correction notice was published.

CHANGES TO THE NUMBER OF COUNCILLORS

Boundary amendments alter the population of registered voters in a given municipal area, by either increasing or reducing the number. Depending on the significance, the new number of registered voters may change the norm and the number of councillors. Due to the redeterminations following the Minister’s proposals and the court order of 22 September 2015, the affected MECs had to republish the number of councillors for their municipalities.

Impact on number of councillors

The amalgamations did not have the same effect in all affected municipalities. Often, smaller municipalities experience a reduction in council representation when merged with larger municipalities. A typical case was the 2011 merger of Tshwane Metropolitan Municipality with smaller municipalities, which reduced councillor numbers from 14 to six in the area of Kungwini Local Municipality, and from six to four in Nokeng tse Taemane Local Municipality. The incorporation of Naledi Local Municipality into Mangaung Metropolitan Municipality shed five council representations, while the incorporation of a portion of Mutale Local Municipality into Musina Local Municipality yielded an increase.

Impact of the redeterminations on number of councillors

<table>
<thead>
<tr>
<th>Province</th>
<th>Municipality</th>
<th>Number of councillors for 2016</th>
<th>Number of councillors in 2014 before boundary changes</th>
<th>Increase/Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Cape</td>
<td>Walter Sisulu Local Municipality</td>
<td>22</td>
<td>22 (12+10)</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Raymond Mhlabo Local Municipality</td>
<td>46</td>
<td>46 (38+8)</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Enoch Mgijima Local Municipality</td>
<td>68</td>
<td>68 (10+7+51)</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Dr Beyers Naude Local Municipality</td>
<td>27</td>
<td>28 (14+7+7)</td>
<td>-1</td>
</tr>
<tr>
<td>Free State</td>
<td>Mangaung Metropolitan Municipality</td>
<td>100</td>
<td>105 (8+97)</td>
<td>-5</td>
</tr>
<tr>
<td>Province</td>
<td>Municipality</td>
<td>Number of councillors for 2016</td>
<td>Number of councillors in 2014 before boundary changes</td>
<td>Increase/Decrease</td>
</tr>
<tr>
<td>-------------------</td>
<td>--------------------------------------</td>
<td>-------------------------------</td>
<td>-------------------------------------------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>KwaZulu-Natal</td>
<td>Mpofana Local Municipality</td>
<td>9</td>
<td>9</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Umvoti Local Municipality</td>
<td>27</td>
<td>27</td>
<td>0</td>
</tr>
<tr>
<td>Limpopo</td>
<td>Musina Local Municipality</td>
<td>24</td>
<td>12</td>
<td>+12</td>
</tr>
<tr>
<td></td>
<td>Collins Chabane Local Municipality</td>
<td>71</td>
<td>26</td>
<td>+45</td>
</tr>
<tr>
<td></td>
<td>Thulamela Local Municipality</td>
<td>81</td>
<td>81</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Makhado Local Municipality</td>
<td>75</td>
<td>76</td>
<td>+1</td>
</tr>
<tr>
<td></td>
<td>*Blouberg Local Municipality</td>
<td>44</td>
<td>40</td>
<td>+4</td>
</tr>
<tr>
<td></td>
<td>*Molemole Local Municipality</td>
<td>32</td>
<td>27</td>
<td>+5</td>
</tr>
<tr>
<td></td>
<td>*Polokwane Local Municipality</td>
<td>90</td>
<td>87</td>
<td>+3</td>
</tr>
<tr>
<td></td>
<td>Mookgopong/Modimolle Local Municipality</td>
<td>28</td>
<td>28 (10+18)</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Fetakgomo/Tubatse Local Municipality</td>
<td>77</td>
<td>90 (25+65)</td>
<td>-13</td>
</tr>
<tr>
<td>Mpumalanga</td>
<td>City of Mbombela Local Municipality</td>
<td>90</td>
<td>96 (78+18)</td>
<td>-6</td>
</tr>
<tr>
<td>Northern Cape</td>
<td>Dawid Kruiper Local Municipality</td>
<td>31</td>
<td>36 (29+7)</td>
<td>-5</td>
</tr>
<tr>
<td>North West</td>
<td>JB Marks Local Municipality</td>
<td>67</td>
<td>66 (15+51)</td>
<td>+1</td>
</tr>
</tbody>
</table>

*Aganang had 36 councillors, which actually led to a reduction of 24 in Blouberg, Molemole and Polokwane.*
Impact of the Midvaal court order on the number of councillors

The first determination of councillor numbers by the MEC was based on the 2013 municipal boundary redeterminations that amalgamated Midvaal and Emfuleni into a new metropolitan municipality and incorporated Lesedi Local Municipality into Ekurhuleni Metropolitan Municipality. The MEC responsible for local government in Gauteng had to republish the number of councillors for all the abovementioned municipalities after an order of the court that set aside the 2013 MDB decision. Ultimately, all four municipalities retained their status as individual municipalities.

Impact of redeterminations on the number of councillors – Midvaal

<table>
<thead>
<tr>
<th>Province</th>
<th>Municipality</th>
<th>Number of councillors determined in 2014 for amalgamated municipalities</th>
<th>Number of councillors determined after 2015 boundary changes (court order)</th>
<th>Increase/Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gauteng</td>
<td>Ekurhuleni Metropolitan Municipality</td>
<td>229</td>
<td>250 (Ekurhuleni 224 + Lesedi 26)</td>
<td>+21</td>
</tr>
<tr>
<td></td>
<td>Lesedi Local Municipality</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Emfuleni Local Municipality</td>
<td>100</td>
<td>119 (Emfuleni 90 + Midvaal 29)</td>
<td>+19</td>
</tr>
<tr>
<td></td>
<td>Midvaal Local Municipality</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

A reversal of the redeterminations increased the number of councillors by 40 for the 2016 local elections.

Increase/decrease in number of councillors from 2011 to 2016

Interesting is the extent to which the number of councillors changes and differs from one local government election to the next. As reflected in the table below, Eastern Cape, Free State and Mpumalanga experienced a decrease in the number of councillors attributable to factors such as amalgamations, decrease in municipality numbers and poor voter registration drive. The other six provinces experienced an increase. The number of councillors countrywide increased.

An analysis of the application of the formulae will reveal in Chapter 8 the role played by MECs in deviation from the formulae. Had the formulae been applied without any deviation, the country could have had fewer councillors.

Provincial summary of increase or decrease in number of councillors from 2011 to 2016

<table>
<thead>
<tr>
<th>Province</th>
<th>Councillors 2011</th>
<th>Councillors 2016</th>
<th>Difference</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Cape</td>
<td>1 661</td>
<td>1 636</td>
<td>-25</td>
<td>Decrease</td>
</tr>
<tr>
<td>Free State</td>
<td>752</td>
<td>732</td>
<td>-20</td>
<td>Decrease</td>
</tr>
<tr>
<td>Gauteng</td>
<td>1 105</td>
<td>1 152</td>
<td>47</td>
<td>Increase</td>
</tr>
<tr>
<td>KwaZulu-Natal</td>
<td>1 923</td>
<td>2 046</td>
<td>123</td>
<td>Increase</td>
</tr>
<tr>
<td>Limpopo</td>
<td>1 319</td>
<td>1 376</td>
<td>57</td>
<td>Increase</td>
</tr>
<tr>
<td>Province</td>
<td>Councillors 2011</td>
<td>Councillors 2016</td>
<td>Difference</td>
<td>Comment</td>
</tr>
<tr>
<td>-------------------</td>
<td>------------------</td>
<td>------------------</td>
<td>------------</td>
<td>---------</td>
</tr>
<tr>
<td>Mpumalanga</td>
<td>973</td>
<td>964</td>
<td>-9</td>
<td>Decrease</td>
</tr>
<tr>
<td>North West</td>
<td>938</td>
<td>990</td>
<td>52</td>
<td>Increase</td>
</tr>
<tr>
<td>Northern Cape</td>
<td>471</td>
<td>485</td>
<td>14</td>
<td>Increase</td>
</tr>
<tr>
<td>Western Cape</td>
<td>882</td>
<td>914</td>
<td>32</td>
<td>Increase</td>
</tr>
<tr>
<td>TOTAL</td>
<td>10 024</td>
<td>10 295</td>
<td>271</td>
<td>Increase</td>
</tr>
</tbody>
</table>

Provincial summary of increase or decrease in the number of councillors between 2011 and 2016

![Bar chart showing the provincial summary of increase or decrease in the number of councillors between 2011 and 2016](image)
THE FIRST SET OF DRAFT WARD MAPS – IN-LOCO CONSULTATION

The first set of draft ward maps for all municipalities was prepared immediately after the publication of the number of councillors in 2014. For the first time, draft ward maps were prepared through in-loco consultation with provincial and municipal technical/geographic information system (GIS) staff. Municipal staff assisted MDB staff to draw the first set of ward boundaries, taking into account ward delimitation criteria such as residents who regard themselves as a community to avoid splitting of communities, factors such as distances that can preclude ward committee meeting, or even election, participation; and the topography and physical characteristics of the municipal areas that needed consideration in drawing identifiable ward boundaries. This building of local knowledge into the first draft maps brought significant improvements and efficiencies in the public consultation process that followed.

The following municipalities did not participate in the consultative mapping process, due to reasons including lack of GIS infrastructure, human resource incapacity and lack of mandates from municipal councils.

Consultative mapping: non-participating municipalities

<table>
<thead>
<tr>
<th>Provinces</th>
<th>Municipality</th>
</tr>
</thead>
<tbody>
<tr>
<td>Free State</td>
<td>Letsemereng Local Municipality</td>
</tr>
<tr>
<td></td>
<td>Kopanong Local Municipality</td>
</tr>
<tr>
<td></td>
<td>Naledi Local Municipality</td>
</tr>
<tr>
<td></td>
<td>Metsimaholo Local Municipality</td>
</tr>
<tr>
<td>Gauteng</td>
<td>Ekurhuleni Metropolitan Municipality</td>
</tr>
<tr>
<td>KwaZulu-Natal</td>
<td>Umzimvubu Local Municipality</td>
</tr>
<tr>
<td></td>
<td>Ntabankulu Local Municipality</td>
</tr>
<tr>
<td></td>
<td>umshwathi Local Municipality</td>
</tr>
<tr>
<td></td>
<td>uMngeni Local Municipality</td>
</tr>
<tr>
<td></td>
<td>Mpoena Local Municipality</td>
</tr>
<tr>
<td></td>
<td>The Msunduzi Local Municipality</td>
</tr>
<tr>
<td></td>
<td>Richmond Local Municipality</td>
</tr>
<tr>
<td></td>
<td>Newcastle Local Municipality</td>
</tr>
<tr>
<td></td>
<td>Dannhauser Local Municipality</td>
</tr>
<tr>
<td>Limpopo</td>
<td>Ba-Phalaborwa Local Municipality</td>
</tr>
<tr>
<td></td>
<td>Thabazimbi Local Municipality</td>
</tr>
<tr>
<td></td>
<td>Mogalakwena Local Municipality</td>
</tr>
<tr>
<td>Mpumalanga</td>
<td>Lekwa Local Municipality</td>
</tr>
<tr>
<td></td>
<td>Dipaleseng Local Municipality</td>
</tr>
<tr>
<td></td>
<td>Govan Mbeki Local Municipality</td>
</tr>
<tr>
<td>North West</td>
<td>Kgetlengrivier Local Municipality</td>
</tr>
<tr>
<td></td>
<td>Tswaing Local Municipality</td>
</tr>
<tr>
<td></td>
<td>Ditsobotla Local Municipality</td>
</tr>
<tr>
<td></td>
<td>Greater Taung Local Municipality</td>
</tr>
<tr>
<td></td>
<td>JB Marks Local Municipality</td>
</tr>
<tr>
<td></td>
<td>Maquassi Hills Local Municipality</td>
</tr>
<tr>
<td>Northern Cape</td>
<td>Karoo Hoogland Local Municipality</td>
</tr>
<tr>
<td></td>
<td>!Kheis Local Municipality</td>
</tr>
</tbody>
</table>
PUBLIC CONSULTATION

Schedule 1 to the MSA requires that the Board publish its delimitation of wards in provincial gazettes, and allow 14 days for objections. However, the Board decided to create additional opportunities for public participation.

Launch of the ward delimitation consultative process

The first draft set of wards and the MDB’s consultative process were launched on 9 December 2014. The initial plan was for a launch in Gauteng, but the Board felt it necessary to stage the event in a less affluent area to demonstrate its commitment to ensuring access and reach of its activities. A venue was found in a remote rural area in the municipal area of Hibiscus Coast Local Municipality located in Ugu District Municipality, KwaZulu-Natal.

The event was successful and attended by municipalities from across the country and members of mostly rural communities. Many sets of draft ward maps were distributed together with information sheets in Zulu.

Information packs

MDB information packs were distributed at the beginning of the consultative process to provide municipalities and other stakeholders with comprehensive information to enable them to understand and empower them to participate in the process. The packs included:

- Information on the applicable legislation and compliance issues;
- The national common voters roll divided into municipal segments by the IEC on 5 March 2014 and an explanation of the division of the roll;
- The list of voting districts per municipality, with the names, numbers, boundaries, and the number of registered voters in each district;
- Notices published by the Minister and MECs for local government on the formulae and the number of councillors;
- An explanation of the formulae for the number of councillors, and details on the determination of councillor numbers;
- An explanation of the calculation of ward numbers;
- A spreadsheet indicating per municipality the norm, and the maximum and minimum number of voters allowed per ward;
- A base map with the boundaries of municipalities from 2016, and the farm boundaries within each municipality;
- An explanation as to how the first set of wards were drawn, and their purpose;
- The first set of draft ward boundaries for each municipality, which could be used to configure alternative proposals for ward boundaries;
- A list of voting districts in each of the wards in the first draft set of ward boundaries;
- A presentation that could be used by stakeholders to consult their own constituencies;
- The programme for the 2015 public consultative process;
- A form to submit alternative proposals;
- An example on how the MDB would publish its determination of wards in provincial gazettes;
- Guidelines for and examples of how to cluster adjacent voting districts into wards; and
- Guidelines for consultation with stakeholders in the absence of Board representatives.

Public meetings

The Board’s initial plan was to conduct public consultation between January and March 2015, with the ward delimitation process to end by August 2015. The Minister’s proposal for the redetermination of boundaries of certain municipalities resulted in staggered ward delimitation that was concluded only in December 2015. The wards concluded late were in municipalities subject to litigation.

As in the past, the Board relied on the goodwill and cooperation of municipalities to make a success of the public meetings in all metropolitan and local municipalities qualified to have wards (local municipalities with fewer than seven councillors do not qualify for wards). The municipalities were, in general, very helpful in providing venues and equipment, inviting communities to public meetings and arranging their own municipal consultations before or after the Board’s meetings.
Summary of consultation meetings on draft wards

<table>
<thead>
<tr>
<th>Province</th>
<th>Number of wards</th>
<th>Number of public meetings held</th>
<th>Number of people who attended</th>
<th>Number of verbal and written submissions received with alternative proposals (excluding submissions agreeing with MDB draft wards)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Cape</td>
<td>705</td>
<td>33</td>
<td>4 091</td>
<td>252</td>
</tr>
<tr>
<td>Free State</td>
<td>309</td>
<td>19</td>
<td>2 116</td>
<td>73</td>
</tr>
<tr>
<td>Gauteng</td>
<td>529</td>
<td>9</td>
<td>2 480</td>
<td>33</td>
</tr>
<tr>
<td>KwaZulu-Natal</td>
<td>870</td>
<td>44</td>
<td>5 135</td>
<td>115</td>
</tr>
<tr>
<td>Limpopo</td>
<td>566</td>
<td>22</td>
<td>1 495</td>
<td>34</td>
</tr>
<tr>
<td>Mpumalanga</td>
<td>400</td>
<td>17</td>
<td>1 070</td>
<td>7</td>
</tr>
<tr>
<td>North West</td>
<td>407</td>
<td>18</td>
<td>3 507</td>
<td>13</td>
</tr>
<tr>
<td>Northern Cape</td>
<td>204</td>
<td>26</td>
<td>1 579</td>
<td>12</td>
</tr>
<tr>
<td>Western Cape</td>
<td>402</td>
<td>25</td>
<td>1 256</td>
<td>13</td>
</tr>
</tbody>
</table>

Publication of wards for objections

The Board determined wards and published wards in provincial gazettes as required by schedule 1 of the MSA. The first batch was published in September 2015 and the last batch in November 2015. Members of the public were allowed 14 days to submit objections to the Board. All objections were considered against the criteria.

Common weaknesses in submissions that were rejected included non-compliance with the norm (below the minimum or above the maximum number of registered voters allowed per ward), splitting of communities, non-contiguous wards, poor accessibility to voting stations, unnecessary splitting of the voting districts and proposals for ward numbers to be changed.

Summary of objections received

<table>
<thead>
<tr>
<th>Province</th>
<th>Number of objections received</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Cape</td>
<td>34</td>
</tr>
<tr>
<td>Free State</td>
<td>12</td>
</tr>
<tr>
<td>Gauteng</td>
<td>24</td>
</tr>
<tr>
<td>KwaZulu-Natal</td>
<td>41</td>
</tr>
</tbody>
</table>

Number of wards confirmed and varied

Following analysis and consideration of all objections, the Board confirmed the majority of wards, several of which were amended or varied.

Number of wards confirmed and varied per province

<table>
<thead>
<tr>
<th>Province</th>
<th>Total number of wards</th>
<th>Number of wards confirmed</th>
<th>Number of wards varied</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Cape</td>
<td>705</td>
<td>606</td>
<td>99</td>
</tr>
<tr>
<td>Free State</td>
<td>309</td>
<td>294</td>
<td>15</td>
</tr>
</tbody>
</table>
WARD COMPARISONS: 2000 TO 2016

Ward delimitation and size, and processes such as the formulae for the determination of councillor numbers and number of wards per municipality are legally based on the number of registered voters. The MSA states that wards in each municipality should have approximately equal numbers of registered voters.

The number of registered voters has risen over successive local government elections, which has led to increased ward numbers as a result of the formulae staying the same.

Comparison of registered voters, voting districts and wards from 2000 to 2016

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of registered voters</th>
<th>Number of voting districts</th>
<th>Number of wards</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>18 476 516</td>
<td>14 988</td>
<td>3 754</td>
</tr>
<tr>
<td>2006</td>
<td>20 674 926</td>
<td>18 873</td>
<td>3 895</td>
</tr>
<tr>
<td>2011</td>
<td>23 181 997</td>
<td>19 726</td>
<td>4 277</td>
</tr>
<tr>
<td>2016</td>
<td>25 383 361</td>
<td>22 263</td>
<td>4 392</td>
</tr>
</tbody>
</table>

WARD DELIMITATION CHALLENGES AND LESSONS LEARNT

Residents of Denver Hostel demand answers

The MDB agreed to attend an urgent meeting at the City of Johannesburg Metropolitan Municipality on 7 March 2016, about five months after the final wards for the municipality had been gazetted and election season had started. At this time, politicians are beginning to be more cautious of how the ward configuration might influence the election outcome.

A few days earlier there were violent protests by residents of Denver, Hotel which resulted in streets barricaded, torching of vehicles and the arrest of 38 suspects. Residents, politicians, media representatives and political commentators were unanimous in their attack of the MDB for the demarcation of ‘senseless wards’. Allegedly, the ward boundary ran through the Denver Hostel in such a way that one wing of the hostel fell in ward 65 and the other in ward 118. As one hostel resident put it ironically, ‘you cook in one ward and sleep in another’. According to the media, the residents were refusing to be moved from an Inkatha Freedom Party (IFP) to an African National Congress (ANC) ward.
The MDB, represented by chairperson Jane Thupana, Board member Mpumi Mpofo and a GIS specialist, led an in-loci inspection of the hostel premises to confirm that the boundary of ward 118, which encompasses the Denver Hostel, did not run through the hostel buildings as was perceived by Denver Hostel leadership.

Without disputing the IFP/ANC wards assertions, what the media had missed unfolded a few days later – an opportunity to highlight the unfortunate lack of synergy in legislation as the mandatory redemarcation of wards every five years somehow disrupts municipal planning and delivery of services. A resident who was interviewed pointed to the underlying source of his anger – that his name was in the top of the Reconstruction and Development Programme (RDP) house list in ward 65 and that the move to ward 118 would put him at the bottom of the list.

Demarcation legislation challenges highlighted in Chapter 6 are being addressed through a legislative review process led by CoGTA.

The risk of outer boundary redetermination too close to ward delimitation

Except for the 2000 elections, which took place soon after the MDB was established, the outer boundary redeterminations were always concluded about three years before the local government elections. That gave politicians and voters sufficient time to understand and make peace with the final areas within which their wards would be created. Ward delimitation for 2016 was characterised by contestations and political tensions that, in some instances, resulted in violent protests and confrontations.

The timing also fed suspicions of gerrymandering and led to lack of appreciation for the need to resolve challenges in local government that were laid bare in the Department of Cooperative Governance and Traditional Affairs (CoGTA) Back-to-Basics report.

Monitoring for the application of the Minister’s formulae

There is no legislative provision for monitoring or management of an MEC’s process of applying the Minister’s formulae to determine the number of councillors. Any innocent mistake can constitute a court challenge as the implications of incorrect numbers of councillors and, therefore, incorrect numbers of wards can compromise electoral democracy and even lead to disputed elections.

Taking advantage of its advisory role, and despite initial resistance, the Board intervened in the previous cycle and the MEC for Free State had to redetermine and republish the number of councillors. There is, therefore, a need to manage the application of the formulae to ensure compliance.

Reliance on support from municipalities

The MDB has always enjoyed support from municipalities to facilitate public participation in ward delimitation. Some municipalities go out of their way to provide transport for residents who have difficulty accessing the venue.

With a maturing democracy, the public is concerned about the role of the municipalities, constituted of councillors who may have an interest in the outcome of the ward delimitation process. While the MDB maintains its independence in the final decisions, it has no control over a process that may strategically ensure that only the people who support a particular view are ferried to the meeting.

At the moment, the MDB has insufficient budget for elaborate public participation and motivations submitted to Treasury have not succeeded against other government priorities. Increasingly, the legitimacy of Board decisions may be questioned and perceptions of pre-empted outcomes may create instability in municipalities.
“Well done to the chairperson and her Board, the staff and all stakeholders working diligently in executing the mandate of the MDB and helping it to reach this 20 year milestone. The Board remains unique in the world as an independent, constitutionally defined, boundary authority which continues to act without fear or favour in redemarcating boundaries, delimiting wards and providing advice in many areas. The volume of work accomplished, under often very difficult circumstances, is truly amazing.

Together with Nkaro Mateta as my deputy and colleagues serving on a great first Board, we met in the first week of February 1999 to start the process of building the institution. Our main challenge was to urgently redemarcate South Africa in a matter of months so that the December 2000 elections could be held. Our fledgling team helped us greatly to navigate the many administrative and logistical hurdles we had, from finding offices, to ensuring the rather onerous consultative processes were being followed, including getting gazettes published overnight. The then Ministers Valli Moosa and Sydney Mufamadi and all MECs, political parties and stakeholders gave us incredible support as we charted a course from the unknown to the known.

National Treasury thought we were a one-year wonder and made no provision for a budget beyond the first year, but here we are after twenty years. We got involved in engagements with those wanting Orania to be an exclusive municipality. We had many engagements with traditional leaders, some of whom claimed I had flown over their areas in a helicopter at night to demarcate their areas! We were called the Demolition Board by some before the 2000 elections, but of course those who then got elected thought we were great as they were now Mayors of larger rationalized jurisdictions!

I have no doubt, too, that subsequent Boards led by Vuyo Mlokoti, then Landiwe Mahlangu and now Jane Thupana have also been honoured to serve our country in this capacity. Over all these years, the MDB’s stakeholders have continued to play their part in building the MBD which, together with the IEC, remains a critical foundation upon which our democratic dispensation is founded. Well done to all of you!”

Dr Michael Sutcliffe was chairperson of the first MDB Board
A SUMMARY OF LITIGATIONS AND COURT JUDGMENTS 2014 TO 2017
In terms of section 21 of the Municipal Demarcation Act (MDA), the Municipal Demarcation Board (MDB) must determine municipal boundaries in the Republic and may redetermine any municipal boundaries determined by it. Determinations and redeterminations are published in provincial gazettes. Following considerations of objections, in accordance with section 21(4) of the MDA, the Board must either confirm, vary or withdraw its determination and publish its final decision in the relevant gazette. Section 21 of the MDA indicates that the decisions of the Board are final and there are no internal appeal or review processes. As a result, any party aggrieved by a decision of the Board, on either substantive or procedural matters relating to determination and redetermination of municipalities and to delimitation of wards can resort only to courts of law to challenge the decision.

During the current tenure of the Board, four significant cases have been decided by the courts following the decision of the MDB, which responded to the Minister of the Department of Cooperative Governance and Traditional Affairs (CoGTA) section 22(2) request. The fourth case Midvaal, related to the outcome of the 2013 demarcation process. These cases, whose common threads were allegations of lack of public consultation and procedural irregularities by the Board, were heard between 2015 and 2017. Each case was decided by a different High Court in South Africa and one was appealed to the Constitutional Court, the highest court in the country. A summary of these cases and principles developed from the judgments is discussed below.

**BAVIAANS LOCAL MUNICIPALITY VS THE MUNICIPAL DEMARCATION BOARD AND OTHERS (THE MUNICIPAL DEMARCATION BOARD AND OTHERS EASTERN CAPE DIVISION)**

Baviaans Local Municipality sought an interdict to restrain the Board from entertaining a request by the Minister of CoGTA to redraw boundaries of Camdeboo, Baviaans and Ikhwezi local municipalities. The first issue related to substantive issues and challenged the validity of section 26 notices and the reasonableness of the time periods determined by the Minister. This issue was withdrawn by Baviaans Local Municipality at the time of hearing. The second and only issue that the court had to consider concerned a procedural shortcoming by the Board during publication of MDA section 26 notices, which referred to publication notification on determination of municipal boundaries.

The applicant argued that the Board failed to comply with two procedural issues of section 26(1) and section 26(2) of the Act.

1. The publication of the notice in a newspaper circulating within the municipal boundaries of the Baviaans Local Municipality. Initially the Board had published the notices in the EP Herald and Daily Dispatch newspapers, but the municipality pointed out that neither circulates within the municipal boundary of Baviaans. The municipality gave the Board a list of relevant newspapers. The Board republished the notice in Die Burger. However, the applicant later contended in court that Die Burger was not distributed in other towns and, as such, did not comply with section 26(1) of the MDA. The court, however, held that the publication of the section 26 notices in these newspapers satisfied the requirements of section 26(1).

2. Conveying by radio or other appropriate means of communication the contents of the notice in the area concerned. The Board further ensured that this information was broadcast in various languages on 20 February 2015. The applicant contended that, among other things, the broadcast did not convey contents of section 26 notices, it did not state to which municipalities the advertisement/notice applied and it lacked sufficient information to enable listeners to know what was happening. The court found that the Board failed to convey the contents of the notice by radio and other appropriate means and as such did not comply with provisions of section 26(2) of the MDA. It ordered the Board to rectify this.

The Board complied with the order of the court and broadcast the contents of the notice. It was also granted leave to appeal the judgment in the case of the Baviaans Local Municipality but did not pursue it. The appeal was initially sought to clarify the issue of radio broadcast for the sake of precedence.

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TWENTY YEARS LATER

59
The Democratic Alliance (DA) case was launched at the North Gauteng High Court following two 2015 decisions of the Board. The first decision was taken on 7 July 2015 and related to the determination and redetermination of a number of municipalities, the details of which were published in the provincial gazette, with an invitation to submit objections to the Board within 30 days. The second decision was taken on 25 August 2015 and related to the publication notification in the provincial gazette, which confirmed the determination and redetermination. Part A of the judgment was heard on 26 and 27 October 2015 and decided on 6 November 2015 and dealt with a request for interim relief to interdict the processes of the Board. Part B of the judgment dealt with the review processes of these decisions and was heard on 16 August 2016 and decided in February 2017.

a) Part A: Request for interim interdict

The applicant presented three main issues to be decided by the court and a submission of violation of two key principles that it deemed relevant for review and warranting an interdict:

i. The absence of procedural fairness relating to the lack of sufficient information in the circular and in the section 26 notice. The court indicated that the request of the Minister in terms of section 22(2), is just a request and only triggers the process, and as such it need not be fully motivated as its objective is to allow members of the public to make representations. The court held that the circular and the section 26 notice contained sufficient information to enable the public to engage meaningfully and make representations.

ii. That the radio advert was deficient, did not comply with the provisions of section 26(2) of the MDA and involved a cumbersome and complex process of accessing the MDB website. The court asserted that the advert and the website would have provided the necessary information to the public. The court further held that this substantially complied with the provisions of section 26(2) of the MDA.

iii. The failure by the Board to provide the applicant with reports of the independent investigations. The court held that the process of the Board is not adversarial and it needs to gather information and views only to consider them.

iv. That the Board did not take into account whether the relevant provincial authorities were able to assist various municipalities to overcome their difficulties as provided for in the Habitat case. The court dismissed this argument as speculative because the reasons for the decisions of the Board and the record had not then been filed. The court also held that there is no obligation on the Board to determine whether provincial authorities have assisted municipalities and that it is not a requirement that the duty of the province to assist municipalities should be exhausted before demarcation is effected. Another principle dismissed as speculative was the argument that a boundary alteration has far-reaching impact on people’s attachment and sentiment to the places in which they live.

v. Procedural flaws: Key to this argument was that there was no evidence that the Minister consulted with the first respondent as required by the Act. The court dismissed this claim and held that even if there were deficiencies in the evidence, they could not have warranted setting aside the MDB timetable. The court also indicated how the Board had changed the timeframes of the Minister and extended the periods for public participation.

