

WARD COMMITTEE CHALLENGES IN SOUTH AFRICA'S LOCAL MUNICIPALITIES: FUNCTIONS AND DYSFUNCTIONS

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ABSTRACT

In accordance with the provisions of the Constitution of the Republic of South Africa (1996), local municipalities have established ward committees as a means of involving stakeholder communities in public affairs. Community participation is firmly entrenched as a pillar of local government in a democratic South Africa. Municipalities are encouraged to work with people in order that they may not seek to be passive beneficiaries; and, the Municipal Structures Act (117 of 1998) provides for the modus operandi for the creation of ward committees. As platform for public participation, ward committees are expected to facilitate communication between municipalities and communities as well as enhance participatory democracy at local level through decision-making processes. In reality, though, ward committees have faced teething challenges, especially in respect of influencing the decision-making processes. This article examines the functions and dysfunctions of ward committees precipitated by the prevalent challenges in the municipal decision-making processes. The article concludes that the challenges faced by the ward committees are associated with the existing local municipal governance.

Keywords: Ward Committees, Ward Councillors, Municipalities, Power, Municipal Councils, South Africa

1. INTRODUCTION

The Constitution of the Republic of South Africa requires municipalities to encourage the involvement of communities and community organisations in the matters of local government (RSA, 1996, section 152 (1) (e)). All municipalities are mandated to be developmental. Developmental local government is a local government committed

to working with locals and groups within the society to discover sustainable ways to meet their social, economic and material needs and improve the quality of their lives (RSA, 1998: 23). Both Municipal Systems Act (32 of 2000) and Municipal Structures Act (117 of 1998) give effect to provision of the Constitution regarding involvement of the communities in municipalities. The Municipal Structures Act provides that municipalities which are allowed to establish ward com-

mittees may establish ward committees (RSA, 1998). Therefore, municipalities are not obliged to establish ward committees. These ward committees were introduced in municipalities as community structures to play a critical role in linking and informing the municipalities about the needs, aspirations, potentials and problems of the communities (Mgwebi, 2014). Although it is optional, ward committees have been established in more than 80% of the wards in South Africa (Department of Provincial and Local Government, 2005: 1).

It has been established that the system of ward committee has not lived up to its potential to enhance community participation (Naidu, 2011; Masango, Mfene & Henna, 2013). For instance, Naidu (2011: 10) stated that the role of ward committees in democratic governance and in the facilitation of public participation is one characterised by failure. On their part, Masango, Mfene & Henna (2013) stated that it appears that ward committees' performance is not satisfactory and that has negatively impacted on the pursuance and realisation of the objectives of ward committees. The rationale behind this conclusion is that many ward committees, if not all, are facing multitude of challenges which hinder their performance. These challenges are lack of skills by members of ward committees, lack of influence on the decisions of municipal councils, issues sur-

rounding representation in the ward committees, lack of access to information by ward committees, resource constraints and the fact that ward committees lack real powers.

2. THE ESTABLISHMENT OF WARD COMMITTEES

When a local or metro council resolves to establish ward committees, it must establish a ward committee for each ward in the municipality (RSA, 1998, section 73 (1)). It therefore means that metropolitan or local council cannot establish a ward committee to a specific or particular ward to the exclusion of other wards. Above all metropolitan or local council have discretion to start ward committees, it is not legally bound to establish ward committees. Moreover, metropolitan or local council have power to disband ward committees if they fail to fulfil their purpose (RSA, 1998, section 78). However, it is advisable to establish a ward committee because its objective is to enhance participatory democracy in local government (RSA, 1998, section 172 (3)). Moreover, ward committee should disperse information within the ward, assists to rebuild partnership for better service delivery and also assist with problems experienced by the people in the ward (Putu, 2006). Ward committee serves as an independent advisory and representative body which must act impartial and perform its functions without fear, favour or prejudice

(regulation 4 (2) of the Guidelines for the Establishment and Operation of Municipal Ward Committees Notice 965 of 2005 (hereinafter GEOMWCN)).

All ward committees must comprise of the councillors who represent those wards in municipal council and not more than 10 other people (RSA, 1998, section 73 (2) (a) & (b)). The councillors who represent the ward in municipal council must be the chairpersons of the ward committees (RSA, 1998, section 73 (2) (a)). These councillors are often referred to as ward councillors. A metro or local council is required to make rules which will regulate the procedure to elect the 10 members of a ward committee, taking into account the need for women to be equitably represented in a ward committee and for a diversity of interests in the ward to be represented (RSA, 1998, section 73 (3) (a)).

