



Unpacking the Municipal Demarcation Application in South Africa

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Abstract

The year 2022 marks the sixth democratic local municipal demarcation process in South Africa. The Municipal Demarcation Board has invited the public to put forward their suggestions for the revision of local municipal boundaries based on the Municipal Demarcation Act (27 of 1998) by the end of March. However, the legislative criterion that guides the process remains as complex as it was in 1998 and the public still questions how and why municipal boundaries are demarcated in South Africa. A direct product of the complexity is that many voices remain muffled and their frustrations are displayed in public protests. These protests are to an extent due to municipalities being too

large, lacking economic bases, and having poor governance structures to administer efficiently, resulting in many struggling to provide basic services and remain financially viable and sustainable. This article unpacks the application process that needs to be followed by the Municipal Demarcation Board (MDB), the Member of Executive Council (MEC), and the public to motivate for the re-demarcation of local boundaries. The paper argues that the process is complicated and calls for its revision. Furthermore, the paper suggests that smaller and more compact municipalities, at scale and proportional to economic base, might be the solution to the on-going crises of South African Municipalities.

What Is the Issue?

Previously non-whites administrative areas located on the outskirts of urban areas were economically underdeveloped and inhabitants were forced to commute to city centres for commercial and employment purposes. Furthermore, national policies ensured that population numbers within these administrative regions were controlled via influx control measures. With democracy, the national government sought to create more integrated and cohesive administrative areas in order to provide equal opportunities and a better quality of life for all. As a result, the peripheral residential areas which operated as independent administrative areas were integrated with the previous white urban areas to form unified local municipalities (RSA, 1998) (See Figure 1 below).

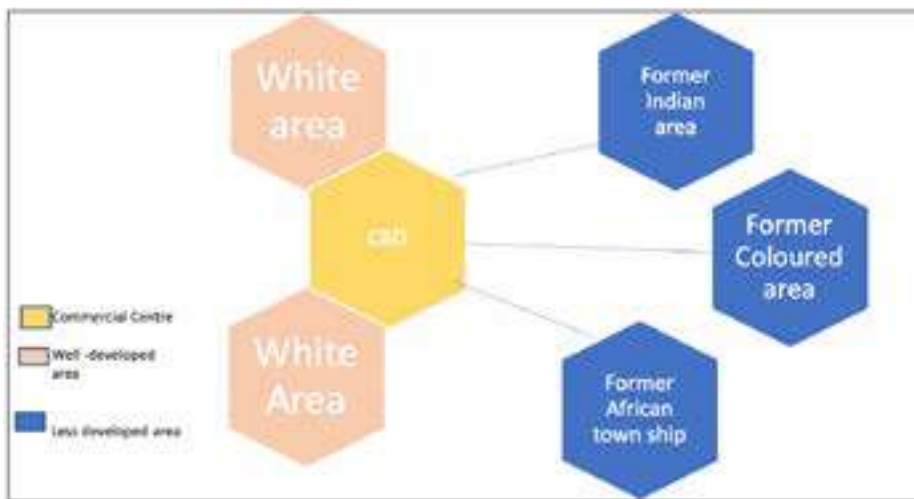


Figure 1: Spatial arrangement of municipalities according to race and level of development (Authors' own construction)

It was believed that this inclusion would allow for the more efficient and sustainable management of the administrative region (RSA, 1998). However, the municipality was to be governed by a 'one city, one tax base' principal, which meant that each area within the municipality would be taxed the same and the local administration would have the discretion to decide how the funds would be used. This remains a challenging task considering that the region delimited comprised of developed, undeveloped and underdeveloped

areas which were connected by unnatural functional linkages. Additionally, with the termination of influx control measures, the newly formed municipalities welcomed large numbers of unemployed migrants from the former homelands and from other countries (Kwenda, Ntuli and Mudiriza, 2020).

