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**WARD BASED PLANNING  
TO IMPROVE SERVICE DELIVERY:  
THE CASE OF NORTH WEST DISTRICT MUNICIPALITIES**

by

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## ACKNOWLEDGEMENTS

My name may be alone on the front cover of this thesis, but I am by no means the sole contributor. There are a number of people behind this piece of work who deserve to be both acknowledged and thanked.

Glory be to God through our Lord and Saviour Jesus Christ –

*“Your education is your life – guard it well”* (Proverbs 4:13).

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## ABSTRACT

Efficient and effective service delivery is essential for the wellbeing of individuals, families and communities, and it is a prerequisite for sustainable development. To promote sustainable municipal services, the South African government has therefore shifted its focus to service delivery at the local and community levels. The South African National Department of Co-Operative Governance and Traditional Affairs (COGTA) promotes value-for-money service delivery in all municipalities and demands that they be accountable to the citizens for their stewardship. The ultimate goal of the South African public service is to provide services to all South Africans efficiently, effectively and economically, with public participation in the development of plans to promote quality services.

This study focuses on service delivery by the North West province's municipalities. The importance of better service delivery has been highlighted by several service delivery protests in the province, for example, around Mothutlung, Majakaneng and Hebron in the Madibeng Local Municipality in the Bojanala Platinum District Municipality (BPDM).

The study compares the South African local government with international countries on planning system. The comparative study provides an opportunity to identify common characteristics which may assist in improving the South African system of local government

This study analyses how planning can be integrated into local government and administration, with specific reference to effectiveness and community participation in district municipalities in the North West province. Data were collected from relevant books, journals, official reports, conference proceedings, published articles, relevant government policy documents, speeches, newsletters and newspapers. A qualitative research methodology was followed to analyse alternative ways and means to improve the quality of municipal service in the North West province. Methodological, participant and interdisciplinary triangulation were applied during the data collection and analysis. To offset the risks of using personal experience, the researcher adopted the role of participant observer.

The research identifies and assesses weaknesses in integrated development planning, municipal financial performance drivers and community participation, with

the purpose of enhancing the provincial government's ability to achieve its goal of improving the quality of life of all citizens in the North West province. The study identifies challenges which are faced by district municipalities and which impede the provision of basic service delivery, particularly in districts which have mining belt areas, such as the BPDM. It also analyses integrated development planning and the current status of service delivery in the North West's district municipalities. The study recommends a planning framework for South African municipalities that would improve service delivery, with maximum public participation, which could reduce the number of service delivery protests. The study demonstrates that ward-based planning can improve municipal performance in the delivery of services.

A new framework is proposed for planning in local government to augment existing planning mechanisms. This new framework could contribute to the effectiveness of municipal government and administration. Based on the existing theories and historical research, a new model is thus developed to enhance performance through a ward-based planning system. The ultimate goal of a ward-based planning system in government is intended to improve service delivery performance.

# CONTENTS

DECLARATION OF ORIGINALITY .....	i
ACKNOWLEDGEMENTS.....	ii
ABSTRACT .....	iv
LIST OF ACRONYMS AND ABBREVIATIONS.....	xiv
CHAPTER 1: INTRODUCTION.....	1
1.1 LOCAL SPHERE OF GOVERNMENT IN SOUTH AFRICA.....	1
1.2 RATIONALE FOR THE RESEARCH .....	3
1.3 PROBLEM STATEMENT .....	5
1.4 RESEARCH OBJECTIVES .....	6
1.5 RESEARCH QUESTION.....	7
1.6 DEFINITION OF KEY CONCEPTS.....	8
1.6.1 Basic municipal services.....	8
1.6.2 Councillor.....	8
1.6.3 Department of Co-Operative Governance and Traditional Affairs (COGTA) .....	8
1.6.4 Executive Mayor .....	8
1.6.5 Evaluation.....	8
1.6.6 Integrated Development Plan (IDP).....	9
1.6.7 Informal settlement .....	9
1.6.8 North West province .....	9
1.6.9 Metropolitan municipality .....	9
1.6.10 Monitoring.....	10
1.6.11 Municipal council or council.....	10
1.6.12 Performance.....	10
1.6.13 Public participation .....	10
1.6.14 Service Delivery and Budget Implementation Plan.....	10
1.6.15 Service delivery protest .....	11
1.6.16 Ward.....	11
1.6.17 Ward committees .....	11
1.6.18 Participant .....	11

1.6.19	Participant-observation.....	12
1.7	RESEARCH METHODOLOGY .....	12
1.7.1	Research approach .....	12
1.7.2	Research methodology.....	12
1.7.3	Methods of data gathering.....	13
1.8	OUTLINE OF THE STUDY .....	14
CHAPTER 2: CONTEXTUALISING PUBLIC ADMINISTRATION .....		18
2.1	INTRODUCTION.....	18
2.1.1	A search for identity .....	18
2.1.2	Public Administration versus public administration .....	19
2.1.3	How to study ‘theory and scope’.....	21
2.2	HISTORICAL PERSPECTIVES ON THE DEVELOPMENT OF PUBLIC ADMINISTRATION .....	22
2.2.1	Foundation phase .....	25
2.2.2	Development phase.....	26
2.3	THEORETICAL CONSTRUCTS IN PUBLIC ADMINISTRATION .....	34
2.3.1	Definition of Public Administration and public administration .....	35
2.3.2	The practice of Public Administration and Management.....	35
2.4	GENERIC ADMINISTRATIVE FUNCTIONS OF PUBLIC ADMINISTRATION .....	37
2.4.1	Policy and policy-making .....	38
2.4.2	Financing .....	44
2.4.3	Personnel provision and use .....	45
2.4.4	Organising .....	46
2.4.5	Work methods and procedures.....	46
2.4.6	Control over the administration.....	48
2.5	FUTURE TRENDS IN PUBLIC ADMINISTRATION.....	48
2.6	CONCLUSION .....	50
CHAPTER 3: COMPARATIVE STUDY ON THE STRUCTURE OF LOCAL GOVERNMENT .....		51
3.1	INTRODUCTION.....	51
3.2	THE STRUCTURE OF LOCAL GOVERNMENT.....	51
3.2.1	Sovereignty and local government.....	52
3.2.2	Types of local government.....	53
3.2.3	The advantages of local government.....	54



3.2.4	The structure of local government .....	55
3.3	ORIGIN, NATURE AND REFORMS OF LOCAL GOVERNMENT IN BRITAIN .....	56
3.3.1	The <i>Local Government Act</i> (1972).....	61
3.3.2	Local Government Commission for England (1992) .....	62
3.3.3	Elections .....	63
3.3.4	2009 structural changes to local government in England .....	64
3.3.5	Officials.....	65
3.3.6	Funding.....	66
3.4	LOCAL GOVERNMENT IN UGANDA .....	67
3.4.1	Decentralized local government in Uganda .....	69
3.4.2	Local government structure in Uganda .....	70
3.4.3	Citizens' participation.....	71
3.4.4	Complaints and response mechanisms .....	73
3.5	LOCAL GOVERNMENT IN NIGERIA.....	74
3.5.1	Appointment of councillors.....	78
3.5.2	Intergovernmental relations .....	79
3.6	LOCAL GOVERNMENT IN BOTSWANA.....	81
3.6.1	Introduction.....	81
3.6.2	Decentralized local government in Botswana .....	84
3.7	CONCLUSION .....	89
CHAPTER 4: SYSTEM OF LOCAL GOVERNMENT IN SOUTH AFRICA .....		91
4.1	INTRODUCTION.....	91
4.2	LOCAL GOVERNMENT IN SOUTH AFRICA.....	92
4.2.1	The foundations and beginnings of local government.....	92
4.2.2	Local government and the policy of separate development.....	97
4.2.3	Local government in South Africa, 1993 to 1998 .....	99
4.2.4	Local government in South Africa, 1998 to 2000 .....	102
4.2.5	Developmental local government since 2000 .....	103
4.3	MOVING TOWARDS TRANSITIONAL LOCAL GOVERNMENT .....	104
4.3.1	Local government transformation .....	104
4.3.2	Evaluation of local government.....	105
4.3.3	Central tenets of the system .....	107
4.4	THE NATURE OF THE DEVELOPMENTAL STATE IN SOUTH AFRICA .....	109

4.4.1	The task of the new system .....	111
4.4.2	Challenges.....	112
4.5	CONCLUSION .....	114
CHAPTER 5: PUBLIC PARTICIPATION IN SOUTH AFRICA.....		116
5.1	INTRODUCTION.....	116
5.2	LEGISLATIVE AND POLICY FRAMEWORK FOR PUBLIC PARTICIPATION IN SOUTH AFRICA .....	118
5.2.1	Key legislation.....	119
5.2.2	The <i>Constitution</i> .....	120
5.2.3	<i>White Paper on Local Government, 1998</i> .....	122
5.2.4	<i>Local Government: Municipal Structures Act, 117 of 1998</i> .....	123
5.2.5	<i>Local Government: Municipal Systems Act, 32 of 2000</i> .....	124
5.2.6	<i>Promotion of Access to Information Act, 2 of 2000</i> .....	124
5.3	DEMOCRACY AND PUBLIC PARTICIPATION .....	124
5.3.1	Defining democracy .....	125
5.3.2	Public participation.....	129
5.3.3	Citizens and public participation .....	132
5.4	COMMUNITY PARTICIPATION IN LOCAL GOVERNMENT .....	134
5.5	PUBLIC PARTICIPATION IN THE SOUTH AFRICAN CONTEXT .....	135
5.5.1	The advent of the post-apartheid era and a new decision-making culture.....	135
5.5.2	Public participation in the South African context today .....	142
5.6	THE VALUE OF PUBLIC PARTICIPATION IN LOCAL GOVERNMENT	154
5.7	CONCLUSION .....	164
CHAPTER 6: THE ROLE OF WARD COMMITTEES.....		167
6.1	INTRODUCTION.....	167
6.2	HISTORICAL BACKGROUND .....	169
6.3	ESTABLISHMENT OF WARD COMMITTEES.....	169
6.4	MUNICIPALITIES IN THE NORTH WEST PROVINCE .....	177
6.5	THE BOJANALA PLATINUM DISTRICT MUNICIPALITY (BPDM) .....	183
6.5.1	Demographic profile.....	183
6.5.2	Municipal council .....	187
6.5.3	Functions and powers of municipal council .....	203
6.5.4	Constituent local municipalities of the BPDM .....	206
6.5.5	Relationship between local municipal councils and the BPDM.....	220

6.5.6	Composition of local municipalities in the BPDM .....	222
6.5.7	Committees.....	222
6.5.8	Office-bearers .....	229
6.6	FUNCTIONING OF WARD COMMITTEES IN THE BPDM.....	235
6.6.1	Ward composition and membership in the BPDM .....	236
6.6.2	Election procedures and methods of nomination .....	238
6.6.3	Functions of ward committees .....	239
6.6.4	Meeting procedures .....	244
6.7	AREAS WHERE WARD COMMITTEES IN THE BPDM CONTRIBUTE TO, MEASURE, MONITOR AND EVALUATE MUNICIPALITIES' PERFORMANCE.....	245
6.7.1	Integrated Development Planning (IDP) .....	245
6.7.2	Reports of the Auditor-General.....	249
6.7.3	Reports of Municipal Public Accounts Committees (MPACs) .....	254
6.7.4	Oversight reports on annual reports .....	256
6.8	THE ROLE OF TRADITIONAL LEADERSHIP IN PUBLIC PARTICIPATION IN THE BPDM .....	258
6.9	BPDM WARD COMMITTEE REPORTS .....	268
6.9.1	Principal issues.....	271
6.9.2	Subordinate issues .....	272
6.10	RESEARCH FINDINGS.....	272
6.11	CHALLENGES FACING THE BPDM WARD COMMITTEES .....	274
6.11.1	Lack of citizen involvement.....	275
6.11.2	Political interference .....	276
6.11.3	Lack of a structured / co-ordinated plan of action.....	276
6.12	CONCLUSION .....	277
CHAPTER 7: CONCLUSION .....		278
7.1	CONCLUSIONS.....	278
7.2	RECOMMENDATIONS .....	284
7.3	AREAS OF CONSIDERATION FOR FUTURE RESEARCH .....	285
REFERENCES.....		287

## LIST OF FIGURES

Figure 2.1: Process of public policy-making .....	40
Figure 6.1: North West province .....	178
Figure 6.2: Population – Bojanala and other district municipalities in North-West .....	180
Figure 6.3: Settlement pattern of the BPDM.....	185

## LIST OF TABLES

Table 2.1: Classification of functions performed by public officials.....	47
Table 6.1: The establishment of ward committees in RSA per province .....	174
Table 6.2: Percentage of total population, male and female population and area in square kilometres per province.....	177
Table 6.3: Population, households, area, unemployment rate and population growth rate for North West .....	179
Table 6.4: Ward committees, vacancies on ward committees, budget allocation and stipend payable in North West.....	181
Table 6.5: Total population of local municipalities of Bojanala District Municipality.....	184
Table 6.6: Major employer by sector in BPDM .....	186
Table 6.7: Demographic profile of the Bojanala Platinum District Municipality .....	187
Table 6.8: Number of councillors in Bojanala municipality .....	193
Table 6.9: The functions and powers of the BPDM .....	205
Table 6.10: Services provided to households.....	207
Table 6.11: Basic services provided to households in Rustenburg .....	207
Table 6.12: Composition of Rustenburg local municipality .....	208
Table 6.13: Services provided to households in Madibeng .....	209
Table 6.14: Basic services provided to households in Madibeng .....	210
Table 6.15: Composition of Madibeng Local Municipality.....	211
Table 6.16: Services provided to households in Kgetleng Rivier.....	212
Table 6.17: Basic services provided to households in Kgetleng Rivier Local Municipality .....	212
Table 6.18: Composition of Kgetleng Rivier Local Municipality .....	213
Table 6.19: Services provided to households in Moses Kotane Local Municipality.....	215
Table 6.20: Basic services provided to households in Moses Kotane Local Municipality .....	215
Table 6.21: Composition of Moses Kotane Local Municipality .....	216
Table 6.22: Services provided to households in Moretele Local Municipality .....	217
Table 6.23: Services provided to households in Moretele .....	217
Table 6.24: Composition of Moretele local municipality.....	218
Table 6.25: Houses with access to Basic Services in BPDM municipalities.....	219
Table 6.26: Houses without access to basic services in BPDM municipalities .....	219

Table 6.27: BPDM Comparison of basic service provision with MDG, RSA and North West .....	220
Table 6.28: Priorities of local municipalities as they appear in their IDPs.....	221
Table 6.29: Composition of local municipal councils in Bojanala.....	222
Table 6.30: Composition of ward committees in BPDM local municipalities.....	236
Table 6.31: Total male and female population and total number of male and female ward committee members per local municipality in BPDM ....	237
Table 6.32: Audit opinions of the AGSA in the BPDM municipalities.....	252
Table 6.33: Composition of wards and villages located in traditional authorities in local municipalities.....	260
Table 6.34: Water projects implemented by the BPDM in the 2011/12 financial year .....	266
Table 6.35: Projects implemented by the BPDM in the 2011/12 financial year ....	267
Table 6.36: Projects implemented by the BPDM in the 2012/13 financial year ....	267
Table 6.37: Projects implemented by the BPDM in the 2013/14 financial year ....	268
Table 6.38: Total number of ward committee reports submitted to councils in local municipalities of the BPDM, 2012/13, 2013/14 and 2014/15.....	269

## LIST OF ACRONYMS AND ABBREVIATIONS

ANC	African National Congress
AGSA	Auditor-General of South Africa
BPDM	Bojanala Platinum District Municipality
COGTA	Department of Co-Operative Governance and Traditional Affairs
DA	Democratic Alliance
DPLG	Department of Provincial and Local Government
DPSA	Department of Public Service and Administration
IDP(s)	Integrated Development Plan(s) / Planning
IDASA	Institute for a Democratic South Africa
KPI(s)	key performance indicator(s)
MEC	Member of the Executive Council
MPAC(s)	Municipal Public Accounts Committee(s)
<i>MFMA</i>	<i>Local Government: Municipal Finance Management Act, 56 of 2003</i>
<i>PFMA</i>	<i>Public Finance Management Act, 1 of 1999</i>
RSA	Republic of South Africa

# **CHAPTER 1: INTRODUCTION**

## **1.1 LOCAL SPHERE OF GOVERNMENT IN SOUTH AFRICA**

The South African government is well aware of the importance of efficient and effective service delivery for sustainable development and the wellbeing of its citizens – individuals, families and communities. In its effort to promote a sustainable municipal service, the focus of the South African government has increasingly shifted to this critical issue confronting communities today. The South African National Department of Co-Operative Governance and Traditional Affairs (COGTA) is pursuing ways to achieve value-for-money service delivery in all municipalities and to be accountable to the citizens for its stewardship. The ultimate goal of the South African public service currently is to provide services to all South Africans efficiently, effectively and economically, with public participation in the development of those plans. The South African National Department of Co-Operative Governance and Traditional Affairs' final goal is to build a responsive, caring and accountable local government (COGTA Back to Basics, 2016:4)

The goal of any government should be to improve the lives of all the people in the country. It does so by providing services to the community. As communities grow and become more sophisticated, their need for more and improved services increases (Naidoo, 2004:19). The public service was created to deliver these services, because citizens are unable to satisfy all their own needs, or to perform the activities required for public administration. This implies that the outcomes of public administration are aimed at service delivery. The purpose of public administration is therefore to improve the general welfare of the people. However, it has become increasingly difficult to meet the needs of the people, so other stakeholders need to become actively involved in assisting municipalities.

The demands made by South African communities for service delivery from municipalities have escalated. Local government has often been in the news, sometimes for long periods, particularly in areas where communities have made forceful requests for improved services (Pretorius & Schurink, 2007:19). Communities have complained about and demanded services such as water, sanitation and electricity – in some areas, residents have even claimed houses from



municipalities. A study about the root causes of these protests was warranted; one such study was executed by Ababio, Vyas-Doorgapersad and Mzini (2008). Legislation and various guidelines have already been established to achieve the goal of efficient, effective and economical service provision for all citizens, but there are still gaps in the system that need to be addressed, as has become manifest from the continued service delivery protests.

South Africa's government structure consists of three spheres which are distinct, but interrelated and interdependent – the national, provincial and local government spheres. However, South African society does not necessarily distinguish clearly between these three spheres of government (Naidoo, 2003). Unfortunately, according to Chandu (2004), the public tends to regard any challenge in one sphere of government as a weakness of the South African public service as a whole.

According to Du Toit, Knipe, Van Niekerk, Van der Waldt and Doyle (2002:82), the first sphere is the national government, which is responsible for the country as a whole. The national government is responsible for policy formulation and for developing national standards, rules and regulations. Examples of services delivered by the national government include protective services, educational services, a range of health services and defence services.

The second sphere consists of the nine provincial governments, each responsible for the delivery of particular services to their communities. Although the South African Parliament is the supreme legislative body, each of the provinces may elect its own provincial council and has been assigned particular powers and functions (Naidoo, 2004:4). The exclusive functional areas of provincial governments include ambulance services, the building and maintenance of provincial roads, provincial planning, veterinary services and library services, in terms of Schedule 5A of the *Constitution of the Republic of South Africa, 1996*<sup>1</sup> (RSA, 1996a).

Municipalities are the constituent units of the local sphere of government. They are involved in local issues, such as the building and maintenance of municipal roads and the provision of basic services (water, sanitation and electricity) to residents. Thornhill (2008:492) regards local government as the first point of contact between an individual and a government institution; hence, local government can be referred

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<sup>1</sup> Hereafter referred to as the *Constitution*.

to as the government that is closest to the people and that is responsible for delivering basic services to local communities. These services include providing water services, supplying electricity and removing refuse and other waste.

Chapter 5 of the *Local Government: Municipal Systems Act, 32 of 2000*<sup>2</sup> (RSA, 2000b) indicates that municipal planning should be developmentally oriented – it states:

- (1) A municipality must undertake developmentally-oriented planning so as to ensure that it—
  - (a) strives to achieve the objects of local government set out in section 152 of the Constitution;
  - (b) gives effect to its developmental duties as required by section 153 of the Constitution; and
  - (c) together with other organs of state contribute to the progressive realisation of the fundamental rights contained in sections 4, 25, 26, 27 and 29 of the Constitution, 1996.

## **1.2 RATIONALE FOR THE RESEARCH**

Service delivery in the North West province's municipalities is an important requirement for individuals, families, communities and a prerequisite for sustainable development. Improvement of services is urgently needed, as several service delivery protests in the province have shown, especially in the areas around Mothutlung, Majakaneng and Hebron in the Madibeng local municipalities in the Bojanala Platinum District Municipality (BPDM) (Times live, 2017:3)

To achieve the national goal of provision of sustainable, efficient, effective and economical municipal service, COGTA needs to engage public participation in the development of plans to promote quality services in this region. Most of the developmental backlogs in the North West province are in the rural areas, which are inhabited by disadvantaged communities. It is therefore imperative for them to be actively involved in the process of addressing water provision, electricity, refuse removal and sanitation backlogs through the formal structures of community participation. However, gaining active participation from the local rural population can be challenging.

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<sup>2</sup> Hereafter referred to as the *Municipal Systems Act*.

This rationale of the study is to determine how planning can be integrated into local government and administration, with specific reference to the effectiveness of community participation in district municipalities in the North West province. The research identifies and assesses weaknesses in integrated development planning, municipal financial performance drivers and community participation with the purpose of enhancing the provincial government's goal of improving the quality of life of all citizens in the North West province. A new ward-based framework is proposed for planning in local government to augment existing planning mechanisms. This new framework could contribute to the effectiveness of municipal government and administration.

The study identifies challenges which impede the provision of basic service delivery in district municipalities, particularly in districts located in mining belt areas, such as the BPDM. It also analyses integrated development planning and the current status of service delivery in the North West's district municipalities. The study recommends a planning framework for South African municipalities that would improve service delivery with optimum public participation, and could reduce service delivery protests. The adoption of a different approach to planning is warranted because the number of service delivery protests is increasing. The study demonstrates that ward-based planning could improve service delivery performance.

Thus the study attempts to scientifically develop a new framework for planning in local government as part of the effort to augment service delivery. This new framework may enhance the effectiveness of government in a focused and systematic manner. A scientific analysis is done of different approaches to improve the quality of municipal service in the North West province.

The study provides academic input into public administration, specifically in the area of improving service delivery performance and financial performance management in municipalities. The study could contribute to a reduction in the number of service delivery protests if the conceptual framework suggested is put into practice nationally within the municipalities, and it is monitored effectively. It could contribute to the establishment of effective ward-based planning systems to increase ward participation, match budgets and expenditure, and align the municipalities' Integrated Development Plans (IDPs) and key performance

indicators (KPIs) for a particular ward. The proposed model should obtain support from the communities, because they will be involved in the process, from the planning to the implementation stage.

The significance of the study is its contribution to the method of Integrated Development Planning (IDP) in the local sphere of government for implementation. Frequent service delivery protests show that South African municipalities are not currently succeeding in managing community participation through the existing mechanisms, processes and procedures to enable local communities to participate in the affairs of the municipality, in line with Section 17(2) of the *Municipal Systems Act* (RSA, 2000b) (The South African Local Government Briefing, 2017:33). If ward-based planning can be implemented effectively, the ultimate beneficiaries are the people of South Africa whose lives would be improved. Society would benefit from this system through bench-marking processes.

### **1.3 PROBLEM STATEMENT**

The North West province faces an enormous challenge when it comes to ensuring that municipalities provide efficient and effective services to their citizens, who are a heterogeneous cultural mix, dominated by the Batswana (The South African Local Government Briefing, 2017:36). The North West municipalities are not providing basic services to their communities at the pace that is needed in South Africa (Naidoo, 2004:35). The legislative provisions in the *Constitution* are inadequate as the Bill of Rights does not specifically acknowledge the plight of the poor – most rural communities do not have enough knowledge of and information about the options and the implications of the options that they can use to participate meaningfully in local government affairs (Brynard, 1996:42), because these communities were underdeveloped and under-serviced in the apartheid era.

To improve service delivery performance, it is essential that the North West district municipalities adopt an appropriate and effective planning framework. In this regard, the importance of community participation ought to be considered. In proposing effective planning systems for the North West district municipalities, it is important to explore the attributes of different approaches.

The research therefore ascertains whether ward-based planning systems could promote service delivery through public participation in South African municipalities, with particular reference to North West municipalities.

#### **1.4 RESEARCH OBJECTIVES**

Researchers and practitioners face the dynamic challenge of finding adequate solutions for the fact that district municipalities in the North West Province are not able to prove conclusively what they have achieved in a particular financial year, or over the medium term expenditure framework. They can only show what they have accomplished through annual reports. They need to report back to local communities on whether the input and output measures used were able to achieve the desired outcomes in order to determine the impact they had on communities.

The objectives of this study are the following:

- to provide a broad overview of service delivery in the four district municipalities of the North West province as a context in which to understand whether these municipalities' integrated development plans (IDPs) is done with the involvement of local communities;
- to identify challenges that district municipalities face which impede the provision of basic service delivery, particularly in districts situated in the mining belt, such as the BPDM (which includes Marikana);
- to investigate the role played by traditional leaders in the development of municipalities' integrated plans;
- to determine whether ward committees facilitate effective and efficient provision of service delivery by municipalities; and
- to recommend a planning framework for South African municipalities that would improve service delivery with maximum public participation, which could in turn reduce the number of service delivery protests.

Sections 152(a) and (e) of the *Constitution* mandate municipalities to provide democratic and accountable government to their communities, and to encourage the involvement of communities and community organisations in matters of local government (RSA, 1996a). The *Constitution* provides that a municipality must strive, within its financial and administrative capacity, to achieve the objectives set out in sections 152(a) and (e). The developmental duties of municipalities are

embedded in sections 153(a) and (b) of the *Constitution*, which stipulate that a municipality must structure and manage its administration and budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community.

Section 16(1) of the *Municipal Systems Act* stipulates that a municipality must develop a culture of municipal governance that complements formal representative government with a system of participatory governance (RSA, 2000b). For this purpose, the municipality must

- (a) Encourage, and create conditions for, the local community to participate in the affairs of the municipality, including in—
  - i. the preparation, implementation and review of its integrated development plan;
  - ii. the establishment, implementation and review of its performance management system;
  - iii. the monitoring and review of its performance, including the outcomes and impact of such performance;
  - iv. the preparation of its budget; and
  - v. strategic decisions relating to the provisions of municipal services .
- (b) Contribute to building the capacity of—
  - i. the local community to enable it to participate in the affairs of the municipality; and
  - ii. councillors and staff to foster community participation; and
- (c) Use its resources, and annually allocate funds in its budget, as may be appropriate for the purpose of implementing paragraphs (a) and (b).

## 1.5 RESEARCH QUESTION

A research question addresses the possible answers a study should find answers to. The main question in this study is the following:

**Could ward-based planning facilitate effective and efficient municipal service delivery?**

## **1.6 DEFINITION OF KEY CONCEPTS**

### **1.6.1 Basic municipal services**

According to the *Local Government: Municipal Finance Management Act, 56 of 2003*,<sup>3</sup> basic municipal service means a municipal service that is necessary to ensure an acceptable and reasonable quality of life (RSA, 2003a). If this service is not provided, it would endanger public health or safety, or the environment. In this study, the discussion of basic municipal services has been limited to water, sanitation, electricity and waste management.

### **1.6.2 Councillor**

The *Municipal Systems Act* (RSA, 2000b) uses this term to mean a member of a municipal council.

### **1.6.3 Department of Co-operative Governance and Traditional Affairs (COGTA)**

This refers to the current Department of Co-operative Governance and Traditional Affairs (CoGTA). This department was previously called the Department of Provincial and Local Government (DPLG).

### **1.6.4 Executive Mayor**

This term refers to the councillor elected as the executive mayor of a municipality in terms of section 55 of the *Local Government: Municipal Structures Act, 117 of 1998*<sup>4</sup> (RSA, 1998c).

### **1.6.5 Evaluation**

In this study, the term is used to refer to systematic and objective assessment of an ongoing or completed project, programme or policy. This includes its design, implementation and results (NEPF, 2011:3). The aim of evaluation is to determine the relevance and fulfilment of objectives, the development of efficiency,

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<sup>3</sup> Hereafter referred to as the *MFMA*.

<sup>4</sup> Hereafter referred to as the *Municipal Structures Act*.

effectiveness, impact, and sustainability. An evaluation should provide information that is credible and useful, enabling the incorporation of lessons learned into the decision-making process of both recipients and donors. The National Evaluation Policy Framework (2011:3) defines evaluation as the “systematic collection and objective analysis of evidence on public policies, programmes, projects, functions and organisations to assess issues such as relevance, performance [effectiveness and efficiency] and value for money, and recommend ways forward”. Both definitions give context, since one of this study’s objectives is appraising the sphere of local government and metropolitan municipalities in terms of the effective and efficient delivery of basic services.

#### **1.6.6 Integrated Development Plan (IDP)**

According to section 25 of the *Municipal Systems Act*, an IDP is a plan used by municipalities in South Africa to plan future development in their areas (RSA, 2000b).

#### **1.6.7 Informal settlement**

An informal settlement is a group of non-permanent structures built on land that is not formally registered as residential property (Housing Development Agency, 2012:14). For the purposes of this study, this definition is used to define informal settlements in general.

#### **1.6.8 North West province**

This is one of the nine provinces in South Africa, and is the focus of this study (see the map in Figure 6.1).

#### **1.6.9 Metropolitan municipality**

Metropolitan municipalities are the large densely populated and urbanised areas that constitute multiple cities in South Africa. A definition in section 155(1) of Chapter 7 of the South African *Constitution* is used in this study – it states that a ‘Category A’ municipality, which is essentially a metropolitan municipality, is a municipality that has exclusive municipal executive and legislative authority in its area (RSA, 1996a). The *Municipal Structures Act* defines this category of local



government as ‘conurbations’, in other words, “centres of economic activity”, areas “for which integrated development planning is desirable”, and areas with “strong interdependent social and economic linkages” (RSA, 1998c).

#### **1.6.10 Monitoring**

The National Evaluation Policy Framework (2011:4) defines ‘monitoring’ as “the continuous and systematic collection, recording and reporting of information in order to track progress towards the achievement of the objectives of an intervention, and identify the need for corrective action”.

#### **1.6.11 Municipal council or council**

This term means the council of a municipality referred to in section 18 of the *Municipal Structures Act* (RSA, 1998c). Section 157 of the *South African Constitution*, which deals with the composition and election of municipal councils, states that a municipal council consists of members elected in accordance with subsections (2), (3), (4) and (5) of section 157 of the *Constitution* (RSA, 1996a).

#### **1.6.12 Performance**

According to the definition provided by Business Dictionary.com (n.d.), performance means “the accomplishment of a given task measured against present known standards of accuracy, completeness, cost, and speed. In a contract, performance is deemed to be the fulfilment of an obligation”.

#### **1.6.13 Public participation**

Public participation is the involvement of communities and community organisations in the affairs of a municipality (RSA, 1998c).

#### **1.6.14 Service Delivery and Budget Implementation Plan**

In terms of the *MFMA* (RSA, 2003a), a Service Delivery and Budget Implementation Plan (sometimes called an SDBIP) is a detailed plan which is approved by the mayor of a municipality, in terms of section 53(1)(c)(ii) of the *MFMA*, for implementing a municipality’s delivery of municipal services and its annual budget. It must indicate

- (a) projections for each month of:
  - (i) revenue to be collected, by source; and
  - (ii) operational and capital expenditure, by vote;
- (b) service delivery targets and performance indicators for each quarter; and
- (c) any other matters that may be prescribed, and includes any revisions of such plan by the mayor in terms of section 54(1)(c).

#### **1.6.15 Service delivery protest**

According to Roux (2005:3), a number of protests dubbed service delivery protests started in 2004 in Harrismith in the Free State province. After that, protests grew, and they currently occur in various areas in South Africa. These protest actions are really about the dissatisfaction of communities with the apparent lack of performance by municipalities in rendering basic services such as the provision of water, sanitation, electricity and waste management (in some instances, there are no services at all).

#### **1.6.16 Ward**

In the South African local government sphere, a ward means an electoral district within a municipality used in local politics. Part 1: General, 2 of the *Municipal Systems Act* (RSA, 1998c) defines a process to be used in the delimitation of wards. It is indicated by the Municipal Demarcation Board.

#### **1.6.17 Ward committees**

These are committees at a ward level existing in metropolitan and local municipalities. Section 73(2) of the *Municipal Structures Act* provides that each ward must have a ward committee, which must be made up of not more than ten members who represent a diversity of interests in the ward, and are equitably representative of women (RSA, 1998c).

#### **1.6.18 Participant**

This is a person from whom case study data are collected, usually through interviews; one or more participants may later be asked to review the draft case study report (Yin, 2014:240).

### **1.6.19 Participant-observation**

This is the mode of data collection whereby a case study researcher becomes involved in the activities of the case being studied (Yin, 2014:240).

## **1.7 RESEARCH METHODOLOGY**

Burns (1997:19) describes *research* as a systematic investigation in which data is collected, analysed and interpreted in an effort to understand or predict a phenomenon. Research is influenced by the researcher's theoretical framework. This theoretical framework is referred to as a paradigm, and it influences the way in which knowledge is studied and interpreted. *Methodology* refers to the rationale and philosophical assumptions that characterise a particular study, relative to the scientific method used, with a view to explaining the researcher's ontological and epistemological views (Patton, 1989:69).

### **1.7.1 Research approach**

In this study, symbolic interactionism was the guiding theoretical perspective. The researcher proposed to develop a *substantive tool* by using grounded theory and following a modernist qualitative approach. A case study design was chosen. The study thus represents an observational case study (participant observation), supplemented by documents focusing on service delivery in the district municipality of Bojanala. This is a multi-case study (more than one district municipality was studied) and includes a situation analysis (leadership qualities were researched with the aim of enhancing service delivery).

### **1.7.2 Research methodology**

In South Africa, district municipalities were established in terms of section 12 of the *Municipal Structures Act* (RSA, 1998c). The study was conducted in four district municipalities located in South Africa's North West province. The main focus was the Bojanala Platinum District Municipality (BPDM) and its constituent local municipalities, because 44% of the total population of the North West province live in the BPDM. A qualitative research methodology was followed to analyse alternative ways and means to improve the quality of municipal service in the North West province. The ultimate goal of a ward-based planning system in government

is founded on the principle of improving service delivery performance. It is argued that the findings at the BPDM would be representative of similar findings at other district municipalities, because they have the same characteristics.

### **1.7.3 Methods of data gathering**

A qualitative method was adopted. Qualitative researchers generally rely on four basic types of data sources: interviews, observations, documents and audio-visual materials (Creswell, 1998:46). The researcher used three of these methods, namely observations, documents and audio-visual materials. Data were collected from relevant books, journals, official reports, conference proceedings, published articles, relevant government policy documents, speeches, newsletters and newspapers. Methodological, participant and interdisciplinary triangulation was applied during the data collection and analysis. To offset the risks of using his personal experience, the researcher adopted the role of participant observer. Based on the existing theories and historical research, a new model is developed to explain the phenomenon of improving service delivery performance by means of a ward-based planning system.

This is a qualitative and descriptive study, based on a literature review using a deductive approach in the fields of public administration, public financial management, and development administration. The research relied on the collection of qualitative data and case studies. A detailed account and analysis of cases is presented. Through deductive methodology, with a conceptual framework in mind, the gathering of data was systematized and meaningfully interpreted through analysis (Mouton & Marais, 1996:103). As the research design deals with the overall strategy to integrate different components of the study in a coherent and logical way to ensure that it effectively address the research problem, this thesis is thus designed to clarify the relationship between a municipality and its community when developing an integrated development plan (IDP).

The research set out to ensure conceptual clarity and to reveal the conceptual implications of different viewpoints, in order to avoid abstract confusion and theoretical ambiguities. An appropriate research design was chosen to deal with the public administration environment and government finances, with special reference to service delivery performance. In terms of existing theories, the emphasis is on

national and international best practices in service delivery performance, including financial management performance. Current service delivery performance in district municipalities in South Africa and service delivery performance through ward-based planning in the country are analysed.

As a result of deductive theory construction, a set of postulates were formulated to enable the researcher to derive at a comprehensive set of theoretical propositions which could be tested against empirical evidence.

## **1.8 OUTLINE OF THE STUDY**

Chapter 1 introduces this exploratory study. Sections 151(1) and 152(2) of the *Constitution* describe the local sphere of government in South Africa, as codified (RSA, 1996a). The mandate of local government is clarified and outlined in the *Municipal Structures Act* (RSA, 1998c). Services that fall within the ambit of BPDM and its constituent municipalities are identified and elucidated, as identified under Part B of Schedule 5 (Provincial competence) of the *Constitution*. Its relevance to the current study is explained. Water, sanitation, electricity, waste collection and removal are identified as minimum basic services for the purposes of the study.

The chapter provides definitions of key concepts and a rationale for the research. It sets out a problem statement, and presents the research objectives and question. It briefly explains the research methodology and an outline of the study. Chapter 1 indicates that data has been collected from relevant books, journals, official reports, conference proceedings, published articles, relevant government policy documents, speeches, newsletters and newspapers. Methodological, participant and interdisciplinary triangulation are applied during data collection and analysis. To offset the potential disadvantages of using personal experience, the researcher adopted the role of participant observer. Based on existing theories and prior research, a new model is developed in the study to explain the phenomenon of improving service delivery performance by means of a ward-based planning system.

Chapter 2 is devoted to the contextualization of Public Administration as a subject and public administration as an activity. It focuses on relevant historical events and Public Administration theories and their impact on management, and the foundations of public financial management. In this chapter, an analysis of

theoretical constructs in Public Administration creates an understanding of administrative theory and also shows the significance of different schools of administrative application and management. The generic functions of public administration are discussed to highlight the relationship between politics and administration, with specific reference to policy-making. The chapter concludes with the functions of public administration (policy-making, financial administration, human resources management, organisation, methods and procedures, and control). The relationship between public administration and public management is also clarified. Trends in Public Administration are analysed. The objective of the chapter is to locate this study of ward-based planning in the discipline of Public Administration.