The law prescribes that there are certain, not all, metro and local municipalities that may have ward committees. In the case of metros, the following types may have ward committees: a municipality with a collective executive system combined with a ward participatory system (RSA, 1998, section 8 (c)); a municipality with a collective executive system combined with both a sub council and a ward participatory system (RSA, 1998, section 8 (d)); a municipality with a mayoral executive system combined with a ward participatory

system (RSA, 1998, section 8 (g)); and, a municipality with a mayoral executive system combined with both a sub-council and a ward participatory system (RSA, 1998, section 8 (h)).

In the case of local municipalities, the following types may have ward committees: a municipality with a collective executive system combined with a ward participatory system (RSA, 1998, section 9 (b)); a municipality with a mayoral executive system combined with a ward participatory system (RSA, 1998, section 9 (d)); and, a municipality with a plenary executive system combined with a ward participatory system (RSA, 1998, section 9 (f)). Note has to be made that all district municipalities are prohibited to establish ward committees. The rationale behind prohibition may be that district municipalities comprise of proportional representation councillors and those appointed by local councils in the district.

3. THE FUNCTIONS OF WARD COMMITTEES

A ward committee may make recommendations on any matter affecting its ward to the ward councillor or through the ward councillor, to the metro or local council, the executive committee, the executive mayor or the relevant metropolitan sub-council (RSA, 1998, section 74). Moreover, ward committee may have powers and duties delegated to it by

metro or local council. With regard to delegation of functions, a municipal council may not delegate a power to pass by-laws, the approval of budgets, the imposition of rates and other taxes, levies and duties and the raising of loans to ward committee or any other committee (RSA, 1996, section 160 (2)).

The guidelines for the establishment and operation of municipal ward committees provide detailed functions and powers which may be delegated to ward committees. Among others, ward committee may serve as a mobilising agent for community action within the ward, through attending to all matters that affect and benefit the community (GEOMWCN, 2005, regulation 5 (3) (c) (i)); acting in the best interest of the community (GEOMWCN, 2005, regulation 5 (3) (c) (ii)); and, ensure that the active participation of the community in service payment campaigns, the integrated development planning process, the municipality's budgetary process, decisions about the provision of municipal services and decisions about by laws (GEOMWCN, 2005, regulation 5 (3) (c) (i)).

4. THE CHALLENGES OF WARD COMMITTEES

Ward committees were created with intention of fulfilling public participation between the local and municipalities. However, ward committees are facing persistent challenges which need to be ad-

ressed. The following are the major challenges face by ward committees. In what follows, the paper discusses each challenge separately with a link to governance or legislative solution with the aim of achieving constitutional objective of enhancing public participation.

4.1. Lack of Skills by Ward Committee Members

Lack of skills is one of the major challenges face by not only ward committees but municipalities throughout South Africa. It is important for members of the ward committees to possess skills in order to perform their roles and functions effectively and efficiently. Sometimes it is not only members of ward committees who lack skills but even ward councillors who are chairpersons in the ward committees and representatives of the ward in municipal councils lack skills.

For that reason, Putu (2006) argued that in some cases even the ward councillors could not publicly explain the development decision of municipal councils because they did not comprehend the technicalities. A skills audit of 373 ward committee's members in the Nelson Mandela Bay Municipality carried by the project for Conflict Resolution and Development 2008 found that only 34 of the members (9%) had any post matric training or qualification and 59 members (16%) did not have a matric qualification (Smith & De Visser, 2009:18). According to Himlin (2009), in the

City of Johannesburg many ward committee members were not sure about their roles or even how to perform their function. Many of the ward committee members are new to the local governance sector and had not engaged with their municipality on matters of good governance in any way prior to their election in the ward committees (Kabane, 2014). The ward committees' members experience difficulties in digesting the information in the budget and IDP. If ward committee's members are unable to understand such information, how are they going to spread such information to the communities? In order for members of ward committees to research the needs of the communities, they have to be equipped with resources and skills to conduct such research.

Municipality should assist ward committees to prepare an annual capacity building and training needs assessment for members of the committee (GEOMWCN, 2005, regulation 6 (1)). This annual capacity building and training programme should be developed for each member of the ward committee (GEOMWCN, 2005, regulation 6 (1)). After taken into consideration any funds budgeted by the municipality, an annual budget for the capacity building and training programme should be prepared according to the needs assessment (GEOMWCN, 2005, regulation 6 (1)). Therefore, it is necessary for municipalities to budget for the training of ward

committee members, failure will result in underperformance of ward committees. Consequently, it will defeat the purpose or intention of public participation through ward committees.

