Conference on Demarcation and Spatial Transformation

23 and 24 June 2016

CONFERENCE REPORT
VISION OF THE MDB

The Board’s vision is to be “the leading demarcation and spatial knowledge hub”.

MISSION OF THE MDB

To produce municipal and ward boundaries that are functional, beyond reproach and contribute towards a responsive spatial configuration, including municipal capacity assessments that lay the foundation for a developmental local government.

VALUES OF THE MDB

- Independence
- Knowledge sharing
- Fairness, transparency and integrity
- Good governance
- Stakeholder engagement
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“It has been the Board’s honour to host and be part of this seminal event, whose outcomes are sure to change the course of history in contributing to the stability and sustainability of the local government system in our democracy.”
It give me great pleasure to present the official report on the Municipal Demarcation Board’s (MDB) first conference on Demarcation and Spatial Transformation held on 23-24 June 2016. The MDB was established as one of the independent constitutional institutions supporting democracy in South Africa, tasked mainly with the mandate to determine and re-determine municipal boundaries and delimit wards throughout the territory of the Republic, as well as conduct capacity assessments for municipalities. The Board has since been one of the key players driving the spatial transformation agenda, to reverse the apartheid spatial logic and deliver spatial justice.

The task we carry out is in recognition of the reality that some of the challenges the country continues to grapple with, mainly unemployment, poverty and inequality were spatially engineered. Despite a remarkable progress towards spatial configuration of the local government sphere, it is undoubtedly clear that the realisation of an integrated, fully efficient, stable and developmental local government still remains a challenge.

As a creature of statute, the Board’s functions and scope are confined and constricted solely within the boundaries set out in law. It has no unfettered powers to stretch its business interest beyond the criteria and procedures prescribed by legislation. This has unfortunately made us unpopular in some circles where the Board’s decisions were met with violent protests and litigations.

Seventeen years since the Board was established, already four cycles of demarcations were conducted. Processes accompanying the demarcations included public and stakeholder engagements which were being progressively enhanced to deepen deliberative democracy, the core of which is effective public participation. Over this entire period and more especially in the past two years, critical lessons were learned in the course of execution of our mandate and through questions and concerns raised by our strategic partners and stakeholders, which gave birth to a decision to convene the Demarcation and Spatial Transformation conference as a platform to “reflect on the challenges and lessons learned, review the past and shape the future”.

The conference was aimed at facilitating dialogue amongst all key stakeholders focusing on municipal demarcation trends locally and internationally, sustainability and viability of municipalities, public and stakeholder participation, ward delimitations as well as the metropolitan system of governance. Informed views from amongst others researchers, statisticians, academics, local government practitioners, legislators and civil society have been paramount in addressing developmental and demarcation challenges, while contributing to a new spatial transformation discourse as we approach a second decade of the local government system in South Africa.

I would like to take this opportunity to sincerely thank all our key stakeholders, particularly the Minister of Coorperative Governanace and Traditonal Affairs CoGTA, whose support ensured the success of the conference. The MDB is greatful to all conference participants from different spheres of local government, Parliament, SALGA, FFC, SACN, HSRC, StatsSA, academia, research institutes and other institutions supporting democracy, without whom, the success of the conference and the publication of this report would not have been realised.

It has been the Board's honour to host and be part of this seminal event, whose outcomes are sure to change the course of history in contributing to the stability and sustainability of the local government system in our democracy.

Ms Jane Thupana
Chairperson
Municipal Demarcation Board
<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>AGSA</td>
<td>Auditor-General of South Africa</td>
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<td>BLA</td>
<td>Black Local Authority</td>
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<td>CoGTA</td>
<td>Department of Cooperative Governance and Traditional Affairs</td>
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<td>CSP</td>
<td>City Support Programme</td>
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<td>DBSA</td>
<td>Development Bank of Southern Africa</td>
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<td>DMs</td>
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<td>DPLG</td>
<td>Department of Provincial and Local Government</td>
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<td>ECK</td>
<td>Electoral Commission of Kenya</td>
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<td>ES</td>
<td>Equitable Share</td>
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<td>FFC</td>
<td>Financial and Fiscal Commission</td>
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<td>GAPD</td>
<td>Governance Administration and Planning Development</td>
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<td>GVA</td>
<td>Gross Value Added</td>
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<td>HSRC</td>
<td>Human Sciences Research Council</td>
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<td>IEBC</td>
<td>Kenyan Independent Electoral and Boundaries Commission</td>
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<td>IEC</td>
<td>Independent Electoral Commission</td>
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<td>IDP</td>
<td>Integrated Development Plan</td>
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<td>Intergovernmental Relations</td>
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<td>IT</td>
<td>Information technology</td>
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<td>IUDF</td>
<td>Integrated Urban Development Framework</td>
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<td>LED</td>
<td>Local Economic Development</td>
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<td>Local Government Equitable Share</td>
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<td>LGTAS</td>
<td>Local Government Turnaround Strategy</td>
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<td>MDA</td>
<td>Municipal Demarcation Act</td>
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<td>Municipal Demarcation Board</td>
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<td>National Development Plan</td>
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<td>Statistics South Africa</td>
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<td>UNESCO</td>
<td>United Nations Educational, Scientific and Cultural Organisation</td>
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<td>WCEDP</td>
<td>Western Cape Economic Development Partnership</td>
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The Municipal Demarcation Board (MDB) is an independent institution established in terms of the Constitution of the Republic of South Africa, 1996.

The Board derives its core mandate from (i) the Constitution of the Republic, (ii) the Local Government: Municipal Demarcation Act (Act No 27 of 1998), hereinafter referred to as the MDA, and (iii) the Local Government: Municipal Structures Act (Act No 117 of 1998) (hereinafter known as the MSA).

In terms of Section 155(3)(b) of the Constitution, read with sections 4 and 21 of the MDA, MDB is responsible for the determination and redetermination of municipal boundaries, and in terms of Section 157(4)(a) of the Constitution, read with Schedule 1 to the MSA, it is responsible for the delimitation of the wards. Section 85(4) of the MSA requires that MDB must consider the capacity of a district or local municipality to perform functions and exercise powers vested in them. Lastly, the MDA sets the requirement for MDB to render advisory services in terms of the Act and other legislation, as and when required.

Over the past years, MDB has not been able to communicate effectively with stakeholders nationally on its challenges and on opportunities to improve its work and deliver on its mandate.

In June 2016, MDB hosted a conference on demarcation and spatial transformation. The conference was intended to bring together national and international stakeholders in the local government sector and to facilitate engagements among all stakeholders on resolving hurdles to demarcation and contributing to spatial transformation discourse in South Africa. Attendees comprised representatives from parliament, senior government officials, institutions that support democracy, donor agencies, research institutions, political parties, international participants, scholars and members of the public.

The conference focused on six topics, namely Municipal demarcation: Challenges and opportunities for spatial transformation; Financial and functional viability, and sustainability of municipalities – beyond the demarcation instrument; Towards a comprehensive municipal capacity assessment; Public and stakeholder participation and social integration in demarcations; Metropolitan system of governance: Issues and challenges, and Ward delimitation: Impact on municipal service delivery.

Presentations ranged from verbal to power-point and included papers from key speakers (papers and presentations received are appended to this report). The report further provides a summary of papers and emerging issues from panel discussions, and concludes with recommendations from panel discussions.

1.1 Conference objectives

The objectives were to:

- Take stock of the lessons learnt and challenges encountered by MDB during past demarcation processes;
- Gain a deeper understanding of challenges and experiences faced by communities, municipalities and other stakeholders during past demarcation processes;
- Develop a framework for better management of the demarcation process;
- Develop proposals for legislative reforms;
- Sketch future demarcation scenarios by using lessons from other countries and international experiences, and
- Develop proposals for future MDB research agenda.

1.2 Conference outcomes

The intended outcomes of the conference were to:

- Share lessons learnt and challenges pertaining to the work of MDB.
- Make recommendations on possible legislative amendments of the MDA and the MSA.
- Make recommendations on the alignment of the work of MDB and that of other institutions affected by the
outcomes of the demarcation process.
• Make recommendations on the design, capacity and mandate of MDB.
• Facilitate the alignment of the demarcation processes and decisions with other programmes in local government to build viable and sustainable municipalities.
• Make recommendations on how MDB can contribute to enhancing and strengthening stability and viability of the local government system through its work.

1.3 Target audience

The following groups were invited:

• Presidency;
• Department of Cooperative Governance and Traditional Affairs (CoGTA);
• All municipalities (mayors, speakers and municipal managers);
• Parliament Portfolio and Select Committee on Cooperative Governance and Traditional Affairs;
• Political parties in Parliament;
• Provincial legislatures;
• MECs and provincial departments for cooperative governance and traditional affairs;
• Institutions supporting democracy (South African Local Government Association - SALGA, Independent Electoral Commission - IEC, South African Cities Network - SACN, Development Bank of South Africa - DBSA, Financial and Fiscal Commission - FFC, City Support Programme - CSP, Gender Commission etc);
• National and provincial houses of traditional leaders;
• Academia and research institutions;
• International participants;
• Media, and
• Members of the public.

SECTION:

2. Setting the Scene

2.1 Opening and acknowledgement of guests by the Programme Director, Mr Xolile George (CEO, SALGA)

The programme director welcomed all participants to the conference. He pointed out that with only six weeks until the local government elections on 03 August 2016, this conference provided an opportunity for participants to influence the fourth democratic local government in the quest to achieve full transformation. The programme director noted that an important area where clarity is required to complete this process is the area of demarcation, and further indicated that, with the array of stakeholders present at the conference, there was a rich depth of knowledge and experience to take the demarcation and spatial transformation debate forward.

The programme director reminded delegates about the path that the municipal demarcation process has travelled in South Africa. He stated that pre-1996, there were nine demarcation boards, one in each province. In addition, there was a constitutional requirement for the demarcation of ‘wall-to-wall’ municipalities throughout the Republic. Hence, the establishment of the independent MDB in 1999, which immediately assumed full responsibility for demarcating municipal boundaries. MDB has been influential in reducing the number of municipalities from 843 to 284 by December 2000. With the recent redeterminations, South Africa is expected to have 257 municipalities after the August 2016 elections. The programme director concluded by emphasising that the two-day conference presented an opportunity for all stakeholders to bring their knowledge, expertise and experience to define the pathway to spatial justice, equity and promotion of democratic local government.
2.2 Purpose of the conference, Ms Jane Thupana (MDB Chairperson)

The purpose of the conference was outlined along the following broad areas:

2.2.1 Reflection on the challenges and lessons learned by the MDB over a number of years.

2.2.2 Facilitation of dialogue amongst all key stakeholders, focusing on municipal demarcation trends locally and internationally; sustainability and viability of municipalities; wards delimitations as well as the metropolitan system of governance.

2.2.3 In recognition of the importance of public participation in the demarcation processes, the MDB also expected the conference deliberations to assist in the formulation of solutions that will enable meaningful public participation beyond ordinary compliance with the legislation.

2.2.4 Further more solicit critical and informed views from amongst others researchers, academics, legislators, statisticians, local government practitioners and civil society based on their experience on the outcome and impact of the MDB’s work since 1999. This includes a critical analysis and proposals on the municipal capacity assessment model.

2.2.5 The conference was expected to ultimately advise on the necessary legislative amendments with a view to facilitate the crafting of municipal and ward boundaries that will advance the objectives of a developmental local government.

2.3 Keynote address, Honourable David van Rooyen (Minister, CoGTA)

The Minister of Cooperative Governance and Traditional Affairs, Honourable David van Rooyen, noted that the conference was taking place during exciting times – when local government elections were just a few weeks away and when local government was being particularly challenged by protests in Tshwane and Vuwani. The conference was an opportunity to present solutions for these challenges.

The Minister reminded the conference that South Africa had come a long way - from a time when local government was used as a system to oppress people to one where people have real power in their hands and are able to participate meaningfully in their own development. He cited the recently launched State of the Cities Report, which illustrated how local government was creating a better life for all.

The Minister commended MDB for taking time to review the past and map the future, particularly at a critical time in South Africa’s young democracy, and he further acknowledged that MDB has an important role to play in contributing to an effective and efficient local government system in the country.

The Minister further praised MDB for fulfilling its role as an independent body, without fear, favour or prejudice. He reaffirmed the decision to create a constitutionally independent authority responsible for the determination of municipal boundaries and pledged his full support for the work of MDB.

The Minister touched on efforts for continued refinements of municipal boundaries, which currently face unprecedented community protests citing Vuwani as a case in point. He mentioned that he expected the FFC to assist CoGTA in finding workable solutions for municipalities that are not financially viable, and that the reduction in the number of municipalities, the formation of new metropolitan municipalities and the newly amalgamated municipalities would assist in this quest.

The Minister also indicated that he expected the conference to deliberate on the work of the newly established national and provincial demarcation transition committees. He said that most provinces were progressing well following the recent amalgamation of municipalities in the Republic, in spite of challenges in Eastern Cape and Limpopo.

CoGTA had come to the realisation that meaningful participation was key to success, he stressed, thus he encouraged MDB to reflect on this critically to ensure that consultation was not only for compliance purposes.

The Minister said he was encouraged that, whilst much of the focus of the panel discussions would be on the relationship between advancing spatial transformation and the financial viability of municipalities, the conference would also reflect on the comprehensiveness of the capacity assessment, a critical area for CoGTA, as the process needed review to ensure appropriateness of the location of the powers and functions assigned to municipalities and, ultimately, a review of the two-tier system of local government. The Minister wished the conference well in its deliberations.
3. CONFERENCE THEMES AND EMERGING ISSUES

THEME 1:

MUNICIPAL DEMARCATION: CHALLENGES AND OPPORTUNITIES FOR SPATIAL TRANSFORMATION

MDB Staff and board members preparing for the conference - 23 June 2016
The conference was attended by about 500 participants from local, provincial, national governments, entities from all spheres of government, institutions of higher education, research and non-governmental organisations and many others. The event consisted of the main plenary and was structured around six sequential panel discussions split over two days and covering specific topics. For each theme, briefing notes and key questions related to the work and mandate of MDB were prepared for structured and interactive panel discussions. The main speakers were requested to prepare presentations and panellists were required to prepare brief speaking notes in response to questions raised under each theme.

This report provides a summary of key questions, discussions, emerging issues and key recommendations emanating from conference deliberations and papers. It was envisaged that the conference recommendations and resolutions would not only feed into MDB’s proposals for regulatory and legislative changes, but will also enhance and strengthen existing programmes, internal policies, systems, processes and future research agenda.

3.1 Municipal demarcation: Challenges and opportunities for spatial transformation

This panel session set the scene for the conference and addressed the following issues:

- A normative framework within which demarcations should be located [Integrated Urban Development Framework (IUDF), National Development Plan (NDP), Integrated Development Plan (IDP) etc].
- Impact of demarcations on local government stability.
- The challenges of demarcating municipalities across provincial boundaries.
- International best practices and experiences 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 Kenya.
- The impact of amalgamations and the disestablishment of municipalities on municipal councils and service delivery.
- Stakeholder perspectives on aspects of demarcation that require 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.
- The original conceptualisation of the demarcation instrument in the formative years of the present local government system and insight on whether the 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.

3.1.1 Key emerging issues

- The establishment and rollout of the appeals tribunal and development of a system to deal with complaints that goes beyond the court system.
- The review of ‘triggers’ for boundary redetermination and 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 to ensure that the application of public participation processes is deepened and participation of all stakeholders is more meaningful, i.e. participation, consultation and community engagement is a critical element of demarcation and needs to be reviewed and improved.
- The urgent need for consolidation of capacity and knowledge management among MDB, FFC, StatsSA, IEC, NPC and SG, which includes collaboration and sharing of knowledge, and the establishment of the knowledge hub in MDB.
- Timing of demarcation must be mindful of election schedules and other municipal processes. Review of this process and timeframes for demarcation are 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 as articulated by the IUDF Policy Framework.
- MDB mandate does not include dealing with provincial boundaries to address functional linkages and issues across municipal boundaries.
• Need for MDB work to consider socio, political, geographic 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.
3.1.2 The challenges of boundary demarcations in Kenya: Realities and lessons learnt

by Ambassador Lemarron Kaanto, Deputy High Commissioner, Embassy of Kenya

I am grateful for having been invited to this two-day conference organised by MDB. In my invitation, I was asked to share my thoughts on Kenya’s experience on boundaries demarcation. I will keep my thoughts focused on the topic: ‘the challenges of boundary demarcation in a multi-ethnic-based society, realities and lessons learnt’.

I have consulted with the Kenyan Independent Electoral and Boundaries Commission (IEBC) and other stakeholders, but will add my own experience to address this important subject.

The scramble for Africa in the mid-19th century can be termed as the usher of the competitive phase of territorial acquisition.

The intense competition for a slice of Africa led to a negotiated solution of apportioning the continent. Arguably, the Berlin Conference of November 1884 to February 1885 launched the partitioning/delimitation of the continent into assigned politico-geographical zones.

After the struggle for liberation and attainment of independence, most African countries, Kenya included, undertook to correct the discordance in their electoral boundaries. In Kenya, a Royal Commission was appointed in 1962 with the mandate of dividing the country into substantially more or fewer than 100 parliamentary constituencies. The exercise took five months, from August 1962 to January 1963. The Independence Constitution set the lower limit of 110 constituencies and the upper limit of 130 constituencies for the country. Due to constitutional amendments between 1964 and 1966, constituency numbers rose to 158. By the time we went to elections in 2007, Kenya had a total of 210 constituencies.

The legal framework for elections requires objective drawing of electoral unit boundaries to achieve the principle of equal weight to each vote for effective representation. The Constitution of Kenya 2010 states clearly the number of constituencies that are supposed to be in place – a maximum of 290. Further, the Constitution stipulates that the delimitation of boundaries shall be undertaken at intervals of not fewer than eight years and not more than 12 years. This has to be completed at least 12 months before a general election.

The IEBC has been mandated to carry out boundary delimitation of constituencies and wards.

While recognising the provisions of the Constitution to redefine boundaries to accommodate other interests in the electoral sphere, it is important to note that any review of boundaries is political and is attached to highly competitive and emotive political issues. This means that it requires clarity and clear criteria and procedures commensurate with the electoral dynamics of the country. There is a need for transparency, accuracy, objectivity and patriotism in presentations and for middle ground to be struck to achieve a win-win situation.

In the delimitation of boundaries, the Commission took into account the following:

(a) population density and, in particular, the need to ensure adequate representation of urban and sparsely populated rural areas;
(b) means of communication;
(c) geographical features;
(d) community of interest, and
(e) boundaries of existing administrative areas.

Following the disputed results of the Presidential elections in 2007, the National Accord Implementation Committee (NAIC) recommended a review of the electoral process in Kenya, which led to the establishment of the Independent Review Commission (IREC), popularly known as the Kriegler Commission. IREC, in turn, recommended a review of the entire constitutional and legal framework in line with the political and legal aspirations of Kenyans.

IREC recommended the establishment of an independent boundary review commission composed of non-partisan members to establish, review and draw constituency boundaries. The term of such a commission would end with the delimitation of new constituency boundaries. IREC further recommended that delineation of boundaries should be separated from administration and management of elections. In IREC recommendations, parliament would have no say on the final work of the commission. The model recommended by IREC would have been similar to those of New Zealand, Australia and India, where boundary delimitation, once completed by the commissions, cannot be changed by parliaments.

In response to IREC recommendations on boundaries, Parliament in its wisdom, enacted the Constitution (Amendment Act) No 10 of 29 December 2010, which established the Interim Independent Boundaries Review Commission (IIBRC).

IIBRC was charged with making recommendation to Parliament on delimitation of boundaries for constituencies and local electoral units as well as recommendations to Parliament on administrative boundaries, including fixing, reviewing and variation of boundaries of districts.

After the promulgation of the Constitution of Kenya on 27 August 2010, IIBRC continued to function and submitted a report dated 27 November 2010 to the President, the Prime Minister and the Speaker of the National Assembly.

The IIBRC report was received with mixed reactions from the public. The report had a caustic effect on the Parliamentary Committee on Justice and Legal Affairs (JLA), so a solution had to be found.

On 17 November 2010, the IIBRC published in the print media the list of all 290 constituencies. Then, three suits were filed to stop IIBRC from gazetting its report.

The JLA intervened in the IIBRC report stalemate, suggesting the constituting of IEBC in line with the Constitution, thus enabling it to address outstanding issues from the report.

The Parliamentary Select Committee steered the appointment of the IEBC Committee through the selection of a panel mandated to interview interested persons.

After its creation, the IEBC implemented the report, the ‘Final report of boundaries and county assembly wards’ on 07 March 2012.

Some 136 Constitution petitions and judicial review applications were filed at the High Court, which were to be heard and determined within three months. The ruling was delivered on 09 July 2012, generally upholding the Commission decision.