Chapter 3 provides a descriptive and comparative study of the units, organs and processes of local government in four countries (Britain, Uganda, Nigeria and Botswana). The main reason for choosing these countries was that the Republic of South Africa (RSA) is a former colony of Britain, and so were Uganda and Nigeria, and Botswana was a British Protectorate. The comparative study provides an opportunity to identify common characteristics which may assist in improving the South African systems of local government.

There is a firm conviction that a rational system of local government is indispensable to a country's well-being, and that a better life, which all people aspire to, can only become a reality when people participate in shaping their environment themselves. The chapter summarises laws and regulations pertaining to the structure, tasks, functioning and control of local government in the chosen countries. The United Nations Development Programme (Alkire, 2010:1) describes development as giving people more choices. The objective of the second chapter is therefore to trace the development of local government and administration historically. The research findings on these four countries reveal the influence Britain had on the development of local government in all its former African colonies.

Chapter 3 also concentrates on the role and functions of government, with specific reference to the local sphere of government. The role of government as a facilitator for administration in the public sector is highlighted. The origins of developmental

administration are discussed, with specific reference to the administration of underdevelopment and the building of a theory of administrative development.

Chapter 4 discusses local government during imperialism and apartheid in South Africa, focusing on the origins of planning. The objective is to trace the origin of public participation in the country. The aim of this chapter is twofold. Firstly, it provides a brief introduction to the history of, as well as the legal and policy framework for, local government in South Africa. It discusses the transformation of local government from a racially configured, illegitimate arm of the apartheid government into a system designed to produce developmentally oriented municipalities. It touches on the remarkable and unprecedented progress made by South African municipalities towards realising the vision of developmental local government. Secondly, it focuses on the national institutional and policy framework. Suggestions are made for a change of direction with regard to planning. This discussion of the local government framework, as well as some of its major challenges, makes a positive contribution to the search for avenues to improve how planning is done.

Chapter 5 focuses on the importance of public participation and how it is defined in the context of community participation, involvement and decision-making. This chapter concentrates on the constitutional objectives that specify the justification for public participation in a democratic government. The purpose of this chapter, which is descriptive in nature, is to explain the concepts of public participation and engagement and to highlight measures implemented by South Africa to ensure that participation becomes a reality. The chapter considers the advantages, disadvantages and challenges of citizen participation and engagement.

Chapter 6 analyses alternative ways and means to improve the quality of municipal service in the North West province. The chapter analyses the composition and duties of ward committees, as well as their functionality. This research is driven by the participatory role that the community should play, through the facilitation of ward committees. A range of issues are raised, and suggestions are made to overcome the service delivery challenges. This chapter considers whether ward committees can serve as effective mechanisms to promote public participation, with a view to establishing whether ward-based planning could facilitate effective and efficient municipal service delivery. Chapter 6 integrates all the available evidence in order

to construct a conceptual model for a ward-based planning system. This model provides an opportunity to ensure that the right people are in the right place, at the right time, with the right resources, ready and prepared to deliver world-class services in the most economical, efficient and effective way to enhance quality of life for all South Africa's citizens. Thus the relevance of giving effect to the views of communities are acknowledged.

The concluding chapter, Chapter 7, summarises the conclusions and recommendations, and makes suggestions for further research.



## **CHAPTER 2: CONTEXTUALISING PUBLIC ADMINISTRATION**

### **2.1 INTRODUCTION**

Administration as an activity is as old as civilization. Public administration is a vehicle for expressing the values and preferences of citizens, communities, and society as a whole. Governments make policies to respond to the needs of the communities that they must serve, and then organise and enable their administration to give effect to those policies. The administration must ensure that processes to deliver services that satisfy the needs of society are followed. Like the other sciences, public administration should be regarded as a process and not as a product.

Public administration is thus the implementation of government policy, but Public Administration is also an academic discipline that studies this implementation and prepares public servants for working in the public service. Public administration has evolved over time, and today there is an increasing need for a value-focused public service approach, based on public administrative practices, to provide efficient and effective services to meet the changing needs of society.

The chapter starts with some historical perspectives of public administration and of how earlier scholars influenced administrators, from the classical age up to the modern era. The role and functions of public administration have a direct bearing on a country's ability to develop a ward-based plan so that services reach the people for whom those services are intended. The conclusion gives a brief overview of why public administration is important in the development arena.

#### **2.1.1 A search for identity**

In his article titled 'Foundations of Public Administration', Rutgers (2010:2) cites Dwight Waldo's (1968) article, 'Scope of the theory of Public Administration', in which Waldo made the now famous claim that the study of Public Administration has an identity crisis. This crisis lies precisely in the interstices between 'scope' and 'theory' – that is, it links the subject matter and the means to understand and explain this object of study. The scope, Waldo (1968, cited in Rutgers, 2010:2)

points out, is closely related to the issue of the objectives of public administration, and is connected with the boundaries of the field. Since the late 1940s, these boundaries have become unclear, and the meaning of 'theory' in this context is diverse (Waldo, 1968 :2). The uncertainty about the scope of the theory arises from problems that have both practical and theoretical dimensions (Waldo, 1968:2), but to argue that coherence can be found by stating that the problems, objectives, boundaries, all concern public administration is hardly helpful, because it is unclear what administration is. This brief argument by Waldo (1968:2) encapsulates the topic, and the problem surrounding the theories or explanatory ideas that make up the study of Public Administration.

Waldo (1968:2) argues that, undoubtedly, all social studies find it difficult to pinpoint their object of study in a detailed and encompassing way. However, in the 19<sup>th</sup> century, the German scholar Lorenz von Stein (cited in Rutgers, 2010:2) argued that this problem is worst for the study of Public Administration. Von Stein pointed out that defining the subject matter of public administration presupposes understanding of an overwhelming number of other complex concepts, ranging from the very nature of humanity, freedom and justice, to society and law, and, last but not least, the state. Yet this is no reason for despair, given that, as already indicated, most fields of study only have a vague, comprehensive notion of what they are about (their subject matter).

Waldo (1968, cited in Rutgers, 2010:2) claims that it may at first glance appear easy to determine what public administration is, and thus what are considered appropriate topics of study (the scope of the field), or to think that one simply needs to look at what is being studied and written by Public Administration scholars. The problem is that arguments tend to go around in a circle, and it is difficult to counter authors on Public Administration and scholars who are paid a salary as members of a university department of Public Administration. Depending on the purpose, these can be useful starting points, but whatever approach is favoured, all start with ideas on what public administration is all about (Rutgers, 2010:4).

### **2.1.2 Public Administration versus public administration**

The term public administration causes confusion. The term can refer, *inter alia*, to the social reality of people and organisations, budgets or administrators. Moreover,

one has to distinguish between the everyday, non-scientific use of the term in social practice, and the term in its scholarly application. In everyday usage, the term is often used in a fuzzy way to refer to different concepts (Waldo, 1968:4:2). In its scholarly application, the term denotes an object of study and ideally allows for a clearer definition. Similarly, the term 'bureaucracy' in everyday circumstances implies 'government', 'bureaucracy' or 'red tape', usually with a negative normative connotation. An academic study of 'bureaucracy' defines it more specifically; then the term is used with a precise meaning to refer to a special kind of organisation, and is not intended to be normative.

Public Administration (written in upper case) denotes a specific academic field of study, namely the *science* or study of Public Administration. Here, the study and its object of study need to be distinguished: similarly, political science and politics do not coincide, nor do sociology and social reality, or psychology and the psyche. Sociological questions and social problems, or psychological questions and psychological problems are not identical, even though the science aims at achieving a better understanding of and explaining the object of study.

Unlike other languages, English does not always provide distinct terms for a study and its object of study, such as in the German terms '*Verwaltungswissenschaft*' and '*öffentliche Verwaltung*' or the Dutch '*bestuurskunde*' and '*openbaar bestuur*'. Dwight Waldo identified this problem in 1968 when discussing the scope of the study:

Discussions of public administration are plagued by a serious problem because different meanings may be given to or understood by the phrase. Sometimes in seeking to be clear and precise, I have used upper case to refer to the self-conscious enterprise of study, and the like, and lower case to refer to the practices or processes which are object of our attention. (Waldo 1968:1, quoted in Rutgers, 2010:1)

Waldo appears to describe an easy solution, but in practice, it is not. Often the two terms are confused in English, despite good intentions. Even Waldo in his own article sometimes forgets to capitalise when he should. The solution throughout this thesis is to use the term 'public administration' to denote the object of study. Nevertheless, for the sake of brevity, an exception is posed (Rutgers, 2010:4): the theory and scope of public administration is used to refer to the theory and scope of the study of Public Administration as a field of study.

### **2.1.3 How to study 'theory and scope'**

One additional introductory topic concerns the meaning of the terms 'theory' and 'scope'. Together, 'theory and scope' comprehensively denote the identity of a field of inquiry (Waldo, 1968:2). 'Theory' includes the ideas developed in order to describe, understand, and/or explain an object of study. The 'scope' is the part or section of reality that is taken into consideration in the study. According to Waldo (1968:2), the scope encompasses what is being studied. It deals with content and thus defines boundaries for administrative science. This broad meaning of theory and scope includes a way, method or methodology to identify topics and theorise about them. Delving a bit deeper into these matters, theory and scope appear to be intricately intertwined, as would probably be found in everyday, common perspectives.

To start with theory and scope: What precisely is the field of study of Public Administration? In other words, what are the accepted topics taken into consideration in this field? At first glance, this question seems easy to answer: The description of the subject matter could be pursued: the definition of Public Administration could be formulated, and from this definition, one could deduce what phenomena are relevant to the study. Alternatively, a more inductive approach can be used by identifying the topics dealt with in books and articles on public administrations, and thereby establishing the scope. However, as will become apparent, there is still no generally accepted definition of public administration. As Waldo (1968:2) puts it, 'public administration' is "itself problematic, controversial".

The question is then what the accepted ways of study are. Why is theory so important? The simplest explanation is that theory is concerned with ideas about the nature of reality. A more sophisticated description is that theories are at the heart of explanations of how and why phenomena are as they are, or perhaps of how they should be. A basic kind of explanation places something in a context, and attempts to fit it into what is already known to enable one to provide meaning to it. For example, an ink spot shaped like a circle can be interpreted as the letter 'O' when it is placed in the context of the alphabet. In a mathematical dialogue, by contrast, it would seem to refer to the number '0' (zero). In a discussion about steel tubes, it could denote the cross section of a circular tube. In this basic sense,

theories are an everyday matter and all around, although often they are implicit. What is more, they can be unreliable or have a limited use.

Theories explain ideas about reality and serve as a basis for action. Everyday theories may result in better, more effective and/or efficient actions. Theories constitute claims as to what is real: their claim to validity relies on practical experience, intuition, research, logical analysis, as well as normative, moral, ideological beliefs and claims. Scientific theories are rationally best available 'guesses' or hypotheses. Scientific or academic research aims at refining theories by testing, by applying the most rigorous methodological standards. Issues regarding theories and their scope in the study of Public Administration thus concern the question about what kind of theories are needed and/or possible to discover (Waldo, 1968:3, cited in Rutgers, 2010:3).

Two related but analytically distinct issues can be identified: first, the ideas or ways to arrive at valid theories and to test and improve them (the methodology), and second, the image of the reality that a theory encompasses or creates (the ontology) (Waldo 1968:3). The methodology concerns questions in the field of the philosophy of the social sciences, such as the following: Should Public Administration develop paradigms? Is a positivistic approach viable? What does interdisciplinary mean? The ontology concerns the philosophy of public administration, and enters into the broader fields of political, social, economic, legal and moral philosophy.

Before the study delves into the three distinguished topics of scope, ontology and methodology, the next section briefly discusses the development of the study of Public Administration over the centuries to establish a context to assess the nature of administrative sciences – the theory and scope of public administration.

## **2.2 HISTORICAL PERSPECTIVES ON THE DEVELOPMENT OF PUBLIC ADMINISTRATION**

Public administration might also be called government in action. Public Administration, like other sciences, is a function and not a product. What needs to be considered subject matter for the study of Public Administration? And what approaches and theories have been regarded as relevant throughout history? (Wilson, 1887:197).

The idea that Public Administration is a subject that can or should be distinguished from other social practices developed slowly. A conscious notion of 'public administration' as a specific social phenomenon emerged in the mid-19<sup>th</sup> century but special interest in the state as an organisation and its servants in fact predates this concept by more than two centuries. The belief that such subject matter deserves special attention not offered by other fields of study was already present in the mid-17<sup>th</sup> century. Arguably, this insight and similar concepts and ideas arose considerably earlier and were not limited to Western thought. Much older Chinese views, for instance, on recruitment, are cited in the work of an early 18<sup>th</sup> century German administrative theorist, Christian von Wolff (Rutgers, 2004:12). In the Western world, the modern study of public administration evolved as a specialised academic or scientific study through four phases of historical development (Rutgers, 2004:12).

If it is accepted that administration can be found whenever two or more people take joint action to achieve a common objective, then administration is present in all spheres of human activity – be it at work or recreation (Cloete, 1981:1). It could thus be argued that administration as a process is probably as old as humankind itself, even if Public Administration as an academic discipline is still fairly young. In Antiquity, Socrates spoke about this activity, and pharaohs, kings and emperors required pages, treasurers and tax collectors to administer the practical actions of government. Public administrators have been the 'eyes and ears' of rulers since ancient times, through the Middle Ages and Renaissance, through to the current era. The abilities to read and write, add and subtract have long allowed an educated elite to dominate public employment.

Evidence of basic administrative functions have been traced back to the early inhabitants of ancient Mesopotamia, who developed irrigation schemes as a way to survive (Mumford, 1961:10). The administrative process probably took shape during classical times, around 510 to 338 BC, when democratic city-states came into existence, an era characterized by the devolution of sovereignty (Hammond, 1972:174), and flourished in the vast Roman Empire. During the Dark Ages, 500 to 1000 AD, most forms of government disappeared, until the reawakening of Europe around 1100, with the establishment of new and different forms of government, with some evidence of administrative functions, especially in respect of financing (Collingwood, 1949:435)

In classical Greece and Rome, Aristotle, Plato, Cicero and Polybius described aspects of practice of public administration, but did not identify an academic discipline of Public Administration. They described particular practices in public institutions. The training of people in a discipline developed later for the purpose of training public officials for jobs in the service of the sovereign.

Such training increased in the period of Cameralism or *Kameralwissenschaft*, a field in which, as early as 1729, professorships were established by Friedrich Wilhelm I of Prussia (Van Poelje, 1953:10). The German and Austrian Cameralists were active from the middle of the 16<sup>th</sup> century, but their achievements were more notable from the early 18<sup>th</sup> century. They studied the routines of administrative bureaus or *Kammer*. Notable among the 17<sup>th</sup> century *Cameralist* writers were George Zinke, who wrote 500 publications on the management of finances and 164 on agricultural administration, and Johann Stephen Putter, who defined the function of the police as administration *rei publicae* or public administration (Langrod, 1961:74). The Cameralist conception of Public Administration was not only the subject of research and study, but also of teaching. In Germany, between 1774 and 1784, there was a *Kameral Hohe Schule* (a school of Public Administration) which was later incorporated into the University of Heidelberg. Between 1780 and 1793, in Stuttgart in Baden-Württemberg, there was the *Karls-Akademie* (a Faculty of Administration). In 1817, the same faculty was re-established in Tübingen. Munich boasted its own School of Public Administration and, in Berlin, Public Administration was taught as part of Philosophy (Langrod, 1961:75). Thus, a study of the Cameralist period clearly shows that the systematic study of administration is not a product only of the last century (Langrod, 1961:73).

The *Kameralwissenschaft* or Cameralism was later renamed *Verwaltungslehre* by authors such as the lawyer Lorenz von Stein (1815-1890) (Van Poelje, 1953:10), in whose writings on public administration aspects of what is today termed administrative law tended to overshadow what is today considered the field of public administration. Because it was written in German, the *Verwaltungslehre* with its law and formalism was confined largely to Germany (Caiden, 1971:31). Von Stein predicted that the future would witness tremendous expansion of the discipline of Public Administration. In the mid-19<sup>th</sup> century he stated: “[O]ur century will work for the science of the state; the science of administration will allow the

science of the future the science of society to be actually applied in practice and to play its proper part in real life” (quoted in Langrod, 1961:81).

During the 19<sup>th</sup> century, French authors also published works on public administration as a discipline separate from law subjects, for example, Charles-Jean Bonin’s (1808) *Principes d’administration publique* (cited in Cloete, 1967:41). It is therefore, significant that in France, on 8 March 1848, only 12 days after the establishment of the Second Republic, the new regime by decree also established in Paris a school of public administration, called the *Ecole d’Administration*, where all candidates for the civil service had to study. Napoleon III closed this school on 9 August 1849 (Langrod, 1961:78). Notwithstanding its brief existence, the creation in 1945 of the present *Ecole Nationale d’Administration* is a clear example of the influence of this development in France.

In Britain, formal study of Public Administration met with some resistance, resulting in the establishment of training institutions outside the universities (Caiden, 1971:52). By 1972, there were still only two full chairs in Public Administration in Britain, although the discipline was taught at various institutions (Ridley, 1972:65). Despite language difficulties relating to the publications in the field being mainly in German or French and the resistance to the field as an academic discipline in Britain, Public Administration as an academic discipline as it is known today was established outside Europe, in the United States of America.

The establishment of Public Administration as an academic discipline was achieved in several phases: in the Western world, the modern study of public administration evolved as a specialized academic or scientific field of study through a number of phases of historical development (Rutgers, 2004:12). Below, attention is devoted to the foundation phase (the pre-generation era) and the development phase (the second generation era, which includes developments after World War II until the 1970s, and finally, developments related to New Public Administration and Public Management).

### **2.2.1 Foundation phase**

It is generally accepted that Woodrow Wilson’s article ‘The study of Administration’, published in 1887 in the *Political Science Quarterly*, paved the way for the study of Public Administration as an academic discipline. Today, it is acknowledged that



Wilson made some controversial and unclear statements in this article, but the value of his contribution cannot be denied (Stillmann, 1973:588). He maintained that Public Administration was worth academic study. He reasoned that it was becoming harder to run a constitution than to frame one – this implied that the executive activities of government had become so complex that it is impossible for a public official to carry out such activities without specific training. Officials need to be equipped with at least basic knowledge of governmental activities to cope successfully with their executive functions, because even a flair for affairs, unless it is carefully schooled, cannot save a government from sad blunders in administration (Woll, 1966:36). Notwithstanding the flaws of his article, even 130 years ago, Woodrow Wilson raised some questions which are as relevant today as when he first asked them.

For the sake of clarity, some brief retrospection is necessary at this point. Given the work of the Cameralists between the 16<sup>th</sup> and 18<sup>th</sup> centuries to promote the teaching of Public Administration, and French endeavours to establish a national school of administration in the mid-19<sup>th</sup> century, it is clear that Woodrow Wilson's article on the study of Administration in 1887 (the late 19<sup>th</sup> century) should be regarded as a reintroduction of what had been invented long before. Nevertheless, American scholars progressively developed a sense of superiority and claimed to have invented and pioneered the discipline. This claim was ostensibly strengthened by the divergence of European administrative thought into a purely juridical approach, whereas the American approach was dictated by the daily requirements of administrative practices. As a result, the distant progenitors of Public Administration were forgotten (Langrod, 1961:71).

### **2.2.2 Development phase**

In the development of Public Administration as an academic discipline, it is possible to identify at least four sub-phases, which can be arranged into specific periods (Waldo, 1955:39; Golembiewski, 1964:113; Caldwell, 1965:54; Henry, 1975:3). To a large extent, this study follows the classification by Henry (1975). The four phases involve the separation of politics from administration (1900-1926), the evolution of the notion of scientific management (1927-1937), a period of despair (1938-1970) and a period of new synthesis. In each phase, an attempt was made to define either

the subject matter of the discipline or an institutional abode for the discipline. The four sub-phases in the development of Public Administration are described below.

### **2.2.2.1 Sub-Phase 1: Politics administration dichotomy (1900-1926)**

The year 1909 has been identified as the starting point of the movement to separate politics from administration. In this year, Frank J. Goodnow of the University of Columbia published his book *Politics and administration: A study of government*, which is regarded as one of the cornerstones of the public administration movement. He later published on the politics/administration dichotomy, trying to define the separation and distinctions between the political processes and administration in the United States (Robson, 1967:106). Goodnow (1900) argued that politics is the expression of the will of the state, whilst administration is the execution of that will. In other words, politics is concerned with policies and the administration with policy implementation. Goodnow (1900:21-22) also pointed out that although the differentiation of the two functions is clear, the assignment of such functions to separate authorities is fairly difficult. From Goodnow's statements, it is clear that he believed that public administration centred on executive governmental institutions as the place where public administration is performed. The politics/administration dichotomy thus emphasised the locus of public administration (Caldwell, 1965:55).

Public Administration as an academic discipline established itself between 1914 and the late 1920s, when formal training programmes in public administration started at various American universities. In 1926, the literature on Public Administration received a further impetus with the publication of Leonard White's pioneering work, *Introduction to the study of Public Administration*. It was the first American textbook devoted solely to public administration. In his book, White reflected the general attitude of the time in that he related the politics/administration dichotomy to a value/fact dichotomy (cited in Henry, 1975:7). White again emphasised that policy-making is not part of administration, and should rather be studied by political scientists (cited in Henry, 1975:8). White was also of the opinion that since business is forced by competition to improve, a business model could be a worthwhile model for government to emulate (Henderson, 1983:4)

### **2.2.2.2 Sub-phase 2: Scientific management (1927-1937)**

The second American textbook devoted solely to public administration was entitled *Principles of Administration* (1927). The author, W.F. Willoughby, a former director of the Institute of Government (the Brookings Institution), saw little difficulty about dividing government into the functions of political decision-making and administrative execution (Starling, 1977:21). To Willoughby, the analogy of the business corporation appealed even more than it did to White. He thought of the legislative body as a board of directors, and the chief executive as a general manager (Henderson, 1983:4). Willoughby's book heralded a new era in the study of public Administration. It was influenced by the proponents of the *scientific management movement*, which had already been propounded as far back as 1911 by Taylor and others. It was claimed that there were specific scientific principles of administration that just had to be 'discovered'. The extent to which these principles were applied would determine the quality of the public service, or its efficiency and economy (Waldo, 1955:41).

The 1937 report *Papers on the science of administration* by Gulick and Urwick, two confidants and advisors of President Franklin D. Roosevelt, submitted to the President's Committee on Administrative Science, emphasised the principles of administration. Gulick and Urwick (1937) formulated the anagram POSDCORB, for Planning, Organising, Staffing, Directing, Coordinating, Reporting and Budgeting. They argued that these were principles of administration, and hence the function of those engaged in administration (Waldo, 1955:41).

The second phase of the development of Public Administration was concerned with the identification of subject matter for study purposes. Thus it focused on Public Administration as a study of the principles of administration as applied to the public sector. The application of these principles of administration achieved positive results, and it was accepted without question that the principles could be applied successfully anywhere, resulting in limited debate on the locus of public administration (Henry, 1975:9). Consequently, the scientific management approach to administration in the public sector led to a high premium's being placed on training public administrators. Trained administrators were in high demand, even in the private sector, and Public Administration as an academic discipline reached its apogee (Mosher, 1975:64).

### **2.2.2.3 Sub phase 3: Identity crisis (1938-1970)**

The period from the late 1940s until the 1970s is often characterised in governance terms as a time of hierarchy and the era of public administration (Dickinson, 2016:42). In the wake of the positive results achieved by the application of the principles of administration and the high standing achieved by Public Administration in 1937 through the report by Gulick and Urwick, by the end of the 1930s, public administration entered a period of intellectual activity and growth (Mosher, 1975:75). Nevertheless, there were some dissenters who criticised the principles, such as Chester Irving Barnard, who in 1938 in his book *The functions of the executive* pointed out what the functions of leading officials, ought to be (cited in Henry, 1975:10). Barnard was followed in 1946 by Morstein-Marx with his *Elements of public administration*, which poses the question whether politics and administration can be separated at all (cited in Henry, 1975:10). Morstein-Marx pointed out that administrators were involved in policy-making, in using discretionary power, and in political processes in general (Starling, 1977:21).

In 1946, Herbert A. Simon published an article entitled 'The proverbs of administration' in the *Public Administration Review* in which he questioned the principles of administration. The article was followed in 1947 by his well-known book *Administrative behaviour: A study of decision-making processes in administrative organization*, in which he questions the very existence of such principles and concludes that for each principle of administration there is also a counter-principle (cited in Henry, 1975:10). Simon criticized the emphasis placed upon the formal structure of authority and the allocation of functions, and the inadequacy of a principles-based approach to administration. Moreover, he recommended an empirical approach to administration to replace armchair speculation (Henderson, 1983:16). Dwight Waldo (1955) in turn pointed out that a source of disagreement was a rigid separation between politics and administration, rather than with the politics/administration split itself. Waldo's book *The study of Public Administration* (1955) was a landmark publication in which he referred to public administration as a 'species' belonging to the 'genus' administration (Waldo, 1955:5-6).

The conclusions reached in the books and articles by Morstein-Marx, Simon and others such as Robert A. Dahl, John Gaus, and Dwight Waldo had the effect that

creative writers left the field and public administration was bereft of an own identity. Afraid of academic isolation, students of Public Administration returned to the protective fold of political science. This action reinforced the conceptual linkages between Public Administration and Political Science (Starling, 1977:21). This fear of isolation continued to induce students of Public Administration to remain within the field of Political Science for decades. There was, moreover, an incentive to strengthen the conceptual linkages between public administration and politics, namely engaging in the public policy-making process within the confines of governmental institutions in order to render services to the organised community, and this implied that Political Science would study pressure exerted by the organised community to generate specific political and social change (Starling, 1977:13).

From what has been written so far, it is evident that the writers of the earlier part of the 20<sup>th</sup> century concentrated on describing the so-called politics/administration dichotomy, and later on the principles of administration, followed by a structural emphasis and its counter trend, which was a behavioural environmental emphasis. The return of Public Administration to the fold of Political Science led to a new definition of the locus of Public Administration: executive governmental institutions. As a result of the continuing alliance between Public Administration and Political Science, public administration as an identifiable field of study began to decline to such an extent that political scientists became indifferent or even hostile to public administration. They began to regard the discipline as inferior and soon they wanted to rid themselves of Public Administration (Starling, 1977:14).

The uncertainty about the direction into which Public Administration was to develop led some intellectuals to look for a viable alternative. They decided on Administrative Science. The search for an administrative science provided a focus, but not a locus, for Public Administration. The search for an administration science as an alternative to the linkage of Public Administration to Political Science failed to gain momentum because the question arose whether it was possible to refer to Public Administration. Furthermore, if science alone was to be the basis for the discipline, then Public Administration could be only a subsection of administrative science. Hence, Public Administration was faced by the possibility of being totally absorbed into other branches of administrative science, such as Business Administration.

During this period of despair, there was, however, a ray of light in a 1956 article 'Notes on a general theory of administration' by Litchfield in *Administrative Science Quarterly*, 1. It suggested a universal administrative cycle applicable to all forms of administration and consisting of the functions of decision-making, programming, communicating and reappraising functions, which today are accepted to form part of the comprehensive generic administrative process, in that they are either regarded as administrative functions, or regarded as tangential to administrative functions (Henderson, 1983:28).

#### **2.2.2.4 Sub-Phase 4: New Public Administration and New Public Management (1971 to the present)**

In the period between the late 1960s and early 1970s, New Public Administration surfaced as a reaction to various factors, such as the turmoil in the discipline in terms of its intellectual basis, and a change of emphasis in the social sciences disciplines (Frederickson, 1980:13). The 1960s saw the development of an autonomous study of Public Administration, again originating in Europe, although these developments were heavily influenced by the United States. Public administrationists became divided along two dimensions, namely academic versus practice-oriented, and research versus educational ideals.

The academic and research-oriented authors pursued a positivist approach in the spirit of Herbert Simon. They focused on decision-making and organisation studies. Followers of Dwight Waldo addressed academic and education ideals, primarily concentrating on forging a generalist curriculum that combined social sciences, history, comparative studies and political theory. Advocates of both camps could be found in Europe. Their prime concern was to establish a social sciences perspective within Public Administration, supplemented by the dominant European legal approach. Discussions about the scientific status of the field and its theoretical foundations continued unabated, finding a focal point in the 1968 Minnowbrook Conference.

Alternatives emerged throughout the 1970s and 1980s, such as New Public Administration, which launched in Minnowbrook. This made identifying a homogeneous view of the field virtually impossible. The empirical study of public organisations and policies, however, increasingly dominated the research agenda. More or less independent 'schools' emerged, focusing on either public policy or

public management. Also, a more specific theoretical or a more methodological orientation (such as rational choice theory or communication theory) became popular. In Europe, the diversity in the field of study was much less, mainly because the number of academics in the field was small. European administrative sciences continued to be characterized by relatively strong, independent national *state-centred* traditions. In the United Kingdom, it was asserted that private sector managerial techniques were superior to those of Public Administration, and it was assumed that the application of such techniques to public services would automatically lead to improvements in the efficiency and effectiveness of these services (Osborne, 2006:379).

During the 1980s, the study's mainstream leaned towards practical and relevant empirical public policy-making and public management. Nevertheless, the proliferation of alternative approaches to the field of study continued, including an explicit refounding movement.

Mainly inspired by administrative practice, Reinventing Government or New Public Management became a core topic in debates in the 1990s. Debates on the scientific status of the discipline resurfaced. Authors identified numerous sources for the identity crisis, and sought new fundamental approaches. Charbonneau and Van Ryzin (2012) argue that the New Public Management model of public administration developed to counter the bureaucratic model. It has prompted political authorities to leverage the professionalization of public service managers for the purpose of reforming bureaucracy and to grant them greater leeway in exchange for assuming greater accountability in respect of administrative performance. This implies that public service managers are expected to mobilise private sector management principles and tools in order to achieve targeted outcomes. New Public Management (also known as NPM) emphasises efficiency, cost control, quality of services delivered to clients, and organisational flexibility. New Public Management is constructed on those principles of bureaucracy such as centralisation, the politics/administration continuum, prudence and process accountability (Charbonneau & Van Ryzin, 2012:1).

By the late 1990s and early 21<sup>st</sup> century, there were increasing calls for a broadening of the field from public administration to governance. In the pre-World War II period, Administrative Science might be characterized by the institu-

tionalisation of research programmes, academic curricula, and specialist journals and associations. Since the War, there has been rapid growth in terms of the plurality and diversity of administrative theory and the scope of the discipline, defying any single, unifying, easily comprehensible grasp of the study. New Public Management has been criticised for its intra-governmental focus in an increasingly plural world and for its continued adherence to the application of outdated private sector techniques to Public Administration Management, and in the face of evidence about their lack of applicability (Osborne, 2006:380).

The existence of an increasing body of knowledge in the study of administration has not thus far resulted in a well-defined identity or self-image for the discipline in the early 21<sup>st</sup> century. The field continues to be characterized by attempts to combine practical and scientific or academic objectives, as well as eclecticism, and by what is often called a multi- or interdisciplinary orientation. However, the search for a unifying, all-encompassing system or general theory, with an accompanying methodology, is no longer at the heart of intellectual concerns. To what extent this results in paradigmatic, theoretical and/or ontological relativism, and to what degree, remains in dispute. Such trends are certainly not unique to the study of Public Administration, but this discipline is perhaps more prone to the consequences of fragmentation, due to its multi- or interdisciplinary nature. As in the modernist period, a central argument for attaining independent status still focuses on the ability of the discipline to offer more than other studies do for achieving an understanding of the phenomenon of public administration.

This brief overview of the field of study's development indicates that its scope and theory demonstrate both continuity and change. There has been some agreement since the mid-17<sup>th</sup> century about what was important to study in this general field, even though some topics disappeared and new ones were introduced. In principle, all relevant knowledge and approaches, from the earliest founders onward, were deemed important for consideration. Whatever topics took priority, whichever approaches became dominant and were included in administration studies, consensus was never achieved at least in general terms.

Thornhill (2012:118) points out that for some time people have suggested that Public Administration should be renamed Public Management. He explains that this may be ascribed to the rise of the New Public Management movement, which was



particularly pronounced in Britain during the 1970s and 1980s, when Margaret Thatcher was Prime Minister. The main thrust of this movement was to ensure that the work methods and procedures for running public or government affairs should correspond with those of private sector institutions; thus, Public Administration should be replaced by Public Management as a field of study and work. The assumption was that Public Administration would be freed from politics and directed by the same motives as those of Business Administration or Management. The view at the time was that the teaching and training of public managers could then become the same as those for private business managers.

The main difficulty with the drive for change is that it assumed the foundational values of public administration are the same as those for business management (Thornhill, 2012:118). Furthermore, Thornhill (2012:118) argues that in South Africa, the *Constitution* asserts that the activities performed by a public institution to deliver their services and products must respect the values set out in section 195 and the *Bill of Rights* contained in Chapter 2. The provisions of the *Bill of Rights* and section 195 of the *Constitution* state that the activities of South African public institutions cannot be evaluated merely in terms of material acceptability. It is therefore concluded that the traditional approach known as public administration, which takes into account specific values, cannot be discarded in pursuit of adopting the processes of business management (RSA, 1996a).

### **2.3 THEORETICAL CONSTRUCTS IN PUBLIC ADMINISTRATION**

The emphasis in the study of public administration now seems to be on developing an understanding of administrative theory, and the schools of administrative theories that developed in the study of public administration through time. Below, the view that public administration and public management are two separate yet complementary concepts is explained (Du Toit, 2013:3) and the origin, activities and characteristics of the academic disciplines of Public Administration and Management.

Since Public Administration was first practised and acknowledged as a discipline, there have been many debates on whether Public Administration is an academic science, as it did not have its own body of theories (Botes, Brynard, Fourie & Roux, 1998:272). In order to obtain more clarity on this matter, Public Administration

needs to be defined. Public Administration and Management are therefore analysed below, including the 'how' of public administration and management with particular reference to its domain.

### **2.3.1 Definition of Public Administration and public administration**

One of the earliest definitions of Public Administration was offered by Woodrow Wilson, who wrote that "the field of administration is a field of business, Public Administration is the detailed and systematic execution of public law" (quoted in Gildenhuis, 1988:12). Every particular application of general law is an act of administration. According to Du Toit, Knipe and Van Niekerk (2001:4), public administration refers to the administrative functions that must be carried out, together with other actions undertaken by government institutions and public officials. Du Toit *et al.* (2001:4) define public management as the performance of different processes which environmental influences interact with continuously in order to effect managerial outcomes. The outcomes of both public administration and public management are aimed at service delivery and the improvement of the general welfare of the people.

### **2.3.2 The practice of Public Administration and Management**

The multi-disciplinary approach to the study of Public Administration and Management emphasises the importance of using the knowledge that public officials can obtain from other disciplines, such as Economics, Political Science, Psychology, the legal sciences and natural sciences (Du Toit *et al.*, 2002:27). Regarding the contribution made by Political Science to the study of Public Administration and Management, Du Toit and Van der Waldt (1999:52) write:

...if we consider the contributions of political scientists such as Woodrow Wilson to Public Administration, the relationship between the two disciplines becomes evident. Because there are close connections between these two fields of study, a knowledge of Political Science can only contribute positively towards a better understanding of Public Administration and the practice of public administration.

In the same way that Political Science can contribute towards Public Administration and Management, the discipline of Economics, Philosophy, the legal and natural sciences also contribute by dealing with matters that affect the administration of functions performed by state institutions.

Public Administration as a discipline is associated with the public sector domain and the executive duties of government. However, the following background information is anticipated to introduce debates on the determination of the domain of Public Administration in a contemporary state such as South Africa, where the government and the private sector have to co-operate to satisfy the complex needs of society.

It is often argued that officials must avoid having a political agenda of their own, in which politics is understood as power-seeking. Officials may not do their work in such a way as to promote the political power of specific groups or individuals. However, practically speaking, in the South African context, the reality is that politics and administration cannot be separated, because public administration takes place in a political environment. Officials are expected to execute their administrative duties based on the resolutions of politicians, be it in Parliament (both National and Provincial) or in various municipalities (Pauw, 1995:28). It is thus important for Public Administration to take cognisance of politics, because the understanding of public administration in the South African context is determined by the understanding of the state and its functioning.

It is encouraging to note that across the continent of Africa, several schools of Public Administration and Management, including policy centres, are being established (Pauw, 1995:28). It can therefore be concluded that scholarship is not about copying existing foreign programmes, but the ability to draw from the strengths of these programmes in order to address local needs.

Public Administration as a discipline has always posed critical questions that demand deep intellectual reflection. As a field of study that examines the practice of managing the business of government, and as a body of knowledge that investigates the process of management in the public sector, public administration is best considered from the standpoint of interrelationships and of comparison. Public administration in modern societies is characterized by its performance in various functions, such as housing, health services, transportation, education, welfare, social services, law and order (Mosher, 1978:39).

Administration is a function that is carried out in both the public and private sectors. An important distinction between the two, apart from the generic similarities, is the particular culture that prevails in the two sectors. Another important difference is the motive of these two kinds of administration. In the public sector, the motive is

primarily to improve people's welfare, whereas in the private sector, the motive is to make profit (and more recently, also to add value to societal life). The activity of public administration therefore takes place in an environment influenced by societal conditions. The environment can also influence the activity. Therefore, public administration and management are part of the public sector's field of operation. The activity of public administration lies in the execution of several generic administrative functions, including policy determination, organisation, financing, the provision and utilisation of personnel, determination of work procedures and methods and control (Cloete, 1998:85).