The court finally dismissed Part A of the application and did not grant the interim relief to interdict the process of the MDB. It held that there were no exceptional circumstances that justified granting the relief sought. The court also ordered the applicant to pay the costs involved.

b) Part B: Review processes

Part B of this case flowed from the court’s dismissal of Part A. In Part B, the DA argued that:
i. The Minister’s requests as well as the Board’s final decision were unlawful.

ii. The decision by the Board to change the boundaries of all municipalities should be reviewed and set aside.

This case was set for hearing for 16 and 17 August 2016, after the local government elections of 3 August 2016. The Board and other respondents contended that the relief sought by the DA was moot and without merit and that the issue would be an academic exercise, as by the time the matter was heard, the local government elections would have come and gone, and the boundaries in question would have become effective. The DA persisted with the review application but a day before the hearing, sent a letter to the court and the respondents indicating its intention to withdraw the case and requesting that costs not be awarded against it. The Board refused to consent to this late withdrawal and sought costs against the DA, arguing that it persisted with its application in spite of opposition from other respondents. The court granted the order to withdraw the application, but emphasised that the main contentious issue pertained to costs. The court further indicated that it was unreasonable for the DA to withdraw the case at the last minute and to not even tender costs, which come from the public funds and involve tax payers’ money. Costs were decided in favour of the Board and other respondents.

MASIA TRADITIONAL COUNCIL AND OTHERS VS THE MUNICIPAL DEMARCATION BOARD AND OTHERS (HIGH COURT OF SOUTH AFRICA: LIMPOPO DIVISION AND CONSTITUTIONAL COURT OF SOUTH AFRICA)

a) High Court judgment

The Masia case arose from a demarcation decision of the Board published in Provincial Gazette No 2586 – DEM 4519 – on the demarcation of local municipalities in Vhembe District Municipality in Limpopo. All applicants except one were traditional authorities that wanted the demarcation decision set aside on procedural and substantive grounds. This decision of the Board disestablished Mutale Local Municipality and established a new municipality comprising portions of Thulamela and Makhado Local Municipalities. This decision was taken following the Minister of CoGTA’s request for the disestablishment of Mutale Local Municipality to optimise financial viability of all Vhembe municipalities.

The applicants had four main arguments. Firstly, they argued that the decision of the Board was invalid since it followed an unfair procedure in its final decision gazetted on 25 August 2015, which varied its initial decision of 2 July 2015. The final decision of the MDB excised the Mashau and Masakona traditional areas from Makhado Local Municipality and incorporated them into the new municipality. Secondly, the applicants argued that the decision of the Board separated traditional villages and traditional communities, which would now fall under the jurisdiction of different local municipalities. It was maintained, thirdly, that the Board had ignored relevant considerations and, lastly, that the decision had not been rationally connected to the demarcation factors and as such needed to be reviewed.

The court had to determine the following issues:

i. Whether the alleged failure by the Board to consult the applicants on the delimitation of a new municipality and to properly consult the applicants on the decision to delimit the communities of Mashau and Masakona into a new municipality constituted a procedural unfairness, which could have set aside the Board’s decision.

In answering the first question, the court indicated that it could not be correct to allege that there was no consultation before the Board took its decision. The court came to that decision after taking into consideration the following:

- The distribution of the circular, which announced the request by the Minister and the intention of the Board to publish a section 26 notice;
- The publication of the section 26 notice in various newspapers circulating in the area, which called for interested parties to submit representations within 21 days, and various radio adverts;
- Radio announcements made in terms of section 26(2);
- Meetings held with members of society, attended by more than 1,000 people; and
- Conducting of investigations.

The court further held that the Board had the power to vary its initial decision after it has extended an opportunity for objections.

ii. Whether the Board had made a decision that was not rationally connected to the factors provided for in the MDA. This related to the absence of procedural fairness and of rationality by the Board provided for in the Promotion of Administrative Justice Act and the principle of legality.

The court held that the procedure set out in the MDA is a notice and comment procedure, which required that the information in the notice should be sufficient to allow members of the public to make meaningful comments. This process is not adversarial, but is a process of gathering information. The court emphasised that the Board had met all the requirements set out in sections 26 (publication of notice) and 28 (public meeting) of the Act. The court further found that the applicants had no right to be heard again when the Board varied its decisions, as the Board is allowed to do so by section 21 of the MDA. The court found that there was no procedural irregularity or unfairness and that the applicants had failed to show that the decision of the Board was arbitrary or lacked rationality. The court dismissed the application for review and ordered each party to pay its costs.

b) Appeal to the Constitutional Court of South Africa

Following the decision of the High Court discussed above, the Masia Traditional Council and others appealed the decision of the High Court before the Constitutional Court of South Africa. The Constitutional Court considered the appeal on 7 July 2016, dismissing the leave to appeal on the basis that it lacked prospects of success. The court made no order regarding the costs.

MIDVAAL LOCAL MUNICIPALITY VS THE MUNICIPAL DEMARCATION BOARD AND OTHERS (HIGH COURT OF SOUTH AFRICA: NORTH GAUTENG DIVISION – PRETORIA)

The first applicant, Midvaal Local Municipality, brought an application in the High Court (North Gauteng Division) in April 2014 challenging the procedural and substantive fairness of the 2013 decision of the Board to establish a new Metropolitan Municipality in Gauteng by merging Midvaal and Emfuleni Local Municipalities.

A settlement was reached by all parties that was made an order of court, setting aside the decision by the Board published in August 2013 for the case to be reconsidered by the MDB on the basis that any final decision reached would not be published prior to the 2016 local government elections and when the board reconsider the proposal again it is allowed to rely on all steps that it had lawfully taken regarding the demarcation process. This settlement was made an order of the court.

CONCLUSION

The Board treats such cases as a sign of a maturing democracy. It studies the judgments and uses principles in the cases to strengthen its processes and to draw lessons from them. Principles expounded in the judgments help to clarify the law governing demarcations, contribute to the development of demarcation jurisprudence and set precedence for future demarcations.
TWENTY YEARS LATER

THE 2016 DEMARCATION AND SPATIAL TRANSFORMATION CONFERENCE
In June 2016, the Municipal Demarcation Board (MDB) hosted a conference on demarcation and spatial transformation, which was attended by parliamentarians, senior government officials, Chapter 9 institutions and other institutions supporting democracy, donor agencies, research institutions and political parties among others. The conference brought together national and international players in the local government sector and facilitated robust engagements on resolving hurdles in the demarcation discourse in South Africa. The conference set out to:

- Reflect on the challenges and lessons learnt by the MDB over a number of years;
- Facilitate dialogue among key stakeholders, focusing on municipal demarcation trends locally and internationally, sustainability and viability of municipalities, ward delimitations, and the metropolitan system of governance;
- Encourage deliberations that it was hoped would assist in the formulation of solutions to enable meaningful public participation beyond ordinary compliance with the legislation;
- Solicit critical and informed views from, among others, researchers, academics, legislators, statisticians, local government practitioners and civil society based on their experience of the outcome and impact of the MDB’s work since 1999. This included a critical analysis and proposals on the municipal capacity assessment model.
- Ultimately advise on necessary legislative amendments to facilitate the crafting of municipal and ward boundaries that will advance the objectives of a developmental local government.

**THEMES COVERED AND EMERGING ISSUES**

**Municipal demarcation: challenges and opportunities for spatial transformation**

The topics addressed a normative framework within which demarcations should be located – Integrated Urban Development Framework (IUDF), National Development Plan (NDP), Integrated Development Plan etc; the impact of demarcations on local government stability; the challenges of demarcating municipalities across provincial boundaries; international best practices, experiences and challenges of demarcating boundaries in ethnically and tribally diverse areas as well as the wisdom and challenges of a 10-year cycle of boundary determination in countries such as Kenya; the impact of amalgamations and the disestablishment of municipalities on municipal councils and service delivery; stakeholder perspectives on aspects of demarcation that required review; the role of demarcations in the history of South Africa in view of sensitivities surrounding the history of social disintegration and separate development, as well as the role that spatial transformation should play in promoting social cohesion and integration; and the original conceptualisation of the demarcation instrument in the formative years of the present local government system and insight on whether the Municipal Demarcation Act (MDA) is still in line with the original vision – for instance, a focus on the demarcation criteria in view of the evolution of local government over the last 16 years and the necessary reforms.

**Key emerging issues**

- The establishment and rollout of the appeal tribunal and development of a system to deal with complaints that goes beyond the court system.
- The review of ‘triggers’ for boundary redetermination and the current five-year demarcation cycle, which creates instability in municipalities, including the possible use of census population data as reliable triggers for redetermination.
- The need for public participation processes to be deepened and for participation of all stakeholders to be more meaningful, i.e. participation, consultation and community engagement, which are critical elements of demarcation and need to be reviewed and improved.
- The urgent need for consolidation of capacity and knowledge management among MDB, the Financial and Fiscal Commission (FFC), StatsSA, the Independent Electoral Commission (IEC), the National Planning Commission (NPC) and the Surveyor-General, which includes collaboration and sharing of knowledge, and the establishment of the knowledge hub in the MDB.
Timing of demarcation must be mindful of election schedules and other municipal processes. Review of this process and timeframes for demarcation is necessary to maintain stability in municipalities during elections.

Demarcation should not be a panacea for local government challenges and problems such as governance, functionality, viability and sustainability.

As transitional costs can be quite disruptive to the running of municipalities, costs of boundary redeterminations should be established and prioritised before demarcation decisions are carried out.

The need for a developmentally orientated demarcation process that supports the NDP vision for spatial transformation articulated by the IUDF policy framework.

The MDB mandate does not include dealing with provincial boundaries to address functional linkages and issues across municipal boundaries.

The need for MDB work to consider socio, political, geographical and economic factors that define local sensitivities.

Redetermination of municipal boundaries is an emotive issue in a competitive political environment and must be based on sound and defensible criteria.

Demarcation requires resources, community participation, political will and absolute transparency to be effective and accepted by the public.

Current MDB technical processes, such as the use of maps and technical presentations, are not suitable for local consultation, as they do not recognise the limited technical skills of participants.

The role of traditional authorities in demarcation cannot be ignored.

Key emerging issues

The definition of financial viability remains inconclusive.

The link between financial viability and functionality to municipal boundaries is unclear.

The financial and fiscal implications of boundary redeterminations should be established and prioritised before demarcation decisions are implemented.

During amalgamation, there is a need to be clear on objectives to be achieved. The public sector may learn much from the private sector model and from practices for mergers and acquisitions.

The MDB should not elevate financial viability as the dominant criterion for demarcation, but must consider all criteria equally.

Review of municipal boundaries should be used only as a last resort to improve the functionality and viability of municipalities.

The MDB’s mandate does not include correcting functionality challenges among municipalities, as this is the responsibility of the local government department.

Merging rural municipalities may not necessarily result in financially viable municipalities.

The White Paper on Local Government remains an important yardstick to measure and provide more clarity on financial viability.

Government must consider sustainability, functionality and financial viability alongside other factors to make municipalities function properly.

Towards a comprehensive municipal capacity assessment

The theme questioned whether amalgamation is a sustainable approach to securing viable local municipalities; the impact of demarcations on the national fiscus and long-term sustainability of communities and municipalities, and the appropriateness of the demarcation instrument as a solution to municipal financial viability. It explored the understanding of financial viability and dysfunctionality in the context of the Back-to-Basics programme; and reflected on costs and long-term gains of municipal amalgamations and how these compared to mergers in the business sectors.

Financial and functional viability and sustainability of municipalities: beyond the demarcation instrument

The topic explored the need to determine the usefulness and adequacy of current municipal capacity assessments; identification of possible
gaps in the current municipal capacity assessment instrument and how these could be changed to enhance future processes; viability of the two-tier system of local government in relation to municipal powers and functions; and the extent to which information technology is an enabler for municipal capacity assessment and public participation in local government.

**Key emerging issues**

- The development of a framework for municipal capacity assessment is essential, i.e. usefulness and adequacy of the current assessment model coupled with a comprehensive framework for capacity-based adjustments.
- Capacity assessment should be broadened from the current narrow focus on institutional aspects to the spatial, economic and environmental context of municipalities.
- The absence of governance procedures or regulations to guide functional adjustments and capacity assessments needs to be addressed.
- Capacity assessment needs to better respond to capacity, resources and accountability implications for shared services.
- Data requirements in local government must be addressed through collaborative efforts of various departments and institutions that collect data from the municipalities, i.e. sharing of common data for analyses.
- Capacity assessments must be applied to all three categories of municipalities so that stronger municipalities are given more functions.
- There is a need for a review of wall-to-wall municipalities and the two-tier system of local government.
- Functional assignments should be devolved to support the developmental challenges facing secondary cities and consideration should be given to assigning more functions to stronger local municipalities.
- Concurrent functional issues associated with the two-tier system should be explored.
- The role of the FFC in the funding of municipal functions should be reconsidered.
- The White Paper on Local Government remains an important yardstick for powers and functions.
- Government should consider reverting to district functions as originally envisaged in the White Paper, with the focus on what municipalities can or cannot perform, e.g. district municipalities are required to play a coordinating role, yet few are able to do that.
- Stronger municipalities must be pulled out of districts and sub-councils created, while only districts with weak municipalities play a coordinating role.
- The unhealthy competition between provinces and municipalities must be eliminated.

**Public and stakeholder participation and social integration in demarcation**

This theme dealt with public consultation as a fundamental pillar of democracy and its significance in municipal demarcations; balancing the role of key stakeholders in demarcations, with special reference to vested interests of municipalities and councillors in the outcome of the process; the significance of involving communities in demarcation and enhancing participatory democracy at local level; public and stakeholder participation in municipal planning processes and how that can be adapted for the demarcation process; contestations relating to demarcation of municipalities in traditional authority areas and mitigating existing boundary anomalies; and the role of traditional leaders in enhancing the public participation process.

**Key emerging issues**

- Stakeholders gave various definitions of the concept of public participation.
- Measures should be considered to redefine the current public participation approach and mechanism in the demarcation process. Issues raised included participation for compliance versus meaningful engagement of communities, involvement of relevant stakeholders, resourcing of public participation activities and programmes, establishing regional presence for the MDB, revising the framework for public participation, and conducting civic education and awareness campaigns.
● Robust consultation and community engagement processes are needed before and after issuing of notices.
● Sufficient community feedback should be allowed – communities must be consulted and decisions must reflect these consultations.
● Reasons for demarcation decisions should be published as part of MDB processes.
● Meetings must be appropriately timed, venues accessible and suitable, and meeting notices adequately circulated to ensure involvement of all stakeholders affected by a demarcation matter.
● Documents and meeting proceedings should be conducted in preferred local language.
● Technological and social media mechanisms should be explored to involve the public and stakeholders in public participation programmes and improve communication.
● Public consultation process must strive for consensus with all stakeholders.
● The existing public participation framework should be used for benchmarking, for alignment of the MDA and to develop effective public participation programmes, e.g. the MSA, parliament public participation framework guideline document, the Department of Cooperative Governance and Traditional Affairs (CoGTA) and the South African Local Government Association (SALGA) public participation framework etc.
● The MDA should be realigned with legislation that followed its enactment.

Metropolitan system of governance: issues and challenges

The theme dealt with, among others, how to get cities to work in South Africa; inclusive city growth – why governance and collaborative leadership matter; the role of metropolitan municipalities in the national economy beyond the demarcation of a municipal boundary, i.e. metros as engines for economic growth; analysis of the criteria for the categorisation of metros and/or their application, and reflection on the basis for creating future metropolitan municipalities. A case study on the merger of Tshwane and Metsweding was analysed to determine how differently this could have turned out had the transitional process been planned and implemented differently.

Key emerging issues
● The MDB must consider the role cities plays in national economic growth and development, and support these efforts, i.e. the cities must be recognised as important engines of economic growth and employment creation, and as spaces for human interaction, among other functions.
● Rapid urbanisation has a major impact on the future of the cities, as budgets and frameworks need to respond to this reality.
● Government needs to look at the funding model for cities and for better ways to finance cities.
● The fractious nature of cities undermines human interaction and dynamism, thus it is important to keep cities compact with existing boundaries.
● An effective metropolitan system of governance is important for socio-economic development, service delivery, planning and coordination.
● Coalitions and partnerships among government, private sector and civil society beyond the reconfiguration of municipal boundaries are critical in enabling cities to respond better to challenges.
● Current legislation of powers and functions should be revisited and amendments made to devolve functions such as housing and public transport to metropolitan municipalities, as these are critical for economic growth.
● The MDB must consider a differentiated approach towards cities by avoiding a ‘one size fits all’ approach and begin to categorise municipalities (e.g. secondary and intermediate cities).
● Demarcation is not a problem in cities and the MDB should avoid reworking boundaries (categorising) to address municipal problems – categorisation of metropolitan areas should not be seen as a solution to many local government challenges.
● The MDB and government should focus on softer issues that drive municipal and city cohesion, such as partnerships and coalitions.
The drive towards the creation of metros must be guided by the correct objectives and motivation.

The reality is that not all municipal areas can become metros and the MDB must consider limiting the number of metros.

The MDB should revisit the categorisation for municipalities by expanding the definition of a metropolitan municipality.

**The impact of ward delimitation on municipal services delivery**

This theme, which also presented international best practice on reforms in ward delimitation systems, explored the impact of the municipal ward delimitation process on local government elections and the work of the IEC; the significance of statistical data on demarcations and service delivery, and the central role StatsSA can play in improving demarcation legislation and processes; as well as the impact of ward delimitation on functionality, planning and service delivery in a municipality, considering that wards are used as planning units.

**Key emerging issues**

- A comprehensive framework is required to improve citizen participation in the ward delimitation process.
- The ward delimitation process must take into account the timing of local government elections.
- The MDB should go beyond the call of duty to consult and engage with affected communities before and after the legal process and the issuing of notices and gazettes.
- Studies are needed on social and cultural impact assessment prior to conducting the ward delimitation process.
- Confusion on the uses of municipal wards should be addressed.
- What is meant by and what constitutes a ‘community’ should be defined in the criteria for wards.
- MDB processes must be accompanied by awareness campaigns about the role and functions of the MDB and the processes followed in ward delimitation.
- The existing communication system at the MDB should be modernised through the use of multiple social media platforms (Facebook, WhatsApp, Twitter etc) to effectively engage and reach out to communities (especially younger citizens) and effectively communicate decisions and outcomes of the MDB to communities and municipalities.
- The feasibility of using population numbers rather than voter numbers should be considered as the basis for ward delimitation.
- Proposals for the norm variation should be considered to address current challenges in the configuration of wards.

**CONFERENCE RECOMMENDATIONS**

The analysis and summaries of discussions that followed key questions for each panel led to the recommendations outlined below.

**Municipal boundary demarcation**

- An internal review mechanism should be explored to provide aggrieved members of the public with an opportunity to seek recourse before final decision.
- The consideration of demarcation objectives and criteria must be guided by detailed regulations aligned to longer-term planning for local government processes (NDP and IUDF vision for spatial transformation).
- Demarcation is not a panacea for local government problems and challenges, and other factors and mechanisms must be considered.
- The frequency of the demarcation process should be reviewed to allow new municipal entities to take root first and be subjected to rigorous evaluations. This will also allow the MDB sufficient time to consider proposals and consult extensively.
- The scope for initiating or making proposals for redeterminations should be narrowed to exclude the demarcation of municipal boundaries being initiated at the MDB’s ‘own initiative’. Proposals or requests for redetermination should be limited to local authority, provincial and national executive members and other applicants with vested interest.
The demarcation process should perhaps be linked with the 10-year national census to ensure that demarcations are aligned to longer-term planning for developmental local government processes based on credible statistical indicators and building blocks.

Economic catchment areas (nodal points) need to be taken into consideration in municipal boundary redetermination.

Measures should be introduced to regulate the public consultation process during the full cycle of redetermination, i.e. consideration, decision-making and planning for implementation of redetermination decisions.

The legislation should be reviewed to empower the MDB to make recommendations on provincial boundaries to parliament.

Further research should be conducted to explore misalignment of traditional authority boundaries with municipal boundaries.

Municipal ward delimitation

The timing and sequencing of demarcation and ward delimitation processes are crucial and must be mindful of the election schedules and other municipal processes.

Legislation must define timeframes for different role-players in the ward delimitation process.

Criteria for ward delimitation must be reviewed, especially the use of registered voters and the norm variation for ward delimitation instead of population, and the socio-cultural aspects of communities.

A study should be undertaken to resolve confusion about demarcation of wards for spatial transformation or socio-economic, political or election purposes, and to further clarify the role of wards.

The MDB should conduct a social and cultural impact assessment prior to the delimitation process.

Financial viability and functionality

The MDB should consider a study to develop a common definition of financial viability, including indicators based on norms and standards (using the White Paper on Local Government as a basis).

Final costs of implementing demarcations should be determined prior to finalisation, in the wake of the Tshwane/Metsweding merger, which had huge financial implications on the metropolitan municipality.

Stakeholders should be made aware that demarcations cannot be used to solve local government problems, which must be solved through other government interventions/instruments.

A study should be conducted to evaluate the success and actual costs of mergers.

Proper MDB investigations are needed, including financial modelling and viability studies of proposed mergers.

Municipal capacity assessments

The authorisation framework for powers and functions should be reviewed and functions such as housing and public transport possibly assigned to metropolitan municipalities.

CoGTA should review the concept of wall-to-wall municipalities and the two-tier system of local government, revisiting the role of districts outlined in the White Paper on Local Government (e.g. district functions such as coordination, planning, facilitation of district-wide development, provision infrastructures and services, building capacity and supporting weaker local municipalities).

CoGTA should review legislation to provide for devolution of functions, which would assist in addressing developmental challenges facing secondary cities.

CoGTA should introduce appropriate procedures and regulations in the MSA to guide functional adjustments and capacity assessments.

Following assessment of MDB capacity, the MSA should be amended to clarify the role of Members of the Executive Council (MECs) to support governance arrangements, and justify recommendations for adjustments or definitive proposals for changes.

The MDB should reconsider its decision to develop a comprehensive capacity assessment model without an enabling and developmental framework to advance government’s management of the two-tier system.
CoGTA should introduce measures to enforce the current legislative framework and strengthen management and governance of function, division and execution.

CoGTA should introduce regulations for collaboration among the MDB, FFC, NPC, StatsSA, IEC and the Auditor-General South Africa for geo-statistical building block and sharing of information.

Public and stakeholder participation

- The MDB should review the public consultation process, as stipulated in the MDA, and develop a public participation framework in line with existing frameworks and guidelines (the Promotion of Administration Justice Act, MSA, National Assembly, SALGA, CoGTA etc). The MDB framework must:
  - Include participation of youth and traditional leadership in demarcation processes and programmes;
  - Streamline MDB public consultation and ensure direct involvement by MECs, provincial houses of traditional leaders, magistrates and municipalities, and;
  - Make provision for the publication of decisions and reasons for decisions to provide communities with proper feedback.
- The MDB should accelerate efforts to improve community knowledge on demarcation matters, as public education and awareness campaigns are crucial to meaningful engagements.
- Intergovernmental and other structures should be leveraged to enhance public participation, including the use of ward committees and other public participation committees to inform communities of any municipal boundary or ward changes.
- Proponents of redetermination proposals – including provincial, district and local authorities – should be responsible for public participation and stakeholder consultation, and for soliciting public opinion and support before the proposal is submitted to the Board.
- Public participation activities and programmes should go beyond compliance and drive meaningful engagement with people.
- Technological and social media mechanisms should be explored to involve the public and stakeholders and improve communication.

- Efforts should be accelerated to enhance public participation activities and programmes through a regionalisation plan.
- Meetings must be appropriately timed, venues accessible and suitable, and meeting notices adequately circulated to ensure involvement of all stakeholders affected by a demarcation matter.
- All inputs and submissions from communities should be considered and feedback provided.
- Research should be instituted on the culture of public participation in municipalities.

Metropolitan system of governance

- The recategorisation of metropolitan municipalities is an expensive and potentially disruptive solution to urban and developmental challenges and should be used with ‘caution’ as it impacts on demarcation and can have dire structural implications for the two-tier system in local government (e.g. Buffalo City’s exclusion from Amatole District Municipality).
- Thriving cities (and municipalities) are less about boundaries and more about ‘softer’ issues such as partnership, collaboration, integration, social inclusion and cohesion.
- An MDB study should be conducted to evaluate the impact of previous decisions on redetermination (e.g. Tshwane/Metsweding, Buffalo City and Mangaung) to assess how far these municipalities have progressed as metropolitan municipalities compared to other historical metros.
- A review of section 2 of the MSA should be proposed to clarify what constitutes a metropolitan, or Category A municipality.
- Functional assignments are critical to economic growth, particularly the assignment of housing and public transport in cities and metropolitan municipalities.
- The MDB should recognise the critical role of an effective metropolitan system of governance that advocates and promotes the following:
  - A shared vision and common agenda by private, public and civic stakeholders;
  - Partnership and collaborative leadership;
- Relationships and cross-border collaboration (soft power);
- City growth coalitions to execute collective action among the three spheres of government, the private sector and civil society groups; and
- different treatment of cities (metropolitan municipalities and secondary countries) by government.

CoGTA should develop regulations for a differentiated approach to categorising municipal areas (e.g. secondary and intermediate cities).

The MDB approach should change to:
- Limit the number of metros and not dilute focus with wider metros;
- Avoid redrawing boundaries to address sector issues that can be addressed through existing constitutional provisions;
- Note that boundary determination is not the primary challenge for secondary cities or metropolitan municipalities;
- Ensure that metros are always created for the right reasons, and
- Note that boundary determination by the MDB should happen within the context of national frameworks.

IMPLEMENTATION OF CONFERENCE RECOMMENDATIONS

Conference recommendations largely confirmed a number of policy issues that have been in the public discourse. The MDB also adopted, as part of the programme recommendations in its Demarcation Process Review Task Team report, case law applicable to the MDB, the State Law Adviser’s opinion on the independence of the MDB, lessons learnt from MDB’s engagements with the public over nearly two decades, and recommendations of the 2016 Demarcation and Spatial Transformation Conference. Inputs into the review of demarcation legislation have since been consolidated and worked with CoGTA. The latter has initiated a legislative review process and the Draft Bill is being processed. The intention here is not to transcribe the proposed amendments per section but to highlight broad areas that are particularly problematic.

Review of demarcation legislation

Consolidation of the MDB’s mandate into one legislation

The MDB’s mandate is currently articulated through sections that are split across two pieces of legislation. The MDA regulates issues that include appointment and conditions of service of Board members. It also provides the factors and objectives for municipal boundary determinations, while the factors to be taken into consideration in the categorisation of municipalities into metropolitan municipalities, ward delimitation and municipal capacity assessments are regulated by the MSA.

Frequency of demarcation and trigger mechanisms

While the MDA does not dictate the frequency of municipal boundary redeterminations, it is a legislative requirement that the MDB adjusts ward boundaries before local government elections i.e. every five years. This frequent alteration of ward boundaries does not take into consideration the use of wards as planning units by municipalities, and compromises municipal stability and service delivery.

The demarcation (both municipal boundaries and ward delimitations) cycle is recommended to be ten years, triggered only by major population shifts revealed by the census.

Public participation

All recent litigations and violent protests were linked to alleged lack of public consultation. The Limpopo High Court and the Constitutional Court judgments in favour of the MDB do not take away the fact that people consider the MDB’s consultation processes to be inadequate. There are sections that undermine public participation as they effectively allow for boundaries to be redetermined (without public engagement) as long as the Board has obtained supporting views from the MEC, affected municipalities, the district magistrate and the provincial house of traditional leaders. The MDB has never opted for the route that avoided public participation, however tempting or legal it may be.
The fact that consultation or meetings with the public take place before investigations or studies are conducted suggests that communities are made to air their views without sufficient information being available. Most of the activities under sections dealing with public participation are more informative than consultative.

A review of all sections dealing with public participation, which is now proposed to be a full chapter, will ensure that any determination or redetermination of a municipal boundary (including ward delimitation) must follow a public participation process. The Board will establish appropriate mechanisms, processes and procedures to enable the public to participate in demarcation processes, including communication, education, awareness, participation and consultation.