4.2. The Lack of Impact on the Decisions of Municipal Councils

Ward committees are supposed to be platform where communities influence decisions of municipal council. Ward committees are empowered to make recommendations to municipal councils. It is therefore encouraged that ward committees should participate in preparation of their municipality's budget; implementation and review of integrated development plans; monitoring and reviewing of their municipality's performance; and, decisions on the provision of municipal services.

Raga & Taylor (2005) argue that in order for ward committees to function efficiently and in the best interests of their respective communities, they need to be actively involved in the policy-making process in the local sphere of government. Kabane (2014) also argue that ward committees were introduced in municipalities as community structures to play a critical role in linking and informing the municipalities about the needs, aspirations, potentials and problems of the communities.

In order for ward committees to have impact on decisions of mu-

nicipal councils, municipalities must be responsive to the issues raised by ward committees through their ward councillors in the municipal council's meetings. However, ward committee members have indicated the non-responsiveness of municipalities on issues that they have brought to the attention of the municipality (Kabane, 2014). Therefore, it makes hard for ward committees to give feedback to the communities. It must be noted that the Constitution mandates democratic government (all three spheres of government) to ensure accountability, responsiveness and openness (RSA, 1996, section 1 (d)). It may be necessary for the law to stipulate the timeframe within which municipal council may respond to the issues raised by ward committees. Furthermore, it is submitted that ward committee should have a legislative power to summon a mayor at least once in year to attend one meeting and answer the questions asked by the committee members.

Municipalities must strive, within its administrative and financial capacity, to provide democratic and accountable government for local communities (RSA, 1996, section 152 (1) (a)). A Ward committee system could be used to bring a mayor close to the people and account to them. When a mayor appears before a ward committee to answer questions, it will enhance the impact of ward committee in municipality.

A legal provision should be made to require ward councillors to table the reports and recommendations made by ward committees in municipal council. Afterwards, municipal council must be given a timeframe to respond to all issues raised by ward committees. In order for society to believe in ward committees as a channel communication between them and municipal councils, the decisions of municipal councils should reflect the recommendations of ward committees. It is useless to make recommendations if they are not taken into account. Failure to take views of the ward committees into account will raise a question of credibility over ward committees and their impact in the communities.

4.3. Representation in Ward Committees

One of the major challenges is the way people are nominated or elected to serve in the ward committees. There is an allegation that the ward councillors direct the selection of ward committee members in line with their political affiliations (Kabane, 2014). Another allegation is that ward committee members are, many times, only extensions of party structures and do not encompass the full range of interests in communities (Smith & De Visser, 2009: 16). The inference that can be drawn from partisan ward committees goes beyond just undermining their independent role, but also directly impacts on civil

society, by undermining its ability to engage municipal councils (Piper & Deacon, 2009: 425). Modumo (2010) argues that a councillor as a ward representative in a municipal council has the potential to promote partisan interest. For example, Buffalo City held multi-party caucuses to get inter-party consensus on the nomination process of ward committee members (Good Governance Learning Network, 2008: 26). According to Piper & Deacon (2009), in Msunduzi local municipality the Inter-party competition between the Inkatha Freedom Party (IFP), the African National Congress (ANC) and Democratic Alliance (DA) ward committees appear to be subject to their respective party's control in terms of both composition and agenda-setting.

These party-politics issues in ward committees are obstacles. Ward committees are required, first, to be representative structure of the whole ward irrespective of party affiliations. Diversity of interests and gender representation must be taken into account when composing a ward committee (GEOM-WCN, 2005, regulation 7 (3) & (4)). This reflects the principle of equity and inclusiveness, which ensures that all members of the society, particularly most vulnerable, have a say in the running of that society. Secondly, ward committees must be independent from parties' control, therefore ward committees are not supposed to be the extension of the political parties.

Thirdly, ward committees are compelled to be impartial and perform its functions without fear, favour or prejudice. When political party priorities influence ward committees, the impartial representation of the communities becomes compromised.

