

Public and Stakeholder Participation in the Municipal Demarcation Process in the Collins Chabane Local Municipality

N Mathye*

School of Public Administration and Management
University of Pretoria

O S Madumo

School of Public Administration and Management
University of Pretoria

ABSTRACT

The article explores the nature and extent of public and stakeholder participation in the municipal demarcation processes undertaken by the Municipal Demarcation Board (MDB) towards establishing Collins Chabane Local Municipality located in the Vhembe District Municipality in Limpopo Province, South Africa. The study stems from the government's decision that was concluded through the Minister of Cooperative Governance and Traditional Affairs' (CoGTA) request to the MDB to establish the new municipality under the Vhembe District Municipality after the 2016 local government elections. The establishment of the new municipality led to several challenges that emanated from the community of Vuwani, which previously formed part of the Makhado Local Municipality, as well as certain traditional councils which objected and protested the MDB's decision to incorporate their areas into the newly established municipality. These stakeholders cited that they were not adequately consulted by the MDB before its decision to change the municipal boundary. To this end, a comprehensive review of a qualitative set of data collected from a variety of sources was selected and analysed to achieve the research objective of this article. The study revealed that various factors undermined the participatory role that communities and stakeholders should have played in the municipal demarcation processes leading towards the establishment of the municipality. Key challenges include, but are not limited to, the inadequate involvement

of traditional councils on areas proclaimed as rural traditional councils; inadequate mechanisms, systems and procedures for public participation; an inability to insulate between financial sustainability and service delivery challenges; and a lack of social cohesion between different ethnicities and tribal groups. Based on the aforementioned, the study proposes appropriate interventions that government can adopt to enhance and entrench a culture of public and stakeholder participation in the municipal demarcation processes. The study argues that government alone cannot resolve demarcation problems; it requires collective action by all relevant stakeholders.

INTRODUCTION

Since democratisation there have been several municipal boundary reforms in South Africa. The *Constitution of the Republic of South Africa, 1996* (hereinafter referred to as the Constitution) makes provision for the establishment of the MDB as an autonomous institution responsible for determining or re-determining municipal boundaries, including delimiting wards across the country's territories. Through engaging in its functions of boundary determination, the MDB must ensure that it actively encourages the public to participate in the decision-making and policymaking processes. As a democratic entity, the MDB should discharge its responsibility in a manner that is impartial and perform its functions without favour, fear or prejudice.

This article explores the level of public and stakeholder participation in the municipal demarcation processes leading to the establishment of Collins Chabane Local Municipality within the Vhembe District Municipality. More specifically, the article is concerned with the participatory role that stakeholders and communities should play in the municipal demarcation process. Thus, the process essentially forms part of the building blocks of a functional and participatory democratic local government in South Africa. First, the article will explore a historical perspective related to municipal boundary reforms in South Africa. Second, there will be an analysis of the level of public and stakeholder participation processes by the MDB. This will be contextualised within the process undertaken while establishing the Collins Chabane Local Municipality. Third, the research methodology will be described to explain the empirical approach followed in the study, and the institutions involved in the municipal demarcation process towards the establishment of the municipality. In conclusion, the article provides key research findings and recommendations regarding the municipal demarcation processes in South Africa.

HISTORICAL PERSPECTIVE OF MUNICIPAL BOUNDARY REFORMS IN SOUTH AFRICA

The present internal boundaries in Africa and sub-Saharan Africa have emerged and originated from its colonial legacy. Craythorne (1997) notes that, during the 19th century, most European forces targeted and paralysed the majority of the countries on the African continent and took control of several states through colonial means. According to Lynne (2012), after World War II, African countries gained control of their territories following an agreement made by sub-Saharan leaders to respect the colonial borders. In the 1890s, the British colonial power continued with the process of delineating countries into regions. In other cases, the countries were further subdivided into districts. The division was made to maintain large ethnically homogenous groups as far as possible to sustain control and manage communities. In 1910, the Union of South Africa established four colonies, namely the Cape Colony, Orange River, Natal and Transvaal, which were solely represented by Governor Generals as self-governing states of the British Empire and remained under the formal rule and control of the British (Kleingeld 2003). After the defeat of the Boers, the colonies gained self-governing status and began to demarcate jurisdictions based on race and ethnicity (Ncube & Monnakgotla 2017). For example, the promulgation of the various pieces of legislation such as the Natives Land Act, 1913; the Urban Areas Act, 1923; and the Group Areas Act, 1950 entrenched and formalised the policy of separate development. These pieces of legislation discriminated against African black people in society (Smythe 1999). Especially black men were targeted, as they were required to have a qualification before they could legally reside in white proclaimed areas (Smythe 1999). However, after the 1950s, when there was an attempt to apply the same law to African women, the legislation was met with significant challenges until these practices were effectively ended in the 1980s, resulting in a negotiated settlement relating to various matters pertaining to local government (Netswera & Phago 2011:131).

During transition to a democratic dispensation in South Africa, an independent institution was established to define the criteria for the determination or re-determination of municipal boundaries across the entire territory of the country. Thus, the local government elections and demarcation processes took place in accordance with the Local Government Transition Act 209 of 1993 (LGTA). During that period, the Member of the Provincial Executive Council (MEC) responsible for Local Government in each province determined the boundaries based on the advice of former provincial demarcation boards. Owing to a Provision of section 155(3)(b) of the Constitution, 1996 as well as the subsequent amendments to the LGTA, the nine provincial demarcation boards were disbanded and MECs were no longer responsible for the determination of municipal boundaries. This originated from the development and promulgation of two pieces of legislation,

namely the Local Government: Municipal Structures Act, 117 of 1998 (hereinafter referred to as the MSA) and the Local Government: Municipal Demarcation Act, 27 of 1998 (hereinafter referred to as the MDA).

Stanton (2009) contends that, whereas apartheid policies prohibited widespread public participation, the introduction of the Constitution, 1996 mandates municipalities to involve communities in local government matters. Mathekga (2006) argues that, although current local government institutions were created to positively influence local democracy and to bring about change in local government, the institutions have failed to meet expectations. The above discussion highlights that, while the Constitution, 1996, acknowledges the role of public participation in the demarcation process, communities play a limited role in the South African local government. As a result, it is essential that public participation processes in the municipal demarcation be encouraged to foster and ensure, among others, inclusivity and effective democratic local governance that adequately responds to the needs of the people, as enshrined in the Constitution, 1996.