Alternative review mechanisms

There is no denying that the current legislation does not provide for a review mechanism that is accessible, timely and affordable. The litigation process is expensive and time-consuming. Historically, litigations against the MDB have been brought by those with resources e.g. rate payers’ associations, municipalities and political parties. An appeals mechanism must be provided, not to take away the independence and final decision-making authority of the Board, but to review and either confirm a Board decision or refer it for reconsideration.

Regulation of timeframes

Lack of guidance on timeframes results in delays that impact negatively on the ward delimitation process and ultimately on the IEC’s preparation for the local government elections.

● There is currently no provision that stipulates the time by which the Minister must have published the formulae to be used for the determination of the number of councillors by the MECs.

● There is no time limit within which the Minister can invoke his/her right in terms of section 22(2) of the MDA. The 2015 proposals by the Minister were made too close to the local government elections and had to run parallel to the ward delimitation process in municipalities that were not affected. The process was met with suspicions of gerrymandering and attracted litigation and protest.

Variation from the norm

The norm, as determined by the number of registered voters, takes precedence, with criteria such as topography, physical characteristics and avoiding fragmentation of communities being secondary. A small variation, less than 30%, is too insignificant to address the challenges, while a larger variation risks the creation of wards with numbers of voters that are too different.

Credibility and consistency of demarcation decisions

Progress has been made towards resolving other structural problems. In the absence of regulations, the MDB has developed two key instruments that lay a solid foundation for consistent application of demarcation objectives and criteria. The Framework on the Application of Demarcation Criteria (objectives and factors) contains norms and standards that make for ease of application and evaluation of sections 24 and 25 of the MDA; while the Categorisation of Municipalities into Metros Framework includes indicators and a flexible weighting system for application of each of the factors to be considered in the categorisation of municipalities into metros in terms of section 2 of the MSA.

Capacity assessment

Apart from the selective assessments done for municipalities that were subject to the 2015 redeterminations, the MDB’s scheduled municipal
capacity assessments were last done in 2012. Efforts to execute the project that was already awarded in 2014 were frustrated by protracted dispute resolution and litigation.

The capacity assessment model has since been revised and the assessments that were concluded in December 2018 have taken into consideration external environmental factors (includes industries, road infrastructure, mining developments and all other factors that influence the space economy) that inform the revenue base and municipal financial viability. Chapter 9 presents a summary of the 2018 municipal capacity assessments.

“We congratulate the Municipal Demarcation Board (MDB) on its twentieth birthday.

The MDB has played a vital role in the long, complex, difficult, but also exciting, journey of building democratic developmental local government and transforming the painful legacy of spatial injustice bequeathed by the ruinous and unjust system of more than 1 200 segregated apartheid local entities.

The MDB continues to be a firm and important ally in achieving our National Development Plan’s goal of transforming the national space economy and ensuring that by 2030 South Africa observes meaningful and measurable progress in reviving rural areas and in creating more functionally integrated, balanced and vibrant urban settlements.

The MDB has participated actively in both the formulation and implementation of the Integrated Urban Development Plan (IUDF) which marks a New Deal for South African cities and towns.

The IUDF aims at steering urban growth towards a sustainable model of compact, connected and coordinated cities and towns that are liveable, safe, resource-efficient, socially integrated, economically inclusive and globally competitive, where residents actively participate in urban life.

The MDB has also supported the Back-to-Basics approach to supporting municipalities to ensure that they put people first, deliver basic services, practice good governance, adhere to sound financial management and build capable institutions.

The MDB has carried out the often sensitive task of demarcating municipalities and wards in a way that is independent and credible. In so doing has contributed to consolidating our constitutional democracy and building a united, non-racial, non-sexist, democratic and prosperous nation.

We commend the leadership and officials of the MDB, past and present, for acquitting their difficult and complex tasks with dedication and integrity, often under difficult circumstances.

We thank Ms Jane Thupana, the Chairperson, and members of the MDB as well as Mr Muthotho Sigidi, the CEO, and staff of the MDB for the excellent working relationship that we have enjoyed with them. We wish them well in their future endeavours.

As the Ministry of Cooperative Governance and Traditional Affairs we respect the independence of the MDB and undertake to continue supporting its important work and ensuring the collaboration of all relevant stakeholders in the spirit of co-operative governance”.

MR ANDRIES NEL, MP, DEPUTY MINISTER FOR CO-OPERATIVE GOVERNANCE & TRADITIONAL AFFAIRS
CHAPTER 6
REFLECTING ON THE OUTCOME OF THE CONFERENCE ON DEMARCATION AND SPATIAL TRANSFORMATION

7

ESTABLISHING REGIONAL FOOTPRINTS
The Board has set itself a strategic objective to have improved public education and communication by, among others, creating platforms to strengthen public participation and broad citizen engagement in demarcation processes and to create awareness and understanding of the Municipal Demarcation Board (MDB) mandate.

The absence of regional footprints by the MDB was raised as a concern that required urgent attention already by the first Board in 2004 (MDB, 2004). The subject resurfaced very strongly during the 2016 Demarcation and Spatial Transformation Conference. Regionalisation will address public discontent by providing MDB stakeholders with consistent rather than ‘seasonal’ services. The MDB is currently perceived to lack appreciation of the lived experiences in demarcated spaces. Accordingly, the Board decided to decentralise its functions and operations to the regions to entrench its physical presence.

BACKGROUND

The MDB is consistently criticised for its perceived inadequate public and stakeholder consultations, which holds great implications for the work of the Board.

The existing model of public participation pursued by the MDB has, to some extent, proven to be incapable of meeting the expectations of local communities, hence the discontentment with demarcation processes expressed recently, some through litigation as well as violent protests in isolated parts of the country.

Such events included the demarcation protests in Metsimaholo in 2013, Malamulele in 2013 and 2015, and Denver Hostel and Vuwani demarcation disputes in 2016. In all these instances the underlying challenges were poor understanding of the MDB’s processes, inadequate consultation, misinformation and perceived bias of the MDB.

In addition, the lessons learnt from previous work of the Board and the latest outcomes of the MDB demarcation and spatial transformation conference held on 23 and 24 June 2016, reaffirmed the need for the MDB to reconsider its current model of operation and seek a practical model that will enable it to effectively engage with local communities.

The above developments, and many others, present compelling reasons for the MDB to consider regionalisation as an alternative model to address many of the challenges it faces today and to deepen local democracy and citizen participation.

REGIONALISATION IN CONTEXT

What regionalisation means

In this document, the term ‘regionalisation’ is defined as: the physical presence of MDB staff, based at an office (rented or donated) in a province and/or supporting satellite office(s). The staff of the regional office provides services to stakeholders of one or more provinces that constitute the region. The approach of initially clustering provinces into regions is not desirable but is informed by limited financial allocations. The project will be phased in over the Medium-Term Expenditure Framework until there is a presence in every province.

The clustering of provinces into regions takes into consideration geographic location, size, population and workload. Supporting satellite offices are located in provinces where there is no regional office in the initial phases.

Rationale

The MDB core functions necessitate working together with all stakeholders at all levels, but most importantly local stakeholders, including traditional leadership, ward committees, municipalities and provincial departments, and provincial chapters of the Independent Electoral Commission (IEC), South African Local Government Association (SALGA) etc.

With the MDB’s current setup, it is highly dependent on the assistance of officials at municipalities and provincial departments. These dependencies have often left the MDB vulnerable to real and perceived political manipulation. Hence, the MDB is striving to enhance delivery of its mandate, by widening its understanding of regional dynamics and regionalising its core functions.
As one of the key elements of its vision, the MDB will ensure regular engagement with members of the public, build capacity for public education, encourage public and community inputs on municipal boundary determinations, redeterminations and ward delimitations as well as manage stakeholder expectations effectively.

Experiences by the Board, lessons learnt, ongoing interactions with stakeholders and the 2016 MDB consultative conference that brought together experts, practitioners and other role-players in local government, affirmed the need for the MDB to establish a regional footprint.

**Expected outcomes**

More emphasis has been placed on the need to adopt a regional operating model that will seek to:

- Enhance local participatory democracy by allowing the public access to MDB offices for their information requirements.
- Strengthen public participation and enhance public education.
- Increase understanding of provincial, regional and local dynamics.
- Minimise reliance on external support as this is perceived to compromise the Board’s independence.
- Drive a region-based research agenda consistent with regional unique characters and profile.
- Establish timeous engagements with key and strategic stakeholders.
- Improve response turnaround to regional correspondence and interaction.

**Benefits**

The following benefits are anticipated through the adoption of a regional operating model:

- Induced participation of civil society in demarcation matters.
- Full participation of citizens, especially the youth, women, traditional leaders and rural communities.
- Accountability, transparency and openness in demarcation processes.
- Knowledgeable communities able to participate in the demarcation processes and increased opportunities for participation.
- Better understanding of local dynamics (culture, values, geography, politics and economy) to enable the Board to make informed decisions.
- Community trust in demarcation activities and processes.
- Minimised risk of demarcation protests and litigation activities against the MDB.
- Increased support, technical or otherwise, to communities and stakeholders, including municipalities.

**REGIONAL FUNCTIONS**

The MDB seeks to regionalise most of its functions, services and activities. The following are critical and could be performed effectively in the regions:

**Public education and outreach**

The emphasis here is to educate the public on the role of the MDB in performing its core business operations and delivering on its mandate, namely: municipal boundaries (determination), ward boundaries (delimitation) and capacity assessment. The purpose is to ensure that communities are well informed about the work of the MDB and are empowered to participate effectively in activities and programmes of the Board.

Through a regional presence, the MDB will be able to increase its local profile by organising a series of education sessions for the community, using competent community members who have been trained and coached to deliver the MDB message.

In addition to education, the outreach programme will include strategic and thought leadership with local officials, facilitating platforms for dialogue and media engagements. These initiatives will be coordinated
centrally by the MDB’s head office, with the regions playing an important role in the success of the programmes.

Consultation with stakeholders

The availability of local MDB resources would allow more frequent engagement with primary stakeholders and enable the MDB to be proactive in identifying community concerns before they escalate.

Regional staff will be the eyes and ears of the MDB in local government and offer guidance on demarcation. Thus, the regional offices should be close to the provincial/municipal infrastructure, while maintaining independence at all times.

Participation in provincial fora set up by MDB partners (e.g. SALGA, IEC etc) will provide an opportunity for consultation. Regionalisation will allow greater participation by the MDB in local and provincial intergovernmental relations forums.

Research information gathering

When proposals are made for boundary changes, insight and a sound understanding of local knowledge will be beneficial, particularly in the early phases of the process, before the Board considers the proposed redeterminations. Regional staff will play an important role in gathering location-specific information, which is at present obtained remotely through online forms and desktop research. The staff would also be best placed to continuously monitor the impact of change locally, and provide feedback/lessons learnt to the MDB centralised knowledge hub.

For municipal capacity assessments, regional staff will serve as data collectors on an ongoing basis, which will save costs currently spent on data collection by consultants.

GIS and general helpdesk services

It is envisaged that regional staff will provide technical services, such as production of geospatial maps, particularly in the early phase of proposed boundary changes. They will also conduct site visits for boundary changes to verify local conditions that are not evident through remote collection of data. As a result, the quality of spatial data used in demarcation processes will be improved.

Since the majority of municipalities and communities do not have access to a geographic information system (GIS), MDB regional staff will assist in spatial analysis and mapping for demarcation. Several times, municipalities have asked for MDB assistance to identify ward boundaries physically, which may indicate that the process is even more difficult for stakeholders with fewer resources.

Regional demarcation forums

Regional staff will coordinate and facilitate regional demarcation forums with local stakeholders according to a framework developed nationally as part of the MDB public participation and consultation strategy. The forums will target MDB stakeholders such as:

- Municipalities (mayors, speakers and municipal managers, planners and GIS officials);
- Provincial and local houses of traditional leaders;
- Provincial departments responsible for local government;
- Provincial chapters of SALGA;
- Provincial and local IEC representatives;
- Representative of organised labour; and
- Civic organisations (business, women and youth structures etc).

These forums will regularly inform stakeholders in the regions about activities of the MDB. Members will be able to share ideas on demarcation matters affecting their regions.

CONCLUSION

While Treasury recognises that, long term, this project will lead to stability of the local government sector and minimise violent protests and damage to state assets, no new funding could be allocated due to
other pressing government priorities. The organisation continues, on the basis of it’s a Regionalisation Business Plan, to explore other funding avenues.

REFERENCES


“The Demarcation Act is one of the critical founding, post-apartheid legislation of the new local government dispensation. It gave birth to the Demarcation Board whose 20th anniversary we proudly observe this year. Like the Local Government White-Paper policy adopted a year before the board, its vision remains valid.

The four, five year terms of local government were successfully conducted in no small measure, because of the prior work each time, done by the Board.

We may still have not done away effectively with the apartheid spatial distortions but the reasons lie beyond the boundaries drawn. The nature of the work was always going to be tough politically, developmentally and the consultative process itself often highly sensitive.

The challenge, it appears two decades later, to be in both the timeliness of responding appropriately to the board’s enquiries as well as the frequency of boundary changes - every five or change to only every decade (10 years). We must include the conflict and it’s resolution that often accompany the process. But this again is in the law makers and communities terrain and not in the institution itself necessarily.

Let’s give the leadership, members of the board and its staff and technical experts, past and present, an unreserved round of applause!

Happy 20th Anniversary!”

*Deputy Speaker of the National Assembly, Lechesa Tsenoli.*
PREPARING FOR THE 2021 LOCAL GOVERNMENT ELECTIONS
Constant changes in ward boundaries has been a subject of public discourse, with the Municipal Demarcation Board (MDB) being constantly criticised for disrupting service delivery, unilaterally splitting communities and generally creating instability within municipalities. Sadly, even the most affluent members of society are not aware of the key factors that influence the change in ward boundaries, primarily the formulae for determining the number of wards published by the Minister of the Department of Cooperative Governance and Traditional Affairs (CoGTA) and then the number of councillors determined by the Members of Executive Council (MECs) in each municipality. Chapter 2 has hopefully clarified this aspect.

To minimise the disruption to ward boundaries for the 2021 local government elections, the MDB had a workshop with the Minister and Deputy Minister of CoGTA on 30 November 2018 to analyse trends and make projections on the possible number of new wards that may have to be created in 2021, assuming the Minister does not change the formulae. Any change in the number of wards dictates the dismantling of current ward boundaries by the MDB, which, being at the coalface, is unfortunately the only visible hand to the public in the ward delimitation process.

The Denver Hostel story from Chapter 4, is worth repeating. During protests linked to the ward delimitation process in 2015, a resident of Denver Hostel in the City of Johannesburg Metropolitan Municipality raised a very compelling argument concerning how his move from ward 65 to ward 118 would affect his access to services, when he said:. ‘Accordding to the RDP housing list, I was close to receiving a house, yet I am now being moved to a new ward where I will probably be last on the list.’ Sadly, the media focused more on the fact that hostel residents, being IFP supporters, did not want to be moved to an ANC ward. While this may not have been totally inaccurate, the media missed an opportunity to highlight the policy dynamics of ward delimitation that were unambiguously articulated by members of the community.

This formed the content of the workshop, whose main purpose was to provide an analysis to inform the possible need for the Minister to change the formulae, the ideal timing for their publication, and related issues that may require policy consideration.

**SUMMARY**

This analyses the implementation of the formulae for determination of the number of councillors since the first local government elections in 2000 on to 2006, 2011 and 2016 local government terms. It is clear from the 2000 to 2016 statistics that there was a steady increase in the number of registered voters in the country, at an average of 10.9% over the three terms. Since the formulae were not changed from 2000 to 2011, the trend shows a proportional increase in the number of councillors for the same period. Logically, the number of wards followed the trend.

The formulae were changed for the first time in 2014, during preparation for the 2016 local government elections. The new formulae would have reduced the number of councillors against the increasing number of registered voters. Had they been applied without any deviation by the MECs, there would have been a remarkable reduction in the number of councillors. The number would have dropped from 10 055 (2011 cycle) to 9 949 in 2016. However, MECs deviated upwards from the Minister’s formulae, increasing the number of councillors from 10 055 to 10 285.

**REQUIREMENTS FOR THE MDB TO INITIATE THE WARD DELIMITATION PROCESS**

The MDB must, after consultation with the Independent Electoral Commission (IEC), delimit wards in each local and metropolitan municipality. The following are the crucial pre-requisites:

- After having certified the voters roll, the IEC provides the municipal segment of the roll to the MDB. Based on the number of registered voters, the Minister of CoGTA determines the formulae to be used to determine the number of councillors for different categories of municipalities. The MECs responsible for local government use the formulae to determine and publish the number of councillors, but can deviate by up to 10%, as provided in section 20 of the Municipal Structures Act, 117 of 1998 (MSA).

- The MDB then uses the number of councillors published by the MECs to delimit wards. Section 22(2) of MSA provides that the number of ward councillors in a metropolitan or local council be...
equal to 50% of the number of councillors determined by the MEC and that each ward councillor must have a ward. It is therefore a given that ‘number of wards = number of ward councillors’.

The ward sizes are also predetermined and subject to the norm (schedule 1(4)(a) of the MSA). The norm is determined by dividing the total number of registered voters on the municipality’s segment of the national common voters roll by the number of wards in that municipality. This inevitably creates geographically small wards in densely populated areas e.g. metros, while wards are geographically very large in sparsely populated areas. Wards in the Northern Cape are typical e.g. Ward 3 of Karoo Hoogland Local Municipality is geographically larger than Gauteng province.

LEGISLATIVE PROVISIONS AND APPLICATION OF THE FORMULAE

In terms of section 20 of the MSA, the Minister must determine the formulae that the Members of the provincial Executive Councils (MECs) must use to determine the number of councillors for all municipalities. The formulae must be based on the number of voters registered on that municipality’s segment of the national common voters roll.

The formulae used in the 2000 local government election were retained for the determination of the number of councillors in the 2006 and 2011 local government election. Hence, any significant increase in the number of voters on the municipality’s segment of the common voters roll may have resulted in an increase in the proposed number of councillors in any of the local and metropolitan municipalities. The formulae in Chapter 2, page 24 were determined and used for the 2000, 2006 and 2011 periods.

The formulae in Chapter 4, page 47 was an amendment by the Minister in 2014 during preparations for the 2016 local government elections.

Besides the certification of the voters roll by the IEC, the development of the formulae for determining the number of councillors is an important milestone towards preparation for the local government elections. As mentioned above, MECs use the formulae to determine the number of councillors for municipalities in their provinces, whereafter the MDB determines the number of wards based on councillor numbers. The number of wards is a sum of the total number of councillors of a municipality divided by two. Only after all these processes are completed can the MDB begin work on the delimitation of wards.

The formulae are an important step in the ward delimitation process. If more councillors are determined, it translates into more wards and more wards translate into more changes to existing ward boundaries, e.g. an addition of one ward in a municipality has a ripple effect as the MDB tries to accommodate that new ward within a geographical space that has not changed.

According to the diagram below, the MECs can, when determining the number of councillors, deviate from the figures resulting from the formulae, but not by not more than three if 30 or fewer councillors have been determined for the municipality. A council of fewer than seven may not be decreased. Deviation of not more than 10% applies if more than 30 councillors have been determined for the municipality.
WARD DELIMITATION TRENDS AND PROJECTIONS

The tables below show trends in the number of councillors determined during the cycles of local government elections since 2000. Each period was analysed for the increases or decreases in the number of councillors.

Period 2000 to 2006

a. The number of registered voters increased markedly, from 18 476 516 to 20 674 926 (11.90%).
b. The number of councillors calculated using the formulae increased from 8 756 to 9 580 (9.41%), while the number of wards increased from 3 616 to 3 972 (9.85%).
c. The number of councillors published by MECs for Local Government after applying the deviation increased from 8 951 to 9 297 (3.87%), which resulted in the increase of number of wards of 3.76% (3 754 to 3 895).
d. Comparing the percentage difference between the numbers of councillors obtained after the formulae (9 580), there is a difference of 2.95% from the number of councillors published by the MEC (9 297). This implies that MECs deviated downwards.
e. Thanks to the MECs’ downward deviation, only 141 new wards were introduced nationally instead of the 218 wards that could have resulted from strict application of the formulae.

Period 2006 to 2011

a. The number of registered voters increased from 20 674 926 to 23 181 997 (12.3%).
b. The number of councillors calculated using the formulae increased from 9 580 to 10 219 (6.67%), while the number of wards increased from 3 972 to 4 294 (8.11%).
c. The number of councillors published by MECs for Local Government after applying the deviation increased from 9 297 to 10 055 (8.15%).
d. Comparing the percentage difference between the number of
councillors obtained after the formulae (10 219), there is a difference of 1.60% from the number of councillors published by the MEC (10 055).

e. During this period, 382 new wards were created, compared to 399 had the MECs not deviated downward by a negligible margin.

**Period 2011 to 2016: Projections on old formulae**

a. The number of registered voters increased from 23 181 997 to 25 383 361 (9.50%).
b. The number of councillors calculated using the old formulae increased from 10 219 to 10 764 (5.33%), while ward numbers increased from 4 294 to 4 519 (5.24%).
c. Following strict application of the formulae, the number of councillors would have increased from 10 055 to 10 764, which would have increased the number of wards from 4 277 to 4 519, an addition of 242 wards.
d. If the formulae had not been amended in 2014 by the Minister of Local Government, and MECs had applied the maximum 10% deviation as the law permits, the number of councillors published would have increased from 10 055 to 11 720 (16.56%), which implies a relative increase of 8.16%. This worst case scenario could have resulted in 685 new wards.

**Period 2011 to 2016: Amended formulae**

a. In 2014, the Minister of Cooperative Governance and Traditional Affairs amended the formulae for determining the number of councillors.
b. The number of registered voters increased from 23 181 997 to 25 383 361 (9.5%).
c. The number of councillors calculated using the amended formulae decreased from 10 219 to 9 949 (-2.64%). Practically this would have reduced the number of councillors by 106 from 10 055 to 9 949.
d. On their own, the formulae would have reduced the number of councillors in spite of the increasing number of voters.
e. Based on the same formulae, the number of wards would have decreased from 4 277 to 4 172 (-105 wards).

f. The number of councillors published by MECs for Local Government after applying the deviation depicts an increase in the number of councillors from 10 055 to 10 285 (230 more councillors), which increased the number of wards from 4 277 to 4 392 (115 new wards were created).
g. The above figure is still commendable, considering that no fewer than 242 new wards would have been created had the formulae not changed.
h. This highlights a brilliant exercise behind creation of the new formulae in 2014. It equally shows how the unchecked deviations by MECs can undermine the initial purpose of the formulae, which would have brought stability in that ward boundaries would have remained the same.

**Period 2016 to 2021: Projected trends**

a. If the number of registered voters increases by 9.50% between 2016 and 2021, as it was the case between 2011 and 2016, then the number of councillors calculated using the formulae will increase by 307 to 10 592 (assuming the formulae remain unchanged), while the number of wards will increase to 4 486, an addition of 94 new wards. These figures are based on the strict application of the formulae, without any deviation.
b. Following are projections based on the possibility of MECs deviating from the determined number of councillors using the current formulae.
c. If the MECs deviate by 5% upwards, then the number of councillors will increase by 10 285 to 11 118 (833 more councillors), while the number of wards will increase from 4 392 to 4 703 (311 more wards).
d. The worst case scenario is if the MECs deviate by a maximum of 10%, then the number of councillors will increase from 11 607 (1 322 more councillors), while the number of wards will increase from the current 4 392 to 4 906 (514 new wards).

**Summary of trends between 2000 and 2021**

The summary of trends in the number of councillors/wards from 2000 to 2021 is represented in the graph below.
CONCLUSION

The following issues require further consideration, including possible legislative review:

a. The logic of using registered voters instead of population has always been questioned, as councillors are responsible for the entire population within a ward and not just the registered voters.

b. The Minister’s determination of the formulae must anticipate increases in the number of registered voters and deviations by the MECs, possible increases in the number of wards and implications thereof.

c. There may be a need to limit the extent of deviation by MECs or at least have application of the formulae monitored.

d. No amount of deviation from the norm can address concerns of geographically large wards in sparsely populated areas such as Northern Cape. These require a different instrument.

e. Some municipalities have reached the maximum allowable number of councillors. They would not be able to receive further increases in the number of councillors. There should be a mechanism that anticipates challenges emanating from the static number of councillors against an ever-increasing population.

f. The timing for publication of the formulae has an adverse effect on the ward delimitation process. Only public awareness can proceed, while the actual consultation on wards depends on the formulae and the resultant determination of the number of councillors by MECs. It is advisable to have the formulae published early, as the national common voters roll is certified before the national elections. For certainty and to avoid any negative effect on the electoral processes, timing for publication of the formulae must be regulated through amendments to the MSA.
“Municipal Demarcation Board (MDB) is now twenty years, growing up has its own challenges. The MDB had faced its own challenges regarding the demarcation of municipal boundaries especially in areas of traditional leaders. The results of some demarcation found the areas of traditional leaders being divided to two or more municipalities. This has caused a lot of discomfort. However, the Board especially the chairperson showed leadership by explaining the reasons for the demarcation and all the processes that are involved in it. The National House of Traditional Leaders was part of the structures that were consulted in demarcation and trying to find an amicable solution in matters that have negatively affected communities. The engagement with the Board has proven to be successful and bearing fruits. It is on these bases that the working relationship between the NHTL representing all provincial houses has become strong with the MDB to an extent where an MoU is being finalized.

The Board has tried its level best to avoid disruptions because of demarcating Municipal wards in areas of traditional leaders. The NHTL and the MDB have agreed to work together to find an amicable solution in any area that has a challenge. We cannot say our working relationship will solve all the problems, but it shows a cooperation that is intended to serve the communities of the Republic of South Africa. We have been confronted by difficult situations, but through the correct application of the legislation we were successful.

The National House of Traditional leaders congratulates the Municipal Demarcation Board for a work well done in the past twenty years. Reaching twenty years as a demarcation board is not easy, but only through hard work and dedication. The NHTL acknowledges that only through consultation, engagement and finding a common solution will take the board to the next level. In the words of Madiba “After climbing a great hill, one only finds that there are many more hills to climb”. The new Board must climb the next mountain, the NHTL will always be your partner in climbing those mountains.”

_Inkosi SE Mahlangu, Chairperson: National House of Traditional Leaders_
OVERVIEW OF THE 2018 MUNICIPAL CAPACITY ASSESSMENT
MDB MANDATE

The Local Government: Municipal Structures Act, 117 of 1998 (MSA) makes provision in section 85 for the Municipal Demarcation Board (MDB) to assess the capacity of municipalities when determining or redetermining municipal boundaries, and to provide advice when requested by Members of Executive Councils (MECs) to consider changes to the existing division of powers and functions across district and local municipalities.

The MDB has prepared numerous capacity assessments over the past 15 years in fulfilling its mandate to assess municipal capacity and make recommendations where requested. The 2018 assessments included external environmental or socio-economic drivers of capacity, which highlight the economic base from which municipalities draw revenue.

This report provides a national overview of the distribution of powers and functions at non-metropolitan level, including an assessment of existing capacity to execute these functions. This has been accomplished through collecting and analysing data and information on municipal capacity to perform municipal powers and functions set out in schedules 4 part B and 5 part B of the Constitution.

The project has gathered as much information as possible to examine the capacity of municipalities to perform their powers and functions in the environment (economic, social, spatial etc) in which they find themselves. It should also be noted that this report and the study itself focuses primarily on Category B and Category C municipalities as these municipalities are where the division of powers and functions is found.

This is a summary of a comprehensive report published on 31 January 2019 and available on the MDB website.

PROJECT APPROACH AND CHALLENGES

To complete the assessment of municipal powers and functions, a questionnaire was formulated to gather information online. The questionnaire covered three areas:

1. General information about the municipality, including contact details, leadership, budget, services, administration and governance;

2. Senior management details – information on each of the senior managers;

3. Powers and functions – information on which powers and functions are being performed by the municipality, and its capacity.

Once the questionnaire had been completed, data was checked and queries addressed with municipalities where necessary.

Information pertaining to the environmental situation of each municipality was sourced from government departments or national organisations, such as StatsSA, National Treasury, the Department of Cooperative Governance and Traditional Affairs (CoGTA), the South African Revenue Service (SARS), the Local Government Sector Education and Training Authority (LGSETA) etc.

First among the challenges experienced was lack of municipal responsiveness. Many municipalities failed to provide all of the data in spite of extensive communications with municipalities. Whilst some municipalities provided all the information required, around 20% did not. In many cases, information provided was inaccurate and significant efforts have been made to try and verify these data using secondary sources, such as StatsSA’s non-financial and financial censuses, National Treasury information, community surveys and LGSETA’s database.