4.4. Access to Information

Ward committees can be very useful for assessing needs of the community, spreading information, building partnerships, consulting the community and picking up local problems with services. Ward committees should make sure that there is more effective communication between the council and the community (Van Rooyen & Mokoena, 2013: 765). Moreover, ward committees should conduct research to comprehend the needs of the locals, assist with consulting residents on key choices around development, budgets and service delivery and communicate municipal information residents need to access services (Van Rooyen & Mokoena, 2013: 766).

However, Smith & De Visser (2009) assert that the ability of ward committees to function efficiently as communications channels between municipal councils and communities is limited by poor municipal communications strategies and lack of accessible information at ward level. Lack of information and the way in which information has been packaged

seriously precludes any useful input around budget processes and the review of Integrated Development Plans (Naidu, 2011: 4). Masango (2001) argues that a lack of information about the functioning of local government could also limit public participation at local government level. Municipalities need to provide sufficient and simplified information to ward committees. One of the core principles of good governance is transparency, which prescribes that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement (United Nations Economic and Social Commission for Asia and the Pacific, 2014). It also means that enough information is provided and that it is provided in accessible forms and media (United Nations Economic and Social Commission for Asia and the Pacific, 2014).

The primary function of ward committees is to be a formal communication channel between the communities and municipal council. Municipalities are mandated to encourage involvement of communities and community organisations in the local government matters (RSA, 1996, section 152 (1) (e)). The purpose of ward committees is to enhance participatory democracy in local government (RSA, 1998, section 172 (3)). In the case of *Doctors for Life International v Speaker of the National Assembly and Others* (Constitutional Court of South Africa, 2006) the court stat-

ed that participatory democracy is of special importance to those who are relatively disempowered in a country like ours where great disparities of wealth and influence exist. It went further to state that the democratic government that is required by the Constitution is a representative and participatory democracy which is accountable, responsive and transparent and which makes provision for the public to participate in the law-making process (Constitutional Court of South Africa, 2006: 121).

The ward committee system can also be viewed as a means of furthering the constitutional requirement of increased accountability, responsiveness, transparent and democratisation in local government (Taylor, 2008: 18). Therefore, ward committees need to be informed by municipal council in order to facilitate communication between municipal council and communities. It is submitted that municipalities should make printed information available to ward committees. If ward committee is unable to understand such information, it is advisable that ward committee call assistance from municipality to unpack such information.

4.5. Resource Constraints

It would be impossible to expect ward committees to function effectively without resources. An obstacle to capacity-building of ward committees points to the

lack of funding at municipalities (Kabane, 2014). Many municipalities have not been in a position to budget for capacity building and training of ward committees (Kabane, 2014). Masango, Mfene & Henna (2013) argued that even municipalities that have budgeted for operation of ward committees, it appears that they have done so out of responsibility rather than out of serious acknowledgement and consideration of the value that ward committees add to the greater governance of municipalities. Piper & Deacon (2008) argue that municipalities need to ensure the correct constitution of ward committees, train ward councillors and ward committee members, provides resources to ward committees and clearly define the role of ward committees in council processes.

Ward committees have raised concern over lack of access to resources such as office space, computers, printers and telephones (Kabane, 2014). This could be expensive for municipalities to provide offices, computers, printers and telephones to ward committees. The municipality is duty bound to provide resources to ward committees according to its financial capacity.

The Constitution mandates municipalities to strive within their financial and administrative capacity, inter alia, to encourage the involvement of the communities and community organisations in the

matters of local government (RSA, 1996, section 152). The *Borbert South Africa (Pty) Ltd and Others v Nelson Mandela Bay Municipality* showed that the municipal council is required to allocate resources for its duty of involving public in the local government matters and to ensure that the political and other structures established by the legislation are employed to meet the objectives of effective public participation (Eastern Cape High Court, 2014: 80). Municipalities must assign each ward committee an annual budget to spend on community projects and subject to establishing clear community consultation guidelines consistent with community based planning for ward committee deliberation (Department of Provincial and Local Government, 2005: 55).

The spending of such annual budget by a ward committee is subject to the financial controls consistent with the Municipal Finance Management Act and the municipal council must oversight ward committee to ensure that an annual budget is utilized in a proper manner (Department of Provincial and Local Government, 2005: 55). This is to prevent the possible abuse of money by ward committees and municipal finance must be used efficiently and effectively for the intended purpose.