CHALLENGES

- High public expectation on the Electoral Commission of Kenya (ECK), IIEC and IEBC to raise the bar higher.
- Time constraints - timely conclusion of boundary cases tied to voter registration and mapping of polling stations.
• Low public awareness on the new constitutional dispensation.
• The Commission is required by the IEBC Act to observe the principle of public participation and consultation with stakeholders in its processes. Do the communities understand the legalese?
• Political arm-twists by political leaders.
• Representation: Geographical size or not? Do you make all areas equal – eg North Horr vs Kibra?
• Representation by population (one man one vote) or not?
• Socio-cultural diversity: Is it possible to have sub-groups in each area requiring representation?
• Developed areas versus those that are not (urban vs rural dilemma) - highly developed may get more areas and, therefore, continue the domination.
• Competing interests: Political, economic interests, socio interests, eg Kasarani constituency in Nairobi.
• Capped constituencies at 290: What is the role of public participation and expectation?
• Cost: The financial realities of the economy versus public expectation.
• Threshold for constituencies on the agreed formula: about 10 ‘protected’ constituencies.
• Ethnic dynamics: Each tribe would want its own area and the largest dominate the minority at 25 000 vs 5 000. Systems to be introduced to address fears of minorities and protect the marginalised against domination.
• Injecting resources and safeguards for marginalised communities to play ‘catch up’ in terms of development.
• Though political process, a consultative process with the citizenry is vital, but difficult and may lack consensus.

Lessons learnt

1. Societal inequalities are real: Ethnic, power play, population, and ‘political passion’ creating a competition of numbers and not ideas.

2. Push for constituencies/wards for each group, tribe, subtribe etc.

3. Size vs population
   Advantages vs disadvantages of capping constituencies at 290, a review after eight years and a constitutional amendment.

4. Interests on the process
   Limiting in disengaging the sitting Members of Parliament on the delimitation process.
   - Boundary commissioners will not be candidates in the coming election.
   - Boundary commissioners will not manage elections.

Conclusion

Boundary demarcations in Kenya have not in any way solved boundary challenges in various communities.

There is still boundary tension in various counties and, unfortunately, some has led to bloodshed. Unresolved issues need resolution.

The exploration and finding of mineral resources have increased the stakes to claim previous/new areas, leading to fights between communities. Other communities have relied on historical injustices to claim for former areas they occupied.

An effective delimitation process that encompasses the following critical areas is important:

• an understood methodology;
• collection of accurate data;
• field visits;
• consideration of memorandum;
As I said earlier, it is important to note that any review of boundaries is political in nature and is attached to highly competitive and emotive political issues.

In my view, the matter of boundary demarcation is a progressive exercise that requires resources, community participation, political will and, above all, absolute transparency for it to be effective and accepted by all stakeholders.
3.1.3 Challenges of boundary demarcations in rural areas

By: Inkosi Winston Thembalenkosi Mavundla- Executive Member of the National House of Traditional Leaders in RSA.

Challenge: one of the challenges of drawing boundaries in rural areas is that traditional boundaries are either contested or not well defined, often resulting in boundary anomalies. Reflect on what are some of the possible mechanisms or changes to be considered to address issues related to traditional areas in demarcation.

Traditional leadership institution is a critical component of many municipalities and larger population of this country is from the rural areas. There are traditional leadership boundaries which coexists with municipal boundaries.

The areas of jurisdiction in rural areas are soft boundaries of traditional councils. Most of these jurisdictions have not been updated since the current government. It is therefore important when the Municipal Demarcation Board draws up municipal boundaries to consult direct with traditional councils in order to accommodate the whole community into one municipality.

Many challenges are caused by the following factors:

When government functions are performed by political appointed leaders, administrators and consultants big buzz words are used. You hear people talking about legislative mandates, legislative functions, constitutional obligations, constitutional mandates etc. these terms are not clearly explained to the people. Please come to mother earth and educated the disadvantaged in their mother tongues.

Conduct workshops, conduct awareness campaigns do not rush time frames which are not people oriented. Come to communities with proposals not decisions, explain to communities the reasoning behind such steps to be taken.

Consultation is interpreted and used by many including MDB to listen to the inputs by the few and sometimes not necessarily to take them. This kind of approach leads to many dissatisfactions. The simple example is the Vuwani uprising which saw some areas of traditional leaders split or separated from their kingship to another municipality. To many communities such act is a serious offence when separated from your king or Traditional leadership. Most people are very sensitive about being divided as a community.

We must remember that rural communities are communal in nature, they live their customs, cultures and religion as a community not as individuals.

Solution:

We therefore propose that consultation must be sufficient and effective in the sense that it must involve everyone, meetings must be held in the traditional wards where everyone can be present and such meetings must be held during the weekends when scholars and workers are present and inputs from such consultations must be taken seriously not consultation for the sake of a process requirement.

Lack of a sound relationship between MDB with traditional structures such as King Councils, Houses of T/L and Traditional Councils is a course for concern.

Solution:

MDB must physically consult with these structures in terms of jurisdictional demarcation. We are currently having areas of traditional areas that are not only straddling municipalities but crossing over provincial boundaries as well.

Feed backs to communities must be done. MDB does not return feed backs on their decisions, some municipalities can hardly call ward meetings to report about issues affecting communities except budget road shows. Some speakers have
alluded to the fact that municipal boundaries are a political issue, but the very same politicians and their political structures they don’t even hold their own political meetings to brief their constituencies about issues affecting them.

Do not make decisions which are not informed by the people if we really understand the preamble of the constitution

Effective communication and taking each other into confidence will ensure that we avoid incidents of violence which some may attribute it to tribalism yet the bottom line caused by lack of communication, if it is not just undermining of the rural communities.

The issue of land redistribution and land restitution must be taken into account when demarcation processes are undertaken, because some traditional boundaries have changed and in some tribal areas of our jurisdiction are not proclaimed.

Do not call sensitive meetings during week days
- Bring back to the communities reports and feedbacks
- Consider historical wars, conflicts between wards (izigodi) and issues of culture and custom as according to section 10, 15, 25, 30, 31 and 33 of the constitution and not forgetting that traditional authorities have their own customary laws in tandem with the principal law.
- Identify councillors correctly and stop comradeship and camps, and furthermore avoid mixing different tribal wards, because you are making difficult for the elected councillor to work freely.
- Address the politicisation of tribalism and ethnicity
- Consider political affiliations
- Consider the communities that are divided among themselves on boundary issues do not impose
- Do not separate one tribe into two municipalities and dividing one tribal ward into two wards because people look at this as a political strategy and interference.
- Avoid unequal or skew service delivery or allocation OF RESOURCES in terms of boundaries because this leads to continuous protests
- Integration of municipalities must have been discussed and agreed upon by the people
- Formulation of Section 76 legislations and policies must be people oriented as well as amendments thereof.

The position of the institution of traditional leadership is that the determination or redetermination process should indeed align municipal boundaries with traditional area boundaries for synergy purposes. Where there are challenges, workable solutions must be reached with parties concerned through lekgotlas, and then there will be peace, stability and cohesiveness of communities.

In conclusion
Independence and democracy is not a gravy train but a long journey towards the better life for all and we must trod carefully as all this impacts in the lives of the well to do and poor.

A government or government institution that does not listen to voters is not an accountable government and the social and economic development which is not balanced because of the rift between councillors themselves is dangerous and it leads to anomalies.

Processes must not be rushed until sufficient consensus has been reached.

To SALGA when you induct new councillors after election put them under one roof with traditional leaders and induct them all in terms of section 81 of the municipal structure act. The outcome to that effect will be two leaders ready to work for service delivery to the communities with understanding not two bulls fighting.

We are committed to assisting the MDB and Government. Co-opt our structures for workable solutions.

I thank you.
3.1.4 Demarcation Process Review Task Team

by Mpumi Mpofu – Board Member of MDB

THE MINISTERIAL TASK TEAM

- The Ministry for Cooperative Governance and Traditional Affairs (CoGTA) in August 2012 established the Demarcation Process Review Task Team (DPRTT) to review the process of municipal demarcation as part of the preparations for the 2016 local government elections.
- The members appointed to the task team were Ms Mpumi Mpofu (Chairperson), Ms Nomvula Mokonyane, Mr China Dodovu, Mayor Mpho Nawa, Dr Roelf Meyer, Mr Joe Maswanganyi, Mr Kgosi Maubane, Mr Landiwe Mahlangu and Dr Mkhululi Ncube.
- The terms of reference for the task team were extended to include the facilitation and monitoring of certain unresolved demarcation issues in Sasolburg; Free State and Bronkhorstspruit, and Gauteng.
- Scheduled task team/stakeholder interactions initiated by the task team included meetings and hearings in Free State, Gauteng, Limpopo, Eastern Cape, Mpumalanga, North West and Northern Cape - in some instances more than one.

THE TERMS OF REFERENCE

Some questions:

- Does the current demarcation process serve the objectives of integration and transition?
- Is the process still relevant and does it meet the requirements of the developmental agenda of the State?
- Does the process adequately take into account the needs and interests of communities?
- Do we need to expand the current parameters of the demarcation process to incorporate relevant planning frameworks and the objectives of the National Development Plan?
- Does the current process adequately take into account concerns such as municipal economic viability and challenges related to service delivery, the lack of capacity, municipal mismanagement, resource and tax-bases for sustainable municipalities?
- Review systems of public participation, propose a framework to create space for inclusivity and provide for robust debate and effective community participation;
- Locate the demarcation process within the appropriate phase of development of the State, and assess whether the assumptions that underpin it enable government to move beyond transition to a developmental state;
- Review the enabling legislative framework and its alignment with other relevant legislation that governs the demarcation process, and
- Make proposals regarding legislative amendments affecting the structures, systems and process of demarcation.

AREAS OF FOCUS

- A perpetual cycle of redeterminations
- Integrity of demarcation decisions
- Standard operating procedures for decision making
- Inadequate stakeholder and public consultation
- Perceptions of inconsistent application of the criteria
- The municipal capacity assessment and financial viability of the local government system
- Increasing discontent with service delivery and link to demarcation
KEY RECOMMENDATIONS

- The retention and strengthening of MDB as an independent authority to apply the criteria and processes to determine and redetermine municipal boundaries.
- Execute ward delimitation effectively and conduct comprehensive capacity assessments of the institutions of local government.
- The establishment of an independent Demarcation Appeals Tribunal as the arbiter of last resort for disputes about decisions of MDB.
- An amended process for demarcation, with a view to limiting the cycles of continuous redeterminations, based on a 10-year census-related cycle for major redeterminations.
- Narrowing the scope for initiating or making proposals for redeterminations to applicants that have a vested interest.
- Placing the primary onus for public participation and stakeholder consultation on the proponents/applicants for any redetermination proposal.
- Regulations for a detailed process of public and stakeholder consultation by MDB, provincial government, district and local municipality.
- Regulations for collaboration between MDB and the FFC, NPC, SGO, StatsSA, IEC and AG for a geo-statistical building block and sharing of information, without threatening the independence of any one institution.
- The establishment of authoritative development information to serve the purpose of national spatial development based on a commonly maintained geo-statistical building block (now Spatial Knowledge Hub).

ANALYSIS OF DEMARCATION MANDATE

- The overview of the local government transition
- The Local Government Policy Framework

Municipal Demarcation Legislative Framework

- The Constitution Section 155(3)(b)
- The Municipal Demarcation Act, No 27 of 1998
- The Municipal Structures Act, No 117 of 1998
- The Municipal Systems Act, No 32 of 2000
- Electoral Commission Act, No 55 of 1996

PROCESS ANALYSIS

- The system of local government
- Financial viability assessment
- Institutional capacity assessment
- Alignment of boundaries with other functional jurisdictions
- Public consultation and participation
- Municipal capacity assessment
- Current practices
- Remaining challenges
- Case studies
- Provincial visits
CONCLUSION AND RECOMMENDATIONS

Demarcation Objectives, Principles and Values

- The practice of regular five-year cycles of redeterminations of municipal boundaries leads to instability for local councils and their administrations and for a range of national, provincial and local stakeholders. This instability not only makes longer-term planning for service delivery difficult, but also fuels political instability.

Recommendation 1:

- The increase of the local municipal demarcation cycle to 10 years linked to the National Census data or 20 years linked to the National Development Plan.
- This cycle can be determined through regulation to ensure flexibility in the future.

Application process and trigger

- MDB submission of applications to itself inappropriate.
- Individual submissions are subjective without popular support.
- Institutionalisation process for applications and public education.
- Consultation of municipalities by private applicants is critical and to be linked to IDPs.

Recommendation 2:

- Establish through legislative amendment and regulation a comprehensive application process that better defines the circumstances for the trigger of applications for redetermination of boundaries.

PUBLIC CONSULTATION AND PARTICIPATION

Public Participation/ Consultation Framework

- It is inappropriate to place the entire onus for such consultations on the Demarcation Board. The original proponents of any redetermination, as well as the provincial, district and local authorities involved, need to make the case for any redetermination and solicit public opinion and support before the proposal is submitted to MDB.

Recommendation 3:

- Amend sections 28 and 29 of MD Act on MDB public hearing process and, through regulation, establish a more detailed adaptive process for public hearing and conduct of investigations.
- Through regulations, establish a three-phased approach for public consultation and possible amendment of local government legislation to align it with other public participation structures, eg Speaker’s Office.

MUNICIPAL CAPACITY ASSESSMENT

Municipal Capacity Assessments

- Questions regarding the technical integrity of the inputs, and the ability for qualitative assessment.
- The content of the municipal capacity assessment should be prescribed through regulations and reflect the requirement and priorities of developmental local government.
- The requirement to integrate information from various state institutions as authorities or sources, and the development of a single point of coordination and integration as MDB, for all municipal information.
- Regulate the requirement that other State institutions provide MDB with access to their information to create a single platform, serving the whole government with reliable municipal information.

Recommendation 4:

- Legislative amendment and creation through regulation of comprehensive municipal capacity assessment and access to State information.
• Additional requirements in the municipal capacity assessment to include economic, fiscal and financial viability, and sustainability of municipalities, transfer systems, fiscal bases, participation of communities, sensitivity of process to people's culture and values, and identification of communities, sensitivity to traditional leadership, and service delivery boundaries and capabilities.

• DPRTT specifically recommends that a task team consisting of officials from MDB, CoGTA, provinces, National Treasury, NHTL, the FFC and StatsSA etc be convened to make concrete proposals on the scope, approaches, integration and regularity of assessments.

INFORMATION MANAGEMENT AND APPLICATION PROCESS

• Integration of information from other state institutions for demarcation decisions through EBPFC is not operating optimally. Higher level representation and coordination required.

• Administrative capacity of MDB, including human resources, budget and financial requirements, and outreach capacity should be reviewed and strengthened.

Recommendation 5:

• Regulate standard operating procedures for application of criteria for recommendation for decision-making and full application of the criteria.

• The purpose of a municipal capacity assessment, with access to integrated information, should be to enhance the role of MDB in developmental local government.

ORGANISATIONAL MATTERS

• All Board members must be non-executive and the functions of the CEO and Board Chairperson must be better clarified and separated.

• Establish MDB as a Schedule 1 or 3A Public Entity in terms of the PFMA, fully or substantially funded from the National Revenue Fund and accountable to Parliament.

• Ten to 12 independently selected members of the Board appointed by the President on recommendation of the selection panel with due regard for provincial representivity and the technical competencies required.

• The following State institutions have ex-officio representation: IEC, FFC, NPC, StatsSA and Chief Surveyor General Office.

• Regulate the relationship and coordination requirements for MDB and above roleplayers.

PROPOSED HIGH-LEVEL PROCESS FLOW FOR DEMARCATION: PROPOSED PROCESS FLOW CHART
OBJECTIVES OF THE PROPOSED LEGISLATIVE AMENDMENTS

- Ensure the envisaged constitutional requirements for MDB independent decision-making through transparent process.
- Remove the possible conflict of interest related to traditional leadership in redetermination decisions and focus on facilitation role.
- Board composition to respond sufficiently to professional, technical and provincial requirements for defendable decision-making.
- Clarify the existing accountability relationships within the Board and between the Board and the Minister.
- Establish a mechanism for an appeal authority in line with provisions of administrative justice.
- Remove the burden of organisational management from the Executive Chairperson.
- Align the Act with the PFMA and align role of CEO with Section 38 requirements.
- Review the municipal demarcation process, including frequency of applications for redetermination application on procedures for pre-application stage.
- Ensure municipal demarcation criteria and decisions are aligned to longer-term planning for developmental local government process based on credible statistical indicators and building blocks.
- Regulate the technical input requirements of MDB, StatsSA, Chief Surveyor General and other key stakeholders.
- Regulate the public consultation processes during the full cycle of redetermination submissions, consideration, decision-making and planning for implementation of redetermination decisions, including rejected applications.

PROPOSED LEGISLATIVE AMENDMENTS

Proposed amendments to the Municipal Demarcation Act including the following:

- Amend the structure of the Act to enhance the centrality of the municipal boundary process and less so the institutional framework.
- Amendment of sections 21 to 23 application process review individual and MDB role.
- Regulations and standard operating procedures for the implementation of sections 24 and 25, 2015 matrix for pre-applications.
- Amendment and regulation to support the implementation of Chapter 2, Part 3, sections 26 to 30 public consultation.
- Amendment of Chapter 3, sections 32, 33, 34, 35, 37, 39 CEO accountability framework.
- Consequential amendments to PFMA and other legislation (MSA).
- Develop regulation in terms of Section 41 on all matters to be addressed in regulations.

LESSONS LEARNT OVER THE PAST TWO YEARS

- MDB challenge is outdated legislation promulgated to facilitate its establishment.
- The legislation requires urgent amendment and the establishment of regulations for effective operationalisation.
- MDB investigations could be conducted earlier, prior to the Section 26 process.
- Public consultations framework requirement urgent, given higher societal expectation since 1998.
- Limited capacity at MDB leads to not-so independent dependencies, eg public consultation.
- Structure of public meeting limits full participation of working population.
- Progressive realisation approach more appropriate for designation of municipal categories in line with developmental approach and assignment of power and functions.
- Local Government Strategic Policy Framework such as Urban Development Framework can guide demarcation decisions.
- Alignment of municipal boundaries, functional and traditional boundaries requires urgent attention.
- The overlap between demarcation and service delivery protests leads to confusion about root causes at community level and requires further investigation and role clarification.
- Change the 15% variation for ward delimitation to up to 30% to accommodate population changes and stabilise ward boundaries.
• Section 22 applications are useful interventions and require minimum requirements for consideration and reasons.
• Independence of MDB must be real and perceived throughout all processes, including ward delimitations.
• MDB urgently requires regionalisation of its operations akin to IEC, to be more effective at community level.
• Complex models for engagement are required is areas with unique circumstances related either to traditional leadership or other historical factors.
• The role of the Speaker in demarcation public consultation needs to be regulated and standardised across all municipalities.
• Expansion of the institutional capacity of MDB, including recognition of the corporate and executive functions of the Board in the context of a broadened mandate.
• Separation of demarcation process from institutional management.
• Role clarification of the functions and responsibilities of the Executive Chairperson of the Board and Accounting Officer.

CONCLUSION

• The work of the ministerial task team and its recommendations have been integrated into the work of MDB.
• National CoGTA has indicated prioritisation of legislative amendment and regulation to update the legislative framework.
• The detailed consideration of demarcation objectives and criteria must be guided by detailed regulations.
• The establishment of a comprehensive public consultations framework is critical.
• Frequency of demarcation and redetermination processes must be aligned with census cycle of 10 years or NDP cycle of 20 years.
• Municipal capacity assessment must be reviewed, and become a more comprehensive coordination mechanism for all data from State institutions and municipal assessments, and must create a shared information knowledge hub for municipal information.
• Conference must prioritise interventions for short-term, medium-term and long-term implementation.
THEME 2:
FINANCIAL AND FUNCTIONAL VIABILITY, AND SUSTAINABILITY OF MUNICIPALITIES – BEYOND THE DEMARCATION INSTRUMENT

Delegates at the conference deliberate on day one - 23 June 2016
3.2 Financial and functional viability and sustainability of municipalities: Beyond the demarcation instrument

This second panel session deliberated on the following issues:

- Is amalgamation a sustainable approach to securing viable local municipalities (LMs)?
- The impact of demarcations on the national fiscus and long-term sustainability of communities and municipalities.
- The appropriateness of the demarcation instrument as a solution to municipal financial viability.
- Understanding financial viability and dysfunctionality in terms of the Back-to-Basics programme.
- Municipal financial viability in the context of the apartheid legacy.
- Reflection on costs and long-term gains of municipal amalgamations and how these compare to mergers in the business sector.