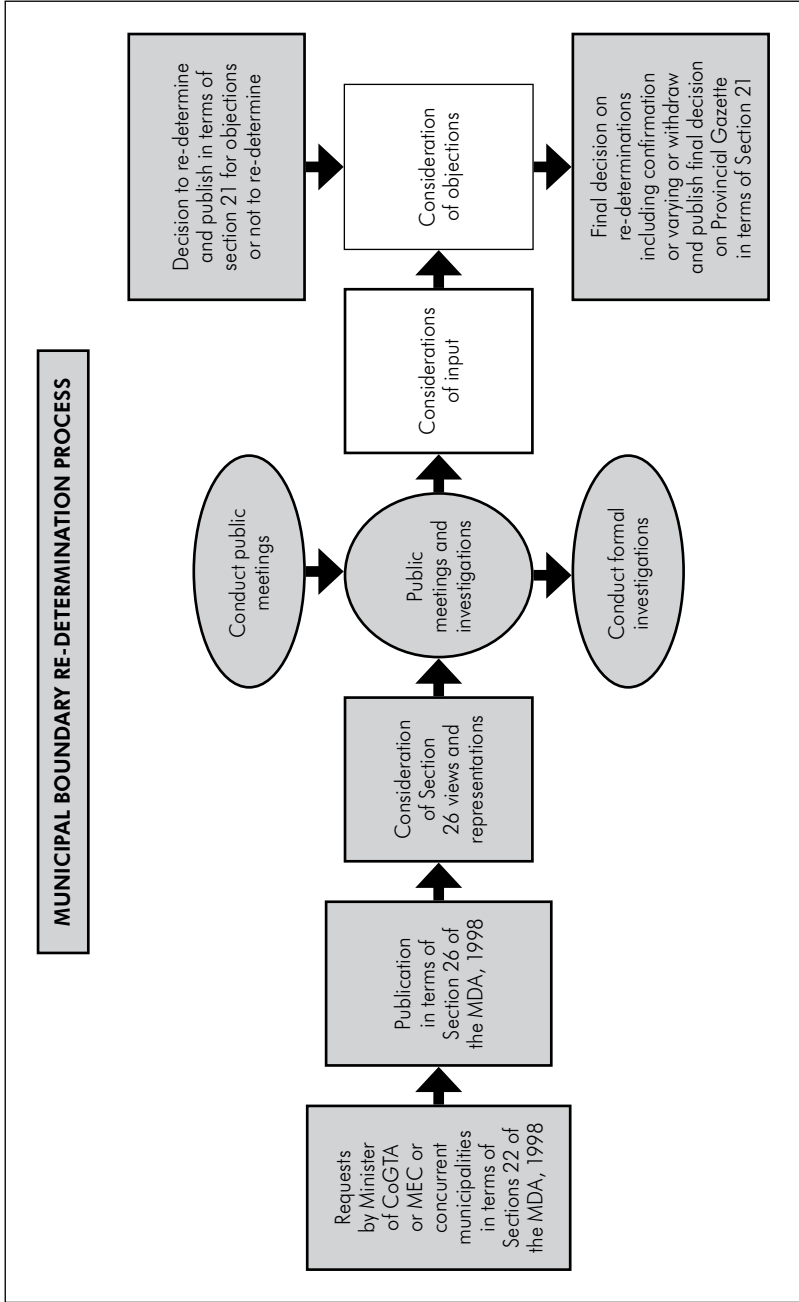
RESEARCH METHODOLOGY

This study adopted a qualitative research approach to data collection and analysis. The rationale to engage in a qualitative research approach is that it would enable the researchers to focus on a specific phenomenon within the selected case. Furthermore, related documents were consulted to formulate a conceptual base for the research problem and to analyse them to determine the circumstances and limitations that keep the MDB from achieving its objectives. Content analysis was employed as data collection method, whereby the survey of the literature is analysed to develop themes that would assist in understanding the phenomenon of municipal demarcation.

The qualitative approach enabled the researchers to review the available documentation against the current practices by drawing inferences and determining gaps within the current demarcation processes and practices in South Africa. This included a comprehensive review of multiple sources, including journal articles, books, internet sources, news articles, court cases, MDB reports, circulars, municipal reports, Integrated Development Plans (IDPs) and legal notices published by the Minister of CoGTA and the MEC responsible for Local Government in the Limpopo Provincial Government. These sources were utilised to draw inferences, narrative and analysis of the research subject.

The chosen method also enabled the research study to scrutinise and analyse different cases based on existing literature. Through this approach, the researchers were able to identify, explore, analyse and determine challenges relating to community and stakeholder participation in the re-determination of municipal boundaries

Figure 1: Municipal boundary re-determination process



Source: (Adapted from Municipal Demarcation Board (2017:10))

within the South African context. Through the use of content analysis, the researchers were able to re-examine and validate the existing information relevant to the research subject. Data gathered from these secondary sources was analysed and deductions were drawn, where applicable, to allow for further scrutiny.

PROMOTING PUBLIC AND STAKEHOLDER PARTICIPATION IN MUNICIPAL DEMARCATION PROCESSES

In South Africa, re-determination processes relating to municipal boundaries involve numerous actors with different roles and responsibilities. These roles and responsibilities are strictly defined in terms of the MDA, 1998 and certain provisions in the MSA, 1998. To ensure the efficiency and effectiveness of public and stakeholder participation, it is critical to understand the roles and responsibilities of the various actors during the process of restructuring of municipal boundaries. Figure 1 illustrates the processes, criteria and procedures that the Board should follow before considering the municipal boundary changes.

The process map contained in Figure 1 highlights that public opinion and participation is central to the MDB's boundary determination processes. Thus, without the necessary public meetings, there will be no investigations into whether it is feasible to re-draw the boundaries or not. Various stakeholders constantly opposed the Demarcation Board's decision to establish the Collins Chabane Local Municipality. Thus, it becomes imperative to understand the complexities around the municipal demarcation process, particularly when establishing a new municipality like the Collins Chabane Local Municipality.