This resulted in the newly elected local government, who lacked previous administrative experience, having to manage larger municipalities that were unequally developed and experiencing rapid in-migration of individuals, who demanded free access to basic services and houses, as was promised by the national government (see Reconstruction and Development Programme (RDP) policy). Additionally, the post 1994 national government promoted bottom-up

planning, which forced the new local administration to conduct public participation meetings with local communities, before decisions affecting the local public were made. This resulted in a structural reform in South Africa which was not merely physical, but was also riddled by many socio-economic, functional, and administrative challenges (refer to Figure 1) (National Treasury, 2021). Irrespective of these challenges, the

democratic government remained loyal to creating a racially and spatially integrated country that comprised of municipalities which extended from coast to coast or wall to wall.

However, the manner in which these municipalities were to be delimited remained the question. The newly elected national government was faced with the choice of whether to pursue economic growth or social development in order to develop their local regions. On the one hand, the underdevelopment of the non-white areas within the municipality required municipal funds to be utilised for social upliftment and basic service provision (equality) (See RDP policy)

(RSA, 1994). This required the delimitation of smaller and more intensively developed municipalities to ensure that underdeveloped regions would be developed effectively and efficiently. Consequently, in 1996, the Green Paper on local government proposed that rural and urban areas be delineated as separate administrations to allow for each to be intensively developed (RSA, 1996). However, the separation of the former white urban areas and the non-white rural areas raised questions around segregation, exclusion, and cohesive development – the very principals the government wanted to represent.

Consequently, during the same year, the Growth, Employment and Redistribution policy (GEAR) promoted economic development by enhancing areas of economic potential (former white areas) with the hope that it could attract investments and bring in further funds into the municipality (capitalism or unbalanced development) (Department of Finance, 1996). However, for the benefits to be shared, larger and more integrated municipal regions needed to be created (extensive development) (Turok and Borel-Saladin, 2013). Subsequently, in 1998, the White Paper on local government proposed that urban and rural areas that were functionally related be integrated, as one municipality, to provide economic equity and offer a more socially balanced development approach (RSA, 1998; SALGA, 2018; MDB, 2019) (Refer to Figure 2).

Consequently, in 1998, the Municipal Structures Act (117 of 1998) and the Municipal Demarcation Act (27 of 1998) both conceded to the equity approach and passed formal criteria on how municipalities should be demarcated and categorised in South Africa. Subsequently, Section 24 and 25 of the Municipal Demarcation Act prescribed a one-size-fits-all criteria that needed to be followed during the demarcation of municipal boundaries (refer to Table 2). Meanwhile, the Municipal Structures Act (27 of 1998) provided the criteria on how municipalities should be categorised as either Category A (Metropolitan), Category B (Local), or Category C (District) municipalities. This categorisation depended on their adherence or non-adherence to the criteria and the discretion of the Municipal Demarcation Board (MDB) (RSA, 1998).

This policy opinion piece seeks to unpack the criteria used to demarcate municipalities in South Africa, 22 years later. It aims to determine if these criteria are actually easy for the public to understand, to motivate against, and to monitor. As a result, the paper does not go into theoretical discussions around the literature that informs the criteria, but rather investigates how these can be interpreted by the public. The following section briefly looks at the requirements of the Municipal Demarcation Act (27 of 1998) which was recently updated to the Municipal Demarcation Bill (2020).