3.2.1 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 as to what objectives are to be achieved. The public sector may learn a lot from the private sector model and from practices for mergers and acquisitions.
- MDB should not elevate ‘financial viability’ as the dominant criteria 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.
- 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 financial viability and provide more clarity on financial viability.
- Government must consider sustainability, functionality and financial viability alongside other factors to make municipalities function properly.
3.2.2 Financial and functional viability, and sustainability of municipalities – beyond the demarcation instrument

by Bongani Khumalo and Mkhululi Ncube, Financial and Fiscal Commission

ABSTRACT

In 2015, the Minister of Cooperative Governance and Traditional Affairs proposed amalgamations of municipalities to deal with financially unviable and dysfunctional municipalities. According to CoGTA, a third of municipalities were dysfunctional, while another third were at risk of being dysfunctional, and the remaining third were functional. This proposal was a major departure from the existing approach to local government demarcations because, for the first time, municipal financial viability and functionality were placed at the core of boundary changes. In other words, demarcation was to be used as an instrument for creating more financially viable and functional municipalities. The CoGTA proposal raised many policy issues and questions. This paper addresses the following questions: Is there a common understanding or definition of a viable/dysfunctional municipality? Whatever the definition, will the proposed mergers create financially viable municipalities? Is viability a requirement for demarcations and can it be elevated to dominate other factors? Can re-demarcating boundaries eliminate dysfunctionality, and should dysfunctionality be a factor when determining demarcations? After interrogating all the above questions, this paper notes that the concept of financial viability is often confused with economic viability and financial sustainability, and is even seen as synonymous with self-reliance or self-sufficiency. This lack of a common understanding means that it is risky to use financial viability as a criterion as it would be interpreted in various ways. Empirical evidence shows that many of the municipalities proposed for merger have limited economic activity and tax bases and thus will not be financially viable - as ‘zero plus zero plus zero cannot equal three’. The link between functionality and boundary changes is difficult to see. Functionality should not be a criterion for boundary changes, as the MDA does not recognise functionality as a criterion for demarcations. In addition, empirical evidence indicates that dysfunctionality cannot be corrected by demarcating municipal spaces, as dysfunctionality of a municipality can be traced back to other factors that have nothing to do with municipal boundaries. This paper also notes that arguing for amalgamation based on financial viability and functionality reasons should be weighed against other constitutional objectives of municipalities. In conclusion, the paper makes recommendations for government departments and MDB on the treatment of financially viable and functionality in the demarcation process.

Introduction

Many municipalities in South Africa have not been able to fulfill their constitutional mandate. CoGTA has estimated that a third of South African municipalities are financially non-viable (whatever the definition) and non-functional. To correct for dysfunctionality and financial viability, in 2015, the Minister of Cooperative Governance and Traditional Affairs proposed the redrawing of some municipal boundaries. For the first time in the history of South Africa, this proposal was motivated by the desire to make municipalities functional and financially viable.

The CoGTA proposal raised a number of questions, including:

- Is there a common understanding of what constitutes a viable/dysfunctional municipality?
- Whatever the definition, will the proposed mergers create financially viable municipalities?
- Is viability a requirement for demarcations and can it be elevated to dominate other factors?
- Can re-demarcating boundaries eliminate dysfunctionality, and should dysfunctionality be a factor when determining demarcations.
Methodology

This paper is based on the following four related research areas of the FFC:

- **Previous FFC work on the impact of the Tshwane merger.** In 2013, FFC was requested by the City of Tshwane to evaluate the impact of the merger between Tshwane Municipality and Metsweding District Municipality, and the two municipalities under its jurisdiction (Kungwini and NokengtsaTaemane). This merger had come into effect in May 2011. This work culminated in a report entitled ‘Financial and Fiscal Commission submission on the City of Tshwane and Metsweding District Municipality merger’, which is available on the FFC website.
- **FFC work on the financial and fiscal implications of mergers.** This work was part of the ‘2015/16 Annual submission to the division of revenue’. This work examined the financial and fiscal implications of demarcations in a number of municipalities (both rural and urban, large and small) between 2000 and 2013.
- **Colloquium:** On 29 May 2015, FFC hosted a colloquium on municipal viability, following a request by the Minister of Cooperative Governance and Traditional Affairs to MDB for a further reduction in the number of municipalities in the light of the 73 financially unviable and dysfunctional municipalities. The main colloquium question was: Can the demarcation instrument make municipalities financial viable and also correct for municipal dysfunctionality?
- **FFC work on 2016 mergers:** In 2015, FFC undertook a study to answer questions raised at the colloquium on the likely effects of the 2016 demarcations. These demarcations were in response to the CoGTA proposal to make financially non-viable and dysfunctional municipalities self-reliant and functional. The Commission asked the question: Is amalgamation the answer for financially non-viable and dysfunctional rural municipalities? The results are part of the ‘2017/18 FFC Annual submission for the division of revenue’.

Background

Demarcations in a historical context

Amalgamation in the local government sphere is not a new phenomenon. For much of the period between 1948 and 1994, South Africa’s experimentation with decentralisation focused on demarcating jurisdictions and organising governance on the basis of race, rather than on the basis of functional linkages or similar criteria (van Ryneveld, 1996). Within the racially driven, decentralised governance system existed a structure similar to that of local governments and consisting of two main categories – white local authorities (WLAs) and black local authorities (BLAs).

WLAs represented the earliest example of fiscal decentralisation in South Africa. Established in the early 1900s, they covered most of the country’s urban areas, and were primarily responsible for providing services to urban white, coloured and Indian citizens resident in areas outside of the homelands. Access to relatively wealthy sections of society meant that WLAs enjoyed a high degree of fiscal autonomy. In fact, the notion of viable municipality comes from the era of WLAs. WLAs were viable in the sense that they were self-sufficient. They had all the tax bases (property taxes and fees) and thus relied entirely on own revenues while they served a small section of the population. Today it is difficult to subscribe to the same notion of viability as many post-1994 municipalities do not have all the revenue bases, rely significantly on transfers and serve bigger segments of the population. In other words, post-1994 municipalities have a fundamentally different mandate and they cover entire populations, and rural areas as well.

The apartheid government’s restrictions on economic development in black areas, coupled with a hugely disproportionate allocation of socio-economic infrastructure and a lack of access to property, quality education and formal employment among blacks impaired the capacity of BLAs to develop productive tax bases. As a result, BLAs generated very little own revenue, operated inefficient fiscal systems and lacked capacity to provide necessary socio-economic services.
A major prerequisite for the 1995 elections was the need to amalgamate inherited apartheid-era local government structures. The demarcations that occurred in the 1990s had one underpinning motive, which can be traced back to the 1998 White Paper for Local Government.

The mergers were meant to deracialise municipalities that had always been segregated along apartheid spatial lines and, to an extent, redistribute resources from affluent municipalities to poor municipalities. A good example of a redistributive demarcation process was that of Cape Town in 1996, where the main rationale for amalgamation was to redistribute from rich municipalities to poor municipalities. The amalgamation of the previously black and white local authorities, however, created problems such as collapsing infrastructure (eg water and sewerage systems) because of the increasing number of people who now had to be serviced. There were also associated challenges such as financial stress in the context of increasing salaries, limited experience and lack of capacity that became prevalent after the amalgamations.

In 2002, financial viability became a demarcation issue, after the Presidential Coordinating Council (PCC) passed a number of resolutions on local government, among them the building of financially viable municipalities. So issues of financial viability are not new. The question then is why, after 15 years of democratic local governments, has this issue still not been resolved? In 2015, the Minister of Cooperative Governance and Traditional Affairs proposed more boundary changes that would see more municipalities becoming even larger. The 2015 boundary redeterminations have resulted in a reduction of 21 municipalities: from 278 to 257.

Demarcations in a global context

It is pertinent to compare South Africa’s municipal downsizing to the experiences of other countries. First and foremost, international literature is clear that there is no standard size of a municipality, whether it be by geographical space, population size or political representation. Figure 1 and Table 1 compare South Africa’s local government space with that of other countries, in terms of the three main characteristics. In all three aspects, South Africa seems to be at the extreme end of the spectrum. Although South Africa is downsizing, Figure 1 shows that it has one of the lowest number of municipalities and one of the highest average population size per municipality. This has some far-reaching implications on political representation and accountability. Political representatives may be far removed from the electorate, which can potentially compromise democratic and governance accountability. Citizen participation is weaker when local government structures are large, while access to authority through public hearings, meetings, elections or direct contact is difficult. Table 1 also suggests this, as the country has one of the highest numbers of citizens per councillor.

**Figure 1: Number of municipalities and average municipal population sizes**

### Table 1: Number of citizens per councillor

<table>
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<th>Country and Year</th>
<th>Number of Councillors</th>
<th>Number of Citizens per Councillor</th>
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</thead>
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<tr>
<td>Republic of Ireland (2014)</td>
<td>949</td>
<td>4,861</td>
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<tr>
<td>New Zealand (2000)</td>
<td>1,892</td>
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<td>South Africa (2011)</td>
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<td>China (2000)</td>
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</table>


### Financial viability: The concept

As noted above, the proposal for amalgamating municipalities in 2016 was underpinned partly by a desire to make municipalities financial viable. The question is: Is there a common understanding of the concept of financial viability? If the concept is elevated to a criterion/factor for demarcation, then it is important that stakeholders have a common understanding of its meaning. If there is no common understanding among stakeholders, the implementation, monitoring and evaluation of the merger project become difficult as the yardsticks for assessing the outcomes will vary with the definitions. According to NT, financial viability refers to the sustainability of the municipal budget, and whether the municipality is able to sustainably meet its expenditure commitments from its own revenues and transfers. The key to this definition is that a municipality should be able to fulfil its mandate from available resources sustainably. The Local Government Fiscal Framework defines financial viability as the state of balancing revenue sources and expenditure responsibilities and if these two aspects balance then the municipality is financially viable. The NT definition allows for this dependency, ie some municipalities will be financially viable even if they are totally transfer dependent. The Constitution provides for this dependency and, in particular, states that there should be an equitable sharing of revenues among the three spheres of government.

In contrast, the CoGTA definition equates financial viability with self-sufficiency/self-reliance. In other words, a municipality that is not self-sufficient/self-reliant or is dependent on grants is considered financially non-viable. According to this definition, dependency should be eliminated. Following this line of reasoning, all district municipalities are financially non-viable, as they have few own revenue sources and instead, rely heavily on transfers. The main point is that financial viability should not be equated to self-sustainability or lack of dependence. The division of revenue is intended to make it possible for municipalities in all parts of the country to be financially sustainable. In terms of the composition of the fiscal framework, the funding of municipalities is structured such that approximately 25% is from transfers. The transfers are intended to fund poor households’ services. The remainder of the revenues, ie 75% of the local government fiscal framework, is from own revenue sources such as rates and charges. Thus dependency on its own should not be a problem, but should be considered part of the design of the local government system.

This brief analysis of the concept of financial viability makes it clear that there is no common understanding of what constitutes financially viable municipalities. If there is no common understanding of the concept, then it should not dominate other factors in the demarcation process. Secondly, this brief analysis of the concept suggests that dependency on transfers by some municipalities cannot be eliminated, as some lack a sound revenue base and, therefore, will always be transfer dependent. In fact, the division of revenue allows for this fact. Instead, municipalities that are transfer dependent should be allowed to exist as they serve other purposes, eg political representivity or coordination, as is the case with DMs.
Is financial viability a factor or a criterion?

Financial viability (self-sufficiency) is neither a constitutional objective nor a demarcation objective. In fact, financial viability is just one of many factors that MDB has to consider when determining boundaries. Section 24 of the MDA states that MDB must take into account the following factors when demarcating municipalities:

- The interdependence of people.
- The need for cohesive, integrated and unfragmented areas.
- The financial viability and administrative capacity of the municipality to perform municipal functions effectively and efficiently.
- The need to share and redistribute financial and administrative resources.
- Existing boundaries.
- Existing and expected land use, social, economic and transport planning.
- The need for coordinated municipal, provincial and national programmes and services.
- Topographical, environmental and physical characteristics of the area.
- The administrative consequences of its boundary determination on municipal creditworthiness.
- The need to rationalise the total number of municipalities within different categories to achieve the objectives of effective and sustainable service delivery, financial viability and macro-economic stability.

The CoGTA proposal elevated financial viability to a demarcation criterion. This cannot be done without reviewing the MDB Act, but even if the Act is reviewed and financial viability made a criterion (whatever its definition), a municipality becomes financially non-viable because of many factors, in addition to boundary changes. Following the CoGTA definition of financial viability (self-sufficiency), a municipality may be financially non-viable because of both internal (poor management, poor investment decisions, governance) and external factors (poor revenue base, unemployment and poverty within its borders, political and governance issues). So, in a nutshell, elevating financial viability will require, besides reviewing the MDB Act, developing a common understanding of what constitutes this concept.

Impact of amalgamations on the financial viability of municipalities: Lessons from other countries

The impact of municipal boundary changes on the financial viability of municipalities is deeply contested. The assertion that, in principle, it is possible to identify an optimal size for a municipality is inconclusive in theoretical and empirical terms (see Boyne 1998, Oakerson 1999, Bish 2000; Dollery, Kortt and Grant 2012). Theoretically, one strand of literature argues that the consolidation of municipalities improves the effectiveness and efficiency with which local government delivers services, or simply ‘bigger is better’ or ‘bigger is cheaper’ (Slack and Bird 2013). The gist of the argument advanced by advocates of municipal amalgamation that bigger is better results in assumptions that bigger is cheaper, which supposedly means that bigger translates to improved services, bigger is more efficient, and, more recently, bigger is more financially viable. Large municipalities are able to reap economies of scale and scope in service provision as well as savings in administrative overheads (eg duplications are eliminated and the number of politicians and bureaucrats may be reduced), thus resulting in lower per unit costs as the amount of service delivered increases. The extension of this argument is that larger municipalities will save costs, enhance productivity, improve the quantity, quality and mix of local services; boost administrative and technical capacity and strategic management, facilitate more effective lobbying with higher tiers of government, and increase financial sustainability (Dollery and Robotti 2008). Amalgamated municipalities are more technically and financially able to provide an array of services than smaller, fragmented municipalities (Dollery et al 2007; Slack and Bird 2013).

Another group of studies argues that small and many municipalities are more efficient, more responsive to the changes in community needs and have more clear-cut accountability channels (Faguet 2004, 2011). In addition, smaller municipalities stimulate competition, which is sometimes an incentive to be efficient. Furthermore, taxes to residents as well as municipal debt tend to increase substantially with amalgamation, and there are buried costs which may not be apparent when
planning for amalgamation (Slack and Bird 2013). Slack and Bird argue that the amalgamation of municipalities with different service levels and wage scales could increase expenditures. Moreover, salaries and benefits tend to equalise up to the level of the former municipality with the highest expenditures. This upward harmonisation of wages and salaries may actually outweigh any cost savings.

As with the theoretical arguments, empirical literature on the impact of amalgamation on financial viability is also inconclusive (see Lago-Penas and Martinez-Vazquez 2013). Whereas the majority of empirical work has concentrated on American municipalities (Faulk and Hicks 2011), various studies have examined municipalities in Australia, Canada, Japan and Western Europe. For example, after reviewing research in the UK and USA on economies of scale, Byrnes and Dollery concluded that only 8% of the studies found evidence of economies of scale, 24% found evidence of diseconomies of scale, 29% found evidence of U-shaped cost curves and 39% found no evidence of economies of scale. According to Found (2012), there was no evidence of economies of scale post-2005-2008 boundary changes in Canada. In Australia, for instance, many municipal amalgamations or consolidations were endorsed based on the prevalent assumption that larger municipalities would exhibit greater economic efficiencies. However, Byrnes and Dollery (2002) reviewed the literature to determine if an empirical basis existed for this view. Their conclusion was that there is lack of rigorous evidence of significant economies of scale in municipal service provision, which casts considerable doubt on using this premise as the basis for amalgamations. In the USA, Boyne (1992) found evidence that consolidation is associated with higher spending, while in Canada, Kushner and Siegel (2005) found that amalgamations of local governments improved efficiency in some municipalities and increased inefficiencies in others.

**Impact of amalgamations on the financial viability of municipalities: Some empirical evidence**

**Past mergers**

During the past two decades, successive demarcation processes have seen the numbers, sizes and types of municipalities change. With each demarcation cycle, concerns have been raised on the impact of demarcations on municipal finances. The Tshwane Municipality merger was a case in point. In 2013, at the request of Tshwane Municipality, and of its own volition, the FFC ‘2015/16 Annual submission division of revenues undertook an assessment of the impact of boundary changes on municipal fiscal performance. In addition to Tshwane, the Commission looked at case studies of other previous mergers. It concluded that demarcation processes are costly, affect the financial sustainability of municipalities, and that the process can be disruptive and distracting from the core business of a municipality. Further, in the short run, demarcations affected the viability of affected municipalities. The Commission identified a number of cost drivers, including the integration and consolidation of programmes, upgrading of data services, rationalisation of services, fees and tax rates, payroll systems, voters roll and administrative policies, change management costs, harmonisation of systems, harmonisation of asset registers, human resources policies, wages, salaries and allowances; and costs associated with coordination, communication, retraining and retooling of workers.

It recommended that before the actual decision to change boundaries is pronounced, the financial and fiscal implications of boundary changes should be established and such information made publicly available. In other words, at the point of making the decision to make boundary changes, MDB should provide information on the financial and fiscal implications of the possible demarcation. The Commission further recommended that a transitional demarcation grant be awarded to the amalgamated municipality to facilitate the restructuring process and minimise the effect of demarcation on municipal budgets.

In 2014, government took heed of the Commission’s recommendations and introduced a transitional grant to support municipalities undergoing major boundary changes.
Future mergers

As noted, after the 2016 local government elections, South Africa’s municipal space will downsize from 278 to 257 municipalities. In 2015, CoGTA proposed to MDB mergers of a number of municipalities in the hope of creating a crop of self-reliant and self-sufficient municipalities (i.e., municipalities with minimum dependency on central government transfers). The CoGTA proposal envisaged municipalities that have a sound fiscal base to support their constitutional mandates. Is that possible? Can the demarcation instrument result in financial viable municipalities? This section looks at this question, analysing historical and current performance information of municipalities due for merger in 2016.

As fiscal capacity is key to the viability/self-sufficiency or self-reliance of a municipality, this section evaluates the fiscal capacities of all municipalities due to be demarcated in 2016. As with other studies (Bandyopadhyay 2013, City of Fort Lauderdale Fiscal Capacity Study 2013, Yesim et al 2007), all measures of fiscal capacity were indexed to the South African average, i.e., the average figure for South Africa was equated to 100, which was used as a comparison base for individual municipality indicators. These indicators are not measures of the fiscal health of a municipality, but simply a relative gauge of whether a particular municipality can sustain its assigned mandates using its own resources, without intervention from national and provincial governments. It should be noted also that the South African average is not necessarily the optimum, but in the absence of norms or standards, it gives an indication of where an average local government is operating in South Africa. These measures evaluate a municipality’s fiscal capacities relative to the national average, not their absolute fiscal capacities. The selected measures are described in the following paragraphs.

(i) Dependency on transfers

According to the government proposal, a financially viable municipality is self-reliant or self-sufficient. Self-sufficient municipalities do not need to be dependent on transfers for their basic needs, but are capable of delivering a range of services on their own. To ascertain whether a municipality can sustain its mandates without significant assistance from national and provincial governments, a simple dependency ratio (transfers/operating revenues) suffices. In this case, we use the ratio of local government equitable share (LGES) to total municipal revenues and the ratio of total capital transfer funding to total capital funding. The dependency ratios used vary widely, ranging from metros that derive less than 10% of their revenues from transfers to the other extreme of DMs that rely on transfers for almost 90% of their total revenues. Figure 2 shows that the majority of small town municipalities (B3s) and virtually all rural municipalities (B4s) are dependent on transfers for more than 20% of their revenues. The majority of B4s rely on LGES transfers for more than 50% of their operational expenses. Such municipalities will, in all likelihood, always be dependent on transfers. The majority of municipalities due for demarcation (Figure 2) depend on LGES transfers for more than 50% of their operational expenses. Such municipalities will, in all likelihood, always be dependent on transfers. The majority of municipalities due for demarcation (Figure 2) depend on LGES transfers for more than 50% of their operational expenses. Figure 3 on the dependency on transfers for capital funding paints a similar picture to LGES. Most rural municipalities rely on transfers for their capital expenses. In a nutshell, figures 2 and 3 show that rural municipalities and those due for demarcation will never sustain their activities without transfers. Thus amalgamations will never make them self-reliant, considering their limited revenue base and high levels of dependency.
As noted, this indicator measures the value of goods and services produced by a municipality over a given period. A higher per capita gross value added (GVA) value signifies a larger revenue base and greater ability to pay taxes. All municipalities due for demarcation were compared to the average for all municipalities. Figure 5 summarises the results of the GVA per capita index and shows that the majority of municipalities due for demarcation in 2016 are below the South African average. It suggests that more than 80% of the municipalities due for demarcation have a weak potential revenue base. There are amalgamations consisting of municipalities with GVA per capita indices below average: eg Camdeboo, Bavians and Ikwezi; Hlabisa and The Big 5 False Bay; and Blouberg and Aganang. This observation suggests that amalgamating some of the municipalities would not necessarily result in the newly amalgamated municipalities having a better revenue base.
(iii) Per capita income

Per capita income is another well-known indicator of fiscal capacity (Tannenwald 1999, Bandyopadhyay 2013, Yasmin et al 2007). As is the per capita GVA measure, the per capita income measure captures the wealth or income potential of a municipality, i.e. the community’s ability to meet its financial needs. Figure 6 summarises the distribution of municipalities to be demarcated in 2016 according to per capita index. It shows that around 70% of the affected municipalities fall below the South African average, a further indication that, other things held constant, the communities of such municipalities (e.g. the Hlabisa and Big 5 False Bay amalgamation) would be hard pressed to meet their financial needs from own means.