## **2.4 GENERIC ADMINISTRATIVE FUNCTIONS OF PUBLIC ADMINISTRATION**

At the start of the 20<sup>th</sup> century, Henri Fayol identified five functions in the field of management, namely planning, organising, commanding, coordinating and controlling (Cloete, 1967:58). The functions of public administration in terms of its generic functions are policy-making, organising, financing, staffing, determining work methods and procedures, and controlling (Cloete, 1967:58). In the South African context, this classification is regarded as a rational analytical model, which distinguishes the relationship between the functions (Hanekom, Rowland & Bain, 1992:21).

The work of public administration practitioners is done in the framework of specific work procedures and methods, and controlling through monitoring and evaluation. The function through which public funds are obtained, spent and controlled is called financing. Government acquires funds by collecting taxes, charging levies, tariffs and fees, and from interest obtained from loans (Hanekom *et al.*, 1992:22). As the custodian of the tax paid by people of the country, the government is responsible for the appropriation of funds to ensure effective service delivery for all.

The functions of public administration are interrelated and interdependent and one cannot function without the other. It also consists of the functional activities that each institution or department is designed to perform such as education, security, defence, energy and nursing. The auxiliary functions that play vital roles in the carrying out of generic administrative functions and functional activities include research, analysis and data collection, data-processing, record-keeping and costing (Hanekom & Thornhill, 1986:17).

Cloete's (1967:58) five functions of public administration, namely policy-making, financing, staffing, organising, determining work methods and procedures, and controlling, are discussed in more detail in the subsections below.

#### **2.4.1 Policy and policy-making**

A policy refers to a “desired course of action and interaction which is to serve as a guideline in the allocation of resources necessary to realize societal goals and objectives, decided upon by the legislator and made known either in writing or verbally” (Thornhill & Hanekom, 1995:54).

The actual results of governmental decisions manifest in policies, and these policies are generally framed in broad terms covering the general political visions of the party in power (Thornhill, 2012:123). A policy does more than execute a single function: policies state the government's intentions (for example, the intention to provide free primary and secondary educational facilities up to Grade Nine). The process of developing a policy starts from the moment when a problem is identified, highlighted and brought to the attention of the government and the government decides to take action to resolve the problem. A decision is made to do something about that specific problem or need, and continues to the point when the relevant service is delivered (Du Toit *et al.*, 2002:83). During this period, many functions are carried out – these functions could include doing investigations, making decisions throughout the period, writing draft legislation, and so on.

Policy-making begins with public recognition that a problem exists. Next, the problem is defined and policy demands are formulated; finally, a policy agenda follows with alternative proposals (Kanyane, 2004:141). Policies are drafted by officials of the department responsible for implementing the policy. The legislation process begins when the drafting of the Bill commences. The Bill is then submitted to Parliament. Thereafter the bill is considered by the relevant portfolio committee, adopted and finally submitted to the President to sign. The President signs the Bill, which is published in the *Government Gazette* and then becomes an Act. Once this happens, it means the policy has been officially adopted. Finally, the Act comes into operation.

Policies and the laws emanating from policies are born out of the community's, society's or government's need to regulate the conduct of persons either within

public institutions or outside them, or both (Department of Public Service and Administration, 2003:39). Policy-making for South African local government and administration is directed by legislation passed by the country's parliament and provincial legislatures as informed by the *Constitution* (RSA, 1996a).

#### **2.4.1.1 Policymaking**

Sometimes the terms decision-making and policy-making are used as synonyms. However, in the realm of public administration, the term policy-making is used more specifically to refer to the processes that the authorities undertake to formulate policies (Thornhill, 2012:138). In that context, decision-making refers only to a moment in a continuous process at which a deliberate choice is made from among various alternatives. Policy-making thus usually means the actions (including numerous decisions) and thought processes that precede a policy statement. It is therefore possible that in the process of deciding on public policy there will be several moments at which a particular alternative has to be chosen to arrive at a final statement of the objective(s) to be pursued, or the method(s) of action to be employed. Consequently, at a given moment, decision-making provides a final choice among alternative policy proposals, the result of which, if made public, is a policy statement or a policy (Thornhill & Cloete, 2014:84).

#### **2.4.1.2 Meaning of public policy**

Policy-making is the activity preceding the publication of a goal, whereas a policy statement or policy is the result of that activity – the formal articulation of the goal to be pursued (Thornhill, 2012:139). Public policy is therefore the formal articulation, statement or publication of a goal that the government intends to pursue to achieve a specific goal in a community or society as a whole (Thornhill, 2012:139). Public policy is decided by the legislator and is thus the output of political processes. The implementation of the legislator's policy decisions is the task of the public institutions. Therefore, the policy decided by the legislator serves as an input to the comprehensive administrative processes (Thornhill, 2012:139).

An analysis of generic administrative functions shows that the policy and policy-making constitute one of six administrative functions. Policy-making is not subordinate to the other administrative functions: instead, policy and policy-making

are first among a group of equals (Thornhill & Cloete, 2014:84). Policy is, in fact, the link between political and administrative functions.

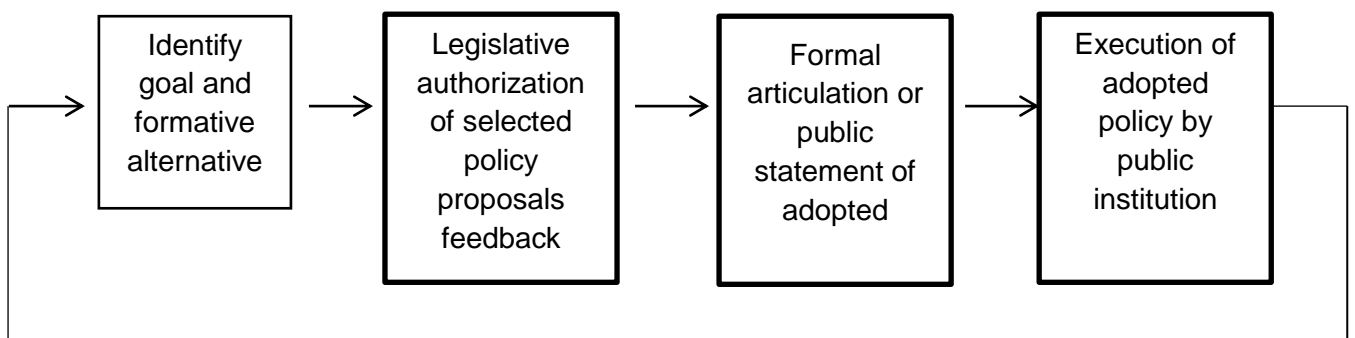
In the various meanings ascribed to public policy, three broad viewpoints can be distinguished:

- public-policy is the authoritative (legislative) allocation through the political process of values to groups or individuals in the community, and, in this regard, public policy is a guideline for action;
- public policy is a comprehensive framework of and for interaction within which a multiplicity of decisions are possible; and
- public policy is purposeful activity, a course of action put into operation to realize postulated views or goals (Thornhill & Cloete, 2014:84).

### 2.4.1.3 Process of public policy-making

In the process of public policy-making, five phases can be identified: formulation, authorization, articulation, execution, and feedback, as illustrated in Figure 2.1.

**Figure 2.1: Process of public policy-making**



Source: Cloete, Wissink and De Coning (2006:42)

According to Cloete *et al.* (2006:42), the first phase (the identification of a goal or need) implies that information needs to be obtained by a policy formulator (for example, a leading public servant) regarding the extent of the need or goal, the community groups involved, and the alternative measures that can be taken to attain the goal or alleviate the need. In the second phase, the policy-maker chooses a specific programme of action (a policy) that seems to be the most suitable solution under the prevailing circumstances, and formally authorizes the execution of the policy that has been chosen (Cloete *et al.* (2006:43). In the third phase, the

adopted policy is publicly stated and becomes the policy of the legislator regarding a specific goal or need. In this phase, the goal(s) that the policy-maker or legislator wants to pursue with the community or society as a whole are spelled out. After a public policy has been formally articulated, in the fourth phase, the executive public institutions (the administration) receive a mandate to execute the policy authorized by the policy-maker (Cloete et al., 2006:43).

In order to determine the appropriateness of a specific policy, or the degree to which goals are attained, data relevant to the policy and goal(s) need to be fed back to those who originated the policy proposals – the policy-maker (legislator) or the policy-formulator (a political office bearer, such as a legislator or leading public official). Feedback allows changes to be made to the original goals or needs, and enables modifications of the original policy.

An example of the process is a sequence of events in the BPDM in 2009 (BPDM, 2009:R092/08/09). Residents complained to the BPDM municipality that local *spaza* shops (small unofficial stores in a township, often based in private houses) and supermarkets (self-serve shops offering a wide variety of foodstuffs and household products) were selling dairy products that were rotten. The Municipal Council then took a resolution (R092/08/09) on 26 March 2009, requesting the Minister of Health to authorise the municipality to implement and enforce the *Foodstuffs, Cosmetics and Disinfectants Act, 54 of 1972* (cited in BPDM, 2009:R092/08/09). This Act regulates the sale, manufacture and importation of foodstuffs, cosmetics and disinfectants; and provides for incidental matters. Section (2) of this Act provides that any person shall be guilty of an offence if he 'sells any foodstuff, cosmetic or disinfectant which is contaminated, impure or decayed, or is in terms of any regulation deemed to be harmful or injurious to human health'. In order to enforce the Act, the BPDM adopted a Municipal Health Services By-Law. The by-law permits the Municipal Health employees of the BPDM to confiscate any foodstuffs, cosmetics and disinfectants which have a lapsed expiry date or are rotten.

#### **2.4.1.4 Public policy-making bodies**

Reference has been made above to political office bearers as leading public officials who are involved in public policy-making. Public policy statements are also dependent on information from individuals, interest groups, pressure groups, trade unions, professional institutes and the private sector.



Some significant institutions used to obtain information for public policy-making are

- commissions of enquiry;
- departmental and interdepartmental committees;
- staff units and domestic institutions;
- select committees;
- Cabinet committees; and
- the party-political caucus (Roux, 2002:430).

Interest groups such as chambers of commerce, women's associations, ratepayers' associations, staff associations and trade unions influence public policy-making either in determining or adapting policy, or in shaping public opinion to prepare the way for changes advocated by the body concerned. These bodies can either act deliberately, by organising and protecting members (for example, professional institutes), or not act deliberately, but simply react to situations that members consider abnormal (Cloete, 1981:71). For example, a ratepayers' association might react only when rates rise above a particular level, or when services drop below a level that they consider acceptable.

Among the public and private sector bodies that influence policy-making, one can distinguish between official and unofficial policy-makers (Botes *et al.*, 1998:312). Official policy-makers are the legislative and executive authorities, and include public institutions such as councils and executive committees and executive mayors. These authorities and institutions are vested with legal authority to participate in the policy-making process. By contrast, unofficial policy-makers (such as interest groups and influential individuals) tend to direct focus on policies that they would like to change.

A further distinction between primary and supplementary or secondary official policy-makers can be made (Botes *et al.*, 1998:312). Primary policy-makers have direct constitutional authority to decide on policy (Parliament or municipal councils). Secondary or supplementary policy-makers are public institutions that depend on Parliament or a municipal council for their policy-making authority and are responsible to those who give them that authority.

The South African Cabinet (Executive) as the government of the day is the body that acts continuously as primary policy-maker (Thornhill, 2012:140). The Ministers,

as members of Cabinet, also act as heads of government departments. They are continuously in touch with appointed officials, and are thereby equipped to decide on policy. Section 73 of the *Constitution* states that draft bills must first be submitted to the Cabinet for scrutiny, and then the issues contained in the draft bill can be submitted to Parliament (RSA, 1996a). Moreover, the Cabinet decides whether other institutions with a potential role in public policy-making need to be consulted. The procedure is usually that bills containing policy changes are initiated by a member of Cabinet. In this case, public officials in government departments would be supplementary official policy-makers. Their policy-making authority is granted by the Cabinet.

In respect of municipal government, section 156(2) of the *Constitution* indicates that a municipality has executive authority with regard to making by-laws. Thus a municipality has the right to make and administer by-laws for the effective administration of those matters that it has the right to administer (RSA, 1996a).

#### **2.4.1.5 Implementation of public policy**

Relatively few policies stipulate how and by whom they should be implemented. In government today, policies are implemented by executive government institutions, such as government departments, control boards, research institutions and other bodies charged with the day-to-day activities of administering legislation (Thornhill & Cloete, 2014:84). Policies are implemented by the legislator if guidelines for action are supplied to the officials who carry out the policies. The courts of law also interpret some laws (for example, when the law is contravened) (Thornhill & Cloete, 2014:93). In the execution of public policy, interest groups may also succeed in influencing an executive public institution regarding how a policy is executed. In other instances, community institutions can be used in the administration of government programmes.

South Africa is no exception to this trend. In the national government sphere, there are 39 government departments (RSA Government: <http://www.gov.za>). The state's commercial enterprises such as Postnet and Telkom, the South African Roads Agency Limited, the agricultural produce control boards, various other control boards, advisory boards, and research institutions are involved in implementing and administering legislation covering public policy (Peter & Pierre, 2003:393). Since so many public institutions are involved in the implementation of public policies aimed

at the general welfare of the community, it is necessary to analyse the policies and their impact in order to effect any necessary adaptation to policies.

## 2.4.2 Financing

The administration of public organisations depends to a large extent on government revenue. Financing relates to budgeting for the costs of running an institution or unit, and to financial planning, accounting for income, expenditure and control. No institution can function without funds. The success of the policy programmes of public institutions also depends on the availability of sufficient funding (Peter & Pierre, 2003:393).

Transparent and accountable management of public finances is essential to organisational performance (Musgrave, 1959:4). Moreover, financial performance management is a prerequisite for organisational performance, and it determines the government's capacity to implement policy and manage public resources through its own institutions and systems. Sound financial performance is the foundation for effective, capable and accountable administration, enabling institutions to fulfil their responsibilities, such as delivering basic services to the poor.

For a government to render services to its citizens, it needs money to finance the government and deliver services. The state uses public money and receives this money from members of society in the form of taxes, tariffs, levies, fees, fines and loans (Botes *et al.*, 1998:314). Public money belongs to the community of citizens in a state, called "the people" (Pauw, Woods, Van der Linde, Fourie & Visser, 2002:6). The public management of finance includes resource mobilisation, the prioritisation of programmes and projects, the budgetary process, efficient management of resources and exercising control. The rising aspirations of the people increasingly place more demands on financial resources – the citizenry want value for money, measured in terms of economy, efficiency and effectiveness, making public financial management vital (Woodhouse, 1997:47)

In South Africa, the *Public Finance Management Act, 1 of 1999*<sup>5</sup> ensures transparency, accountability and sound management of the revenue, expenditure, assets and liabilities of all governmental organisations (RSA, 1999). The *PFMA*

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<sup>5</sup> Hereafter referred to as the *PFMA*.

emphasises the need for appropriate financial systems and procedures. It imposes a clear responsibility on accounting officers to ensure effective and efficient management, and to plan properly before spending or transferring funds. Section 45 of the *PFMA* stipulates that line managers are responsible for effective, efficient, economic, and transparent use of the financial resources within their areas of responsibility (RSA, 1999). They must, within their functional areas, take effective and appropriate steps to prevent any unauthorised expenditure, irregular expenditure. At the local level, the *MFMA* provides clear directions on management of finance by municipalities as public institutions (RSA, 2003a). The objective of the *MFMA* is to secure transparency, accountability, and sound financial management of the revenue, expenditure, assets and liabilities of local government institutions.

### **2.4.3 Personnel provision and use**

Human resource administration and management are multifaceted functions. They include the generic administrative functions of policy-making, financing, staffing, organisation, procedures and control, as well as social and labour issues (Van Dijk, 2003:41). Just as the government cannot function without money, it cannot function without human resources to carry out its work. Human resource management is about people and the administrative processes associated with them. It is about employee satisfaction and about motivation driven through the performance of the institution (Andrews, 1987:3).

Staffing is “the process of acquiring, deploying, and retaining a workforce of sufficient quantity and quality to create positive impacts on the organisation’s effectiveness. Staffing relates to the hiring and training of all personnel and maintaining favourable conditions in the organisation” (Barton & Chappell, 1985:247).

Acquisition comprises recruitment processes resulting in the employment of staff. It includes human resource planning to identify what an organisation requires in terms of the numbers of employees needed and their attributes (knowledge, skills and abilities) in order to meet job requirements effectively. It is the means to ensure that high quality personnel are provided, properly trained and guided (Roux, Brynard, Botes & Fourie, 1997:159). Deployment involves decisions about how those who

are recruited are allocated to specific roles according to organisational requirements.

#### **2.4.4 Organising**

Cloete (1992:112) defines organising as the activities of functions involved in creating and maintaining organisational units, such as institutions. He explains that organising consists of classifying and grouping functions, and then allocating the group(s) of functions to institutions and workers in an orderly pattern so that everything the workers do will be aimed at achieving predetermined objectives.

Organising relates to “the establishment of the hierarchies of officials and offices. It contributes to the formal and informal components of organisations. Formal organisation relates to the official structure and relationships within the institution, for example, structures and processes established by legislation, prescription, laws and regulations that represent the institution” (Gulick & Urwick, 1977:13). An organisation’s rules, regulations, policies, code of conduct and structures provide for the formal relationships among employees, and between superiors and subordinates. Informal organisation is constituted by unofficial social relationships and structure, as shown in human and group behaviour in an organisation (Gulick & Urwick, 1977:14). The informal relationships develop from the natural desire of employees to socialise. Employees experience degrees of self-actualisation when they become part of the group (Roux *et al.*, 1997:59).

In the case of a municipality, section 66 of the *Municipal Systems Act* provides detailed information on staff establishments (RSA, 2000b). It provides that a municipal manager, within a policy framework determined by the municipal council and subject to any applicable legislation, must approve a staff establishment for the municipality; provide a job description for each post on the staff establishment; and establish a process or mechanism to regularly evaluate the staff establishment and, if necessary review the staff establishment and the remuneration and conditions of service (RSA, 2000b).

#### **2.4.5 Work methods and procedures**

Methods and procedures relate to administrative practices that enable administrators to carry out their daily work. A coordinated and systematic work

procedure is essential for the successful completion of any function at all levels of public institutions. Work procedure relates to the chronological arrangements of duties to accomplish set goals. In that regard, the work procedures in accordance with which public officials work have to be rationalised and recorded (Roux *et al.* 1997:184). Work methods and procedures are usually put in writing in the form of manuals or managerial policies and need to be revised regularly to ensure improving and control (Botes *et al.*, 1998:332).

The functions that public officials perform are a combination of generic, functional and auxiliary functions, as set out in Table 2.1.

**Table 2.1: Classification of functions performed by public officials**

Generic administrative functions	Managerial functions	Functional activities
Policy-making	Planning	Creating organisation
Organising	Assigning duties	Placing staff
Financing	Compiling budgets	Issuing cheques
Human resources	Leading	Discussions with staff
Work procedures	Determining procedures	Compiling flow diagrams
Control	Monitoring and evaluation	Checking

Source: Adapted from Thornhill and Cloete (2014:151)

According to Adedeji (1974:127), public administration requires two kinds of public officials, namely administrative generalists and specialists. The administrative generalists should understand the objective of government policy and be able to implement them. They should possess the management skills needed to plan, coordinate, direct and evaluate administrative operations. The administrative specialists, who should first be trained as administrative generalists, should receive further training in specialised fields related to administration such as management of finance, budgeting and planning (Adedeji, 1974:127).

Senior officials, including accounting officers, appointed in terms of sections 54A and 56 of the *Municipal Systems Act, Act 7 of 2011 as amended*, concentrate on executing generic administrative functions, while their subordinates (RSA, 2011). concentrate on the functional activities associated with their responsibilities. These senior officials are ultimately accountable for leading, directing, arranging and

systematizing these three activities, in a manner that ensures that the government's political intentions are implemented.

The functional and auxiliary activities can be executed when the means for their execution have been created through the generic administrative functions. In the generic administrative functions, a policy on the task to be executed is established from the beginning, while the necessary organizational arrangements for its implementation comes next, through establishing institutions and directing the efforts of employees in particular directions (Hanekom & Thornhill, 1986:18).

#### **2.4.6 Control over the administration**

Control relates to ensuring that set objectives are attained in line with established plans, and taking the steps necessary to ensure that any failure to achieve set objectives is rectified (Hanekom & Thornhill, 1983:179). Control means that there must be set aims, according to policy statements that outline future goals. Objectives can be outlined to realise the aim. Control measures include reporting on the outcome of set goals and auditing to determine whether income and expenditure comply with legal requirements. The other generic administrative functions also serve as control measures (Roux *et al.*, 1997:158).

### **2.5 FUTURE TRENDS IN PUBLIC ADMINISTRATION**

The influence of elite officials and professionals, and the use of organisational knowledge in policy-making are high (Caiden, 1982:35). However – given the rapid development in information and communication technologies, the globalisation of the world economy and subsequent difficulties in public service delivery in the last few decades – traditional public administration practices are now rather outmoded, and are too unresponsive and ineffective in resolving societal problems (Roosenbloom & Kravchuk, 2002:129). The centralized system of planning has raised many questions pertaining to public participation, efficiency, effectiveness and the economical delivery of services. Hence, there is an increasing need to use a system such as ward-based planning to reduce or eliminate undesirable consequences such as inefficiency, corruption and service delivery protests.

With regard to the study of Public Administration in South Africa, in 1967, Cloete already proposed a rational analytical framework, identifying a specific connection

between the administrative functions noted by various contemporary writers as the subject matter of public administration (Cloete, 1967:3-8, cited in Hanekom & Thornhill, 1983:241). Cloete arranged the key functions into six categories, which he originally called the generic administrative processes and later the generic administrative functions: policy-making; organising; financing; personnel provision and utilization; the determination of work procedure; and the institution of control measures (Cloete, 1967:3-8, cited in Hanekom & Thornhill, 1983:20). With this approach, it was possible to move away from the barren description of public administration that used to be the focal point in the study of and training in the academic discipline. Through this approach the empirical approach to the discipline was integrated with that of the behavioural sciences (Hanekom, 1983:20).

An analysis of Public Administration curricula at South African universities and technikons, and prescriptions regarding the training of leading public and municipal officials, reveals some consensus between academics and practitioners regarding the subject-matter (focus) of the study of Public Administration. They agree that the focus should be these six generic administrative functions, as well as auxiliary activities such as decision-making and communication. Programming and data processing can be added as they are manifested in public institutions (Hanekom, 1983:21). In South Africa, it is therefore possible to refer to a developing focus of Public Administration, and the locus can be identified as the executive public institutions.

Two matters pertaining to the development of the study of Public Administration abroad are important. At the 1977 congress of the International Institute of Administrative Sciences, some consensus was reached by 46 delegates from different countries participating in a working group. They agreed that the training programmes of top public officials should include knowledge of

- political institutions and processes;
- organisations and organisational behaviour;
- policy analysis, formulation, implementation and review;
- personnel and finance; and
- methodology (Hanekom, 1983:22).



## **2.6 CONCLUSION**

Public Administration as an academic discipline evolved in four phases, as explained in this chapter. During each of these phases, a specific aspect of the development was emphasised. In South Africa, in 1967, Cloete proposed a rational analytical framework for the study of public administration, and in so doing succeeded in moving away from a descriptive approach to public administration, which used to be a focal point in the discipline. Notwithstanding Cloete's valuable contribution, and the conclusions reached abroad as to the contents of training programmes for leading public officials, a universally acceptable general theory of public administration has yet to be formulated. The quest for such a theory to enhance the study of Public Administration, and eventually to improve administrative literacy, continues.

## **CHAPTER 3: COMPARATIVE STUDY ON THE STRUCTURE OF LOCAL GOVERNMENT**

### **3.1 INTRODUCTION**

The objective of this chapter is to track the development of local government administration from its antecedents. Hence, in this chapter, a descriptive comparison is provided of the units, organs and processes of local government in four countries, namely Britain, Uganda, Nigeria and Botswana. In these summaries, an attempt is made to give an account of laws and regulations pertaining to the structure, tasks, functioning and control of local government. The justification for choosing these four countries is that the Republic of South Africa (the focus of the current study) was once a colony of Britain, and so were Uganda and Nigeria, and Botswana was a British Protectorate. Close scrutiny of the local government structures in these countries will assist in gaining an understanding of where the planning in South African municipalities emanated from and how it was shaped.

In 1961, the International Union of Local Authorities published a document called *The Structure of Local Governments throughout the World* which contained a descriptive and comparative study of the units, organs and processes of local government in 43 countries (cited in Humes & Martin, 1969:23). The study was extended to 81 countries in research done by Samuel Humes and Eileen Martin. The impetus for the research came from the United Nations Educational, Social and Cultural Organization, at whose request the original study was begun in 1955 (Humes & Martin, 1969:23). There is consensus that a rational system of local government is indispensable to the well-being of a country, and that only when people are co-participants in shaping their environment will the better life to which all people aspire become a reality. The United Nations Development Programme (cited in Gibney, 2009) describes development as giving people more choices.

### **3.2 THE STRUCTURE OF LOCAL GOVERNMENT**

The contemporary world is not the same as the world that was known when the defect solutions to the challenges of public administration and management reigned

supreme (Minnaar, 2010:8). In response to the failure of outdated, traditional approaches to deliver the necessary returns, most of those who propose avenues for future reform argue that public administration, including local government, must become anticipatory, responsive, results-oriented, value-based and entrepreneurial (Kuye *et al.*, 2002:20). The term globalisation has been used to describe many worldwide occurrences, sometimes with positive and sometimes with negative connotations. Globalisation has been described as a new, complex, dynamic, multidimensional, and worldwide phenomenon, which means different things to different people, and different things to the same people across time and space (Kiggundu, 2002:3). This chapter describes and explains globalisation in the context of the historical origin of local government, its sovereignty, types, advantages, and structure.

### **3.2.1 Sovereignty and local government**

In today's sovereignty-conscious world, there are essentially two types of government. Even though the concept of sovereignty is undergoing rapid changes, there are supra-sovereign local governments. Supra-sovereign organisations, such as the European Economic Community, are still relatively undeveloped. Sovereign national governments exercise the most power, have the most fully developed public services and attract the most public attention (Humes & Martin, 1969:27).

Quasi-sovereign province-states are the main components of sovereign countries with federal forms of government. The essential principle of a federal form of government is that sovereignty (the supreme political power) is divided or shared between the national governments of the country as a whole and the province-state governments of the major constituent geographical parts.

One of the powers which is, in principle, reserved for the province-state government is local government. Thus, the laws establishing and controlling local government are generally province-state laws, and the administrative controls over local government in countries with federal constitutions are usually exercised by province-state officials. From a local government point of view, then, both the province-states and national governments are viewed as central governments. The province-states are quasi-sovereign and are not, therefore, considered to be local governments.

### 3.2.2 Types of local government

Local governments have all or most of the following characteristics (Humes & Martin, 1969:28):

- a defined area;
- a population;
- a continuous organisation;
- the authority to undertake and the power to carry out public activities; and
- the ability to sue and be sued and to enter into contracts, to collect revenue and to determine a budget.

Generally, local governments are either general-purpose, or representative, or both. Representative local governments are those which have one legally constituted plural representative governing organs or more. To be representative, all or most of the members of these organs must be elected directly or indirectly by local citizens. To govern, these organs must have some decision-making authority – that is, some control over the activities of the local employees. Local representative governments differ from local non-representative governments, in that the latter either do not have plural representative organs, or their plural representative organs do not have any authority to govern (Humes & Martin, 1969:29).

A fourth type of local government is neither representative nor general purpose, but it has all (or almost all) the characteristics of local government, including a defined area and population, a continuing organisation and the authority to undertake functions, collect revenue and adopt a budget. A current example is the Nigerian joint board, which is responsible for one function and is headed by one or more divisional officers (Humes & Martin, 1969:32).

Local government, or administration, is thus an integral part of the total government system of every country. As this typology makes evident, local government institutions cannot always be distinguished from central government ones; in practice, many institutions perform central, state/provincial and local government functions, such as the provision of health services.

### **3.2.3 The advantages of local government**

Differences in ethnic, linguistic, cultural and religious backgrounds and social institutions, along with political and administrative considerations, generally make it imperative for local entities to be retained in some form (Humes & Martin, 1969:32). Particularly in the last two decades, the potential importance of local government has increased in conjunction with the accelerated demands for local development and improved services (Kakumba, 2012:88).

The rationale for control and accountability in public administration has been reinforced by the ideals of good governance in which decentralised local government is seen as a tool to promote democracy and development (Kakumba, 2012:88). Local government takes government to the people. It provides greater administrative efficiency where social welfare is maximised through the dissemination of functions (Thornhill, Van Dijk & Ile, 2014:61). The direct contact with community residents which local leaders can exercise provides an opportunity to gain a more specific understanding of local needs, greater flexibility in mustering resources and allocating priorities, and increased possibilities of involving the residents – all of which are essential to the development and preservation of an effective and economical government system.

Smaller units provide a greater opportunity to co-ordinate the various services of government and allow local people to control their own local employees (Kakumba, 2012:87). Moreover, the use of local government provides more opportunity for local residents to have contact with, to take an interest in and have understanding of, to complain about, to exert influence upon and to participate in public affairs than does the use of central government (Kakumba, 2012:87). It provides a means for involving local residents who otherwise might be apathetic to, alienated from or even antagonistic to, the total governmental system. Control is a management function, besides planning, organising and leading. Control guides human and organisational behaviour towards achieving goals and objectives (Kakumba, 2012:87).

Local government is an essential instrument of national or state government which unites people of a defined area in a common organisation whose functions are essentially complementary to those of the central government and in the interests of the local residents for the satisfaction of common community needs. All

communities have problems and needs which are shared by their citizens and which can be alleviated only by their joint action, generally through a governmental structure.

The right of local authorities to select their own representatives is another valuable characteristic of local self-government which should not be imperilled (Harris, 1939:110). Local representative government serves a two-fold-purpose: one is the administrative role of supplying goods and services; the other is the 'representative' one of involving the citizens determining specific local public needs and how they are to be met.

### **3.2.4 The structure of local government**

Authority is a formal, static term, referring to a legal ability to take decisions. Power is a more informal kinetic term, referring to the actual ability to influence the decision-making process (Humes & Martin, 1969:33).

Representative local government concerns authority, because decision-makers are at least partially accountable to the local electorate. In units of local representative government, the elected council has some control over decisions that affect the activities of the local employees. Since the elected councillors are accountable for their actions through the electoral process, the electorate has indirect control over the decision-making process (Humes & Martin, 1969:34). The public may not participate directly in decision-making, but the public exercises a degree of control over the general course of local government activity by approving or disapproving the candidacy of members of the representative organs involved in the decision-making process.

Local representative government consists of processes which are interrelated in the sense that the electorate, by exercising its authority to elect the representative body, can (albeit indirectly) control policy-making and policy implementation, as carried out by the executive organs and the staff. Three of the most successful countries in exporting their systems of local government are France, the United Kingdom and the Soviet Union (Humes & Martin, 1969:35).

The English system of local government, or some variation of it, is still used in most of those countries which were formerly part of the British Empire. Emphasizing the

role of the council as the municipal authority which exercises power and has a relatively high degree of autonomy vis-à-vis the central government ministries, this system evolved over several hundred years and took its present shape during the 19<sup>th</sup> century (Humes & Martin, 1969:35). In contrasting the English to the French systems, the most important characteristics of English local governments are their greater autonomy (all powers are vested in the council); extensive use of committees; and the absence of a chief of a hierarchical system of field administration for the supervision of local government (Humes & Martin, 1969:35).

The English system was exported and transplanted to Australia, Botswana, Canada, Ireland, New Zealand, Nigeria, South Africa, Uganda, the United States, and other countries (Humes & Martin, 1969:35). Many of its features survived, but in the United States, Canada and Ireland, strong chief executive posts have been developed. In African and Asian countries, English-style councils were established under the tutelage of field officers (e.g. residents, collectors, district officers, district commissioners) (Humes & Martin, 1969:35).

In order to gain a better understanding of the various systems of local government, it is useful to compare their salient features and to survey some of the historical factors which have influenced their development. For this purpose, the countries in this thesis have been chosen from the African countries that were former colonies of Britain. In order to compare their systems of local government, it is important to focus first on the origins, nature and reforms of local government in Britain and observe how it has influenced those African countries.

### **3.3 ORIGIN, NATURE AND REFORMS OF LOCAL GOVERNMENT IN BRITAIN**

The purpose of this section is to highlight the origin, nature and reform of local government in the British political system. This is followed by a discussion of the history of local government and attempts at reform, culminating in the passage of the *Local Government Act of 1972* (cited in Elcock, 1982:1). An account is given of the powers and duties of local authorities and of their relationship with the central government. The main problems confronting local government in the late 20<sup>th</sup> century and on public and central government attitudes towards it are explored, and

the chapter also considers how decisions are made and services are administered in a local authority.

The development of modern government in England in general began with the *Great Reform Act* of 1832. The impetus for this Act was provided by corrupt practices in the House of Commons, and by the massive increase in population during the Industrial Revolution (Elcock, 1982:1). Prior to the Act, all boroughs and counties were generally able to send two representatives to the House of Commons. Theoretically, the honour of electing members of Parliament belonged to the wealthiest and most flourishing towns in the kingdom, and boroughs that ceased to be successful could be disenfranchised by the Crown. In practice, many tiny hamlets became boroughs, especially between the reigns of Henry VIII and Charles II. Some boroughs that flourished during the Middle Ages, but had since fallen into decay, were allowed to continue sending representatives to Parliament. Moreover, the royal prerogative of enfranchising and disfranchising boroughs fell into disuse after the reign of Charles II; as a result, these historical anomalies became set in stone (Elcock, 1982:2).

These forms of limited representative government were mostly forms of oligarchy rather than forms of government based on a wide-spread suffrage. In some cases the associations governed the city. In other cases, the oligarchy was composed of the members of a few leading families. Municipalities had forms of representative government in which a large percentage of the local inhabitants were actually represented. It was not until the latter part of the 19<sup>th</sup> century that units of local representative government based upon widespread suffrage took general root.

Prior to the Act in 1832, only male owners of freehold property or land worth at least 40 shillings in a particular county were entitled to vote in that county (Elcock, 1982:2). However, those who owned property in multiple constituencies could vote multiple times; there was normally no requirement for an individual to actually inhabit a constituency in order to vote there (Elcock, 1982:2). The size of the English county electorate in 1831 was estimated at only 200 000. This meant that the wealthy formed the majority of the electorate and could often vote multiple times. In small boroughs that had fallen into decay, there were often only a handful of eligible voters; these boroughs were therefore effectively controlled by the local aristocracy (Elcock, 1982:2).



After the reform of parliamentary constituencies in 1832, the boroughs established by royal charter during the previous seven centuries were reformed by the *Municipal Corporations Act* of 1835 (cited in Elcock, 1982:2). The Act required members of town councils in England and Wales to be elected by ratepayers, and councils to publish their financial accounts. The Act reformed 178 boroughs immediately; there remained more than 100 unreformed boroughs, which generally either fell into disuse or were replaced later in the terms of the Act, although the last of these were not reformed or abolished until 1886 – the City of London remains unreformed to the present day (Harris, 1938:295). The Act also allowed unincorporated towns to petition for incorporation.

Only since 1835 did English cities have councils which were elected by a significant portion of the local citizenry. In the latter part of the 19<sup>th</sup> century and the first half of the 20<sup>th</sup> century, though, forms of local representative government spread to many other countries in Europe, as well as to other countries. A third type of local units are special-purpose units of local representative government, frequently called special-purpose authorities. They are limited instead of general-purpose bodies and are governed by representative organs through which citizens may exercise some control over the carrying-out of public activities (Humes & Martin, 1969:31).

During the Industrial Revolution, there were large population increases. Urbanisation increased massively, especially in previously unimportant towns, and this created a class of urban poor, who had no means of subsistence (Elcock, 1982:2). This created many new problems that the small-scale local government apparatus that existed in England at the time could not cope with. Between 1832 and 1888, several laws were therefore passed to try to address these problems (Elcock, 1982:2).

In 1837, laws were passed allowing rural parishes to group together as Poor Law Unions, in order to administer the *Poor Law* more effectively. These unions were able to collect rates and taxes in order to carry out relief for the poor. Each union was run by a Board of Guardians, partly elected, but also including local Justices of the Peace. In 1866, all land that was not part of an ecclesiastical parish was formed into Civil Parishes for administration of the Poor Law. In the municipal boroughs, the Poor Law was administered by the town corporation (Elcock, 1982:3).

By 1888, it was clear that the piecemeal system that had developed over the previous century in response to the vastly increased need for local administration could no longer cope (Harris, 1938: 17). The sanitary districts and parish councils had legal status, but were not part of the mechanism of government. They were run by volunteers; often there was no one who could be held responsible for the failure to undertake the required duties. Finally, there was a desire to see local administration performed by elected members, as in the reformed municipal boroughs. The *Local Government Act* of 1888 (cited in Harris, 1938:17) was therefore the first systematic attempt to impose a standardised system of local government in England. For example, Birmingham became a county borough under the *Act of 1888* and was created a city in 1889 (Harris, 1938:17).

The counties of England at the time (now known as the historic counties, since the major boundary changes of 1974) were used as the basis of the new system. The counties had already undergone some boundary changes in the preceding 50 years, mainly to remove enclaves and exclaves (Rhodes, 1979:33). The 1888 Act called for the creation of statutory counties, based on the ancient/historic counties, but completely corrected for enclaves and exclaves, and adjusted so that all settlements were completely within a single county (Rhodes, 1979:33). These statutory counties were to be used for non-administrative functions such as sheriff, lieutenant, *custos rotulorum* (keeper of the roles of the justice of the peace), justices, militia and coroner. With the advent of elected councils, the offices of lord lieutenant and sheriff became largely ceremonial (Harris, 1938:18).