The role of the Municipal Demarcation Board

Section 8 of the MDA, 1998 provides for the appointment and the composition of the members to form part of the decision-making of the Board, which may not be fewer than seven and should not exceed the maximum of 10 members. One of those members must be appointed as the chairperson of the Board and another member as the deputy chairperson. The members of the MDB must be appointed by the President and their term of office is seven years. However, while the MDA, 1998 places the responsibility for such an appointment on the President, it is based on the recommendation of the Minister responsible for Local Government as a designated member.

Since the demarcation of municipal boundaries is highly politicised, it has always been met with criticism from the opposition parties against the governing party, the African National Congress (ANC). Most of the criticism, as cited by various political parties, reveals that there is a perception that the ANC interferes

with the MDB's affairs. This notion has been reflected in the High Court judgment by Judge J Kollapen in the case between the Democratic Alliance v MDB and Others (High Court of South Africa Case No: 70915/201 5). It is argued that the MDB appoints individuals who are aligned to the ANC and who would make decisions that favour their partisan interest. This is despite the fact that the MDA, 1998, in terms of Section 8(2), empowers the Minister of CoGTA to form a panel of designated members including the Constitutional Court President, a South African Local Government Association (SALGA) representative and the Chairperson of the Select Committee responsible for Local Government in the National Council of Provinces (NCoP). It is argued that this on its own poses a risk for other people aligned to the ruling party to be appointed and shortlisted into the positions.

Despite the above, this has not guaranteed impartiality concerning the checks and balances for the appointed board members. Arguably, the Minister of CoGTA usually provides secretariat support services regarding the shortlisting and screening of applicants to be appointed as board members. This poses a risk that similar persons are interviewed and subsequently appointed to earmarked positions. It is therefore suggested that an independent process be established to guarantee the independence and impartiality of the process from its inception, including the screening and shortlisting process.

Section 6(3) of the MDA, 1998 also provides that, "The composition of Board members must be broadly representative of the South African society and should reflect regional diversity". However, there is a misunderstanding and misinterpretation of the term 'regional diversity', as contained in the Act in its present form. This has resulted in a misperception among other stakeholders who demand that the Board consist of nine Board members selected from each of the provinces, which is not the intention of the legislation. It is therefore essential that such a definition be clearly articulated in the MDA, 1998 to ensure consistency and uniformity regarding implementation.

Responsibilities of local communities and individuals in demarcation

The most common and primary stakeholders in the redetermination of municipal boundaries are individuals constituting the electoral constituents in communities. Before considering any re-determinations of a municipal boundary, Section 26(1) of the MDA, 1998 obliges the MDB to publish a notice in a newspaper circulating in the concerned municipal area stating such an intent to re-determine a municipal boundary. The notice should also invite written input from the public and this should be done within 21 days. Also, the notice should be conveyed via radio or any other appropriate means of communication within the concerned area.

During February 2015, the MDB embarked on a consultative process undertaken in terms of Section 26 of the MDA, 1998 to demarcate municipal boundaries. The process included distributing several notices to councillors, traditional councils and ward committees, informing them of the intention to demarcate the specified areas. Furthermore, the notices were issued to community development workers, businesses, community organisations and print media (i.e. *Sowetan*, *Beeld*, *SA News*, and *The Star* newspapers). Copies of print media messages were also distributed to national and local community radio stations, such as *Munghana Lonene*, *Phalaphala*, *Thobela* and *SAFM*. This was done in the *Provincial Gazette* No. 2545 (Notice No. 262 of 7 July 2015), requesting inputs and written representations from the stakeholders.

According to Rasila and Musitha (2017:1), the abovementioned media platforms used by the MDB failed to reach the objective of communicating the message to rural-based communities because of limited access to technology, such as radio and smartphones, as well as access to print media. As highlighted in the MDB Capacity Assessment Report (2014), Collins Chabane Local Municipality is predominantly rural with the highest prevalence of unemployment and illiteracy. The level of illiteracy within the Collins Chabane Local Municipality is estimated to be at 20.7%, with only 28.1% of people possessing a matric or higher education qualification. The remaining 50.6% of the population remain inconclusive. Given the high illiteracy rate, one could argue that only a few citizens are able to understand the content of a notice or newspaper article. More so, understanding the messages contained in the *Government Gazette* is a distant aspiration.

The aforementioned is demonstrated in the High Court Judgment (established by Judge JP Makgoba) in the case between Masia Traditional Council and Others v MDB and Others, whereby only about 1 000 people out of the entire population of 345 975 attended a consultative meeting held by the MDB in the area (High Court of South Africa Case No: 1256/2016). The low turnout at the meetings could be attributed to different reasons, but a lack of awareness was cited as the primary reason. According to Castello and Braun (2006:4), traditional communication methods such as billboards, posters and constructive dialogue may be an appropriate avenue for policy decision-makers to communicate and transmit general information to the masses. It is also supported that such innovative tools may be constructive to facilitate communication between municipal officials and the residents.

According to Nxumalo and Whittal (2013:310), other supporting mechanisms can also assist the planning team and provide technical expertise on investigations and the dissemination of information concerning municipal boundaries, including conducting studies, surveys, data collection, analysis and assessments of the municipal areas before boundary changes. At a community level, ward and street committees, non-governmental organisations (NGOs), community-based

organisations (CBOs) and the development forum can contribute significantly to the process. In this regard, it is essential that the Board disseminates information regarding its intention using appropriate means of communication to avoid a demarcation impasse associated with a lack of communication mechanisms.

The responsibilities of municipalities in the demarcation process

Section 16 of the Municipal Systems Act, 2000 states that: “Municipalities must develop a culture of municipal governance structures that complements formal representative government with a system of participatory governance, including contributing to building the capacity of the local community to enable it to participate in the affairs of the municipality; and councillors and staff to foster community participation”. These municipal structures consist of Executive Mayors, Mayors, Councillors, ward committees and other committees of the municipal council established in terms of Section 79 of the MSA, 1998. According to Adeyemo (2011:17), these structures are created to foster and encourage participatory democracy by providing a channel of self-government and community involvement at grass-roots level.