Source: Authors’ calculations

Source: Authors’ calculations

Figure 4: GVA index

Figure 5: Per capita income index
(iv) Employment

A municipality’s revenue base depends also on the employed population in its jurisdiction. When a significant proportion of a municipality’s population is employed, the likelihood of it generating a steady stream of revenues is high. Conversely, when the unemployment rate is high, the tax base is constrained. Figure 7 shows that almost half of the municipalities due for amalgamation in 2016 have below-average unemployment rates - an indication that a significant proportion of local governments due for amalgamation have a weak revenue base. Clusters with above-average unemployment rates include Camdeboo, Baviaans and Ikwezi; Inkwanca, Tsolwana and Lukhanji, and Venterdorp and Tlokwe.

Figure 6: Unemployment index

Source: Authors’ calculations
Poverty is another variable that explains a municipality's fiscal capacity. High levels of poverty imply a weak revenue capacity. Poverty levels for all municipalities due for demarcation were compared with the average poverty level for all South African municipalities, which assumed a value of one. Figure 8 indicates that more than 60% of municipalities fall below the average poverty level for all South African municipalities. This suggests that for many municipalities (e.g., Hlabisa and Big 5 False Bay), the mergers will not improve their poverty levels or their revenue base.

Figure 7: Poverty index

Source: Authors’ calculations

To sum up, the above analysis on financial viability suggests that a significant number of municipalities due for amalgamation in 2016 have weak revenue-raising capacities, which suggests that amalgamations will not make many municipalities viable/self-sufficient or self-reliant. With weak revenue bases, most of the municipalities will continue to depend on transfers. In a nutshell, merging poor municipalities will not necessarily result in a viable municipality, as ‘zero plus zero plus zero does not make it three’. In other words, amalgamating two or more poor municipalities will not result in a self-reliant municipality.

The huge costs associated with boundary changes demand a relook at the frequency of demarcations. Very frequent demarcations can be disruptive and counterproductive to many policies and initiatives to improve the wellbeing of municipalities. It is critical that boundary changes are scheduled less frequently. It is also important that they are allowed to take root first and are also subject to proper evaluation before the process is repeated. In addition, MDB must be given sufficient time to engage more rigorously with proposals and to consult comprehensively and extensively, and carry out proper investigations, including financial modelling and viability studies of proposed mergers.
Dysfunctionality

Can amalgamations correct municipal dysfunctionality?

The functionality of a municipality is a function of many factors in and outside its control. Using four factors: institutional management, financial management, governance and service delivery, we assessed the functionality of municipalities due for amalgamation (Figure 10), 80% of which are at risk of being dysfunctional and 6% dysfunctional. Amalgamating municipalities that are at risk of being dysfunctional may actually worsen the problem.

Figure 11 shows another interesting amalgamation - that of a functional metro (Mangaung) and a dysfunctional rural area (Naledi LM). Financial viability/self-reliance may be achieved by this merger, but governance and democratic issues may be compromised - two important elements of municipal viability. Political representation for marginalised communities in Naledi LM may virtually fade and rural governance of these communities will, in many ways, become less functional as an urban core governs and administers rural areas. Naledi LM could not achieve financial viability, but it could serve a critical constitutional and democratic role.

Having noted that many municipalities due for demarcation are not functioning well, we ask the question: Is demarcation the right instrument for dealing with dysfunctional municipalities and can it be a criterion for demarcating municipalities. The answer points to the contrary. The linkage between functionality and boundary changes is unclear, as a municipality can be dysfunctional because of various reasons that cannot be solved by changing boundaries. Dysfunctionality may be ‘imported’, ie when outside factors (political, financial etc) affect the municipality. Dysfunctionality can also be caused by managerial lapses, bad choices, instability at senior levels or many other factors that have no direct bearing on boundary changes and that cannot be influenced by boundary changes. CoGTA’s five ‘functionality’ criteria (community satisfaction, institutional management, financial management, service delivery, governance and political stability) cover issues that are not directly relevant to boundaries, with many relating to broader performance and compliance issues. For example, using demarcation to correct for financial mismanagement is akin to providing a patient a wrong pill, which may do more harm than good, whilst corrective action (eg de-amalgamations) may be too expensive and impractical to implement.
The MDB mandate includes, inter alia, demarcating municipal boundaries, ward delimitations and conducting municipal capacity assessments, and not correcting dysfunctionality in municipalities, as national and provincial executives have a wide array of regulatory, monitoring, support and intervention powers to deal with these issues. As there are no apparent connections between municipal boundaries and municipal functionality, elevating the issue of functionality to a demarcation criterion may simply raise expectations about the demarcation instrument that will never be fulfilled by that tool. Problems of dysfunctionality are often temporary and cannot be solved by a long-term drastic measure such as demarcation. The emphasis on functionality ‘ignores the long-term horizon’ – functionality problems ebb and flow. Functionality cannot, therefore, be a criterion for demarcation as it is totally transient.

Conclusions and recommendations

Government seeks to make rural municipalities self-sufficient and less dependent on transfers. In 2015, the government proposed to use demarcations to achieve financial viability or self-sufficiency among rural municipalities, and also improve their functionality. The question tackled in this paper was whether this model that seeks to make rural municipalities self-sufficient is appropriate. The study was based on case studies of rural municipalities due for demarcation in 2016. The foregoing analysis suggests that amalgamations will not necessarily result in financially viable municipalities, but, in many cases, the situation of demarcated municipalities will worsen. The dependency ratio of many demarcated rural municipalities is too high to be reversed by amalgamations. In fact, the results indicate that many rural municipalities will continue to be transfer dependent as their revenue bases are fragile and weak. Transfers will remain the mainstay of rural local government. It is also important to note that the Constitution is sensitive to transfer-dependent municipalities and the transfer system has to cater for this. In other words, the Constitution sets no financial viability requirement for all municipalities, but makes provision for some to be transfer dependent. Some municipalities should exist to serve other equally important roles such as ensuring that communities are politically and democratically represented.

The study noted elevating this to a demarcation criterion is problematic as there is no direct nor indirect link with municipal boundaries. Municipalities can be dysfunctional for a variety of reasons that have no relationship with boundary demarcation. Amalgamations are a long-term measure that cannot correct short-term operational problems associated with municipal dysfunctionality.

The foregoing analysis has demonstrated that many rural municipalities will continue to be transfer dependent. It also suggests that demarcations are a weak instrument for pursuing financial viability of rural municipalities and a wrong one for improving the functionality of municipalities. The foregoing analysis lends itself to the following recommendations:

- MDB should not make financial viability the core criteria of demarcation given the absence of a shared definition or common understanding of this concept. Rather, it should consider financial viability as one of the 12 factors when making boundary changes.
- MDB needs to consider conducting proper investigations and studies on the viability of demarcated municipalities before making its final decisions on demarcations. The financial and fiscal implications of boundary re determinations should be prioritised and established before any demarcation decision is pronounced.
- NT and CoGTA should:
  - Note that, by their nature, some municipalities will never be self-funding and, as such, demarcation processes must go beyond financial viability to equally important issues of democratic representation and community participation. The transfer system should be allowed to fund political and democratic representation, and community participation in municipalities considered financially unviable.
  - Seek to achieve financial viability in municipalities by increasing or developing tax bases through economic development rather than amalgamating municipalities.
- The CoGTA should:
  - Amend the MDA to ensure that the full financial impact of demarcations on a new municipality are assessed before any amalgamations are done.
- Seek to correct dysfunctionality through legislative, policy and capacity-building measures rather than through amalgamations. The MDB mandate does not include correcting functionality challenges among municipalities, as government has an array of measures at its disposal to address this. In addition, functionality should not be elevated to a demarcation criterion, as it has no direct nor indirect link with boundary changes. Municipalities owe their functionality to a number of factors.
- Evaluate whether mergers have been successful, and their actual cost.
- Review the frequency of demarcation to allow the process to take root first and be subjected to rigorous evaluations before it is repeated. In addition, MDB must be given sufficient time to engage seriously with proposals, consult extensively, and carry out proper investigations, including financial modelling and viability studies of proposed mergers.

References


3.2.3 Financial viability and dysfunctionality of the Back-to-Basics programme

by Muthoto Sigidi, Acting Director General, COGTA

Funding follows function is a core principle of the LG fiscal framework

- The fiscal framework refers to all the revenues available to municipalities as well as all of their expenditure responsibilities

Main revenue sources:

- Municipal property rates
- Service charges
- Electricity
- Water and sanitation
- Refuse removal
- Sharing of the general fuel levy
- Transfers
- Equitable share
- Conditional grants

Main expenditure responsibilities:

- Admin
- Basic services
- Electricity
- Water and sanitation
- Refuse removal
- Municipal roads
- Local development
- Community services
- Parks, sports and recreation etc.
Consideration made on viability and dysfunctionality

- The Back-to-Basics programme analysed municipalities across the country and concluded that approximately one-third were dysfunctional and some were not sustainable financially.
- To address the challenges of sustainability/viability, several options were considered, including direct interventions, strengthening district municipalities, or disestablishing and amalgamating some local municipalities.
- Four indicators were used to determine the sustainability/viability of municipalities:
  - Economic viability;
  - Tax sustainability;
  - Financial viability, and
  - Dependence on intergovernmental transfers.

Essential elements of viability and dysfunctionality

Definition of municipal viability:

- Grow in population and in economic terms
- Govern and democratically represent the interests of the community
- Satisfy the responsibilities for administration and services in accord with legislation
- Provide the services needed at a cost that residents are willing to pay (ie cost effective and reflective)
- Fund services from its financial resources and with support from national fiscus.

Essential elements of viability and dysfunctionality

- **Endogenous factors**: Performance-related factors that can be attributed to leadership and management, and affected by financial and administrative capacity of municipalities
- **Exogenous factors**: Poverty, historical settlement patterns and limited economic potential of the municipal areas are factors beyond the control of communities

Essential elements on viability and dysfunctionality

Areas linked to performance and constituting five priorities for acceleration of Back-to-Basics:

(a) Sound financial management
   - Revenue collection
   - Debt management
(b) Good governance
   - Unqualified audit reports
(c) The fight against corruption
(d) Supply chain management
(e) Accelerated service delivery
   - Provision of basic municipal services
(f) Sustainable infrastructure development
   - Quality of infrastructure
   - Maintenance of infrastructure
Essential elements of viability

REVENUE COLLECTION

Municipalities must do the following basics with regard to revenue and its collection:

- Have realistic income projection based on known revenue sources
- Have a balanced cash budget and ensure sustainability
- Have three-year budgeting in place
- All funds must be cash backed
- Make adequate provision for bad debts
- Have an effective revenue collection system consistent with the Systems Act
- Reduce expenditure when revenue is anticipated to be less than projected

DEBTORS AND UNDERSpending

- Aggregate municipal consumer debts continue to increase and becoming uncollectable, eg consumer debt is currently over R117bn across different consumer types
- Bulk creditors hovering around R2.8bn to R6.1bn for water boards and Eskom respectively
- Budgets continue to be underspent
- 241 municipalities underspent on their adjusted budgets by more than 5%. Of the 241 municipalities, 25 underspent between 5% and 10%, 44 underspent by between 10% and 15% and 172 underspent by more than 15%

Assessment of municipalities: initial BACK-TO-BASICS assessment functionality; sustainability/viability

Functionality

- Institutional management
- Political stability
- Financial management
- Service delivery
- Governance
- Community satisfaction

Sustainability/viability

- Tax base
- Financial governance
- Dependence on grants
- Economic viability

Some criticism of the approach by COGTA

- Stakeholders do not have a common definition of financial viability.
- Financial viability should not be equated to self-sustainability and dependence.
- MDB’s mandate does not include resolving issues of dependency and functionality.
- The link between functionality and boundary changes is difficult to see.
• Merging rural municipalities may not necessarily result in ‘financially viable’ municipalities: ‘Zero plus zero plus zero does not make three’.
• Ruralising metros have the potential to increase the distance between citizens and political representatives, and between citizens and the municipal administration.

**Next phase: accelerating BACK-TO-BASICS**

• A range of support packages for less capacitated municipalities must be put in place;
• These support packages should have conditions attached to them which municipalities must meet, such as the verification endorsement of service delivery projects by qualified experts, and stricter conditions for infrastructure grants etc;
• Promotion of a culture of payment for services – councillors to lead by example for all municipal types;
• Municipalities to build internal capacity to accelerate their revenue and debt collection efforts;
• Ensure timeous transfer of municipal budget allocations and for same to be used for what they are meant (not to pay salaries);
• Review the fiscal system to ensure a more equitable allocation to LG;
• Implement the 10-point plan of Back-to-Basics.

**Conclusion**

Whilst MDB has made its the decision, we:
• Continue to engage on the issue of viability and whether amalgamation is an answer.
• Believe that a look at economic development options in local areas may be the answer to issues of viability.
• Contribute to the growing narrative on matters of revenue effort:
  - Optimal utilisation of current revenue instruments
  - Rate of collection
  - Culture of payment.
• Consider other policy questions:
  - Wall-to-wall municipalities
  - Studying the cost of providing a service vs employment patterns at local level
THEME 3:

TOWARDS A COMPREHENSIVE MUNICIPAL CAPACITY ASSESSMENT

Bottom left - Professor Somadoda Fikeni, took to the podium during the conference
3.3 Towards a comprehensive municipal capacity assessment

This panel session raised the following issues:

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

3.3.1 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 the 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 consider assigning more functions to stronger municipalities.
- Clarity is needed on functions and devolve functions matched with commensurate funds, i.e. funds must follow functions.
- Concurrent functional issues associated with the two-tier system should be explored.
- The role of FFC in the funding of functions to be considered.
- The White Paper on Local Government remains an important yardstick for powers and functions.
- Government may 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 (DMs) are required to play a coordinating role, but few are able to do so.
- Stronger municipalities must be pulled out of districts and sub-councils created from weak municipalities. Districts with weak municipalities must play a coordinating role.
- Competition to be minimised between provinces and municipalities.
3.3.2 Towards a comprehensive municipal capacity assessment for adjusting/assigning local government powers and functions

by Sheila Hughes, Lesterina Moseki (CoGTA), and Ashley Losch (Senior Governance Adviser, GIZ)

Abstract:

Assessing municipal capacities is considered to be a fundamental element in the assigning, delegating and transferring of functional assignments and responsibilities to municipalities. The same is true for when determination and redetermination of municipal boundaries are undertaken. However, the undertaking of municipal capacity assessments has attracted various definitional meanings and understandings, primarily associated with the specific intended objectives and purpose. The design, thus, varies from context to context. One aspect, though, which is a given, is that fully understanding functional responsibilities and related capacities within municipalities, and responding to challenges appropriately can contribute meaningfully to reaching optimal performance efficiency and effectiveness within a given regional space.

The undertaking of capacity assessments for the adjustments of functions and the determination of municipal boundaries in South Africa are premised on key pieces of national and local government legislation and policies. These pieces of legislation and policies provide for criteria and procedures for the determination of municipal boundaries by an independent authority, as well as for capacity assessment procedures for the adjustment process. In spite of these frameworks, questions have still been raised regarding the usefulness of current assessments for municipal boundary adjustments, the adequacy of the prevailing assessment model, and the lack of a sufficiently comprehensive framework for capacity-based adjustments.

This introductory briefing paper posits, therefore, that no proper governance procedures or regulations have, to date, been enacted to more purposefully guide the functional adjustments and capacity assessments. The briefing paper identifies: lessons learnt and recommendations: a) to clarify what approaches may better sustain and strengthen the functionality of two-tier local government, and b) to advance our understanding of what would be required to rationalise the structure of the two-tier system in terms of urban and rural municipal capacities.

Section 1: Background and context

The Constitution clearly defines a system of government for the Republic categorised within three spheres of governance. Competencies, responsibilities and functional relations are allocated among these three spheres, which are either exclusive or concurrent. The distribution and allocation of competencies and responsibilities among the three spheres has been an ongoing endeavour, especially since the establishment of the new wall-to-wall local government system in 2000. The Constitution recognises that competencies and responsibilities can be allocated to a sphere of government only through legislative prescript, additional assignment, delegation or agency mechanisms. These Constitutional provisions are premised on the principle that if a competency can be best performed by the local government sphere, such responsibility should be assigned to that sphere, subject to the municipality having the capacity to perform the function.

Assignment, adjustment or delegation of competencies and responsibilities is thus a key mechanism in the distribution and allocation of appropriate functions to a given entity. Although such allocations and distributions are permitted by
the Constitution and other pieces of legislation, primarily the Local Government: Municipal Structures Act of 1998 (as amended, 2000), with the two-tier system, common perception has it that adherence to the conditions set out in these prescripts is not entirely followed. Practice, hence, shows that there are three main risks inherent in these assignment processes. These are:

- Misunderstanding of and inconsistency in the use of the functional framework
- Unfunded mandates can be transmitted to municipalities
- Absence of uniformity in the application of procedures for assigning or adjusting a function

Notwithstanding the above context, several national programmes have been designed and implemented that focused primarily on strengthening and improving the capacities of municipalities, but to date, the primary focus has not been directly on building the capacity to better execute powers and functions. As a start, Project Consolidate, which was launched in 2004, made the strengthening of capacity weaknesses in targeted municipalities its priority. As a hands-on support programme, it focused on ensuring that national and provincial government together with private sector stakeholders collectively supported several strategic and innovative initiatives that would enable these municipalities to effectively execute their legislative and functional service delivery mandates. Through the deployment of service delivery facilitators (SDF), Project Consolidate introduced a new, more intergovernmental culture and method of working with municipalities, particularly in building their capacities.

The issue of strengthening municipal functional and performance capacities through the collaboration of all three spheres of government and private sector stakeholders was taken forward in the defining of the Local Government Turnaround Strategy (LGTAS) of 2009 and the new government-wide outcomes-based monitoring system. The LGTAS's main aim was to counteract the root causes of a particular malfunctioning local government system, which were, inter alia, capacity and skills constraints, and systematic factors linked to the current local government model. The new local government classification model identified and proposed in the LGTAS was designed ostensibly to guide the kinds and levels of support and interventions to be geared towards municipalities. It was also devised to lay some sort of differentiated foundation for determining the appropriate responsibilities and services that different municipalities ought ideally to provide, and guide how all of government, and the private sector actors, ought to support municipalities in the realisation of their common responsibilities.

The specific and targeted capacity building and strengthening support agenda has been further entrenched in the recently developed Back-to-Basics programme of CoGTA. The focus is primarily on municipalities that have been classified as ‘potential to do well’ or ‘dysfunctional’. One key lesson learnt from the 2014 comprehensive ‘state of local government’ assessment was that CoGTA needs to put in place a range of more targeted support packages for less-capacitated municipalities, but that these interventions should have conditions. This would enable municipalities to meet minimum internal capacity-building requirements over time to ensure sustainable improvements in municipal performances. This lesson was adapted and comprehensively developed in the Back-to-Basics approach, so that municipal self-reporting is now premised on a highly comprehensive range of indicators that can be tracked and assessed for improvements.

The focus of these support interventions, however, has been largely on improving and strengthening the internal human resource, fiscal and governance capacities and expertise of the targeted municipalities, and there has been very little focus on the governance of powers and functions and its effective implementation. This element has remained a neglected area of national and provincial assessment processes.

Based on the abovementioned practices and experiences, the NDP (2011) emphasises the need for national and provincial government to be more actively involved in resolving specific problems in the functioning, capacity and efficiency of local government. The NDP further pictures a close relationship between demarcation of municipal boundaries, and the issue of capacity and competencies. For example, it clearly articulates the need for and importance of differentiation in local government functionality, given the historical legacies of local government establishment.
The assessment of the capacity of municipalities to perform their functions is one of the primary tasks outlined in the Local Government: Municipal Demarcation Act of 1998, ascribed to MDB. Such an assessment and the role of MDB in its undertaking are considered critical elements in the assigning and devolution of competencies and responsibilities away or to municipalities, as stipulated in the Local Government: Municipal Structures Act of 2000. It is for this reason that theme two of MDB’s strategic themes deals exclusively with assessing the capacity of metropolitan, district and local municipalities.

After MDB’s first capacity assessments of 2002/03, the Board took a decision to design and implement a new capacity assessment system and model. This system was designed to address a broader scope of legislative requirements of capacity assessments for improved municipal performance. Thus, MDB commissioned in 2010 a study for the development of a revised and improved municipal capacity assessment model. After consulting a wide range of stakeholders, MDB launched the model, which is based on:

- An online questionnaire completed by each municipality
- The inclusion of metropolitan municipalities
- An in-depth capacity assessment study for 20% of districts per year over five years
- Use of secondary data obtained through stakeholder consultation
- Other secondary data
- Complete reliance on municipalities to participate.

Although the revised capacity assessment acknowledges the contributions of a wide variety of stakeholders, it is still driven largely by self-reporting on quantitative and statistical inputs and data, on the human resource, governance and financial capacities of municipalities.

**Problem statement:**

It is, therefore, argued here, that despite the improvements, there are challenges with the revised model. Technically, these challenges relate mainly to the insufficient framework for, or definition of ‘capacity’ required, to justify adjustments and delegate assignments. A definition is provided in the Local Government: Municipal Structures Act of 1998 (amended 2000) but this is very limited. The current assessment model focuses primarily on the institutional capacity of municipalities and overlooks the value of properly understanding the spatial, economic, and environmental context of municipalities. To sum up, as much as the newly refined model is appreciated, it is not realising its full potential as a key resource to holistically understanding and determining municipal capacities in the implementation of powers and functions. Therefore, the complexities within the two-tier local government system still persist, structurally, and in the implementation of appropriately located and ‘fit for purpose’ competencies and responsibilities.