The statutory counties formed the basis for the administrative counties. However, it was felt that large cities and primarily rural areas in the same county could not be well administered by the same body (Harris, 1938:18). Thus 59 counties or county boroughs were created to administer the urban centres of England. These were part of the statutory counties, but not part of the administrative counties. The qualifying limit for county borough status was a population of 50 000, although some historic county towns were given county borough status despite lower populations (Humes & Martin, 1969:624). Each county borough and administrative county would then be governed by an elected county or borough council, providing services specifically for those areas. The Act also created a metropolitan County of London from the urban areas of London, which was a full statutory county by itself.

This county absorbed the Metropolitan Board of Works, which was established in 1855 specifically to maintain London's infrastructure.

A second *Local Government Act* was tabled in 1894 (Britain, 1894)). The Act created a second tier of local government. Henceforth, all administrative counties and county boroughs were divided into rural or urban districts, allowing more localised administration. The municipal boroughs reformed after 1835 were brought into this system as special cases of urban districts (Harris, 1938:18). The urban and rural districts were based upon, and incorporated the sanitary districts which had been created in 1875 with adjustments, so that districts did not overlap two counties (Harris, 1938:18).

Initially, the new administrative system worked quite well, and several more county boroughs were created in the next decades (Humes & Martin, 1969:632)). However, from 1926 the population requirement for election purposes increased to 75 000. There was also some concern about the viability of some county boroughs, which had declined since 1888. Due to a decline in the heavy industries in London itself, by 1932 more than half the male population was unemployed, resulting in very high municipal rates in order to make public assistance payments (Humes & Martin, 1969:623). At the same time, the population of the borough was lower than when it had been created in 1908 (Humes & Martin, 1969:632).

After the Second World War, the creation of new county boroughs in England and Wales was effectively suspended, pending a local government review. A government white paper published in 1945 stated that it is expected that there would be a number of bills for extending or creating county boroughs (Boyne, 2012:16). The white paper proposed the creation of a boundary commission to coordinate local government reform. The policy in the paper also ruled out the creation of new county boroughs in Middlesex, owing to its special problems. The Local Government Boundary Commission was appointed on 26 October 1945, under the chairmanship of Sir Malcolm Trustram Eve, delivering its report in 1947 (Boyne, 2012:16).

In 1965, a major reform in London was undertaken to address the size and specific problems of London. The counties of London and Middlesex were abolished, and along with parts of Essex, Surrey and Kent, were formed into a new county of Greater London (Elcock, 1982:2). This also resulted in the abolition of several

county boroughs in the London area. Greater London was thereafter divided into 32 metropolitan boroughs. This reform provided the basis for the next major nationwide reform in 1974. The Local Government Commission was wound up in 1966, and followed by a Royal Commission known as the Redcliffe-Maud commission (Elcock, 1982:2). In 1969, it recommended a system of single-tier unitary authorities for the whole of England, apart from three metropolitan areas of Merseyside, Selnece and West Midlands (Birmingham and the Black Country), which were to have both a metropolitan council and district councils (Boyne, 2012:16). This report was accepted by the Labour Party government of the time, even though there was considerable opposition. The Conservative Party won the June 1970 general election, and on a manifesto that committed them to a two-tier structure (Jones & Steward, 2012:348).

### **3.3.1 The *Local Government Act (1972)***

*Local Government Act* of 1972 (Elcock, 1982:3) resulted in the most uniform and simplified system of local government which has been used in England. The reforms effectively abolished all prior systems to build an administrative system from scratch. All previous administrative districts (statutory counties, administrative counties, county boroughs, municipal boroughs, counties corporate and civil parishes) were abolished (Boyne, 2012:16). The second tier of the local government varied between the metropolitan and non-metropolitan counties. The metropolitan counties were divided into metropolitan boroughs, whilst the non-metropolitan counties were divided into districts. The metropolitan boroughs had greater powers than the districts, sharing some of the county council responsibilities with the metropolitan county councils (Humes & Martin, 1969:623). The metropolitan boroughs were supposed to have a minimum population of 250 000 and districts 40 000, but in practice some exceptions were allowed for the sake of convenience.

This uniform two-tier system lasted for only 12 years. In 1986, the metropolitan county councils and Greater London were abolished under the *Local Government Act 1985* (UK, 1985). This restored autonomy to the metropolitan and London boroughs. However, the fact that all the county councils were then controlled by the opposition Labour Party led to accusations that their abolition was motivated by party politics. This created an unusual situation, where seven counties

administratively ceased to exist, but the area was not annexed to any other county (Boyne, 2012:16). The metropolitan counties thus continued to exist as geographical entities, and lived a shadowy semi-existence. This gave rise to the concept of the 'ceremonial county'. From a geographical and ceremonial point of view, England continues to be made up of the counties established in 1974. These counties still have a lord lieutenant and sheriff, and are therefore usually referred to as ceremonial counties (Boyne, 2012:16).

By the 1990s, it was apparent that the 'one-size fits all' approach of the 1974 reforms did not work equally well in all cases. The consequent loss of education services, social services and libraries to county control, was strongly regretted by the larger towns outside the new metropolitan counties, such as Bristol, Plymouth, Stoke, Leicester and Nottingham (Jones & Steward, 2012:347). The abolition of metropolitan county councils in 1986 had left the metropolitan boroughs operating as a unitary authorities, and other large cities wished for a return to unitary government (Boyne, 2012:16).

### **3.3.2 Local Government Commission for England (1992)**

Councils' functions were historically not split between executive and legislative functions. Functions are vested in the council itself, and then exercised usually by committees or subcommittees of the council (Boyne, 2012:17). The post of leader was recognised, and leaders typically chair several important committees, but had no special authority. The chair of the council itself is an honorary position with no real power (Jones & Steward, 2012:347). Under section 15 of the *Local Government and Housing Act 1989* (UK, 1989), committees must roughly reflect the political party representation of the council; before it was permitted for a party with control of the council to pack committees with their own members (Jones & Steward, 2012:347). This pattern was established for municipal boroughs by the *Municipal Corporations Act, 1835*, and then later adopted for county councils and rural districts (Boyne, 2012:17).

In 2000, Parliament passed the *Local Government Act 2000* (UK, 2000) requiring councils to move to an executive-based system, either with the council leader and a cabinet acting as an executive authority, or with a directly elected mayor, with either a cabinet constituted from the councillors or a mayor and council manager. There

was a small exception to this, which allowed smaller district councils with a population of less than 85 000 to adopt a modified committee system (Boyne, 2012:17). Most councils used the council leader and cabinet option, while 52 smaller councils were allowed to propose alternative arrangements based on the older system, as indicated by Section 31 of the *Local Government Act 2000* (Britain, 2000).

Where there is an executive, it is held to account. The remainder of the councillors perform an overview and scrutiny function, calling the executive to account for their actions and to justify their future plans. In a related development, the *Health and Social Care Act 2001*, the *Police and Justice Act 2006*, the *Local Government White Paper, 2006* (cited in Boyne, 2012:17) set out a role for local government – Overview and Scrutiny. The idea was to create greater local accountability for a range of public-sector organisations. Committee system councils have no direct scrutiny role, as decisions are scrutinised as they are taken by the committee, and are potentially referred to full council for review and approval (Boyne, 2012:17).

### **3.3.3 Elections**

The area which a council covers is divided into one or more electoral divisions – known in district and parish councils as wards, and in county councils as electoral divisions. Each ward can return one or more members; multi-member wards are quite common (UK, 1972). In terms of section 11 of the *Local Government Act, 1972* there is no requirement for the size of wards to be the same within a district, so one ward can elect one member and another ward can elect two. Metropolitan borough wards must return a multiple of three councillors, while until the *Local Government Act, 2003* multiple-member county electoral divisions were forbidden (UK, 2003).

The number equals that of the number of wards, but a PR councillor does not represent a ward (UK, 2003). In the election, the candidates to receive the most votes win, in a system known as the multi-member plurality system. There is no element of proportional representation (Jones & Steward, 2012:348), so if four candidates from the Mauve Party poll 2 000 votes each, and four candidates from the Taupe Party poll 1 750 votes each, all four Mauve candidates will be returned,

and no Taupe candidates will. Although this has been argued by some to be undemocratic, minor and local single-issue parties do tend to perform better at local elections than they do in general elections, so the case for reform is perhaps not clear. The South African electoral system is discussed in the thesis in Chapter 4.

Section 11 of the *Local Government Act, 1972* provides that the term of a councillor is usually four years. Councils may be elected wholly, every four years, or by thirds, where a third of the councillors get elected each year, with one year with no elections. Recently, the 'by halves' system, whereby half of the council is elected every two years, has been allowed (Boyne, 2012:18). Sometimes wholesale boundary revisions will mean the entire council will be re-elected, before returning to the previous elections by thirds or by halves over the coming years. Recent legislation allows a council to move from elections by thirds to all-up elections (Boyne, 2012:18). Often, local government elections are watched closely to detect the mood of the electorate before upcoming parliamentary elections.

#### **3.3.4 2009 structural changes to local government in England**

The Labour Government released a *Local Government White Paper* on 26 October 2006, *Strong and Prosperous Communities*, which dealt with the structure of local government (cited in Boyne, 2012:18). The *White Paper* did not deal with the issues of local government funding or of reform or replacement of the Council Tax, which was awaiting the final report of the Lyons Review (Boyne, 2012:18). A *Local Government Bill* was introduced in the 2006-2007 session of Parliament. The *White Paper* emphasised the concept of *double devolution*, with more powers being granted to councils, and powers being devolved to community levels (Boyne, 2012:18). It proposed to reduce the level of central government oversight over local authorities by removing centrally set performance targets, and statutory controls of the Secretary of State over parish councils, by-laws, and electoral arrangements (cited in Boyne, 2012:18).

The *White Paper* proposed that the existing prohibition on parish councils in Greater London would be abolished, and that new parishes be made easier to set up (Boyne, 2012:18). Parish councils can currently be styled parish councils, town councils or city councils: the *White Paper* proposes that a community council, a neighbourhood council and a village council may be used as well (cited in

Boyne, 2012:18). The reforms strengthen the council executives, and provide an option between a directly elected mayor, a directly elected executive, or an indirectly elected leader with a fixed four-year term. These proposals were enacted under the *Local Government and Public Involvement in Health Act 2007* (UK, 2007).

A report released by the IPPR's Centre for Cities in February 2006, *City Leadership: giving city regions the power to grow*, proposed the creation of two large city regions based on Manchester and Birmingham (Jones & Steward, 2012:349). The Birmingham city region was intended to cover the existing West Midlands metropolitan county, along with Bromsgrove, Redditch, Tamworth, Lichfield, North Warwickshire, and Cannock Chase, while the Manchester one would cover the existing Greater Manchester along with the borough of Macclesfield (Jones & Steward, 2012:349). Since the new Coalition Government was elected in 2010, the thrust of policy is to further promote localism within the introduction of the Localism Bill in December 2010. The Bill became the Localism Act 2011 after it received Royal Assent on 15 November 2011 (Boyne, 2012:18).

### **3.3.5 Officials**

Councillors cannot perform the executive functions of the council themselves without the assistance of officials. Councillors are responsible for the appointment and oversight of officers, who are assigned to perform tasks. Local authorities appoint a Chief Executive Officer, with overall responsibility for council employees, and who operates in conjunction with departmental heads (Jones & Steward, 2012:348). Under the *Local Government Act 2000*, councils have a general power to promote economic, social and environmental well-being of their area (UK, 2000). However, like all public bodies, they were limited by the doctrine of *intra vires*, and could only perform duties that common law or an Act of Parliament specifically or generally allowed for. Councils could promote local acts in Parliament to grant them special powers (UK, 2000). The *Localism Act 2011* (cited in Boyne, 2012:19) introduced a new general power of competence for local authorities, extending the power to do anything that individuals generally may do.



### **3.3.6 Funding**

central government grants, Council Tax, a locally set tax based on house value, business rates, and fees and charges for specific services including decriminalised parking enforcement (Harris, 1938:289). Fees and tolls are charged at local authorities. This relates to such matters as charges for public utility services by local authorities. The departmental control is intended to safeguard the service against loss and to prevent exorbitant charges on the public (Harris, 1938:289). Many of these funding sources are hypothecated (*ring-fenced*), which means that they can only be spent in a specific manner – in essence, they merely pass through a council's accounts on their way from the funding source to their intended destination (Jones & Steward, 2012: 351).

The Revenue Support Grant, the other main central government grant, is not hypothecated, and can be spent as a council decides (Jones & Steward, 2012: 351). For many decades, business rates were gathered locally, pooled together nationally, and then redistributed according to a complicated formula. These would be combined with the Revenue Support Grant to form a single *Formula Grant* to the council. Since 2013, a varyingly sized chunk of business rates is retained locally, and only the remainder is pooled and redistributed; the redistribution is according to a basic formula, based mainly on the size of the 2013 Formula Grant to the relevant council, and is now provided to the council independently of the Revenue Support Grant (Jones & Steward, 2012: 351). The accounts of all councils are examined annually by the auditors appointed by the central government (Britain, 2003).

In the case South African municipalities, a portion of the funding of municipalities is provided from the National Government through the annual *Division of Revenue Act (DoRA)*. Residents in municipalities are charged rates and taxes.

#### **3.3.6.1 Setting the rate for council tax**

When determining their budget arrangements, British councils make a distinction between hypothecated funding and non-hypothecated funding. Consideration of all funding in general is referred to as *gross revenue streams*, while *net revenue streams* refer to funding from only non-hypothecated sources (UK Constitution, 2003). When attempting to justify an increase in council tax, which is set at each council's discretion, or to criticise a reduction in government funding, the public is

often provided with information about the gross revenue streams, because council tax forms only a low proportion of these (meaning that a modest income in total revenue would require a large increase in council tax) (Boyne, 2012:19). Council tax is collected by the principal council that has the functions of a district-level authority. It is identified in legislation as a billing authority, and used to be known as a rating authority (Boyne, 2012:19).

Next the attention shifts to a few countries colonised by Britain in order to compare their system of local government with that of their former colonial ruler.

### **3.4 LOCAL GOVERNMENT IN UGANDA**

Uganda is the world's second most populous landlocked country, after Ethiopia. The southern part of the country includes a substantial portion of Lake Victoria, shared with Kenya and Tanzania, situating the country in the African Great Lakes region (Lubanga, 1996:37). Uganda also lies within the Nile basin, and has a varied but generally equatorial climate. Uganda takes its name from the Buganda kingdom, which encompasses a large portion of the south of the country including the capital Kampala (Lubanga, 1996:37). Beginning in the late 1800s, the area was ruled as a colony by the British, who established administrative law across the territory. Uganda gained independence from Britain on 9 October 1962 (Lubanga, 1996:37). Uganda became an independent nation on October 9, 1962, after nearly 70 years as a British protectorate.

As the result of a special commission established by the British Government in 1960, three types of relations between the forthcoming central government and the existing district governments were proposed:

- a) a federal relationship for the Kingdom district of Buganda, in accordance with an agreement with Britain
- b) a semi-federal system for the three other Kingdom districts, also per agreement with Britain, and
- c) a unitary relationship for the rest of the districts throughout the country. (Lubanga, 1996:37)

The arrangement was not conducive to unity, but encouraged division, especially as the Kingdom district of Buganda set up a governmental organisation paralleling that of the central government with a paramount chief, a legislative assembly, a council of ministers and a prime minister (Tamale & Kitamirike, 2016:2). Moreover, the local

governments in Buganda, instead of being responsible to the district commissioners, as in the rest of the country, were under the direct supervision of a minister, and the district commissioner was reduced to the position of giving advice and inspecting the work carried out by local councils (Tamale & Kitamirike, 2016:2).

The four municipalities of Kampala, Jinja, Mbala and Masaka, the 15 town councils and the four town boards operate under the *Urban Administrations Ordinance of 1962, as revised in 1964*. Not all provisions of the Act apply to all urban authorities. The town boards are more strictly controlled by the central government than the municipalities and the town councils are (Kakumba, 2012:90). Each of the municipalities has a council (composed entirely of appointed members) which meets at least eight times per year. Following the English pattern, the councils also have committees and sub-committees with executing powers which meet between official council sessions. The most important of these are general purposes, finance, education, health and works (Tamale & Kitamirike, 2016:3). Council meetings are chaired by mayors in municipalities and chairmen in the towns, all of whom are appointed to this post by the central government. The chief executive officer of the municipality is a town clerk, who is assisted by a treasurer and various departmental heads, who are all members of the national civil service. In the towns, the clerks and finance officers are seconded from central government (Tamale & Kitamirike, 2016:5).

The powers of the urban municipalities are to control, manage and administer local affairs, to safeguard public health, to develop and manage housing estates and to provide particular health services. They also perform other duties assigned to them by the *Local Government Act, 1997 (Uganda, 1997)*. The main sources of revenue for the urban authorities are from rates, land rents, licences, fees and water rates and a graduated tax. Urban municipalities also obtain grants from central government and, with the approval of the Minister of Regional Administrations, may raise loans (Tamale & Kitamirike, 2016:4). This Ministry is also responsible for the supervision of urban municipal activities through the Inspectorate. Financial controls are exercised through the central government audit and the Inspectorate. The urban municipalities are subject to the rule of law and the doctrine of *intra vires* ((Tamale & Kitamirike, 2016:5).

The district councils of Buganda are composed of directly elected members. Each council elects, by majority vote, one of its members to serve as council chairman. The obligatory functions given by the *Local Government Act, 1997* to the district administration are as follows (Uganda, 1997):

- (a) education: provision of seven years of primary schooling to the extent that schools are being administered by an administration at the commencement of the Act;
- (b) medical and dispensaries, health centres, sub- dispensaries and aid posts, maternity and child welfare, schools health services; the control of communicable diseases, including leprosy and tuberculosis, subject to the overall responsibility of the Minister of Health; local ambulance services; hygiene services and health education;
- (c) water services: the maintenance of water supplier, subject to international obligations and to the approval and supervision of the government; road service which includes the construction and maintenance of roads;
- (d) prison services: the administration of prisons established by districts at the commencement of the Act.

### **3.4.1 Decentralized local government in Uganda**

The government form in Uganda since the colonial period has been amended several times (Lubanga, 1996:49). The emphasis has been on either a centralized or a decentralized form of government in Uganda. This varied from one political regime to another or even within the same regime. Today's Uganda is a colonial creation. Before colonisation, each ethnic group had its own independent system of governance. Scholars argue that, as in many parts of Africa, Buganda, Bunyoro and other kingdoms had highly centralized hierarchical systems (Kauzya, 2007:23).

Accordingly, the 1995 *Constitution of Uganda* and subsequently the 1997 *Local Governments Act* gave impetus and legal backing for decentralised local governance in Uganda. Article 176(1) stipulates:

The system of local government in Uganda shall be based on the district as a unit under which there shall be such lower local governments and administrative units as parliament may by law provide. (Uganda, 1995:117)

Similarly, Article 176(2)b specifies that

...decentralisation shall be the principle applying to all local government and in particular, from higher to lower local government units to ensure people's participation and democratic control in decision making. (Uganda, 1995:117)

Decentralisation in Uganda was not a local political initiative. Like the rest of the world, Uganda's decentralisation came at a time when World Bank through its

structural adjustment programmes embarked on decentralisation policy in Africa, Asia and other parts of the world, with political and fiscal devolution (Martinez-Vazquez & Vaillacourt, 2011:1). As a recipient on the New Public Management reforms menu, decentralisation became a key concept to be adopted and followed in developed and developing countries.

### **3.4.2 Local government structure in Uganda**

The local government system in Uganda is based on the district as a unit, under which there are lower local governments and administrative units (Uganda, 1995). There are three main types of local government:

- first the local governments in a district rural area: the district council and the sub county councils;
- secondly the local governments in a city: the city council and the city division councils; and
- thirdly the local governments in a municipality: the municipal council and the municipal division councils (Uganda, 1997).

The municipal council is an equivalent of a council. Other lower local governments are sub-county and municipal division council local governments. Below this level are the parishes and the wards in rural and urban local governments respectively (Uganda, 1997).

Elected local government councils in Uganda which are accountable to the people are made up of persons directly elected to represent electoral areas, persons with disabilities, the youth and women councillors comprising one third of the council (Kakumba, 2012:96). The local government council is the highest political authority in its area of jurisdiction. The councils are corporate bodies having both legislative and executive powers. They have powers to make local laws and enforce implementation. Administrative unit councils serve as political units to advise on planning and the implementation of services. They assist in the resolution of disputes, monitor the delivery of services and assist in the maintenance of law, order and security (Kakumba, 2012:96).

Uganda's citizens participate in elections by voting for their preferred leaders, holding public hearings and establishing information sharing fora. Non-

governmental organisations (NGOs) in Uganda are given a place on the district and local environmental committees. This gives impetus to the importance of plurality of voices and representative democracy (World Bank, 2003). The argument is that citizens are at the centre of accountability. Therefore empowering poor citizens by increasing their influence in policymaking and aligning their interests with those of the non-poor can hold politicians and their bureaucratic counterparts more accountable for service delivery (Onzima, 2013:29). Citizens' voices can be increased through participation in elections, which is their main tool for rewards and sanctions.

Community-based Organisations, NGOs and civil society organisations play a crucial role in augmenting the voices of the poor. They mobilize and coordinate citizens' coalitions to consolidate their collective action issues, mediate on their behalf through redress mechanisms, and demand greater service accountability. Membership to these organisations strengthens citizens' knowledge of their rights. Even when these measures have limited scope, better information through public disclosure, citizen-based budget analysis, service benchmarking, and programme impact assessments and an active, independent media can strengthen their voice (Brandeis, 2004).

There are three groups of categories of actors in local governments, who are grouped into two for purposes of this study: the citizens on one hand and, the elected leaders and the bureaucrats on the other. The citizens form the bulk of the critical mass and they elect leaders who represent them. They are expected to hold these representatives accountable for their actions and decisions. One common way of holding leaders accountable is through elections (Brandeis, 2004).

The *Constitution of the Republic of Uganda*, 1995 (Uganda, 1995) awards powers to the citizens to elect people who will represent them within the local government set up. It is assumed that citizens make informed decisions on who should lead them.

### **3.4.3 Citizens' participation**

Participation entails active engagement of both internal and external stakeholders in the decisions and activities that affect them. As a minimum requirement, participation must include the ability to influence decision making and not just seek

approval or acceptance of a decision or activity (Lloyd *et al.*, 2007:38). It is impossible for democratic authority at the local or national level to succeed unless public officials are held accountable. Local government employees must also be accountable to elected representatives, and representatives must be accountable to the public. An effective tool used in accountability is supervision. Elected leaders are checked by the public using elections as the main mode of accountability (Blair, 2000:15).

In many developing decentralizing democracies, accountability faces a number of challenges in that, the regime may decentralize, but not completely. In Uganda for example, all district workers are recruited at the local level but they receive their salaries and other emoluments through the Central Government's Ministry of Public Service (Blair, 2000:26). Such arrangements make it difficult for local political leaders to hold local government officials to account, and it complicates problem-solving at the local level. The causes of this trend are either the central government's reluctance to decentralize, or the reluctance on the side of employees to perform decentralized functions. Citizens hold local political leaders accountable through periodic elections. The theoretical assumption is that, non performing leaders are removed from office. This gives rise to high rate of local leader turnover and leadership change. However, in developing democracies, election processes may be state managed by the influential politicians who buy their support. This makes it difficult for the largely poor citizens to hold them to account. Nevertheless, elections by and large reflect public will (Blair, 2000:27).

In many systems, opposition political parties are a powerful engine for enforcing accountability. The party in power often has strong incentives to evade accountability, but opposition parties have their own incentives to uncover wrongdoing by the ruling regime and publicly hound incumbents for their misdeeds (Kakumba, 2012:97). They present a constant vision of a viable alternative for performing public functions different and perhaps better way. Such a visible alternative helps keep the party in power on a path of political morality (Kakumba, 2012:97). The challenge is that the opposition in many developing democracies is too weak to influence the ruling government and help keep government in check.

#### 3.4.4 Complaints and response mechanisms

Complaint and response mechanisms are channels developed by organisations that enable stakeholders to file complaints on issues of non-compliance or against decisions and actions. They also ensure such complaints are properly reviewed and acted upon. Transparency, participation, and evaluation processes are used to minimize the need for complaint mechanisms. Complaint and response mechanisms are accountability processes of last resort (Lloyd *et al.*, 2007) and can be used when all the other accountability channels have failed. Formal grievance procedures are instituted in functional developing decentralizing democracies. (Blair, 2000:28).

The Local Government Public Accounts Committee (LGPAC) is a structure mandated with accountability in local governments in Uganda. The Local Government Public Accounts Committee is elected from among the councillors in the same way that the Municipal Public Accounts Committee (MPAC) members are elected (Uganda, 1997). The *Local Governments Act, 1997*, Section 88 (7) provides that a local government public accounts committee shall examine the reports of the Auditor-General, chief internal auditor and any reports of commissions of inquiry and may, in relation to the reports, require the attendance of any councillor or officer to explain matters arising from the reports. Section 88 (8) directs a local government public accounts committee to submit its report to the council and to the minister responsible for local governments who must lay the report before Parliament (Kakumba, 2012:88).

The Auditor-General: Section 13(1), Article 163(3) of the 1995 *Constitution* as amended and the *National Audit Act, 2008* (NAA) amplify the mandate and functions of the Auditor-General (cited in Kakumba, 2012:89). One of the main functions of the office includes undertaking financial audit and reporting on all public accounts in respect of all public offices, including courts, central and local government administration, universities and similar public institutions and any public corporation or bodies or organisations established by an Act of Parliament in accordance with laws which govern them (Uganda, 1995, 2008).

The Internal Audit Department, established in terms of Section 90(1) of the *Local Government Act, 1997* requires every district, city, municipal or town council to provide for an internal audit department. The head of the internal audit department



is directed to prepare quarterly audit reports and submit them to the council, giving a copy to the local government public accounts committee, who is expected to discuss these reports (Kakumba, 2012:97).

### **3.5 LOCAL GOVERNMENT IN NIGERIA**

Local governments worldwide are considered strategic institutions for the provision of basic socio-economic, environmental and other services. Their vantage is close to the community, which makes them valuable role-players in providing effective and efficient services, as required by the community. They can and should be engines of growth, and should drive development. In addition to basic services and health services, they can offer employment and boost the local economy, and by extension, the national economy (Eboh & Lemchi, 2010: 5).

According to the Federal Ministry of Youth Development (n.d.), the Republic of Nigeria is a federal constitutional republic in West Africa, made up of 36 states and Abuja, the federal capital territory. Nigeria is situated on the Gulf of Guinea in the Atlantic Ocean and borders on Chad and Cameroon in the east, the Republic of Benin in the west, and Niger in the north. According to Infonigeria2day (2015), there were only three states at independence, but today's 36 states and federal capital territory, which are sub-divided into 774 Local Government Areas (LGAs), reflect Nigeria's tumultuous history, and the difficulties of managing such this heterogeneous nation at all levels of government. The local government area is governed by a council which is responsible for supplying basic needs. The local government councils, which are regarded as the third tier of government below the federal and state level, receive monthly subsidies from a national federal account

The official language of Nigeria is English. This legacy of British colonisation (which ended in 1960) facilitates the cultural and linguistic unity of the country. The states are aggregated into six geopolitical zones: North West, North East, North Central, South East, South, and South West: Nigeria (Infonigeria2day, 2015). There are six cities with a population of over 1 million people (Lagos, Kano, Ibadan, Kaduna, Port Harcourt, and Benin City). Lagos is the largest city in sub-Saharan Africa (its population is over 8 million in its urban area alone) (Infonigeria2day, 2015).

For millennia, the region has been many divided into kingdoms and tribal states. Nigeria as a modern state originated from British colonial rule from the start of the

19<sup>th</sup> century. The Southern Nigeria Protectorate and Northern Nigeria Protectorate merged in 1914 (Humes & Martin, 1969:283). The British colonists developed administrative and legal structures for Nigeria as a whole but applied indirect rule through traditional chiefdoms. Nigeria gained independence as a federation in 1960. It adopted a republican constitution in 1963, opting for a three-tier government structure consisting of federal, state and local governments. Civil war broke out in 1967 and lasted until 1970; since then the country has alternated between democratically elected civilian governments and military dictatorships.

There was an election to the local councils in 1979, and another local government election in December 1987 attempted to restore democracy. Efforts geared towards local government autonomy included the approved scheme of service for local government employees, following the recommendation of the Oyeyipo committee report of March 1988 (cited by Adeyemo, 2005:80). General elections held in February 1999 marked the end of 15 years of military rule and the beginning of civilian rule based on a multiparty democracy. The general elections were held for the second and third consecutive time in 2003 and 2007 respectively. The 2011 and 2015 presidential elections have been conducted freely and fairly (Federal Ministry of Youth Development, n.d.).

Boko Haram, an Islamist movement that wishes to impose Sharia law and abolish the secular system of government, has caused sectarian violence in the north east of the country. In May 2014, outgoing Nigerian President Goodluck Jonathan indicated that Boko Haram attacks had killed at least 12 000 people and crippled a further 8 000. The neighbouring countries (Niger, Benin, Chad and Cameroon) are joining Nigeria to combat Boko Haram, because the movement has spread to these countries (Mantzikos, 2004:66).

As local government systems changed in Nigeria from the days of the Native Authority system to the present democratic, this has had an impact on service delivery. The first phase or epoch was the period from 1914 to 1950; the second period from 1950 to 1966, and the third epoch from 1967 to 1976. The new era began in 1976 and continues to date (Fatile & Ejalonibu, 2015:9). Local government is closest to the people of Nigeria, but the population does not appear to benefit. The failure of local government to deliver services over the years has led citizens to

lose faith and trust in local government administration as an institution in Nigeria (Oviasuyi, Idada & Isiraojie, 2010:81).

Historically, local government administration in Nigeria can be traced to the British system of local government, but some forms of local government administration pre-dated the British rule, given that local government administration is one of man's oldest institutions. The earliest local government administration in the region took the form of clan and village meetings (Oviasuyi *et al.*, 2010:81). Local government administration and development in Nigeria has historically included the native authority or indirect rule system, as well as the local administration system. The system was democratized and the democratic local government system was separated from the traditional or emirate council, and is gradually deepening democracy at the local government level (Oviasuyi *et al.*, 2010:81).

Local government is constitutionally entrenched as a level of government alongside the federal and state governments (Republic of Nigeria, 1999). According to the Constitution, all states must enact legislation providing for the establishment, structure, composition, finance and the functions of local government councils. The legitimacy of the local government councils as a tier of government is derived from the 1999 Constitution which states that local government constitutes the most critical level of government at which the momentum to sustain national development can be created.

As institutions of development, local government powers can be inferred from section 7(3) of the 1999 Constitution – they act as an organ of government to participate in development and economic planning in the area of jurisdiction. Local governments are sovereign, unlike independent nation-states. They are subordinate governments that derive their existence and power from law enacted by a superior government. Their autonomy is determined by the nature and structure of transactions or interactions between the three tiers of government (Adeyemo, 2005:77).

Nigeria became independent in 1960. Local governments in Nigeria operate a presidential system of government with two political institutions: a legislature and an executive. The legislature consists of councillors elected to make laws for proper administration and good governance of a local government area. The executive is constituted of a Chairman, Secretary and Supervisory Councillors. The people elect

the Chairman directly. The Chairman then appoints the Secretary and Supervisory Councillors, who are not members of the legislature. In other words, separation of power is practised at a local level (Republic of Nigeria, 1999).

Their functions are general and developmental. The general functions relate to expectations around a democratic-participatory and efficiency role, namely the exercise of democratic ideals and political participation, as well as the provision of protective services and infrastructural services. Their developmental functions relate to national integration, social and economic development, and manpower resources development (Republic of Nigeria, 1999). The government itself states the primary objectives of the local government as follows:

1. To make appropriate services and development activities responsive to local wishes and initiatives by devolving or delegating them to local representatives body;
2. To facilitate the exercise of democratic self-government close to the local government levels of our society, and to encourage initiatives and leadership potential;
3. To mobilize human and material resources through the involvement of members of the public in their local development;
4. To provide a two-way channel of communication between local communities and government (both state and federal). (Local Government Reform, 1976)

The primary aim of local government is to provide basic services to the people in line with the local government reforms of 1976, 1979, 1989, and 1999 (Adeyemo, 2005:78). The definition pre-supposes that local government exists where there are elections that enable citizens to participate directly or indirectly in matters that concern them. Local government is intended to be autonomous in Nigeria. It advocates the cooperation of the people in development projects and should be relevant to the needs of the people. However, local governments are not sovereign, unlike independent nation states. Local government remains subordinate to the national government, which derives its existence and power from law enacted by a superior government (Fatile & Ejalonibu, 2005:9).

Core functions of local government are defined in the Constitution (Republic of Nigeria, 1999), but individual states may augment their responsibilities through legislation. The functions of local government are provided for in Schedule 4 of the 1999 Constitution. Some functions are shared between local governments and other orders of government, especially the state governments, such as providing

and maintaining primary, adult and vocational education and health services, developing agricultural and natural resources, and other functions assigned to local governments by the State House of Assembly (Republic of Nigeria, 1999).

Some functions are mandatory for the local governments, and for these they have sole responsibility (Republic of Nigeria, 1999). One of these is considering and making recommendations to the State Commission on Economic Planning or any similar body on the economic development of the state, especially regarding the area of authority of the council and the state, and proposals made by this commission or body. Collecting rates on radio and television licenses is another. There are several others (Republic of Nigeria, 1999).

In practice, however, in Nigeria local government are mere agents of the state (Fatile & Ejalonibu, 2005:9). The government regards the shared functions as a list of permissive functions, which it allows local governments to perform under close supervision if there are resources to perform them (Fatile & Ejalonibu, 2005:11). The state lays down policy and exercises administrative controls over the quality and quantity of services to be delivered, but leaves the responsibility for finding funding to local governments, which lack the resources to do so adequately (Fatile & Ejalonibu, 2005:11). The Constitution does not give local government's clear mandate on key local functions such as local development planning primary education, health services and the development of agriculture and natural resources (Republic of Nigeria, 1999). Their role in economic development planning is to make recommendations to a state's agency for economic planning. With such unclear mandates, local governments face great difficulty resisting state interference in local functions (Fatile & Ejalonibu, 2005:9).

### **3.5.1 Appointment of councillors**

The British Administration first appointed councillors to local Native Authority Councils (Humes & Martin, 1969:284). The need for such officers arose because the local (British) district officer needed someone to whom he could explain his ideas for the improvement of the town and who could supervise work such as road building in the officer's absence. The district officer had insufficient time to explain his ideas in detail to an aged and sometimes illiterate of chiefs who were therefore not able to carry out his plans (Lloyd, 1953:332). As late as 1950, Iwo had only five

councillors, although all of these were literate – one was a teacher, one a shopkeeper, one a carpenter, and two were public letter writers. In Ado and Shaki there were a similar number of councillors (Lloyd, 1953:332).

The election to office often dated from a time when there were few literates in the town for the electorate to choose from, and it appears that some were virtually self-appointed (Lloyd, 1953:332). Their success in office depended largely on their own character; some who had lived in bigger towns seem to have believed that their duty lay not in advising the chiefs but in pointing out their mistakes to the people, a policy which soon resulted in mutual hostility (Lloyd, 1953:332). In two some of the councillors made their work into a full time occupation so that they became identified not as advisers to the chief but as agents of the district officer. They received no salary for the work and were thus suspected of deriving an income from their council work by dishonest means (Lloyd, 1953:332). In all but one case these councillors seem to have had little contact with the majority of the people; they had few friends among the more influential men in the town. They did not appear to have held regular meetings in their quarters and as a consequence the people were usually quite ignorant of their work (Humes & Martin, 1969:284).

### **3.5.2 Intergovernmental relations**

The Federal Government introduced numerous reforms in the 1989 *Constitution*, which assigned the power for the removal of the chairman of local government in terms of section 292 and those of the electorate to recall any member of a local government council including the chairman and vice-chairman (sections 304 and 7(8)). The *Constitution* also guarantees the local government a steady and assured source of income (Republic of Nigeria, 1999). By virtue of these provisions, the local government system is increasingly becoming autonomous and recognized as the third tier of government (Republic of Nigeria, 1999).

The federal government exercises constitutional and statutory responsibility over local government administration (Republic of Nigeria, 1999), in that it

- by the creates new local governments via normal processes of constitutional amendment;
- makes provision for statutory allocation of public revenue to the federal governments;

- establishes a National Electoral Commission to organise democratic elections at all levels, including local government elections;
- establishes a code of conduct bureau for all public officers, including local government functionaries, to declare their assets; and
- exercises unfettered powers through the National Assembly to make laws for the federation or any part of it, including any local government area.

The federal-local government relations have so far been very cordial.

Local government autonomy is perceived as local self-government or grassroots democracy (Adeyemo, 2005:79). This grassroots democracy is primarily aimed at giving the majority the opportunity to participate in determining their own destiny. Obviously, complete autonomy or complete local self-government within sovereign states is impossible – if local governments were completely autonomous, they would be sovereign states (Adeyemo, 2005:79).

In state-local government relations there have been differences in Nigeria. Local governments complain about undue interference from state government. In addition, local government chairmen argue that state governors plot to remove them by using the audit powers of the state (Adeyemo, 2005:79). State governors have also been accused of plotting with the state's houses of assembly to shorten the tenure of elected local government office bearers from three years in order to put their supporters in office (Adeyemo, 2005:79). However, many governors claim that a majority of chairmen and councillors of local government only meet to share money drawn from the Federation Account and hardly embark on development projects (Adeyemo, 2005:79). In addition, the governors complain that the federal government relates directly with local government councils operating under them.