Although the MDB consulted these structures through the circulars published in accordance with Sections 21, 26 and 28 of the MDA, 1998 to bring the contents to the local communities, including other stakeholders within the municipal areas, these municipal structures played little or no role to communicate information concerning local affairs to the local communities concerned. This was evident from the sentiments expressed by the Pro-Makhado Task Team representing the people of Vuwani, who argued that they were not informed about the MDB’s intention, either by the municipality or ward communities (*The John Perlman Show* 2017).

According to Silima and Auriacombe (2013:48), the purpose of ward committees is to ensure that communities are informed and involved in council decisions that affect their lives. In terms of Section 18(2) of the MSA, 1998, the municipal council must meet at least quarterly to debate issues regarding each ward and to follow a meeting schedule. However, ward committees, as alleged by the Pro-Makhado Task Team, have not been effective in discharging this responsibility (*The John Perlman Show* 2017). To facilitate effective participatory democracy, as enshrined in the Constitution, 1996, and to ensure operational ward committees, the legislation needs to be strengthened to compel such committees to serve as a communication channel or point of reference between the community and the municipality. This will help strengthen the accountability of ward councillors towards the residents. It will also ensure that residents are informed about the decisions or intentions of proposed municipal boundary changes so that they can provide inputs.

The role of traditional councils in municipal demarcation

The role and responsibilities of traditional councils (TCs) in South Africa, according to customary law, are acknowledged in Chapter 12 of the Constitution, 1996. The existence of TCs in a constitutional democracy and democratic society is clearly defined in Section 4 of the Traditional Councils and Governance Framework Act 41, 2003 (TLGFA). Among others, TCs are responsible for providing support to municipalities in identifying community needs as well as facilitating the involvement of the traditional community in the development or amendment of the related municipal IDP, including performing the functions conferred. However, the roles and responsibilities of the TCs in the municipal demarcation processes are not clearly defined in the Constitution, 1996, its founding legislation (TLGFA) or the MDA, 1998.

Thus, in terms of Section 24 of the MDA, 1998, the MDB is compelled by legislation to consider from the onset, factors such as areas of traditional rural communities, before any determination or re-determination, as clearly outlined in Section 25 of the Act. The traditional authorities, through the Limpopo Provincial House of Traditional Leaders (PHTL), established in terms of the Limpopo Traditional Councils and Institution Act 6, 2005 as recognised traditional communities and the National House of Traditional Leaders (NHTL), were consulted in accordance with Circulars 2 and 5 which were issued by the MDB in terms of Section 21 and section 26(3) of the MDA, 1998, and were required to submit written representation about their affected areas.

Arguably, the institutions were undermined since there was no direct formal engagement through their TCs. Instead, the information was relayed through the office of the PHTL. In certain cases, politics or conflicting issues and interests between the PHTLs and NHTL with TCs may hamper the transmission of the intended information to the TCs concerned. Furthermore, the fact that the NHTL is housed, funded and reports directly to the Ministry of CoGTA and the PHTL directly reports to the MEC for Local Government in the province, poses conflicting challenges between the NHTL and PHTL.

The High Court case between the Masia Traditional Council and Others v MDB and Others demonstrated that there were eight TC applicants except for Vuwani Service Delivery and Development Forum. The eight TCs – Masia, Shikonelo, Tshimupufe, Davhana, Mulenzhe, Mashau, Masakona and Senthumule – have constantly argued that the MDB had undermined their participation and role in the demarcation process (High Court of South Africa Case No: 1256/2016). The Vuwani Service Delivery and Development Forum sought a High Court order as a relief to review the possibility of setting aside and reconsideration of the MDB's decision published in the Limpopo *Provincial Gazette* No. 2586 of 25 August 2015 to demarcate the local municipalities located in the Vhembe District Municipality,

with the view of forming a newly established Collins Chabane Local Municipality in the Limpopo Province. At the heart of the application is the issue of improper consultation or public participation in the re-determination process undertaken by the MDB towards the establishment of the municipality. The Bungeni TC was also unhappy with the decision to incorporate some of its areas into the new municipality but could not be part of the eight TCs which reportedly took the matter to court. This prompted Chief Masia to inform people that no one should speak on behalf of TCs at a consultative meeting attended by over 1 000 people on 21 April 2015. After the meeting, several submissions with objections led the MDB to vary the determination according to section 21(5) of the MDA, 1998.

The Judge President of the Limpopo High Court, Judge Ephraim Makgoba, who presided over the Vuwani demarcation matter in the Case No: 1256 of 29 April 2016, dismissed the applicants' case against the MDB decision based on administrative and procedural grounds of consultations. However, the court challenge proved that neither the NHTL nor the PHTL, who claimed to represent TCs, formed part of the proceedings or submitted their opposing affidavit to support their TCs in this regard. The NHTL and the PHTL form part of the inter-governmental relations (IGR) structures established in terms of Chapter 3 of the Constitution, 1996, which enjoins spheres of government to cooperate in mutual trust and good faith by assisting and supporting one another. These IGR structures established in the realisation of the aforesaid constitutional mandate include the Ministerial MEC (MinMEC), Technical MinMEC, Inter-Ministerial Committee on Elections, and the Municipal MEC (MunMEC) structures chaired by the Minister of CoGTA and the MEC in the case of the MunMEC structure where such issues are frequently discussed (DCoG 2017). However, there was no support from both houses during the review application process. This confirms that there is conflicting interest between the NHTL and the Limpopo PHTL with its TCs since the matter would have been dealt with at that level before the Minister submitting the request for reviewing the municipal boundary changes to the MDB.

