REDEFINING THE ROLE OF LOCAL LABOUR FORUMS IN MUNICIPALITIES

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1. INTRODUCTION

Good Labour Relations in Local Government is a legislative imperative that municipalities have to nurture and sustain at all costs. Failure to maintain good labour relations could have a direct impact on the levels and quality of service delivery. If municipal employees embark on endless strikes, this would obviously translate into no delivery of basic services to the communities that so desperately need them. The 2009 State of Local Government Report that was published by the Department of Corporative Government and Traditional Affairs (DCoG) indicates a breakdown of functional labour relationships in many municipalities. Related to this is the poor functionality of Local Labour Forums and the lack of trust between management and organized labour due to the latter’s role in reporting cases of alleged corruption and nepotism.

The non-functionality of the LLF is a widespread phenomenon in municipalities throughout the country. The Local Labour Forums are not functional and in some cases not effectively utilized due to lack of cooperation between organized labour, councillors and senior management. This exacerbates the instability in administration and has a serious impact on service delivery. Due to this non-functionality many labour demands are not addressed and contribute to the mobilization of labour against management. The Organizational Rights Collective Agreement which governs the establishment of Local Labour Forums (LLF) is also not consistently implemented in municipalities. This has led to non-functionality of LLFs in many municipalities across provinces (DCoG, 2009:65).

The purpose of this paper is to reflect on the assessment of DCoG as alluded in the report, to identify possible challenges that have led to the non-functionality of LLFs, and to propose possible solutions. Maybe it is time that municipalities (labour, management and councilors) must go back to the drawing board and redefine the role of the Local Labour Forums and the rules of engagement thereof. The paper will focus on the legislative and regulatory framework of Local Labour Forums, the general state of labour
relations in local government in the past ten years, the role that LLFs can play in programmes that promote developmental local government, the challenges that LLFs face, possible future solutions.

2. LEGISLATIVE AND REGULATORY FRAMEWORK OF LLFs

Section 23 of the Constitution of the Republic of South Africa, Act 108 of 1996, lays the basis for good labour relations and collective bargaining. The Labour Relations Act, 66 of 1995 (hereafter referred to as the Act) prescribe how this constitutional mandate can be achieved. The primary purpose of the Act was to change the law governing labour relations with specific focus on, amongst other things, promoting and facilitating collective bargaining at the workplace and at sectoral level. This resulted in the establishment of the Sectoral bargaining Councils, as provided for in Section 27 of the Act.

Local Government as a sector was no exception. Prior to the Labour Relations dispensation, there were a lot of disparities in terms of the representation of stakeholders in labour relations structures. According to the Constitution of the South African Local Government Bargaining Council (SALGBC), an interim structure called the National Labour Relations Forum (NLRF) was established to ensure that all trade unions and employer organizations participated under one single institution. This forum was responsible for the transformation of the labour relations environment in local government. The founding constitution of the SALGBC was negotiated and concluded in the NLRF. Eventually this resulted in the formation and registration of the SALGBC on 1 March 2001. The parties were the South African Local Government Association (SALGA) as the employer representative and two trade union parties – the South African Municipal Workers Union (SAMWU) and the Independent Municipal and Allied Trade Union (IMATU).

The SALGBC entered into a main collective agreement in terms of section 33A of the Act which further elaborates that a collective agreement must include –

(a) Any basic conditions of employment as well as

(b) The rules of any fund or scheme established by the bargaining council

2.1 Composition of a Local Labour Forum

Section 2.8.11 of the Main Collective Agreement of the SALGBC dictates that every employer must establish a Local Labour Forum with equal representation from the trade unions and the employer. The trade unions’ representation shall be divided in proportion to their respective membership in that employer. Employer representatives on the other hand shall consist of Councilors and of Management
(as set out in clause 2.4.2.1 – which specifies the Municipal Manager and persons appointed as managers directly accountable to Municipal managers in terms of section 57 of the Municipal Systems Act, 32 of 2000).

2.2 Powers and Functions of a Local Labour Forum

According to section 2.8.2 of the main collective agreement, the LLF shall have the powers and functions of negotiating and/or consulting on the following matters

- Matters of mutual concern pertaining to the municipality and which do not form the subject matter of negotiations at the SALGBC
- Matters referred to it by the SALGBC
- Minimum Service Level Agreements
- Disputes over what is negotiable and what are the matters for consultation and over whether a specific process constitutes sufficient consultation are to be resolved through the dispute resolution mechanism of the SALGBC.