The second challenge arose from the Constitutional Schedule of allocated powers and functions. Almost all municipalities have clearly shown that they do not organise their service delivery in terms of an institutional framework that responds to all elements of the functions contained in these schedules. It is recommended that CoGTA develop a framework that reviews the powers and functions schedules and/or guides municipalities on how to deal with them. For example, the function ‘Licensing of public food trading’ may well require a variety of departments, from legal to business support to environmental health and the like. For smaller municipalities particularly, it could be impossible to consider all aspects of capacity that may be required to execute the function and then to work out what proportion of time and finances are used.

This matter has recently become all the more important, as ongoing technological and other advances are making it increasingly difficult to have a clear understanding of where municipal powers and functions
begin and end. For example, some municipalities are now placing turbines in their water pipes to generate electricity and, they may be violating the Constitutional Schedule, where electricity generation is a national function.

A third challenge is contained in existing records from key national institutions that may contradict the information provided by municipalities.

**MUNICIPAL CATEGORISATION**

Municipalities in South Africa are categorised as Category A (metropolitan areas) or Category B (local) within Category C (district). Further classifications have been provided, such as the Municipal Infrastructure Investment Framework (MIIF) classification. This divides Category B municipalities into four groups, largely representative of the larger ones that exercise more powers than the smaller ones, with fewer resources and exercising relatively few powers (B1 through B4). Category C municipalities are divided into two groups based on those that are water authorities and those not. Specifically, the MIIF classification for local and district municipalities is as follows:

- **B1**: Secondary cities: the 19 local municipalities with the largest budgets.
- **B2**: 26 local municipalities with a large town as core.
- **B3**: 101 local municipalities with relatively small populations and a significant proportion of urban population but with no large town as core.
- **B4**: 59 local municipalities that are mainly rural with, at most, one or two small towns in their area.
- **C1**: 23 of the district municipalities that are not water services providers and generally have few service delivery functions.
- **C2**: 21 of the district municipalities that are water services providers and often have substantial obligations.

For benchmarking municipalities in the following sections, the MIIF classification provides a useful means of measuring the municipality’s characteristics against other Category B/C municipalities.
THE STATE OF LOCAL GOVERNANCE

In terms of the MSA, ‘capacity’ is defined as having reasonable administrative, financial and human resources, and infrastructure to perform each of the constitutional functions assigned to a municipality. It also includes leadership, governance and oversight capacity by councillors and senior management of municipalities, and all municipal staff in general.

Forty percent of South Africa’s population reside in Category A metropolitan municipalities and the remaining 60% in Category B local municipalities. The largest share (36%) of the total population that resides in Category B municipalities is found in Category B4 local municipalities that are characteristically rural.

Personal income tax figures are the only tax-related figures currently available from municipalities. This disaggregation to municipal level allows for a useful comparison of the ability of municipal residents to earn and pay personal income tax. For municipal governance, this becomes a useful indicator of the ability of a municipality to raise and collect revenue, as it is assumed that if individuals have formal employment and are paying personal income tax, they are able to pay for rates and utility charges.

Whilst 40% of South Africa’s population live in Category A municipalities, these residents make up 59% of the total number of personal income tax payers in the country and contribute 70% of the assessed personal income tax. Category B4 municipalities are home to 22% of the population, yet these municipalities contribute only 4% of personal income tax to SARS.

The table below looks at the distribution of staff by different MIIF municipal type and analyses how staff in different functional areas are spread over different municipal types. Category A municipalities account for 51% of municipal staff and have a similar proportion of staff in trading services functions. Category B4 staff make up 7% of all municipal staff and have a lower percentage of staff in trading services and a higher proportion of staff in the finance and administration sections. Category C2 constitutes 6% of all municipal staff, yet 10% of its staff are in trading services. This provides an indication of the focus areas of the different types of municipality types.

### Municipal staff by functional area and MIIF categorisation

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<th>A</th>
<th>%</th>
<th>B1</th>
<th>%</th>
<th>B2</th>
<th>%</th>
<th>B3</th>
<th>%</th>
<th>B4</th>
<th>%</th>
<th>C1</th>
<th>%</th>
<th>C2</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trading services</td>
<td>43 740</td>
<td>51</td>
<td>11 280</td>
<td>13</td>
<td>6 148</td>
<td>7</td>
<td>11 521</td>
<td>13</td>
<td>4 402</td>
<td>5</td>
<td>455</td>
<td>1</td>
<td>8 773</td>
<td>10</td>
</tr>
<tr>
<td>Other services</td>
<td>66 760</td>
<td>54</td>
<td>17 161</td>
<td>14</td>
<td>10 541</td>
<td>9</td>
<td>14 4049</td>
<td>12</td>
<td>8 116</td>
<td>7</td>
<td>2 765</td>
<td>2</td>
<td>3 328</td>
<td>3</td>
</tr>
<tr>
<td>Finance and administration</td>
<td>23 429</td>
<td>46</td>
<td>5 878</td>
<td>12</td>
<td>4 117</td>
<td>8</td>
<td>7 734</td>
<td>15</td>
<td>5 003</td>
<td>10</td>
<td>2 072</td>
<td>4</td>
<td>2 899</td>
<td>6</td>
</tr>
<tr>
<td>Total Staff</td>
<td>139 318</td>
<td>51</td>
<td>35 555</td>
<td>13</td>
<td>21 683</td>
<td>8</td>
<td>35 432</td>
<td>13</td>
<td>18 766</td>
<td>7</td>
<td>5 906</td>
<td>2</td>
<td>15 877</td>
<td>6</td>
</tr>
</tbody>
</table>

The ability of municipalities to generate own income is a vital component of municipal functioning. Yet, as seen above, some municipalities have a limited ability to do so, due to factors such as unemployment and poverty. Inability to raise income through service charges means a higher dependence on transfers and grants from national government. Category A municipalities raise 70% of the property rates revenue in the country, Category B1 raise 13%, B2 and B3 7% each, and B4 only 3%. Category C municipalities do not raise any income from property rates.

It is evident that no Category C municipalities raise income from electricity charges, but C2s raise a significant proportion of their income from sales of water. C1 district municipalities do not earn any significant income from the sales of any services.
Raising of revenue from rates is an important component of income for Category B municipalities. Category B1s earn 20% of their total own-generated income from rates, B2 28%, B3 23% and B4 almost half of that, 47% of their income coming from rates.

The sale of electricity is also a very important component of municipal own-generated income. For the metros, this constitutes 47% of own-generated income, for B1s 52%, B2s 45%, B3s 50% and B4s 35%.

As noted above, the ability to generate own revenue reduces a municipality’s dependence on transfers and subsidies. Category A municipalities have a 23% reliance on transfers and grants. This is slightly higher for categories B1 and B2, while categories B3 and B4 have a 41% and 85% reliance respectively. District municipalities are largely reliant on grants for capex.

Across South Africa there are enormous differences in the deployment of professionals and technical personnel in municipalities. The table below indicates this in a rather dramatic fashion:

**Deployment of professionals**

<table>
<thead>
<tr>
<th>Overall capacity</th>
<th>A</th>
<th>B1</th>
<th>B2</th>
<th>B3</th>
<th>B4</th>
<th>C1</th>
<th>C2</th>
<th>Grand Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total professionals, technicians, associated professionals (OFO codes 1 and 2)</td>
<td>27 255</td>
<td>4 397</td>
<td>2 816</td>
<td>4 796</td>
<td>3 144</td>
<td>1 428</td>
<td>3 476</td>
<td>47 312</td>
</tr>
<tr>
<td>% staff managers/professionals/technical</td>
<td>57.6</td>
<td>9.3</td>
<td>6.0</td>
<td>10.1</td>
<td>6.6</td>
<td>3.0</td>
<td>7.3</td>
<td>100</td>
</tr>
<tr>
<td>Total with Bachelor’s, Honours, Masters, Doctorates (NQF7-10)</td>
<td>14 714</td>
<td>2 060</td>
<td>1 086</td>
<td>1 803</td>
<td>1 757</td>
<td>986</td>
<td>1 386</td>
<td>23 792</td>
</tr>
<tr>
<td>% staff with Bachelor’s, Honours, Masters/Doctorates</td>
<td>61.8</td>
<td>8.7</td>
<td>4.6</td>
<td>7.6</td>
<td>7.4</td>
<td>4.1</td>
<td>5.8</td>
<td>100</td>
</tr>
<tr>
<td>Total leaving</td>
<td>5 700</td>
<td>1 295</td>
<td>675</td>
<td>1 474</td>
<td>647</td>
<td>282</td>
<td>623</td>
<td>10 696</td>
</tr>
<tr>
<td>% staff leaving annually (turnover)</td>
<td>4.3</td>
<td>3.8</td>
<td>3.2</td>
<td>4.1</td>
<td>3.1</td>
<td>5.0</td>
<td>4.0</td>
<td>4.0</td>
</tr>
<tr>
<td>Total staff</td>
<td>131 334</td>
<td>34 166</td>
<td>21 337</td>
<td>36 379</td>
<td>2 0656</td>
<td>5 618</td>
<td>15 548</td>
<td>265 038</td>
</tr>
</tbody>
</table>
Although this remains debatable, audit outcomes provide a useful indicator of the quality of municipal governance. The table below provides an indication, by MIIF type, of audit outcomes. Some 75% of Category A municipalities received unqualified audit opinions. Among Category B municipalities, 63% of B1s, 58% of B2s and 47% of B3s received unqualified audit opinions. B4s had the best outcome for all of Category Bs, with 68% receiving unqualified audit outcomes. C1 municipalities had the highest score, with 78% receiving unqualified audits. B3s and C2s had the highest proportion of adverse/disclaimer audit outcomes.

### Audit outcomes by MIIF type

<table>
<thead>
<tr>
<th></th>
<th>A</th>
<th>%</th>
<th>B1</th>
<th>%</th>
<th>B2</th>
<th>%</th>
<th>B3</th>
<th>%</th>
<th>B4</th>
<th>%</th>
<th>C1</th>
<th>%</th>
<th>C2</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adverse/disclaimer</td>
<td>0</td>
<td>0</td>
<td>3</td>
<td>16</td>
<td>3</td>
<td>12</td>
<td>27</td>
<td>27</td>
<td>5</td>
<td>9</td>
<td>3</td>
<td>13</td>
<td>5</td>
<td>24</td>
</tr>
<tr>
<td>Qualified</td>
<td>2</td>
<td>25</td>
<td>4</td>
<td>21</td>
<td>8</td>
<td>31</td>
<td>27</td>
<td>27</td>
<td>14</td>
<td>24</td>
<td>2</td>
<td>9</td>
<td>9</td>
<td>43</td>
</tr>
<tr>
<td>Unqualified</td>
<td>6</td>
<td>75</td>
<td>12</td>
<td>63</td>
<td>15</td>
<td>58</td>
<td>47</td>
<td>47</td>
<td>40</td>
<td>68</td>
<td>18</td>
<td>78</td>
<td>7</td>
<td>33</td>
</tr>
<tr>
<td><strong>Grand total</strong></td>
<td>8</td>
<td></td>
<td>19</td>
<td>26</td>
<td></td>
<td>101</td>
<td>59</td>
<td>23</td>
<td></td>
<td>21</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Over the 18 years since the advent of democratic local government, many municipalities have simply not been able to perform their functions adequately. In the worst case scenario, section 139 of the Constitution has had to be invoked to bring in capacity to stabilise governance. More than 40% of the section 139 interventions have been in B3 municipalities, constituting the highest share of national interventions. This is followed by B4 and B2 municipalities, constituting 12% and 10% of the interventions respectively.

The Minister of CoGTA recently undertook a comprehensive analysis of the state of local governance and identified 87 municipalities that are distressed or dysfunctional, and require urgent intervention. This provides perspective on how much still needs to be done to create the conditions under which normal, constitutionally defined local government should operate. At the same time, there are significant ongoing challenges municipalities must address, including:

- Good financial management (and performance);
- Improving the capacity to plan, deliver, operate and maintain infrastructure;
- Improving the quality of infrastructure and nursing aged infrastructure;
- Addressing infrastructure carrying capacity; and
- Providing effective infrastructure operations and maintenance.

Government spends more than R2.5 billion a year on capacity building and support for local government. This includes funds allocated through conditional grants and other programmes.

The assessments of capacity focused on the existing capacity in municipalities to perform municipal powers and functions. An integrated approach was adopted to draw out the key dimensions of capacity noted by the MDB:

- **Individual capacity**: the technical, managerial, leadership and generic skills, knowledge, attitude and behaviour accumulated through forms of education, training, experience, networks and values;
- **Institutional capacity**: the potential and competency found within the municipality, which includes human resource (combined individual capacities), financial resources and governance, physical resources (infrastructure), strategic leadership and planning, organisational purpose, orientation, institutional memory, confidence, partnerships, powers and functions, policies and regulations (bylaws), support systems, structures, operational processes and systems (planning, designing, procurement, management, financing, construction, documenting, reporting, implementation, performance management systems, IT systems etc); and
- **Environmental/resource capacity**: This refers to the socio-economic conditions (including infrastructure, industrial developments and
natural endowments) necessary to inform the revenue base of the municipality.

AMALGAMATION OF MUNICIPALITIES

The Municipal Demarcation Act of 1998 (MDA) requires a clear process of demarcating and redemarcating boundaries. The demarcation process must be structured to create municipalities that meet the objects of local government outlined in section 152 of the Constitution. Most importantly, municipal demarcations must improve the economic, social, administrative and financial sustainability of municipalities, bringing together people in geographical units so that they can live, work, shop and play in the same municipal area.

In each case in which municipal boundaries are changed, the MDB must consider various legislated criteria (contained in sections 26 to 28 of the Act) to ensure its redemarcation meets the objectives for local government.

There have been a number of events in the demarcation of municipalities, from the initial creation of six single-tier Category A municipalities and division of the rest of the country into Category C (district) and B (local) municipalities in 1999, to the most recent period of boundary redetermination where the number of municipalities was reduced from 278 to 257. Some 22 of these new municipalities, which came into effect after the August 2016 elections, were newly merged municipalities, and another 74 municipalities had slight changes to their boundaries. The significant reduction in the number of municipalities between 2011 and 2016 resulted from two processes:

- Just under half of these mergers resulted from processes prior to 2013 where MECs asked the MDB to create more viable municipalities; and
- In 2015, the Minister of CoGTA conducted an assessment across the whole country on the functionality and viability of municipalities. After receiving suggestions for redemarcation from MECs, he invoked section 22(2) of the MDA for the redetermination of certain municipalities in the country.

The context for these mergers looms large in the history of South Africa, where the spatial and racial inequalities have meant that the potential is small for sustainable and viable local governments outside of the Category A and a limited set of Category B municipalities. The mergers themselves have generally been when some more rural, smaller or municipalities without own revenue bases have been merged when contiguous with Category A or Category B1/B2 municipalities; or when one or more rural and small municipalities have been merged in ways that suggest they need to have a greater critical mass to perform their functions.

In analysing the changes in the municipalities amalgamated from 2011 to 2016, several variables were examined and some broad conclusions reached, drawing also on work undertaken by the South African Local Government Association and CoGTA. These included:

- Population size and land area changes: clearly, merging municipalities or incorporating major parts of one municipality into another led to potentially quite significant changes to the population and area to be administered by the new municipality. Many mergers were of municipalities quite small in population terms but large in area terms. For example, Mier Local Municipality has only just over 7 000 people, but a land mass area of more than 22 000 square kilometres, doubling the size in area of //Khara Heis Local Municipality, but only marginally increasing the population of the newly merged Dawid Kruiper Local Municipality. In many cases, smaller rural areas are merged with larger (in population terms) municipalities. Here, eThekwini Metropolitan Municipality and Umdoni Local Municipality have shared portions of the former Vulamehlo Local Municipality, Ray Nkonyeni Local Municipality merged with Ezinqoleni Local Municipality, and uMhlathuze Local Municipality combined with parts of Ntambanana Local Municipality. Some of the municipalities being merged were also losing population, possibly due to migration and/or increasing urbanisation. This has meant that many smaller municipalities, and particularly those without a rates base, have become even more financially unviable. For example, both Nkonkobe Local Municipality and Nxuba Local Municipality lost population between 2001 and 2011 and they have been merged to form Raymond Mhlaba Local
Municipality. Finally, in some cases, more urbanised municipalities have been merged.

- Settlement patterns, including degree of urbanisation and density: the degree of urbanisation varied significantly between and within municipalities being merged. For example, Maletswai Local Municipality and Gariep Local Municipality were both highly urbanised, whilst Fetakgomo Local Municipality and Greater Tubatse Local Municipality were not urbanised at all. However, these differ with the highly urbanised eThekwini Metropolitan Municipality and the less urbanised Umdoni Local Municipality taking over separate parts of the former very rural Vulamehlo Local Municipality. The degree of urbanisation masks the fact that even in non-urbanised areas, people live in relatively high densities.

- Governance arrangements: changes in the number of voters per municipality were considered and, generally speaking, the number of registered voters per councillor increased over the five years for all amalgamated municipalities. In Category A mergers/incorporations, the differential between the old voter/councillor ratio was greatest. For example, in Mangaung Metropolitan Municipality, before Naledi Local Municipality merged with Mangaung Metropolitan Municipality, there were 1 677 voters per councillor, but after the merger, the voter to councillor ratio changed to 4 252, an increase of 250%. In some cases, there was significant variation among merging municipalities, which meant that some municipalities that merged had a significant increase in the number of voters per councillor. For example, KwaSani Local Municipality had only 957 voters per councillor compared with Ingwe’s Local Municipality 2 197 voters per councillor pre-merger. Once they merged, the number of voters per councillor doubled in KwaSani Local Municipality to almost 2 000 voters per councillor. Similar cases are found in the mergers of Mier/Khara Heis Local Municipality and Baviaans/Camdeboo/Ikwezi Local Municipality. On the whole, though, most mergers were of Category B municipalities with roughly similar proportions of voters to councillors.

- Economic base, such as size and growth sectoral split: levels of unemployment in some of the mergers are far higher than the national average. This was true in municipalities with high unemployment levels, such as Fetakgomo Local Municipality (59%) and Greater Tubatse Local Municipality (50%). In other mergers, there were also significant disparities in unemployment levels between municipalities. For example, Indaka Local Municipality had an unemployment level of 57% compared with Emnambithi/Ladysmith Local Municipality of 34%, and Ntambanana Local Municipality with 49% compared to Mhlathuze Local Municipality at 31%. There was also great variation within and across merged municipalities in the proportion of households with higher income levels. It is here where merged municipalities have probably the greatest differentiation. In the merger of Tsolwana/Inkwanca/Lukhanji local municipalities, for example, only 8% of Tsolwana households are of higher income, whilst 18% of those in Lukhanji are so classified. In Indaka Local Municipality, only 6% of households are higher income, compared with eMnambithi/ Ladysmith Local Municipality on 19%. In certain mergers, one or more of the municipalities has an economic growth rate below that of the other. For example, Maletswai Local Municipality has a negative growth rate, while Gariep Local Municipality’s was positive. Most merged municipalities in the Eastern Cape and KwaZulu-Natal had average economic growth rates well below the average for other Category B municipalities.

- Infrastructural needs: in most merged municipalities, high degrees of formalised areas were found, with generally good access to water, but levels of sanitation differed. The degree to which traditional rural communities were found in merged municipalities also differed significantly.

- Financial viability: the financial distress scores for the 2015/2016 and 2016/2017 years were examined looking at how the before and after merger situation had changed. Three findings emerged: 20 municipalities had no change in their status before and after merger and were evenly split, with 10 merged municipalities staying the same and not in financial distress and 10 merged municipalities staying the same and in financial distress; two municipalities worsened and were classified for 2016/2017 as in financial distress, and four municipalities progressed out of financial distress in 2016/2017.

- Annual audits: in comparing audits before and after amalgamation, five audits improved, 12 stayed the same, seven worsened, two were not completed and one was new.
● Stability of senior management: of the 11 acting municipal manager positions pre-mergers, eight are permanent, and of 18 permanent municipal managers on contract before, 12 remain permanent, with four having acting positions. Before the mergers there were 12 acting chief financial officers and immediately after four had become permanent. Of the 15 permanent chief financial officers on contract, 10 remained permanent with five having acting positions. The financial officer situation is not as positive as that of municipal managers and it is important in all merged municipalities that all positions become permanent as soon as possible. While the mergers may not have been responsible for improving the stability of senior management in local governance, they are a good start.

Among the areas impacted through mergers or consolidations are infrastructural issues such as repairs and maintenance, administration (change management and rationalisation of administrative policies), human resource issues such as harmonisation of wages, revenue and expenditure, perverse incentives and liabilities.

Overall, though, all mergers to date reinforce the high levels of apartheid differentiation, where South Africa’s racial and spatial inequalities remain stark and redemarcation is often seen as the best means of redistribution. However, the research has shown that while there are short-term challenges in such mergers, there is no real evidence that the overall sustainability of municipalities has been affected.

An important area arising out of the case studies is the limited planning, change management, and costing and provision of resources for the transitional processes of such mergers/consolidations. Whilst there is no doubt that government should bear the transitional costs of the restructurings, this requires dedicated teams working with the merged municipalities to properly management change processes.

It has also been recommended that once final boundary redeterminations are published, Treasury should provide evidence that budget for restructuring is available and CoGTA indicate what processes it will follow to ensure effective change managements. In addition, a formal due diligence study should be commissioned after boundary decisions have been made to identify the financial situation of the affected municipalities and what steps should be taken (including a freeze on appointments) to stop potential wasteful or duplicate expenditure.

Municipal mergers and consolidations are inevitable, but should not be seen as the ultimate solution for viability and sustainability, given that they generally address spatial injustice identified in the National Development Plan. Provision must be made for at least a three-year transition process, with funding for change management.

**INSTITUTIONAL OVERVIEW**

The study also assessed general governance, through findings such as audit scores, other financial indicators and voter turnout.

The figure below provides the audit results for municipalities across the provinces for the 2016/2017 year. There are also significant differences across provinces, with Eastern Cape, Gauteng, KwaZulu-Natal, Mpumalanga and Western Cape all having more unqualified audit outcomes than qualified, disclaimers or adverse findings.
Audit outcomes for municipalities by province

Audit outcomes for municipalities by province:

- **Eastern Cape**
  - Adverse: 6%
  - Audit not finalised: 61%
  - Disclaimer: 21%
  - Unqualified with findings: 21%
  - Unqualified with no findings: 12%

- **Free State**
  - Adverse: 16%
  - Audit not finalised: 42%
  - Disclaimer: 16%
  - Unqualified with findings: 21%
  - Unqualified with no findings: 21%

- **Gauteng**
  - Adverse: 11%
  - Audit not finalised: 89%
  - Disclaimer: 21%
  - Unqualified with findings: 21%
  - Unqualified with no findings: 4%

- **KwaZulu-Natal**
  - Adverse: 14%
  - Audit not finalised: 68%
  - Disclaimer: 14%
  - Unqualified with findings: 6%
  - Unqualified with no findings: 6%

- **Limpopo**
  - Adverse: 32%
  - Audit not finalised: 41%
  - Disclaimer: 5%
  - Unqualified with findings: 18%
  - Unqualified with no findings: 5%

- **Mpumalanga**
  - Adverse: 69%
  - Audit not finalised: 41%
  - Disclaimer: 35%
  - Unqualified with findings: 6%
  - Unqualified with no findings: 6%

- **North West**
  - Adverse: 6%
  - Audit not finalised: 61%
  - Disclaimer: 33%
  - Unqualified with findings: 23%
  - Unqualified with no findings: 4%

- **Northern Cape**
  - Adverse: 27%
  - Audit not finalised: 42%
  - Disclaimer: 8%
  - Unqualified with findings: 23%
  - Unqualified with no findings: 8%

- **Western Cape**
  - Adverse: 11%
  - Audit not finalised: 89%
  - Disclaimer: 18%
  - Unqualified with findings: 5%
  - Unqualified with no findings: 8%

Summary of all municipal audit outcome:

- **Qualified**: 26%
- **Unqualified with findings**: 44%
- **Unqualified with no findings**: 8%
- **Audit not finalised**: 6%
- **Disclaimer**: 9%
- **Adverse**: 13%
Whilst meeting the constitutional objectives for holding of meetings of the council and its committee is one measure of governance and indirectly of capacity, a second is the degree to which municipalities engage with and listen to their communities. The average of ward committee meetings held is slightly more frequently than quarterly. In 2016/2017, 13 000 ward committee meetings were held, and this increased to 16 600 in 2017/2018.

Delivery of basic services to the poor is critically important. Almost 60% of all municipalities across South Africa have free basic services (water) policies in place, and there are more than 15 000 beneficiaries, and almost 80% have free basic services (electricity) policies, servicing about 7 000 households.

The legislative environment for municipal government is very comprehensive and much is made during the audit process of the degree to which municipalities comply with legislative, policy and other conditions. Overall, almost all reporting municipalities indicated they complied with budgetary processes, with more than 95% reporting positively. Compliance with the Spatial Planning and Land Use Management Act 16 of 2013 (SPLUMA) was not nearly as high, with slightly under 80% compliance. Given the importance of the municipal Standard Chart of Accounts (mSCOA), it is encouraging that compliance rates are above 90% for all reporting municipalities.

Some 54 municipalities owed more than R425 million to Eskom, 38 owed more than R116 million to water boards and 51 owed more than R13 million to their auditors.

Staff costs take up a significant portion of operating expenses. There is significant variation across the three main sources of income: transfers primarily from national government (equitable share and conditional grants) and then locally generated income from service charges and rates. On average, nationally, staff costs account for 30% of expenditure, which is far higher than the 20% figure often touted as the desirable standard. This, however, varies across provinces, with North West spending 23% on staff costs and Eastern Cape, Northern Cape and Limpopo all having relatively high staff costs of 35% and above.

Whilst on average, municipalities receive almost half of their income from transfers and grants, this varies significantly across municipalities and provinces, as do service charges and rates as income streams. The Limpopo and Eastern Cape municipalities are well below the national average in own income and are very reliant on national grants/transfers. This is related largely to higher rates of poverty and the inability to collect from rates and services charges.

**INDIVIDUAL CAPACITY**

Nationally, almost 40% of mayors are women, reflecting the strides made towards equality. The proportion of female speakers is higher, but still not at 50%, whilst less than one-third of chief whips are women. Importantly, and positively, mayors and speakers have an average of more than ten years of municipal experience, although this varies across provinces. Eastern Cape municipalities have a higher proportion of women in political leadership and, on average, they have more than ten years of local government experience.

Nationally, only 20% of all municipal managers are women, a figure well below equality. The figure for chief financial officers is just under 30% and about one third of the remaining senior managers are females.

Concerningly, almost 10% of municipal managers and 20% of chief financial officers are in acting positions, which suggests quite serious instability in top positions. Of the municipalities that responded on this aspect, Mpumalanga’s acting position rate is 33% and in North West, 82% of chief financial officers are acting.

On average, municipal managers have more than 15 years of experience, chief financial officers more than 14 years and the remaining senior managers around 13 years. Western Cape and Gauteng generally have the highest number of years of experience for all categories, with Limpopo and Mpumalanga having the lowest.

In the critical positions of heads of technical, community services and planning/development portfolios, Gauteng has the highest number of years of experience followed by Western Cape and then Northern Cape. The lowest total level of experience is in North West and Limpopo.
PERFORMANCE OF FUNCTIONS

This section summarises the performance of functions by municipalities in an aggregated format. Human capacity is also assessed to determine how it impacts on municipal capacity to perform.

The chart below provides a summary of all functions performed by municipalities. The most performed functions are technical: 203 municipalities perform sanitation services, 202 perform solid waste and 199 electricity reticulation. In Limpopo, for example, the most performed functions are municipal planning, economic development and tourism. In Western Cape, the highest performed functions are solid waste, municipal planning, economic development and tourism.

“As the board celebrates 20 years of existence, I am taking this opportunity to thank the board for its impartiality, its excellence, its efficiency and effectiveness while resolving matters that affect people at large! I thank the board for its accessibility at all times when needed by the people! It is however important to note that all what the board achieved during these 20 years of existence is solely because of the outstanding kind of leadership in place. I also wish to recommend that the board should remain impartial as it always does. The board’s commitment to the country at large has touched the hearts of many South Africans in a positive way during the recent past years! Congratulations!”

*Kubayi Masenyani Solomon, Mamatlepa community, Greater Letaba Community, Limpopo.*
TWENTY YEARS LATER

Performance of all functions

Number of municipalities

<table>
<thead>
<tr>
<th>Local</th>
<th>District</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sanitation Services</td>
<td>178</td>
</tr>
<tr>
<td>Refuse removal, refuse dumps</td>
<td>194</td>
</tr>
<tr>
<td>Electricity and gas reticulation</td>
<td>128</td>
</tr>
<tr>
<td>Potable water</td>
<td>109</td>
</tr>
<tr>
<td>Municipal planning</td>
<td>103</td>
</tr>
<tr>
<td>Local tourism</td>
<td>115</td>
</tr>
<tr>
<td>Disaster Management</td>
<td>116</td>
</tr>
<tr>
<td>Municipal roads</td>
<td>118</td>
</tr>
<tr>
<td>Cemeteries, funeral parlours</td>
<td>116</td>
</tr>
<tr>
<td>Building regulations</td>
<td>112</td>
</tr>
<tr>
<td>Local sport facilities</td>
<td>111</td>
</tr>
<tr>
<td>Municipal parks and recreation</td>
<td>86</td>
</tr>
<tr>
<td>Libraries</td>
<td>108</td>
</tr>
<tr>
<td>Agriculture</td>
<td>108</td>
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Locals | Districts
Performance of functions by allocation of responsibilities

The category on performance of functions by allocation of responsibility is organised into those that may be authorised by the national Minister in terms of section 84 of the MSA; those that may be performed by both district and local municipalities, but that could be adjusted by the MEC in terms of section 85 of the MSA; those that are local municipality powers, but that may be adjusted by the MEC to be district powers in terms of section 85 of the MSA; and those that are not municipal powers but that may be assigned through other legislative processes.