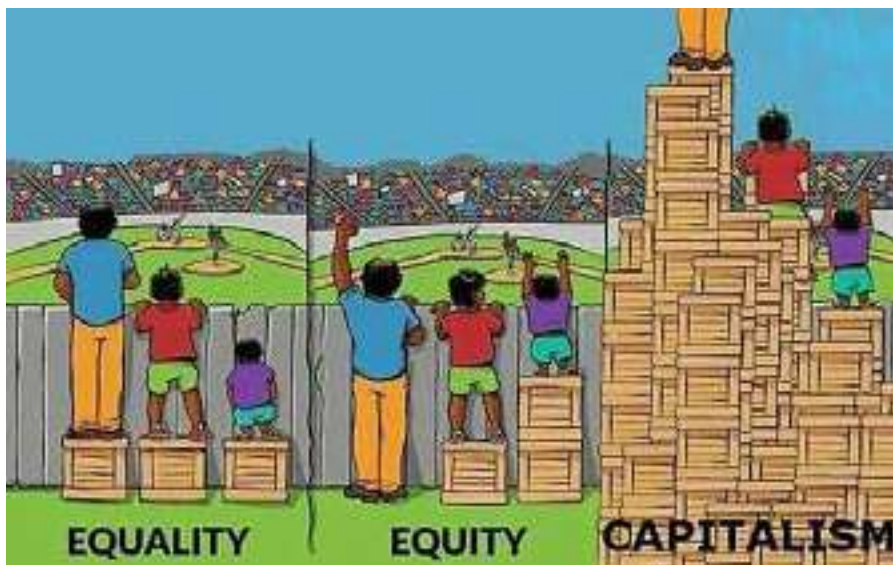


Figure 2: Effects of policy to achieve equality, equity, and capitalism (Source: Olson, 2019)

Demarcation Criteria

In 1998, the White Paper on Local Government (RSA, 1998) called for the creation of 'developmental local government' which would address the needs of the community in an efficient and effective manner. This was to be achieved through the appointment of an accountable local government (Koma, 2012). This combined with the principle of integrated cohesive societies of the White Paper of Local Government, the balanced

development economic approach from GEAR, and the criterion as stated in the Municipal Demarcation

Act 117 of 1998 (refer to Table 2) (RSA, 1996; RSA, 1998). As a result, the MDB opted to demarcate fewer but spatially larger municipalities in 2000. The rationale behind this was that the integration of urban and rural would promote balanced regional development, thereby reducing administrative costs and providing economics of scale (RSA, 1998). The developmental aspect as such was left to the appointed council of the municipality to fulfil. However, according to Sections 22 and 26 of the Municipal Demarcation Act (27 of 1998), the MDB can re-determine municipal boundaries every 5 years on request from the Minister, the MEC, the public, the municipality, or its own discretion.

Subsequently, the Constitution also calls for the public to be actively involved in all decisions that affect them (RSA, 1996; Parliament, 2019). According to Parliament, public is defined as ‘anyone from community’, including interested or affected individuals, groups, communities, organisations, and civil society and government entities (Parliament, 2019: 3). According to Cogan and Sharpe (1986: 284) public participation provides information and ideas on public issues. They further found that a public who feels heard will support planning decisions – resulting in increased trust between governing parties, a reduction in public protests, and more effective implementation. This should be a natural process, considering that the public elects the government to ‘work’ for them.

In view of this, Letlape and Dube (2020) found that between 2000 and 2022 the MDB has received over 1,030 applications to re-determine boundaries within the country. Each of these applications had to follow the entire legal demarcation process. However, to date, this has only resulted in 27 major adjustments (2000–2022) (Refer to Table 1 below). That is a 0.27% success rate. According to Letlape and Dube (2020), many of the applications received were unclear or did not provide reasons for the requests at all.

Nonetheless, there were numerous adjustments to boundaries over the 20-year period, not all of which

resulted in the recategorization of municipalities. The mergers resulted in the number of municipalities declining from 284 in 2000 to 257 in 2016. The biggest decline occurred in local municipalities, which declined by 26 from 2000 to 2016; the number of district municipalities declined by three over the same time period. However, this decline resulted in the country receiving two more metropolitans over this period (refer to Table 1 below).

Year	Category A	Category B	Category C	Total
2000	6	231	47	284
2006	6	231	46	283
2011	8	226	44	278
2016	8	205	44	257

Table 1: Number of municipalities determined or re-determined since 2000 (Source: Adapted from MDB, 2022).