Three common problem areas in the relations between state and local governments are finance functions and staffing, and state governments' usurpation of proportions of allocations to local government from the Federation Account (Adeyemo, 2005:79). Moreover, many state governments usurp local government avenues of generating internal revenue and do not contribute the required proportion of their internally generated revenues into the State Local Government Joint Account for sharing among local government, in contravention of the provisions in the 1999 Constitution (Fatile & Ejalonibu, 2015:10). In addition, there is a degree of overlap of functions among the levels of government, especially in the implementation of

such national policies as primary health care, primary education, water and sanitation. This has in some cases led to duplication of efforts, acrimony amongst government functionaries on authority over specific functions and waste of public funds (Adeyemo, 2005:79).

In view of the importance of local governments, as the bedrock for democracy, there was the creation of 148 local governments in 1989 and additional 140 in 1991, now totalling 774 (Fatile & Ejalonibu, 2015:10). These efforts were to bring the government much nearer to the grassroots. The application of the 1988 civil service reforms in the local government service was another measure to enhance the status of local government as the third tier of government. The measure was to professionalise the service of local governments and to strengthen accountability through the use of audit alarm system and the creation of the office of the Auditor-General for the local government (Adeyemo, 2005:80).

### **3.6 LOCAL GOVERNMENT IN BOTSWANA**

#### **3.6.1 Introduction**

In 1885, the former territory of Bechuanaland came under the protection of Great Britain. In 1895, the southern section was incorporated into the then Cape Colony, which is now part of the Republic of South Africa (Mfundisi, 1998:168). When the Union of South Africa was formed in 1910 out of the main British colonies in the region, the Bechuanaland Protectorate, Basutoland (now Lesotho) and Swaziland (the High Commission Territories) were not included, but provision was made for later incorporation. Successive South African governments wanted to incorporate these territories, but it never occurred (Mfundisi, 1998:168). An expansion of British central authority and the evolution of tribal government resulted in the 1920 establishment of two advisory councils to represent both Africans and Europeans. Proclamations in 1934 regulated tribal rule and powers (Mfundisi, 1998:168). After the election of the Nationalist government in 1948, which instituted apartheid, and South Africa's withdrawal from the Commonwealth in 1961, the UK decided finally not to incorporate these territories into South Africa. A European-African advisory council was formed in 1951, and the 1961 constitution established a consultative legislative council (Mfundisi, 1998:168).



In June 1964, the UK accepted proposals for a democratic self-government in Botswana. The seat of government was moved in 1965 from Mahikeng in South Africa, to the newly established Gaborone, which is near the border. The 1965 constitution led to the first general elections and independence was achieved on 30 September 1966. Seretse Khama, a leader in the independence movement and the legitimate claimant to the Ngwato chiefship, was elected as the first President, and was re-elected twice (Mfundisi, 1998:168).

A long-running dispute over the northern border with Namibia's Caprivi Strip was the subject of a ruling by the International Court of Justice in December 1999, which ruled that Kasikili Island belongs to Botswana. Today, Botswana, which is a country of 581 730 km<sup>2</sup> is the world's 48th-largest country (Mfundisi, 1998:168) – similar in size to France or Madagascar. It is situated between the latitudes 17° and 27°S, and longitudes 20° and 30°E. The country is predominantly flat, mostly rolling plateau. About 70% of Botswana's land surface is dominated by the Kalahari Desert. In the north-west, there is the Okavango Delta, one of the world's largest inland deltas, with the Makgadikgadi Pan, a large salt pan, in the north (Mfundisi, 1998:169).

The Constitution of Botswana is the rule of law. It protects the citizens of Botswana and represents their rights. Botswana's politics take place in a framework of a representative democratic republic. The President of Botswana is both head of state and head of government. There is a multi-party system. Executive power is exercised by the government. Legislative power is vested in both the government and the Parliament of Botswana. The judiciary is independent of the executive and the legislature (Botswana, 1996). Botswana ranks 30<sup>th</sup> out of 167 states in the 2012 Democracy Index . According to Transparency International, Botswana is the least corrupt country in Africa and ranks close to Portugal and South Korea (Mfundisi, 1998:169).

Botswana had no armed forces, but after the (then) Rhodesian army struck at the Zimbabwe People's Revolutionary Army, and Umkhonto we Sizwe bases in Botswana, the Botswana Defence Force was formed in 1977. The President is commander-in-chief of the armed forces and appoints a defence council. The Botswana Defence Force has approximately 12 000 members (Mfundisi, 1998:168). Since the Following political changes in South Africa and the region after 1994, the

Botswana Defence Force has increasingly focused on prevention of poaching, preparing for disasters, and foreign peacekeeping. The United States has been the largest single foreign contributor to the development of the Botswana Defence Force, and many of its officer have received training from the USA. It is considered an apolitical and professional institution (Mfundisi, 1998:169). The Botswana government gave the United States the green light to explore the possibility of establishing an Africa Command base in the country.

After gaining independence from British colonial rule in 1966, the Botswana government was faced with the challenge of formulating strategies for democratic decentralisation to promote participatory development planning and administration to assist in identifying priorities for community development. Public service in Botswana can be understood better against the background of what led to independence of the country.

The local chiefs (*dikgosi*) were gradually replaced by politicians who formed their own centres of power (their political parties). One of the most successful parties was the Bechuanaland Democratic Party, led by Seretse Khama (Mfundisi, 1998:168). Though Seretse never took his place as *kgosi*, he was the real leader of the Bangwato people and had strong ties throughout the protectorate. The Bechuanaland Democratic Party established a newspaper, edited by Quett Masire, who later succeeded Seretse Khama, to publicize the organisation (Mfundisi, 1998:168). Although there were a number of political parties by the time the elections were held in 1965, Bechuanaland Democratic Party won with an overwhelming majority. It received 80% of the total vote (Mfundisi, 1998:168). The elections were noteworthy, because they were peaceful, although several political parties participated. The country successfully made the transition from a territory of *dikgosi* to a modern nation ruled by the choice of the majority (Ngwenya, 2008:19).

After independence, nation-building efforts prioritised the decentralisation of the delivery of public services in order to make them efficient and productive. The government of Botswana emphasised the need for constitutional development at the centre that is balanced by the growth of democratic institutions throughout the country. The government of Botswana, headed by President Seretse Khama (from 1966 until 1980), aspired to provide basic services to communities, with four national goals: democracy, self-reliance, development, and unity. The aim was to

achieve these goals through social justice, economic independence, rapid economic growth, and sustained development (Republic of Botswana, 2001).

The presidency passed to the acting Vice-President, Quett Masire, who was elected in his own right in 1984, and re-elected in 1989 and 1994. Masire retired from office in 1998. He was succeeded by Festus Mogae, who was elected in 1999 and re-elected in 2004. In 2008, the presidency passed to Ian Khama (son of the first President), who resigned his position in 1998 as Commander of the Botswana Defence Force to take up a civilian role, and served as Mogae's Vice-President . The 11<sup>th</sup> election, the most recent, was held on 24 October 2014. Since independence, the majority party has been the Botswana Democratic Party.

Today, the president is elected by the National Assembly. The current incumbent is Mr Ian Khama. He is the executive head of the government and a member and presiding officer of the cabinet. The cabinet is composed of the vice-president and other ministers drawn from the National Assembly. There is also an advisory House of Chiefs. This consists of the chiefs of the eight principal tribes of Botswana as permanent *ex-officio* members, plus seven elected members (Humes & Martin, 1969:234).

### **3.6.2 Decentralized local government in Botswana**

Village level institutions operate within legislative and regulatory frameworks. Botswana is a unitary state – it has a two-tier political and administrative hierarchy of authority for allocating and redistributing resources to pursue the country's national development goals (Ngwenya, 2008:19). The top tier consists of central government institutions. Their function is to formulate national development policies and programmes. This centralisation is intended to foster a national identity and a common set of rules for the nation, as envisaged in the constitution of the Republic of Botswana. The Ministry of Local Government is a statutory body with resource-allocating powers over personnel, supplies and the maintenance of several departments. It serves as the parent ministry of local government (Ngwenya, 2008:19).

Botswana operates a two-tier system of government which are central and local government comprising district and urban councils. The second tier consists of district-level institutions. Botswana has 15 development administration districts.

Their function is to implement and supervise development programmes mandated by the central government. Districts constitute local government structures. They have mandatory functions provided by parliamentary statutes (Mfundisi, 1998:167). At the district level, the most important development institution is the District Development Committee (DDC). This institution was established by a presidential Directive in 1970 (Mfundisi, 1998:167). Each DDC is chaired by a District Commissioner and is responsible for the coordination of development activities at the district level. The purpose of these institutions is to deliver services to vast geographical areas (Mfundisi, 1998:167).

The second tier constitutes the lowest level of the hierarchy. The second sphere of government includes traditional and non-traditional village-level institutions, such as Village Development Committees (VDCs), chiefs, the *kgotla* and community trusts. VDCs work closely with, and coordinate the work of the Village Extension Teams (VETs) and Village Health Committees (VHCs) including non-governmental organisations (Republic of Botswana, 2001).

Maintaining peace and stability in Botswana, means satisfying the basic needs of the people (food, education, health and shelter). Meeting these challenges requires effective implementation of the social policies and programmes that are community-driven and responsive to the needs, problems and aspirations of local people (Mfundisi, 1998:167). Hypothetically, VDCs provide a democratic way to address and debate implementation issues.

### **3.6.2.1 Establishment of Village Development Committees (VDCs)**

A Presidential Directive was issued in 1976 to create Village Development Committees (VDCs). These act as the main institution responsible for community development activities within a village, and such activity is supposed to include participatory decision-making (Republic of Botswana, 2001). The Presidential Directive authorised VDCs to implement self-initiated projects, and they could secure funding from the government and/or other sectors. The institution is non-statutory. It uses non-salaried staff but members receive a token sitting allowance.

A VDC is defined as a village-based institution established by a presidential decree to legitimise participation by ordinary Batswana in the implementation of the country's decentralised development initiatives (Ngwenya, 2008:17). Ngwenya

argues that the delivery of government public goods is a multi-layered institutional process. Inevitably, questions around equitable allocation and distribution of resources emerge, especially in rural and urban areas. The relative success or failure of this endeavour depends on the strength and/or weakness of local institutions.

VDCs have no statutory power to formulate or revise government policies and programmes. The success of VDCs in Botswana reminds one that the existence of statutory institutions does not in itself guarantee democratic participatory practices and their success. Village-level institutions help to create inclusiveness. They strengthen central and local government relations. It is at the village level that ordinary people can criticise and hold government officials responsible, especially during *kgotla* deliberations (Ngwenya, 2008:17). The *kgotla* plays a role as an avenue to manage potential conflict. One unique outcome of this process is that Botswana has never waged external or civil war, and has remained peaceful, economically successful and politically stable.

### **3.6.2.2 Councils**

Councils in Botswana are corporate bodies with distinct names by which they are established. A council can be sued and can also sue, in terms of Section 4 of the *Local Government Act* and Regulation 4(1) of the *Township Act*, which empower the President and Minister of Local Government to establish district and town Councils respectively (Republic of Botswana, 2001). The two statutes provide that both District and Town Councils shall be constituted by an order establishing a Council stating number of members (both elected and nominated) deemed appropriate. Botswana has 16 Councils made up of ten district councils and six urban councils (Republic of Botswana, 2001).

Councils therefore derive their powers to exercise good governance and take responsibility for development in their areas of jurisdiction from the two Acts. Representative local government in Botswana has evolved and developed since its independence in 1966 because of the government's commitment to rural development and a steady process of decentralization spearheaded by the Ministry of Local Government. Creation of a conducive environment for local government development, community participation, strategic direction and national policy

formulation is the responsibility of the Ministry of Local Government under which Councils fall.

### **3.6.2.3 Functions and duties of councils**

In terms of Section 31 of the *Local Government (District Councils) Act, No 35 of 1965* and Regulation 32 of the *Townships Act*, Councils are to:

- (a) provide primary schools and other educational services in relation to primary education;
- (b) provide sanitary services for the removal and disposal of refuse;
- (c) safeguard and promote public health and prevent occurrence of any outbreak or prevalence of any disease;
- (d) provide public lavatories;
- (e) construct and maintain public roads and streets other than those constructed and maintained by central government;
- (f) name roads and streets within the council area;
- (g) establish, maintain and control markets;
- (h) establish and maintain recreational grounds and other public places;
- (i) establish and maintain cemeteries and burial grounds;
- (j) carry into effect bye-laws made by council;
- (k) secure the proper working of council and any committees and the welfare of its employees;
- (l) control urban building design and standards;
- (m) provide social and community development services;
- (n) encourage industrial and commercial development, especially where this will provide employment;
- (o) act as fire authorities to maintain fire brigades and to be responsible for extinction of fires and protect life and property in case of fire. (Republic of Botswana, 2001)

For administrative purposes, the country is divided into 15 districts. Local government units include nine district councils and three town councils. Each of the three Botswana urban municipalities established under the *Township Proclamation* has a council of eight elected and four nominated members (Republic of Botswana, 2001). Their grant of competence, as laid down by law, includes the mandate to provide basic services such as water, education, health services and roads. Each council elects a mayor from among its own members, who presides over the council meetings, undertakes the ceremonial duties and is the representative of the municipality to the outside world (Humes & Martin, 1969:234). The administrative head of the municipality is the town clerk, who is appointed by the local government

service commission, along with the council secretary, the treasurer and the education officer (Republic of Botswana, 2001).

Under the provisions of the Local Government *Tax Law, no 20 of 1965*, the urban municipalities are entitled to collect a graduated income tax levied on all residents of the area. In addition, local government revenues include

- rents from property owned or administered by the council;
- monies derived from licenses or permits issued by the council;
- interest on investment;
- such royalties as may by law be payable or receivable by the council; and
- central government grants, according to need. (Humes & Martin, 1969:234)

The central government also pays one-third of teachers' salaries and gives technical advice when requested to do so. Control over the urban municipalities by the central government is comprehensive. Prior approval for all by-laws is essential before they can be put into effect and close supervision is exercised to ensure that councils maintain minimum standards (Humes & Martin, 1969:234).

In accordance with the *Local Government Law no 35 of 1965*, each of the Botswana districts that is also a unit of local government has a council, varying in size from 12 to 38 members, the majority of whom are elected. In addition to providing basic rural services, the councils are also encouraged to produce development plans for such capital projects as construction of classrooms, clinics, dams, roads and rural abattoirs. Most of these projects are executed by self-help methods through the mechanisms of community development committees.

#### **3.6.2.4 House of Chiefs**

At the head of five of the district councils are chiefs, who have been appointed to serve as *ex officio* in this capacity; the other four districts are headed by a chairperson elected by the councillors from among their own number. District councils have the same sources of income as their urban counterparts, and also receive the same close supervision by the central government.

The House of Chiefs is composed of 15 members. Eight of these are *ex officio* members, who are the chiefs of eight tribes in Botswana, four are elected members who are elected every five years or when a vacancy occurs, and three are specially

elected members, who are elected by both the *ex officio* members and the elected members in the House of Chiefs. Unlike the 12 members, the specially elected members should have proficiency in English as a requirement, they may not be politicians and may not have been in active politics in the past five years, must be civil servants and must be Batswana over the age of 21 years (Mfundisi, 1998:168).

The House of Chiefs has no legislative powers or veto powers but acts as an advisory body to Parliament and the government. However, all Bills should go through the House of Chiefs before being discussed in Parliament, if the Bills affect tribal organisation/tribal property, the organisation or administration of customary courts, and/or customary law.

### **3.7 CONCLUSION**

The research findings on these four countries show the influence that Britain has had on the development of local government in all the African countries which were her colonies. Their local governments are not sovereign, unlike independent nation states. They are subordinate governments which derive their existence and power from law enacted by a superior government. The nature and structure of interactions between the three tiers of government determine their degree of autonomy.

The accounts of all councils are examined by auditors appointed by the central government. Approval of annual budgets is currently done by local government councils instead of the state department of a local government. This is done to enhance the effective performance and prevent unnecessary delay in the execution of capital projects. The central governments have all established the Office of the Auditor General for the purpose of auditing the accounts of local governments within the country. The central governments have the right to control, dissolve, dismiss and institute inquiries into the general administration of any local government in their country.

While local government is said to be the best institution to facilitate efficient and effective service delivery at the grassroots level, the fact remains that the third-tier of local government lacks the financial and human capacity to deliver on the statutory and shared responsibilities between it and other tiers of government. The literature review shows that local governments make minimal input into the



decisions on resource allocations at both the federal and state levels. One of the issues militating against local governments' performance has to do with corruption. As in all levels and institutions of governments, corruption is widespread, undiluted and unambiguous in local government. This perhaps explains the inefficiency and ineffectiveness in local government administration.

All these laws put in place mechanisms for registering complaints and receiving feedback. The challenge, however, seems to be the fact that, despite decentralising provision of services and implementation of government programmes, little is put in place as a way to research practical ways to make global organisations more responsive to the people they affect, and on how the rule of law can be applied equally to all. All these laws identify four core dimensions that make an organisation more accountable to its stakeholders: transparency, participation, evaluation, and complaint and response mechanisms. Lloyd et al. (2007:11) argue that each of these four dimensions indicates a standard for accountable behaviour.

Having discussed local government and its background in a number of other countries, the study now turns to the South African situation in the next chapter.

## **CHAPTER 4:**

### **SYSTEM OF LOCAL GOVERNMENT IN SOUTH AFRICA**

#### **4.1 INTRODUCTION**

Since 1988, South Africa's municipalities have embarked on the extension of infrastructure and development, absorbing fundamental changes to their internal governance and management arrangements, financial management systems and intergovernmental responsibilities. A new local government system offers the potential to realise an acceptable level of service for all citizens, facilitated by a new generation of municipalities. However, various challenges remain.

Local government in South Africa is in a critical phase in 2017. On the one hand, local government has survived a fundamental restructuring phase, and has made great strides towards extending service delivery and development to marginalised communities. Local government has shifted from being an institution that was compliant, racist and illegitimate to an institution with democratically elected leaders, constitutional status and a developmental agenda. On the other hand, as expectations of local government service delivery have risen, it has become evident that the broader transformation of local government is incomplete. It still faces challenges that come with large, inclusive municipalities, new executive systems and the political appointment of senior officials.

The aim of this chapter is twofold. Firstly, it provides a brief introduction to the history of local government in South Africa, as well as its legal and policy framework. It discusses the transformation of local government from a racially configured, illegitimate arm of the apartheid government into a system designed to produce developmentally oriented municipalities. Secondly, it examines some fault lines in the design and functioning of the system of local government, focusing on the national institutional and policy framework. This discussion of the local government framework, as well as some of its major challenges, make a positive contribution to the search for avenues to improve the ways in which planning is conducted. The progress made by South African municipalities towards realising the vision of developmental local government is considered. With regard to intergovernmental relations, the chapter also highlights the need for a clearer definition of local government mandates.

The areas of concern highlighted in this chapter are located in the practice of municipal government, the functionality of current intergovernmental arrangements with regard to district municipalities, and the feasibility of the intergovernmental planning framework. However, before these areas of concern are traversed, a brief history and introduction into the main tenets of the local government framework are given.

## **4.2 LOCAL GOVERNMENT IN SOUTH AFRICA**

Since human beings started living in groups they have not been able to provide for all their needs on their own. Currently, there are more than 200 states in the world, and each represents a unique society with its own physical and social characteristics, including a system of government with its own particular public institutions (Thornhill, 2012:4). Below, there is a description of the state known as the Republic of South Africa and its local government.

South African cities and towns are relatively young in comparison with those of Asia, Europe and North Africa. The development of local government in South Africa owes its origins to a number of factors. Such origins are found in the colonial history of the country, mainly from the Dutch and British influences. The Dutch occupied the Cape of Good Hope from 1652 to 1795, and again from 1803 to 1806 (Tsatsire, Tylor & Raga, 2009:130). Britain was the colonial power from 1806 to 1961. Both Holland and England left their mark on the local government system in South Africa (Craythorne, 1997:1).

### **4.2.1 The foundations and beginnings of local government**

In 1652, the board of directors of the Dutch East India Company authorised the establishment of a provisions station at the Cape of Good Hope for ships travelling between Europe and the Far East. Cloete (1997:9) states that local authorities emerged gradually at the Cape of Good Hope after Jan van Riebeeck, representing the Dutch East India Company, arrived in Table Bay on 6 April 1652. Gradually, despite company policy to the contrary, the Cape developed a colony of Free Burghers who demanded local services and a voice in the government of the territory (Craythorne, 1997:2). This was the first call for local government in South Africa.

Local authorities emerged gradually at the Cape of Good Hope after 1652. As the White community moved further inland, more villages were established, requiring governance and services. The Dutch settlers had brought with them a council system of *landdrosten* and *heemraaden* who jointly had judicial, police, civil and military functions (Craythorne, 1997:2). As the urban area known as Cape Town developed gradually from a hamlet into a town and eventually into a city, it became necessary to appoint such magistrates (*landdrosten*) and councils (*heemraaden*) to undertake the local government and administration of the districts outside the Cape peninsula. The *landdrost* (magistrate) system introduced by the Dutch colonial government consisted of local government groups, namely the College of *Landdrosten* and the *Heemraden* or local court members – Stellenbosch was the first seat of local government (Tsatsire *et al.*, 2009:130).

This first College of *Landdrosten* and *Heemraden* at Stellenbosch comprised a Landdrost, who acted as chairman, and the four *Heemraden*, who did not receive a salary. This college in Stellenbosch was the first South African local authority, compared to present-day South African local authorities. The college acted in accordance with the Dutch East India Company. These magistrates and councillors were not elected, but were appointed by the Dutch East India Company. The system can thus not be considered a form of democratic local government such as that currently in operation. These councils of *landdrost* and *heemraden* continued to govern the villages in the Cape colony until they were abolished by the British (Craythorne, 1997:1).

Because of wars in Europe, the Cape was twice colonised by the British. In 1775 the first occupation of the Cape by British troops took place. With the second British occupation in 1806, Dutch rule in South Africa was permanently broken (Craythorne, 1997:2). After 1806, English (not British) systems were introduced, notably the *Municipal Corporations Act 18 of 1835* (cited in Craythorne, 1997:1), which introduced the concepts of mayor, councillors, a town clerk and council committees. As a result of this circumstance, settlers of Dutch origin emigrated northwards in large numbers and established the Boer Republics of the Orange Free State and Transvaal which came under British rule (Craythorne, 1997:2). The British colonial practice allowed the continuation of local law in conquered territories, and this allowed the Roman-Dutch legal system to survive (Craythorne, 1997:1).

The foundations for a system of local government with an elected council, comparable with the current city and town councils, were laid when the *Cape Municipal Ordinance No. 9 of 1836* was passed and took effect on 15 August 1836 (cited in Craythorne, 1997:2). This *Ordinance* provided for a board of commissioners for the various towns and they were elected by the property owners. Only persons who paid property taxes could be elected as commissioners. The tenure of office of the commissioners was three years and their functions were of a municipal nature. This included controlling basic services and the administration of property taxes. Property rates were levied on an annual basis by public assembly (Tsatsire *et al.*, 2009:130). The *Cape Municipal Ordinance* provided a framework within which municipal regulations were drawn up, catering for the diverse needs of municipalities. It provided scope for the local inhabitants to use their initiative in terms of public participation. Moreover, it had far-reaching implications, which extended beyond the borders of the Cape Colony. For example, it formed the basic paradigm for the *Natal Municipal Ordinance of 1847* (Cloete, 1998:11).

The Cape went through a process of local commissioners and wardmasters, which ended in 1867 with the institution of councillors to represent wards (Craythorne, 1997:2). In Natal, which had settlers who did not agree with the older Cape system of commissioners and wardmasters, a different system applied. An 1854 ordinance introduced the concepts of the council as a corporate body, a voters' roll, staff appointments by council, the election of auditors, the determination of rates by the elected council and not at public meetings, a town clerk, and a committee system (Craythorne, 1997:2). These developments in Natal were far in advance of events in the Cape and it would be true to say that what happened in Natal influenced local government development in the whole of South Africa (Craythorne, 1997:2).

In the old Boer republics of Transvaal and the Orange Free State, an attempt was made to preserve the systems of *landdrosten* and *heemraaden*, but the *Cape Municipal Ordinance* was also adapted by the Orange Free State and Transvaal "Boer" Republics in 1856 and 1877 respectively, with minor modifications (Cloete, 1998:11).

However, after the Anglo-Boer War (1899-1902), the British colonial power used a combination of Cape and Natal local government legislation to establish a system of local government in the then Transvaal, but in the Orange Free State Colony with

its much smaller towns, a uniform local government system was introduced only in 1913 (Craythorne, 1997:2). In terms of the *South Africa Act, 1909*, the two Dutch territories joined with the predominantly English-settled provinces of Natal and the Cape to form the Union of South with effect from 31 May 1910 (Cloete, 1998:11).

Each of the four colonies united on 31 May 1910 to form the Union of South Africa had by that time developed its own distinctive system of local government. As municipal affairs became the responsibility of the provincial authorities from 1910, the distinctive characteristics of the four systems were retained and developed further (*South Africa Act, 1909*, cited in Cloete, 1998:11). The four systems of local government in the four provinces had numerous characteristics in common based on the Cape Colony's foundations. Popular participation through local councils with elected members and financial independence remained features of the municipal authorities as developed in South Africa after 1836 (Cloete, 1998:12).

The *South Africa Act, 1909*, prescribed that the provincial councils were responsible for municipal authorities. It should be noted that this Act was an Act of the British Parliament as there was no South African Parliament at the time. South Africa was granted the status of an independent republic in terms of the *Republic of South Africa Constitution Act, 32 of 1961*.

As provided in both the *South Africa Act, 1909*, and the *Republic of South Africa Constitution Act, 1961*, local government was delegated to the provinces. In each of the constitutions, there was a single-tier system of local government, consisting of units for urban areas. Any territory not included within these areas was under the direct control of one of the four provinces (the Transvaal, Orange Free State, Natal or Cape) or would have been designated as the territory of a rural local authority (Craythorne, 1997:2). There was no formula throughout the country for determining when a populated centre could be designated as a village, a city or town. The difference was primarily one of size, population and financial resources (Cloete, 1997:9).

Each of the 310 cities and towns and 146 (official) villages in South Africa had a council whose members, with only a few exceptions, were elected by the qualified voters of the locality. One councillor was elected from each ward into which the city, town or larger village was divided for that purpose (Cloete, 1997:9). In the provinces of the Transvaal and the Orange Free State, the term of office of all elected

councillors was five years. In Natal, one third of the council members retired annually, and in the Cape Province half of the councillors retired biennially. Each year, the councils elected, by majority vote, one of their members to serve as mayor, and one as deputy mayor (Humes & Martin, 1969:290).

The field of competence of the councils included essential utilities and services such as the provision of water and sewerage systems, rubbish removal, electricity, gas, streets, street lighting, traffic control, firefighting, ambulances, cemeteries, sports facilities, parks, clinics (sometimes hospitals), libraries, museums, city transport, licensing, abattoirs, pounds, markets, and other services which make urban dwelling possible, safe, profitable, satisfying and pleasant (Cloete, 1997:9). Education, justice and police matters are the responsibility of provincial administration and the central government, not of the local authorities (Humes & Martin, 1969:290). In addition to providing these services, local government units acted as agents of the central government in regard to particular aspects of public health and the control of the migration of unemployed rural workers into settled areas (Cloete, 1997:9).

Until 1960, urban municipal councils carried out their work through a series of committees, each of which had supervisory power over one or more functional department. The mayor was often an *ex officio* member of all committees (Cloete, 1988:238). However, the resulting lack of co-ordination of municipal activities, interference of councillors in the day-to-day administration of the departments, and the difficulty of establishing responsibility for errors and omissions, led to the establishment of the Marais Commission of Inquiry in Transvaal in the 1950s (Humes & Martin, 1969:290). The report of this Commission resulted in the introduction of a management committee composed of three to five members (elected by and from the total council) to serve during the life of the council of all cities and in any towns within the province which wanted to do this (Cloete, 1988:238). The legislation establishing the management committee system also provided that a council could set up other committees only with the approval of the provincial administrator. Furthermore, the mayor could not at the same time be both a member of the management committee and chairman of the council (Cloete, 1988:238).

The Act relating to the provinces was not repealed by Parliament, but was retained as the *Constitution Act, 32 of 1961*, which provided that the provincial authorities would continue to regulate municipal government affairs. At a later stage, it was decided that local government matters for the White, Indian and Coloured populations would be 'own affairs' in terms of prescriptions contained in the *Constitution of the Republic of South Africa, Act 110 of 1983*, which provided for a tri-cameral system of government.

#### **4.2.2 Local government and the policy of separate development**

It was in local government that the apartheid value system manifested itself most visibly. This was where laws separated communities in terms of race. It is not surprising, then, that the first signs that apartheid was untenable as a political value system also manifested itself at this sphere of government.

As a result of apartheid, urban settlements were skewed, with Black people being relegated to the so-called 'township' residential areas, which were often located a far from towns and areas of work (Tsatsire *et al.*, 2009:133). Apartheid local government had many distinct features, such as strict control of urbanisation along racial lines. It also refused to acknowledge the expanding urban population, partly caused by "illegal" Black migration. It was characterised by racial segregation of settlements, racially divided local authorities, and racial disparities in access to services and housing.

Policies perpetuated the differentiation of structures and systems according to race or population group. For example, "White" local authorities served White people, while management committees served the Coloureds and Indians; local affairs committees served the Indians in Natal. Black local authorities served Black people under the *Black Local Authorities Act, 1982* (cited in Reddy, 1996:53). These apartheid policies significantly influenced the development patterns of local authorities throughout the country, for example, by providing municipal services on a differential basis to local communities (Craythorne, 1997:10).

The four provincial administrations that existed at the time in the Cape of Good Hope, the Orange Free State, the Transvaal and Natal were given the responsibility of administering and controlling White local authorities. Policy directives were still



given to the Black local authorities by the central government, in the form of national legislation.

The purpose of a municipality is to govern and represent the inhabitants of the municipal area to ensure the maintenance of good rule and governance, and to act generally for the convenience, safety and comfort of those inhabitants. This includes the discretion to allocate resources and to undertake development (Craythorne, 1997:11). Historically, local government revenue in urban South Africa was largely self-generated, mainly through property taxes and the delivery of basic public services to residents and businesses. This particularly suited the White municipalities, which had small populations to serve and large concentrations of economic resources and property tax.

Black local authorities were beset with difficulties from their inception. They lacked political legitimacy among Blacks themselves. In addition, they faced fiscal inadequacy problems, since they did not have a proper tax base. Racial regulations barred most retail and industrial developments from Black areas. The consequently limited property tax base forced residents and retailers to spend most of their money in White areas. Municipalities in Black areas were therefore deprived of the means to meet local residents' needs. Without an adequate tax base, the Black local authorities automatically rendered inferior and substandard services. They were rejected in popular and sometimes violent community mobilisation in the mid-1980s. Civil organisations were established in the Black townships to galvanise and steer community resistance to the policies of the former government. The South African National Civics Organisation (SANCO) was the most dominant and powerful civic organisation. In an effort to quell uprisings and civil resistance in townships, the government introduced Black local authorities. However, the civics launched rent and services boycotts, thereby ensuring that no revenue would be forthcoming from townships, rendering the affected municipalities largely unsustainable (Tsatsire *et al.*, 2009:130).

The Regional Services Councils were the first to attempt to rationalise local government. Section 4 of the *Regional Services Councils Act, 109 of 1985* provides that a council

...shall in relation to any of its regional functions have all the powers and duties of a local authority or an officer in the employment of any local authority in terms of the laws which apply in the province where the seat of each council is

situated and which the Administrator entrusts to it by notice referred to in section 3 (1), but a council shall not have the power to levy any rates on immovable property. (RSA, 1985)

Section 8 of the *Regional Services Councils Act, 109 of 1985* provides that

...a member of a council shall hold office for a period not exceeding five years at a time, but shall at the expiration of his term of office be eligible for renomination. The remuneration and allowances of the members of the council shall be determined by the Administrator with the concurrence of the Minister of Finance. (RSA, 1985)

#### **4.2.3 Local government in South Africa, 1993 to 1998**

Before 1994, no single, uniform system of local government existed across the country. Each province had its own configuration of local government institutions. Local government as an institution of governance was subservient, racist and illegitimate (Cloete, 1994:14). The development of separate local authorities for separated racial groups, under the leading theme of own management for own areas, produced a scheme of exploitation on the basis of race. Without exception, the well-resourced and viable commercial centres with their strong revenue bases were reserved as White areas. The outlying and poor areas without meaningful formal economies were reserved for Black people. In the homeland areas, traditional authorities were tasked with performing local government functions (De Visser, 2009:8).

Transformation of local government into a fully-fledged and non-racial institution of government was thus encouraged by a legacy of an urban economic logic that systematically favoured White urban areas at the cost of Black urban and peri-urban areas, with tragic and absurd results (De Visser, 2009:8). Negotiations on local government between the apartheid government and the liberation movements commenced in earnest in the beginning of the 1990s. They produced a foundation for local government transformation. Essential to the outcome was the adoption of the principle of 'one city, one tax base', the slogan with which the inequitable distribution of resources was opposed by the liberation movement (Reddy, 1996:57).

The focus of local government and its closeness to communities made it challenging to transform. It was easier to transform the provincial and national government, because they were more distant from communities, and dealt with

inclusive but not specific issues. It was for this reason that the impact of the former government's policy of separate development was felt most significantly at the local sphere of government (as it is currently called). This is a possible reason why the current basic public service delivery and socio-economic challenges experienced by South African communities are experienced most by municipalities, which may be described as the coal-face of government. It was at the local level of government that the effects of the plethora of race laws separated local communities (Reddy, 1996:58).

Although negotiations for new local government structures began prior to the national negotiations, they were somewhat disjointed and depended largely on the initiatives of the stakeholders, namely individual local authorities, political parties and the civic organisations (Reddy, 1996:58). The transition from apartheid to a democratic, non-racial, non-sexist South Africa was largely managed by the Multi-Party Negotiating Process. It soon became clear that local government was a vital component of change and that transitional arrangements were required in terms of the statutory and non-statutory composition of municipal councils (Craythorne, 2006:11). The principal negotiators were the government (or statutory body) and various non-statutory bodies, led by the ANC alliance and the South African National Civic Organisation. This was the first step towards the establishment of a democratic local government system in South Africa.

The year 1993 was marked by a number of fundamental political changes towards a democratic South Africa. Stakeholders for the first time represented the entire political spectrum, some in alliance with others, and some on their own. The two negotiating forums, namely the Convention for a Democratic South Africa (CODESA) and the Multi-Party Negotiating Process, managed to get two important pieces of legislation passed. These were *the Interim Constitution of the Republic of South Africa Act, 200 of 1993*, and the *Local Government Transition Act, 209 of 1993* (RSA, 1993), which paved the way for the creation of democratic structures in all three spheres of government (Craythorne, 1987:4). The negotiations also led to the final date for a general election in April 1994. The *Interim Constitution of the Republic of South Africa Act, 200 of 1993* was promulgated on 22 December 1993 (cited in Craythorne, 1987:4). The Act came into effect on 10 May 1994.

In terms of chapter 10 of the 1993 *Constitution* and the *Local Government Transition Act, 209 of 1993*, the face of local government in South Africa was to change fundamentally (cited in Craythorne, 1987:4). This Act sketched a process for transformation. The process put forward by this Act was essentially a locally negotiated transition, which resulted in a wide diversity of forms of local government (RSA, 1993). The Act emphasised the necessity for disjointed urban and rural communities to combine their efforts in forming non-racial local government institutions that could cope effectively with the diverse needs and aspirations of all citizens in its geographical jurisdiction areas (RSA, 1993). These negotiations in the local government sphere were known as one-city negotiations. Furthermore, this Act provided a framework for an orderly transition to fully-ledged local government democracy. It mapped out three phases of transition for local government, namely the enactment of the Act by the Transitional Council in the pre-interim phase (1993-1995), further development in the interim phase (1995-1999), and the final phase (after 1999).

The pre-interim phase comprised the establishment of local forums to negotiate the appointment of temporary councils, which would govern until democratic municipal elections were held. The interim phase comprised the municipal elections, and lasted until the design and legislation of a new local government system. The final phase would be the establishment of a new local government system – the current developmental local government system.

The November 1995 local government elections were aimed at facilitating the transition from a non-democratic to a democratic local government dispensation. The first chapter in the democratisation of South Africa was brought to a satisfactory conclusion with the 1995 local government elections. Local government The December 2000 local government elections completed the local government transitional process, putting new local government democratic structures and councils in place (Reddy, 2006:13).

In terms of the *Local Government Transition Act, 209 of 1993* (RSA, 1993), the entire ethos of local government had to change from a passive and unresponsive approach to a responsive, participatory and developmental approach. Hence, the Act referred to the local sphere of government as developmental local government. The adoption of the *Constitution of the Republic of South Africa, 1996* was a

significant occasion, which entrenched the historic *Bill of Rights* (RSA, 1996a) and finally put an end to constitutional discrimination and the policy of separate development.

#### **4.2.4 Local government in South Africa, 1998 to 2000**

Local government is both the most complex and closest sphere of government to communities in South Africa. The new system of local government commenced with the establishment of the Municipal Demarcation Board in terms of the *Local Government: Municipal Demarcation Board Act, 27 of 1998*, in the middle of 2000 (RSA, 1998b). The first local government elections took place on 5 December 2000. In order to facilitate the transformation of local government, chapter 7 of the *Constitution* (RSA, 1996a) mandates national government to enact laws in order to facilitate the new municipal dispensation.

With the publication of the *White Paper on Local Government, 1998* (RSA, 1998a), the focus on local government evolved a greater emphasis on, *inter alia*, developmental local government and enhanced public consultation and participation. This signalled the official start of a deliberate legislative and transformation process which was anticipated to last three years – up to the 2000 local government elections. It must, however, be emphasised that transformation is not a finite, but a continuous process. The transformation of South African local government is still continuing.