For each of the above categories, the report indicates the number and category of municipalities per province performing each function, average staff numbers allocated to the functions as well as the average budget per municipality allocated. For example, potable water and sanitation are generally well staffed functions. Electricity has a lower level of staff, while municipal and other health functions have a very low level of staff.

Performance of functions by functional classification

This category provides an evaluation of the performance of functions by municipalities in terms of their functional classification. This reflects the most common manner in which municipalities are structured. The institutional organisation for the delivery of services by municipalities is usually categorised into technical services, community services and planning.

The analysis examines the number of municipalities performing each of the functions within each functional area as a percentage of all functions that could have been performed. The analysis indicates that the most performed functions are in the technical category. KwaZulu-Natal is the lowest performer of technical functions and Mpumalanga and Western Cape the highest.

Human capacity

Of the approximately 80 000 full time staff across all reporting local and district municipalities in the country, 68% are in the technical services sector, 23% in community services and 9% in development planning. For both the community services and development planning sectors, approximately 62% of the responses indicated that insufficient staff were available for the function. Incidentally, these are the sectors with the highest vacancy rates, at 43% and 38% respectively.

Variations in municipal staffing across provinces is demonstrated by the ratio of total non-metro population to the number of staff per broad category. For example, development planning staff in North West – with 10 246 persons per staff member – have a significant additional burden, compared to those in Western Cape, with 1 175 persons per staff member. The national average is 4 561 persons per staff. Similarly, North West is among the most burdened provinces for technical services, with 894 persons per staff member, compared to 228 persons in Western Cape and against a national average of 605 persons. For community services, Free State that has a significantly higher burden, with almost 6 000 population per staff member, compared to Western Cape at 555 and a national average of 1 754.

Budget allocations

Many municipal budgets have been queried as they are either significantly lower or higher than expected. For example, R4.9 billion was provided for air pollution operating expenses in Ubuhlebezwé and has been excluded. However, it demonstrates that figures are unaudited and until mSCOA is in place, such figures should be treated with caution as they are largely estimates derived outside of the standard budgetary classifications. The figures provided in this section should be regarded as indicative and descriptive of general trends.

Nationally, technical services are allocated 80% of the total capital budget and 50% of the operating budget. Neither development and planning nor community services receive significant capital budget, but their operating budgets are significantly higher, with community services allocated 30% of the total operating budget and development and planning 20%.
The capital budget for development and planning is allocated primarily to municipal planning, and stands at 50% of the total capital budget. This is followed by economic development and local tourism.

As above, the largest proportion of operating expenditure is allocated to the municipal planning function, which receives 69% of the total operating budget. This is followed by economic development with 13% and local tourism with 6%.

Of the technical services budget, 18% of the capital budget goes to potable water supply, 15% to municipal roads, 12% to cleansing and 11% to municipal public works. Approximately 60% of the operating budget is split among electricity reticulation, municipal roads and refuse removal expenses, each being allocated approximately 20%.

The largest portion of the community services budget – 40% – is allocated to firefighting, followed by local sporting facilities at 19% and local amenities at 9%.

**CONCLUSION**

Arising out of the various analyses completed during this project are the following:

**Defining and restructuring powers and functions**

- There is a need to restructure how municipal powers and functions are conceptualised and defined. The current system is not structured around the major functions performed by municipalities and many municipalities are not clear on where the activities they undertake should fit in with the broader categorisation. A clearer structuring of the functions, with updated definitions, would allow for easier data collection. Currently, for example, many municipalities seem to be confused as to how respond to the pontoon function, possibly because they do not know what a pontoon is;

- There is a need to cluster municipal and other health functions, as many municipalities undertake them as a single programme. Therefore, whilst it appears that many municipalities do not undertake the other health function, it is possibly clustered together with municipal health;

- There is confusion about the split among local amenities, beaches and amusement, parks and recreation and public places functions. Fencing, too, should be incorporated into another function; and

- Some functions do not seem to be performed regularly, including dog licensing, animal care and pounds. Clarity on the need to perform these functions should be provided.

**Updating of information on powers and functions**

- A database is needed of all gazetted MEC determinations on division of powers and functions;

- A database is needed capture all assignments and documentation;

- Service level agreements, particularly with Eskom, should be reviewed; and

- There needs to be an annual update on what functions are being performed where.

**Identification of capacity requirements to exercise particular powers and functions**

The study indicated that many municipalities are unaware of how different powers and functions are exercised in each municipality. Given that there are clear variations across provinces in terms of both the location of powers and functions (district/local/both) and how each function is exercised, working in consultation with municipalities, provincial CoGTAs could define more clearly what it means to exercise each power and function so as to be better prepared to engage with provincial and national treasuries on the formulae used for the equitable share and other grants/transfers.
MECs could identify areas in which they need to rationalise the division of powers and functions

This study provided a baseline of what functions are being exercised where at a category B and C level across South Africa.

Given that the information is based largely on what municipalities have provided, provinces need to confirm these divisions of powers and functions, initiating further engagements with the MDB where necessary.
CELEBRATING TWO DECADES OF DEMARCATION
Following the enactment of the Local Government: Municipal Demarcation Act, 1998 (MDA) and subsequent appointment of 11 Board members by his Excellency President Mandela, a new organisation was born on 1 February 1999. With a skeletal staff (mainly administrators), the organisation had to rely on outsourced professionals to deliver what was referred to by the Independent Electoral Commission (IEC) as a ‘near miracle’ – having crafted the first legitimate and democratic local structures in time for the first democratic local government elections, in December 2000. Clutching close to its heart the mantle of independence, the organisation continued to grow, learn and establish strategic relationships with the people of South Africa.

The MDB has made major contributions to the spatial transformation agenda, specifically reversing the apartheid spatial logic through consolidation of local government structures in a manner that facilitates the development of integrated settlements and equitable service delivery.

The organisation turns 20 on 1 February 2019. As the country fast approaches 2030, it was deemed necessary that the MDB pauses and reflects on its contributions to spatial transformation over two decades, celebrate its achievements, draw lessons from challenges and international best practices, consolidate stakeholder wisdom on how best to sharpen the demarcation instrument, and relaunch its capabilities to make a meaningful contribution to realisation of the National Development Plan (NDP) vision for local government.

OBJECTIVES OF THE CONFERENCE

The conference that takes place on 31 January and 1 February 2019 seeks to achieve the following objectives:

a. Celebrate the 20th anniversary of the MDB and the major contribution it has made to reversing the apartheid spatial logic and fostering socio-economic integration;

b. Solicit inputs from thought leaders (including government) to inform the local government architecture, e.g. the wall-to-wall municipalities, two-tier system and intermediate cities, thereby defining a context within which demarcation must take place.

c. Share lessons on demarcation trends and best practices from the international community, including countries on the African continent that share common challenges; and

d. Take a reflective approach to identify gaps and possible areas of focus in the decade approaching 2030.

THEMES AND TOPICS

Taking place in Ekurhuleni (Birchwood Conference Centre), the conference brings together experts and thought leaders (national and international) in the local government sector who, together with other guests, will tackle the following topics:

A reflection on the MDB’s contribution towards spatial transformation in the past 20 years: Achievements, challenges and lessons

This will encourage discussions on the successes and failures of the MDB over 20 years and highlight some lessons learnt that could be used to improve the future of demarcation. It is also important that we reflect on the structural positioning of the MDB in the state and evaluate the current mandate as a tool for continued spatial transformation.

Reflections on the convergence of demarcation, the Integrated Urban Development Framework (IUDF) and the National Development Plan (NDP).

The NDP is a blueprint for the development trajectory of the country and the IUDF was developed in 2016, closing a void created by the lack of an urban development framework. To assist in the successful implementation of the NDP and the IUDF, the MDB needs to pause, identify and locate its role in the implementation of South Africa’s Vision 2030. The paper and the subsequent discussions must clearly articulate the vision for spatial and socio-economic development as expressed in the NDP, but also clarify the strategic role of the MDB in the next 20 years. In addition, this topic will explore the future and structure of rural municipalities in the face of high-paced urbanisation and debate the optimal governance model for intermediate cities.
Consolidation and amalgamation of municipalities and the related challenges for ward or constituency boundaries delimitation

While amalgamations were an instrument to transform the spatial landscape and rationalise municipalities from more than 1 000 to the 257 the country has today, the MDB has recently been criticised for amalgamating several municipalities. The criticisms follow in the footsteps of the factors that triggered the 2015 municipal redeterminations.

In the previous round of amalgamations, the MDB was asked to amalgamate several municipalities to enhance municipal financial viability. Instead, amalgamations are seen to be creating a new set of problems for municipalities, while the assumed cost efficiencies are questionable. On the other hand, the continued reduction in the number of municipalities is seen as futile as it is happening outside of any well-considered vision for the local government sector.

The impact on service delivery of wall-to-wall municipalities and the two-tier system of local government

Discussions are unending on the lessons learnt over the years in the functioning of the two-tier system, with general agreement on the compromised sustainability of some district municipalities and, therefore, their ability to play a coordinating role, and their essence in areas where there are strong and more capable local municipalities. Linked to this is the view that the two-tier system constrains the development of secondary or intermediate cities and towns.

South Africa has seen a decline in most nodal areas and the inclusion of vast uninhabited or sparsely populated areas into municipalities has resulted in very large geographical areas. Such areas also have very large wards, with municipalities unable to keep regular contact with all residents, let alone meeting their developmental needs. There is a need to debate the effectiveness of the wall-to-wall system and determine if there are no other more efficient models to service remote areas without them falling within the space of a local municipality. This may require a revisit of the DMA concept and factors that informed their withdrawal.

Demarcation and ethnic diversity

The impact of the legacy of apartheid lingers on 23 years into democracy. Racism, tribalism and ethnicity are becoming commonplace, with some communities either wanting their own municipalities or resisting incorporation into municipal areas that are perceived to be dominated by different ethnic groups. This may be undesirable for nation building and social cohesion at it would inevitably recreate apartheid boundaries and push communities back into the former ‘bantustans’ areas.

During ward delimitation, certain communities refuse to be included in a ward with communities that speak a different language or who come from a different cultural background. This has resulted in violent protests and instability in different parts of the country. Traditional leaders believe that all settlements under one traditional council should be demarcated in one municipality and that ward delimitation must not put together in one ward communities from different traditional councils.

Significance of community or citizen ‘will’ in demarcation: Finding a balance between public choice and technical/legal considerations

Communities often feel ignored as government processes are viewed to be too mechanistic and legalistic. Most of the legal attacks on the MDB are based on a perceived lack of consultation during the demarcation processes. That is so even when the MDB follows all the legal processes. On close scrutiny the legal challenges are underpinned by community dissatisfaction with decisions of the Board. Often communities are apprehensive if decisions are against their wishes or not in their favour, even though the MDB applied the demarcation criteria. The MDB finds itself in the middle, having to prioritise the clearly articulated criteria laid out in legislation, to the total dissatisfaction of the public when their views are seemingly ‘ignored’. A balance has to be created between the technical process and public views to avoid public participation being viewed as a mere compliance or tick-box exercise.
CONFERENCE OUTCOME

It is hoped a vision and architecture for local government will be finally conceptualised and all existing work consolidated to inform a legislative review and constitutional amendments where necessary. The MDB will derive the strategic wisdom that will guide its priorities for the next decade.

CONFERENCE PAPERS

The conference has adopted the panel and sub-panel debate format, also allowing optimal engagements between panel members and the audience. Three of the topics have been developed into the following papers:

a. Recognition of ethnicity without accommodation in the boundary demarcation of local government: a case of Uganda (Annexure A), by Dr Douglas Karekona Singiza, advocate of the High Court of Uganda, currently serving as Secretary of the Commission of Enquiry in land matters in Uganda; and

b. Municipal amalgamations and other metropolitan governance models: lessons from international experience (Annexure B), by Dr Enid Slack, Director, Institute of Municipal Finance and Governance (IFMG) and Adjunk Professor, Munk School of Global Affairs and Public Policy, University of Toronto; and

c. Reflection on the Convergence of Municipal demarcation and the National Development Plan (NDP) (Annexure C), by Sue Bannister, Commissioner on the National Planning Commission, Republic of South Africa.
Recognition of ethnicity without accommodation in the boundary demarcation of local governments: a case of Uganda

Douglas Karekona Singiza, PhD

Introduction

Twelves years ago, when I came to this country as a younger human rights LLM student, I was fascinated by everything about South Africa, little less its racial history and its multiethnic mix. And so, throughout my academic research in South Africa, I so much wanted to transplant to Uganda the institutional arrangements that dealt with racial accommodation. When I was asked by the Hon Chairperson of the Boundary Demarcation Board of South Africa to present a paper on the Ugandan experience in dealing with ethnicity in boundary demarcation of local governments, it was a payback time for me.

There is a line of caution here: even if the Ugandan experience may offer good lessons for South Africa it may not be the most perfect one. Second, Uganda’s legal and policy framework demonises ethnicity and so most of the experiences I will share with you are in ‘ghost’ format. Please don’t be scared. Thirdly the political elites in Uganda seem to blame all the country’s political violence, social disharmony and economic backwardness on ethnicity. Yet, notwithstanding the denial of expression of our ethnic differences in politics, the Constitution recognizes the 56 ethnic groups in the country. The social expression of our ethnicity in Uganda remains a thorn in the fresh for most politicians. The debate remains whether a boundary demarcation of local government should be based on ethnic or territorial (residence) consideration. In this paper I proposes to do a ‘trial test’ and see which lessons and experiences the South African policy makers may wish to draw from us.

The objectives of the paper

The last 20 years of the Boundary Demarcation Board has been fairly successful. The Constitutional role of the board has also been a subject of attraction for legal researchers around the world in the decentralization reform process for many developing countries around the world. The challenge seems to have been how to consider a wave of ethnic aligned demands for municipalities without risking resurrecting the old apartheid demons of Bantustans that were largely divisive. There have also been some fears that the demand for some municipalities may in fact fun more racial prejudices and tensions especially in the norther parts of the country. Thus, while much of the debate in South Africa on the role of BDB have focused on public consultation and rationalization of municipal boundaries, no investigation has been made so far on whether there are any dividends that may result from creating or altering municipal boundaries on account of ethnicity or racial lines. This paper aims to examine whether normatively speaking there are legal justification in a decentralization process to accommodate on ethnic or racial considerations for a decentralization system to work better; even for countries that have had a fair share of ethnic and racial tensions.

The paper will question whether the south African framework on creating and altering municipal boundaries may foster an inclusive decentralisation system of government in a country grounded on constitutional pluralism.

Methodology

The study uses a desk-top research method in that its primary sources of information are the 1995 Constitution, different Acts of Parliament, Ministerial Declarations, case law, books, conference papers and articles in law journals. Relevant historical materials such as the Buganda Agreement of 1900, the 1962 Constitution, the 1967 Constitution, the Odoki Commission Report, and Constituent Assembly (CA) debates are examined. Where foreign constitutional or legislative provisions are cited, this is done with minimal comparative intention but for the purpose of explaining the best practices in other jurisdictions. Likewise, where foreign case law is cited, this has been done not for comparative purposes but in order to aid interpretation of certain constitutional and
statutory provisions in Uganda that are similar to ones found in other jurisdictions, an approach taken especially in situations where no relevant jurisprudence exists locally.

Problematizing ethnicity in African.

This section addresses the debate on the politics of identity and the role of ethnicity in decentralisation. Accommodation of ethnic identity has peace-building potential in a multi-ethnic national state and is vital to the success of a decentralised system.¹

Ethnic groups in many African states were suppressed immediately after gaining independence from their colonial masters.² This had negative consequences: poverty, political despondency, alienation and civil strife. It also resulted in various ethnic groups directly challenging the legitimacy of those states.³ Often a large number of people (in most cases minority and vulnerable groups) are politically and economically discriminated against and therefore outside the realm of the nation state. Thus, where an ethnic group has been alienated politically at a national level, an ethnically-based system of decentralisation guarantees their political participation.⁶

Explaining ethnicity as a form of identity in decentralisation

Identities have evolved around different interests. For example, there are religious identities, in terms of which Muslims, Hindus, Buddhists, African traditionalists, Christians, atheists and pagans emerge as different identities. Even within these religious identities there are further subgroups such as Catholics, Protestants or Orthodox Christians. In Islam, too, there are subgroups such as the Sunnis or Shiites. Identities have also emerged along racial, gender and sexual lines. In most cases an identity is a construction in terms of which a dominant group is established as the ‘norm’ and a non-dominant group as its ‘abnormal’ other.⁷ With this in mind, the next section focuses on ethnicity, given that the debate on decentralisation in multi-ethnic states revolves more strongly around questions of ethnic identity than it does around those to do with gender, religion and/or race.

A number of questions arise from this. What order of government is appropriate to accommodate ethnic interests? Should ethnic interests be accommodated at the regional level or in lower orders of government? Depending on the territorial manifestation of ethnicity, smaller orders of government may be appropriate to accommodate ethnic interests. The reasons are that, first, there is a lesser risk of secession from the rest of the nation state at smaller levels of government; and, second, smaller orders of government help to accommodate minorities within minorities.⁸

Why accommodation is important

Most states in Africa can hardly consider themselves as ‘nations’. Instead, they are an amalgamation of different ethnic nationalities which were fused together at the time of colonisation and given ‘legitimacy’ on

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1 Banks 2005: 1.
3 See generally Mamdani (1983).
5 See generally Mamdani (1983).
6 Kymlicka 2004: 27.
8 Siegle O’Mahony 2006: 49.
independence. Accommodating ethnicity in lower orders of government may lead to additional political dividends in a given national state. That is to say, rights such as non-discrimination on the grounds of ethnic origin become part of the new political debate by virtue of tolerance of differences. The assumption here is that previous social and political prejudices within an autonomous cultural group may disappear with the passage of time, given that acceptance of differences is the common value for all groups that were previously marginalised.

The question that arises is how to share state power among different ethnic groups, some of which may be numerically as well as economically stronger than others.

Benefits and dangers of territorial accommodation through decentralisation

Ethnic diversity can be accommodated through territorial or non-territorial means. Territorial accommodation of ethnicity refers to the granting of self-government or autonomy to a specific ethnic minority group. Good examples are Quebec’s asymmetric federalism in Canada or Zanzibar’s greater political autonomy in Tanzania. Arguably, the territorial accommodation of ethnicity is different from decentralisation in that it is asymmetrical and of a unique kind. By contrast, non-territorial accommodation of ethnicity entails devolving political power to ethnic groups irrespective of where they live. Here, the sole aim is to ensure that the ethnic minorities that may be in an area populated by major ethnic groups are not politically discriminated against. According to Kymlicka, self-government claims … typically take the form of devolving political power to a political unit substantially controlled by members of the national minority, and substantially corresponding to their historical homeland or territory.

Self-government rights ensure that powers and functions are devolved to lower orders of government in the interests of particular social groups. For instance, devolving power to an indigenous peoples’ self-governing political unit helps the group to tailor its services to local preferences. A political unit which is substantially controlled by indigenous people may help such communities determine their educational curriculum and language of instruction in schools. The protection of ethnically-based rights such as language may enhance the level of political participation of a given community in the affairs of the government. In addition, as Mitra and Bhattacharyya argue, once ethnically based rights are politically accommodated, the real questions of how to share the national ‘pie’ replace narrow identity issues. Ultimately, the risk of freezing ethnicity in a nation state is averted.

The following questions thus present themselves:

- Should ethnic interests be accommodated territorially or culturally?
- What institutional guarantees are needed to accommodate ethnic diversity as a key consideration in a decentralised system?

Preference is usually given to non-territorial cultural autonomy, given its ability both to protect minorities who might be living in a given territory and to protect inherited borders within which many other ethnic groups have lived historically. However, where devolution of power is aimed at protecting a particular ethnic group with a unique history, territorial autonomy or asymmetrical decentralisation is preferred. The accommodation of ethnicity is attained if it becomes a major consideration in the overall decentralisation scheme.

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9 Kanyeihamba 2002: 1.
11 Asbjørn (2002).
14 Mitra & Bhattacharyya 2000:130.
15 Asbjørn (2002).
16 Singiza 2010: 8–9.
Rejection of ethnicity in local government boundaries

Accommodation of ethnicity in the process of devolution of powers is usually rejected for the wrong reasons. For example, opinions abound to the effect that ethnic or regional autonomous governance and identity would override national development interests.¹⁷ In this respect, ethnicity is viewed as a retrogressive notion undesirable in the context of attempts to achieve a country's developmental goal.¹⁸ Thus, the argument goes, strong autonomous lower orders of government may exacerbate ethnic tensions and national disintegration.¹⁹ Ethnic identity is only a small part of what makes one a citizen and a member of a nation. As the American president Barack Obama succinctly put it, ‘None of us wants to be defined by one part of what makes us whole’.²⁰

Recognising the different ethnic identities is not without any risks in that certain ethnic groups may question the legitimacy and existence of the nation state.²¹ In fact writers such as Smith express the fear that the use of decentralisation to accommodate ethnicity may backfire. The risk is that in multi-ethnic societies, decentralisation may lead to discrimination against ‘minorities’ within minorities. The argument is that decentralisation creates an artificial majority in local communities. In turn, the new ‘majority’ may discriminate against those who become minorities within local governments.²²

Validity of the arguments for ethnic based local governments

Even when the real risk associated with secession in ethnically based decentralisation is not far-fetched, the devolution of state power to strong and autonomous local governments helps to accommodate ethnic identities without compromising national identity. The argument is that the devolution of state power through a decentralisation process that takes into account ethnic diversity is an incentive for peace and apolitical stability,²³ and can never threaten the wider nation state’s identity.²⁴

In order to accommodate ethnic diversity, in a decentralised system, institutions of local governments should be designed through a boundary demarcation process that takes into account indigenous peoples’ rights. It also means that preferential treatment may be given in the design of the electoral system to ensure that indigenous peoples access political offices through free and fair elections. Finally, it means that the central government fiscal transfer system may take into account the special needs of indigenous peoples as a form of affirmative action.

Conventional theory about state-building long asserted that national interests are subordinate to ethnic or regional autonomous governance and identity demands. Strong autonomous powers for ethnically defined local government units would exacerbate ethnic tensions and contribute to national disintegration. However, it is also argued that neglecting the wishes of an identifiable ethnic and/or cultural group may lead to demoralisation and alienation. Where a group has been alienated politically at a national level, pursuing political claims at the local level then becomes a cheaper alternative.

This avenue for diverse ethnicities and cultures to assert their identity politically may ultimately serve to bind a country together. A link can be drawn to the theory of political accommodation through asymmetric federalism. Miller refers to the recognition of ethnic interests in a country as a kind of “nested identity”. He refers to Québec’s special federal status in Canada which perhaps represents the most classic example of asymmetric political accommodation of a distinct cultural group. He argues that Quebec has one part of its identity in the federal province and the other part of its identity in the rest of Canada.³⁶ Writers such as

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¹⁸ Howard 1983: 482.
²¹ Erk 2010: 37.
²³ Siegle & O’Mahony 2006: 49.
Fessha make a case for asymmetrical federalism as a remedial measure that is designed to address deeper and politicised ethnic interests. Fessha characterises such a federal design as “purpose continuum” federalism of which the aim is to guard against possible secession of an ethnic group within a nation. In the context of this debate, increasing the number of local government units may serve to accommodate diverse ethnicities and cultures.

Ayele, writing on intra-regional territorial political representations within the Ethiopian federal system, identifies four major advantages for ethnic-based political representation: it allows minority ethnic groups to participate in the democratic process without feeling alienated by the majority ethnic groups; it gives the minority ethnic groups the necessary political space within which to operate; it acts as a buffer against the cultural domination of the minority ethnic groups by the majority; and it has the overall effect of restoring a group’s ‘dignity and pride’ and hence its peace-building potential within a broader political scheme.

**Normative framework on demarcation local government boundaries**

The determination of local government boundaries may have either a political or a social dimension. In fact, there is a link between the territorial spaces of local governments and their political organisation. Thus, a boundary demarcation process is a critical factor in the success of any decentralisation programme as boundaries help local government determine identity groups, voting rights and its tax base.

There are four criteria on which local government boundary demarcation can be based. These are: promotion of democratic citizenship; improvement of efficiency in public service delivery systems; determination of territories of communities; and the role of boundaries in relation to powers and duties of local governments.

In the process of creating or altering local government boundaries, local communities and all the stakeholders should be consulted. It can compromise the objectives of decentralisation if the central government changes a local government’s boundaries out of political expediency. The manipulation of local government political boundaries can affect the democratic and developmental role of a decentralised system of government. Given the importance of public participation, investigating the input of local citizens by an independent body is crucial.

**State party obligation on indigenous peoples/tribal identity in international law**

International human rights law’s call to protect ethnic minorities can be linked to the ability of decentralisation to accommodate ethnic diversity. For some time now, efforts to formalise a treaty for protecting indigenous peoples have been unsuccessful. Part of the opposition to recognising indigenous peoples’ rights in a specific or dedicated treaty arises from the internal social dynamics of states worldwide. However, a number of general international human rights instruments offer protection to indigenous peoples as minorities. Crucial to the protection of indigenous peoples’ rights is article 27 of the ICCPR. It provides thus:

> In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.
The Human Rights Committee, when commenting on article 27 of the ICCPR, details categories of people protected, and argues that they ought to be ‘a group and who share in common a culture, a religion and/or a language’ or ‘persons belonging to minorities which “exist” in a State party’. It notes that the ‘existence of an ethnic, religious or linguistic minority in a given State party does not depend upon a decision by that State party but [is] require[d] to be established by objective criteria’. In other words, minorities such as indigenous peoples do not exist at the whim of the state but as a matter of right.

The Working Group for Minority Rights has produced the draft Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (DRPBNELM). The fundamental criterion in the definition of an ‘indigenous person’ is self-determination. However, no generally acceptable definition has so far emerged. The International Labour Organisation’s (ILO) definition of ‘indigenous peoples’ is preferred. According to the ILO definition, ‘indigenous persons’ refer to tribes that are socially, culturally and economically distinctly regulated by customs or traditions or by some other special laws. The ILO definition also makes reference to the fact that indigenous peoples are historically connected to a country or region before conquest or colonisation, but still retain all or part of their social, cultural and political institutions.

The United Nations Declarations on the Rights of Indigenous Peoples (UNDRIP) provides a platform for establishing a relationship between decentralisation as a system of government and the protection of indigenous peoples’ rights. The connection between the UNDRIP, on the one hand, and decentralisation, on the other, is twofold. First, the recognition and protection of indigenous peoples’ rights can be achieved if the legal framework acknowledges diversity in the form of autonomous entities like local governments. Second, local government offers meaningful spaces for consultation to local communities. Thus, given the responsive nature of local government, devolving powers to lower orders of government creates a legitimate institutional structure and appropriate forum for indigenous peoples as a vulnerable and disadvantaged group.

The UNDRIP acknowledges that diversity is the epitome of civilisation for the benefit of the common good of humanity. Furthermore, the view that one ethnic group is naturally superior to another is racist, scientifically baseless, legally invalid and morally unjust.

Principally, the UNDRIP proposes to address the historical injustice of discrimination against indigenous peoples. The recognition of indigenous peoples’ rights creates a linkage between a land right and political, economic and social development, as well as spiritual history and philosophy. The Declaration asserts that while development must be linked to the identity and aspirations of the people, development must be pursued in a co-operative manner with the central government. Indigenous peoples’ rights are linked to self-determination and self-identity. Institutions established under a decentralised system of government help ethnic minorities to ‘govern’ themselves.

The World Bank presently links poverty reduction and sustainable development to the protection of indigenous peoples’ rights. This view is reflected in the Bank’s borrowing policy, which makes access to funding conditional on consultation and engagement with indigenous peoples. The Bank also views indigenous peoples as a socially and

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32 General Comment No. 23 para. 5.1–5.3.
33 Adopted by UNGA in December 1992 (Resolution 47/137).
34 See Article 1(2) of the United Nations Declaration on the Rights of Indigenous Peoples.
35 See Articles 1(1) (a) & (b) of the United Nations Declaration on the Rights of Indigenous Peoples.
36 Available at http://www2.ohchr.org/english/issues/indigenous/declaration.htm.
37 Scheinin 2002: 42.
39 See para. 2 of the Preamble to the UNDRIP.
40 See para. 3 of the Preamble to the UNDRIP.
41 See para. 5 and 6 of the Preamble to the UNDRIP.
42 See para. 7 of the Preamble to the UNDRIP.
43 See also Article 3 & 8 of the UNDRIP.
culturally vulnerable group which, though marginalised, has a distinct identity. Decentralisation creates institutional democratic spaces for ethnic minority groups to have a say on international capital inflow that is necessary for a developmental state.

