

## NCOP LOCAL GOVERNMENT WEEK

### SESSION: 7

Date: 10 September 2020

## **1. THE IMPACT OF MUNICIPAL BOUNDARY RE-DETERMINATIONS ON MUNICIPAL GOVERNANCE, SERVICE DELIVERY, FINANCIAL SUSTAINABILITY AND EFFECTIVE PERFORMANCE OF LOCAL GOVERNMENT**

### **1.1 Introduction and background**

The mandate of the Municipal Demarcation Board (MDB) is provided for in the Constitution (Sections 155 and 157); the Local Government Municipal Demarcation Act, 1998; and the Local Government Municipal Structures Act, 1998 (Schedule 1 and Section 85). The Constitution (RSA, 1996) mandates an independent authority (the MDB) to determine municipal boundaries and to delimit wards.

The Board's legislative mandate is essentially drawn from two key pieces of legislation: the Municipal Demarcation Act and the Municipal Structures Act. The following key functions are assigned to an independent MDB:

- i. Determine municipal (outer) boundaries for each local space in the country, including making decisions as to whether the municipal areas determined should be governed by a Category A (Metro), B (Local) or C (District) municipality;
- ii. Delimit wards (inner boundaries) within Category A and B municipalities;
- iii. Assess the capacity of municipalities when determining boundaries;
- iv. Render advisory service in relation to the above matters.

With the establishment of the MDB in 1999, the number of municipalities were rationalised from 843 municipalities to 284 municipalities in preparation for the 2000 local government elections. The number was further reduced to 283 before the 2006 local elections, and then to 276 ahead of the 2011 local elections and 278 municipalities in post 2011. The current 257 municipalities consist of 8 metropolitan municipalities, 44 district municipalities, and 205 local municipalities.

Recent research commissioned by SALGA (2017) and an independent study by Ncube and Vacu (2014), has shown that there are many factors that affect not only municipal financial or fiscal performance and sustainability but also governance and service delivery and these are not limited to the following: lack of a tax base due to poverty and unemployment; backlogs; poor revenue systems and collection; service

and payment boycotts; poor service delivery and budget planning; unfunded mandates; corruption; and skill, knowledge and experience deficits, as well as failure on the part of provincial and central government to intervene to address these in a timely manner.

## 1.2 Municipal governance

- (a) The general discourse around demarcations points out that the practice of regular and continuous redeterminations and merging of municipal boundaries lead to substantial instability in municipal governance, administrations and service delivery. It has been argued that this instability detracts municipal entities from efficient municipal governance and service delivery, makes the attainment of capable governance and longer term planning difficult and also fuels political instability.
- (b) The Auditor-General's audit opinions of municipalities' reporting on predetermined objects and compliance with legislation are a good indicator of municipal governance (MDB, 2015). After mergers, fruitless, irregular and unauthorized expenditure as a percentage of total expenditure increased in most municipalities in the country.
- (c) Many of these adverse findings from the AG reports can be attributed to the fact that many senior managers in municipalities lack the requisite capacity and skills. Merely amalgamating municipalities without addressing such basic issues of capacity, training and skills base in municipalities will not have significant impact on the improvement of governance after mergers.

MDB has made substantive legislative amendments and proposals to address some of those key concerns raised.

***For instance, MDB has put forward the proposal to amended process for major demarcations to be considered after every 10 year cycle with a view to limit the cycles of continuous redeterminations.***

- (d) Lack of planning, change management, costing and provision of resources for the transitionary processes during mergers/consolidations have had significant impact on the overall governance and service delivery in municipalities beyond the demarcation process.

Addressing these issues and allowing for proper planning and transitional process will not only serve to mitigate challenges brought by demarcations but will minimize governance challenges that occur as a result of boundary redeterminations.

## 1.3 Service delivery

- (a) Service delivery is not wholly a demarcation issue, as there are several factors that impact on it (most of which can be attributed to a crisis in governance in the South African case). However, it should be acknowledged that the issue does have profound spatial dimensions and is therefore an integral part of a municipal demarcation agenda.

Early policy thinking on this issue debated whether larger entities allowed for more efficient (and affordable) service delivery - a line of thinking that eventually found expression in the concept of district municipalities.

- (b) There are instances where discontent with service delivery in a specific community or area is advanced as a motivation for requests of redeterminations.

This phenomenon is based on the perception that a particular community or area will better be served if they could administratively form part of another municipal area (the grass is greener on the other side of the fence).