The *White Paper on Local Government, 1998* (RSA, 1998a) was a forerunner to two key pieces of legislation on local government, namely the *Municipal Structures Act* (RSA, 1998c) and the *Local Government: Municipal Systems Act, 2000* (RSA, 2000b). It became clear that local government could not deliver on its new mandate with the former structures and systems; hence, the need for the above two Acts (Reddy, 2006:13). The *Local Government: Municipal Demarcation Act, 27 of 1998* had already also set new boundaries, merging more than 800 non-racial transitional municipalities into 284 (today there are 257 across the whole country) (RSA, 1998b).

In terms of prescriptions contained in the *Constitution* and the *Local Government: Municipal Structures Act*, three categories of municipalities were created for South Africa:

- Category A metropolitan municipalities (initially six, now eight), which are found in highly populated metropolitan areas characterised by vigorous movement of people, goods and services;
- Category B local municipalities (initially 231, now 205), which are public sector institutions that share executive authority in areas that have a Category C municipality; and
- Category C municipalities (initially 47, now 44); in each category C municipality there are a number of smaller Category B local municipalities, for example, Bojanala Platinum, Ngaka Modiri Molema and Dr Ruth Segomotsi Mompati have five constituent local municipalities each, and Dr Kenneth Kaunda District Municipality has four constituent local municipalities.

#### **4.2.5 Developmental local government since 2000**

In terms of section B of the *White Paper on Local Government, 1998*, a new developmental local government was envisaged for South Africa (RSA, 1998a). It described the kind of leadership municipalities need to build with their communities, organisations, business and others who can contribute towards the development of their geographical areas of jurisdiction. It also described, *inter alia*, integrated development planning (IDP), which is a new approach to planning to assist municipalities to fulfil their developmental role.

Developmental local government should ensure that

- all communities have access to basic public services;
- all can participate in the decision-making processes and planning;
- the local economies grow;
- job opportunities increase; and
- local resources are used wisely to improve the quality of life for all, now and in the future.

Section B of the *White Paper on Local Government, 1998*, provides that developmental local government has four interrelated characteristics:

- (a) to maximise social development and local economic development;
- (b) to integrate and co-ordinate;
- (c) to lead and to learn; and
- (d) to demonstrate development. (RSA, 1998a)

It is proposed that developmental local government is local government committed to working with all citizens and groups within the community to find sustainable ways to meet their social, economic and material needs and to improve the quality of life of local communities. In order to achieve this, municipal councillors will need, *inter alia*, political commitment and specialised skills pertaining to local government.

### **4.3 MOVING TOWARDS TRANSITIONAL LOCAL GOVERNMENT**

#### **4.3.1 Local government transformation**

The *Interim Constitution of the Republic of South Africa, 1993*, paved the way for the first democratic elections in 1994 and for the formulation of a final *Constitution* by the Constitutional Assembly (Craythorne, 2006:11). It ushered in constitutional recognition for local government by recognising its autonomy and guaranteeing its revenue-generating powers, as well as a right to a share of nationally generated revenue. The final *Constitution* of 1996 then contained a definitive statement on local government, in the form of a progressive chapter in which local government is established as a sphere of government (RSA, 1996a). Section 152 of the *Constitution* posited local government as a critical development agent by listing the constitutional objects and developmental duties of local government (RSA, 1996a). These include democracy, sustainable service delivery, social and economic development, environmental protection, community participation, poverty alleviation and intergovernmental cooperation (Steytler, 2006:187).

Developmental local government is characterised by four features:

- it maximises economic growth and social development, as local government is instructed to exercise its powers and functions in such a way that it has a maximum impact on economic growth and the social development of communities;
- it integrates and coordinates the developmental activities of other state and non-state agents in the municipal area;
- it enhances democratic development and public participation by becoming the vehicle for citizens to work to achieve their vision of the kind of place in which they wish to live; and

- it continuously leads and learns, because municipalities must build social capital, stimulate the finding of local solutions for increased sustainability, and stimulate local political leadership.

On 5 December 2000, municipal councils were elected to this new system of local government. A new generation of municipalities thus commenced their journey towards realising the constitutional vision of developmental local government. Meanwhile, transformation work had continued with the adoption in 2000 of the *Local Government: Municipal Systems Act, 32 of 2000* (RSA, 2000b). This Act represents a detailed definition of developmental local government as espoused in the *White Paper on Local Government* (cited in De Visser, 2009:11). It engages the developmental vision of municipalities' working together with citizens, by establishing a framework that instructs municipalities to involve citizens in decision-making, especially through the regulation of a framework for participative development planning.

In 2003, the institutional and developmental chapters of local government transformation were complemented by financial legislation. The *MFMA* established a framework for local government finance, dealing with financial management and accounting, revenue, expenditure and debt management, the responsibilities of accounting officers and mayors, and financial supervision by national and provincial governments (RSA, 2003a).

#### **4.3.2 Evaluation of local government**

Before venturing into a critical analysis of the progress achieved to date with regard to local government transformation, it is important to recall some of the key benefits envisaged from engaging local government in development and service delivery (De Visser, 2005:19). Firstly, local government is the sphere of government that is closest to the citizens. At least in theory, municipalities are best able to obtain and understand people's wishes and aspirations for the area. They are also suitably placed to identify and unlock local potential, and mobilise resources present in that area. These characteristics do not automatically lead to higher quality and legitimacy of decisions but they can potentially do so. Whether this potential is realised depends on whether municipalities are indeed configured and behave responsively, and to what extent municipalities are able to pursue their



communities' wishes for the area through broader government structures and partnerships.

Secondly, municipalities are the most suitable structures to deepen democracy. It is important to have many sites of democratic practice to enhance the growth of new leaders and the consolidation of multi-party democracy. Thirdly, the allocation of responsibility to municipalities creates room for local creativity. It allows options to be tested without requiring the entire country to experience the same experiment before it can be evaluated. Fourthly, municipalities are key players in multi-sectoral coordination, because they are where actual delivery by all development actors on the ground takes place.

Against this background, a broad assessment of progress can consider the success of the expansion of service delivery. Since 2000, through the leaders of municipalities, basic service delivery has indeed been extended to marginalised groups, through the indigent policy. Access to water supply increased from 59% of total households in 1994, to 91.2% of households by June 2016. Access to sanitation increased from 48% to 60.6% over the same period. In 1994, 30% of houses in South Africa had access to electricity, but by 2016 this figure had increased to 91.1%. From 1994 to 2006, a total of 4.3 million houses were delivered. By 2016, housing backlog was 2.3 million growing at 178 000 units per year (Statistics SA, 2016:79)

However, the incompleteness and challenges of local government transformation are evident from the intense social protests during 2005 and 2006, which continue in places. Protests indicate dissatisfaction with service delivery, real and perceived instances of corruption, and a lack of developmental impact by municipalities (Atkinson, 2007:58). Moreover, although municipal political leaders in South Africa are democratically elected under a national electoral system, voter turnout over the last three local government elections averaged only 48% (IEC, 2006; Human Sciences Research Council, 2006:3). Negative sentiments contribute to a lower turnout for local than for national and provincial elections – these relate mainly to a lack of interest and trust in local government (Good Governance Learning Network, 2008:34).

### 4.3.3 Central tenets of the system

Section 40(1) of the *Constitution* identifies each sphere of government as distinctive, interrelated and interdependent (RSA, 1996a). These three labels define the guidelines underlying South Africa's system of intergovernmental relations. The status of local government in the South African system of government can be explained by making use of this constitutional terminology. Local government's 'distinctiveness' as a sphere of government manifests itself in a number of ways. Firstly, municipalities are headed by democratically elected councils, in terms of section 157(1) of the *Constitution* (RSA, 1996a). The electoral framework laid down in the *Constitution*, the *Municipal Structures Act* (RSA, 1998c) and the *Local Government: Municipal Electoral Act, 27 of 2000* (RSA, 2000a), provide that municipal councils are comprised 50% of ward councillors, elected on a constituency system, and 50% of councillors elected proportionally via a party list, in terms of section 20 of the *Municipal Structures Act* (RSA, 1998c).

The second manifestation of the distinctiveness of local government is the fact that the *Constitution* itself allocates 'original' powers and functions to municipalities (RSA, 1996a). It does this by providing a list of local government matters over which local government has authority. Additional powers and functions can be transferred by national and provincial governments to local government as a sphere, or to individual municipalities. Furthermore, in terms of section 229, a significant part of local government's financial authority is guaranteed through constitutional provisions that secure municipalities' power to levy property rates and surcharges on fees (RSA, 1996a). The *Constitution* provides that local government is entitled to an equitable share of nationally generated revenue, providing municipalities with a legal claim to revenue streams (RSA, 1996a). It also instructs national and provincial governments to respect local government's distinctiveness (RSA, 1996a).

The emphasis on the distinctiveness of local government is balanced by two other constitutional principles, namely the 'interdependence' and 'interrelatedness' of the three spheres. Local government's interdependence in relation to other spheres of government refers to a relationship of supervision. Provincial governments are constitutionally entitled and mandated to supervise the performance of municipalities in terms of section 139 of the *Constitution* (RSA, 1996a). The

constitutional division of functions between national government and provincial governments determines the extent to which either of them may supervise municipalities in respect of a particular functional area. A detailed exposition of this division goes beyond the scope of this research, but it is clear that both spheres of government exercise significant supervisory powers with regard to municipalities.

National government establishes an institutional framework for local government that is largely uniform across the nine provinces. According to sections 155(6) and (7) of the *Constitution*, national and provincial governments must monitor the performance of municipalities to ensure that they discharge their developmental and service delivery responsibilities (RSA, 1996a). National and provincial governments must support municipalities. Finally, provincial governments have the right to intervene in a municipality that does not or cannot fulfil an executive obligation, in terms of section 139 of the *Constitution* (RSA, 1996a).

Section 41 instructs organs of state in the three spheres of government to cooperate with one another in a relationship of equality (RSA, 1996a). This constitutional instruction to cooperate is particularly relevant in the South African context, where the constitutional division of functions between the three spheres is not clearly defined. There are many areas of overlap between national, provincial and local functions. For example, when the *Constitution* makes national and provincial governments responsible for public transport and municipalities for municipal public transport, it is clear that the uncertain boundaries between municipal and provincial functions require intensive cooperation between the two spheres to avoid and address role confusion.

A key requirement for cooperation is integrated development planning. An important premise of South Africa's planning framework is that the municipality coordinates the planning of development and service delivery by all three spheres of government in its municipal area. Another manifestation of the inclusion of local government into the broader cooperative venture is that local government is a partner in intergovernmental relations: through organised local government structures, it is represented on most relevant intergovernmental structures and institutions in terms section 31 of the *Intergovernmental Relations Framework Act, 13 of 2005* (RSA, 2005c).

#### 4.4 THE NATURE OF THE DEVELOPMENTAL STATE IN SOUTH AFRICA

The United Nations Conference on Trade and Development (2007:60) defines a developmental state as the kind of state that is rationally planned in such a way that it makes it possible and necessary for government to influence the direction and pace of economic and social development. These should not be left to the dictates of the market.

In the literature, 'developmental states' have two components: one ideological, one structural (Thornhill *et al.*, 2014:132). It is this ideology-structure nexus that distinguishes developmental states from other types of states. In terms of ideology, a developmental state is essentially one whose ideological underpinning is 'developmentalist', in that it conceives its mission as ensuring economic development. This is usually interpreted as high rates of accumulation and industrialisation. Such a state is led by the principle of legitimacy, which lies in its ability to promote sustained development. In this context, development refers to steady high rates of economic growth and structural change in a productive system, both domestically and relation to the international economy (Castells, 1992:55).

According to Thornhill *et al.* (2014:132), at the ideational level, the elite must be able to establish an ideological hegemony. If it can do so, its developmental project becomes, in a Gramscian sense, a 'hegemonic' project that key actors in the national adhere to voluntarily. The state-structure side of the definition of the developmental state refers to the capacity to implement economic policies "sagaciously and effectively" (Thornhill *et al.*, 2014:132). Such a capacity is determined by multiple institutional, administrative, technical and political factors. The autonomy of the state from social forces underpins all these factors, so that the state can use these capacities to devise long-term economic policies. The state should be able to do so without being hampered by the claims of narrow and short-sighted private interests. It is usually assumed that such a state should be a 'strong state', in contrast to what Gunnar Myrdal (1998, cited in Mkandawire, 2001:290) refers to as a 'soft state', which has too little administrative capacity and not enough political wherewithal to achieve its developmental project. Finally, the state must have some social anchoring which prevents the state from using its autonomy in a predatory manner; such an anchoring also enables the state to gain adhesion of key social actors (Mkandawire, 2001:290).

The desire for the much debated developmental state in South Africa is based on the view that it is a panacea for the country's social, economic and institutional problems. For an example, the developmental state is seen as a way of building the capacity of the state – it is seen as providing the necessary capacity to provide basic goods to citizens and thus put an end to the service delivery protests the country has witnessed in the last decade (Edigheji, 2010:3). Edigheji (2010:3) argues that the recognition of the importance of a democratic developmental state in addressing the economic, social and institutional deficits is not enough.

Edigheji (2010:3) suggests that the litmus test is the government's desire and ability to create a competent administrative apparatus within the state. Political leaders must have the political will to ensure that the necessary resources are deployed; that policy and programmes are developed and implemented. There needs to be the political will to forge programmatic and reciprocal relationships with trade unions, business, and community organizations. In effect, democratic deliberations (including ones at the local level) are central to enhancing the state's capacity to address developmental challenges (Edigheji, 2010:3).

In South Africa, a development state needs to be capable of planning and managing investment in sectors which are normally neglected by private investors but which are essential for a higher skill, quality-based export trajectory. In a developmental state, political leaders and bureaucrats must be capable of resisting sectional pressure. However, leaders cannot be too 'autonomous' – in order to be able to impose short-term sacrifices and mobilise public effort they require widespread support (Thornhill *et al.*, 2014:133). Politicians in developmental states need to foster economic progress by working in alliance with particular economic interest groups.

The extent to which successful development can be combined with democracy is contested, but South Africa has little choice. It has to attempt such a combination (Lodge, 2009:253). South Africa's prospects as a developmental state rest on overcoming its historic backwardness in terms of education and skills, and its ability to offer a way ahead to many of the people who are now desperate and whose circumstances drag everyone down, indirectly if not directly (Freud, 2007:196).

Gumede (2011:2) insists that in order to become a truly developmental state, South Africa will be required to do the following:

- (a) balance economic growth and social development;
- (b) build democratic institution;
- (c) empower its citizens with the capabilities to seize and maximise whatever opportunities may arise;
- (d) revitalise civil society to move beyond the politics of protest to the politics of engagement; and
- (e) redesign public and private sector relationships outside the impotent tripartite negotiating platforms.

Effectiveness of municipal governmental institutions is a precondition for any country to reap the benefits of decentralisation. Olowu and Wunsch (2004:9) remark that “weak authority and defective institutional and operational rules can make it difficult to reach decisions, and thereby lead to policy failure and weakened local governance”.

#### **4.4.1 The task of the new system**

As mentioned earlier, the transformation of local government systems introduced new systems of executive leaders in municipalities. These new systems have drastically changed the profile of a municipality and the desired relationship between its political and administrative components. Before 2000, the average municipality was governed by a council with a weak, collective executive structure. The council was chaired by a mayor whose task was largely ceremonial. The municipal administration functioned under a town clerk who initiated and compiled much of the council agenda (Olowu & Wunsch, 2004:89). This fitted the context of the municipality as a largely administrative, rather than policy-making authority.

The new generation of municipalities is governed by a council; there is a strong executive authority, in many cases concentrated in an executive mayor. Sections 36 and 37 of the *Municipal Structures Act* (RSA, 1998c) state that the council meeting is chaired by an elected speaker and the administration is headed by a municipal manager, who is also the accounting officer.

The contemporary legal framework requires municipalities to extend their activities beyond administering national and provincial laws. Municipalities must adopt policies and by-laws, actively engage municipal communities, plan strategically and partner with external institutions. This requires strong political and administrative leadership (De Visser, 2009:15). A critical difference from the system that prevailed

before 2000 relates to the role of the municipal executive. The former Management Committee was expected to initiate policy, oversee the administration and take regular executive and administrative decisions.

The framework has resulted in a legally secure system of municipal administration. The *Municipal Systems Act* (RSA, 2000b) and the *MFMA* (RSA, 2003a) lay down a framework for the municipal administration based on modern public management principles. Concepts such as strategic planning, performance measurement, accounting principles and transparency are contained in the legal framework. Community participation in municipal affairs has been firmly placed on the municipal agenda by the adoption of a framework that instructs municipalities to involve communities in decision-making in terms of chapter 4 of the *Municipal Systems Act* (RSA, 2000b).

#### **4.4.2 Challenges**

Despite significant progress in the rationalisation and modernisation of municipal government, there are a number of specific challenges inherent in the new system that hamper successful transformation of local government. What follows is an examination of some of the most pertinent institutional difficulties that have arisen in the first decade of democratic local government in South Africa.

##### **4.4.2.1 Size**

The country had 278 municipalities in 2016, reduced to 257 in 2017, to serve a population of 55.7 million, living in a landmass of 1 220 813 square kilometres (Statistics South Africa, 2016:2). By comparison, Spain has 50 provinces and 8 108 municipalities, and Germany has 323 districts and 12 477 municipalities). This suggests that South Africa's municipalities cover a much bigger area and population. In fact, its municipalities are charged with a regional mandate.

Not only are municipalities slowly emerging from the amalgamation of previous municipal administrations, but the management of often very diverse communities is itself complex. There are many examples of contestation between communities consolidated into single municipalities. For example, when one group of communities succeeded, after protracted and extensive negotiations, to have their municipality, Merafong, incorporated into the Gauteng province, another group of

communities in the same municipality vehemently questioned that decision (De Visser, 2009:15).

#### **4.4.2.2 Role classifications**

The issue of the division of responsibilities and powers among political office-bearers in a municipality has proven to be a source of tension and contestation. As stated above, the speaker's office was a novelty when it was introduced in 2000. Generally, municipalities had to adapt to this new political office-bearer. A source of tension and conflict can be found in the role definition of the speaker *vis-à-vis* the municipal executive, or more specifically, the mayor, as discussed below.

Section 151(2) of the *Constitution* (RSA, 1996a) provides that the municipal council possesses both legislative and executive authority. This sets the scene for a possibly uneasy relationship between the Speaker and the municipal executive. South Africa's national and provincial legislatures are configured in a similar style. Their Speakers are responsible for managing the affairs of the legislature: they generally have no authority over the affairs of the executive, except when its members participate in the legislature. By contrast, the Speaker in a municipality occupies a different role, because the municipal council is not a body exclusively tasked with passing laws and overseeing the executive. It also has to discuss and dispose over a range of executive and administrative issues. The fact that the municipal Speaker presides over council meetings where administrative and executive issues are debated and discussed can result in role confusion.

Section 37 of the *Municipal Structures Act* (RSA, 1998c) provides that the municipal speaker is responsible for chairing council meetings and enforcing the Code of Conduct for Councillors. However, additional powers may be delegated to the speaker. It is common practice for the council to delegate to the speaker responsibilities related to community participation and councillor support. However, both these functional areas can result in political involvement. (The responsibilities of the speaker are discussed in more detail in Chapter 6 of this thesis.)

The engagement of municipal office-bearers with the municipal community is an activity where the political leaders or office-bearers are involved. At times, speakers do not limit themselves to organising and guarding the quality of community engagement. The power to decide who is entitled to undergo training, conference



visits and other types of councillor support often represents political leverage. According to its *Annual Report, 2014/15*, in the case of BPDM, for example, training and deployment of councillors to various conferences is decided by the Office of the Speaker (BPDM, 2015a:65).

#### **4.4.2.3 Council appointees**

The role of the most senior municipal official, the municipal manager, has changed significantly. Since 2000, the municipal council has the authority to appoint the municipal manager and those managers that report directly to him/her in terms of section 56 of the *Municipal Systems Act* (RSA, 2000b). This configuration was designed to produce a senior management team in the municipality that understands, and operates in sync with its political principals in the municipal executive. This objective is supported, but there appear to be a number of important side-effects. Firstly, political instability in a municipal council has an effect on senior management, because quorums are not present at council meetings and this means that resolutions are not taken or delayed.

A change in local political leadership, shifts in a ruling coalition, or even a reform within a ruling party, often results in the dismissal of the municipal manager and sometimes even to the dismissal of managers reporting to the municipal manager. For example, according to the Rustenburg Local Municipality *Annual Report* for 2012/13, the municipal council of the Rustenburg Local Municipality dismissed its Municipal Manager in 2011 after the new councillors were sworn in the council (Rustenburg Local Municipality, 2013).

There are also large number of unfilled vacancies in the top two echelons of municipal administration. In 2006 and 2007, 15% of the posts in senior municipal management were vacant (National Treasury, 2008:184). Municipal administrations thus suffer from a lack of consistency at senior management level (Municipal Demarcation Board, 2007:89).

## **4.5 CONCLUSION**

In this chapter selected aspects relating to the transformation of local government in South Africa were traced from 1652 up to the present. The chapter also reviewed contemporary local government in South Africa, and the transition from a racial to a

non-racial dispensation, heralding the start of a transformation era. The new developmental mandate assigned to municipalities has also been highlighted.

The evolution of local government into a developmental sphere requires community involvement. In the past, racially based municipalities were often characterised by antagonism and conflict with the very communities they were required to serve. The former system of government was also largely characterised by a lack of transparency, accountability and access to information, which were considered privileges, and not rights.

During the past 18 years, municipalities have embarked on the extension of infrastructure and development, whilst absorbing changes to their internal governing administration and management arrangements, including financial management systems and intergovernmental responsibilities.

This chapter has identified several areas of contestation and conflict that impede service delivery and development. It was argued that an improvement in municipal government is essential. Key questions concerning government arrangements and community participation were identified. The chapter also considered the ambitious framework for integrated development planning, which poses a challenge regarding a new policy framework on planning to augment what is already available.

It cannot be assumed that communities will automatically reap benefits from a developmental system of local government. Municipalities operate in a complex system of intergovernmental relations, which places a high premium on both local discretion and intergovernmental integration. Capacity constraints in critical areas of municipal governance and administration are hampering service delivery.

The involvement of communities in municipal affairs is not only a key objective of local government, but also one of the main reasons for South Africa's choice of developmental local government. Success in this area is of paramount importance. Government's recognition of this importance is evidenced by an elaborate and progressive legal framework for participatory governance at the municipal level. Municipalities are required to involve communities in the drafting of their integrated development plans, their budgets, and in making decisions regarding service delivery and development.

## **CHAPTER 5: PUBLIC PARTICIPATION IN SOUTH AFRICA**

### **5.1 INTRODUCTION**

The establishment of the new democratic South Africa in 1994 was met with enthusiasm and high expectations by the majority of South Africans, who were disadvantaged by the colonial and apartheid systems. To the black communities of South Africa, the emergence of the new political dispensation meant the promise of the elimination of such developmental challenges as poverty and poor service delivery. It also means that development processes are expected to incorporate the views of previously disadvantaged communities, through various democratic participatory mechanisms. This chapter therefore reviews the constitutional objectives that specify the necessity for public participation. Additional legislative prescriptions that give effect to these objectives are also reviewed.

In the South African context, public participation is an essential component for enhanced and effective accountable governance. Hence, the national government intends to achieve a high level of accountability and confidence from citizens in respect of governance for improved service delivery. Local government is an important sphere of government to facilitate sustained accountability and confidence in municipalities, by engaging with the citizenry in a participatory manner to improve service delivery. However, despite a variety of legislative prescriptions pertaining to public participation, there is still some apathy amongst communities.

The concept of engaging citizens and users of services in policy-making, and in the design and delivery of services is not new. It is increasingly seen as a key to good governance in most democratic countries. Because of this, there are a vast number of new programmes and initiatives designed to ensure greater citizen participation in local government. Public participation creates a sense of ownership where citizens are given an opportunity to express their views. This chapter argues that participation by the public must be a key principle in the democratisation process and in promoting good governance. Public participation and engagement, which must be a priority for both the government and the citizens, create an opportunity

and are a strategy in strengthening democratic government and promoting accountability. Thus, for participation to be successful, governability and participation must be balanced, and participation must be concrete, with visible outcomes.

Public participation and engagement in the administration and governance of a state is essential if the state is to function efficiently and effectively. This process of public participation can be described as an organised effort to increase control over resources and regulatory institutions by groups and other functionaries who are normally excluded from exercising such control. Cloete (cited Hilliard & Kemp, 1999:42) maintains that the public have an essential role to play in enforcing accountability. This implies that public functionaries must provide explanations for positive or negative results achieved in performing their daily activities. One may thus argue that the public plays a surveillance role to ensure that public functionaries comply with the mandate that the public has granted them. The aim of this descriptive chapter is to explain the concepts of public participation and engagement and to highlight measures undertaken in South Africa to ensure that participation becomes a reality. The chapter indicates the advantages and disadvantages of and challenges faced in citizen participation and engagement.

The post-apartheid government in South Africa has committed itself to instituting a wide range of participatory processes in different spheres of government across the country. However, in order to introduce authentic public participation in the context of 'direct democracy', it is crucial for the post-apartheid government to focus on local government structures close to the spaces where the intended beneficiaries of development are located. Municipalities, for example, are legally obliged to involve community organisations in formulating budgets and planning developmental priorities, through Integrated Development Planning (IDP). In addition to these initiatives, the concept of ward committees was adopted as a community participatory structure in the South African governance system.

The question of whether the ward committee system can enhance public participation in municipalities cannot be answered without some insight into the history of public participation within South Africa. Moreover, the history of public participation cannot be fully understood outside the context of the advent of the

democratic era in South Africa, and its effect on the culture of decision-making on issues of development.

The aim of this chapter is to contribute knowledge on how a ward-based planning system can enhance service delivery through public participation in South African municipalities. The rationale touches on aspects such as the role and purpose, characteristics, benefits and challenges of public participation. This chapter therefore presents the theoretical framework of the thesis, which interrogates different meanings of public participation and how these meanings can assist in analysing the role that the ward committee system plays in enhancing service delivery through public participation in the Bojanala Platinum district municipality's constituent local municipalities in the North West Province of South Africa.

This chapter conceptualises the importance of public participation and how it is defined in the context of community participation, involvement and decision-making. The literature consulted indicates that public participation is a concept that covers any process that creates a positive relationship between those who govern and those who are governed. Hence, the chapter highlights the importance of using a combination of participatory democratic models to gain maximum public participation in the affairs of a municipality. A conceptual framework of public participation is provided in an attempt to investigate the role of the community in participation processes.

## **5.2 LEGISLATIVE AND POLICY FRAMEWORK FOR PUBLIC PARTICIPATION IN SOUTH AFRICA**

Political office bearers have continuously called for public participation in public affairs since a democratic government was introduced in South Africa in 1994. Their calls have been accompanied by the promulgation of legislation which encourages public participation in governance and politics, indicating that public participation has a role to play in democracy. In line with this, the constitution-making process in South Africa after 1994 was the most comprehensive public participation exercise the country has experienced. It is regarded as the benchmark for all future public participation initiatives, and sets an example regarding what can be achieved through wide-ranging public consultation and encouraging public participation. The

overwhelming success of public participation in this process also made it an international point of reference.

To regulate interactions between the state and the public, the South African government has created new policies and legislation and put mechanisms in place to create an enabling environment for meaningful participation. Each government department needs to formulate a comprehensive public participation strategy within the ideal of co-operative and integrated government, sending a coherent message to stakeholders – the public with which they will engage (Theron, 2005, cited in Davids, Theron & Maphunye, 2005:129).

According to Van der Waldt (2007:40), legislation can be regarded as a collection of rules devised and enforced by a government that has authority over the diverse members of the public. Legislation ensures that government bodies adhere to the spirit and stipulations of particular legislation in designing and executing policy programmes. One of the requirements of the new South African system of local government was to promote democracy in the local government sphere (Thornhill, 2008, cited in De Villiers, 2008:71). It is therefore understandable that in post-apartheid South Africa, public participation is provided for and highlighted in a range of enabling legislation, policies and guidelines that makes provision for the extension of public participation in the government of municipalities.

The next section deals with legislation that enhances public participation. In this chapter the particular emphasis is on legislation and policies relating to decentralisation and local government. Although several legislative and policy instruments provide for public participation in the local government sphere, three legal instruments are significant: the *Constitution* (RSA, 1996a), the *Local Government: Municipal Structures Act* (RSA, 1998c), and the *Local Government: Municipal Systems Act, 32 of 2000* (RSA, 2000b). The requirements of these two municipal Acts (RSA, 1998b, 2000b) are the most important concerning public participation in municipalities (Buccus, Hemson, Hicks & Piper, 2007:9).

### **5.2.1 Key legislation**

In order to gain an in-depth understanding of the ward committee system in South Africa and how it enhances or diminishes public participation in the local sphere of government, there is a need to understand the tapestry of the legislative framework

that underpins the role and powers of ward committees in the first place. The purpose of the section of this chapter, therefore, is to map out in detail the legislative framework and the local government structure within which the ward committee system operates as a mechanism of public participation. It would be virtually impossible for public participation to take place effectively in society without a policy framework. As long as citizen participation exists, it is inevitable that policies as well as relevant legislation will be used as the main enforcers controlling the local government system.

As a result, this section will focus on the following major Acts, regulations and policies relevant to public participation in South Africa:

- *The Constitution of the Republic of South Africa, 1996* – Sections 151(1)(e), 152 and 195(e) (RSA, 1996a);
- the *White Paper on Local Government, 1998* (RSA, 1998a);
- the *Local government: Municipal Structures Act, 117 of 1998* – section 72 (RSA, 1998c);
- the *Local government: Municipal Systems Act, 32 of 2000* – sections 16, 17, 18 and 42 (RSA, 2000b);
- the *Local government: Municipal Finance Management Act, 56 of 2003* – section 120 (RSA, 2003);
- the *Local government: Municipal Property Rates Act, 6 of 2004* – sections 14, 22, 50, 51, 53 and 54 (RSA, 2004b);
- *Guidelines for Operation of Ward Committees, 2005*;
- *National Policy Framework for Public Participation, 2007*.

The laws and other official documents mentioned above are directed towards regulating public participation in municipalities. This implies that community participation is at the core of effective and efficient functioning of the local sphere of government and effective and efficient delivery of minimum basic services. From this, it can also be deduced that community participation is central to municipal governance (Maepa, 2014:183).

### **5.2.2 The Constitution**

One of the objectives of a constitution in any state is to protect the civil rights of the public and to ensure that government authority is not abused. Thus one of the

primary objectives of the *Constitution* (RSA, 1996a) is to protect the individual against possible abuse by the state. The relationship of power between the government and the public is therefore determined and arranged by the *Constitution* (Gildenhuys & Knipe, 2000:6).

Butcher (quoted in Van der Waldt, 2007:27) points out that participation should be seen as something broader than just involving ‘beneficiaries’ and ‘the excluded’, but focuses on wide-ranging forms of engagement by the public in policy formulation and decision-making in key areas that affect their lives. In terms of the South African *Constitution* (RSA, 1996a), public institutions have a mandate to ensure that all citizens receive the services they require to satisfy their basic needs. Municipalities throughout the country are encouraged to involve the public and community institutions in the affairs of local government. Public institutions must promote the *Bill of Rights*, which reflects the nation’s values regarding human dignity, equality and freedom, and uphold the principles enshrined in the *Constitution*.

Chapter 3 of the *Constitution* (RSA, 1996a) advocates recognition of local government as the sphere of government closest to the people, and one through which citizen involvement should be cultivated. Furthermore, Chapter 7 espouses the ideals of local government, one of which is to nurture public participation, and prescribes the involvement of citizens in local government in matters affecting their lives. It prescribes the establishment of municipalities, and mandates all three categories of municipalities (A, B and C) to provide democratic and accountable government for local communities. Section 152 of the *Constitution* (RSA, 1996a) provides that local government needs to

- (a) to provide democratic and accountable government for local communities;
- (b) to ensure the provision of services to communities in a sustainable manner;
- (c) to promote social and economic development;
- (d) to promote a safe and healthy environment; and
- (e) to encourage the involvement of communities and community organisations in matters of local government.

In addition, section 195(1)(e) in Chapter 10, which contains the values of public administration, prescribes that in the delivery of public services, “people’s needs must be responded to, and the public must be encouraged to participate in decision-making processes”. Furthermore, section 195(1)(g) provides that



transparency must be fostered by providing the public with timely, accessible and accurate information.

### **5.2.3 *White Paper on Local Government, 1998***

With regard to democratising development, the *White Paper on Local Government, 1998*, prescribes that municipal councils should promote the involvement of citizens and groups in the design and delivery of municipal programmes (RSA, 1998a). It can therefore be argued that developmental local government hinges on public participation in terms of the *White Paper* (RSA, 1998a:53). Municipalities require active participation by citizens at all levels as voters to ensure maximum democratic accountability of the elected political leaders for the policies they are empowered to promote. Citizens should express their views and needs through different stakeholder associations, including their views before, during and after the policy development process, in order to ensure that policies reflect their preferences as far as possible, especially given that consumers and end-users expect value-for-money and affordable services.

It can be deduced from the above that participation takes place on four levels, namely, as voters, as citizens, as consumers and as organized partners in service delivery. Van Rooyen (2003:133) states that to achieve some of the above-mentioned ideals of public participation, the *White Paper on Local Government, 1998* requires extended public participation processes and structures by municipalities. The *White Paper* proposes

- the establishment of forums of organised formations especially in the fields of visioning and on issue-specific policies;
- structured stakeholder participation in council committees, especially *ad hoc* issue-related committees;
- participatory action research with specific focus groups for in-depth information on specific issues; and
- the formation of associations especially for people marginalized in areas (Draai & Taylor, 2009:115).

Participation should be a continuous and structured process. It should focus on specific processes with particular outcomes in mind. The decisions on how to structure and maintain the particular mechanisms, processes and procedures to

attain effective public participation are left to the individual municipalities. This allows for relevance and appropriateness to accommodate local peculiarities and avoids imposing isomorphic models of public participation (Van Rooyen, 2003:133).

The *White Paper on Local Government, 1998* does not have the authority of law. However, it is the approved policy of government. Public participation structures such as ward committees could not be established on the strength of the *White Paper on Local Government, 1998* alone. As a result, legislation had to be promulgated to give effect to the approved policy. In this regard, section 20(3)(b)(ii) of the *Municipal Structures Act* (RSA, 1998c) and section 5(1)(f) of the *Municipal Systems Act* (RSA, 2000b) impose specific duties on municipalities to disseminate information to their respective communities.

#### **5.2.4 Local Government: Municipal Structures Act, 117 of 1998**

This Act (RSA, 1998c) makes it mandatory for municipalities to consult communities on key municipal processes, and to establish ward committees, which are an essential element in the participation process. These committees serve as a conduit of communication between municipalities and local communities. Section 72(3) of this Act states that the essence of ward committees is to enhance participatory democracy in government. In terms of section 16 of the *Municipal Structures Act*, South African local communities must be encouraged to participate in the affairs of the municipality (RSA, 1998c). Public participation takes place through political structures, public meetings, consultative sessions and report-back sessions with the local community, and through mechanisms such as *izimbizo* which are informal gatherings with councillors, where questions can be asked on any issue related to municipal matters (Craythorne, 2006:171).

Public participation as described in Chapter 4 of the *Municipal Systems Act* is dedicated to public participation, and details guidelines on how this should be done (RSA, 2000b). Municipalities are expected to create conditions for public participation and build the capacity of local communities to participate in the affairs of the municipality, and to allocate funds to this effect annually. Section 16 of the *Municipal Systems Act* provides that municipalities must develop a culture of municipal governance that complements formal representative government with a system of participatory governance (RSA, 2000b), and has to encourage and create

conditions for local communities to participate in the municipality's affairs. This includes engaging with the IDP, the performance management system, performance, the budget, and strategic decisions relating to services (RSA, 2000b).

#### **5.2.5 Local Government: Municipal Systems Act, 32 of 2000**

Section 17 of the *Municipal Systems Act* (RSA, 2000b) pronounces on the mechanisms, processes and procedures for community participation. In particular, it prescribes that councillors who are elected to represent citizens on municipal councils should be the vanguards of public participation. Through the structures of ward committees and other committees legislated under the *Municipal Structures Act* (RSA, 1998c), they should nurture and promote public participation in matters of local government. A key aspect of public participation in Chapter 4 of the *Municipal Systems Act* (RSA, 2000b) is that it is mindful of marginalised members of society who are excluded from decision-making processes because of their position in a society. In this regard, section 17(3) stipulates that “a municipality must take into account the special needs of people who cannot read or write; people with disabilities; and other disadvantaged groups”.

#### **5.2.6 Promotion of Access to Information Act, 2 of 2000**

The *Promotion of Access to Information Act, 2 of 2000* (RSA, 2000c) was promulgated to give effect to section 32 of the *Constitution* (RSA, 1996a), which relates to the right of citizens to access any information held by the state. The Act fosters a culture of transparency and accountability in public institutions. A secondary purpose of the Act is to promote a society in which the public has access to information in order to empower them to exercise and protect their rights.

### **5.3 DEMOCRACY AND PUBLIC PARTICIPATION**

The democratic form of government is an institutional configuration that allows for popular participation through the electoral process. The democratic ideal is based on two principles, namely political participation and political contestation.

### 5.3.1 Defining democracy

To understand citizen power, it is important to briefly refer to the definition of democracy, or rule by the people. It implies that every citizen has sufficient power to control and make decisions on the matters that are of concern to him or her. Citizen power can be related to the 1864 address by Abraham Lincoln, who provided a simple definition of democracy as “the government of the people, by the people and for the people” (quoted in Heywood, 2007:72). This means that the people are significant elements in the operation of the state’s affairs. Thus, all decisions made must be orchestrated by them, or at least involve them. After all, extensive citizen power will promote democracy, where everyone involved will be in a position to communicate his or her concerns, for a decision to be made.