The arguments put forward in this paper respond to the following primary questions:

- Is it adequate to focus on just the institutional and personnel capacities of performing a function as a means to adjust a function?
- Are the current assessment indicators a true indication of the municipal environment, given their specific spatial contexts, legacies and challenges?
- Should capacity assessments not also consider the broader local government framework?
- Should capacity assessments not also consider intergovernmental objectives on policy coherence, and the roles and responsibilities among the three spheres of government, sector departments etc?

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1 The definition defines capacity to include the administrative and financial management capacity that enables a municipality to collect revenue and govern on its own initiative (Final Draft Report on Demarcation Process Review, October 2013).
Experiences and lessons learnt from CoGTA’s Back-to-Basics programme, the Strengthening District Government (SDG) initiative, research libraries and related data and evidence will be used to address the abovementioned questions, and to substantiate the arguments put forward in this paper.

All of this research and experience informs the framing of the lessons learnt to date, as well as the proposals, options and recommendations that will be presented for discussion, as a way forward.

Section 2: Some operational challenges reviewed

This section provides an overview of some of the current perceptions and challenges identified by both primary and secondary research on powers and functions, with the intention of providing insights into the complexities and multiple tactics employed to manage powers and functions between the two tiers of local government. It is important to recognise that operational challenges need to be well understood to inform a more comprehensive assessment process based on a stronger foundation for managing the intergovernmental dynamics of the two-tier system.

For example, the recent MDB Review and Trends Assessment (2011) indicated that two-tier local government is neither effective nor efficient. It reiterated the lack of clarity on powers and functions, and that the MEC adjustment processes to date have exacerbated the unclear division of powers, with the framework for adjustments being insufficient. In turn, such factors can undermine service delivery through disruption and uncertainty. The MDB report also indicated that, currently, there is a narrow conceptualisation of capacity, inferring that the capacity assessment model is inadequate since it relies heavily on subjective indicators of capacity. These limitations can also result in capacity assessments not being that useful for boundary adjustments, where there is a need for a deeper assessment and understanding of the spatial context, and the legal, environmental and fiscal factors impacting on the municipalities, as well as their institutional capacity.

As part of the Back-to-Basics approach to strengthening local government, in 2015, CoGTA initiated the SDG programme. Studies and hands-on investigations reinforced that there are variations in urban and rural municipalities for each intra-municipal arrangement between the local and district families for the performance of an S84 or scheduled function.

These variations, identified in previous case studies and research, and in the current SDG programme, indicate that there is a critical need for assessment methodologies to be introduced to collect far more substantive district-level data and evidence. Then government can more comprehensively analyse and assess how to approach the ‘tangle’ of the two-tier system. CoGTA believes that, currently, assessment of capacity based largely on human resource factors is an insufficient lever to fully inform recommended adjustments. This is due to the unique spatial context of each district, its differentiated legacies, its particular socio-economic role, and the fact that reforms are now urgent.

Taking into consideration the unique spatial conditions of the DMs and local municipalities (LMs), and the calls for reform, it is important to assess the options - firstly, whether the existing legislation, as it stands, is sufficient to cater for the complex, legacy-based structural dimensions of the two-tier system.

Following from this question, studies have revealed a disjuncture on what legislation prescribes and how some municipalities are performing daily in relation to the prescriptions for the division of powers and functions. Section 156(1) of the Constitution provides municipalities with executive authority to administer the local government matters listed in Part B of Schedule 4 and Part B of Schedule 5; Section 84 of the MSA, as amended, listing the powers and functions that the district government should specifically perform, leaving the ‘remainder’ to LMs.

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2 2011 Capacity Assessment
But as we know, what is prescribed is not what happens, leaving government with a compliance dilemma – is it better to enforce the current legislative framework or to delve further into strengthening management and governance of how functions are divided and executed per district area, to secure service delivery.

In achieving the vision, a second question is: Have the complexities in the implementation of mandated powers and functions in the two-tier system constrained the accomplishment of the vision of the White Paper on Local Government (1998) as it pertains to the roles of DMs, namely S84 functions, plus coordination, planning and facilitating district-wide development; providing bulk infrastructure and services, and building capacity and supporting weaker locals?

The findings reflect that most of the piloted municipalities, especially those that are non-water services authorities (WSAs), performed fewer functions than required by legislation, and that many functions have shared service delivery components, an element that needs further breakdown and analysis. It was further established that non-WSA municipalities tend to perform several functions, which they indicated as ‘unfunded’, such as youth development, gender mainstreaming and other transversal support issues, claiming that they were inherited from the previous system or they believed that it was their mandate in terms of the Constitution. Dialogue also revealed that close scrutiny of the legislation and assigned functions, and how to assign the equitable share (ES) to functions prescribed, is also not common practice.

This was also highlighted in case studies commissioned by CoGTA in 2014/15. Findings pertaining to a number of functions performed by DMs - such as the district airport, Section 84(1)(k), and markets and abattoirs - appeared superfluous, since the DMs interviewed during the study were either unaware of the authority status or were unable to articulate their responsibilities in these areas.

The case studies also indicated that some municipalities interviewed were unaware of their authority to perform certain functions, and did not understand, for example, functions such as firefighting, which was extremely concerning. Legal opinion, practical dialogue at local level, implementation protocols with other spheres and sectors are all tools through which functions may be harnessed for improved service delivery.

This highlights the need for clarity on legislatively split shared functions, eg firefighting, and the need for knowledge on how a function is informally shared, per implementation component of that function.

How are these ‘splits’ assessed in terms of capacity? Does it make sense for such functions to be a shared responsibility? Clarity is also necessary between ‘shared services’ (often back-office functions) and functions that are ‘shared’ through interpretation of the legislation on the extent of a power across a district area or part thereof. According to JBJ Farlam, these provisions imply a ‘complementarity’ between the powers and functions, ‘which district municipalities and local municipalities can (and must) exercise or perform in respect of the various services’.

These issues came strongly to the fore during CoGTA’s first six SDG pilot studies, exploring powers and functions exercised between DMs and LMs, with specific focus on functions of the former.

On the positive side, SDG findings established that DMs that are WSAs (C2s), such as Ugu DM, and Umkhanyakude DM, tend to be better capacitated and resourced, and do not claim to have many ‘unfunded’ functions. The non-WSA districts (C2) in the study (Central Karoo, Ehlanzeni, John TaoloGaetsewe and West Rand DMs), did fulfil strong S83-led support roles to their LMs, especially in planning, intergovernmental relations (IGR), integrated development planning (IDP), local economic development (LED), internal audit and risk management.

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3 Strengthening District Government (SDG) programme (six district case studies)

4 Legal opinion, PBJ Farlam, January 2015.
In line with the principles of the envisaged redistribution and support roles, non-WSA DMs are grant dependent with no or very little additional revenue sources due to being non-trading entities, and receive lower amounts of Regional Services Council (RSC) levy replacement grants. This can be acceptable as a status quo if the GAPD-related functions are well performed and add value – other areas that need further investigation.

The Palmer Development Group (PDG) 2014 report on DMs status quo indicated that in FY2011/12, expenditure on Governance Administration Planning and Development (GAPD) was R40.2 billion, 23% (R7.6 billion) of which was incurred by districts. There are obvious, justifiable, concerns over GAPD expenditure and the extent of duplication of many activities between district and LMs. Given the current objectives of professionalisation in local government, with the centrality that planning and development should play in the regional coordination role of a district municipality, current focus and expenditure on planning and development appear highly uneven.

Some case study DMs indicated that service level agreements (SLAs) are in place between certain DMs and LMs and with other government departments, particularly provincial sectors. However, the challenge is receiving the transfers due to the municipalities to fully fund the agency agreement or assignment, hence the ‘unfunded mandate’ claims, eg for roads and primary healthcare.

What data may not tell us, however, is the level of informal intergovernmental cooperation, which adds weight to the argument that prescriptive models may not be the best models for two-tier entities. For example, the study established that in some cases, the DMs are ‘roped in’, when LMs are experiencing challenges in the delivery of a particular function – this was evidenced particularly in, among others, the bulk water supply function, the firefighting, tourism and local transport functions. How would one, therefore, ‘assess’ or ‘govern’ the human resource, capacity, fiscal or reporting factors in informal and discretionary arrangements?

Summary

Given the dearth of adequate data, and the lack of reporting systems for CoGTA, provincial departments and MDB, identifying the various coping strategies adopted and interventions implemented for performance of functions demands that consideration be given to the development of a comprehensive, integrative, national database. This should be able to capture the data on how functions are being performed by which municipality, how they are ‘split’, or divided, and where and how the functions are funded. Consideration also needs to be given to more tracking and ‘impact’ data, and which constraints to effective execution are identified. Such knowledge contributes as an evidence base, to help inform the creation of a revised district model.

Section 3: Lessons learnt and recommendations

This brief overview of the background, context and performance-based realities pertaining to the two-tier system seeks to form part of the knowledge being developed by government and its stakeholders to strengthen developmental local government. Specific focus has been applied to the operational strengths and weaknesses of the two-tier system, which, CoGTA believes, needs fundamental re-examination and reform before further capacity assessments of its performance can be effectively applied.

Some lessons learnt: a) Review/amendment of the legislation is required; b) structural reforms

The need for review and reform is evident, given the overview of constitutional and legislative frameworks and the many

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5 Study commissioned by CoGTA, undertaken by Palmer Development Group, 2014
intergovernmental initiatives to build the capacity of local government. MDB, however, is currently the only entity that has specifically referenced and assessed the performance of municipal powers and functions. Through healthy investigative review and experience over the last 15 years, some key questions have arisen on the two-tier system, which require more fundamental government decisions. It is, therefore, posited that such questions need to be considered and evaluated by the State and key stakeholders before embarking on revised models for assessments.

Lessons learnt to date through review and research have raised the following issues and questions:

1. What kind of State-led, ‘all-of-government’ process is required to clarify the functional arrangements of the two-tier system?
2. Should this clarification include structural repositioning for certain municipalities (e.g. B1s and districts in urban areas)?
3. Can the State accommodate recommendations for structural change, which could ultimately reduce the number of DMs, and increase the number of larger, more urban LMs as entities with metro powers?
4. If not, should we revert to a strict adherence to legislation governing local level powers and functions (S84, S85) and tighten the rules for compliance and reporting thereof?
5. Or, should we move towards a more pragmatic acceptance of ‘shared’ powers and functions between districts and locals, as they have played out to date in discretionary practice in multiple differentiated and often informal ways?

Recommendations:

Whichever approach, or combination thereof, is favoured by stakeholders, a key component of managing the two-tier system more effectively remains governance arrangements. Options for strengthening district government include:

1. Reviewing the MSA, either to radically revise it or to reaffirm that the 12 district functions cited in S84 are correctly located, and that the sections adequately provide for ‘mutual exclusivity’ (as per subsections 84 (1) (b), (c), (g) (i), (n), (o), (p)).
2. Assessing whether there is sufficient clarity in the remaining provisions of S84 (1): if the original intention was for both spheres to ‘share-out’ these functions, or components thereof, as the section appears to reflect, is this adequately defined?
3. Is it feasible for capacity assessments to be conducted, without more due diligence around compliance, accountability or recognition of ‘own’ arrangements; is this too complex, given the plethora of ‘own arrangements’ prevailing?

Recommendations:

A key proposal is needed on how the government should better understand the powers and functions environment, to study in more depth the range of locational splits/choices made at two-tier level, the degree of adherence/lack of compliance with the current legislation, and the overall efficacy, or not, of the current framework, as a tool for governance.

Lessons Learnt: Monitoring, reporting and governance

Constraints to effective governance may be identified both through weak administration of the MSA legislation and in the legislation itself. This, in turn, impacts on the effectiveness of the systemic application of the legislation, and on monitoring and reporting.

For example:

1. The MSA provides for regulations to be promulgated to govern an authorisation under the Minister [(S84 (3)(b), (c)], and subsequently to revoke an authorisation [subsection (d)]. Such regulations would apply to S84 (1) - b, c, d or i.
2. No such regulations have been issued to date, thus there is no governance framework for authorisations or revocations
for these four key functions. Consequently, these four functions are not assessed for competence or otherwise, according to any gazetted prescripts.

3. The Minister of CoGTA has not been assigned a legislative role in the MEC adjustment process, unless a dispute arises [S85 (5)]. This constrains the department’s role in monitoring how adjustments are taking place, between who, when gazetted, and upon what motivation.

4. Section 85 provides that an MEC must adjust functions within ‘a prescribed policy framework (note: not a regulatory framework)’. CoGTA has no knowledge which provinces may have developed such a framework, and submissions of such a framework to either MDB or CoGTA are not required by the applicable sections.

5. Section 85(4)(a)(ii) provides that MDB undertake a capacity assessment ‘upon request’ by the MEC concerned, and ‘convey its assessment in writing to the relevant MEC’ [subsection (b)]. The capacity assessments do not reflect how many requests for assessments were received, or on what basis. It is, thus, not clear what have been the triggers for adjustment requests by MECs, and whether due process was uniformly followed in a transfer of a function. CoGTA has no prescribed role or channels to monitor this process.

6. Further, many observers and practitioners have noted that the multiple discrepancies evidenced in the field cannot be solved by a constant process of shifting functions back and forth between municipalities. Lack of data and reporting streams has obscured whether a transfer/adjustment actually achieved the improved performance envisaged. This means that the impact of adjustments is poorly understood, with both inter-municipal discretionary adjustment processes and MDB-recommended adjustments.

7. To what extent have these procedures deepened the problem of fragmentation and inadequate, or wrongly targeted, fiscal support?

This prevailing state of affairs implies that there is a ‘governance gap’ in the way that two-tier functional assessments are conducted. Some governance issues arise:

1. How would a capacity assessment need to better respond to capacity, resource and accountability implications for shared/divided services?

2. The assessments to date have not identified how the ES is used per function: Evidence suggests that entities rarely have costed models for execution of their key functional responsibilities, except for water and electricity, as they are trading services. National Treasury (NT), itself, does not have the capacity to introduce conditionality/breakdown of expenditure of the ES across all municipalities, so what is the governance solution?

3. A lack of clarity can lead to a blurring of ‘whose fiscal responsibility’, and of claims of unfunded/underfunded mandates or agency agreements, which are hard to evaluate given the scarcity of data.

In the current situation, amid many calls for reform of the two-tier system, for a revised model, and for ‘clarity’ on functions performed and where (and why) these are located and performed, CoGTA and MDB have, arguably, totally insufficient evidence and supporting governance arrangements to justify major recommendations for adjustments, or definitive proposals for change.

Hence the central tenet of this briefing paper - that revising processes towards a more comprehensive capacity assessment may be premature in the absence of an enabling and developmental framework to better advance how government manages the two-tier system.

Key recommendations:

Given the lessons learnt and constraining factors outlined in this briefing paper, a numbers of trajectories may be identified to strengthen our approach to managing the two-tier system. These include:
Short- to medium-term:

1. Explore the views of district and LMs on the assessment process, their experience of the previous approach and what recommendations they would make towards a more comprehensive approach going forward.
2. Explore the views of the departments of local government, the offices of the premiers, NT and selected national sectors on assessment processes: What are their intergovernmental duties in supporting the effective support, governance and oversight for effective functional performance? How can they be factored into future design of assessments?
3. Conduct selected impact assessments where functions have been adjusted, both formally and informally, to deepen our understanding of the triggers for these, the processes undertaken to action the shifts, and whether the functions shifted have subsequently been better performed.
4. Review the current evidence base for the adjustments – are the current indicators a sufficient and fit-for-purpose lever for change? What would serve as a better profiling of a district area to encompass a more holistic understanding of regional development?
5. Revisit the arguments and proposals for reform of the two-tier system of local government: How does the current division of powers serve, or complicate, effective delivery of regional services?

Medium- to longer-term:

1. Build the newly established strategic partnership between MDB and CoGTA to propose and initiate an all-of-government process that should result in comprehensive reform proposals that have been consulted with stakeholders.
2. Such a process may include proposals for possible rationalisation of the two-tier system, and subsequent legislative review and amendment, with the objective of realising a clearer, better governed and more developmental role for each of the local government tiers.
3. This role should also be seen in the context of broader developmental mandates as outlined in the NDP, eg for spatial transformation, economic development and job creation, and to use the tools of integrated and collaborative planning to drive such regional growth opportunities.
4. This approach is further intended to better align the intergovernmental roles and responsibilities of national and provincial government, towards shared objectives that are realised in municipal spaces and are, therefore, dependent on the effective functioning of such spaces.

Concluding comments

This briefing paper has introduced some key questions into the debate over the two-tier system. It has been suggested that how the DMs have, to date, been assessed, including subsequently taking decisions to adjust certain functions, is perhaps a premature intervention when the structural and operational flaws inherent in the system prevail.

It has, therefore, been put forward for discussion by stakeholders that a range of more fundamental interventions is required. An all-of-government response needs to be formulated to tackle the challenges of the two-tier system, accompanied by a range of phased-in practical explorations, interventions and activities to inform change and build a more solid foundation for the delivery of local government’s democratic and developmental mandate. Subsequently, it is proposed, government and stakeholders can regroup to assess and explore how capacity assessments may then support such change.
THEME 4:
PUBLIC AND STAKEHOLDER PARTICIPATION AND SOCIAL INTEGRATION IN DEMARCATION

Top right: Mr Vusi Madonsela (Director General, Department of Justice and Constitutional Development), facilitating a session.
Bottom right: Dr Pali Lehohla (Statistician General) making a presentation.
3.4 Public and stakeholder participation and social integration in demarcation

The panellists for this session discussed the following issues:

- Public consultation as a fundamental pillar of democracy and its significance for demarcation.
- 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.
- Key contestation areas of demarcating traditional authority areas and mitigating against existing boundary anomalies.
- Possible changes in addressing issues of traditional areas in demarcation.
- The role of traditional leaders in enhancing the public participation process.

3.4.1 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 mechanisms 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 MDB, revising framework for public participation, and conducting civic education and awareness campaigns.
- Robust consultation and community engagements processes are needed prior to 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 should be 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.
- Existing public participation frameworks should be used for benchmarking, for the alignment of the MDA and to develop effective public participation programmes, eg the MSA, Parliament Public Participation Framework guideline document, CoGTA and SALGA’s public participation frameworks etc.
- MDA should be realigned with legislation that followed its enactment.
THEME 5:
METROPOLITAN SYSTEM OF GOVERNANCE: ISSUES AND CHALLENGES

Delegates engaging on day one at the conference.
3.5 Metropolitan system of governance: Issues and challenges

Panellists discussed the following issues:

- Getting 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, ie metros as engines for economic growth.
- Tshwane/Metsweding merger case study. What could have been done differently to ensure a smooth transition?
- Analysis of the criteria for the categorisation of metros and/or their application, and reflection on the basis for creating future metropolitan municipalities.

3.5.1 Key emerging issues

- MDB must consider the role cities play in national economic growth and development, and support these efforts, ie 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.
- MDB must consider a differentiated approach towards cities by avoiding a ‘one-size-fits-all’ approach and begin to categorise municipalities (eg secondary and intermediate cities).
- Demarcation is not a problem in cities and 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.
- 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 MDB must consider limiting the number of metros.
- MDB should revisit the categorisation for municipalities by expanding the definition of a metropolitan municipality.
3.5.2 Inclusive city growth: Why governance and collaborative leadership matter

by Andrew Boraine, CEO, Western Cape Economic Development

Introduction

This paper argues that an effective metropolitan system of governance, understood as the formulation and execution of a shared vision and common agenda by multiple public, private and civic stakeholders, is an essential ingredient for successful socio-economic development. It also argues that metropolitan growth and inclusion agendas are not mutually exclusive, and that both rely on partnering and collaborative leadership to be successfully implemented. The paper draws on 20 years of practical partnering experience to put forward some partnering lessons.

Governance and metropolitan competitiveness

It is (almost) common cause that our cities and metropolitan areas are engines of national growth and competitiveness. What does this mean for organising economic development at metropolitan and regional levels?

A recent report on the Gauteng city-region by the Global Cities Initiative provides a useful framework for regional competitiveness:

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Innovation
Trade
Talent
Infrastructure & built environment
Governance
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The report is clear why, in this framework, governance matters: ‘In metropolitan areas around the world, regional competitiveness is becoming an increasingly shared agenda. Formal and informal networks of public, private and civic leaders are coming together to design and implement economic strategies. These networked approaches, while certainly more complex, incorporate the market expertise, financial resources and political will of a wider range of stakeholders, and thus make economic strategies more market-orientated, community driven and sustainable beyond political cycles’ (SA’s Global Gateway, p 39).

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1 The Integrated Urban Development Framework (IUDF) – A new deal for South African cities and towns, CoGTA, 2016, p 15, states: “Cities are the driving force for economic development... Urban spaces are “hubs for ideas, commerce, culture, science, productivity, social development and much more”. As places of concentrated economic activity, cultural diversity, learning, innovation and creativity, cities can enable a country to build a dynamic competitive advantage and allow its people to advance socially and economically... As the productive heart of the economy and engines of growth and opportunity, urban areas are inherently efficient and so generate economic growth, create employment and increase access to urban amenities.”