- (c) MDB does not deliver services but only demarcates boundaries for specific purposes outlined in its mandate. Poor service delivery, or the lack of services, cannot be addressed by demarcation processes, but by municipal councils and administrations, and interventions by provincial government and other key role players in local government (e.g. SALGA).
- (d) Redetermination of boundaries can influence communities' access to local government services. Experience since 2000, has demonstrated that incorporation with richer jurisdictions can lead to a better standard of services while inclusion in poorer jurisdictions often leads to a lower quality of services.

#### **1.4 Financial sustainability**

- (a) Sections 25 of the Municipal Demarcation Act have placed emphasis on viability in a number of sub-provisions. It does however go on to say that demarcation is however not the only determinant and intervention to achieve municipal viability and sustainability (these can not be elevated above other multiple criteria contained in the Act). However, Demarcation often becomes a means through which the limited economic bases of merging municipalities can be combined with the intention that through reduced fixed costs of municipalities (single management structures etc) and merged economic bases, there would be overall improvement in the living conditions of people and the improvements in the financial sustainability of municipalities in such areas.
- (b) Recent amalgamations revealed that transitional grant/funding given to municipalities during these processes are very little and do not cover the long term costs associated with establishment of new municipalities.

*In Tshwane, transitional costs after the incorporation of Metsweding district municipality and two local municipalities (Nokeng tsa Taemane and Kungwini) in 2011 were estimated at R1 billion. Tshwane only received a one-off transitional grant of R20 million from COGTA (Ncube and Vacu, 2014:314).*

Therefore, it is important that key local government role-players such as SALGA, CoGTA, FFC, Parliament etc play a role in advocating for efforts to raise the revenue levels and particularly the transfers to the municipalities which have lower levels of economic opportunity.

- (c) Well-implemented and well-managed transitional arrangements internationally are a testimony to improvements in the possibility of post-merger financial sustainability.
- In Ottawa (Canada), for example, the transitional process was managed by a well-funded and resourced transitional board which had a wide and clear mandate to manage the transitional period (Slack, 2013).*
- In Berlin, the transitional process was achieved by spending up to 70% of budget allocated to East Berlin to reach parity with West Berlin.*
- (d) Past engagements in the local government sector advocated for formal due diligence studies to be commissioned before boundary redeterminations are finalised to identify and project the financial situation of the affected municipalities and advice on what steps should be taken to minimise severe impacts on the financial viability and sustainability of municipality. The financial and fiscal implications of boundary re-determinations should be prioritised and established and funding sources should be identified before any demarcation decision is pronounced. ***This is a call that MDB is taking seriously and will consider when future demarcation decisions are considered.***
- (e) Beyond demarcations, it must be noted that there are other factors that are bedevilling the financial viability and sustainability of municipalities. These includes among others:
- (i) The low rate of collection of revenue;
  - (ii) Absence of appropriately skilled personnel and their correct placement;
  - (iii) Widespread instances of rent seeking and corruption amongst public representatives and business, reflecting a broader breakdown in the values and good governance principles;
  - (iv) Poor institutional capacity including poor budgeting and poor planning;
  - (v) Limited and insufficient financial resources available to deliver on their mandated functions and responsibilities.

### **1.5 Effective performance of local government**

- (a) The recent reports by the AG indicate that increasing number of municipalities are financially distressed, underperforming and therefore struggling to meet their constitutional obligations. This situation has always been to attribute this situation to structural factors and hence the temptation to have these municipalities-demarcated'. In some instances, demarcation and indirectly the MDB, has been blamed for these municipal failures-presumably by wrongly demarcated these municipalities thus rendering them incapable of performing their functions effectively;
- (b) Structural impediments and constraints like size, poor endowments and limited tax base do have an impact on the capabilities of municipalities.;
- (c) MDB capacity assessment and the Auditor General reports have shown that challenges by municipalities are much deeper and nuanced than what could be suggested otherwise.

- (d) All these, including current and past reports on the state of local government, suggest that the problems of local government are beyond demarcations. Municipalities are still dealing with a series of unresolved issues that have not been addressed since 2006.
- (e) MDB past studies and evidence has shown there is not sufficient evidence supporting the notion that municipalities are able to improve in performance as a result of mergers, amalgamations or de-establishment and there are no conclusive evidence to suggest that the size of a municipality has been a major problem impeding the performance of local government.

## **CONCLUSION**

Visionary, capable leadership and solid institutions are a necessity for municipalities to be effective instruments for service delivery. No amount of boundary redetermination or amalgamation can replace that.

Boundary redetermination must be seen as an addition to assist the effective instrument for service delivery.

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