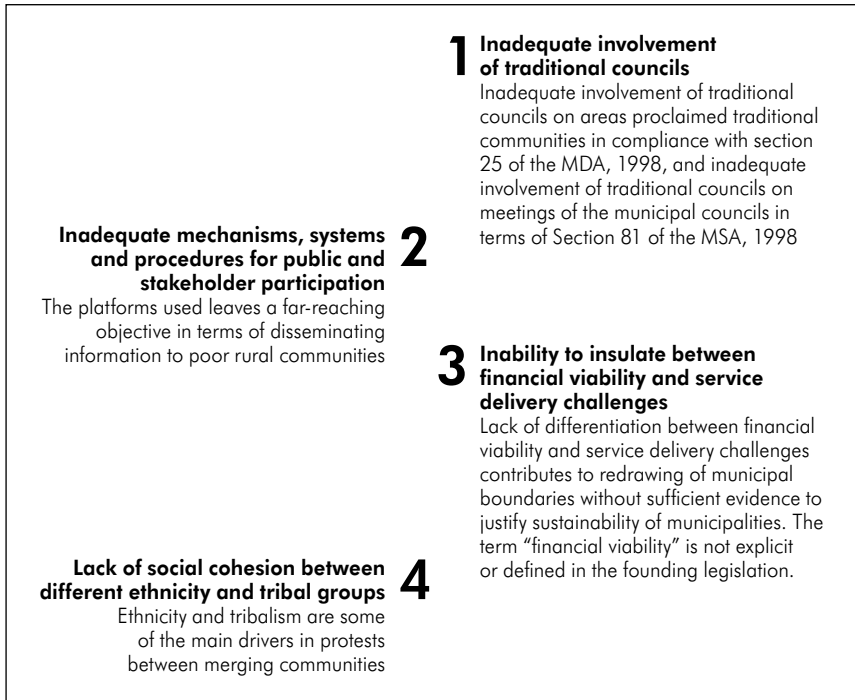
Kanyane, Pophiwa, Raseala, Mdlongwa, Viljoen, Moolman, Adonis, Ramphalile, and Rule (2017:19) argue that, while the MDB followed legal imperatives, underlying vocal objections and frustrations were inadequately addressed. It further points to the need to distinguish between consultation and public participation in the form of citizen engagement. As the former is passive engagement whereas the latter is constructive, there is a missing link in the legal framework. Nxumalo and Whittal (2013:316) also note that the contest between the government and traditional governance over land has, in many cases, resulted in an escalation of disputes. This is essentially the case, and, in many instances, the TCs will often air their dissatisfaction with the Board's decision and most of those disputes arise because the TC feels that it was not adequately consulted by the Board. As such, there is an urgent need to review legislation to

allow the demarcation process to permit for the inclusive participation of TCs in the municipal boundaries processes.

FINDINGS AND ANALYSIS

The municipal demarcation processes relating to the establishment of the Collins Chabane Local Municipality have been characterised by various factors, ranging from political interference to litigation and court challenges. Violent protests were also linked to the perceived lack of service delivery and tribalism. In many instances, these aspects emanated from the municipal demarcation process that led to the establishment of the municipality. Nxumalo and Whittal (2013:332) note that the municipal demarcation process has resulted in a changing relationship between communities and municipalities. Notwithstanding the above challenges, Figure 2 highlights some of the critical challenges in the municipal

Figure 2: Challenges identified in the establishment of Collins Chabane Local Municipality



Source (Authors’ own adaptation)

demarcation processes leading towards the establishment of Collins Chabane Local Municipality:

Finding One: Non-involvement of TCs in the demarcation of traditional community areas

The main point of contention identified in the establishment of Collins Chabane Local Municipality related to the interface between TCs and the MDB on the demarcation of the proclaimed areas of a rural traditional community. Notably, this aspect happened to cross the lines on the legislative functions and the role each of these institutions played in the establishment of the municipality. This situation stemmed from the fact that the founding legislation, the MDA, 1998, fails to outline the specific role of TCs in municipal demarcation. The Act only provides that, when determining municipal boundaries, the MDB must consider TCs' areas in terms of Section 25 of the Act. This legislative void undermines the potential role that TCs can play in the municipal demarcation process within a modern democracy, as well as towards the management and administration of land and the developmental role of their TCs.

Another challenge stemmed from an interaction between the TCs and the municipal councils – the municipal council encroached on the TCs' role in the municipal council, as prescribed in the MSA, 1998. The Act enjoins municipalities, in terms of Section 81, to ensure TCs' participation in municipal council meetings, including the exemption of such TCs in municipal proceedings. However, the TCs have complained that they were not invited to municipal council meetings and that their views were consistently ignored. This challenge could be explained by the fact that TCs were undermined and weakened by municipalities and their role was often unclear in rural development. Therefore, legislation needs to be strengthened to compel the municipal councils to foster TCs' involvement in developmental activities, particularly within TCs' areas of jurisdiction. This could cause a positive change in terms of rural development.

It is recommended that the MDA, 1998 be reviewed, so that the MDB is compelled by legislation to foster TCs' involvement in the municipal demarcation process, on areas proclaimed as TCs. The legislation in its present form does not clearly state the role of TCs' in processes relating to municipal boundary re-determination. TCs should not only be viewed as a light institution, but as a special institution worthy of consultation and active participation on local government matters, particularly in their demarcated areas.

To create harmony between the TCs and the municipal councils, the national department must draft legislation that will forge a good working relationship between both institutions. Several proposals were made on the possible cooperative relationship between local government and TCs (Republic of South Africa

1998a:15). It allowed for the participation of TCs in council meetings on matters relating to their localities' needs and interests. To promote a good working relationship, it is essential that both institutions partner in overcoming the challenges within local government. The ward councillors must be sensitive to public needs to be accountable for and strive towards solving any problems. Moreover, local government should ensure that TCs participate in community matters within their domain. They must work together to address the complaints of all concerned citizens regarding demarcation-related decisions.

Finding Two: Inadequate mechanisms, systems and procedures for public and stakeholder participation

The research revealed that the Demarcation Board's use of mechanisms and systems (e.g., the *Government Gazette*, newspapers, circulars and notices) towards the establishment of Collins Chabane Local Municipality, as prescribed in the MDA, 1998, left much to be desired in terms of disseminating information and messages to rural-based communities. Many stakeholders, such as the Vuwani Demarcation Task Team and the Makhado Demarcation Task Team comprising eight TCs raised issues regarding the MDB's lack of full consultation during the process of establishing the municipality. This situation was ascribed to limited technological advancement in rural areas and subsequent lack of access to radios, smartphones as well as access to print media. Yet another challenge related to people's ability to read and interpret information concerning municipal boundary changes. As most people in the Collins Chabane Local Municipality are illiterate, reading and interpreting notices and information such as circulars and Government Gazettes remain a challenge. The Demarcation Board also acknowledged in its Annual Performance Plan (APP) (2018:3), as part of providing feedback through the lessons learned from the recent demarcation process, that there were several limitations in the legislation, such as the requirements in Section 21(2) of the MDA, 1998. There is also an issue of human capacity shortages in the MDB to discharge its mandate across the Republic's territories. The Board also stated in its APP for 2017/18 that there was a limited capacity to adequately execute the municipal boundary determination process. In recent years, the Board has relied on consultants to assist in conducting capacity assessments and other duties associated with the administration of municipal boundaries. This lack of technical professionals inhibits the Board to administer municipal boundary processes assigned to it in terms of the Constitution, 1996, including conducting proper public consultation processes.