The Ugandan approach to ethnicity in the boundary demarcation

Before colonial rule, traditional leadership boundaries were determined by geographical features, such as rivers, mountains, swamps and lakes. In addition, language and cultural differences played a role in determining the physical boundaries of an identified ethnic group. Rarely were any stone markers or maps used to clearly delineate where a boundary of one Ssaza began or ended. However, somehow its boundaries were known and accepted by the different Ssazas within Buganda. Similarly, the boundaries of the Buganda Kingdom itself were drawn along geographical, linguistic and cultural lines.

Odoki recommendations on demarcation of districts

The Commission recommended that the district should be the basic unit of local government. Although existing districts could be retained, there was a need for a mechanism for boundary changes, especially for people who sought to have separate districts. However, the existing boundaries would be appropriate starting points. Given that in the past, demarcation of boundaries had not been rational, it was recommended that considerations such as language, culture, geographical features, economic viability, population density and ‘the desire of the people concerned’ should form the criteria for creating new districts. As argued, a good boundary demarcation process is vital for the success of a decentralised system. Thus the Odoki recommendation in this respect accords with the views expressed earlier. Furthermore, the recommendation provided for an independent body to responsibly consider all stakeholders’ input into the creation of new districts or the merging of old ones.

The constitutional approach to ethnicity in district councils

Critics of the creation of more districts in Uganda often express concerns with regard to the creation of districts on the basis of tribal and sectarian considerations. These concerns usually arise even before legal and economic concerns are considered. It is argued here that the Constitution of Uganda calls for the accommodation of diversity and, furthermore, that the creation of districts that recognise ethnic or cultural diversity should not be condemned solely for that reason. This argument is based on the Constitution; article 10(a) of the Constitution, read with the Third Schedule to the Constitution, recognises 65 indigenous communities. A key question for the Ugandan state, operating under the auspices of its Constitution, is how to recognise the diversity of these communities and what role the creation of districts plays in that regard.

The Constitution contains a number of additional pointers to the importance of recognising diversity. First, the preamble to the Constitution uses the first person plural “we”, highlighting the diverse nature of the Ugandan society. Second, in part III of the directive principles of state policy the Constitution aspires to integrate all people in Uganda, while recognising the existence of diverse cultures and ethnicities, among others. Thus, “[e]verything shall be done to promote a culture of cooperation, understanding, appreciation, tolerance and respect for each other’s customs, traditions and beliefs”. In that context, the Constitution aspires to protect marginalised groups.

The Constitution obliges each regional government to recognise and to respect the different cultures existing within a region. The promotion of local democracy at the level of districts that reflect ethnic diversity may

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45 See para. 2 of the Policy Principles.
46 See para. 3 of the Policy Principles.
49 Chapter Three § 3.3.2.
serve to increase a sense of involvement of a particular minority group in the affairs of the state. It may be argued that the creation of districts with boundaries that recognise the existence of these groups as envisaged by the Constitution may correspond to such constitutional values and principles.

Three examples are briefly introduced to illustrate this point. First, the Batwa in South-Western Uganda are a minority group that would arguably deserve the protection afforded by the Constitution. They have a distinct culture expressed through their language and religion. The Baruli-Banyala is another example. They are mainly found in the new districts of Nakasongola and Kayunga. Historically, they had their own culture and language identity but were “assimilated” into the Buganda culture during the time of the British colonial administration. The Banyala have a distinct language that is different from the language of the Baganda. In addition, the Banyala oral tradition claims that they are the descendants of the “Creator” or God or Ruanga, demonstrating a special attachment to faith and belief in a supernatural being. The third example is provided by the Nubians. They were long considered as part of the Acholi community but have a distinct religious, cultural and linguistic identity. The Nubians have a distinct language with a strong Islamic culture.

The distinct features of these three minority groups may require institutions that ensure that they can elect leaders that indentify with their unique cultures languages and faith. This is possible where districts are specifically created to make sure that communities can participate in local politics with which they can identify. Secondly creating districts for minority groups ensures that their unique development needs such as hunting, fishing and protection of the environment can be better addressed. In addition, creating districts for minority groups may provide the institutional framework necessary to facilitate education in a language of choice.

Assessment

That the integrity of local government institutions is vital for the success of decentralisation is all but clear at this point. As noted earlier, the Odoki Commission recommended constitutionally protected local governments in order to guard against arbitrary institutional changes. The Commission also recommended clear criteria to be met before local government can be changed or altered. But the above three narratives indicate that many districts have been arbitrarily created, hence undermining the constitutional objective of decentralisation. A district may be created on account of promoting local democracy. Local democracy as a process affords voters the power to select their local leaders and allows them to participate in local decision-making process. Furthermore, communities can demand explanations from their elected local leaders more quickly from smaller local governments than bigger ones. Downsizing local governments units therefore enhances the state’s ability to address local developmental challenges.

Despite the existence of criteria for creating new districts under Article 179(1)(a) and (b) of the Constitution, there is evidence that some of the newly-created districts serve as inducements to communities to vote for a specific political party (usually the ruling party). As long as the ruling party has the numbers in Parliament that it does, it can create as many districts as it wants without significant input from independent stakeholders. The process of the creation of districts was assessed in a recent report as follows:

The creation of the districts did not follow any established parameters, neither was the process informed by administrative necessity or economic rationale. Instead, the President announced their creation via presidential decrees, often to reward politicians threatening to withdraw support for the NRM, or to punish those who had.
The evidence of arbitrariness in the creation of many districts in Uganda shows that the 1995 Constitution did not fully adopt the recommendation of the Commission that called for considerations such as language, culture, geographical features, economic viability, population density and ‘the desire of the people concerned’ as the major criteria for creating new districts.\textsuperscript{54} Oloka-Onyango remarks that ‘the strategy of district proliferation has also been adopted by President Museveni as a means of dispensing patronage, and ultimately of splintering challenges to the central government hegemony and control’.\textsuperscript{55}

Thus, rather than ensuring the realisation of socio-economic rights, the objective of the creation of districts appears to be to benefit a few local politicians in the new districts in order to strengthen the central government’s political clout.\textsuperscript{56} The rancour against ethnicity in Uganda notwithstanding, the consideration of culture and ethnicity in the drawing of local government boundaries is not uncommon and may enable communities to participate in local politics.\textsuperscript{57} However, the evidence of the creation of ethnic-based districts by the central government in Uganda seems to be diametrically opposed to its official decentralisation policy framework which aimed to exorcise ethnicity altogether.

\begin{footnotes}
\footnotetext[54]{Odoki Commission 1993: 497.}
\footnotetext[55]{Oloka-Onyango 2007: 12. The central government’s narrative is that it amounts ‘tribal chauvinism’ to consider ethnicity in the boundary demarcation of local government boundaries.}
\footnotetext[56]{Oloka-Onyango 2007: 12.}
\footnotetext[57]{Singiza & De Visser 2010: 10.}
\end{footnotes}
In the last two decades, municipal amalgamations in South Africa have resulted in the decline in the number of municipalities from over 1,200 to 284. Over the same time period, other countries have also experienced a wave of municipal amalgamations -- Canada, New Zealand, Denmark, and Finland, to name a few. Has municipal amalgamation been successful? Are there better structures for governing metropolitan areas?

This paper begins with a discussion of the criteria to evaluate different metropolitan governance models and applies these criteria to municipal amalgamation. It then considers some of the alternatives to municipal amalgamation that have been implemented around the world and ends by asking what international experience tells us about governing large metropolitan areas.

**How do we evaluate metropolitan governance models?**

Several criteria have been set out in the literature to evaluate different metropolitan governance structures (see Slack, 2015). **Economic efficiency** suggests that decision-making be carried out by the level of government closest to the individual citizen (Oates, 1972). When there are local differences in tastes and costs, there are clear efficiency gains from delivering services at a local level. This criterion calls for smaller, fragmented general-purpose local governments that can respond to local preferences as opposed to larger, amalgamated government units, which tend to provide uniform services. Smaller local governments may also stimulate competition among themselves for residents and tax bases, providing them with an incentive to offer the best possible mix of taxes and services (Klink, 2008).

**Economies of scale**, on the other hand, point to the need for larger government units. Economies of scale occur where the per-unit cost of producing a particular service falls as the quantity of the service provided increases and tend to occur for services that have large capital costs such as transportation. The empirical literature on the extent to which large amalgamated governments achieve economies of scale is mixed, however (see Found, 2012). There is evidence that specialized and capital-intensive services benefit from economies of scale but managerial control and excess administrative burdens can result in diseconomies of scale in larger municipalities (Tavares, 2018).

Larger government units can also address **externalities** (also known as spillovers). Externalities arise when the benefits (or costs) of a service spill over to residents of another jurisdiction. For example, a road in one municipality can provide benefits to residents of neighbouring municipalities who also drive on it. The local government of the municipality in which the road is located has no incentive to provide services to residents of other jurisdictions. The result is that too little of the service that generates an external benefit is provided. A larger jurisdiction would more easily be able to capture all of the benefits from a particular public service within its boundaries and ensure that those who benefit from the service also pay for it. Many services extend across the region – such as transportation, land use planning, waste management, and economic development – and need to be coordinated on a regional basis.

**Equity** refers to the ability to share costs and benefits of services fairly across the region. A large government that covers a wide geographic area has a larger tax base to share the costs of services that benefit taxpayers across the region. There are also more opportunities for redistribution. Rich communities have a larger tax base with which to provide services and may have lower demands for some services. Poor communities, on the other hand, may require more services but have
only a small tax base. An amalgamated municipality would consolidate the rich and poor areas, in effect taxing the rich municipalities and using some of the proceeds to subsidize the poor municipalities.

Access and accountability refer to the ability of citizens to engage with local government, participate in local decisions, and hold decision-makers to account for their decisions. Providing access and accountability – whether through public meetings, hearings, elections, or direct contacts with officials – is generally easier when local government units are smaller and more fragmented (Smoke, 2015). Mergers may decrease turnout in local elections because voters have less access to politicians and feel less able to influence political decisions. Empirical studies of the impact of municipal amalgamation on voter turnout in European countries are mixed, however (see, for example, Koch and Rochat, 2017; Lapointe et al, 2018; and Heinisch et al., 2018). In Toronto, voter turnout increased following amalgamation (Hicks, 2006).

Metropolitan areas everywhere face the challenge of how to balance regional and local interests: “the architecture of regional governance systems must somehow enable regional interests to be heard amid the cacophony of locally oriented demands and ambitions” (Walisser, Paget, and Dann, 2013). In economic (and fiscal) terms, the choice of an appropriate governance structure for a metropolitan area depends upon how one weighs conflicting considerations—efficiency, access, and accountability point to smaller local governments versus economies of scale, externalities, and equity, which suggest larger governments.

Is Municipal amalgamation desirable?

The creation of a consolidated one-tier government through amalgamation can provide better regional service coordination than small, fragmented local governments, benefit from economies of scale (at least for capital-intensive services), and address externalities across local jurisdictions. Large metropolitan governments may also be able to compete more effectively internationally. The larger taxable capacity of an amalgamated one-tier government increases its ability to raise revenues, charge user fees, and borrow funds and thereby allows it be financially more self-sufficient than smaller government units (Slack and Bird, 2013). Metropolitan governments can access more broad-based taxes because capital and labour are less likely to cross metropolitan boundaries than local boundaries.

On the negative side, amalgamation reduces local competition, weakening incentives to deliver services efficiently and possibly leading to higher tax rates. On the other hand, if some localities could not previously afford to provide an adequate level of service at a reasonable tax rate because they did not have adequate resources, amalgamation may allow them to provide a level of service comparable to richer localities in the region.

Although amalgamation is justified for economic reasons, opponents argue against amalgamation largely on democratic grounds – large governments are less accessible and responsive to citizens. To overcome potential issues around access and accountability, some metropolitan governments have established community committees or councils or set up satellite offices where people can pay tax bills, apply for building permits, or perform other municipal functions. Such devices may increase accessibility, but they are likely to reduce the potential cost savings that might otherwise result from a larger government unit. Some metropolitan governments have tried innovative ways to encourage citizen access and participation through online access to government information and data, for example. Some cities use participatory budgeting, a practice that started in Porto Alegre in 1989, which includes citizens in decisions on how to formulate the budget.

Municipal amalgamations have occurred at different times in several countries around the world. For example, amalgamations in Denmark in 2007 reduced the number of municipalities from 271 to 98; in 2014, Turkey reduced its municipalities from 3,225 to 1,395 (Andersson, 2017). Amalgamations in Toronto in 1998, Montreal in 2002, and Auckland in 2010 are examples of restructuring in major metropolitan areas. The Toronto amalgamation created a city that, at the same time, is too big and too small. It is too big to be responsive to local residents and too small to address the regional issues that plague the region (mainly transportation and land use planning) (Slack and Bird, 2012). The Auckland amalgamation has addressed regional issues and improved
collaboration across the metropolitan area but many believe that services have deteriorated and the new Council is less responsive to local needs (Fathimath, 2017). Indeed, some of the municipalities on the periphery have shown an interest in leaving the amalgamated city. In Montreal, the amalgamation in 2002 was followed by the de-amalgamation of half of the municipalities in 2006 (Meloche and Vaillancourt, 2013). Amalgamation is generally imposed from the top down and is almost always controversial.

What are the alternatives to Municipal amalgamation?

If amalgamation is not the answer, what are some alternatives? In addition to the one-tier consolidated model resulting from amalgamation, we can observe other models of metropolitan governance around the world: one-tier fragmented, two-tier, city-states, and voluntary cooperation (including special purpose districts). Table 1 compares how these models stack up against the evaluation criteria set out earlier and provides examples of cities where they can be found. It is possible for a city to appear in more than one category—a city that has a fragmented one-tier government, for example, may also engage in voluntary cooperation to deliver services.

Table 1: Five Metropolitan Governance Models

<table>
<thead>
<tr>
<th>Model</th>
<th>One-tier consolidated</th>
<th>One-tier fragmented</th>
<th>Two-tier</th>
<th>City-states</th>
<th>Voluntary cooperation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Evaluation criteria that are satisfied</td>
<td>Economies of scale, externalities, equity</td>
<td>Economic efficiency, access and accountability</td>
<td>Lower tiers: economic efficiency, access and accountability</td>
<td>Economies of scale, externalities, equity</td>
<td>Cooperation entity: economies of scale, externalities</td>
</tr>
</tbody>
</table>
Perhaps the most popular model around the world is the one-tier fragmented government model, characterized by a large number of autonomous local governments in a metropolitan area each having some degree of independence in making decisions within its own jurisdiction about what services to deliver and how to pay for them. The advantage of this model is that local governments have the potential to be more accessible, accountable, and responsive to local citizens than larger government units. From the local government perspective, they retain autonomy to make decisions. Opportunities to address service spill overs across municipal boundaries, achieve economies of scale in production, or coordinate service delivery across the metropolitan area, however, are limited, as is the ability to achieve metropolitan-wide consensus in matters such as environmental quality and social and spatial disparities (OECD, 2006). Fragmentation can also lead to large fiscal disparities among local government units within the metropolitan area because each local government has different expenditure needs and differing abilities to raise revenues.

In a two-tier government model, there is an upper-tier governing body (usually a region, district, or metropolitan authority) which encompasses a large geographic area and two or more lower-tier municipalities (such as cities, towns, or villages). The upper tier is responsible for services that provide region-wide benefits, generate externalities, involve some redistribution, and display economies of scale. Services that provide local benefits are the responsibility of the lower tiers. A uniform tax at the upper-tier level, combined with region-wide expenditures, serves to redistribute resources from municipalities with larger tax bases to those with smaller tax bases. Critics commonly argue, however, that costs will be higher because of waste and duplication in service provision although there is little evidence to support this argument. Two-tier structures can be less transparent and more confusing to taxpayers, who can seldom determine precisely who is responsible for which services.

City-states are cities that are, at the same time, a state or province (or nation). The provincial-city administration is similar to a province but with a smaller geographic boundary and no local level governments with which to contend. The advantages of being a city-state stem from its ability to internalize externalities, enjoy significant autonomy in budgetary decisions, levy region-wide taxation and use broad-based taxes, and enhanced borrowing powers (Bahl and Linn, 2013). Nevertheless, because city-states tend to be smaller than state governments, the expansion of the urban population over time beyond its boundaries and into other states can result in inter-jurisdictional conflict. Problems also occur when city-states leave behind the hinterland. How does the state government manage to pay for services without the resources of its largest city? Moreover, there are often tensions between the mayor of the city-state government and the central government because the city-state is politically strong and the mayor may be considered a rival by the central government (Bahl and Linn, 2013).

Voluntary cooperation ranges from informal arrangements between municipalities, to more formal inter-municipal agreements, to the creation of special purpose districts (which may provide specific municipal services for several municipalities or manage regional services). Informal arrangements rely on trust among municipalities and involve a lot of flexibility but lack the legal protections of more formal contractual arrangements (Spicer and Found, 2016). Local governments retain their autonomy with respect to expenditure and tax decisions, but at the same time have the ability to reap economies of scale in service delivery and address externalities associated with service provision. Problems of accountability may arise, however, when services are provided by another jurisdiction. When policy-makers in the various local governments have the same objectives, the voluntary model can work well but it does not work as well when objectives diverge (Bird and Slack, 2008). Some degree of redistribution may or may not be acceptable to the municipalities involved. Moreover, the problems faced by many metropolitan areas—global competition, fiscal disparities, and sprawl, for example—are so great that any real solution likely requires a governance structure that has a more permanent institutional status.

What does international experience tell us about governing large metropolitan areas?

The following six lessons can be drawn from the international experience:

1. No one governance model stands above the rest; national and local context matter.
2. The literature does not point clearly to one model that works best and
that can be applied everywhere. The types of governance structures and initiatives that have emerged in the various metropolitan areas around the world reflect the local and national context. There are differences in constitutional provisions and other legislation, whether the country is federal or unitary, the division of responsibilities among levels of government, the assignment of expenditures and revenue sources, the history and politics of the country, and a host of other factors. A metropolitan area in a country with a long history of local autonomy (e.g. home rule in the United States or constitutional provisions in Brazil, which grant local authorities federal status) is unlikely to experience “top down” municipal amalgamations. It may be possible, however, to create a regional authority on a voluntary basis or implement other cooperative mechanisms.

Nevertheless, there are some examples of initiatives that have worked well in specific contexts. Two-tier government structures in London and Barcelona have been successful at balancing regional and local interests. The ABC Chamber in São Paulo has been a successful, voluntary “bottom up” approach that brings together various stakeholders to tackle economic problems. National government financial incentives in the US have resulted in the formation of metropolitan planning organizations. Participatory budgeting in Porto Alegre has encouraged citizen participation and greater accountability in local government. There is no guarantee, however, that any of these innovative mechanisms would work in a different context.

**Municipal amalgamation may be warranted but it is unlikely to save money.**

The literature suggests that municipal amalgamations may potentially result in administrative cost savings but overall costs are unlikely to fall and might even rise. A review of empirical studies in eight countries concluded that, with the exception of highly fragmented systems, amalgamated municipalities do not reap significant economies of scale (Tavares, 2018). Service quality may improve, but at a price (Allers and Geertsema, 2016). Following the amalgamation in the City of Toronto in 1998, for example, expenditures on fire services, garbage collection, and parks and recreation all rose though library expenditures fell (Slack and Bird, 2012). These findings are not surprising. Although amalgamation may eliminate duplication, when municipalities with different service levels and different wage scales merge, expenditures are likely to increase. There are also potential transitional costs in moving to an amalgamated structure. There may be reasons to amalgamate, as noted earlier, but cost savings are unlikely to be one of them.

**Voluntary cooperation is popular but it is unlikely to provide a strong metropolitan foundation.**

Voluntary cooperation may be effective in providing some services, but it tilts the balance towards local autonomy and responsiveness and away from equity or a regional vision. The extent to which inter-municipal cooperation actually achieves economies of scale is not clear – the limited empirical evidence on the impact of municipal cooperation on spending and service levels is mixed (Allers and de Greef, 2018). Since the boards of special districts are generally appointed or indirectly elected from members of local councils, accountability to citizens is compromised. Where policy-makers in various local governments share objectives, voluntary cooperation can work to some extent but this approach is unlikely to provide an adequate regional foundation for metropolitan areas. A shift from inter-municipal cooperative governance structures to a more broadly based multi-purpose metropolitan government structure would improve political legitimacy, but almost inevitably at the expense of local autonomy and responsiveness.

**Effective metropolitan governance requires a process that involves all stakeholders.**

The process for implementing a metropolitan structure is critical to its success. Generally, metropolitan governments are established through a top down process and local actors have to deal with a structure that they did not ask for and do not want (Lefèvre, 2008). Klink (2008) emphasizes that incremental bottom up changes are more likely to be successful than top down proposals. Many actors need to be involved in the process. The state government gives legitimacy to the process and the outcomes. Civil society and business associations provide the support of economic and social interests. Local governments, which deliver
services, need to be on board. Support of the public is needed for the metropolitan arrangements to last. Lastly, the national government can pass legislation that promotes the creation of a metropolitan governance model and can provide financial incentives that encourage buy-in of local governments.

**Metropolitan structures need a clear delineation of functions and adequate fiscal resources.**

For a metropolitan structure to succeed, its functions need to be clear to each tier of government and the public and it needs to have adequate financial resources. The services that local governments in metropolitan areas provide and the way that they pay for them are inextricably linked to governance (Bird and Slack, 2013). Although this paper has not addressed municipal finance issues in any depth, viable solutions to the problems of metropolitan areas can be attained only when those who live there have to make the critical decisions about service delivery, how to pay for the services, and then live with the consequences (Bird and Slack, 2007; Martinez-Vazquez, 2015). The fragmentation of the governmental structure of metropolitan areas means that it is often both technically and politically difficult to make appropriate decisions on expenditures when benefits and costs spill over municipal boundaries. How to share costs fairly within the metropolitan area is also always and everywhere a controversial issue.

**An effective metropolitan governance structure is needed.**

Although neither theory nor practice tells us which model of governance is best for large metropolitan areas, a strong regional structure encompassing the entire city-region is clearly important. Metropolitan areas are characterized both by strong interdependencies (social, economic, environmental, and political-administrative) and by externalities among local jurisdictions (Klink, 2008). Some form of regional structure is needed to address these regional problems, to resolve transportation and environmental coordination issues, and to ensure the economic competitiveness, social cohesion, and fiscal viability of city-regions. Few problems and processes stop at municipal boundaries and many solutions require access to a larger pool of resources, both human and financial, than is likely to be at the disposal of small local governments. What is needed to improve service delivery is first, to design some form of effective metropolitan governance, and then to set out an appropriate fiscal structure.

**REFERENCES**


ANNEXURE C

REFLECTIONS ON THE CONVERGENCE OF MUNICIPAL DEMARCATION AND THE NATIONAL DEVELOPMENT PLAN (NDP)

Document, submitted by Ms Sue Bannister, Commissioner on the National Planning Commission. This document represents the views of Ms Bannister and is not a formal NPC submission. 13 January 2019

Introduction

Over sixty percent of South Africans already live in urban areas in municipalities in which the majority of people are urbanised. By 2030 this will rise to seventy percent. By 2050 eight in ten South Africans will live in urban areas. In reality, though, the landscape of South Africa is highly differentiated and one where there are municipalities which are:

Areas of major economic growth, hope and relative prosperity: These are the major urban areas of around 30 urban areas. In these 30 municipalities one finds: (i) more than 80% of the jobs of the secondary, tertiary and quaternary sector taken as a whole and (ii) relatively high levels of income. The major metropolitan areas and secondary/intermediate cities have a more significant impact and make a larger contribution to the economy than do many of the provinces. Over 30% of the people of South Africa are found in these areas, but their contribution to the Gross Domestic Product is at least twice that. A very high proportion of job opportunities are found in these Category A municipalities, and this is borne out by the fact that on average the populations of these centres grew by over 20% between 2001-2011.

Areas with smaller pockets of formal sector activity: A second set of mainly urban municipalities, much smaller in size, bring together places in which there is some formal sector economic activity, from farming to mining to the leisure and tourism sector. These places usually have large hinterlands of the unemployed where backlogs in providing social services and infrastructure are very high.

Areas where there is very little economically productive activity, but with major social welfare needs: The final set of municipalities are in places where the major aspects of the economy revolve around government programmes of health, welfare and education.

This is the context that existed when the Municipal Demarcation Board (MDB) was first established to demarcate municipal boundaries and it remains largely the same context within which we find ourselves today.

The MDB’s aims and objectives relate clearly to the objects for local government as laid down in Chapter 7 of the SA Constitution and Sections 24 and 25 of the Municipal Demarcation Act.

It’s vision, broadly stated, is to contribute to our constitutional democracy by creating functional and viable municipalities, and development through the spatial configuration of the boundaries of municipalities and municipal wards in the whole territory of the Republic of South Africa. It must ensure the identification and declaration of qualifying municipal areas into metropolitan municipalities, to assess the capacity of municipalities to perform their constitutional functions with a view to making recommendations to those responsible for local government to adjust powers and functions between district and local municipalities, and to give, within the scope of its mandate, advice and support to enhance the development of a sound system of local government.

It is in this space that we find the intersection with the NDP. The NDP provides overall guidance to the MDB in executing its work, ensuring that whatever we do we must aim to reduce spatial injustice, inequality, inefficiency and the like.

The NDP provides South Africa’s developmental framework towards 2030 and sets in motion a series of interventions, actions and recommendations. It is a plan that sought to provide broad guidance to all spheres of government as well as the social partners which include the private sector and civil society.
The National Development Plan recognises the spatial reality outlined above, and, whilst its key focus is directed at how we address unemployment, poverty and inequality, it recognises that our challenges are multidimensional that do not exist in an abstract, but are located in the spatial geography of the country.

Spatial Transformation: A key goal of the NDP and the IUDF

The NDP highlights the legacy of apartheid spatial planning as one of the most formidable obstacles to social transformation, economic development and social cohesion facing the state, labour, business and civil society. It recognises that “Apartheid planning consigned the majority of South Africans to places far from work, where services could not be sustained, and where it was difficult to access the benefits of society and participate in the economy”.

In January 2019, generally (and arguably) the majority of South Africans: Still have to travel long distances at a huge cost to access work and economic opportunities - this means less disposable income as poor households spend on average more than 40% of their income on travel, also have less social time as they leave home very early and come back very late at night, or even worse are unable to stay at home full time (migrant workers).

Still find that it is exceedingly costly for government to provide and maintain services in many areas due to spatial patterns characterized by sprawl. Poor access to social and economic infrastructure required to improve their quality of life persists to this day for many living in former townships and homelands.

The key challenge is therefore to seek to redress these imbalances, and ensure that we attain the vision of the NDP that “By 2030 South Africa should observe meaningful and measurable progress in reviving rural areas and in creating more functionally integrated, balanced and vibrant urban settlements.

For this to happen the MDB and indeed the entire country should:

- Clarify and relentlessly pursue a national vision for spatial development;
- Sharpen the instruments for achieving this vision;
- Build the required capabilities in the state and among citizens.

Responding to the challenges posed by the NDP, the South African cabinet approved the Integrated Urban Development Framework (IUDF) in April 2016. This policy framework sought to take even further the goals of the Reconstruction and Development Programme of “breaking down apartheid geography through land reform, more compact cities, decent public transport and the development of industries and services that use local resources and/or meet local needs”.

In addition to the NDP, the IUDF responds to the post-2015 UN Sustainable Development Goals (SDGs), in particular to Goal 11: Making cities and human settlements inclusive, safe, resilient and sustainable. There is already significant synergy between the IUDF principles and the demarcation objectives and factors outlined in Sections 24 and 25 of the Local Government: Municipal Demarcation Act. There is now a need for strong proposals to strengthen and implement these well-conceptualised criteria.

The IUDF’s overall outcome – spatial transformation – was marked as the pre-eminent “New Deal” for South African cities and towns, by steering urban growth towards a sustainable growth model of compact, connected and coordinated cities and towns.

The IUDF introduced four overall strategic goals and policy levers to support the transformative vision:

- **Spatial integration**: To forge new spatial forms in settlement, transport, social and economic areas.
- **Inclusion and access**: To ensure people have access to social and economic services, opportunities and choices.
- **Growth**: To harness urban dynamism for inclusive, sustainable economic growth and development.
Governance: To enhance the capacity of the state and its citizens to work together to achieve spatial and social integration.