According to the MDB (2019), the mergers and subsequent recategorizations of municipalities are expected to create more effective municipalities that are more efficient in delivering services to local communities. However, in 2019, the MDB found that after each delimitation there was an increase in community protests, conflicting leadership, and lack of administrative capacity. In defence, the MDB (2019) rightfully dissolved responsibility of the dysfunctional municipalities, since it is only responsible for the delimitation of boundaries and could not be held responsible for poor service delivery or maladministration, as these are shortfalls of the municipal administration (Letlape and Dube, 2020). Additionally, the MDB states the public was involved in the delimitation process and there was large scale agreement, before formalization. Regardless, the public dissatisfaction in terms of public protests does raise concerns on the delimitation outcome and this – together with the high rate of failed delimitation applications – brings into question the entire delimitation process. The next section unpacks the delimitation application as listed on the MDB website.

Delimitation Application

In light of the upcoming delimitation, the MDB has invited applicants to put forward suggestions for the re-delimitation of local boundaries. However, each application needs to motivate how the proposed delimitation would meet the requirements below, before the MDB would consider it after 31 March 2022 (refer to Table 2).

Section 24	Section 25
<p>(a) The objectives of re-determining municipal boundaries are to enable the municipality, for that area, to fulfil its constitutional obligations, including:</p> <ul style="list-style-type: none"> (i) the provision of democratic and accountable government for the local communities; (ii) the provision of services to the communities in an equitable and sustainable manner; (iii) the promotion of social and economic development; and (iv) the promotion of a safe and healthy environment; <p>(b) enable effective governance,</p> <p>(c) enable integrated development,</p> <p>(d) Have a tax base as inclusive as possible of users of municipal services in the municipality</p>	<p>(a) the interdependence of people, communities and economies as indicated by-</p> <ul style="list-style-type: none"> (i) existing and expected patterns of human settlement and migration; (ii) employment; (iii) commuting and dominant transport movements; (iv) spending; (v) the use of amenities, recreational facilities and infrastructure; and commercial and industrial linkages (b) the need for cohesive, integrated and unfragmented areas, including metropolitan areas <p>(c) the financial viability and administrative capacity of the municipality to perform municipal functions efficiently and effectively</p> <p>(d) the need to share and redistribute financial and administrative resources</p> <p>(e) provincial and municipal boundaries</p> <p>(f) areas of traditional rural communities</p> <p>(g) existing and proposed functional boundaries, including magisterial districts, voting districts, health, transport, police and census enumerator boundaries (h) existing and expected land use, social, economic and transport planning</p> <p>(i) the need for coordinated municipal, provincial and national programmes and services, including the needs for the administration of justice and health care</p> <p>(j) topographical, environmental and physical characteristics of the area</p> <p>(k) the administrative consequences of its boundary determination on-</p> <ul style="list-style-type: none"> (i) municipal creditworthiness; (ii) existing municipalities, their council members and staff; and (iii) any other relevant matter; and <p>(l) the need to rationalise the total number of municipalities within different categories and/or different types to achieve the objectives of effective and sustainable service delivery, financial viability and macro-economic stability.</p>

Table 2: Sections 24 and 25 of the Municipal Demarcation Act (27 of 1998)

According to the MDB (2022) proposal form, the applicant has to first provide their name, position, email address and cell phone number. This information is used to motivate that the application came from a living person and was not just created. However, it compromises the anonymity of the application and could politicise the application. Section B of the form requires background to the application and requires the applicant to provide advantages and disadvantages of the proposal. This provides the public opinion on why the application is considered important, in general. However, from section C the application gets technical and requires the applicant to determine the impact that the delimitation may have and how it would intrude the affected municipalities, in terms of: 1) budgets; 2) equitable share; 3) national and provincial grants; 4) tax base; 5) infrastructure; 6) grading; 7) number of councillors; 8) administrations and human resources; 9) the transfer of assets and liabilities. This is the information the applicant would need to collect while lobbying the relevant stakeholders (MEC of local government, SALGA, community leaders, municipal leaders) in the affected municipalities to agree with the delimitation proposal and provide their consent in section D (MDB, 2022; RSA, 2020). This creates biases and exposes the applicant. Moreover, if the proposed application is not supported, the stakeholders could withhold their signatures and information – making the application obsolete.