The agreement does not give explicit powers to these structures to enforce agreements reached by the parties. The only recourse that both parties have remains declaring a dispute at the SALGBC and of course the legal processes that result in industrial action. The question is, are these enforcement measures effective? Sufficient? Prompt? Maybe the functionality of these structures is dependent on the level of power vested on them,

3. REFLECTIONS OF THE PAST TEN YEARS

The past decade has been marred with instability in the labour relations front and this was manifested through major municipal strikes as reported in the media. According to the COGTA report, in 2005 and 2007 strikes in the municipal sector ranked among the top six strikes nationally in terms of workdays lost. This is of specific relevance as the strategic objectives of SALGA include ensuring municipal compliance with workplace legislation, to facilitate the implementation of labour and human resource dispensation in municipalities that enhances service delivery and to advocate labour peace in the sector. Disruptions were experienced during the recent (2009/10) municipal workers strike which saw dozens of striking municipal workers trashing the streets to voice their anger and disdain for the proposed wage increase by municipal employers.
In some instances, municipalities have also been experiencing standoffs between management and labour, which has led to prolonged strikes, court actions and damage to property. In many cases where the LLF is non-functional, relationships between management, councillors and labour are also adversarial. In the Free State this is reportedly the case in 14 of the 25 municipalities. While three municipalities have been singled out for serious labour challenges KwaZulu-Natal, a further 29 municipalities have moderate labour challenges which need to be addressed. There need to be engagement on the role of SALGA in the current poor relations between management and organized labour and its improvement.

This situation challenges municipal leadership to reflect on its labour relations status and on mechanisms such as the LLF and their effectiveness in creating stable local government environment.

4. THE ROLE OF LLFs IN DEVELOPMENTAL LOCAL GOVERNMENT

Local Labour Forums are a structure designed to strengthen the relationship between organized labour and management. This then also means that the effectiveness of the structure will have an impact of policy frameworks that govern local government. Most recent being the Local Government Turnaround Strategy as well as the Outcome 9 Service Delivery Agreement. The impact of the LLF on these policy imperatives will be elaborated on later.

Bendix (2001:4) describes the labour relations relationship to be like any human relationship which will contain elements common to all other relationships such as friendship, marriage, and business partnerships, social, religious and political liaisons. What makes these relationships work should also promote a sound labour relationship. Consequently, it could be postulated that, like all other relationships, the labour relationship will be nurtured by mutuality of interest, reciprocity of support, understanding, trust, facilitative communication, shared goals and shared values; and that it will falter should one or more of these qualities be absent. Also, as in the case of all other relationships, the labour relationship is multi-layered and dynamic, such change being dependent on the evolving status, needs, attitudes and perceptions of the parties concerned. If Local Labour Forums could be analyzed according to Bendix’s perspective, the clearly parties in the LLFs would have to go back to the drawing board and review the rules of engagement.

Grogan (2009:09) advocates for worker participation through various structures. He further explains that one of the principle objectives of introducing participative structures in an organization is to ensure constructive and harmonious labour relations. Parties to the employment relationship are encouraged to
cooperate and communicate in resolving differences, and in redressing workplace issues. Conflict is thus kept to a minimum, and parties gain a greater appreciation of one another’s roles in the employment relationship. He however cautions that in practice, if not managed effectively and transparently, worker participation is met with mistrust and suspicion. Unions see the introduction of participative structure [like LLF] as an attempt to either co-opt them or dilute their authority, while employees see little commitment by management to meaningfully participation. At the same time, management might see participative initiatives as a dilution of the managerial prerogative resulting in an “us vs them”. This is what has characterized LLFs in the past decade and thus resulting in the non-functionality of these very important structures. The situation poses a high risk to municipalities and a challenge to management who has to ensure that there is proper governance and effective management that facilitate stability in the municipalities.