A further important principle introduced by the IUDF is the need to move away from the rural-urban dichotomy and to rather appreciate rural and urban spaces as a continuum. The various policy levers identified in the framework such as integrated urban planning, land governance, integrated transport and mobility, integrated infrastructure and inclusive economic development should help strengthen the linkages between the rural and urban spaces.

National Development Plan (NDP)

The NDP provides South Africa’s developmental framework towards 2030 and sets in motion a series of interventions, actions and recommendations that it thought prudent to get us to a country that is vastly improved, better and safer. It is a plan that sought to provide broad guidance to all spheres of government as well as the social partners which include the private sector and civil society.

The NDP aims to reduce poverty and inequality by 2030 by uniting South Africans, growing an inclusive economy, building the capabilities of the state and through getting leaders to work together to solve complex problems. It emphasises the importance of creating a decent standard of living for all South Africans and proposes that this can be reached through a multi-pronged strategy which includes the following elements:

- Housing, water, sanitation, electricity;
- Transport;
- Education and skills;
- Safety and security;
- Health care;
- Employment;
- Recreation and leisure;
- Clean environment; and
- Nutrition.

Whilst the NDP offers a long-term perspective, it defines a desired destination and identifies the role different sectors of society need to play in reaching that goal. Thus, the NDP makes many proposals for all sectors, and as such, the focus of this document is on the issues relating to demarcation and the role of the MDB. Whilst the above issues are not all direct local government responsibilities, they all happen in municipal space, within boundaries demarcated by the MDB.

South Africa has reached a significant milestone in its journey towards strengthening the democracy, economic growth, diverse and inclusive society that have been our guiding principles since 1994. The MDB has been one of the constitutional institutions that have played a key role in the achievements that have been made particularly in expediting spatial integration, enabling the smooth running of municipal elections and the development of local communities.

The MDB’s role, understandably is centred on its three core functions including the determination and re-determination of municipal boundaries, the delimitation of wards for local election purposes and the performance of municipal capacity assessments. This mandate is elevated to emphasize the strong position the MDB occupies in collating, assuring and providing valuable spatial and demarcation information that can be used not only for demarcation purposes but also to contribute towards the spatial and economic integration goals at all levels across South Africa.

Reducing poverty and inequality

To eliminate poverty and reduce inequality, the economy must grow faster, and in ways that benefit all South Africans. We also need to transform the economy and to focus efforts on building the capabilities. This requires faster and more inclusive economic growth that will create more jobs. This can be achieved by creating a supportive environment for growth and development.

The NDP proposes a number of actions to reduce poverty and inequality. Some of the key issues that are related to the MDB’s work are:
Creating municipal boundaries that ensure that poor communities are incorporated within the municipalities in which they are functionally located. Ideally, ward boundaries too should include as much diversity as possible, bringing poorer and richer areas, and racial groups together.

Creating conditions for policy certainty to encourage stability and investment. This requires addressing demarcation issues with a focussed and direct approach which aims at improving investment in municipalities.

Identifying municipal capacity strengths and weaknesses so that these can be used by other roleplayers to focus programmes to build and strengthen capacity.

To identify municipalities who have the capacity to take on additional powers and functions which can be better delivered at a local level. In the long run this will ensure that services are delivered in a way that is sensitive to local conditions and needs.

Spatial Considerations

The NDP emphasises the importance of the location where people live and work. Apartheid planning consigned the majority of South Africans to places far away from work, where services could not be sustained, and where it was difficult to access the benefits of society and participate in the economy.

In this regard, the MDB has already provided a vital role in breaking down the apartheid-created boundaries, and ensuring that South Africa has a strong spatial restructuring strategy. However, the slow pace of spatial reform means that this role remains as relevant today as it was when the MDB was created. Spatial restructuring must happen both within and between municipalities.

The NDP calls for spatial restructuring to be linked to instruments for implementation, and municipal governance and capacity are a vital factor in this regard. For example, the NDP notes that where a municipality includes a former homeland area, there is a need to focus on dense residential areas, and provide them with the range of residential amenities that are often lacking in these areas. Many of these settlements have population densities approaching that of urban areas but lack the suitable mix of land uses and 'urban' economic activities to support local economies. These are areas that have a great need for strong and capacitated local governance, and this must remain a focus of the MDB’s capacity assessments.

The National Development Plan notes that planning and development programmes to be focused on achieving the following:

- Spatial Justice
- Spatial Sustainability
- Spatial Resilience
- Spatial Quality
- Spatial Efficiency

These principles align closely to the Section 24 and 25 factors, and should remain as important guiding spatial principles to the MDB.

Some examples of how the MDB could respond to these requirements are discussed below.
<table>
<thead>
<tr>
<th>NDP Proposals</th>
<th>Examples of MDB response</th>
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<tbody>
<tr>
<td>Need to respond to entrenched spatial patterns across all geographic scales that exacerbate social inequality and economic inefficiency</td>
<td>Understand spatial development trends and encourage greater efficiencies and effectiveness in mergers and demarcations.</td>
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<tr>
<td>Many people still live in poverty traps, including the former homelands, where less than 30 percent of adults are employed (compared with 55 percent in the cities).</td>
<td>In advising MEC’s on the distribution of powers and functions.</td>
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<tr>
<td>Logistics and communication lines are long because of sheer scale, making infrastructure maintenance difficult and movement of goods and people costly</td>
<td>Place more attention on this in demarcating and in providing advice on powers and functions.</td>
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<tr>
<td>New ghetto formation should be avoided by promoting a mix of race and income groups in new housing developments</td>
<td>Analyse wards in this regard, and aim to promote inclusivity.</td>
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<tr>
<td>A long-term perspective on spatial transformation must be kept in mind at all times while addressing short-term needs.</td>
<td>Encourage requests for redemarcation to argue their case in terms of the aims of the NDP and how these will be achieved. Strive to create the conditions for more humane – and environmentally sustainable – living and working environments.</td>
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<tr>
<td>Ensure that every municipality has an explicit spatial restructuring strategy that is linked to instruments for implementation. This includes identifying priority precincts for spatial restructuring. If necessary, tools must be developed that empower municipalities to make critical interventions to redress past social segregation.</td>
<td>Work with municipalities on detailing their spatial development plans to ease the redemarcation and ward delimitation processes.</td>
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<tr>
<td>An important principle is spatial differentiation. Spatial planning should recognise and respond to differences between places. Spatial typologies used by the government usefully differentiate between categories of settlement, but they are not sufficiently nuanced within each category.</td>
<td>The IUDF provides a perspective on this differentiation and MDB should develop its own approach as a policy area to guide future redemarcations.</td>
</tr>
<tr>
<td>The first principle underlying a vision for rural areas should therefore be sensitivity to the differentiated nature of rural areas, recognising that that there is a rationale for varying types and levels of investment.</td>
<td>MDB needs an approach which goes beyond just aligning traditional areas.</td>
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<tr>
<td>Productive activity and jobs should be supported, and burdens on business minimised. Efficient commuting patterns and circulation of goods and services should be encouraged.</td>
<td>As above, this requires a greater focus on transport, logistics and movement patterns in considering how boundaries are demarcated.</td>
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<td>In the context of economic uncertainty and climate change, towns and cities must be designed for long-term resilience and flexibility, with more attention given to citizen vulnerability and safety.</td>
<td>Analyse climate change plans to a greater extent and consider issues of climate change in demarcation decisions.</td>
</tr>
<tr>
<td>NDP Proposals</td>
<td>Examples of MDB response</td>
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<tr>
<td>The NDP raises some concern about boundaries, noting that the planning system has cemented municipal and provincial boundaries, making it almost impossible to plan across borders or to collaborate between one province or municipality and another. This hinders development planning as many developmental issues, such as environment, transportation and economy issues, straddle political boundaries.</td>
<td>Whilst the MDB create municipal boundaries and do not play much of a role in how municipalities interact across these boundaries, it is something that the MDB is, through its work on the ground and with local communities, to identify and to raise with relevant municipalities and Departments such as COGTA.</td>
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</table>

**Infrastructure**

Infrastructure is essential to development. It is not just essential for faster economic growth and higher employment, but also promotes inclusive growth, providing citizens with the means to improve their own lives and boost their incomes.

Key towards spatial transformation is the need for connective and transport infrastructure to redressing the spatial imbalances in our country and to reduce the costs that these place on the poor. Transport must be seen as a system that includes all modes of transport, logistics and supply chains, not just those for which the municipality is responsible. A systemic approach will help improve transport efficiency and accessibility while reducing the overall environmental, social and economic costs.

There is a need to improve coordination in the provision of infrastructure by different spheres of government. The MDB’s capacity assessment is a vital component in this, to identify where local government has the ability and capacity to take on new roles in the provision of infrastructure delivery.

**Rural development**

The apartheid system forced much of the African population into barren rural reserves. The result was an advanced and diversified commercial farming sector relying on poorly paid farm labour, and impoverished, densely populated communities with limited economic opportunities and minimal government services.

The MDA requires that the MDB consider the “existing and expected patterns of human settlement and migration” as a criteria in developing municipal boundaries. This has a strong linkage to the NDP’s call for the identification of populated rural areas which have low levels of bulk and reticulation infrastructure and which require municipal boundaries that recognise and respond to these conditions.

More work is required to ensure that there is a sufficiently differentiated understanding of rural areas in South Africa so that interventions in support of rural development will be sensitively attuned to variant developmental conditions. South Africa must, for example, develop a better understanding of the changing demographics of who stays, who leaves and who returns and what impact that has on the nature of the household structure and livelihood opportunities across the typologies. The NDP also calls for the development of service clusters where services by all spheres of government can be provided more efficiently.
This requires strong spatial coordination with other organs of state to ensure that health, education, transport, welfare and security services are provided. These should be kept in mind when the MDB considers the Section 24 Objectives.

Environmental sustainability

The NDP calls for the creation of a green economy and a low carbon economy which is characterised by a more sustainable economic growth and development path in the long term.

From a demarcation point of view this requires identifying natural environment features, vulnerable areas and other natural areas and ensuring that municipal boundaries are developed which recognise these and create the best conditions for these to be protected and replenished.

In its own operations the MDB should take action to reduce all forms of pollution. This includes providing recycling facilities and reducing its demand for energy and water. This could also include ensuring procurement of materials which reduce landfill and reduce greenhouse gas emissions.

Inclusive planning/ active citizenry and social cohesion

The NDP calls for the need to actively support and incentivise citizen engagement. It notes that in general, many participatory processes are often formulaic and compliance-driven, and there are few incentives for citizens to engage

Engage children and the youth in discussions around demarcation. Allow them to provide suggestions and engage in debate. Encourage school children to think about the municipality where they live and discuss how municipal boundaries affect them.

Municipal boundaries can play a vital role in social cohesion through integrating divided communities.

A capable and developmental state

A developmental state supports and guides development so that benefits accrue across society especially to the poor; the root causes of poverty and inequality are tackled; and long term broader interests are put above short-term, sectional concerns.

The MDB can play a pivotal role in this regard:

- The MDB’s capacity assessments are a vital tool in building a more capable and developmental state, and their emphasis should remain on identifying the capacity of municipalities to govern and provide services. This information should be widely shared and its use by various organs of state should be encouraged.

- In its demarcation decisions, the MDB should ensure its developmental role is not eclipsed by a purely technical role. All demarcation decisions should be guided by the need to create local governments which can best reduce poverty and inequality and increase economic growth.

- In its own internal operations, the MDB should continue to ensuring that it provides information to the public, all spheres of government, the private sector and civil society.

CONCLUSION

The National Development Plan provides overall policy guidance to the MDB in executing its work in order to reduce poverty, inequality, spatial injustices, and to build our economy in an inclusive way.

This document provides a brief overview on the nexus between the National Development Plan and the work of the MDB. It is clear that the MDB have already played a significant role in implementing the NDP and should continue to do this in their ongoing work.

- In summary, some of the ways in which the MDB can further the aims of the NDP are:

- Identifying municipal capacity strengths and weaknesses so that
these can be addressed, and so that municipal capacity to deliver basic services can be improved.

- Focussing on the five spatial principles as outlined in the NDP: spatial justice, spatial sustainability, spatial resilience, spatial quality and spatial efficiency.

- Understand spatial development trends and encourage greater efficiencies and effectiveness in mergers and demarcations.

- Prioritise issues relating to the addressing of poverty, inequality and unemployment in advising MEC’s on the distribution of powers and functions.

- Emphasising issues relating to logistics and movement patterns in demarcating and in providing advice on powers and functions.

- Ensuring municipal boundaries include diversity and serve to reduce spatial divisions, actively breaking down apartheid boundaries.

- Analyse wards with regard their race and income mix, and demarcate wards which promote inclusivity

- Encourage requests for redemarcation to argue their case in terms of the aims of the NDP and how these will be achieved.

- Work with municipalities on detailing their spatial development plans to ease the redemarcation and ward delimitation processes.

- Develop an MDB-specific approach to spatial differentiation which builds on NDP’s five spatial principles.

- Analyse climate change matters to a greater extent and consider issues of climate change in demarcation decisions.

- Internally, the MDB’s operations should reflect NDP principles including ensure that the staff are representative of the racial, gender and disability profile of the country. The MDB should strive to building human capacity and create a developmental and fulfilling workplace. It should also ensure it includes environmentally sustainable principles in its procurement and operations.

In conclusion, this is an opportunity for the MDB to reflect and consider how effective boundaries can enable municipalities to improve existing patterns and accommodate new growth in a way that ensures development? Put differently, does the municipal boundary that exist today enable it to close the gaps between functional urban spaces to create settlements that make service provision and public transport financially viable? Does the boundary help form a new efficient unit or strengthen an existing spatial form that promotes integrated and sustainable human settlement? Can communities access with ease the social and economic services, goods and opportunities?

Further - will the boundaries enable/facilitate the provision of infrastructure such as transport, IT, energy, water, etc in an inter-connected way? Does it facilitate the connection of various spaces/parts of the city or town to unlock the development potential of the area?

Above all, a key issue is policy coherence which is critical for integrated development. In this regard, the MDB should consider how its demarcations, capacity assessments and other advisory work will facilitate and enable collaboration and vertical and horizontal alignment of plans and infrastructure.
CHAPTER 11
NEWSROOM – RAW VIEWS AND OPINIONS ON THE MDB’S WORK BY THE MEDIA, PUBLIC, POLITICAL ANALYSTS AND POLITICAL PARTIES
In what is being described as a “coup” for the IFP, an angry King Zwelithini came out against the Municipal Demarcation Board at the amakhosi’s imbizo on Saturday for not consulting him and has sought an urgent meeting with President Thabo Mbeki.

At the same time, board chair Dr Michael Sutcliffe yesterday criticised elected leaders for spreading “misinformation” in KZN and said that he and Zwelithini had agreed on the need to hold a meeting some time ago, pointing out that the king’s trusteeship is not affected by the demarcation process at all.

Sutcliffe said: “The obvious case [of misinformation] is where the MEC for Local Government and Traditional Affairs, Inkosi Nyanga Ngubane, has allegedly made statements that once traditional authorities are part of municipalities they will be forced to pay rates”.

Sutcliffe said he has sought a meeting with the KZN cabinet to address the issue. “I have pointed out ... that the issue of rates payments has nothing to do with demarcation”…..

He went on to liken the situation to that in 1981 when the “Afrikaner government” decided to incorporate Ingwavuma into Swaziland, leading to an uprising in which thousands lost their lives. The Zulu nation is not prepared to return to that “bloodbath and concomitant difficulties”, the king said, calling for calm…..

Meanwhile the ANC’s Mtholephi Mthimkhulu supported the king’s call for calm and a meeting with Mbeki.
MINISTER MEETS COMMUNITY LEADERS ON DEMARCATION ISSUES

Wednesday, January 21, 2009

Matatiele - Minister for Provincial and Local Government, Sicelo Shiceka, is meeting community leaders on Wednesday to conduct a consultative process with a view to resolving the demarcation of Matatiele, bordering KwaZulu-Natal and the Eastern Cape….

Residents in the small town bordering Kwa-Zulu Natal and the Eastern Cape, are divided on whether the town should be re-incorporated back into KwaZulu-Natal or remain in the Eastern Cape. Matatiele had been in KwaZulu-Natal before government’s process of re-demarcation of municipal and provincial boundaries in 2006 saw it being incorporated into the Eastern Cape.

Ms Vika said the meeting on Wednesday formed part of a consultative process the minister embarked on in all the areas where government’s boundary re-demarcation process of 2006 remains a contentious issue since coming into office. Ms Vika explained that in some communities the opposition to being placed in a different municipal or provincial area had led to a total breakdown of normal life due to protest action by residents.

The collection of residents’ views on the issue is the beginning of a process that will culminate in government making a final decision on the areas, which will in all cases be informed by the will of the majority through various stages of the process. Ms Vika has also confirmed that local dynamics will in all instances be taken into account in finding a sustainable solution that will lead to the resumption of normal life in all the affected areas.

Minister Shiceka’s office is also dealing with cross-boundary conflict in Merafong in the North West with the majority of residents wanting to be re-incorporated into Gauteng.

Ga-Mothibi Municipality in the North West has also been a troubled area with some residents wanting to go back to the Northern Cape as well as the Moutse Municipality in Limpopo with the community divided between remaining in Limpopo or being re-incorporated in Mpumalanga.

The process in Merafong is at an advanced stage with the area set to be re-incorporated back into Gauteng as soon as all legal and statutory processes have been finalized.

MDB CHAIR TO MEET MIDVAAL MAYORS

Politics / 30 January 2014, 3:56pm / SAPA

Municipal Demarcation Board Chairperson Landiwe Mahlangu talks about the concerns regarding the amalgamation of various municipalities. File picture: Masi Losi

Johannesburg - Municipal Demarcation Board chairman Landiwe Mahlangu will meet Midvaal and Emfuleni mayors next week about the merging of the two municipalities, the board said on Thursday.

“(This is) part of a briefing process with stakeholders to discuss the integration plan and addressing some of the unresolved concerns,” the MDB said in a statement.

Mahlangu would meet Midvaal mayor Bongani Baloyi in Meyerton on Monday and Emfuleni mayor Greta Hlongwane at her office on Wednesday.

In October last year, the MDB announced that the Emfuleni, Midvaal and Sedibeng municipalities would be merged into a single metropolitan municipality.

The merger was among 157 cases the board published, detailing what changes would be made to certain municipalities following the 2016 municipal elections.

The Emfuleni municipality incorporates Vanderbijlpark and Sebokeng. Midvaal includes Meyerton and Randvaal. Sedibeng covers Heidelberg and Ratanda.

The decision to merge the municipalities invoked both joy and disappointment

The DA, which runs the Midvaal municipality, opposed the merger and vowed to take the MDB to court, saying the decision was politically motivated.

The MDB denied bowing to any political pressure.

SAPA

MUNICIPAL CHANGES WEIGHED IN 2016

Politics / 13 November 2013, 4:57pm / SAPA

Johannesburg - The Municipal Demarcation Board (MDB) will consider new municipal boundary proposals for redetermination only after the 2016 municipal elections, the board said on Wednesday.

MDB chairman Landiwe Mahlangu said the board was holding discussions about reducing the number of municipalities to ensure their efficiency, viability, and sustainability.

Last month, the board released its final decisions on municipalities that were up for consideration.

“This effort is not only taking place in the Eastern Cape province but includes... Mpumalanga and Northern Cape where the MDB has recently interacted with the local SA Local Government Association (Salga) structures on similar challenges,” said Mahlangu.

“In as much as discussions are taking place, the only changes that are going to be effected are those on which the board has taken a decision that was communicated last month.”

The MDB was also waiting for Co-operative Governance Minister Lechesa Tsenoli and MECs in the affected municipalities to determine formulae and legislative changes that would affect the municipalities involved.

Mahlangu encouraged stakeholders to contribute to the development of municipalities.

He was currently on a roadshow aimed at briefing provincial Salga structures on the final decisions taken by the board and the implications these would have.

The board had given information to the Independent Electoral Commission for it to comment on the impact of its decision and would soon be embarking on a ward delimitation process, part of which would be to ensure the smooth transition of the affected municipalities.
More than two years and R1-billion later, the Gauteng government will study the effect of the incorporation of Metsweding district municipality by Tshwane.

The provincial portfolio committee on cooperative governance and traditional affairs yesterday ordered the department to investigate the effect of the 2011 merging of Metsweding and its two local municipalities - Nokeng Tsa Taemane and Kungwini - and the capital city.

The merger has put considerable financial strain on Tshwane.

The Times reported yesterday that Tshwane was forced to write off R520.6-million in debt it inherited from the defunct municipalities - debt that city officials admit is irrecoverable.

The decision to launch the study was taken at a council meeting last week.

In its first report, covering the second quarter of the year, the department observed that "subsequent to the merger, the municipality [Tshwane] had challenges with reconciling the separate records from the different municipalities [Nokeng Tsa Taemane and Kungwini]."

"The merged municipalities had challenges in keeping reliable, accurate and complete records of the revenue billed and collected," the report said.

"The merger, if finalised, would create SA’s ninth metropolitan municipality and Gauteng’s fourth, but would swallow up the DA’s only municipality in SA’s richest province. The DA in Midvaal formed the People Against the Metro action group at a meeting earlier this month.

The DA, which has run the Western Cape since 2009, is keen to retain control of that province, and to gain control of Gauteng, in the May 7 general election.

DA Midvaal constituency chairman Freddie Peters said the DA suspected that the demarcation board’s commissioned study into the feasibility of the merger found that the two municipalities did not meet the criteria needed to form a metro, hence the board’s “refusal” to release the report.

Other parties’ support showed that the DA was not the only party concerned with the manner in which the demarcation board had handled the proposal.

Midvaal plans to lodge legal papers in the Supreme Court of Appeal before April 15 to stop the merger before the 2016 local government elections, when new municipal borders will be established..."
The creation of a Metro will also not address spatial segregation, as all municipalities are mandated by sections 152 and 153 of the Constitution to deliver services, to promote social and economic development, and to budget in such a manner so as to prioritise those needs...

We will also launch an intensive campaign across all four affected municipalities, explaining to people the reasons behind our opposition, and ask them to join us and lodge their own submissions opposing the merger.

The answer to improved service delivery does not lie in merging poor performing municipalities into metropolitan municipalities, it lies in competent local government, staffed with skilled professionals who put the needs of the people first.

The DA submitted an urgent question for oral reply in accordance with the Legislature’s Standing Rules of Order, only to have Speaker Mekgwe deny it for reasons we believe were to protect MEC Mamabolo.

In the question, the DA enquired, among others, about what the collective debt burden of the proposed metro would be, as well as what its projected income levels would be.

The Speaker’s refusal was based on the fact that the Standing Rules do not allow questions of a statistical nature to be tabled for oral reply, and that the MEC did not have sufficient time to collate the necessary data.

The DA believes that the Speaker has misinterpreted the rule in question, and that the denial was intended to protect the MEC from parliamentary oversight.

The fact is that the Municipal Demarcation Board (MDB) on 15 May called for public submissions over the proposed metro after being requested to do so by Cooperative governance minister Pravin Gordhan – who made the request after consulting with the MEC.

It therefore stands to good reason that the MEC should have the facts on hand as these would be necessary to discuss the proposal with Minister Gordhan, and to make government’s own submission to the MDB before the 21-day deadline of 5 June.

While the DA is in the process of preparing its own submission to the MDB, this, and other events are making it increasingly clear that the ANC will stop at nothing to gerrymander municipalities in an attempt to cling to power.

To this end, the DA has referred the matter to the Legislature’s Rules Committee requesting it make a ruling on the Speaker’s decision.

The DA will continue to oppose the ANC’s tactics to force this merger onto residents of the West Rand.

The MDB is tasked with delimiting wards and determining municipal boundaries ahead of the local government elections, a task that often results in dissatisfaction from communities, depending on how they’re affected. The DA said this week that it was in the interests of the ANC in Gauteng for the Midvaal and Emfuleni to be merged.

StatsSA figures shows the Emfuleni municipality had a population of more than 700 000 in 2011, with Midvaal having just over 90 000 residents.

WEST RAND RESIDENTS OBJECT STRONGLY TO PROPOSED METRO

Public participation meetings will be held this week.

June 1, 2015

This past weekend residents of the West Rand came out in their numbers to object to the proposed creation of a metropolitan municipality.

On Saturday and Sunday the DA ran a coordinated awareness campaign throughout the Merafong, Mogale City, Westonaria and Randfontein local municipalities, informing residents of the proposals, and that the deadline for objections expires on 5 June.

“Residents were completely unaware of the proposals and the deadline, but immediately undertook to lodge their objections with the Municipal Demarcation Board (MDB), and signed the DA’s petition opposing the metro – which would be lodged as part of our objections,” Solly Msimanga, MPL and DA Gauteng Provincial Chairperson said.

“The DA is strongly opposed to merging these local municipalities into a metro, as we believe that cooperative governance Minister Pravin Gordhan and his provincial counterpart Jacob Mamabolo had other avenues to address the host of administrative governance issues plaguing these municipalities.”

“The Tshwane experience has also shown that service delivery has not improved when merging poor performing municipalities, despite the fact that municipal rates were increased – as the debt burden is simply too much to bear.

“Tshwane had to absorb a cost of R1 billion to accommodate the merge, and was only compensated R20 million by the provincial government.
“This week, the MDB is scheduled to host public participation meetings in each of the four municipalities, and the DA calls on the greater public to arrive in their numbers and raise their concerns and/or objections with the board.”

“The DA will remain at the forefront of the battle for better service delivery and to prevent the formation of a dysfunctional West Rand Metropolitan Municipality,” Msimanga concluded.

DENVER HOSTEL RESIDENTS THREATEN TO BLOCK VOTER REGISTRATION PROCESS
Thursday 7 April 2016 - 1:50pm

DENVER HOSTEL MAIN GATE.

JOHANNESBURG - The Independent Electoral Commission’s call for a peaceful voter registration weekend could be stymied by Denver hostel residents, who oppose the demarcation process affecting their ward.

Denver hostel ward 65 councillor Mandlakayise Simelane said the hostel had been incorporated into Democratic Alliance-run ward 118 without proper consultation. The suburb of Denver, however, falls under ward 65 which is run by an Inkatha Freedom Party (IFP) councillor.

During the March voter registration weekend, IFP supporters barred IEC officials from conducting their duties at Denver hostel and threatened residents who wanted to register for the elections or check their details.

Several government leaders visited the area and promised to resolve the demarcation issue quickly. Simelane said such promises have not yet been fulfilled and residents are adamant they won’t be moved to a different ward.

“People are angry and some are saying we should block the registration process because nobody wants to listen to our concerns. As leaders we are not against voter registration or the elections but we must also listen to people’s views.

“We have asked the IFP national legal team to assist us in this matter. We will get their response later Thursday or Friday, then convene a public meeting to inform residents on the way forward,” said Simelane.

Simelene said the main reason hostel residents don’t want to be incorporated into ward 118, is that their names will drop further down on the RDP beneficiary list.

The Chairperson of the Demarcation Board, Jane Thupana, maintains that the board consulted widely with the community before and after the first voter registration weekend.

Thupana said no objections were received and the matter is closed.

“We had a meeting with the hostel councillor, political party leaders, the municipality and residents in March this year. Many thought the hostel would be divided into two but we explained that it will be consolidated into ward 118.

Those attending the meeting did not object and they received maps clearly indicating the process. We also visited the hostel to further engage with residents and there were no objections,” said Thupana.

Simelane confirmed that they recently met with the Demarcation Board but maintains that no party agreed to move Denver hostel into ward 118. He declined to comment further, saying the IFP national office will give them guidance soon.

MUNICIPAL WILL WE REALLY BECOME A METRO?
The Municipal Demarcation Board wants to know: yay or nay for metro?
July 27, 2015

Centenary Hall was filled to the brim with the Mogale City community.

The metro madness continues, but now the first independent player has joined the game.

The public participation meeting last week Thursday, 23 July, was held by the Municipal Demarcation Board (MDB), an independent authority, to listen to the residents of the municipalities that will be affected.

No decision has been made by the MDB yet, but these meetings play an important role when the Board will eventually make a decision.

Mpumi Mpolu, a MDB representative, explained that if the MDB agrees to the formation of a West Rand Metro, it will most likely take affect during the next local government elections next year.

“But all opinions received will be considered and we will either confirm, vary or withdraw the decision we have made,” Mpolu said.

Centenary Hall was filled to the brim with the people of Krugersdorp. Young, old, political figures, community members from different races attended the meeting. Both
the Democratic Alliance, the Freedom Front Plus and even AfriForum voiced their objections to the proposal of a metro.

On the other end, the African National Congress is confident that the metro merging will continue.

Mogale City’s Executive Mayor Koketso Calvin Seerane attended the meeting, but did not participate in the question and answer session.

For now, the MDB is still deciding on a matter that can lead to either a decline in service delivery or better economic structure, according to the DA and Mogale City respectively.

**Limpopo**

**NO NEW MUNICIPALITY FOR MALAMULELE**

_Limpopo / 30 January 2015, 4:57pm / SAPA_

Polokwane - Malamulele residents will not get their own municipality, despite weeks of protests, Limpopo’s cooperative governance department said on Friday.