2 To grow, SA must put cities at the heart of the economy, Ann Bernstein, Business Day, June 20, 2016.

The report also makes the point that a partnering approach is of particular relevance in an era of declining public sector revenues, where governments have to deliver more with less.

This implies forming various types of city growth coalitions to execute collective action among government (all three spheres working together), private and civil society groups. The evidence seems to suggest, according to the Global Cities Initiative, that successful economic development works best through a ‘whole of society’ approach, ie building a ‘capable state’ and ‘efficient markets’ and a ‘mobilised and involved civil society’ and not just one of these elements. The IUDF also stresses the need to initiate partnerships for implementation.4

It is useful to understand the practice of economic development at city level in terms of the performance of the metropolitan economic system. This means focusing on the state of relationships among the key economic institutions and leaders of government (from all three spheres, together with state-owned enterprises), business and civil society, rather than delivering disparate economic projects.

It also means helping partners to deliver on their mandate collaboratively. In practice, this means fostering the development of collaborative leadership and addressing specific non-collaborative institutional cultures and behaviours.

It also means mapping the roles and responsibilities of key institutions in the metropolitan economic development system, to minimise competing and overlapping mandates.

It is useful to agree on common measures of economic performance to improve mutual accountability among partners.

In practical terms, the EDP uses different types and combinations of partnering solutions, eg:

- **Transversal partnering** - across silos, disciplines, departments, industries, value chains.
- **Intergovernmental partnering** - connecting three spheres of government and public entities to aggregate and blend mandates, powers, functions and budgets.
- **Cross-boundary partnering** - spatial alignment, connecting ‘leading’ and ‘lagging’ areas and regions.
- **Cross-sector partnering** - public, private, non-profit, philanthropic, labour, civil society, knowledge institutions.

We have learnt not to try and address all issues through a single partnership structure. It is usually more effective to focus on delivering specific issue-based partnering solutions (eg energy, water, waste, land, innovation, transport, open data), and area-based partnering solutions (with the scale ranging from neighbourhoods, city centres and industrial areas, to a functional economic region as a whole, such as the South Cape Economic Partnership).

**From growth to inclusive growth**

A partnering approach is an important part of an inclusive metropolitan growth agenda.

A growth agenda on its own is not enough. A recent Brookings Metro Monitor report points to evidence that traditional city economic development practices are not working: ‘The lacklustre US economy is delivering a humbling lesson about economic development: Top-line growth doesn’t ensure bottom-line prosperity.’5 The report points out that while nearly all large US metros have seen a boost in jobs and economic output in the years since the 2008 recession, only a few have seen across-the-board improvements such as rises in median wages and employment rates, as well as declines in poverty.

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4 The IUDF references the role of partnerships 35 times in the main framework, and a further 11 times in the 2016-19 implementation plan, albeit relatively incoherently.

A necessary first step is to get political, business and civic leaders to agree on a shared vision and common agenda for joint action for economic growth and inclusion. This is easier said than done, for two reasons. Firstly, South Africa has a divided and contested history, which has resulted in sharply contested city and societal narratives. For example, a city such as Cape Town is regarded as a great place to live and one of the best destinations in the world to visit. At the same time, Cape Town is a highly divided and unequal city, with one of the highest rates of per-capita homicides in the world. Both statements are correct. It depends entirely on which parts of the city one is talking about. An authentic city story, as opposed to a traditional investor-orientated marketing and branding spiel, needs to incorporate both these narratives as part of place making.

Secondly, growth and inclusion are often regarded as mutually exclusive, and treated as separate or competing issues. As the Brookings Metro Monitor report cogently argues: “...an explicit and deliberate focus on rectifying disparities by race and place is not a social agenda but an economic imperative to boosting productivity, improving regional incomes and sustaining long-term growth. Similarly, equity proponents need to understand that without a functioning economy, opportunities for low-income people, disconnected workers and communities are limited”.6

From a partnering perspective, there is a need for agreement on a balanced economic toolkit, with different, but complementary, tools to promote growth, development and inclusion, for example:

<table>
<thead>
<tr>
<th>Growth agenda</th>
<th>Development agenda</th>
<th>Inclusion agenda</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Business and investment climate</td>
<td>• Sectors, industry clusters and value chains</td>
<td>• Intermediate (ladders) to employment</td>
</tr>
<tr>
<td>• Infrastructure</td>
<td>• Trade and investment markets</td>
<td>• Labour markets and employment</td>
</tr>
<tr>
<td>• Story, brand and promotion</td>
<td>• Small and medium enterprises</td>
<td>• Procurement and supplies</td>
</tr>
<tr>
<td>• Productivity (skills, enterprise development, competitiveness, innovation)</td>
<td>• Connecting leading and lagging towns</td>
<td>• Isolated economic spaces (including access and mobility)</td>
</tr>
<tr>
<td>• Investment</td>
<td>• Connectivity</td>
<td>• Informal economy</td>
</tr>
</tbody>
</table>

Adapted from Greg Clark, www.thebusinessofcities.com

Collaboration does not happen naturally, particularly in historically divided cities and societies. It needs to be asserted, explained and incentivised. Many anti-collaboration habits and behaviours unfortunately still persist.

For example, public sector institutional culture still tends to account inwards and upwards, rather than outwards and downwards, making it hard to partner with business and civic leaders. There is a tendency for some leaders to promote their own institutions rather than the economic system as a whole, and the role of all partners.

When public sector monitoring and evaluation practices are based only on compliance, they leave officials little room for creativity, experimentation and innovation. Much needs to be done to make the various institutional cultures more open and collaborative.

The public, private and civic sectors tend initially to speak a different ‘language’, often talking past each other. This is not helpful in arriving at a shared vision and common agenda. One of the jobs of intermediary organisations is to provide a ‘translation’ service.

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One of the tasks in a partnering approach is to create spaces where partners can ‘take their jackets off at the door’ as opposed to participating in forums and processes simply to defend and protect their territories, institutions, funding and projects.

There is a need to get the ‘right people’ in the room, ie collaborative leaders who can, in the words of Professor Ralph Hamann, from the University of Cape Town Graduate School of Business, ‘create a compelling vision that motivates commitment, fosters joint ownership and responsibility, translates divergent perspectives, understands and communicates the big picture, embraces diversity and difference, and sees conflict as an opportunity for innovation’. Collaborative leaders also know when a complex issue requires a bipartisan rather than a party-political approach, particularly in sustaining an initiative beyond an electoral cycle.
3.5.3 Getting Cities to Work in SA

by Prof Ivan Turok, Human Sciences Research Council

South Africa’s economic geography

Theory: Agglomeration externalities

Productivity
Learning
Innovation
Growth in jobs and incomes
Big cities are special: urban premium

1. **Generate disproportionate benefits**
   - Productivity, innovation, growth

2. **Strategic economic assets are viable**
   - Airports, seaports, universities, professional and business services, logistics etc

3. **But also higher costs!**
   - Land and property prices
   - Alleviating congestion and pollution
   - Public transport systems

So …

*Different treatment by government is vital*

*Limit the number of metros*

*Don’t dilute the focus with wide boundaries*

Interactions and flows are crucial

- Trade in goods and services
- Value chains and supplier linkages
- Information, ideas and knowledge
- Movements of people
- Natural resources – water courses etc
- Ignore administrative boundaries
- So require cooperation – infrastructure

SE England
Leeds is a relatively large and successful city. But for its long-term success it needs to capture the large economic scale of its city-region.

Source: HMT, DTI and ODPM (2006)
Scotland’s “Money Belt” - the geography of financial services jobs

SA cities are held back by …

- Low-density sprawl and fragmentation
- Deep social divisions that inhibit interaction
- Public-private mistrust
- Split functional responsibilities
- Transport, housing, spatial planning, public land ownership, strategic assets
- Administrative silos reflecting immaturity

Respond by …

- Building relationships and cross-boundary collaboration (soft power)
- Not by redrawing boundaries
- Nor by institutional restructuring
THEME 6:
WARD DELIMITATION: IMPACT ON MUNICIPAL SERVICE DELIVERY

Delegates from Parliament, National Government, Municipalities, SACGA and MDB Board members at the conference.
3.6 Ward delimitation: Impact on municipal service delivery

The final panel session explored the following:

- An assessment of the ward delimitation framework, focusing on the purpose for delimiting municipal wards, the criteria for ward delimitation and the proposed reform to improve the system.
- 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, as well as the central role StatsSA can play in improving the demarcation legislation and processes.
- The impacts of ward delimitation on the functionality, planning and service delivery in a municipality, as wards are used as planning units.
- Comparison of South African ward system with practices elsewhere in the world.

3.6.1 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.
- 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 MDB and the processes followed in ward delimitation.
- Existing communication system at 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 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.
3.6.2 Ward delimitation: Impact on municipal service delivery

by Prof Modimowabarwa Kanyane, Human Sciences Research Council

Abstract

Ward delimitation is a call that demands interrogation informed by empirical research. Critical issues of ward delimitation and its impact on service delivery are pursued. Whilst reminiscing about the past, good and bad, this paper compels everyone in the demarcation space to reimagine the future with increased responsibility and commitment to delimit wards without inciting conflicts and violence to ensure effective service delivery. Employing multi-case-oriented studies, the paper follows empirical analysis of mixed primary and secondary data, drawing examples from local, regional and international orientations to arrive at scientifically focused debate and conclusion. MDB must not be seen as a springboard for broader embattlement for political control, but as an instrument similar to Chapter 9 institutions to support and deepen democracy. This is possible if MDB ceases from delimiting wards singularly for local government elections cycles.

Introduction

In line with the Constitution, the MDA was passed and subsequently amended. This Act allows MDB, which consists of between seven and ten politically independent and relevantly qualified members appointed for five years by the President, to undertake the demarcation of local government boundaries and the delimitation of ward boundaries. Perhaps in future, its mandate can be broadened from Municipal Demarcation Board (MDB) to Demarcation Management Board (DMB) to include determinations of boundaries, demarcations and delimitation issues in all spheres of government.

Ward delimitation remains a contested, emotive issue in the democratic South Africa and, generally speaking, contestation is something that current-day South Africa does not appreciate or manage very well. The issues are complex. Public participation, influence of political parties, the public’s perceptions of the identity and value of belonging to one region as opposed to another, service delivery and governance concerns all have a role to play in the demarcation domain (IMESA, 2014:64).

The participation of communities and stakeholders in the demarcation process is important to ensure that MDB considers the different views people have about boundaries, demarcations and ward delimitations. This paper focuses on ward delimitation and how it impacts on service delivery in municipalities and communities.

Legal expositions

The demarcation process is governed by three different but related pieces of legislation, namely the Constitution, the MDA and the MSA (Matebesi and Botes, 2011:9):

The MDA, 1998 (Act 27 of 1998), established MDB, an independent body similar to Chapter 9 institutions supporting democracy, although not embedded and defined in the Constitution. When the Board determines a municipal boundary, its objective must be to establish an area that would enable the municipality for that area to fulfill its constitutional obligations, including the provision of democratic and accountable government for local communities, the provision of equitable and sustainable services to communities, the promotion of social and economic development, the promotion of a safe and healthy environment, ensure effective local governance and integrated development, and have a tax base as inclusive as possible of users of municipal services in the municipality.
The MDA states that to attain the aforesaid objectives, MDB must, when determining a municipal boundary, take into account, among other aspects, the interdependence of people, communities and economies as indicated by existing and expected patterns of human settlement and migration, employment, commuting and dominant transport movements, the need for cohesive, integrated and unfragmented areas, including metropolitan areas; the financial viability and administrative capacity to perform municipal functions efficiently and effectively, the need to share and redistribute financial and administrative resources; provincial and municipal boundaries and areas of traditional rural communities, existing and proposed functional boundaries, topographical, environmental and physical characteristics of the area; the administrative consequences of its boundary determination on municipal creditworthiness, and the need to rationalise the total number of municipalities in different categories and of different types to achieve the objectives of effective and sustainable service delivery, financial viability and macro-economic stability. All these functions keep MDB members and officials busy throughout their period of office.

The MDA goes further to state categorically that a member of the Board must be a South African citizen and have a qualification or experience in or knowledge appropriate to - (a) local government generally or (b) any of the following:

(i) Development economics;
(ii) Integrated development planning;
(iii) Community development;
(iv) Traditional leadership and traditional communities;
(v) Local government and municipal administration;
(vi) Municipal finance;
(vii) Municipal services;
(viii) Social or economic geography;
(ix) Town and regional planning;
(x) Legal and constitutional matters affecting local government;
(xi) Land survey, cartography and geographic information systems;
(xii) Public healthcare, or
(xiii) Transport planning.

However, what appears to be a long list that covers every person from different capacities and nuanced multi perspectives, the Act omits a person with a socio-anthropological background, which might be the cause of many problems. This matter will be looked at later in this paper. According to Christmas and de Visser (nd:15), MDB is entrusted with the often-difficult question of demarcating municipal boundaries. Disputes on municipal demarcation, delimitation, disestablishment, amalgamation and incorporation are prone to protests and court battles by the communities affected by MDB decisions.

Apart from Matatiele and Khutsong demarcation protests, the recent torching of more than 20 schools and a post office facility, accompanied by the barricading of roads in Vuwani, is a sorry state that must be condemned in the strongest terms. The violent protests that followed the outcome of the court decision to uphold MDB’s position to amalgamate Vuwani and Malamulele communities under one new local municipality prevent service delivery. The unfolding court embattlement and damage to state property leave us with critical unanswered questions: Why did the community take MDB to court and what are the underlying socio-cultural dynamics at play? What is the impact of demarcation and delimitation of wards on service delivery?

Theoretical exposition

Taking into account the prescriptions set out in Schedule 4 of the MSA, what should the ideal ward look like? The schedule states that wards should be compact and accessible by party representatives to promote democratic and accountable government. They should, as far as possible, be of roughly equal size in terms of numbers of voters registered. Communities, however, must be able to identify with the ward and participate in democratic structures such as ward committees.
According to sections 73 and 74 of the MSA, ten-member ward committees are required to make recommendations affecting the ward. However, communities are not defined: communities could mean communities of religious, cultural or political grouping and this needs clarification to avoid contradictions and homogeneous bias.

The making of recommendations on ward boundaries should surely be informed by some knowledge and dynamics of the ward. Wards covering large areas or divided by geographical features are likely to reduce the degree of participatory democracy and effective service delivery that MSA Section 72(3) sets as an objective of a ward configuration. Such wards cover large areas of Eastern Cape. As in Malawi, the ‘National Task Force on Electoral Reforms (2015:41)’ states that huge wards with an absence of reliable transport for councillors imply that communities remain detached from their representatives and development projects are likely to suffer from inadequate supervision and interventions.

To enhance participatory democracy, topographical features such as mountains, highways, rivers and open areas should be taken into account when delimiting ward boundaries. To achieve this, boundaries should be clearly identifiable and preferably coincide with service delivery and planning boundaries. Although the main function of a representative is to represent people, many wards also have large natural areas that need to be protected, particularly in view of the increasing concern in political circles about environmental issues. An equitable distribution of natural areas should also be made in delimiting ward boundaries (Napier, 2007: 188-9).

Drawing boundaries is variously referred to as reapportionment, redistricting, redistribution, demarcation or delimitation, and applies to all spheres of government. These boundaries may be electoral district boundaries or polling areas, and their purpose is to assign voters to various spatial or geographic areas. The need to delimit new electoral boundaries comes about periodically as a result of population shifts across boundaries and population growth in specific areas (Napier, 2007: 180).

Delineating and changing municipal boundaries have attracted political tension and community outrage from across the spectrum. This is attributable, in part, to what the ConCourt has described as ‘the degrading realities inherited from an apartheid history’, which have impacted very practically on the ability of certain municipalities to meet even the most basic obligations of service delivery. The extent to which demarcation is riddled with conflict is demonstrated in the case of Matatiele community, which violently protested to prevent its transfer from KwaZulu-Natal to Alfred Nzo District Municipality in Eastern Cape, claiming that the latter has a poor record of service delivery (Christmas and de Visser, nd:15). Other cases are Moutse, which refused to be incorporated into Limpopo, and now Vuwani, which violently protested a court judgment upholding the MDB decision to amalgamate it with Malamulele.

According to Napier (2007: 182), with the advent of political party politics at local government level, the distribution of seats among political parties is important for attaining and exercising political power. Political parties attempt to maximise their support to achieve control in a legislative body. The drawing of ward boundaries, therefore, becomes important, but not necessarily the sole factor, in determining the number of seats won by political parties. The personal qualities of a candidate and the nature of the election campaign waged may be other determinants. The question is then whether demarcation and delimitation are limited solely to ambitious party politics or for entrenching democracy and ensuring effective service delivery.
Sociology of participation in the delimitation of wards

The demarcation of political boundaries, whether they are between states, within states or between electoral districts or geographic constituencies, has long been a contested issue in many parts of the world (Napier, 2007: 181). According to the Department of Provincial and Local Government (DPLG 2008), communities can be involved in the demarcation process in three ways:

- Members of communities may respond to invitations by the Board to submit written representations on how boundaries in their area should be drawn;
- If MDB decides to hold a public meeting to discuss boundaries with the concerned communities;
- Objection by any member of a community to the demarcation of a municipal boundary or the delimitation of a ward - MDB must take account of and respond to the objection.

In essence, it is the responsibility of affected municipalities to ensure that all community members participate in demarcation and delimitation, particularly people who are illiterate or who cannot transport themselves to public meetings organised by MDB (Matebesi and Botes, 2011: 9).

Since local government power is wielded by political parties and individuals elected on party platforms, parties and individuals strive to access their constituents or voters, maximise their support bases and encourage their supporters to vote in elections. Therefore, the size and shape of a ward play a significant part in electioneering. One issue, and perhaps the most contentious of all, is the need to avoid fragmentation of communities, but nowhere in the MSA are communities defined. When is a community a community? Does it comprise a cultural group, a religious group, a senior citizen group, a suburb or some other socio-economic group? A community, however defined, might also be a group that generally votes for one political party or another. This is where a demarcation board is given leeway to make adjustments to ward boundaries that might favour one political party or another (Napier, 2007: 188).

Another contentious criterion is the requirement to recognise topography and physical characteristics and ensure identifiable ward boundaries, which are also undefined in the MSA. How should physical characteristics such as mountains, rivers and highways impact upon ward boundaries and service delivery? This raises several contentious issues, eg: does one divide a community of retired persons by making a road one of the boundaries of a ward? Such a division can affect an election outcome in a ward. Moreover, what is an identifiable boundary - a line drawn on a map, or a physical feature such as a road or river? In the Tshwane municipal demarcation process, no in loco inspections took place. It is doubtful whether one can obtain the same kind of complete information from a series of aerial photographs as one can from in loco inspections. An example of this was the discovery east of the Tshwane municipal area, in the run-up to the March 2006 local government election, of a new settlement of some 3 500 voters that had not been recorded on aerial photographs used for the delimitation process. This was confirmed by party liaison committee members on 28 July 2006. Differing interpretations and omissions of this kind can lead to allegations of gerrymandering – the drawing or redrawing of electoral boundaries to favour a particular political party or individual – a practice that began in the US in the late 18th century (Napier, 2007: 188).

The delimitation of wards is undertaken using formula emphasising registered voter equity (with a deviation of up to 15% between wards) rather than community considerations (Napier, 2008: 173). The voter equity, as opposed to community considerations derived from census enumeration data, could pose challenges of representation. Voter equity is driven by voter turnouts driven by party political appetite. Yet, community considerations informed by demographic shifts are more representative enough and detached from party politics linked to local elections. The question is which one is credible? One could argue that census enumeration data due to population shift more credible than voter equity driven by voting climate. Besides, everyone has a right to vote and those who are not on the voters roll cannot be excluded when ward delimitation is made. Equally, there is no guarantee that voters on the voters role ultimately vote. Those who have registered, but not ultimately voted, are the same as those who did not register, and why is the community discriminated against through a
voters roll? It is important to learn from the Indian example of using a census to delimit wards, although sometimes, this may upset political equation.

Another criterion that is not fielded in any of the legislation is cultural planning, conceived of in 1979, according to Sirayi (2008:335, 337), as a structured community-wide fact finding and consensus-building process to assess community needs and develop plans to address those needs. Cultural planning is an instrument for assisting municipalities, in this case, ward delimitation, for tackling tough community challenges, including social exclusion, cohesion, racism, discrimination, xenophobia and cultural identity to enhance community development. History has proved that a cultural planning approach contributed to social, economic and physical development of communities in many countries such as Germany, UK and USA.

Discussions about cultural planning in Africa seem to be out of place, as culture oftentimes is taken for granted. The issue becomes paramount as the assertion of cultural identity has undoubtedly been one of the very features of African history. Cultural planning is a relatively new concept in many developing countries of the world. It is a tool for linking culture to other strategic plans of the country, in this case, of the municipal wards and boundaries. Cultural planning is not the planning of culture, but ensuring that, at every level of planning, including demarcation or ward delimitation, cultural considerations are brought from the margins into the mainstreams to enhance social inclusion and cohesion among communities. It should be used to enhance the image of communities (Ebewo and Sirayi, 2009: 47, 49, 57).