4.1 The impact of functional LLFs on the Local Government Turnaround Strategy

The State of Local Government Report published by the Department of Corporate Governance and Traditional Affairs (DCoG) in 2009 observed that human resource management and systems in many municipalities is below standard, and the vacancy rate is jeopardizing effective service delivery. The report also stated that in the majority of municipalities performance agreements are not signed by due date as required. Beyond lack of financial resources and perhaps because of it, smaller less capacitated municipalities face a particular challenge in recruiting and retaining key staff. Their ability to deliver a focused set of priority municipal services is largely dependent on a professional core team that is able to plan and administer the delivery of essential services. To this end, an audit will be conducted to establish the quality and quantity of existing capacity. While in the past, audits may have looked at skills levels uniformly across the country, this audit will would seek for a segmentation process in order to establish patterns and identify locations of greatest need that warrant a differentiated approach. Initial work has already been undertaken with respect to skills audit. The findings of DCoG, DPSA and National treasury need to be consolidated via a dedicated project team that will be able to delivery on the audit results and propose on short and long-term actions particularly with respect to 63 vulnerable municipalities.

The report further acknowledges that strikes are a symptom of poor labour relations and the causes thereof being:

- Non-adherence to labour policy,
The January 2010 Cabinet Lekgotla adopted 12 Outcomes for implementation by government in the medium-term. Outcome 9 of these is to ensure that there is: A **Responsive, accountable, effective and efficient local government system**. Problems at municipalities range from issues of poor governance and accountability, weak financial management, high vacancies in critical senior management posts and in a number of instances, and inability to deliver even a core set of critical municipal services efficiently and effectively. Crucially as many as 5.7 million households did not have universal access to water, sanitation; refuse removal and electricity in 2007. All these problems combined have shattered the confidence of the
majority of people in local government system. Municipalities were envisioned as sites where government commitment to participatory governance would achieve meaning and content. Instead communities feel alienated and disconnected from decision-making processes and feel disempowered in influencing the affairs of the municipality.

The implementation of outcome 9 is split into 7 outcome and one of those (output 6) being to strengthen the administrative and financial capability of municipalities. Clearly this has a direct impact on healthy labour relations which if not sustained will definitely weaken the administration of municipalities. All this starts with the relationship between organized labour and management (senior management and councillors). A relationship that is to be fostered and nurtured in a formal structure such as the LLF.

5. CHALLENGES FACED BY LOCAL LABOUR FORUMS IN MUNICIPALITIES

These are some of the generic challenges that Local Labour Forums are faced with in municipality:

- No clear understanding and interpretation of the SALGBC Main Collective Agreement
- Is it time to review the SALGBC Main Collective Agreement?
- No proper orientation of new LLF representatives
- Inconsistency of representation in LLF meetings
- No common understanding of what issues are to be negotiated versus issues of consultation (when do we negotiate? when do we consult?)
- What is consultation? (Are reports for noting and information consultation?)
- Has the LLF turned into a political playfield? An administrative playfield?
- Does the leadership of the LLF determine its effectiveness?
Is there enough support by SALGA (the employer party) to municipalities?

Have employers become toothless partners or has organized labour become manipulative partners? (or vice-versa?)

Is it not time to do away with LLFs?

6. QUO VADIS – WHERE TO FROM HERE?

The future of LLFs is not only dependant on the answers to the challenges listed above. It goes much further than that and maybe as parties to the LLF there is a need to ponder on the following:

More emphasis on the social and psychological aspects of the labour relations relationship?

Depoliticization of labour relations – is that possible?

Review of the labour relations management system of local government or maybe even of the country as a whole?

Clearly there is a need for further research on dynamics of Local Labour Forums in specific and maybe labour relations in general, particularly at local government level.

7. CONCLUSION

Now is the time in the history of local government that organized labour, senior management and councillors start taking collective ownership in ensuring and working towards a responsive, accountable, effective and efficient local government system. Good and effective labour relations are but one of the key contributors in realizing this constitutional mandate. The Local Labour Forums are vehicles that lay the foundation and set the tone for a conducive internal environment that will manifest in responsive service delivery, accountable officials and councillors as well as the development of management systems that are effective and efficient.

For now the reality is that LLFs are existing structures and all parties need to make sure that these structures are effective, efficient and yield maximum benefits for municipalities and local government in general.
8. REFERENCES


Department of Cooperative Governance and Traditional Affairs. 2010. *Delivery Agreement Outcome 9 – A responsive, accountable, effective and efficient local government system*. Pretoria: Department of Cooperative Governance and Traditional Affairs.