Brynard (1996:53) adopts the definition of democracy suggested by Ranney, which emphasises the importance of public participation in government activities. Ranney (1971:76, cited in Brynard, 1996:53) defines democracy as “a form of government organised in accordance with the principles of popular sovereignty, political equality, popular consultation, and majority rule”.

Political participation implies that all the people eligible to vote can vote. Elections must be free, fair, and competitive. Once votes have been cast and a winner has been announced, power is peacefully transferred from one individual to another. These criteria must be replicated at a local, state (provincial), and national level. People should be free to meet and discuss their views on political issues without fear of persecution by the state. Democratic regimes that guarantee both electoral freedoms and civil rights are referred to as liberal democracies (Saylor, 2002:1).

There are various types of democracy, as described below.

- *Direct democracy*

The theory of *direct democracy* assumes that the people assemble and every citizen is directly involved in every government decision. This kind of democracy places all power in the hands of the individual. For political decisions to be taken, members of a polity gather together and individually put forward a proposal. Each person is treated as an equal and everyone has a chance to influence the policymaking process directly. Examples of direct democracy are voting in elections or referendums (Calland, 1999:61).

- *Representative (or parliamentary) democracy*

This kind of democracy assumes that elected representatives must represent the views of those who form the electorate (Calland, 1999:62). Representation implies a limited mandate: the representative is empowered to speak or vote, but only to reflect the views of the constituency. The system of representative democracy tends to homogenise intra-group differences in the interest of manageability (Carrim, 2001:107). This political system therefore makes it difficult to find effective ways for the public voice to be heard and to give them freedom of expression of their own varied interests, despite their differences. In an *indirect or representative democracy*, elected representatives are accountable to the electorate (citizens who vote). Elected representatives have a *duty to hear and heed* the concerns, needs, interests, beliefs, experiences, and priorities of all members of the public (Briand, 2007:7).

- *Indirect government*

This means that the people elect a number of representatives to govern on their behalf. This implies that those elected to govern are expected to govern, in other words, to act in the interests of the community. If they attempted to consult all the people in the community before acting, they would be abdicating their responsibilities (Craythorne, 1997:97).

- *Participatory democracy*

Sections 59, 72 and 118 of the *Constitution* (RSA, 1996a) assert the need for the realisation of *participatory democracy*, but the rationale goes beyond the Constitution. It is important not to underestimate the experience in other pluralist, liberal democracies throughout the past century when declining voting levels, lack of real political choice, and rise of shadow security governments and decay in popular trust since the electoral process have prompted the need for renewing public participation (Craythorne, 1997:98).

In order to discuss public participation, it is necessary to trace the origins of democracy and the role of participation in early democratic societies. The essentiality of public participation to the continued existence of democracy can clearly be seen from the ancient concept of democracy (Stewart, 1976:xi, cited in Clapper, 1996:52). According to Rejai (cited in Clapper, 1996:52), the word 'democracy' originally referred to a type of government in which the power to rule resided in the people, namely the governmental system of the city states of Athens

at the time of Pericles. “Under this system all-important decisions affecting the citizens of Athens were made directly by the *ekklesia*, which was the face-to-face assembly of all the citizens” (Ranney, 1971:73, cited in Clapper, 1996:52). The outstanding characteristics of Athenian democracy, also known as participatory democracy, were public control of public decisions and maximum public participation in making the decisions and in holding public office (Brynard, 1996:52).

The above excerpt from Brynard (1996) and Clapper (1996) thus imply that participation is notion that is centuries old, and is rooted in the first democracy proclaimed in Ancient Greece. Even then, it was understood that democratic rule was not possible without taking into account the people’s views. Over time, the principle of participation was entrenched, formally or informally, in all democracies. In modern society, democracy is widely believed to be the regime that makes the best provision for public participation by institutionalising rule *by, for, and of*, the people. However, given the various types of democracy that have emerged, “one has to recognise that not all proponents of democracy would necessarily see public participation as a key indicator of democracy” (Nel & Van Wyk, 2003:55).

In this regard, Parry and Moyser (1994:44-46) distinguish between ‘realist’ theories of democracy that emphasise representation, responsible leadership, and elite responsiveness as the key elements of democracy, and theories that consider direct participation as the *sine qua non* of democratic practices. They state: “The first set of theories point out that the degree of direct democracy that was exercised by citizens in the relative small assemblies of ancient Athens is no longer possible in large, complex societies.” Thus, “to the extent that the ‘realist school’ of thinking about democracy does recognise public participation as a feature of democracy, they reduce it to only one manifestation, namely voting” (Nel & Van Wyk, 2003:55).

This theory shows that

...not everyone is convinced that democracy should necessarily try to involve the public in intensive ways. Elite models of democracy understand that a vote into office is essentially a political blank cheque for elected representatives to proceed as they see fit. (Ballard, 2007:17)

A second set of theories emphasises that democracy in its original sense of ‘rule by the people’ is hardly conceivable without a whole range of participatory activities through which the public vote for the sake of appointing and monitoring representatives, and also become *political* citizens in the full sense of the word (Nel

& Van Wyk, 2003:56). Enthusiasm for participatory government sometimes leads people to see it as substituting representative democracy (Cohen & Arato, cited in Foley & Hodgkinson, 2003:276) – “[r]ather than replacing representative democracy with participatory democracy, they advocate that systems of representation be deepened so that they are more accountable and develop stronger relationships with their constituencies” (Young, 2000:125). Therefore the accepted view is that representation requires participation to work well.

In contrast to the elite model, elected representatives are not seen simply as trustees who can proceed as they see fit, but also as delegates who have mandates from the constituencies to which they are accountable (Young, 2000:128). The expanding body of writing on deliberative (participatory) democracy therefore attempts to find ways in which the public can become increasingly involved in democratic practice. As illustrated above, the concept of public participation “features strongly in the debate about democracy and in a push for a more direct or participatory form of democracy to involve wider sections of the population more directly in decisions affecting them” (Dahl, 1990:62).

In this respect, Barber (1984:151) refers to ‘strong democracy’. He calls for active citizens to govern themselves, “not necessarily at every level and in every instance, but frequently enough and in particular when basic policies are being decided and when significant power is being deployed”. A participatory form of democracy also maintains that it is good for the public to exercise of power. In this sense, democracy would allow the public, and not only elites, to acquire a democratic political culture (Cohen & Arato, cited in Foley & Hodgkinson, 2003:7).

There is a theoretical assumption that underpins participatory theory, namely the notion that the very act of participation is educative and politically significant in some way. Greater participation in political spheres is thus seen as enhancing democracy. However, there may be mechanisms at play within a democratic state that affect public participation (Deegan, 1999:153). In South Africa, there is a tendency towards elite participation and representation by organised civil society, but individuals rarely participate. However, increasingly, “social movements reject democracy as operating through elected representatives only and pursue a strategy of direct democracy which seeks ongoing accountability” (Ballard, 2007:20).

### **5.3.2 Public participation**

Public participation is popular within the discourse of democracy. However, in spite of its popularity, public participation cannot be reduced to a single definition. Thus, the meanings of public participation vary across time, space, and people.

Participation is an active process whereby participants take the initiative. They take action stimulated by their own views and deliberation, and over which they can exert effective control. Public participation and engagement could be described as the involvement of citizens in a wide range of administrative policy-making activities, including the determination of levels of service, budget priorities, and the acceptability of physical construction projects, in order to direct government programmes towards community needs, building public support, and encouraging a sense of cohesiveness within society (Fox & Meyer, 1996:20).

According to Meyer and Theron (2000:1), there is no universal definition of public participation. They argue that with regard to development, participation includes people's involvement in decision-making processes, in programmes and their involvement in efforts to evaluate such programmes. Public participation and consultation is a means of reducing autocratic behaviour and involving 'the people' in government so as to direct governmental efforts at the real needs of society. In the days of the former Greek city states, or in pioneer times, or in tribal life, when settlements were small, it was possible to decide communal affairs by calling meetings at some public place, but as communities grow in size and complexity, with many interests (some of them conflicting), this simple and ideal way of dealing with public affairs can no longer be attempted: it would be impossible to obtain decisions within a reasonable time.

Of interest among a number of definitions of public participation is that which links it with citizen power or participation. According to Arnstein (2003:246), citizen participation is another term for citizen power. The definition of power within the discourse of public participation is important to examine, because it means that the process of participation is not an end in itself, but is meant to transfer power to those who are underdeveloped. Public participation processes strengthen institutions of representative democracy, democratising those institutions (Calland, 1999:62). In the most pragmatic sense, in a participatory democracy, the public is actively involved in the decision-making processes of the government. Within this



system, two forms of key public 'actors' exist: *the citizenry*, as represented by parties, and *interest groups or stakeholders*. In this model, public participation negotiates a meaningful exchange between the public actors and government.

Public participation places the main emphasis on the people-centred development approach and may refer to the following aspects: involvement, communication, a new attitude from government, and reciprocal influence (Kotze, 1997:37). Public participation is an inclusive process aimed at deepening democracy through formal participatory mechanisms (Davids, 2005:19). Kotze (1997:37) advocates that authentic public participation should entail participation in decision-making, implementation, monitoring and evaluation, as well as in sharing the benefits of governance and development of outputs and outcomes.

Participation is a complex and ongoing process through which people are enabled to exercise varying degrees of influence over development and governance issues and activities that affect their lives. Kellerman (cited in Kotze, 1997:52) contends that merely taking part passively in externally designed and managed activities does not in itself represent participation. Rather, participation and engagement must be assessed in terms of the measure of influence people exercise over development and public activities affecting their lives. By contrast, Theron (2005, cited in Davids *et al.*, 2005:108) points out that engagement signifies an outside agency or agent involving the beneficiaries. This involvement implies to an approach which makes communities part of a top-down, predetermined programme or project that does not lead to empowering and authentic participation.

Public participation incorporates public concerns, needs, and values into governmental and corporate decision-making (Creighton, 2005:7). It is a two-way communication and interaction, with the overall goal of better quality decisions that are supported by the public. Creighton (2005:7) summarises the difficulty in capturing the essence of public participation by noting that there are numerous descriptions and most include the following elements:

- (a) Public participation is not just providing information to the public but interaction is an important component.
- (b) There is an organised process for involving the public.
- (c) Participants have some level of impact or influence on the decision being made.

Public participation programmes always involve a subset of the public, depending on a particular issue. People participate when they perceive themselves to have a significant stake in the decisions being taken. Public participation should involve the participation of members of the public who are involved and interested in the issue at stake. The crux of public participation is to ensure that the relevant publics are approached on any particular issue (Craythorne, 1997:99). According to Thomas (1995:1), the 'public' in public participation can include individual citizens, community and interested groups. Masango (2002:53) endorses that members of the public could be defined as individuals, or members of groups, or group representatives.

Currently, public participation is increasingly considered standard practice and is regarded as an essential characteristic of and condition for a successful modern democracy. This idea is supported by Pimbert and Wakeford (2001:23, quoted in Creighton, 2005:2), who state that "democracy without citizen deliberation and participation is ultimately an empty and meaningless concept". The essential principle of a democracy is that the public must be enabled to participate if they choose to do so, through effective channels of communication and civil society – the ultimate mark of liberal democracy is the freedom to choose to participate or not (Deegan, 1999:153). The type of participation envisaged in a participatory democracy, namely ongoing interaction between the people (the public) and their elected representatives in all decision-making is seen as contributing most to the enhancement of democracy in a society.

Participatory democracy is sometimes counter-posed to representative government:

But strategies to improve public participation can also be thought of as reinforcing and strengthening representative government – by providing public representatives with information they would not otherwise have but which is necessary for effective and responsive decision-making. Strategies to facilitate and promote public participation are also critical in ensuring the participation of marginalised and under-resourced constituencies in decision-making by representative bodies. In the absence of special measures, public decision-making is also vulnerable to 'capture' by special interests. (Cachalia, 2006:n.p.)

This could occur in rural municipalities comprising of semi-literate or ill-informed citizens.

As De Villiers (2001:135) states, there are many flawed and inadequate efforts, yet the long-term benefits of participation far outstrip the setbacks. One positive aspect

is a heightened sense of public participation, which is integral to democracy. Modern democracies which employ public participation as standard practice are perceived as more democratic, more efficient and more likely to remain successful than democracies where old 'top-down' methods are used.

The challenge is to conceive modes of participation that would provide citizens with the necessary incentives to participate, would empower them to do so and provides the space within which they can discover their real interests. Proponents of what has become known as participatory, deliberate democracy, believe that these three requirements can be met if the locus of decision-making is radically decentralised and brought closer to the citizens, and if deliberation becomes the mode of interest articulation and mediation (Nel & Van Wyk, 2003:57).

Pearce (2010:232) identifies two forms of public participation in development. One is *direct citizen participation*, and the second is *participation through associations*. *Direct citizen participation* is when all members of the society in their individual capacity participate in the decision-making processes. *Participation through associations* is participation through representation, where a representative is elected or appointed to participate in a decision-making process, in which the person represents the views of and is accountable to those who elected or appointed him or her.

### **5.3.3 Citizens and public participation**

In a democratic state such as South Africa, citizens as members of the public, enjoy a range of political rights, including the right to vote and to be represented in all spheres of government. Van der Waldt (2007:27) argues that a citizen is someone who is seen as a member of the state and has particular rights and duties. Citizens play a number of roles in the governance/local arena, as workers, taxpayers, residents and consumers of services. Hence, in a democratic government, citizen concerns are formally expressed through elected representatives (Lemon, cited in Parnell, Pieterse, Swilling & Wooldridge, 2002:26).

According to Ranson and Stewart (1994:236), being a citizen defines

- what it is to be a person (as a member of the community, whose identity acquires meaning only through the essential agency of developing the self with and through relations with others);

- how citizens are expected to relate to each other in society;
- how society should be conceived through ties and obligations to the community and rights within the community;
- what responsibilities citizens have; and
- how they should participate in the decision-making around policy.

Citizen participation can be defined as a process in which the ordinary amateurs of a community exercise power over decisions related to the general affairs of a community (Brynard, cited in Bekker, 2004:40). Levy (2007:71) states that public engagement, underpinned by access to high quality information, forms the outermost, and possibly the most important, element of a national system of checks and balances.

Participation in political decision-making by members of the public, individuals and groups, directly or indirectly through elected political representatives, must be secured. Gildenhuis and Knipe (2000:126) argue that the largest possible participation in public decision-making can be secured by accepting the principle that every citizen of a country has the democratic right to participate in public decision-making in all those areas that influence his or her life, including almost all activities of government.

Pollitt (2007:99) maintains that public participation is the most active form of relationship, where citizens are directly engaged with the decision-making process. This is a two-way process, usually with more scope for influencing the agenda than consultation. In genuine participation, power is shared between the public authority and the participating citizens. Public participation is required to sustain democracy and promote good governance. If public participation is widespread, it will keep the public functionaries accountable to the people, and will prevent politicians from making policies which are detrimental to the general welfare of society. In other words, public participation is crucial to ensure that the 'voices' of the people are heard and the needs and wishes of the public are acted upon (Hilliard & Kemp, 1999:57).

The Organisation for Economic Co-operation and Development (OECD) (quoted in Bovaird & Lofler, 2004:190) argues that public engagement is 'a core element of good governance'. Its benefits include

- (a) improving the quality of policy-making by allowing government to tap wider sources of information, perspectives and potential solutions;
- (b) facilitating greater and faster interaction between the public and governments; and
- (c) increasing accountability and transparency, which increases representativeness and public confidence.

In engaging the public, a government must encourage direct participation. Direct participation means the political empowerment of all citizens in such a manner as to allow them to articulate their will and their needs directly to political representatives and public officials (Gildenhuys & Knipe, 2000:112; Wessels & Pauw 1999:97).

#### **5.4 COMMUNITY PARTICIPATION IN LOCAL GOVERNMENT**

The notion of public participation originally centred in the theme of community problem-solving. Proponents of public participation maintain that providing municipal services is critical and fundamental for community development (Midgley, 1986:8). This makes communities responsible for their own development, that is, they need to devise mechanisms that will assist them in improving the quality of life within their own communities (Brynard, 1996:39). The significance of public participation can be realised in its contribution towards well-grounded decision-making and planning, as well as the dissemination of democratic ideals.

Non-participation serves as a one-way stream of communication that intends to 'educate' participants. Arnstein (2003:248) argues that manipulation is a salient feature in non-participation and, as a result, it is mostly visible in meetings where the officials or the power-holders educate, persuade and ultimately advise citizens, and not *vice versa*. This is a situation where the power-holders aim to set the agenda, so as to control all processes of participation. It follows a top-down approach, where a few members of an elite make decisions on behalf of the citizens, without considering their views and input.

Activities that include informing, consulting and placating is are called tokenism. Tokenism is a phenomenon where the power-holders inform the citizens and acknowledge their patronage. This is seen where participation exists, but where the power to set the agenda resides with influential power-holders. The challenge at this level is that citizens do not have adequate resources or influence to ensure that their views are taken into consideration by decision-makers (Arnstein, 2003:246).

The placation process describes the intention of legislation on the establishment of ward committees – for example, section 74 of the *Municipal Structures Act* (RSA, 1998c), acknowledges that the ward committees may advise the municipal council on issues that affect the respective wards.

Having provided some insight into the classification of the categories of participation above, it is important to briefly highlight the approaches of participation, that is, structured participation, open participation and informal participation, listed by Brynard (1996:46). The structured participation approach is mostly defined by its legitimacy to pursue and promote public participation.

## **5.5 PUBLIC PARTICIPATION IN THE SOUTH AFRICAN CONTEXT**

In terms of section 2 of Chapter 2 of the *Constitution* (RSA, 1996a), South Africa is a multi-party, representative democracy, under a constitution which is sovereign and which entrenches human rights. Despite being a representative democratic system, the South African *Constitution* and other related legislation complement the power of elected politicians with forms of public participation (Buccus *et al.*, 2007:9).

Prior to the introduction of a democratic dispensation, apartheid policies caused South Africa to be deprived of a history of public participation in the making and implementation of policy. For instance, during the apartheid era, black South African citizens, who constitute the majority of the South African population, were not given an opportunity to participate in general elections, or to contribute to the process of making and implementing policies that affected them. Indeed, the country was undemocratic, since democracy requires that *all* people should have access to resources which could empower them, as well as the right to exercise their power in such a way that they are able to participate in public affairs. It is helpful to look at how public participation evolved in South Africa (Buccus *et al.*, 2007:9).

### **5.5.1 The advent of the post-apartheid era and a new decision-making culture**

Bond (2005:30) and Edward (2004:26) argue that, during apartheid, South African public budgets were a secret affair. This reflected a Second World War statute that required the government to account for every cent spent without disclosing which

programmes were to be undertaken or where money was spent. Without power to change the budget and with limited time to assess the budget, Parliament's role amounted to providing a rubber stamp (Edward, 2004:25). Public hearings were rare, and consistently reflected private sector interests only.

South Africa had four provinces and ten quasi-independent homelands. Provinces in 'white' South Africa were merely spending agents of the national departments. Public budgets were primarily designed to meet the needs of white South Africa (Bond, 2005:32). In addition, the demands of maintaining apartheid and counteracting the perceived military threat led to a build-up of government debt that currently consumes approximately 20% of total government expenditure. Moreover, in the past, the government carried on many activities with fiscal implications through public sector entities.

The new democratic order in South Africa, and the democratisation of institutions and processes, will contribute to the promotion of a democratic culture in South Africa. Democratisation requires that the structures and functioning of public institutions be re-established in such a way that they allow and encourage public participation (ANC, 1994:120-121). Historically, however, the culture of public participation in South Africa has been instilled through the struggle process during the apartheid era, since it relied on and provided an avenue for mass participation by people excluded from formal state participation.

The first opportunity for formal direct mass participation by all the citizens of South Africa was voting in the first democratic elections on 27 April 1994. At the time, the then future President Nelson Mandela called on South Africans to continue a culture of participation by participating in government and legislative structures in order to influence and improve decision-making:

We are determined that the people of South Africa will make their future and that they will continue to exercise their full democratic rights after liberation from apartheid. We do not want popular participation to cease at the moment when apartheid goes. We want to have the moment of liberation to open the way to ever-deepening democracy. (Mandela, 1991:18, quoted in Barnes, 2006:1)

It is generally accepted that local government is an integral part of the broader issues of governance, transition and development in the South African context. The political events at the local government sphere have contributed in many ways to some of the fundamental political and social changes experienced in the country in

recent years. Many local authorities and other stakeholders started negotiations at the local level during the 1980s and the early 1990s. According to Lodge (1999:22), the decision-making environment in South Africa has moved through a number of dramatic changes since the beginning of the 1990s. The unbanning of the liberation movement on 2 February 1990 ushered in an era of negotiation and bargaining for a social contract and institutional choices which previously eluded South Africa – the former government and various liberation movements negotiated the system of government that would best suit the new democratic state (Thornhill *et al.*, 2014:59).

After many years of resistance against apartheid, politics swung towards a negotiated settlement (Houston, 2001:12). The resulting political environment led to the introduction of a variety of new processes and practices as a consequence of a radically different political culture from that which existed previously. The main element of this process was inclusivity (Lodge, 1999:22). The democratic government of South Africa has created a constitutional and institutional framework to encourage cooperation and interaction among the three spheres of government which are National, provincial and local government. The new approach to decision-making was aimed at introducing participatory democracy, accountability and transparency, bringing about fundamental changes in the policy environment in South Africa.

By 1993, the Local Government Negotiating Forum had been established, providing the context for negotiations between the major stakeholders in local government. At about the same time, the Multiparty Negotiating Forum addressed local government as part of the broader institutional programme. Evolving from these processes was the *Local Government Transition Act, 209 of 1993*. This Act provided for numerous issues, such as pre- interim and interim phases for the restructuring of local government, and the establishment of local forums for negotiating the restructuring of local government in each area for the pre-interim period (Reddy, 1996:202).

Cloete and Meyer (2006:113) argue that the interest groups exist as long as particular issues are not formally on the government's agenda, or issues are featured but not prioritised. It is therefore clear that the role of interest groups is to advocate and lobby for policies to feature and be prioritised on the government's agenda. As a result, participation could be seen as augmenting the capacity for



policy advocacy in communities, and subsequently serving as an aid in decision-making. In the South African context, the South African National Civic Organisation is a notable civil society movement. It plays a pivotal role in attempts to influence local, provincial and national government policies. This is done through the mobilisation of communities, as was seen in the 1980s. The South African National Civic Organisation was used as a vehicle through which policy was advocated by addressing the basic needs, aspirations and expectations of members of society. Furthermore, it serves as a complementary organisation to the ruling African National Congress (ANC), as these two organisations have the same vision, as contained in the *Freedom Charter*, and in the Constitution of the South African National Civic Organisation (2001). The democratic government of South Africa has created a constitutional and institutional framework to encourage cooperation and interaction among the three spheres of government – national, provincial and local government.

The role of the public in democratic government in all spheres of the political system in South Africa was recognised by the ANC in its policy document, the Reconstruction and Development Programme (RDP) in 1994. The RDP refers, *inter alia*, to the development of strong and stable democratic institutions and practices characterised by representativeness and participation (Houston, 2001:2). The policy advocates two important principles or values of democracy: participation and representation – these are interlinked and interdependent. This implies not only direct political representation and participation through the political process, but also indirect representation through interest groups. Reconstruction and development requires a population that is empowered through expanded rights, meaningful information and education, and an institutional network that fosters participatory and direct democracy (Lodge, 1999:20).

An effective democracy is generally defined as one in which citizens can participate regularly in political activities and formal development. Since 1994, the ANC-led government in South Africa has committed itself to the creation of a political system that fosters participatory democracy (Houston, 2001:2). The goals set out in the ANC's policy document before the 1994 elections were carried into the new democracy. These became policies and, in many cases, statutory mechanisms aimed at fostering participatory and direct democracy. The consolidation of democracy in South Africa thus entails achieving higher levels of public participation

in the political process, and the development of institutional channels that enable effective public participation. The reason for this is derived from the fact that a democracy as a form of government refers to “government for the people, by the people” (Houston, 2001:2).

South Africa recognised the importance of involving the public in the constitution-making. Involving the public in the process ensured ownership of the final document and, consequently, a willingness by the public to abide by the *Constitution* and its provisions. However, the *Constitution* is only one piece of legislation. The public should be involved in drafting legislation on an ongoing basis. It is a challenge for all democracies to ensure that the essence of this system of government is retained. South Africa has taken up this challenge, learning from the constitution-making process, and is extending the involvement of the public in the legislative process by providing various appointments for participation in policy-making and planning (Hyden & Venter, 2001:182). Transformation in South Africa has led to greater attention to budgets, transparency and participation. This is reflected in the *Constitution* (RSA, 1996a), parliamentary procedure, and government policy. It has produced greater transparency and the participation of NGOs in budget issues (Rai & Fine, 1997:65).

Houston (2001:12) mentions that the new process of policy-making was intended to be substantially more accessible to public input than under the apartheid state. One of the most significant features of the new decision-making process is the proliferation of statutory and other consultative bodies that aim at involving civil society in decision-making. These bodies reflect the government’s intention to extend participatory democracy, to make policy formulation as inclusive as possible, and to encourage transparency. They also reflect civil society’s expectation of participation, consultation and transparency in decision-making processes on issues which affect them (Boaden, 1982:17). These changes demonstrate an attempt to transform decision-making from a top-down process to a process driven from the bottom.

The public is expected to enhance the concept of local democracy by participating, irrespective of how and how much. The social contract model is used in most democratic governmental systems, thereby allowing those who are governed to provide input into local government affairs, in order to try to satisfy their needs and

expectations. It is virtually impossible for a model that propagates direct democracy to flourish in the 21<sup>st</sup> century, as the population grows at a rapid rate, and it would also be challenging to co-ordinate participation opportunities. Hence representation is the most favoured model. Communities are represented through interest groups, including non-governmental organisations (NGOs), community-based organisations (CBOs), political parties, and various other civil society movements and pressure groups.

Edward (2004:24) argues that civil society participation in the budget has been growing steadily, but more slowly than improvements in budget transparency. This is not necessarily cause for concern. It takes several years to build analytical capacity in a process not known for broad participation. Prior to 1994, the participation of civil society organisations in parliamentary budget debates was restricted to a small number of private sector interests who regularly presented their case to parliamentary committee hearings (Bond, 2005:30). This situation has changed. In 1997, three civil society groupings, articulating the priorities of low-income people and women, participated in the hearings of the National Assembly's Portfolio Committee on Finance. By 1998, this number had grown to six civil society presentations (Bond, 2005:28). In 1999, 14 civil society presentations were made at the hearings, and presented a broad spectrum of macro-economic, poverty alleviation and sectoral interest issues (Edward, 2004:24).

According to Houston (2001:2), policy-making, budget formulating, and legislative and planning processes in South Africa have experienced more drastic changes since the beginning of the 1990s. The key feature of these changes is the trend towards participatory and direct democracy. This is evident in the increasing participation of a variety of interest groups in various processes, as well as the establishment of numerous consultative bodies and other mechanisms for public participation at all levels of the political structure (Lodge, 1999:20). These include mechanisms for public participation, for example, through IDP processes, petitions, public hearings, policy-making discussion conferences, and White Paper policy-making document processes. This wide variety of new processes and structures demonstrates that commitment is evident in the statutory and constitutional obligations that particular government structures, especially municipalities, have to facilitate public participation. Thus, democracy is defined as ongoing and regular interaction between citizens and their democratically elected institutions.

There has been an attempt to turn the constitutional aspiration into a workable reality in South Africa, but progress has been haphazard. Although there is commitment to empowering the poor, improving participation is hampered by lack of capacity on the part of those whose participation is most necessary. The extreme inequalities in South Africa could indeed pose challenges to increasing public participation. Although public participation is constantly advocated in the name of empowerment, it may be that only those who are already empowered are able to take advantage of this principle, while there are insufficient opportunities for those who are disadvantaged to participate meaningfully (Calland, 1999:65).

The *White Paper on Local Government* (RSA, 1998a) defines developmental local government as committed to working with citizens and groups within the community, to find sustainable ways of meeting the social, economic and material needs of those communities. This is in accordance with the *Constitution* (RSA, 1996a), which mandates a democratic and accountable local government, by encouraging the involvement of communities and community organisations in matters of local government.

Basic values and principles governing public administration in South Africa, stipulate that people's needs should be responded to, and the public must be encouraged to participate in policy-making as indicated in section 195(e) of the *Constitution* (RSA, 1996a). The *Municipal Structures Act* (RSA, 1998c) provides that Category B municipalities, which are the subject of the study and a unit of analysis, with ward participatory systems must annually report on the involvement of communities and community organisations in the affairs of the municipality. The Act also defines the legal nature of a municipality as including the local community within the municipal area, working in partnership with the municipality's political and administrative structures to provide for community participation (RSA, 1998c). It is assumed that public participation can contribute to making municipalities' projects and programmes more acceptable to communities that are part of decision-making, as explained below.

Public participation provides a platform for both municipal councils and citizens to use the opportunity to express their needs and expectations in an amicable environment. The perception the members of the public have about municipalities serves as an indication of the confidence that the people have in those institutions.

Hence, confidence could be instilled through the involvement of the citizens in matters that are of public interest in those institutions. This is particularly important as it could result in citizens' viewing municipalities as credible and legitimate, and could then promote democratic values and principles.

Mbeki (cited in Nel & Van Wyk, 2003:50) clearly acknowledged that public participation in policy-making was not yet what it should be:

One of our tasks during the next decade will be to defend and further entrench this important gain of our people. Building on what we have already achieved, we must work to activate the masses of the people more directly to participate in our system of governance. We must translate into reality our vision of people-driven processes of change as well as the fundamental principle that the people are their own liberators.

### **5.5.2 Public participation in the South African context**

After the first democratic elections in 1994, the South African government required a total transformation of its institutions. According to section 40(1) of the *Constitution* (RSA, 1996a), the South African government is constituted as national, provincial and local spheres of government. The *Constitution* identifies these spheres as distinct, yet interdependent and interrelated. As an imperative of good government, all spheres of government are required by section 41 to apply the principles of co-operative government and an intergovernmental approach when performing their duties. Through these principles, effective government is obtained, and it is important for the three spheres of government and all organs of the state to co-ordinate their actions and legislation in accordance with the provisions and requirements of the *Constitution*.

Transformation of institutions was to be facilitated through a process of strengthening their capacities (Thornhill, 2008:59). Given their superior institutional capacity to govern, municipalities have the potential to render services to their communities effectively, efficiently and economically. This implies that local government is the only sphere of government where a platform can be set up through the usage of municipal structures, for the citizens to collectively organise themselves so as to enhance participatory democracy, and consequently influence the programmes of a municipality. Furthermore, this highlights the importance of bridging the gap between government and the people. The system of ward

committees serves as one of the mechanisms to enhance direct participatory democracy in the South African local government system.

Ismael, Bayat and Meyer (1997:2) define local government as a sphere of government that is centralised, a representative institution with specific powers delegated or devolved to it by a higher level of government to deal with issues that are local in nature. In the South African context, Chapter 7 of the *Constitution* (RSA, 1996a) provides a clear description of the structure of local government and its legal status in exercising both legislative and executive authority. The nature and structure of local government is designed in such a manner that there is close co-operation and integration between the council, comprising councillors, communities who influence municipal policies and programmes for planning purposes, as well as the appointed officials who are responsible for advising the council and implementing council decisions.

Public participation is often a protracted process that involves people and the relevant governing institutions and therefore tends to create the potential for conflict because of cumbersome governmental processes. It is inevitable that it will be tedious. It is important to acknowledge that the members of a particular society are not homogeneous, for example, a municipal community could consist of the elderly, the young and children, as well as people in the age group that should be economically active. As human beings, people do not act and react in the same way. Their views on particular issues differ too, and, as a result, when people participate in the government's activities, the likelihood of conflict should be anticipated. Consensus has to be reached through compromise. However, mutual concessions may ultimately prove not to be the most effective solutions. A religious community might request permission to build its own morgue. However, another religious denomination may oppose it. Participation in such a case might not result in consensus.

Public participation is not a new approach within development discourse. Thus public participation has been part of the development discourse in both the Western world and the non-Western world since democracy as we know it developed in the city of Athens, more than 2000 years ago. The role of the ward committee system in enhancing public participation in South Africa can be better understood in the contexts of a brief survey of the international experience of public participation. This

is important because it facilitates the discussion on ward committees, whether it is a unique experience, or is just part and parcel of what is happening elsewhere. Through an insight into the international experience of public participation, the research is able to map out parallels and differences between the South African experience of public participation and that of other countries.

Public participation in municipal government processes is imperative for the promotion of institutional democracy. Section B of the *White Paper on Local Government* (RSA, 1998a) provides that the objectives of community participation are embedded in the following principles:

- to ensure political leaders remain accountable and work within their mandate;
- to allow citizens [as individuals or interest groups] to make continuous input into local politics;
- to allow service consumers to make inputs on the way services are delivered; and
- to afford organised civil society the opportunity to enter into partnerships and contracts with local government in order to mobilise additional resources.

It could be argued that public participation is authoritative in municipal government processes. The integrated development plan of a municipality cannot be finalised without the input of the residents.

A municipality is a public body; it exists to serve the public and therefore needs to communicate with the public it is designed to serve. Communication should ideally be a two-way process of imparting of information, ideas or feelings (Craythorne, 1997:100). A municipal council which operates secretively is not a successful communicator, because it will expect only a one-way flow of information. As with other human communication, where there are two people or parties, and only one communicates and the other remains silent, the enthusiasm of the talkative partner will peter out, leaving only silence. Thus, it would be pointless for a municipal council to invite the public to communicate with it, if it does not communicate with the public. Communication with the public is part of the process of public consultation.

Throughout the public participation process, the citizens may not necessarily afforded real involvement throughout the public participation process, as a result of representation by interest and pressure groups (P.A. Brynard, 1996:44). It should be noted that the processes of public participation in different municipalities and

wards differ substantially due to the nature of the political settings, as well as the demands of their jurisdictions.

As Midgley (1986:23) contends, public participation must entail the direct involvement of ordinary people in decision-making in local government affairs. Decision-making and planning cannot be left completely to the elected councillors. This is evident in situations where members of the public complain that the authorities forced decisions on them and that they were not afforded representation in the planning and decision-making processes (D.J. Brynard, 1996:135). In other areas, communities even end up taking municipalities to court, arguing that they were not consulted when a particular decision was taken.

Resorting to the courts is adversarial and does not promote good working relations between councillors, municipal officials, and communities. Opting to approach the courts to enforce compliance with regard to community participation, which is enshrined as a constitutional right to attain social justice, is unnecessary, but communities are sometimes left with no option if municipalities are unwilling to reverse decisions taken without community participation. Ideally, councillors, municipal officials and communities are expected to work hand-in-hand to further the goal of providing basic services effectively, efficiently and economically in a transparent way to communities.

In the South African context, an example of a court case is that initiated and won by the *Democratic Alliance (DA) v eThekweni Municipality* case (Case No 887/2010). In the five-year period under investigation (May 2011 to August 2016), the DA held 43 of the 205 seats in the municipality (Surburn, 2011). A further three cases highlighting disregard of public participation processes are discussed. The methodology is descriptive, drawing from existing secondary sources involving cases of disputed participation processes, such as the forced inclusion of Matatiele Local Municipality in KwaZulu-Natal province without the required consultation. The case of Merafong, in the West Rand District Municipality, concerns a cross-border municipality and North West into Gauteng. These cases highlight the issue of non-conformity with laid-down public participation processes and constitute the methodological basis of this section of the chapter.

In the matter of the *DA v eThekweni Municipality (887/2010)*, the plaintiff submitted that the decision by the municipality to change some street names was not in line



with rational administrative action. The DA's objection was that the procedure involved in renaming streets in the eThekweni Municipality was not entirely participatory, in that

- (a) no proper public consultation process preceded the decisions taken in the various phases of the renaming process;
- (b) no proper deliberative process took place in any of the committees or the council itself, with reference to these decisions; and
- (c) the council had failed to comply with its own street-naming policy, and with the guidelines set by the *South African Geographical Names Council Act, 118 of 1998*.

The KwaZulu-Natal High Court ruled in favour of the DA, as did the Supreme Court of Appeal (SCA). According to the judgement (887/2012), the SCA ruled that while municipal councils are compelled to facilitate public participation in the performance of their executive and legislative functions, there is a general constitutional obligation on municipal councils to "provide democratic and accountable government for local communities" which, by implication, requires public involvement. In addition, the provisions of the *Municipal Systems Act (RSA, 2000b)* impose an obligation on municipalities to establish appropriate mechanisms in order to enable local communities to participate in municipal affairs.

What is at issue in this case is not whether the street names should have been changed or not, nor is it that the new names reflect the names of veterans previously involved in the anti-apartheid struggle, rather, the issue is the process embarked upon in deciding to change the names. By changing the street names unilaterally, the eThekweni Municipality failed to abide by its statutory obligations under the *Constitution (RSA, 1996a)* and the *Municipal Systems Act (RSA, 2000b)*. It also failed to comply with its own internal street-naming policy, which provided that changing of street names should, under all circumstances, be "subject to prior consultation with addressees and all other affected parties having taken place". In this regard, the SCA further ruled that the eThekweni Municipality's decision to change the names of some streets did not satisfy the legal obligation imposed on it to engage in a reasonable public participation process.

Through the input of citizens in decisions, ambiguity can be cleared up regarding the needs and requirements of the citizens, and that synergy could ensure greater efficiency in the provision of services. Making decisions by involving citizens in participation implies that even unpopular decisions would, by default, be supported by the citizens, as they would believe themselves to be responsible for them.