4.6. No Real Power

The Municipal Structures Act (1998) prescribes that ward committee

may make recommendations on any matter affecting its ward to the ward councillor or through the ward councillor, to the metro or local council, the executive committee, the executive mayor or the relevant metropolitan sub-council (RSA, 1998, section 174 (a)). For that reason, Raga & Taylor (2005) argue that ward committees are purely advisory structures at present and it is doubtful whether they will be able to make a meaningful contribution on behalf of their communities.

However, Naidu (2011) argues that one of the important roles of ward committees as independent bodies is to monitor the performance of councillors and to review the IDP process. Smith (2007) argues that the oversight role of ward committees in relation to municipal performance within the ward and the performance of ward councillors are not clearly defined in the Guidelines for the Establishment and Operation of Municipal Ward Committees.

Moreover, the Municipal Structures Act (1998) vests discretion upon municipal council to delegate powers to ward committees (RSA, 1998, section 74 (b)). Smith & De Visser (2009) argue that it appears that few municipalities have delegated powers to their ward committees. For that reason, ward committees have easily been dismissed as toothless bodies and talk shops (Ministry for Provincial and Local Government, 2007: 54).

Ward committees are likely to be more enthusiastic and meaningful if they are empowered in respect of core municipal processes, such as Integrated Development Plan, budget, performance management, performance and strategic decisions on services (Ministry for Provincial and Local Government, 2007: 54).

The Guidelines for the Establishment and Operation of Municipal Ward Committees provides a list of powers and functions which municipalities may be delegated to ward committees. However, delegation of such powers and functions may defer from municipality to municipality depending on the context of such municipality. Be that as it may, it is advisable for municipalities to consider delegating such powers and functions to ward committees. The Constitution prohibits municipal council to delegate the passing of by-law, the approval of budgets, the imposition of rates and other taxes and the raising of loans (RSA, 1996, section 160 (2)). The Guideline on the Establishment of Ward committees also prohibits the delegation of executive powers to ward committee members (RSA, 1996, regulation 5 (3) (d)).

Moreover, a key consideration for both ward committee members and municipal practitioners in deciding on delegations to ward committees should be the preservation of ward committee autonomy (Department of Provin-

cial and Local Government, 2005: 41). This is threatened where ward committees begin to take on decentralised municipal functions like local project management and the administration/supervision of municipal facilities (Department of Provincial and Local Government, 2005: 41).

5. CONCLUSION

Whereas well-intended, the provisions for the establishment of ward committees have not addressed the practical implications of community participation in municipal decision-making processes. The paper concludes that the major challenges of ward committees are defeating the purpose of their establishment; and, several recommendations are offered. First, the municipal councils must budget for training of members of ward committees. After the election of members of ward committees, the training must start as soon as possible.

If members of ward committees are not equipped with necessary skills to discharge their functions, the results will always be not satisfactory. Secondly, municipal councils should reflect the recommendations of ward committees when taking decision. This will help to strengthen the credibility of ward committees and communities will thus trust them as the facilitators of communication between the locals and municipalities. It was further submitted that the law should

be amended to allow ward councillors as the chairpersons of ward committees, on the one hand, should start tabling the reports and recommendations in municipal councils. The municipal council, on the other hand must be given a timeframe to response to all issues raised by ward committees. Moreover, the law must be amended to mandates a mayor to attend at least one meeting of every ward committee once year to answer the questions asked by what committee members.

This arrangement will enhance the status and influence of ward committees in the municipal councils. Thirdly, municipalities must make information accessible and simplified in a manner which can be understood by a layman. One of the functions of ward committee is to disperse information in the ward and it can easily be performed if members of the ward committee understand it.

Fourthly, it is indispensable fact that without resource, ward committees will be unable to perform their functions. The lack of resources will lead to dysfunctional ward committee which does not facilitate communication between community and municipal council. It is the mandate of municipalities to facilitate community participation and therefore their structures such as ward committees which aim to enhance the participatory democracy must always be funded so that their work can be done without

financial constraints. The municipalities must provide reasonable resources to ward committees as soon as the members of such ward committees are elected. Finally, municipalities should consider delegating functions to ward committees. Evidence demonstrated that municipalities are not delegating functions which were supposed to be delegated to ward committees in terms of the Guidelines for the Establishment and Operation of Municipal Ward Committees.

However, delegation of functions and powers to ward committees should be done within context of each municipality. Before the functions can be delegated, the above challenges need to be addressed because the ward committees should be capable to discharge those functions. In other words, ward committees should possess necessary skills, be able to access information and scrutinize it and facilitate the communication between the municipality and the community.

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