In light of the above, it is suggested that a guideline or framework be established, where information can be disseminated to rural-based communities to ensure that local citizens participate and that their views are registered for

consideration before municipal boundary changes are announced. The MDB should also use traditional methods or platforms, such as megaphones, loud-hailers and constructive dialogue as appropriate means of communicating and transmitting general information to the local communities concerned. This will address limitations of access to information and communities and TCs' lack of understanding regarding communicated messages about demarcation undertaken in their rural-based area of jurisdiction.

Furthermore, education and awareness programmes should be instituted to help ensure that communities better understand the content of information disseminated through circulars, gazettes and newspapers. The MDB must convene public forums to educate the citizens of communities where the demarcation will be undertaken. Contestations and disputes that may arise will be reduced by including valuable information, such as illustrative maps, infographics, photos, drawings, information brochures and other exhibit examples of communication tools and information gathering and consultation. This could ensure a greater understanding and stakeholder participation, given the level of illiteracy in the rural communities. Municipalities must also play an active role in this regard, since they are also obliged to communicate with their communities about information concerning the available mechanisms, processes and procedures to encourage and facilitate community participation in accordance with Section 18 of the Municipal Systems Act, 2000. In doing so, the municipalities must consider the language preferences and usage in the area and the special needs of people who cannot read and write, as outlined in Section 18(2) of the Municipal Systems Act, 2000. To address the issue of capacity-related challenges, funding must be provided to the Board to establish regional offices across all nine provinces. This will bring the Board closer to the people and allow it to fully discharge its mandate conferred on it by the Constitution, 1996.

Finding Three: Inability to insulate between financial viability and service delivery challenges

Another perceived challenge relating to the establishment of the Collins Chabane Local Municipality was a lack of insulation between financial viability and service delivery challenges. Section 25(c) of the MDA, 1998 stipulates that, "When the MDB determines municipal boundaries, it must take into account the financial viability and the administrative capacity of the municipality to perform municipal functions efficiently and effectively". However, the legislation does not define what constitutes financial viability. A study conducted by the Ministry of CoGTA, through the Back-to-Basics Approach adopted by the government to improve service delivery among dysfunctional municipalities, indicated that a third of municipalities across South Africa were not financially viable.

Also, the findings revealed that the only conceivable way to improve service delivery within the Vhembe District Municipality would be through its dis-establishment and by reconfiguring a new municipality with a broader tax base and a population that would guarantee viability. Considering the recent developments since the reconfiguration of the Vhembe District Municipality, the re-demarcation of the new local municipality has not resulted in a financially viable municipality. The research revealed that the issues raised by the Ministry of CoGTA were not genuine, given that the challenge of service delivery was evident in most of the municipalities in South Africa. This is particularly the case with municipalities with a low revenue base, such as the newly established Collins Chabane Local Municipality. This was also confirmed in the report released by the MDB (2018) on the feasibility study for the proposed boundary. The report concluded that the MDA, 1998 did not differentiate between municipalities due to size or location. It can be said that the belief that merging municipalities with a poor tax and revenue base with those that are financially sound would maximise service delivery is unfounded and has not proven to be a pre-determinant that CoGTA wanted to achieve.

The term 'financial viability', as set out in item 25(c) of the MDA, 1998 as one of the factors to be taken into consideration by the MDB before the determination of municipal boundaries, must be clearly defined in the principal Act. This is because the provision in its current form purports the idea that the challenge of poorly functioning municipalities can be addressed by merging them with financially sound counterparts. Most municipalities in South Africa are financially unviable and subsequently depend on government grants (Statistics South Africa 2015). Other issues attributed to municipalities' failure to deliver their mandates are debt burdens and inadequate revenue collection. In a presentation made during the Local Government Focus Week (2020), the Minister of CoGTA stated that, "There is over R127,7 billion owed to municipalities by households and slowed business activities, tax evasion and inadequate collection systems which resulted in a total debt of R181,3 billion of which R28,9 billion was owed by businesses and R18,1 billion by the government in all its spheres at the end of the municipal financial year in June 2020". This inability to collect revenue, coupled with inadequate revenue collection systems, continues to adversely impact the local sphere of government's ability to keep up with service payments. This, however, cannot be addressed through demarcation.

In this regard, it is suggested that to address service delivery challenges, the Minister of CoGTA must explore other means or devise alternative innovative ways of providing and accelerating municipal service delivery. This includes facilitating and building partnerships between financially sound and dysfunctional municipalities, as envisaged in the White Paper on Municipal Service Partnerships, 1998. The focus should also be on increasing or developing systems that enable

municipalities with lower tax bases to become financially viable through revenue collection rather than the merging of municipalities. Financial resources should be managed properly so that municipalities can sustain their municipal budget. On the other hand, it is vital for municipalities to deliver on their constitutional mandates. In this regard, municipalities must employ capable, competent and skilled personnel to support and strengthen its capacity to manage municipal affairs, exercise its powers and perform its functions. This is necessary to ensure that municipalities deliver on their service delivery mandates while ensuring proper financial, budgetary and planning processes to meet local communities' needs.