**Relevance and alternative criteria for five-year cycle of ward delimitation**

MDB recently reduced the number of municipalities from 278 in 2011 to 267 in 2016 (215 LMs, 43 DMs and nine metros) according to the demarcation process of the MDA. MDB normally delimits wards and sets the cut-off date for representation and submission of proposals from the municipalities and members of the community. Persons or institutions intending to propose changes to municipal boundaries can start by consulting the municipalities involved, which can then consider the implications of the proposed determination or redetermination. However, this must happen well in advance to allow time to map the proposal for consultation well ahead of local government elections (LGB, nd: 15).

That said, MDB is election-pronged in delimiting wards for, as was confirmed by Minister Gordhan in his proposal, in terms of Section 22(2) of the MDA, requesting the Board to consider the reconfiguration of boundaries of certain municipalities before the 2016 local elections. The diagram below gives more evidence that MDB is election-pronged and not long-term focused.

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**Table 1: Timelines for the determination/redetermination and ward delimitation process.**
The election-focused delimitation of wards and preparations for elections is normally a contested terrain that is party politically infused with negative reactions from political parties and members of the community. Matatiele, Merafong and Vuwani come to mind. Municipal delimitations should be detached from election periods, but delimited periodically over short and longer term of 10 years, due largely to, among others, spatial demographic shifts. According to IMESA (2014: 68), demarcation changes should take place only every 10 years, after the release of census data, not of the voters roll.

**Implications and impact of ward delimitation on service delivery**

According to Buthelezi and Dollery (2004: 101) ‘forced integration, formerly known as amalgamation in South Africa, refers to the compulsory merging of previously independent municipalities into a larger whole, with or without their consent’. Debates abound on the pros and cons of municipal mergers, amalgamation, incorporation and disestablishment, pertaining especially to improvements in service delivery. Critiques of municipal mergers such as Buthelezi and Dollery (2004: 101) make use of the public choice theory and empirically analyse the failures of local government to address the plight of the poor. They argue how voting by citizens in political elections is an irrational activity since the voting process is costly, whereas the benefits associated with voting are negligible.

Ncube and Vacu (2014: 308-9) raise concerns that demarcation has not enhanced municipal finance and fiscal performance, but has led to unviable and unsustainable municipalities. CoGTA, itself, expressed concerns and established a task team to review municipal demarcation in the run-up to the 2016 local government elections.

On the positive side, Buthelezi and Dollery (2004: 101) posit that, through demarcation, the hierarchical structures of government are removed so that lower tiers do not feel inferior to higher ones. This in essence meant that ‘local government is an autonomous and people-oriented sphere of government’ (De Beer and Lourens, 1995: 3). Being the people-oriented sphere of government means community participation and involvement in crucial decisions that affect the public. This was evident in the ‘Matatiele Municipality and others v President of SA and others’ judgment, where the court emphasised the importance of participatory democracy and public involvement in legislative and other processes (Christmas and Visser, no date).

The merger in the City of Tshwane Metropolitan Municipality in 2011 had far-reaching ramifications, especially financially, socio-economically, environmentally and infrastructurally. Part of the reason was to speed up service delivery and enable communities from smaller municipalities to benefit from the bigger municipality’s good infrastructure and proficiency in running projects efficiently. However, according to Ncube and Vacu (2014/15: 313), the redetermination of boundaries led to the city population increasing from nearly 2.5-million (2 470 694) people in 2010/11 to nearly 3-million (2 916 785). The land area increased to 6 368 km², which resulted in a drop in population density, from 908 persons/km² to 464 persons/km². Ncube and Vacu highlight how the merger had far-reaching fiscal implications, with transitional costs estimated at R1.04 billion, against a Gauteng CoGTA once-off grant of only R20 million. The more-than R1 billion difference between the costs and grant remains a sore point for the new municipality.

Although politics has been at play in the demarcation and delimitation process, the ANC (2013) expressed its concern at the 53rd national conference in 2013 that MDB should take into account the financial implications of its redemarcation of municipalities, the challenge of unviable municipalities, the need for ward boundaries to break down racial barriers and a reduced frequency of redemarcations. In addressing the challenges, MDB has much to consider in the process of demarcating boundaries and delimiting wards.

MDB is often overly criticised for its manipulation of demarcating municipal borders to the advantage of the ANC, without considering the community demography. As an example, during the previous round of demarcations, Hammanskraal and Ga-Rankuwa from North West were added to Pretoria and Centurion from Gauteng to form the Tshwane Metro Council. Mpumalanga lost two municipalities to Gauteng (Metsweding district and Kungwini), and parts of Winterveld and Mabopane in North West are now incorporated into Tshwane (Ryan, nd: 64).
The complexity of Khutsong suggests that the demarcation process in Merafong was not adequately participatory, nor inclusive, nor in line with democratic ideals. What was regarded as a participatory process was, in fact, tantamount to ‘manipulation’. The government was not open or responsive to the wishes of the community. Public involvement cannot be meaningful in the absence of a willingness to consider all views expressed by the public. Public participation in the legislative process, which the Constitution envisages, is not supposed to be at the short stick and receiving end of democracy, but is meant to be an integral and central part of the democratic process. When the system fails to achieve this, there remains no reason for communities to be patient – something that leads to protests and outrage. Thus, it was not surprising that fewer than 100 of the 34 000 Khutsong residents cast their vote in the local government elections in 2006 (Matebesi and Botes, 2011: 16, 18). The same is expected of the Vuwani community in the run-up to the August 2016 local elections.

Conclusions and recommendations

The question of whether MDB delimitation of wards has united or divided people attracts mixed reactions, as MDB decisions are plagued by protests and court wrangles. Delimiting wards should not come at the expense of communities’ hope for a reimagined future. In essence, it is, therefore, crucial that MDB should go beyond the call of duty to thoroughly consult the affected communities before and after issuing notices. This should be coupled with advocacy and awareness campaigns about the role of MDB. In addition, the communication system should be modernised through the use of Facebook, Twitter, mobile phones, WhatsApp and SMS and the like. Although consensus may not be reached, the Board should ensure that the entire affected municipalities and communities have been fully informed.

It is clear that intensive community engagement is needed so that all voices are heard and opinions analysed. Before MDB takes a final decision about demarcation of municipal boundaries, incorporation, amalgamation, disestablishment and delimitation of wards, it must run a number of tests to satisfy itself that its decision will be not only lawful, but unifying. Political and socio-cultural tests, in particular, are essential if the community is politically charged, and ethnically and racially diverse. Actually, a cultural planner should run such tests in delimiting wards. In much the same way that experts conduct environmental impact assessments before engineering and earthworks are undertaken, MDB should carry out socio-cultural impact assessment before municipal boundaries are demarcated and wards delimited. In fact, MDB should develop a cultural planning strategy/tool to circumvent cultural dynamics, in line with the United Nations Educational, Scientific and Cultural Organisation (UNESCO) need to incorporate culture as a strategic element in national and international development.

An analytical framework that will assist MDB to review and improve citizen participation in demarcation is an innovative tool for constructive dialogue. Overall, the scorecard is useful to hold difficult conversations with local government and residents, as it is a “focusing device” to keep conversations framed to deal with specific issues affecting the communities. The process also could result in immediate, perhaps short-term, outcomes throughout the scorecard and a number of influential participants from the community, affected municipalities and MDB. Community leaders are better placed to know the issues and processes creating difficulties and the most effective means of achieving good results for their residents. Use of the scorecard in the City of Cape Town, ward 67 (2014/15), produced positive outcomes in valuable hard data in the form of indicators and scores, combined with practical (first-hand) and contextualised information to inform action. Furthermore, the exercise was groundbreaking, as it brought together key actors (citizens, government officials and academics) who usually operate in antagonistic ways or silos, offering a practical and tangible method for officials to gain understanding of lived realities and for communities to engage. Several officials said that this is rarely provided and that it was very beneficial and strengthened relationships with local field officials, which directly improved service delivery and garnered respect for the officials. In the main, the scorecard allows constructive active dialogues among MDB officials, affected municipalities and citizens (CSP Report 2015).
Review of boundaries should be ongoing to fulfil developmental objectives of local government beyond the call of duty of the five-year local elections. It should not be confined to fulfilling the mandate and interests of the IEC. The number of councillors should be determined and fixed as in national and provincial legislatures. It is more of an intergovernmental issue than a municipal demarcation process, which does not take into consideration the vastness and densities of the areas.

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3.6.3 Comparison of South African ward system with practices elsewhere in the world

by Dr Andrew Siddle, University of Cape Town

From a global perspective, in the very broadest of terms, wards serve any or all of three main functions:

- Administrative units
- Political units underpinning the representative democratic process
- Political units underpinning the participatory democratic process.

In South Africa, we tend to have a certain conception about the composition, delimitation and purpose of wards. We find it difficult to imagine local government without wards that have all of these functions, let alone local governments that do not have wards at all. But the existence of wards is not a universal phenomenon. In some jurisdictions, even in profoundly federal and decentralised systems, wards do not feature, and even where they do, they are often have far less significant roles than in South Africa.

That said, in many democratic, decentralised systems around the world, a primary purpose for the establishment of wards is to ensure that the democratic principle of fair public representation is achieved during municipal elections and the subsequent governance of the municipality by its council – that is, the representative democracy function. So in this context, from a political perspective, many sound practical reasons for a ward-based system have been advanced in various jurisdictions around the world. These include:

- Breaking down the voting districts into smaller, more manageable units;
- Making it easier for local residents to run for office because they need to campaign only in their own neighborhood;
- Ensuring that all areas of the municipality are represented;
- Electing dedicated representatives to councils who can better represent the specific needs and opinions of their constituents;
- Improving advocacy, as elected representatives can speak on behalf of their own constituents without fear of losing support of residents in other parts of the town;
- Allowing for diverse opinions to be considered in council meetings and helping to eliminate the rubber stamping that comes from a less diverse council;
- Reducing the probability of the majority and super majority vote without real consideration and consensus;
- Reducing the power of special interest groups in the governance of the town;
- Reducing excessive party control and influence.

But these reasons do not hold universal currency. There are scores of systems in which wards do not feature, or are optional. In most US states, for example, wards are optional. In New York, where it is up to individual towns to decide, only 13 of the 932 towns have ward systems. The majority of towns rely on ‘at large’ elections.

Similarly, in some Australian states, councils may be elected either on a ward basis or on an at-large basis.

But even where jurisdictions make provision for wards, we should remember that the roles of wards differ from jurisdiction to jurisdiction. Often, the purpose is not political, but purely administrative, and so, for example:
In India, arrangements for local government differ from state to state, and there are 29 of them. In certain cities of India, such as Mumbai and Delhi, a ward is an administrative unit of the city region. In these cases, the city area is divided into zones, which contain numerous wards that have purely administrative functions.

In Japan, a ward (ku) is a purely administrative unit of one of the larger cities.

In Vietnam, a ward (phường) is similarly purely an administrative subunit of an inner city district (quận).

And even where wards have political functions, these functions are generally limited in formal terms to representative democracy processes. Whist civil society organisations play an important role in participatory democracy, they are voluntary and there is little in the way of formal frameworks to accommodate them. Very seldom does one encounter arrangements for ward committees as formalised as we have in South Africa.

We turn now to the demarcation processes for wards in a fairly representative selection of jurisdictions from around the world.

Let's look first at some SADEC countries:

**Zambia**

Under Section 9 of the Local Government Elections Act, the delimitation of wards is a function of the Electoral Commission established under Article 76 of the Constitution. The commission shall, after consultation with every council, divide the area of each council into wards, defining the boundaries of the wards by reference to polling districts.

The number of wards into which the area of a council is divided shall be equal to the number of elected councillors prescribed for that council by the Minister under the Local Government Act.

The commission is responsible for ward delimitation but not for demarcation of local governments – that is done by the minister.

**Malawi**

Section 8(1)(c) of the constitution provides that, subject to the Local Government Elections Act and any other written law relating to local government elections, it is a function of the Electoral Commission to undertake or supervise the demarcation of wards for local government elections and to determine the number of such wards, provided that the number of wards for each centre is as specified in the Constitution. These provisions are largely repeated in the Electoral Commission Act.

**Mauritius**

The Local Government Act regulates local government in Mauritius. The wards and geographical area for each ward are set out in a schedule to the act, and can be changed only by an act of parliament. Three councillors returned from each ward. Each voter votes for three candidates.

**Tanzania**

Tanzania is divided into 30 regions, each sub-divided into districts, which, in turn, are sub-divided into divisions and further into local wards. Wards are further sub-divided for management purposes: for urban wards into streets and for rural wards into villages. The villages may be further sub-divided into hamlets.
Article 2.2 of the Constitution provides: ‘For the purpose of the efficient discharge of the functions of the Government of the United Republic or of the Revolutionary Government of Zanzibar, the President may, in accordance with the procedures prescribed by law or provisions of such law as may be enacted by Parliament, divide the United Republic into regions, districts and other areas.’

Further afield, we look at jurisdictions in other regions of the world:

**Australia**

Australia is a deeply federal country with a division of power comprising six states and two territories. Although local government is recognised in state constitutions, there is no reference to local government in Australia’s national constitution. There is also no federal jurisdiction over local government. Constitutional responsibility in Australia for local governments lies with the state and territory governments. They manage their own systems of local government, each with constitutions and legislation that confer on local government powers and responsibilities. Australia provides an interesting comparison because, by reason of its federal character, it has a selection of different approaches to ward delimitation.

We look at wards in two states:

**New South Wales**

S210 of the Local Government Act provides that a council may divide its area into divisions, called wards. The council may abolish all wards, alter ward boundaries and name or rename a ward. So delimitation is a matter for each council to determine, subject to a few conditions:

- A council must not divide an area into wards or abolish all wards unless it has obtained approval to do so at a constitutional referendum held within the municipality.
- The division of a council’s area into wards, or a change to the boundaries of a ward, must not result in a variation of more than 10% to the number of electors in each ward in the area.
- Before dividing a council’s area into wards or altering a council’s ward boundaries, the council must consult the Electoral Commissioner and the Australian Statistician to ensure that, as far as practicable, the proposed boundaries of its wards correspond to the boundaries of appropriate districts and census districts, and prepare and publicly exhibit a plan detailing the proposed division or alteration. Any person may make a submission to the council on the ward boundary plan.

**Western Australia**

Under the Local Government Act, the Governor, on the recommendation of the Minister, may make an order:

(a) dividing a district into wards;
(b) creating new wards in a district that is already divided into wards;
(c) changing the boundaries of a ward;
(d) abolishing any or all of the wards into which a district is divided, or
(e) combining any of these aspects.

**For the purposes of this Act:**

(a) an order that divides a district into wards is to be regarded as establishing a ward system for the district, and
(b) an order that abolishes all of the wards into which a district is divided and does not create new wards, is to be regarded as discontinuing the ward system for the district.
United States of America

In the USA, depending on the laws of each individual state, wards may be established by the state government or by the towns themselves in terms of state legislation.

In New York State, the ward system of electing town councilmen is authorised by the Town Law. A town may, on the vote of the town board or on a duly qualified petition, submit a proposition to voters for establishing the ward system. If voters approve the proposition, the county board of elections must divide the town into four wards and fix their boundaries. As far as possible, the division shall be so made that the number of voters in each ward shall be approximately equal. Voters may also decide on a proposition at the same election, whether to increase the number of councilmen from four to six, which if approved, would require drawing six wards.

To sum up, our selection of jurisdictions reflects the four main approaches to ward delimitation employed around the world:

• A notionally independent commission or similar body determines wards (note that the delimitation and electoral supervision functions are often carried out by the same body).
• The national or regional executive carries out the delimitation.
• The council itself decides whether to have wards, and delimitation is carried out either by the council or some other body.
• Wards are defined by legislation.

These processes may be accompanied, to a greater or lesser extent, by consultation and public participation processes.

The above processes usually apply only where wards have a political function. Where they have only administrative functions, they are usually (but not always) defined by administrative processes.
3.6.4 Demarcation and spatial transformation: Reflections on geo-statistical determinants of policy

by Dr Pali Lehohla, Statistician-General

Outline

- Historical perspective on demarcation
- Technical considerations
- Output
- Applications

Historical perspective on demarcation

- Transitional local councils
- Transition from homeland to unitary state

Assumptions

- Political action in space as a key determinant of transformation
- Statistical evidence as a key driver of political choices and actions

- Regular ratio-rule methods currently posit significant challenges for local municipality estimates:
  - There are very few useful data points to shed light on spatial determinants of policy
  - Censuses, whilst useful, are far apart

- Zipf's rule is proposed because of its proven empirical performance internationally, with consistently high statistical inference properties to derive:
  - Urban function index
  - Central place index
  - Technical consultations
  - Political consultations and decision
Approach: rank-size rule

More generally, the rank-size rule is written as:

[1] \( S_i = C R_i - \alpha \) ...when \( \alpha = 1 \), Zipf’s rule holds

or

[2] \( \log(S_i) = C - \alpha \log(R_i) + c_i \) ...in logarithmic form
Summary

The supply side of the economy
GDP Production

Agriculture
Mining
Manufacturing
Utilities
Construction
Trade
Transport
Finance
Personal service

The demand side of the economy
Expenditure on GDP

Household consumption
Government consumption
Fixed capital formation
Change in inventories
Export less imports

<table>
<thead>
<tr>
<th>Account</th>
<th>Goods services (products)</th>
<th>Production (industries)</th>
<th>Generation of income (value added)</th>
<th>Allocation of primary income</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goods and services (products)</td>
<td>Trade and transport margin</td>
<td>Intermediate consumption</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>0</td>
<td>1 808 494</td>
<td></td>
</tr>
<tr>
<td>Production (industries)</td>
<td>Output</td>
<td>3 183 485</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Generation of income (value added)</td>
<td></td>
<td>Net value added at basic prices</td>
<td>1 184 286</td>
<td></td>
</tr>
<tr>
<td>Allocation of primary income</td>
<td>Taxes on product less subsidies</td>
<td>Net generated income at basic prices</td>
<td>168 985</td>
<td>1 181 570</td>
</tr>
</tbody>
</table>
Economic balance/imbalance

Figure 8.1 GDP population
Municipal district boundaries

Municipal District Boundaries - Demarcation Board, 2000

Economic catchment areas 2003

Services Areas of current Municipal Districts, 2003
Catchment areas of municipalities

Services Areas of current Municipal Districts, 2003

Economic weight of urban centres

<table>
<thead>
<tr>
<th>Former Name</th>
<th>New Municipal Name</th>
<th>Economic Index 2003</th>
</tr>
</thead>
<tbody>
<tr>
<td>Johannesburg</td>
<td>City of Johannesburg</td>
<td>100,00</td>
</tr>
<tr>
<td>Bloemfontein</td>
<td>Mangaung Municipality</td>
<td>10,38</td>
</tr>
<tr>
<td>Middelburg</td>
<td>Middelburg</td>
<td>2,38</td>
</tr>
<tr>
<td>Potchefstroom</td>
<td>Potchefstroom Municipality</td>
<td>2,99</td>
</tr>
<tr>
<td>Louis Trichardt</td>
<td>Makhado</td>
<td>1,14</td>
</tr>
<tr>
<td>Messina</td>
<td>Musina</td>
<td>0,36</td>
</tr>
<tr>
<td>Naboomspruit</td>
<td>Mookgopong Municipality</td>
<td>0,31</td>
</tr>
<tr>
<td>Nelspruit</td>
<td>Mbombela</td>
<td>4,86</td>
</tr>
<tr>
<td>Nylstroom</td>
<td>Modimolle Municipality</td>
<td>0,52</td>
</tr>
<tr>
<td>Phalaborwa</td>
<td>Ba-Phalaborwa</td>
<td>0,77</td>
</tr>
<tr>
<td>Pietersburg/Polokwane</td>
<td>Polokwane Municipality</td>
<td>3,66</td>
</tr>
<tr>
<td>Potgietersrus</td>
<td>Mogalakwena Municipality</td>
<td>0,92</td>
</tr>
<tr>
<td>Thabazimbi</td>
<td>Thabazimbi Municipality</td>
<td>0,34</td>
</tr>
<tr>
<td>Thohoyandou</td>
<td>Thulamela Municipality</td>
<td>0,51</td>
</tr>
<tr>
<td>Tzaneen</td>
<td>Greater Tzaneen Municipality</td>
<td>2,82</td>
</tr>
<tr>
<td>Warmbad</td>
<td>Bela-Bela Municipality</td>
<td>0,68</td>
</tr>
</tbody>
</table>
### Best fit between districts and catchment areas

<table>
<thead>
<tr>
<th>Municipal district</th>
<th>% Mun District overlap with Catchment area</th>
<th>% Catchment area overlap with Municipal district</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mossel Bay</td>
<td>90%</td>
<td>88%</td>
</tr>
<tr>
<td>Elundini</td>
<td>77%</td>
<td>81%</td>
</tr>
<tr>
<td>Mbizana</td>
<td>89%</td>
<td>83%</td>
</tr>
<tr>
<td>Ditsobotla</td>
<td>87%</td>
<td>84%</td>
</tr>
<tr>
<td>Setsoto</td>
<td>77%</td>
<td>88%</td>
</tr>
<tr>
<td>Zeerust</td>
<td>95%</td>
<td>82%</td>
</tr>
<tr>
<td>Richtersveld</td>
<td>95%</td>
<td>91%</td>
</tr>
<tr>
<td>Matzikama</td>
<td>70%</td>
<td>85%</td>
</tr>
<tr>
<td>City of Cape Town</td>
<td>88%</td>
<td>83%</td>
</tr>
<tr>
<td>Langeberg</td>
<td>85%</td>
<td>92%</td>
</tr>
<tr>
<td>Senqu</td>
<td>84%</td>
<td>90%</td>
</tr>
<tr>
<td>Mamusa</td>
<td>69%</td>
<td>73%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>84%</strong></td>
<td><strong>85%</strong></td>
</tr>
</tbody>
</table>

### Average and worst fit between districts

<table>
<thead>
<tr>
<th>Municipal district</th>
<th>% Poligon area overlap with mun district area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kareeberg</td>
<td>59%</td>
</tr>
<tr>
<td>Blue Crane Route</td>
<td>57%</td>
</tr>
<tr>
<td>Mohokare</td>
<td>63%</td>
</tr>
<tr>
<td>Highveld East</td>
<td>49%</td>
</tr>
<tr>
<td>Inkwanca</td>
<td>65%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>59%</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Municipal district</th>
<th>% Poligon area overlap with mun district area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Renosterberg</td>
<td>36%</td>
</tr>
<tr>
<td>Central Karoo</td>
<td>29%</td>
</tr>
<tr>
<td>Greater Taung</td>
<td>34%</td>
</tr>
<tr>
<td>Thulamela</td>
<td>35%</td>
</tr>
<tr>
<td>!Kheis</td>
<td>33%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>33%</strong></td>
</tr>
</tbody>
</table>
The SA urban rank-size – 1996, 2003

UFI and CPI positions of the 50 largest centres

Economic catchment areas of smaller centres in SA 2006
Economic catchment areas of regional centres in SA 2006

Spatial balances/imbalances in the SA urban system 2006

South Africa’s Urban System
The SA urban rank-size distribution – 2006

South Africa’s Urban System: First 200 cities

Ex ante performance

How realistic are the estimates?