“No, they are not getting it,” MEC Makoma Makhurupetje’s spokesman Motupa Selomo said, following a meeting with the Municipal Demarcation Board (MDB).

MDB members held a closed meeting with the Malamulele task team and Makhurupetje on Friday.

Protesters demanding their own municipality have brought Malamulele to a standstill, monitoring roads to ensure no business takes place, and forcing a shutdown of schools as well as shops in the local mall.

Residents have blamed the MDB for not heeding their call for Malamulele and some surrounding areas, especially the Xitsonga-speaking ones, to have a separate municipality.

They claim they are not receiving services from the Thulamela municipality, which they allege has been channelling services to Tshivenda-speaking areas.

The demand for another municipality has fuelled tensions between Tshivenda and Xitsonga speakers, and triggered divisions among local traditional leaders, as some regard it as a tribal issue.
Malamulele: ‘Give us our own municipality or else …’

19 January 2015 9:57

The leaders of the protests in Malamulele, Limpopo, have threatened to escalate their activities should authorities not meet their demand for their own municipality.

“Today we are waiting for a response from the Municipal Demarcation Board and the minister [of cooperative governance],” said one of the leaders, Isaac Nukeri.

“If that does not happen, we will write letters to them again tomorrow about a march and then escalate the protest to ensure nothing goes into or out of Malamulele.”

The area came to a standstill – children were prevented from attending school and businesses were closed – as residents took to the streets to demand their own municipality.

Protesters forced shops in the local mall to close two days before inland schools were due to open for the new academic year.

They blamed the Municipal Demarcation Board for not heeding their call for Malamulele and some surrounding areas, especially those that are Xitsonga-speaking, to have its own municipality.

Residents claimed they were not receiving services from the Thulamela municipality, which they alleged had been channelling services to Tshivenda-speaking sections. The municipality has repeatedly denied this.

The demand for another municipality has fuelled tensions between Tshivenda and Xitsonga speakers and triggered division among local traditional leaders as some regard it as a tribal issue.

Last year protesters took to the streets, burning shops and looting, causing millions of rands’ worth of damage.

“Malamulele is tense, there are people monitoring the area to make sure there’s no business taking place. There’s no public transport operating,” said Nukeri.

President Jacob Zuma said he would look into the matter when he visited the area last year ahead of the May general elections. No response had been received from Zuma’s office, said Nukeri.

Police spokesperson Colonel Ronel Otto said the area was quiet today and that police continued to monitor and maintain law and order.

- Sapa

Malamulele residents during ANC election rally last year, where President Jacob Zuma was booed while addressing the community about their call for their own municipality (Deaan Vivier, Gallo)

The shutdown of Malamulele in Limpopo as a result of protests in the area is unacceptable, President Jacob Zuma said on Sunday.

“Once you shut down, you infringe on other people’s rights such as children not being able to go to school,” Zuma said in an interview on SABC. “This is unacceptable. If we are pushed to a point we will have to take certain actions.”

The shutdown of Malamulele has entered its fifth week as residents remained defiant in demanding their own municipality.

The Municipal Demarcation Board announced in January that Malamulele did not qualify for its own municipality. Protests erupted in the area last year before the May general elections, and re-ignited a month ago with residents demanding their own municipality.

Local news

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Capricorn Voice

RESIDENTS RAISE THEIR CONCERNS

PEOPLE living in the Vhembe district were given a chance to air their views to the Municipal Demarcation Board (MDB) about the redetermination of municipal boundaries in the area last Tuesday.

May 8, 2015
LIMPOPO – People living in the Vhembe district were given a chance to air their views to the Municipal Demarcation Board (MDB) about the redetermination of municipal boundaries in the area last Tuesday.

This was in compliance with a call made by cooperative governance and traditional affairs minister, Pravin Gordhan about the redetermination of the boundaries of certain municipalities.

A large number of people, including those representing various community structures, gathered at the Thohoyandou Indoor Sports Centre to air their views to the representatives of the MDB, chaired by Jane Thupana.

Thupana told the gathering that the purpose of the public participation meetings they were rolling out throughout the country was to hear everyone’s views on the redetermination of municipal boundaries.

Earlier this year, there was a proposal to close Mutale Municipality with a view towards solving the challenges of financial viability and lack of proper services delivery.

Speaking on behalf of the DA in Mutale, councillor Joseph Mariba, said the Mutale Municipality had returned an estimated R31 million that was underspent during the last financial year to the national treasury.

The destruction of a school is a disaster. We already know that these regrettable events may be linked to the toxic politics of patronage and local looting of the public purse. It seems that Vuwani’s move to a new municipality may have a devastating impact on some tenderpreneurs.

But there is another aspect to this mess. The struggle over demarcation has been shaped by old Bantustan borders and identities and has also become an ethnic conflict. In 1994 many of us thought that the days of ethnic politics were behind us. But they have returned to Durban, and other parts of the country, too. Ivor Chipkin, perhaps one of the most thoughtful academics in the country, has argued that as the ANC loses support in the cities, with the exception of Durban, it is increasingly rooted in the former Bantustans and arguably in local ethnic identities.

Communal politics has been a disaster in countries like India, Nigeria and Kenya. It is of the utmost importance that South Africa does not go down this road. The battle that is now on for the soul of the ANC is about much more than just corruption. It is also about the form of our politics and the future of democracy.

Residents have been protesting since last year against the Municipal Demarcation Board’s decision to incorporate their area into LIM 345, a new municipality.

This month, a school administration block was burnt down four days after fresh violence erupted in Vuwani over the boundary dispute.

The Tshirhunzanani Primary School in Vuwani’s Venom section was torched days after the demarcation board rejected the community’s appeal to review its decision. Further protests were thwarted by police.

**The Times**

**PROTESTERS TORCH SCHOOL**

3 February

ANGRY residents of Malamulele, Limpopo, last night burned down a school in protest against the Municipal Demarcation Board’s refusal to grant the town municipal status.

According to a source, the school was set alight immediately after a community meeting.

Details were still sketchy last night but it is suspected that the protesters first set fire in the administration block. The fire then spread and ended up engulfing most of the school.

The actions of the protesters were widely condemned on Twitter and Facebook last night.

@VelaphiManganyi wrote: “I’m from Malamulele myself n I want municipality but burning a school shws a foolishness running without fool stop. Only fools can do that.” – Kingdom Mabuza
EXAMINING THE POLITICS OF MUNICIPAL DEMARCATION

This article highlights municipal boundary demarcation challenges and protests as well as how communities get divided by the boundary issue and end up fighting for limited resources.

The official end of apartheid in South Africa in 1994 and the dawn of democracy left many people with a lot of expectations and hopes for a better life. Many who were in dire poverty, particularly in black communities, expected the government to bail them out of poverty aggravated by unequal allocation of resources by the apartheid government. In contrast the country is experiencing countless protests more than anyone could have imagined during the infant stages of the country’s democracy. Peaceful protest is a constitutional right to those who want to register their dissatisfaction and raise their voices. While there are reasons for violent protests given by those behind them, it is becoming a norm in this country that whatever communities demand, it is done through violent protest.

There are different kinds of protests that occur time and again around the country. Those who are careless in categorizing these protests end up mixing them in one pot and call them service delivery protests. In reality these protests vary from one protest to another; they include service delivery, tribalism political and demarcation protests while some are a mixture of all these. This article highlights municipal boundary demarcation challenges and protests as well as how communities get divided by the boundary issue and end up fighting for limited resources. While Demarcation Board and demarcation protesters have reasons in their actions, the question is, who has a final say between the Demarcation Board and citizens in the final decisions on demarcation?

MUNICIPAL DEMARCATION BOARD TO CONSULT MALETSWAI

The Municipal Demarcation Board (MDB) is hosting a public meeting on the determination and re-determination of municipal boundaries for the Joe Gqabi District Municipality.

The MDB published a Section 26 notice requesting written views and representations from members of the public and all stakeholders affected by Minister’s request for municipal boundary re-determinations. Maletswai Local Municipality and Gariep Local Municipality are also affected in this regard where the two municipalities will merge to form a new municipality. The board considered all submissions received and resolved that public meetings be conducted to engage the submissions further.

The purpose of the meeting is for the MDB representatives to provide an explanation regarding the issues the board has to consider, including any options open to the MDB, allow members of the community attending the meeting to air their views on these issues and answer relevant questions.

During the meeting, members of the public will be allowed to submit written submissions to the MDB representatives to support their views. However, only submissions based on Section 24 and 25 of the Demarcation Board, 1998, will be considered. Following the meeting, the MDB will then decide on whether or not to continue with the section 21 process.

If the MDB decides to proceed with the Section 21 process, the wards in the affected municipalities will be delimitated after the completion of the Section 21 process.

The meeting for the affected municipalities in the district – Maletswai Municipality and Gariep Municipality – will be held next Friday, April 17 at 10am at the Joe Slovo Community Hall in Dukathole Township.

themessengernews.co.za - The Messenger

MPUMALANGA

FILE: Police are closely monitoring the situation. Picture: Reinart Toerien/EWN

13 March 2015

MAYOR’S HOUSE TORCHED IN MPUMALANGA

There are suggestions that residents refuse to have their municipality integrated with Standerton.

Eyewitness News | 4 years ago

JOHANNESBURG - Police have confirmed a Mayor’s house has been burnt down during a violent service delivery protest in Mpumalanga.

This week’s demonstrations have shut down schools and businesses in the area.

But protests escalated last night and the crowd torched the home.

There are suggestions that residents refuse to have their municipality integrated with the Standerton council.

No arrests have been made but the police’s Leonard Hlati says they are monitoring the situation.

“There are police members that are manning the situation. We are calling for peace so that people can stop to vandalise and burn others people’s belongings.”

AMALGAMATIONS IN MPUMALANGA NOT A “DONE DEAL”

Posted on April 19, 2015 by DA MPL Assistance Network

By: Bosman Grobler MPL DA spokesperson on COGTA

the Municipal Demarcation Board (MDB) has this week interacted with communities across the province regarding the amalgamation of municipalities. The
Democratic Alliance does not support any of the four proposed amalgamations between the municipalities of Msukaligwa and Pixley Ka Isaka Seme, Emakhzeni and Steve Tshwete, Emalahleni and Victor Khanye along with Umjindi and Mbombela.

This sentiment was echoed by residents in affected municipalities resulting in violent protests in Balfour last month that forced the MDB to postpone the amalgamation of Lekwa and Dipaliseng. On Wednesday, the N11 highway outside Delmas was barricaded and a delegation of approximately 150 people arrived in Middelburg demanding to see the MDB. As a result, the MDB announced that further public participation would take place in Victor Khanye municipality on Monday.

The DA has appealed to the MDB to request Cooperative Governance Minister, Pravin Gordhan not to go ahead with joining municipalities. Talks of amalgamating municipalities have already led to unrest in certain communities and the continued pressure on residents to agree to the amalgamations is likely to lead to more violent protests.

The idea that bigger municipalities will perform better is fundamentally flawed as numerous examples across the province and country have shown this. In fact, smaller municipalities tend to have better audit outcomes because they are easier to hold accountable. If these amalgamations continue as proposed, the residents of small towns will suffer the most due to a lack of service delivery because they are away from the centre of power. The DA will make another submission to the MDB to appeal to Minister Gordhan to retract or at least postpone the proposed amalgamations at least until after the 2016 municipal election.

“We understand that the ruling party wants to relieve the pressure before the local municipal elections, but this is not the right way to do that,” stated Collen Sedibe, provincial leader for the EFF in Mpumalanga.

“We highly object the amalgamation, as the people have a great concern that Mbombela is operating at a financial deficit. The minister must rather look at building capacity in the current municipality,” he added.

- Caxton News Service

**MIXED EMOTIONS AT PROPOSED MBOMBELA AND UMJINDI MERGER**

Emotions ran high over the proposed merger between Mbombela and Umjindi local municipalities, with citizens and stakeholders from both either raising their objections or voicing their approvals at the municipal demarcation board (MDB) hearing.

April 21, 2015

Shivon Wiggins, MDB member and representative, facilitated the hearing at the Ehlanzeni District Municipality offices and explained the amalgamation process with the public in attendance. Attendees were then able to query the process as well as raise issues and objections. Lowvelder reported.

“We have no political affiliations. Our main purpose is to obtain the views from the public hearing in order to assist us in either amalgamating the two municipalities or keeping them as separate entities,” she said.

The financial and administrative aspects of both municipalities were put to the fore by numerous members of the public, some of who had also brought placards to the hearing last week.

A tense political tension could be felt from ANC members when DA and EFF representatives questioned the viability of the amalgamation. Wiggins on numerous times had to defuse the situation...
Free State
Province

ZAMDELA: A FAILURE OF THE PUBLIC CONSULTATION PROCESS
By Khadija Patel• 31 January 2013

After the deaths of at least six people, damage to property worth millions of rands and a deeply scarred community, the Municipal Demarcations Board met with Zamzela residents on Wednesday to find out what they actually thought of the proposed merger of the Metsimaholo and Ngwathe municipalities. What emerged was the all-too-familiar narrative of South African communities abandoned by the officials meant to represent them. By KHADIJA PATEL.

On the surface of it, there may not appear to be much in common between the grievances of striking mine workers in Marikana (or, indeed, Carletonville) and the residents of Zamzela, who protested against proposed changes to municipal boundaries. The striking mine workers wanted a pay hike; Zamzela residents refute a proposal to merge two municipalities in the Free State. And yet, beneath the ostensibly energy driving both movements, there are communities who have been abandoned by the officials who are meant to represent them, their needs and their opinions.

What we remember of Zamzela months from now will probably consist largely of images of death and destruction. Haunting images of seemingly mindless violence. And yet the impetus of that violence is not easily photographed and captioned. These are people who feel they have been robbed of the right to have a say in decisions that dictate their lives.

On Wednesday, after a meeting with the Municipal Demarcation Board, Lucky Malebo, a representative of Metsimaholo Concerned Residents, stressed that it was a lack of consultation of with the community on the proposal to merge the Metsimaholo and Ngwathe municipalities that had angered residents. “The anger comes from the fact that we were never consulted with,” Malebo said.

Free State The Weekly

Posted by editor on Friday, May 8, 2015

MANGAUNG, NALEDI MERGER ON THE CARDS

The Municipal Demarcations Board is considering merging the Naledi Local Municipality with the Mangaung Metro Municipality, it said this week…

Naledi municipal spokesperson Teboho Kholoanyane said an initial proposal was to merge the municipality that falls under the Xhariep district with the Mohokare Local Municipality which is also in the same district. But this was dropped because of concern that Mokare was itself a small municipality that could not carry another service delivery load from Naledi, leaving Mangaung Metro as the only viable option.

According to Kholoanyane, a public outreach exercise by the local authority has shown the majority of Naledi residents favour becoming part of their bigger and more prosperous neighbour…

The municipality is already firmly within the metro’s sphere of influence with the bigger city serving as a key source of jobs and economic opportunities as well as supplies of goods and services such as expert medical care for Naledi. Kholoanyane said the local municipality is hoping becoming part of Mangaung Metro will see the bigger municipality using its greater financial muscle to resolve some of the problems Naledi is grappling with such as precarious water supplies and a huge backlog on delivery of various essential services.

“We have a huge service delivery backlog that we hope Mangaung Metro will help us to deal with. We have water challenges and hope that this will change after the incorporation,” said Kholoanyane, adding, “our municipality is grant-reliant and as result we struggle to provide services because most of our households are poor.”

Pulan Mohapelwa, 30, who is from Naledi but lives and works in Bloemfontein, said the merger would make things much easier for people like her who already consider the metro their second home. She also hopes the bigger businesses based in Mangaung Metro would find it much easier to extend their operations to Naledi if it becomes part of the metro. Presently companies wanting to do business in the metro and in Naledi have to contend with two sets of municipal rules and regulations.

“I studied in Bloemfontein and I now work here … this is practically my home,” said Mohapelwa. “Incorporating our municipality into Mangaung Metro will have many benefits for all in Naledi. Maybe this will also open opportunities for economic development and job creation.”

The demarcations board is an independent authority charged with determining the boundaries of municipalities. It says on its official website that its objective is to empower municipalities to fulfill their obligations to provide democratic and accountable local government that is able to ensure efficient and sustainable service delivery

The Mercury

KwaZulu-Natal / 1 May 2015, 1:16pm / Sihle Manda

‘KILL THE BOER’ TAUNT IN HOWICK

DURBAN: 300415 Demarcation Board committee had to call off the public hearing that was held in Howick due to the disruptions that took place amongst the residents some in favour and not in favour of the amalgamation of Mpfofana and uMingeni municipality.

The controversial Dubul’ iBhunu (Shoot the Boer) song reared its ugly head during an emotionally charged public meeting debating the merger of the financially crippled Mpfofana (Mooi River) and uMingeni (Howick and Hilton) municipalities.

Co-operative Governance and Traditional Affairs Minister Pravin Gordhan has asked that the Municipal Demarcation Board help in “disestablishing” Mpfofana and incorporating the municipality’s wards into neighbouring councils.

The public meeting, held at the Howick West community hall on Thursday, descended into chaos about 30 minutes after it started, with ANC supporters confronting uMingeni residents opposing the change.
Three wards will be incorporated in uMngeni, one in Umvoti, and a portion of Ward 2 in Impendle.

“The effect of this would be the total disestablishment of Mpofana LM (local municipality),” reads Gordhan’s request.

Tempers flared when Municipal Demarcation Board member Isobel Konyn opened the floor for the public to “air” their views.

DA MP Greg Krumbock was the first to voice his unhappiness about the proposal.

He received a mixed reaction from the audience - he was initially cheered before being heckled by a group of ANC supporters streaming into the hall.

Krumbock said if the merger were approved, “75% of the people would come from this municipality, more importantly, 94% of the rates would come from this municipality. It is right that we have been consulted”.

He said there was something “fundamentally dishonest” about the proposal.

“There’s only R9 million worth of rates that comes to Mpofana as opposed to R144m that comes in from uMngeni.”

Mano Naidoo, the chairman of the uMgeni ratepayers’ association, struggled to make his point as he was booed.

Konyn struggled to contain the uproar and called off the meeting. The commotion saw ANC region leaders and supporters flood the stage, sparking a walkout by the residents who were against the merger.

Mpofana mayor Maureen Magubane was in high spirits, ululating and chanting: “We want to taste the honey.”

She shouted: “People shall share.”

Posters in support of the merger were held aloft, reading: “uMgeni welcomes the merger between Mpofana municipality and uMgeni municipality”.

Two men had to be separated at the hall’s entrance after almost trading blows.

The ANC’s Moses Mabhida region secretary, Mzi Zuma, said: “The Demarcation Act states that the consolidation of boundaries enhances the cohesion in those communities.

“As it is stated in the act, the amalgamation of these municipalities will strengthen the financial viability of both the municipalities joined.”

He said anyone who dismissed the merger did so in support of the apartheid system of “Bantustans”.

“We won’t allow that,” he said.

With uMgeni residents “bullied” out of the meeting, ANC supporters filed into the hall to fill in the critical Municipal Demarcation Board’s input sheet.

After the meeting, Konyn said: “I hope people have heard what we’ve had to say and we’ll make submissions (to the board)’’.

Asked if she expected the chaos, she said “it is a political issue”.

Residents attending the meeting were given “input sheets” to fill in. The form invited them to “indicate whether you support or reject the proposed redetermination by ticking the applicable factors in the table below”.

A large group who opposed the merger left the hall after they “felt intimidated and threatened” by those in support of the merger.

The Mpofana council was dissolved and its seven councillors were relieved of their duties in September last year owing to “non-performance or political infighting”.

An administrator was appointed before Magubane was appointed in December.

Daily News

News / 15 May 2015, 2:58pm / MAYIBONGWE
MAQHINA
Mike Mabuyakhulu

NO LOAN DEALS FOR UNVIALBE KZN TOWNS

Durban - Economically unviable municipalities that are facing the chop after next year’s local government elections may not enter into any loan agreements.

Economic Development MEC Michael Mabuyakhulu said this on Thursday at the tabling of the Co-operative Governance and Traditional Affairs (Cogta) Department’s R1.3 billion budget for 2015/16.

He tabled it on behalf of Cogta MEC Nomusa Dube-Ncube, who was at the legislature sitting, but could not present it.

Dube-Ncube, wearing a neck brace, is recovering from an operation after pinching a nerve.

“No new loan agreements may be entered into by the merging municipalities or those that are being disestablished,” Mabuyakhulu said.

He said the affected municipalities were also expected not to make changes to their staff complements.

“Municipalities will have to conclude all long-term contracts,” he said, in referring to employment contracts of managers.

At least 15 municipalities are to be merged and disestablished after the elections. The Municipal Demarcation Board has redrawn boundaries of municipalities, reducing the number in the province from 61 to 54.

He also said the proposed uMgungundlovu and uThungulu metros had been shelved and that they would be reconsidered for the 2021 municipal elections.
“No further discussions with regard to these proposals will therefore take place during this round of demarcations. There is, however, ongoing investigation about the modalities and shape of future metros in the province.”

Mabuyakhulu also announced that intervention in the troubled councils of Indaka, Abaqulusi and Mpofana would be withdrawn after they returned to stability and normality…

The Citizen

South Africa 10.12.2014 07:29 am

MUNICIPAL DEMARCATION BOARD REVEALS MORE WARDS IN 2016

There will be 4369 municipal wards in the 2016 local government elections, up from the current 4277.

Municipal Demarcation Board (MDB) chairwoman Jane Thupana said the Eastern Cape would lose eight wards, while the Free State would lose five wards, The New Age reported on Wednesday.

Gauteng and Mpumalanga would each gain one ward, while KwaZulu-Natal’s wards would increase from 828 to 870, and Limpopo would increase from 543 to 552.

The Northern Cape would have 207 wards, up from 194, North West would have 407, up from 383, while the Western Cape would have 402, up from 387.

The MDB would start with the process of gathering public submissions on the boundaries of the new wards.

“The journey to the upcoming 2016 local government elections starts now,” Thupana was quoted as saying.

“If you want to be part of democracy at local level, take this opportunity to make a difference”

The MDB is expected to make decisions on the boundaries in April 2015.
OPPOSITION FOR TLOKWE AND VENTERSDORP MERGER IS WIDESPREAD

Posted on October 14, 2015 by Daisy Myburgh

By Joe McGluwa (MP), DA North West Leader:

The opposition to the merger of Tlokwe and Ventersdorp Municipalities is widespread across political parties, civil society and community groupings.

Thousands of independent community members were part of a violent protest against the proposal recently and took to the streets of Potchefstroom and Ventersdorp in September. It is sad that communities have to turn to such extreme measures to get the attention of government on issues affecting their lives.

DA members were not part of that protest as we are fighting the merger in Court, not on the streets. On 26 October 2015 the matter will be heard in Court, and we are positive that the court will rule in favour of the DA and in favour of what is right for the people of Tlokwe and Ventersdorp.

The DA can also reveal that even the ANC local government in Ventersdorp has opposed the merger through a council decision against the merger of the two municipalities.

It is absolutely clear that momentum is building behind the opposition to the merger, of which the DA is but one part, but so is the ANC government in Ventersdorp.

The ANC knows they have lost their grip on power in Potchefstroom and they are now desperate to ensure they keep the reigns in the Tlokwe Municipality without having to face an election in Tlokwe.

The DA will utilize every possible resource to ensure that the Constitution is upheld and that law and order prevail.
ANC ADMIITING FAILURE OF TLOKWE/VENTERSDORP MERGER ‘TOO LITTLE, TOO LATE’

The DA says it will request a full assessment of the failed merger and the extent of the damage to the two municipalities.

The Democratic Alliance (DA) said in a statement today that it will write to Minister of Cooperative Government and Traditional Affairs Dr Zweli Mkhize asking how much had been spent on “the failed amalgamation” of the former Tlokwe and Ventersdorp municipalities.

Residents protested following the announcement that the two municipalities would be merged, saying they had not been consulted.

The DA said it would write to Mkhize following JB Marks mayor Kgotsotso Khumalo’s public announcement during a meeting in Ventersdorp of his intention to write to President Cyril Ramaphosa admitting to the failed merger of these municipalities.

“According to media reports, the mayor allegedly admitted that the merger had failed due to the fact that they had expected R500 million for the merger but only received R13 million,” the DA’s North West provincial leader Joe McGluwa said.

McGluwa said the DA has always been vocal against the amalgamation of the two municipalities, adding that in 2015 the party had cautioned against it.

“However, the ANC continued with their gerrymandering to sway the outcomes of the 2016 local elections in their favour.

“Communities of both towns have been vocal regarding their disapproval of the merger, residents have protested and called on the merger not to go ahead. It is now election season and the ANC is again hitting the campaign trail and trying to appease communities by using the merger,” the DA said.

The party said the governing party’s electioneering comes after millions of rands have already been wasted on the merger, with a near collapse of service delivery in both communities.

“The merger is a result of the ANC steamrolling processes, undermining concerns coming from communities in a bid to win elections, and the costly failures of this exercise should fall directly on their shoulders,” McGluwa said.

The DA said it will request a full assessment of the merger and the extent of the damage to the municipality.

“We will also ask for clarity on how the ANC-led government plans to fix this failed merger.”
National Treasury must play an active role in supporting municipalities to recover their debt by taking a similar approach with defaulting provincial and national departments. Funds owed by these departments should be channeled directly to municipalities so that they can pay their debt to Eskom as well as ensure the necessary systems and capacity to implement full credit control initiatives. In view of the Back to Basics approach aimed at building resilient and efficient local government administrations, we therefore call upon the Minister of Cooperative Governance and Traditional Affairs to assist in the resolution of this matter, particularly government debt owed to municipalities.

In view of the current situation and vast debt owed to municipalities, SALGA calls upon its member municipalities to immediately implement credit control measures to recover the debt from government departments. Defaulters must be given due notice to effect
EPILOGUE

The story of local government in South Africa is, simultaneously, the story of development, from early colonial settlement to building the post-apartheid state. The so-called ‘national question’: What does it mean to be South African at this time? has been at the core of the work of the MDB over the years. It has also been the most vexing question that the MDB has had to address with every line drawn. A boundary has never merely been a line on a map, whether it was the rudimentary and static 1:50 000 topographical scanned maps used for demarcation in 1999 to the sophisticated modelling capacity of contemporary GIS the MDB uses today. The passion experienced in public consultation meetings from the outset, the number of court challenges, the debates on boundaries in local areas have shown that the nexus of identity, development and local governance are inextricably linked. The national debates around spatial form, integrated development, improved service delivery, the role and function of traditional leaders in democratic institutions and the discussions around effective municipal typographies, from secondary cities to different types Category A municipalities, redefining urban-rural in the context of municipalities, have impacted in some way on demarcation processes over the years.

It stands to reason, therefore, that the MDB, while being an independent institution reporting to parliament, has not been immune to the vagaries of the political and economic contexts of the last 20 years. Thus, the MDB has faced court challenges, been blamed for violence, blamed for poor municipal service delivery, forcing integration and promoting apartheid. The MDB experience has also been informed by initiatives to improve service delivery and accountability by national government. The evolving governance legislative architecture such as the Municipal Finance Management Act and its regulations, municipal institutional capacity improvement initiatives, municipal financial sustainability, municipal powers and functions, the Integrated Development Plan and Spatial Development Framework have informed demarcation outcomes and have led to the MDB making recommendations for significant legislative changes to the Demarcation Act and the Structures Act to improve demarcation outcomes, including the introduction of demarcation periods that would avoid continuous demarcation.

In the context of urbanisation, climate change and macro-economic shifts, population densities will change across the country, leading to new space-economies and with that it the need to review local administrative boundaries. The National Spatial Development Framework and Integrated Urban Development Framework will become crucial tools to municipal demarcation because it will become more complex. It is anticipated that boundaries, especially ward boundaries, will become sites of heightened contest. The 2016 demarcation experience demonstrated the extent to which local spaces are becoming contested terrain across the country and the extent interest groups will go to protect their interests. Looking ahead, therefore, the MDB will continue to play a crucial role in establishing and consolidating the Developmental State. Its leadership in hosting crucial debates, advising on the building blocks of demarcation – including the formulae for ward delimitation and voting districts as building blocks for municipal boundaries – make it an indispensable cog in the machinery of the Developmental (local) State. The MDB’s regionalisation strategy is an advance on this and it helps by not only being active in local spaces, but by defining local demarcation objectives and engaging stakeholders upfront. Timely initiatives are required as municipal demarcation becomes more complex, thus the MDB over the next 20 years is expected to continue providing independent leadership in a highly contested arena.

In closing, whilst it is easy to criticise the failures of this Board, we’ve pointed them out in this book, we are still proud of what we’ve succeeded with. That success is due to the leadership of Jane Thupana. She led the MDB during difficult times of administrative, financial, political and personal upheaval. With her composed determination, the MDB navigated difficult terrain to end our term in this way. On behalf of the rest of the Board members, I thank you. And to the Board, I thank you too.

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