Finding Four: Lack of social cohesion between different ethnicity and tribal groups

Ethnicity and tribalism emerged as another factor that distinguishes Limpopo Province from other regions of the country. The province consists of different ethnic groups, including the Xitsonga, Tshivenda and Sepedi tribes. In the case of Vhembe District Municipality, the Vuwani community is dominated by the VhaVenda tribe who resided in the Thulamela and Makhado Local Municipalities. The community now falls under the newly established Collins Chabane Local Municipality, which is dominated by the VaTsonga tribe. Notably, central to the demands of the municipality, ethnicity triggered protests between Vuwani and Malamulele residents over service delivery. It is speculated that the people in Vuwani, who are predominantly VhaVenda, did not want to be led by the VaTsonga tribe and that there would be minimal job opportunities for them. According to Kanyane *et al.* (2017:7), the historical distribution of most Tshivenda speakers in the northern wards of Collins Chabane Local Municipality and the majority Xitsonga speakers in the south might have facilitated easy mobilisation.

Thus, it is recommended that a framework or policy to guide the IDP and Service Delivery and Budget and Implementation Plan (SDBIP) processes must be developed to ensure equal distribution of resources within municipalities. Notably, the apartheid dispensation was characterised by significant discrepancies in the distribution of resources between people from different ethnic groups. A framework and continuous monitoring of IDPs and SDBIP in the long- and short-term towards the allocation of resources within wards will help support the equal distribution of goods and services among all local communities. This includes employment, tender entrepreneurship, education, infrastructure development and other service delivery priorities. It is further suggested that awareness and education programmes to build social and mutual understanding must be intensified to overcome the issue of tribalism and ethnicity. This will ensure that municipalities do not discriminate against ethnic minorities but deliver services equitably to all citizens.

SUMMARY AND CONCLUSIONS

Evidently, the MDB has successfully and effectively managed to determine or re-determine municipal boundaries, from 1 262 municipalities in 1995 to 257 local municipalities over a 26-year period of municipal boundary reforms in South Africa. Since the MDB's inception after the adoption of the Constitution, 1996, which established the various pieces of legislation such as the MDA, 1998 and the MSA, 1998, there has been both notable progress and obstacles. The aforementioned, as well as other legislation enacted in terms of Chapter 7 of the Constitution, 1996 guided the Board processes. However, the successes recorded since 1996 were not without challenges, ranging from political interference to inadequate or a lack of public and stakeholder participation in municipal demarcation processes. Also, there has been complaints from communities about a lack of proper communication or consultation before the finalisation of municipal boundary changes. Furthermore, there is the perception that the Board is constantly increasing the number of wards for political reasons, including changing wards for electoral purposes and splitting of the farms and rural areas of traditional communities. This has degenerated most communities' trust and confidence in the Board.

In an attempt to establish the root causes of disputes around the demarcation processes implemented by the Board, the study explored the extent of public and stakeholder participation in the municipal demarcation processes of the Collins Chabane Local Municipality. The findings around the identified challenges, and recommendations for each, were thoroughly discussed in the study. The findings revealed various factors that have, in many instances, undermined the participatory role that communities and stakeholders should play in the MDB processes. These include the inadequate involvement of TCs in rural areas, inadequate mechanisms, systems and procedures, political interference, and tribalism. Consequently, the study proposes some appropriate recommendations for alternative policy options and interventions that government can adopt to enhance and entrench the culture of public and stakeholder participation in the municipal demarcation processes.

The research suggests that the Board must be equally cautious and consistent when administering municipal boundary processes. This includes providing the motivation or details of the process that informed its decision and factors considered when making such a decision and will assist communities to comprehend the processes followed by the Board when making a decision. This is the case because MDB was established to transform the developmental of local government, rather than promoting the narrow political interests of an elite minority. If the general citizenry is to trust the process and maintain confidence, Board processes must remain apolitical and free from political manipulation. Thus, one of the key issues that the MBD needs to consider as part of its demarcation processes is constructive community engagement and, more importantly, to get

buy-in before demarcation decisions are concluded and implemented. The MDB must go beyond its mandate to have multiple constructive engagements. The study concludes that the state alone cannot solve demarcation problems, it also requires collective action by all the relevant stakeholders.

NOTE

- * This article is partly based on a mini-dissertation that was completed under the supervision of Dr Ongkopotse Madumo at the University of Pretoria. Mathye, N. 2020. 'Analysis of public and stakeholder participation in the municipal demarcation process towards the establishment of Collins Chabane Local Municipality'. Master of Public Administration. Unpublished master's dissertation.

REFERENCES

- Adeyemo, S.A. 2011. Local Government Autonomy in Nigeria: A Historical Perspective. *International Journal of Educational Research and Technology*. 2(1):74–81.
- Castello, R.D. and Braun, P.M. 2006. *Framework on effective rural communication for development*. Rome: Food and Agriculture Organization of the United Nations and the *Deutsche Gesellschaft für Technische Zusammenarbeit* (GTZ) GmbH.
- Collins Chabane Local Municipality. 2017. Integrated Development Plan (IDP) 2017/18 Financial Year. Available at: <https://municipalities.co.za/overview/1241/collins-chabane-local-municipality>. (Accessed 17 July 2017).
- Craythorne, D.L. 1997. *Municipal Administration: The Handbook*. 4th Ed. Cape Town: Juta.
- Craythorne, D.L. 2006. *Municipal Administration: The Handbook*. 6th edition. Cape Town: Juta.
- Department of Cooperative Governance (DCoG). 2014. Local Government Back to Basics Assessment: The concept document. Available at: (https://www.cogta.gov.za/cgta_2016/wp-content/uploads/2016/06/The-Back-to-Basics-Approach-Concept-Document.pdf). (Accessed 18 June 2017).
- Kanyane, M., Pophiwa, N., Raseala, P., Mdlongwa, T., Viljoen, J., Moolman, B., Adonis, C., Ramphalile, M. and Rule, S. 2017. "We didn't ask for a municipality": Unintended consequences of municipal boundary re-determination: Vuwani at a glance. Pretoria: Human Sciences Research Council. Available at: <http://hdl.handle.net/20.500.11910/11679>. (Accessed 17 August 2020).
- Kleingeld, C. 2006. *A South African Railway History*. Cape Town: Spoornet, General Freight Business Promotions.
- Kollapen, J. 2015. High Court Judgement between the Democratic Alliance v Municipal Demarcation Board and Others: Case No: 70915/201 5. South Africa: North Gauteng High Court. Pretoria.
- Lynne, C. 2012. The End of Pax Americana: How Western Decline Became Inevitable. Available at: <https://www.theatlantic.com/international/archive/2012/04/the-end-of-pax-americana-how-western-decline-became-inevitable/256388>. (Accessed 17 August 2020)