Generated estimates for 2011 would have been provided around February/March 2012 to policymakers.

Census 2011 results were released in October 2012.

Would 2011 generated estimates closely resemble Census 2011 results?
### Ex ante performance

#### Census 2011 population versus Simulated 2011 population

![Graph showing comparison between Census 2011 population and Simulated 2011 population](image-url)
### Understanding South Africa Profiles within and between municipalities in a province

**Communication Networking Index**

**Development Indicator**

**Municipal (MCNI)**

<table>
<thead>
<tr>
<th>Municipality</th>
<th>Access to telephones within municipality</th>
<th>No of telephones within province</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Private phone</td>
<td>Public phone</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CBLC3: Greater Marble Hall (Limpopo)</td>
<td>24,67</td>
<td>70,00</td>
</tr>
<tr>
<td>CBLC4: Greater Groblersdal (Limpopo)</td>
<td>32,10</td>
<td>64,49</td>
</tr>
<tr>
<td>CBLC5: Greater Tubatse (Limpopo)</td>
<td>19,18</td>
<td>70,08</td>
</tr>
<tr>
<td>NP03A2: Makhuduthamaga</td>
<td>20,08</td>
<td>72,35</td>
</tr>
<tr>
<td>NP03A3: Fetakgomo</td>
<td>15,50</td>
<td>62,81</td>
</tr>
<tr>
<td>CBDMA4: Kruger Park (Limpopo)</td>
<td>28,43</td>
<td>64,54</td>
</tr>
<tr>
<td>CBLC6: Bushbuckridge (Limpopo)</td>
<td>28,75</td>
<td>65,27</td>
</tr>
<tr>
<td>NP04A1: Maruleng</td>
<td>20,69</td>
<td>66,42</td>
</tr>
<tr>
<td>NP331: Greater Gyiyni</td>
<td>27,19</td>
<td>68,36</td>
</tr>
<tr>
<td>NP332: Greater Letaba</td>
<td>23,03</td>
<td>71,38</td>
</tr>
<tr>
<td>NP333: Greater Tzaneen</td>
<td>26,17</td>
<td>66,91</td>
</tr>
<tr>
<td>NP334: Ba-Phalaborwa</td>
<td>34,74</td>
<td>57,34</td>
</tr>
<tr>
<td>NP341: Musina</td>
<td>22,62</td>
<td>53,19</td>
</tr>
<tr>
<td>NP342: Mutale</td>
<td>15,24</td>
<td>72,12</td>
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<tr>
<td>NP343: Thulamela</td>
<td>26,87</td>
<td>68,88</td>
</tr>
<tr>
<td>NP344: Makhado</td>
<td>30,22</td>
<td>66,07</td>
</tr>
<tr>
<td>NP351: Bloubberg</td>
<td>18,07</td>
<td>68,70</td>
</tr>
<tr>
<td>NP352: Aganang</td>
<td>21,26</td>
<td>76,17</td>
</tr>
<tr>
<td>NP353: Molenole</td>
<td>23,88</td>
<td>68,62</td>
</tr>
<tr>
<td>NP354: Polokwane</td>
<td>40,11</td>
<td>56,83</td>
</tr>
<tr>
<td>NP355: Lepele-Nkumpi</td>
<td>27,68</td>
<td>66,36</td>
</tr>
<tr>
<td>NP361: Thabazimbi</td>
<td>32,54</td>
<td>64,07</td>
</tr>
<tr>
<td>NP362: Lephalale</td>
<td>25,90</td>
<td>63,50</td>
</tr>
<tr>
<td>NP364: Mookgopong</td>
<td>36,32</td>
<td>60,80</td>
</tr>
<tr>
<td>NP365: Modimolle</td>
<td>33,50</td>
<td>56,98</td>
</tr>
<tr>
<td>NP366: Bela-Bela</td>
<td>37,88</td>
<td>56,29</td>
</tr>
<tr>
<td>NP367: Mogalakwena</td>
<td>28,54</td>
<td>65,16</td>
</tr>
<tr>
<td><strong>Average</strong></td>
<td><strong>26,71</strong></td>
<td><strong>64,95</strong></td>
</tr>
</tbody>
</table>

Legend: [Best] [Medium] [Worst]
### Understanding South Africa
Urban/rural profiles within and between municipalities

**IMUR2 Municipal Water Supply Index (MWSI) - 2001**

**Development Level Indicators**

<table>
<thead>
<tr>
<th>Municipality</th>
<th>Urban</th>
<th>Rural</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Private</td>
<td>Communal</td>
<td>Total</td>
<td>Private</td>
</tr>
<tr>
<td></td>
<td>Ratio (out of 100) within Municipality</td>
<td>Ratio (out of 100) within Municipality</td>
<td></td>
<td></td>
</tr>
<tr>
<td>NP03A2: Makhuduthamaga</td>
<td>0,00</td>
<td>100,00</td>
<td>=100</td>
<td>51,35</td>
</tr>
<tr>
<td>NP03A3: Fetakgomo</td>
<td>0,00</td>
<td>0,00</td>
<td>=100</td>
<td>38,52</td>
</tr>
<tr>
<td>CBLC3: Greater Marble Hall (Limpopo)</td>
<td>0,46</td>
<td>99,50</td>
<td>=100</td>
<td>52,15</td>
</tr>
<tr>
<td>CBLC4: Greater Groblersdal (Limpopo)</td>
<td>0,00</td>
<td>100,00</td>
<td>=100</td>
<td>64,23</td>
</tr>
<tr>
<td>CBLC5: Greater Tubatse (Limpopo)</td>
<td>5,78</td>
<td>94,22</td>
<td>=100</td>
<td>33,19</td>
</tr>
<tr>
<td>NP04A1: Maruleng</td>
<td>0,00</td>
<td>100,00</td>
<td>=100</td>
<td>12,43</td>
</tr>
<tr>
<td>CBLC6: Bushbuckridge (Limpopo)</td>
<td>4,23</td>
<td>95,77</td>
<td>=100</td>
<td>21,27</td>
</tr>
<tr>
<td>CBDMA4: Kruger Park (Limpopo)</td>
<td>0,00</td>
<td>0,00</td>
<td>=100</td>
<td>0,28</td>
</tr>
<tr>
<td>NP331: Greater Giyani</td>
<td>0,22</td>
<td>99,78</td>
<td>=100</td>
<td>11,60</td>
</tr>
<tr>
<td>NP332: Greater Letaba</td>
<td>0,65</td>
<td>99,35</td>
<td>=100</td>
<td>9,73</td>
</tr>
<tr>
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<td>2,17</td>
<td>97,83</td>
<td>=100</td>
<td>18,42</td>
</tr>
<tr>
<td>NP334: Ba-Phalaborwa</td>
<td>0,13</td>
<td>99,87</td>
<td>=100</td>
<td>1,69</td>
</tr>
<tr>
<td>NP341: Musina</td>
<td>0,00</td>
<td>100,00</td>
<td>=100</td>
<td>12,23</td>
</tr>
<tr>
<td>NP342: Mutale</td>
<td>0,00</td>
<td>100,00</td>
<td>=100</td>
<td>17,74</td>
</tr>
<tr>
<td>NP343: Thulamela</td>
<td>0,28</td>
<td>99,72</td>
<td>=100</td>
<td>11,69</td>
</tr>
<tr>
<td>NP344: Makhado</td>
<td>0,54</td>
<td>99,46</td>
<td>=100</td>
<td>6,99</td>
</tr>
<tr>
<td>NP351: Blouberg</td>
<td>1,99</td>
<td>98,01</td>
<td>=100</td>
<td>19,82</td>
</tr>
<tr>
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<td>=100</td>
<td>14,01</td>
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<td><strong>Average</strong></td>
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<td>87,11</td>
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</table>
Welfare levels of population groups

Welfare of Black Population per Municipal Area, 2001

Source: Protoplan, 2004

Economic poverty indicators – Income levels

Welfare of Black Population per Municipal Area, 2001

Source: Protoplan, 2004
Social poverty indicators – Urban home quality

Urban Social Poverty Indicators: Construction Semi-permanent

Source: Protoplan, 2004
SECTION:
4. RECOMMENDATIONS
The analysis and summaries of discussions that followed key questions for each panel led to the recommendations outlined below.

### 4.1 Municipal demarcation

- An internal review mechanism should be explored to provide aggrieved members of the public with an opportunity to seek recourse before final decisions.
- The consideration of demarcation objectives and criteria must be guided by detailed regulations, and these must be aligned to longer-term planning for local government process (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 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 in 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 interests.
- The demarcation process should perhaps be linked with the 10-year national census process 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 MDB to make recommendations on provincial boundaries to parliament.
- Further research should be conducted to explore misalignment of traditional authority boundaries with municipal boundaries.

### 4.2 Municipal ward delimitation

- The timing and sequencing of demarcation and ward delimitation processes are crucial and must be mindful of 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.
- 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.
- MDB should conduct a social and cultural impact assessment prior to delimitation process.

### 4.3 Financial viability and functionality

- 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).
- Financial 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.

### 4.4 Municipal capacity assessment

- 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 (eg district functions such as coordination, planning, facilitation of district-wide development, provision of infrastructures and services, building capacity and supporting weaker LMs).

- 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 Committee (MECs) to support governance arrangements, and justify recommendations for adjustments or definitive proposals for change.
- 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 MDB, FFC, NPC, StatsSA, IEC and AGSA for geo-statistical building block and sharing of information.

4.5 Public and stakeholder participation

- 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 - PAJA, 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.
- MDB should accelerate efforts to improve community knowledge on demarcation matters, as public education and awareness campaigns are crucial to meaningful engagement.
- 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 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.

4.6 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 (eg Buffalo City’s exclusion from Amatole District Municipality - DM).
- Thriving cities (and municipalities) are less about boundaries but more about ‘softer’ issues such as partnership, collaboration, integration, social inclusion and cohesion.
- An MDB study should conducted to evaluate the impact of previous decisions on redeterminations (eg
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 functions in cities and metropolitan municipalities.

- 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;
  - partnering 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 (eg secondary and intermediate cities).

- MDB approach should change to:
  - limit the number of metros and not dilute focus with wider metros;
  - avoid redrawing boundaries unnecessarily;
  - 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.
DAY ONE - 23 JUNE 2016 (THURSDAY)

Registration of delegates at Birchwood Conference Centre, Terminal 06:30 - 08:45

SESSION 1: A SCEBNE SETTING PLENARY AND KEYNOTE ADDRESS 09:00 - 10:00

1. Opening and Acknowledgement of Guests:
   Mr Xolile George (CEO, South African Local Government Association)

2. Purpose and Objectives of the Conference:
   Ms Jane Thupana, Chairperson (Municipal Demarcation Board)

3. Opening Address:
   Honourable David van Rooyen (Minister of Cooperative Governance and Traditional Affairs)

TEA BREAK AT EXHIBITION CENTRE 10:00 - 10:30

MEDIA BRIEFING BY:
Chairperson Municipal Demarcation Board, Ms Jane Thupana
Deputy Chairperson, Municipal Demarcation Board, Mr Ashraf Adam
Honourable Minister David van Rooyen

SESSION 2: PRESENTATION AND PANEL DISCUSSIONS 10:30 - 12:30

4. “Municipal Demarcation: Challenges and Opportunities for Spatial Transformation”

Moderator: Prof Mcebisi Ndletyana (University of Johannesburg)

Panel Members:
- Ms Nompumelelo Mpofu, (Board Member, Municipal Demarcation Board)
  - An Overview of the Demarcation Process Review Task Team findings, proposed strategic, operational and legislative reforms or amendments and recommendations with regards to demarcation.
  - Lessons learnt over the past two years, including a perspective on the duality of the Board’s institutional form.
- Honourable Andries Nel (Honourable Deputy Minister of Cooperative Governance)
  - How the integrated Urban Development Framework can add value to the demarcation process.
  - Independence of MDB and its significance for the country.
  - Lessons learnt by the Department in implementation or invocation of Section 22(2) of the Demarcation Act.
  - Impact of demarcation on local government stability.
  - Demarcation of provincial boundaries and some possible solutions.
- Ambassador: Lemarron Kaanto (Deputy High Commissioner, Embassy of Kenya.)
  - Kenya’s experience and challenges determining boundaries in ethnically/tribally diverse areas (considering the propensity for self-preservation), as well as the wisdom and challenges of a 10 year boundary determination cycle.
• Councillor Thabo Manyoni (Chairperson, South African Local Government Association)
  - The impact of amalgamation and disestablishment on municipalities on municipal councils and service delivery.
  - SALGA's perspective on areas of the demarcation process that need to be improved on and how.

• Professor Somadoda Fikeni (University of South Africa)
  - The role of demarcation in the history of South Africa in view of sensitivities surrounding the history of social disintegration and separate development, as well as the role spatial transformation should play in promoting social cohesion and integration.
  - Sharing of insight on what role other institutions such as Department of Arts and Culture, Rural Development and Land Reform and other Constitutional institutions can play in the above.

• Mr Zamindlela Titus (Secretary, Engcobo Development Initiative)
  - Focus on the original conceptualisation of the demarcation instrument in the formative years of the present local government system and gaining insight on whether the Municipal Demarcation Act is still in line with the original vision, focusing eg on the demarcation criteria in view of the evolution of local government over the last 16 years and the necessary reforms.

BUFFET LUNCH AT THE CLOVERS GREEN RESTAURANT 12:30 - 13:30

SESSION 3: PRESENTATIONS AND PANEL DISCUSSIONS 13:30 - 15:30


Moderator: Ms Jackie Manche (Senior Consultant, Stanton Chase)

Panel Members:
• Mr Bongani Khumalo (Acting Chairperson, Financial and Fiscal Commission)
  - Financial viability and functionality: Are municipal mergers the solution?

• Honourable Yunus Carrim (Chairperson of the Finance Standing Committee, National Assembly)
  - The impact of demarcations on the national fiscus and long term sustainability of communities and municipalities. View of the appropriateness of the demarcation instrument as a solution to municipal financial viability.

• Mr Muthotho Sigidi (Acting Director General, Department of Cooperative Governance)
  - Financial viability and dysfunctionality in terms of the back-to-basic programme.

• Mr Mandla Nkomfe (Special Adviser, Ministry of Finance)
  - Municipal financial viability in the context of the historical background inherited from the pre-1994 apartheid legacy mainly in the rural areas and what is the vision of Government towards investment in economic growth that would stimulate revenue in rural areas?

• Ms Shiva Makotoko (Head of Public Sector Division, Alexander Forbes Group)
  - Reflection on cost and long term gains of municipal amalgamations, relating that to mergers in business.

Moderator: Mr Ashraf Adam (Deputy Chairperson, Municipal Demarcation Board)

Panel Members:
- Ms Sheila Hughes (Chief Director: Intergovernmental Policy and Practice, Department of Cooperative Governance)
  - The usefulness of current assessments for municipal boundary adjustments and the adequacy of the prevailing assessment mode.
- Ms Lorette Tredoux (Executive Director: Governance and Intergovernmental Relations, South African Local Government Association)
  - Possible gaps in the current municipal capacity assessment instrument and views on how this could be changed to enhance future processes, as well as municipal sustainability.
- Mr Mohamed Bhabha (Special Adviser to the CEO, Development Bank of South Africa)
  - Viability of the two-tier system of local government in relation to municipal powers and functions.
- Mr Lawrence Kandaswami (Managing Director SAP South Africa)
  - IT as an enabler for capacity assessment and public participation in local government.

DAY TWO - 24 JUNE 2016 (FRIDAY)

7. “Public and Stakeholder Participation and Social Integration in Demarcations”

Moderator: Mr Sabelo Gwala (PEO, South African Local Government Association: KZN)

Panel Members:
- Honourable Lechesa Tsenoli (Deputy Speaker of the National Assembly)
  - Public consultation as a fundamental pillar for democracy and its significance for demarcation.
- Honourable Richard Mdakane (Chairperson of the South African National Civic Organisation and Chairperson of the Portfolio Committee on Local Government, National Assembly)
  - A reflection on balancing the role of stakeholders in demarcations, with special reference to municipalities and councillors who may have vested interest in the outcome of the process.
  - Significance of involving communities in demarcation and how this can be enhanced.
- Mr Seana Nkhahle (Executive manager: Office of the CEO, South African Local Government Association)
  - Reflect on public and stakeholder participation in municipal planning processes and how that can be adapted for the demarcation process.

- Inkosi WTC Mavundla (National House of Traditional Leaders)
  - One of the challenges of drawing boundaries in rural areas is that traditional boundaries are either contested or not well defined, often resulting in boundary anomalies.
  - Reflect on some of the possible mechanisms or changes to be considered to address issues related to traditional areas in demarcation, including the role of traditional leaders towards enhancing the public participation process.


Moderator: Mr Sithole Mbanga (CEO, South African Cities Network)

Panel Members:

- Professor Ivan Turok (Executive Director: Economic Performance and Development, Human Sciences Research Council)
  - Getting Cities to Work in SA

- Mr Andrew Boraine (CEO, Western Cape Economic Development Partnership)

- Ms Ann Bernstein (Executive Director, Centre for Development Enterprise)
  - Is the City Region concept a reality or myth in South Africa in the context of the existing framework for municipal categorisation.
  - The role of metropolitan municipalities in the national economy beyond the demarcation of a municipal boundary (metros as engines for economic growth).

- Councillor Subesh Pillay (Member of the Mayoral Committee, City of Tshwane)
  - Share ideas on what could have been done differently to ensure a smooth transition.

- Mr David Savage (Programme Lead: Cities Support Programme, National Treasury)
  - A critical analysis of the criteria for the categorisation of metros and/or their application, and a reflection on what should be the basis for creating future metropolitan municipalities.

MID-MORNING TEA BREAK AT EXHIBITION CENTRE

11:10 - 11:40

Moderator: Mr Vusi Madonsela (Director General, Department of Justice and Constitutional Development)

Panel Members:
- Professor Barwa Kanyane (Chief Research Specialist: Democracy, Governance and Service Delivery at the Human Sciences Research Council)
  - An assessment of the ward delimitation framework, focusing on the purpose for the delimitation of wards, criteria for ward delimitation, possible reflection on the proposed reform to improve the system.

- Mr Sy Mamabolo (Deputy CEO, Independent Electoral Commission)
  - A focus on the impact of municipal boundary demarcation processes on local government elections and the work of the IEC in general.

- Dr Pali Lehohla (Statistician General, Statistics South Africa)
  - Reflection on the significance of statistical data on demarcations and service delivery, as well as the central role Statistics can play in improving the demarcation legislation and processes.

- Dr Andrew Siddle (University of Cape Town)
  - Comparison of South African ward system with practices elsewhere in the world.

10. OPEN SESSION:
   CONSOLIDATION AND FINAL RECOMMENDATIONS

   VOTE OF THANKS AND CLOSURE
   Ms Mmatsie Mooki (Board member, Municipal Demarcation Board)

BUFFET LUNCH AT THE CLOVERSGREEN RESTAURANT

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