Section E is rather complex and technical since it is based on the criterion as found in Section 24 of the Municipal Demarcation Act (117 of 1998) read together with Section 25 of the Municipal Demarcation Bill (2020) and Section 152 of the Constitution (refer to Table 2). This section requires the applicant to motivate why the region to be delimited is interrelated in terms of existing and expected human settlement patterns, employment, commuting and spending trends, and the use of amenities. The applicant should also motivate regarding the region's commercial and industrial linkages, and should ensure that the financial and administrative capacity of municipalities is interlinked and that settlements within the municipality are more interconnected with each other than with settlements outside of the municipality. Theoretically, this is a Functional Urban Region (FUR). However, the manner in which a region can be determined as a FUR is subjective

and differs according to the interest of the applicant and the context (OECD, 2022). A seminar conducted between the HSRC and the MDB in 2019 revealed that currently there is no clear understanding on how this could be measured or determined – since the FUR could comprise of only urban areas (FUA), or only rural areas (FRA), or a combination of urban-rural areas. Furthermore, the distance between these settlements is not prescribed. Nonetheless, the MDB is still obligated to look at all applications in terms of the legislative criteria, even if there is no objective data to prove that any of the above-mentioned criteria are met (MDB, 2018; MDB, 2019). In light of this, decisions are based on motivations, viability, and public opinion.

To complicate the process further, Section F is based on Section 25 of the Municipal Demarcation Act (27 of 1998) and Section 26 of the Municipal Demarcation Bill (2020) and requires the applicant to provide all of the following: relevant data on demographics, interdependence of people, communities, and economies; their ability to share and redistribute financial and administrative resources – to save cost; the financial viability of the entity; motivation on how it could operate as a single, cohesive, unfragmented area; land use patterns; human resource issues; credit rating; and how the municipality would fit in with municipal, provincial, and national programs in the future (RSA, 1998). Upon investigation, Section 25 is found to have too many criteria, some of which

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are duplicated from Section 24. For example, criteria (b) and (c) can be consolidated since both look at administrative capacity and financial viability; point (f), (g), (o) and (p) can be combined as one point that looks at functional boundaries; and points (h) and (i) can be joined and labelled as planning issues (MDB, 2022). Furthermore, the country as a whole has a national plan on how it wants to develop its administrative regions or which areas need to be developed strategically (See National Spatial Perspective (2007), the Integrated Urban Development Framework (2016), and the National Spatial Development Plan (2020)). However, the policy and legislative framework exhibits cracks and gaps as the implementation of transformative growth and development projects are slow. It remains unclear what instruments provinces, districts, and municipalities have to guide the allocation, distribution and budgeting of resources for land development, administration and management purposes. Therefore, it is also questionable how an individual from the public would know which data to collect and which policy to motivate against itself in terms of future strategic development.

Additionally, the applicant would have to further motivate Section G and the capacity of the municipality in terms of Section 85 of the Municipal Structures Act (117 of 1998) in terms of finance, human resources, and infrastructure. This is information that is not easily accessible to the public and makes the process complex and tedious although necessary. Section H is only necessary for motivation for a Category A municipality.