- Makgoba, J.P. 2016. High Court Judgement between the Masia Traditional Council and Others v Municipal Demarcation Board and Others: Case No. 1256/2016. South Africa: Limpopo High Court. Polokwane.
- Mathekgga, R. 2006. The challenge of local government structures in South Africa: Securing community participation: Critical Dialogue. *Public Participation in Review*: 11-17.
- Municipal Demarcation Board (MDB). 2015. Circular 1 of 2015. Available at: <http://www.demarcation.org.za/site/?lsrvdocument=circular-1-2015-final-05022015-signed-by-mdb-chair> (Accessed on 19 May 2017).
- Municipal Demarcation Board (MDB). 2015. Circular 2 of 2015. Available Online: <http://www.demarcation.org.za/site/?lsrvdocument=circular-2-2015-final-05022015-signed-by-mdb-chair> (Accessed on 19 May 2017).
- Municipal Demarcation Board (MDB). 2015. *Limpopo Provincial Gazette*. (No. 262 of 2015). Available at: https://www.greengazette.co.za/documents/provincial-gazette-for-limpopo-2545-of-07-july-2015-vol-22_20150707-LIM-02545.pdf. (Accessed on 19 May 2020).
- Municipal Demarcation Board (MDB). 2015. Limpopo Provincial Government Notice No. 3 of the *Extraordinary Provincial Gazettes* (No. 2586 Vol. No. 22 on 25 August 2015). Available at: <http://www.gpwnonline.co.za/Gazettes/Pages/Provincial-Gazettes-Limpopo.aspx>. (Accessed on 15 July 2020).
- Municipal Demarcation Board (MDB). 2017. Municipal Boundary Demarcation Process: a process map for the determination and re-determination of municipal boundaries. Available at: <http://www.demarcation.org.za/site/wp-content/uploads/2017/12/MUNICIPAL-BOUNDARY-DEMARCATION-PROCESS.pdf>. (Accessed on 26 March 2020).
- Municipal Demarcation Board (MDB). 2018. Municipal Capacity Assessment Report. Available at: <http://www.demarcation.org.za/site/wp-content/uploads/2019/04/CollinsChabaneLIM345-1.docx>. (Accessed on 15 October 2018).
- Municipal Demarcation Board (MDB). 2018. Municipal Demarcation Board Annual Performance Plan for 2019/2020 Financial Year. Available at: <http://www.demarcation.org.za/site/wp-content/uploads/2019/06/Annual-Performance-Plan-2019-1.pdf>. (Accessed on 15 October 2018).
- Ncube, M and Monnakgotla, J. 2017. Amalgamation of South Africa's rural municipalities: is it a good idea? *Commonwealth Journal of Local Governance*. 75–95.
- Netswera F.G and Phago, K.G. 2011. Perceptions about Municipal Governance in the post-1996 Era: The Case of Thulamela Local Municipality. *Africa Insight*. 41(2).
- Nxumalo, C. and Whittall, J. 2013. Municipal Boundary Demarcation in South Africa: Processes and Effects on Governance in Traditional Rural Areas. *South African Journal of Geomatics*. 2:325–341.
- Parliament of the Republic of South Africa. 2020. The District Development Model: A Coherent Plan to Change the State of Local Government in South Africa. Local Government Focus. Cape Town: Republic of South Africa.
- Rasila, B.N. and Musitha, M.E. 2017. Assessing challenges to ineffective communication in government institutions: A case study of Vuwani area, Limpopo, South Africa. *Africa's Public Service Delivery and Performance Review*. 5(1).
- Republic of South Africa. 1993. Local Government Transition Act. (Act No. 209 of 1993). Pretoria: Government Printers.

- Republic of South Africa. 1996. *Constitution of the Republic of South Africa* (Act No. 108 of 1996). Pretoria: Government Printers.
- Republic of South Africa. 1998. Local Government: Municipal Demarcation Act (Act No. 27 of 1998). Pretoria: Government Printers.
- Republic of South Africa. 1998. Local Government: Municipal Structures Act (Act No. 117 of 1998). Pretoria: Government Printers.
- Republic of South Africa. 1998a. White Paper on Local Government. Government Printers: Pretoria.
- Republic of South Africa. 2000. Local Government: Municipal Systems Act. (Act No. 32 of 2000). Pretoria: Government Printers.
- Republic of South Africa. 2002. Traditional Councils and Governance Framework Act. (Act No. 41 of 2003). Pretoria: Government Printers.
- Republic of South Africa. 2005. Limpopo Traditional Councils and Institution Act, 2006. (Act No. 6 of 2005). Government Printers: Polokwane.
- Silima, T. and Auriacombe, C.J. 2013. The role of ward committees in citizen participation and socio-economic development of communities. *Administratio Publica*. 21(3).
- Smythe, N.C. 1995. The origins of apartheid: race legislation in South Africa. Unpublished masters dissertation. University of Witwatersrand, Johannesburg.
- Stanton, A. 2009. Decentralisation and Municipalities in South Africa: An Analysis of the Mandate to Deliver Basic Services. Unpublished Doctoral thesis. University of KwaZulu-Natal.
- Statistics South Africa. 2015. *Report on the non-financial census of municipalities: statistical release No. P9115*. Pretoria: Government Printers.
- The John Perlman Show*. 2017. CapeTalk Radio. 20 April. Available at: <http://www.capetalk.co.za/articles/253064/pro-makhado-demarcation-team-in-vuwani-lambastes-govt-for-empty-promises> (10 June 2020).

AUTHORS' CONTACT DETAILS

Mr Nhlamulo Mathye

Department of Cooperative Governance and Traditional Affairs
1 Pencadia Building
509 Pretorius Street
Private Bag X804
PRETORIA
0001
Email: nhlamulo.mathye24@gmail.com
Tel: 012 395 4699

Dr Ongkopotse Senatla Madumo

University of Pretoria
School of Public Management and Administration
Private Bag X20
Hatfield
0028
Email: Ongkopotse.Madumo@up.ac.za
Tel: 012 420 5736