On the whole, the above-mentioned process is technical, complex, multi-disciplinary, politicizing and time-consuming. As a result, the voices of many individuals from the public who have limited knowledge on how to file the complicated application remain muted and dissatisfaction on the process could and has continued. This can be deduced from Section C of the MDB application, where it appears as if the voices of the public are only heard if they align with the technical requirements of the Municipal Demarcation Act and if they are approved by the MDB, MEC, and Provincial Ministers. However, the requirements and their adherence are subjective and case specific. In this manner, the administrative power of the MDB is dedicated

to inciting, reinforcing, monitoring and optimizing the criteria prescribed in the legislation, without really considering alternatives (see Foucault, 1979). This brings into question the sovereignty of the state, the agency relationship between the MDB and the government, and the power that the public actually has to bring about change, even though they are included in the process. This surely cannot be constitutional and the frustration can clearly be noted by the public protests that occur.

A point that seems to become apparent through the analysis of the demarcation criteria is that the ideology of developmental local government is being lost in the attempt to create integrated municipalities. None of the criteria look at the quality of life in the municipality, the level of unemployment, the level of education, access to health care, birth and death rates, or access to basic services. The outcome, though not entirely, can be seen through present-day South Africa in the form of disrepair within cities and towns that were once the backbone of the economy, and through the backlog of basic service provisions (Khambule, Nomdo and Siswana, 2018). All the same, the social administrative challenges which include corruption, lack of adequate skills to run municipalities, political interferences and the culture of non-payment also play a contributing role in the poor non- developmental condition of our municipalities (MDB, 2019).

In light of this, one could also question if municipalities might not be too big to be sustainable, effective, efficient, and development orientated? The literature reveals that larger municipalities are supposed to be more economically efficient and allow for better social and physical integration and growth (OECD, 2018). However, in the South African case, integration and functional linkages are based on the unnatural linkages formed during apartheid. This means that the area demarcated might also be unusually and unnaturally large, hindering service delivery (Dube and Radikonyana, 2020). As a result, the question arises regarding whether smaller, more inclusive, and more development-oriented municipalities would offer the solutions to these multi-faceted problems. However, the criteria as found in the Municipal Demarcation Act (Refer to Table 2) does not allow an applicant to

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suggest de-amalgamation, even if they are found to be dysfunctional. This is something that requires further research.

Lastly, it should be considered that the delimitation of local boundaries every five years is costly and affects the financial viability and service delivery of municipalities (MDB, 2019). The shifting of local boundaries disturbs data collection, which is used to rationalise services, fees, tax rates, management costs, payroll systems, voters roll, and administrative and human resource policies (SALGA, 2018). This directly affects the service delivery in the area. It is suggested that a longer period, between delimitation, would allow the municipality to stabilise in terms of administration and would provide a clearer picture on whether the re-delimitation is required or not (MDB, 2019). Furthermore, more research into the legal requirements is required to ensure that it is applied consistently and that applicants understand the objective requirements before filling it.

In closing, local municipalities are the most important tier of government since they have direct contact with the citizens. The initial focus of creating cohesive municipalities has to a large extent been successful. However, the development orientation ideology that listens to the ‘will of the people’ is under scrutiny (RSA, 1996; RSA 1998; Turok and Borel-Saladin, 2013; MDB, 2019). The 2020 Auditor General report by Kimi Makwetu attests to the difficulties and challenges faced by municipalities in terms of administration,

and to the resultant dysfunctionality – with only 8% receiving clean audits (Makwetu, 2020). The power of well-thought-out boundaries around administrative regions should not be overlooked as they could assist in reducing the number of challenges faced by the administration and assist in making them more specialised and economically stronger.

Conclusions

The South African demarcation exercise is unique in its own right. The democratic government inherited a spatially fragmented, unequally developed, and economically unbalanced landscape. As a result, its attempts to create an integrated and cohesive society have been accompanied with numerous challenges. Even though the democratic government has made provisions for the public to actively participate in the process, the process is too technical, complicated, and time consuming. As a result, many applicants are not successful in their proposed application, even though they have valid suggestions, creating dissatisfaction and public frustration. Maybe it is time to re-look at the application process and simplify it to actually make it public participation friendly. For the fear is, if they continue to be silenced through technicalities and complexity, the country would not truly progress developmentally and become a nation that serves the most vulnerable.

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