There is an emerging pattern of disregard for citizens' right to participatory democracy in some South African municipalities. The *DA v eThekweni Municipality* case concerns public participation in a street-naming process, and there are other cases relating to public participation in determining municipal boundaries and health. In the matter between *Vuwani residents (represented by eight traditional councils and Vuwani Service Delivery and Development Forum) v Municipal Demarcation Board (Case No: 1256/2016)*, the applicants requested the review of an earlier decision to relocate Vuwani villages to become part of the new local municipality taken by the Municipal Demarcation Board, and published in the *Limpopo Provincial Gazette*, No. 2586 of 25 August 2015, with reference number DEM 4519, to be reviewed by the high court.

The applicants argued that the Vuwani residents were not properly consulted when their area was moved from Makhado Local Municipality to form part of a new municipality in Malamulele. The Limpopo High Court in Polokwane ruled against the residents of Vuwani. The residents have vowed to continue opposing the demarcation through protests, until their demands are heeded by the government. The Limpopo province currently consists of five district municipalities: Mopani, Capricorn, Waterberg, Vhembe and Greater Sekhukhune. Each of these five district municipalities is comprised of between four and six local municipalities, just like Bojanala Platinum District Municipality, the case study focus of the current study.

The case of *Vuwani residents (represented by eight traditional councils and Vuwani Service Delivery and Development Forum) v Municipal Demarcation Board (Case No: 1256/2016)* demonstrates an emerging pattern of disregard for citizens' rights to participatory democracy, and specifically the right to have their voices heard and to be taken seriously through proper consultation.

Naidu and Narsiah (2009:17-30) cite two cases involving lack of public participation relating to municipalities, covering different provinces in the country. During the 1999 national and provincial elections and the 2000 local government elections, Matatiele was part of KwaZulu-Natal under the Sisonke District Municipality. In 2002, the national government decided to do away with all cross-border municipalities by adopting the *Cross-Boundary Municipalities Laws Repeal and Related Matters Act, 23 of 2005* (cited in Naidu & Narsiah, 2009:17-30), which provides that every municipality will be located in only one province, mainly to

prevent administrative and logistical difficulties. Consequently, in August 2005, the Municipal Demarcation Board recommended the inclusion of Matatiele in the Alfred Nzo District Municipality in the Eastern Cape. A constitutional amendment to effect the change was made in October 2005, with a two-thirds majority of Parliament voting in favour of the decision (Naidu & Narsiah, 2009:17).

The Matatiele Local Municipality refused to comply with a request to endorse the demarcation, thus necessitating public hearings to be conducted by the Municipal Demarcation Board. Overwhelming support for Matatiele's remaining part of KwaZulu-Natal led to a redemarcation of the Sisonke District Municipality and the scrapping of Alfred Nzo District Municipality, a decision officially gazetted in the Eastern Cape. However, the Municipal Demarcation Board's new proposals were not included in the amendment alongside cross-boundary repeal acts which Parliament approved (Naidu & Narsiah, 2009:17-30).

The Matatiele Mass Action Committee filed an urgent suit with the Constitutional Court against the President and the former Minister of Provincial and Local Government, arguing that the wishes of the community had been ignored. In its 2006 ruling, the Court found in favour of the respondents. However, it ruled that the citizens of Matatiele had not been consulted by the KwaZulu-Natal provincial government, and indicated a need for rectification. In spite of the Constitutional Court ruling, Matatiele was transferred to the Eastern Cape in 2007.

The third case concerns Merafong, which was part of the West Rand District Municipality, a cross-boundary municipality between the provinces of North West and Gauteng in 2000. Public hearings held by both the Gauteng and North West provincial legislatures and the Municipal Demarcation Board indicated that residents preferred the municipality to be wholly redemarcated into Gauteng. The Gauteng legislature and Municipal Demarcation Board made preparations for Merafong to be included in the West Rand District Municipality. However, when the *Constitution's Twelfth Amendment Bill* and the *Repeals Act* were published, Merafong was included in the Dr Kenneth Kaunda District Municipality of North West Province. Residents responded with violent protests. Residents argued that they were not consulted when the decision was taken by the Municipal Demarcation Board to place Merafong in the North West Province.

After the recall of Thabo Mbeki from the Presidency in September 2008, the Minister of the former Provincial and Local Government in the Zuma administration assured Matatiele and the Merafong residents that their wishes would be respected (Naidu & Narsiah 2009: 28). In February 2009, legislation was passed for the reintegration of Merafong into Gauteng (Naidu & Narsiah 2009:28).

According to Nyathi (2010:103), in *Doctors for Life International v The Speaker of the National Assembly* (2010), Judge Sachs, in concurring with the majority judgment, emphasised the 'special meaning' of public participation within South Africa's democracy. He commented on the effect of public participation as follows:

All parties interested in legislation should feel that they have been given a real opportunity to have their say, that they are taken seriously as citizens and that their views matter and will receive due consideration at the moments when they could possibly influence decisions in a meaningful fashion. The objective is both symbolical and practical: the persons concerned must be manifestly shown the respect due to them as concerned citizens, and the legislators must have the benefit of all inputs that will enable them to produce the best possible laws.

The *Doctors for Life* case established a benchmark in terms of the constitutional commitment to further public participation. Nyathi (2010:104) concludes that the case creates an impression that the Constitutional Court is serious about addressing the injustices of the past, and highlights the need for members of the legislature to be accountable to the electorate. Public participation has the potential to synthesise the divergent views from the two parties (the municipal council and the citizens), thus ensuring long-term commitment to the process.

In local, district and metropolitan municipalities, consensus-building is promoted by an IDP, where a framework initiated by the municipality and the residents is established to deliver services within the expected period of time. Once a decision has been made through consultation and the involvement of the people, implementation becomes easier. Thus, it is unlikely for the public to reject a policy and/or legislation to which they have significantly contributed. For instance, during the apartheid era, marginalised communities revolted against the government's policies, on the basis that their interests had not been afforded representation, and had not been considered by government.

Challenges associated with the quality and type of participation varies. Public participation in local development efforts tends to be fraught with co-option and co-operation between locally organised groups focused on protecting and improving

their role in municipalities. Wider processes such as IDPs, by and large, remain detached, obscure processes to ordinary citizens, who see them as dominated by party-political interests and processes (Görgens & Van Donk, 2011:13).

Even under such comprehensive and progressive legislative frameworks as those in South Africa, which put public participation at the core of municipal governance and make the people a key stakeholder in the work done by municipalities in delivering minimum basic services, there are still a number of challenges. An article called “It is your right to participate in how you are governed”<sup>6</sup> argues that the aim is for organisations to network and share information towards the goal of strengthening participatory democratic local governance (Maepa, 2014:197).

Limited access to information among communities

- widens the communication gap between communities and a municipality;
- exacerbates a lack of public participation;
- causes municipalities to fail to follow the policy relating to public participation in municipal decision-making processes, because they are not compelled to do so;
- undermines full protection of people’s civil rights;
- leads people not to accept or agree with municipal development initiatives; and
- causes service delivery/development backlogs (Mgwebi, 2009:1).

It is tempting to blame other people for the current challenges in the sphere of local government, and to claim that the new democratic government inherited all the challenges indicated above indirectly from the former apartheid government. Some may even argue that the dilemmas and predicaments besieging municipalities are a result of close to 50 years of apartheid and colonialism in South Africa that continued to affect the form and shape of local government to date. However, the current challenges that plague municipalities go beyond the inherited problems of apartheid and separate development – reiterating the problems of the past does not change the situation. The current era and dynamics of national politics in South Africa has a direct bearing on municipalities’ successes and failures, and have more to do with the skills and capacity of the current leaders than old excuses. The challenges include patronage politics, the failure of local political leadership, party-

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<sup>6</sup> The article was published by Afesis-coplan, a core member of the Good Governance Learning Network (GGLN), which is an initiative to bring together civil society organisations involved in the field of local governance in South Africa.

political factionalism, and the appointment of municipal managers and senior managers without the relevant skills and expertise to perform duties associated with the posts in question, as indicated in the Auditor-General's 2014/15 consolidated report (AGSA, 2015:19).

With regard to local municipalities in the Bojanala Platinum District Municipality, the Auditor-General found that the acting municipal managers of the Moses Kotane, Madibeng and Kgetleng Rivier local municipalities were appointed for a period longer than three months without the approval of the MEC for Local Government and the Minister of COGTA, in contravention of section 56(1)(c) of the *Municipal Systems Act* (RSA, 2000b). The limited competency levels of these key officials contributed to their municipalities' poor performance (AGSA, 2015:18). The Auditor-General also found that the political leadership of the five constituent local municipalities of the BPDM did not exercise effective oversight responsibility regarding human resource management, compliance with legislation and related internal controls.

The Auditor-General found that the constituent local municipalities of Bojanala did not evaluate their performance in respect of programmes or functions funded by the Municipal Systems Improvement Grant and Local Government Financial Management Grant allocation, as required by section 12(5) of the *Division of Revenue Act (DoRA)* (BPDM, 2016a). The findings of the Auditor-General against these five constituent local municipalities of Bojanala increase the workload of ward committees. Ward committees are expected to coordinate a minimum of two meetings per ward per month, instead of one meeting per month in line with the adopted corporate calendar, to allow municipal officials to explain the Auditor-General findings against the municipality.

Internationally, the value of participatory decision-making in respect to development issues, and the potential participation holds for enhancing democratic influence, is widely accepted. But in South Africa, the benefits of participation are often discounted, in large measure because participatory processes are often poorly implemented, breeding cynicism even amongst proponents, local government officials, and beneficiaries alike (Theron, Ceaser & Davids, 2007:2).

De Villiers (2001:138) explains:

Public participation in South Africa depends on the commitment of political will; time and extensive resources. It needs to be seen as an integral part of the process of delivery, which means that, in order to determine government priorities, it is compelled to engage the public in dialogue about their priorities and needs. The *Constitution*, 1996 draws on two broad traditions of democracy, namely formal representative democracy and participatory democracy. This means that, while its structures and institutions reflect the principles of best democratic practice in the more established democracies, the *Constitution*, 1996 also contains clear requirements for a form of government that is open, transparent and participatory.

Apart In addition to a general trend towards public participation in the South African government's processes and policy pronouncements, the *Constitution* (RSA, 1996a) specifically places an obligation on Parliament and the provincial legislatures to promote public participation in their decision-making processes. In her budget speech in Parliament in June 1997, the former Speaker of the National Assembly, Dr Frene Ginwala, said: "The National Assembly is elected to represent the people and to ensure government by the people under the Constitution" (quoted in Kebeni, 2001:14).

In addition, the South African legislative environment is characterised by the guarantee of autonomy of each provincial legislature and Parliament. This means that legislative institutions have been operating independently from each other and have been working in isolation to enhance public participation. This approach has not been successful in eliciting meaningful public participation and therefore has had little impact on the overall aim of strengthening democracy in South Africa. Hence, there has been an agreement between provincial legislatures and Parliament to cooperate closely on shared functions and interests.

For communities to participate meaningfully on issues of local governance, it is imperative that councils design a structured system of participation. This system allows for the establishment of ward committees, through which communities are enabled to participate meaningfully on matters affecting them in the system of government. Ward committees are designed to be a link between communities and council, but it is clear that the system has its shortcomings, due to the wide-spread perception that municipalities do not consult enough, resulting in the limited influence of communities on issues of governance.

In terms of public participation, there is a need for a concerted effort to consolidate all work done by legislative institutions and work towards adopting minimum

standards for public participation activities. This is critical in view of a series of Constitutional Court rulings against the legislative sector which questioned the validity of the public participation processes conducted (if any), for example, the *Doctors for Life International* case (CCT 12/05/2006) and the *Matatiele Municipality* case (CCT 73 /05/2006). The public participation processes followed were found to be wanting in these specific cases. The essence of the Court rulings was that (although the constitutional obligation allows some discretion on how Parliament and provincial legislatures conduct public participation depending on the specific situation), certain minimum standards should be met in order to adhere to the requirement of sufficient public participation, as cited earlier in this research.

The Court emphasised that the constitutional concepts of representative and participatory democracy are intertwined, and that the *Constitution* requires a “degree of public participation in law-making, and a permanently engaged citizenry alerted to and involved with all the legislative programmes” (Seedat, 2006:17). The Court’s judgements make it clear that legislative timelines should respect the requirement of public participation. Participation should not be seen as an obstacle to legislation but as a means to promote the effectiveness of laws. Constructive results can be achieved only if participatory channels act as genuine catalysts for citizen participation and are not merely a cosmetic fulfilment of constitutional requirements.

Clearly, if South Africa wants to consolidate its democracy, public involvement in democratic institutions and procedures needs to increase. Legislatures and municipal councils need to foster a democratic culture, and South African legislatures have undertaken some initiatives in this regard. Moreover, public participation programmes need to move beyond their emphasis on providing education about the role and function of legislatures. They need to reach out and actively involve the public in the work of the legislatures. That means that legislative proceedings should not be isolated from public participation programmes.

Communities, organised interest groups and individual members of the public need to be regarded as essential resources for active, responsive and effective legislatures. At the same time, the members of the legislatures themselves need to engage in a more public way with the people, using the media and other resources, so that they are valued as representatives and contribute to growing loyalty to and



trust in the representative institutions. They must inject the values of co-operative government and inclusiveness into the workings of the system, thus overcoming South Africa's legacy of division and violence (Murray & Nijzink, 2002:132).

## **5.6 THE VALUE OF PUBLIC PARTICIPATION IN LOCAL GOVERNMENT**

Emphasis is placed on public participation and its relevance globally and in the South African situation. Public participation is viewed as an integral part of democracy itself. Traditionally, the primary characteristic of democracy is defined as the right to elect the leaders of the government. "Democracy is intended precisely to give the people power over choices about the ultimate aims and goals of government action" (Creighton, 2005:17). According to Gildenhuis, Fox and Wissink (1991:124), "a situation that encourages and/or allows participation in general elections only is, thus, not entirely democratic. In fact, public participation in decision-making is an imperative for a democratic government". Therefore, in any democratic country, public participation in the policy-making and implementation processes is a requirement.

Public participation creates a new direct link between the public and the decision-makers in a bureaucracy. At its most basic level, public participation is a way of ensuring that those who make decisions that affect people's lives have a dialogue with the relevant members of the public before making those decisions. From the viewpoint of the community, public participation increases their influence on the decisions that affect their lives. From the perspective of government officials, public participation provides a means by which contentious issues can be resolved.

Public participation is a way of channelling differences into genuine dialogue among people with different points of view. It is a way of ensuring genuine interaction and a way of reassuring the public that all viewpoints are being considered (Creighton, 2005:17). Davids (2005:12) maintains that the key factor in preserving democratic practice may be participation. As long as people consider it worth their time to participate, they assume they have some level of commitment – they believe that participation matters. In this regard, Midgley, Hall, Hardiman and Narine (1986:5) note that the survival of government depends, *inter alia*, on its legitimacy; it is mainly derived from public support. Public involvement in policy-making and

implementation makes a positive contribution to government's legitimacy (Fagence, 1977:340).

Public participation is an essential ingredient for good governance in any democratic country. The role of public participation in facilitating the interaction between members of the public on the one hand, and policy-makers and implementers on the other, shows that it should be encouraged and preserved. This becomes more apparent when considering the role of public participation in democratising and controlling the making and implementation of policy, facilitating the exchange of information between the government and members of the public, promoting responsiveness to public needs, facilitating the processes of policy implementation and community development (Masango, 2002:63).

**Social goals' framework incorporates all the evaluative measures discussed above in a more compact form (Beierle, 1998:4-5). The following six goals or purposes of public participation are distinguished:**

- educating and informing the public;
- incorporating public values into decision-making;
- improving substantive quality of decisions;
- increasing trust in institutions;
- reducing conflict; and
- achieving cost-effectiveness.

This It can thus be deduced that public participation plays a significant role in ensuring that residents are informed of any developments in their municipality. The involvement of residents on matters that affect them increases their trust in the municipality and reduces conflict when residents feel their views are valued by the municipality.

De Villiers (2001:159-160) maintains that the basic principles of public participation are proactivity, inclusiveness, shared responsibility, openness throughout the process, access, transparency, and respect for public input. These principles point to some key aspects that promote successful public participation policies and practices, which require firm, continuous commitment from government and civil society. It must be emphasized that public participation requires more than simply following a set of procedures: it involves public authorities' genuinely

acknowledging public input and being receptive to the possibility of being influenced by it. Thus, community input should be capable of having a tangible influence on the actual content of the decision. From this, it can be deduced that public participation should be timely, effective, adequate and formal, and contain information, notification, dialogue, consideration, response (Aarhus Convention, 1998:86).

According to Creighton (2005:23), one obligation of public participation is that the larger community must be kept informed of the possible impact of a decision, so that they can decide whether they wish to become involved in the public participation process. Therefore, it should be standard practice to establish and maintain an effective public information programme as a precondition for any public participation programme to follow. Secondly, the public participation programme must be visible and accessible to the public so that if they decide to participate, they have a clear understanding of how and where they can participate.

According to Brand and Jax (2007:1), the International Association for Public Participation has adopted a set of 'Core Values for Public Participation' that are intended to serve as the warrant and touchstone for public participation principles, priorities, and practices. These values are the following:

- Public participation includes the promise that the public's contribution will influence the decision.
- Public participation seeks out and facilitates the involvement of those potentially affected by or interested in a decision.
- Public participation seeks input from participants in designing how they participate.
- Public participation provides participants with the information they need to participate in a meaningful way.
- Public participation communicates to participants how their input affected the decision.

It could be deduced that the public should have a say in decisions about actions that affect their lives. For example, the residents of Vuwani took the Municipal Demarcation Board to the high court because a decision to relocate them to another municipality was taken without their involvement. The case of Matatiele, already cited above, shows that decisions taken without the involvement of residents are not sustainable. It therefore becomes clear that public participation promotes sustainable decisions by recognising and communicating the needs and interests of all participants, including decision-makers.

Some scholars, mainly from Development Studies, Politics and Philosophy, have provided a rationale for citizen participation in local governance. The following rationale by Meyer, Cupido and Theron (cited in Van der Molen, Van Rooyen & Van Wyk, 2002:62-63), is an example – they state that participation is a way to receive information about local issues, needs and attitudes. Participation also provides affected communities with opportunities to express their views before the municipal council takes policy decisions. This implies that participation is a powerful tool to inform and educate citizens. Participation can enhance the democratisation process and it promotes equality, fairness and reasonableness in the allocation and distribution of public resources. Participation balances possible tension between democracy and bureaucracy; this implies that officials' actions can be countered, allowing affected members of the public to influence the political decision-making process.

These reasons or principles for participation reveal the advantages of engaging citizens. The *Ohio State University Fact Sheet* (Meyer *et al.* cited in Van der Molen, *et al.*, 2002:62) lists the following advantages flowing from participation in community affairs:

- the public can effect desired changes by expressing individual or collective views on issues of public interest;
- participation promotes citizenship;
- it teaches members of the public to understand the needs and desires of other citizen groups in society
- it teaches the public how to resolve conflict and how to promote collective welfare;
- citizens begin to understand group dynamics; and
- it provides checks and balances for the political mechanisms of the state.

The advantages of public participation are clear if there are valid reasons why the public must participate. Such reasons for public participation in local government, according to Meyer *et al.* (cited in Van der Molen *et al.*, 2002:63) include that it promotes dignity and self-worth in the individual. Public participation taps the energy of resources of individual citizens in the community and provides a source of special insight, information and knowledge that adds to the relevance (or quality) of government policies. Participation ensures that the public have access to tools of

democracy. It also creates a national dialogue on issues, particularly for previously disadvantaged citizens.

Creighton (2005:18-19) lists the following benefits of public participation – it

- improves the quality of decisions;
- reduces cost and delay;
- builds consensus;
- increases ease of implementation;
- pre-empts worst-case confrontations;
- maintains credibility and legitimacy;
- anticipates public concerns and attitudes; and
- develops civil society.

Involving citizens frequently produces decisions that are responsive to public values and substantively robust, and it also “helps to resolve conflict, build trust, and educate and inform the public about the environment” (Creighton, 2005:20). Moreover, Theron *et al.* (2007:2) maintain that public participation strategies have two main benefits for the democratic policy-making process; firstly, participation leads to better policy outcomes; secondly, participation assists the public in developing capacity for improving their lives. Taking the input of the residents into account during the processes of policy-making and implementation is important, since it contributes towards combating dictatorship and promotes principles of good governance (Masango, 2002:55-56).

Public participation paves the way for the process of policy implementation to run smoothly (Midgley *et al.*, 1986:34). It can foster a sense of ownership and commitment to the outcomes of the process (Clapper, 1996:76). According to Masango (2002:59), it can therefore contribute to policy implementation by building support and eliminating resistance. In addition, it could save costs by minimising and/or eliminating the need for policy implementation to be policed (Masango, 2002:59). Importantly, continuous public participation in policy-making and implementation could serve as a control mechanism to limit the abuse of authority. For instance, an informed citizenry could ensure that public officials use their discretion in a responsive and responsible manner (Clapper, 1996:76).

Adding to the multiplicity of benefits already mentioned above, public participation provides valuable information about the needs and aspirations of local people to public authorities who can then initiate and implement informed decisions. Participation offers a platform through which to express civic interest with the aim of influencing public managers (and councillors) to adopt a particular approach to the identification of long-term goals. Public participation informs, involves and educates residents (Hanyane, 2005:267). It creates community institutions that enable the public to bridge the existing gap between themselves and public authorities.

Public participation and commitment can be instrumental in consolidating democratic beliefs, practices and principles that might otherwise not be observed by the majority of a democratic state's citizens. Public participation constantly reaffirms citizens' identity, dignity and feeling of self-worth, putting into practice the principle of basic equality (Lawrence & Stanton, 1999:236). Moreover, public participation promotes the realisation of civic interest and to enhance and consolidate the democratic culture of any aspiring nation (Hanyane, 2005:267). De Villiers (2001:99) explains that public participation in the legislative and oversight process is essential for long-term democratic stability, because it enhances legitimacy and creates public support for legislation and government policies, thereby ensuring democratic stability.

Perhaps one of the most significant long-term benefits is that public participation is an important way of empowering communities. By engaging with governments on issues that affect their lives, civil society is brought into the mainstream and acquires skills, knowledge and capacity. It signals a new way of considering governance and democracy affecting their lives (De Villiers, 2001:135).

Greyling (cited in Bradshaw & Burger, 2005:48) points out that participation is not necessarily aimed at building consensus, but rather at generating diverse opinions and views. Public participation is sometimes a blind, use to placate stakeholders after the crucial decisions have already been made. One of the main reasons for citizens reluctance to engage, according to Martin (cited in Bovaird & Lofler, 2004:199), is widespread scepticism about whether governments and public service providers are genuinely willing to respond to public opinion. In many instances, the scope for action will be constrained by the fact that a public institution has only limited control over a policy area. Van der Waldt (2007:28) is of the opinion that

public participation is not all “moonlight and roses”. He maintains that grassroots demands for participation in government affairs are not always met with sympathetic responses.

Jansen (2002:208) notes that internally, the processes of participation have several significant limitations: not all groups are able to participate equally, as there are differentials of access, power and expertise. Moreover, the views expressed in final reports often do not reflect the exact opinions of stakeholders as participants. Creighton (2005:2) mentions challenges in converting the concept of public participation into the reality of everyday interaction between the state, institutions and the public, such as the reality of budgets and legal constraints. Quick decisions may need to be made, and decisions should be based on the best available scientific and technical information. Challenges relating to public participation are compounded by a negative attitude toward participation arising from a lack of clarity in the definitions used to describe public (or citizen) participation, and the use of inappropriate strategies to achieve it (Theron *et al.*, 2007:2).

The list below offers a representative catalogue of the many disadvantages and limitations of public participation identified:

- although it supports the goals of public management, there are low citizen participation levels;
- it poses a threat to the professional image of public administration;
- there is potential for conflict;
- there is a lack of government response;
- representativeness is limited;
- there are limitations in time, costs and benefits;
- the attitude of public managers is a challenge;
- there is lack of information and citizen competence; and
- participation mechanisms are not sufficiently developed (Clapper, 1996, cited in Bekker, 1996:70-75).

The more obvious limitations of public participation present themselves in the current South African dilemmas outlined by Meyer *et al.* (cited in Van der Molen *et al.*, 2002:64-66):

- although participatory democracy encourages popular participation, in reality not every citizen is interested, or has the capacity, to participate in public affairs;

- a diversity of languages in a community can cause problems if, for example, interpreters communicate a wrong interpretation;
- where the needs and requests of citizens are not addressed, reluctance to participate may result;
- bureaucracies in developing countries are not structured to facilitate public participation, which hampers constructive citizen input;
- in conflict-ridden societies, public participation may be limited due to fear; and
- some activities of government are technical and may be in conflict with community values and preferences.

South Africa as a democratic state ensures that it consolidates and maintains democracy by encouraging public participation, but it can be deduced that there are limitations for public participation in governance matters.

According to Masango (2002:60), the factors that could contribute towards the realisation of an effective and sustainable process of public participation include

- cultivating a culture of participation,
- Improving public education;
- organising for participation;
- capacity-building for participation;
- reforming attitudes towards participation;
- using appropriate methods of participation; and
- publicising local government affairs.

Similarly, De Villiers (2001:98) asserts that effective public participation depends on strategies aimed at education, information and outreach in order to provide the knowledge and means to access seemingly distant and incomprehensible institutions. Such strategies are focused on bringing people on the margins and periphery of society into the direct political process, creating a system of governance that is inclusive, responsive and transparent. The objective is to consolidate a form of democracy that engages with and recognises the interests of all people.

The topic of public participation is crucial in a democratic government such as that in South Africa. It touches on the core of the relationship between citizens and their government. This relationship is expected to be uniquely close and interdependent



(Brynard, cited in Bekker, 2004:49). Kalu (quoted in Kakabadse & Kakabadse, 2006:75-77) emphasises the value of public participation as follows:

Administrative leaders have generally been receptive to the idea of public participation or engagement in governance through public meetings. The underlying ethos is that popular public participation is the most 'acceptable' route to encourage participatory democracy in the hope of making government more directly accountable to the public interest.

King (cited in Kroukamp, 2002:52-54) argues that public participation is costly, time consuming and frustrating, but cannot be dispensed with because of the following reasons:

- In itself, public participation is an affirmative activity, as it exercises the initiative, creativity, self-reliance and faith that programmes such as education wish to instil. Participation is the corollary of people's faith in the dignity and worth of the individual. It shows that the public engage with the meaning of practical and normative issues such as social equity and conflict, citizenship, co-operation, democratic theory and the public interest. If effective participation is denied, including opportunities to be heard, to discuss, to criticise, to choose, to protest and to challenge decisions regarding the most fundamental conditions of existence, then the worth of the individual to engage in decision-making to obtain representivity is also denied.
- Public participation offers special insights, information, knowledge and experience that those concerned cannot ignore, and their efforts should fulfil their aims. In South Africa, comprehensive action programmes that are devised by professionals and are accepted by the dominant political, social, education and economic institutions represent consensus of the majority on how to solve social problems.
- Continued vigorous public participation is essential to consolidate democracy. When democracy is new, the future of the regime itself is at stake, and the basic objective is to ensure that democracy survives. The value of democracy is ensured by experiencing it at first hand, even in a procedural, formal sense, because for many people, their participation is limited to electing their representatives periodically and regularly.

It can therefore be deduced that public participation in municipalities has an instrumental purpose, because by participating, the public are able to satisfy their needs, and even their demands, by observing the rules of democracy. It can be

concluded that there are more reasons to support it, and indeed nurture it, than to avoid it.

This is important, because it has implications for the role of a ward committee as a representative structure and whether it can really carry the views of all the members of the community that it represents. It is important to understand in the discourse of public participation that it is not only a question of *active participation* versus *passive participation*, but also one of participation versus non-participation (Arnstein, 2003:246). Non-participation embodies aspects on a continuum at the lowest level, from manipulation and therapy, to tokenism, delegated power and citizen control at the highest level. This means that in a situation where there is non-participation, citizens are not given the leverage to promulgate their views and ideas on the issues that are of concern to them.

Ward committees are established through section 73 of the *Municipal Structures Act* (RSA, 1998c) to encourage and promote community participation. As a result of this formal recognition, it is apparent that ward committees follow this approach of participation. Informal public participation is a combination of both the structured participation and the open participation approach. This means that both the identified public representatives and citizens acting in their individual capacities are afforded platforms to raise their concerns with authorities. For instance, while compiling the IDP of a municipality, communities are invited to make submissions, irrespective of their representation. Ward Committees, as legitimate structures, with the assistance of the relevant stakeholders, enable residents to make worthwhile contributions in solving a particular municipal problem (P.A. Brynard, 1996:47).

The intention of introducing the proportional representation system through proportional representative councillors to participate in the governing process of municipalities is to allow parties that are relatively popular, but not strong enough to win ward seats to take active part in local government. Maepa (2014:188) argues that this inclusive approach contributes to stability in communities, as all parties with a support base are involved in governing the municipality. In stronger parties, like the ANC or the DA, the proportional representative councillor is allocated to a ward and provides support to the ward councillor in matters that relate to the ward or the ward committee. For instance, the proportional representative councillor can

- handle queries and complaints in consultation with the ward councillor;

- assist in public meetings or public participation programmes;
- attend ward committee meetings, constituency meetings and special meetings;
- assist with resolving disputes and making referrals;
- assist with the implementation of projects; and
- support a ward councillor, but not replace a ward councillor.

A ward councillor may delegate the task to the proportional representative councillor of chairing meetings in his/her absence.

In essence, the proportional representative councillor can play a critical role in the IDP implementation in a ward, in conjunction with the ward councillor and ward committee. Another important role of the proportional representative councillor is to become a leader in public participation programmes. The proportional representative councillor can ensure that the community is informed and engaged in matters that pertain to governance in the ward – if the proposal is considered and properly implemented; this might be a remedy for the ills associated with public participation (Maepa, 2014:194).

## **5.7 CONCLUSION**

Public participation offers a range of potential benefits, but also involves some formidable challenges. It provides information to the public. Citizens develop a sense of patriotism and purpose when they are allowed to make a contribution to civic affairs, no matter how insignificant their inputs may seem. Therefore, public participation and engagement are crucial, not only to promote, but also to ensure that democracy and local governance are sustained. This chapter has highlighted that grassroots democracy is about empowering all citizens to participate actively in the realisation of their own well-being and fulfilment as active citizens.

It has emerged that in South Africa, public participation is a crucial pre-requisite for building democracy. It is also argued that the success of a democracy depends on the effectiveness of citizen participation. The key element of participation is democracy, and the key element of democracy is participation. Citizen participation and engagement require constant consultation with and response by political representatives and the bureaucracy, as well as direct access by communities and individuals to information concerning them.

Public participation is a requirement in contemporary democracies, although the extent of its application may vary. It remains a vitally important aspect of democratic practice, especially in developing nations, to increase legitimacy, contribute to empowerment and strengthen democracy. Participatory democracy is viewed as the type of democracy essential in ensuring a high level of legitimacy and stability of democracy in countries such as South Africa. In order to analyse public participation in the South African context, it is essential to create an understanding of the international context relating to public participation against which the South African situation can be measured.

In most of the literature consulted, it was found that the authors acknowledge the importance of the establishment and functioning of ward committees in facilitating public participation in the local sphere of government. However, the literature does not analyse the effectiveness of ward committees in promoting local democracy through public participation, which would ultimately yield the efficient provision of services by the municipalities. In this regard, participation would confirm that the municipal council is subject to the genuine needs of the citizens, and this would ensure that the council would apply reasonable judgement before making decisions, by, *inter alia*, consulting with and involving the municipality's citizens.

The South African government has provided a legal framework that necessitates the establishment and institutionalisation of ward committees as vehicles to entrench participatory development and governance at a grassroots level. However, in spite of the clarity of the legislative framework for enhancing participatory democracy and service delivery, the performance of the South African local government is criticised by the very communities that are meant to be the beneficiaries of participatory democracy. The challenge is to determine whether the structures and mechanisms that are supposed to facilitate local democracy, particularly participation, are really functionally effective.

One of the structures that need urgent interrogation is that of the ward committee system. Although ward committees exist, service delivery protests continue in many municipalities in South Africa. This phenomenon requires attention because the local government legislation of the post-apartheid era in South Africa makes provision for municipalities to establish a system of participatory democracy in the

local sphere through the system of ward committees, but communities are still discontented with the services provided and the outcomes of council decisions.

This thesis is written at a time when service delivery protests are happening across a variety of municipalities in South Africa. There is a need to investigate whether a mechanism of participatory democracy in local government, such as the ward committee system, is really serving its purpose. The focus on the ward committee system was selected because it serves as the primary link between communities and the municipal government within the hierarchically-arranged communication structure of the local government system.

## **CHAPTER 6: THE ROLE OF WARD COMMITTEES**

### **6.1 INTRODUCTION**

Post-apartheid South Africa faces a major challenge in ensuring that municipalities provide optimal and professional basic services to its citizens of heterogeneous cultures. Reports in local newspapers and news bulletins on national television and in other media show an escalation in the demands made by South African communities for service delivery from municipalities. In particular, municipalities have been in the news in areas where communities have forcefully complained about and demanded improved services, such as water and electricity supply, refuse removal and sanitation, and have also claimed houses from municipalities.

Municipalities play a major role in the provision of basic services as a requirement for maintaining a reasonable and acceptable standard of living. In the last few years, municipalities have increasingly faced challenges in providing equitable public services throughout South Africa. Dissatisfaction concerning service delivery has led to protests in various municipalities. Various causes have triggered these protests, such as misaligned local governing structures and a lack of public participation by community members in decision-making on the quality of services.

Public participation can take place effectively in the local government sphere, as one of the three spheres of government in the Republic of South Africa in terms of section 40 of the *Constitution* (RSA, 1996a). Local government is a legally established sphere with a clearly demarcated constituency, which makes it the sphere closest to the people, the first point of contact between an individual and a governmental institution.

Municipalities are responsible for promoting development in their surroundings. They are also responsible for enhancing local democracy to help promote effective local government. This chapter analyses the composition and duties of ward committees, as well as their functionality. This research focuses on the participatory role that the community should play, facilitated by ward committees. Various issues are raised, and suggestions are made to overcome service delivery challenges.

To strengthen democracy, the South African government established the ward committee system in December 2000. The intention was to improve service delivery to bridge the gap between individual communities and broader municipal structures. Among other things, ward committees should be able to enhance participatory government by collectively organising communities regarding ward jurisdiction.

It could be argued that the role and the responsibility of ward committees is to convince municipalities to secure proper, efficient public service delivery. In respect of municipal challenges, ward committees should be able to encourage and formulate programmes that promote public participation, so that the municipal council can be in an informed position when it has to make decisions to ensure effective and efficient service delivery. This research is focused on the participatory role that communities should play through the facilitation of ward committees. The role of local government is two-fold: it plays an administrative role in that it facilitates the supply of goods and services, and it has a representative role in that it endeavours to involve citizens in determining specific local public needs and eventually providing solutions on how these local public needs can be met.

The question then arises when citizens can be said to be participating actively or passively. This question is an important because there is a need to examine whether the system of ward committees in the municipalities in South Africa facilitates or constrains active participation by citizens in development. This is particularly important in the context of service delivery protests, which can be a sign that a link is missing in the participatory discourse of a ward committee system.

This chapter examines the role of ward committees in facilitating public participation. It also investigates the composition, duties and functionality of ward committees, with specific reference to the Bojanala Platinum District Municipality (BPDM) in North West, a province in the Republic of South Africa, bordering Botswana to the west. An analysis of the current system of ward committees in the BPDM is used as a case study. This chapter is aimed at establishing whether ward committees are effective mechanisms to promote public participation, to establish whether ward-based planning can facilitate effective and efficient municipal service delivery, in line with the impetus for conducting this study, which is to analyse the current system of ward committees in municipalities, with the objective of establishing whether it is fully effective as far as it relates to public participation,

Proposals will be made for enhanced facilitation of public participation in the local sphere of government with specific reference to the role that ward committees can play to provide service to satisfy the community with regard to planning.

## **6.2 HISTORICAL BACKGROUND**

Historically, in South Africa, the notion of ward committees was first introduced in the Cape of Good Hope, when the *burghers* (ordinary citizens) pressed for a greater share in the government of the Colony. These wards were governed by *wardmasters*. In 1786, a Committee of the High Court was established in the Cape of Good Hope, which was subsequently given municipal and policing functions in 1793 (Craythorne, 1997:126). Initially, all 23 wards in the Cape were to be provided with two *wardmasters* each. Their functions were to keep a register of the persons in their wards, and to report on particular municipal or criminal matters to the Committee of the High Court (Craythorne, 1997:127). However, the role of the *wardmasters* evolved into a particular relation that promoted contact between the people and the municipal commissioners, who were members of the Committee of the High Court, where laws were made and executed (Craythorne, 1997:127).

The above historical background shows that ward committees were mechanisms through which public participation in local government was made possible. Ward committees' purpose is thus representation by promoting local participatory democracy (Thornhill & Madumo, 2011:131). Hence, they are established to ensure the necessary contact between communities and government institutions, and further provide support to elected ward councillors to represent a specific sector in a municipal council, in terms of Part 4 of the *Municipal Structures Act* (RSA, 1998c).

## **6.3 ESTABLISHMENT OF WARD COMMITTEES**

The *Municipal Structures Act* (RSA, 1998c) provides for the appropriate division and devolution of power. This is regulated by the functioning of the appropriate category of municipality to ensure a proper governing structure, which culminates in the election of municipal councils. In South Africa, municipalities have developed indispensable public institutions that provide essential and non-essential services to their communities (Thornhill, 2012:32). The legislation enables a municipality to establish ward committees, to enhance participatory democracy in local



government. Section 73 of the *Municipal Structures Act* (RSA, 1998c) dictates the establishment of ward committees in municipalities. It states that if a metropolitan or local council establishes ward committees, it must establish a ward committee for each ward in the municipality.

To strengthen democracy, the South African government established the ward committee system in December 2000, in accordance with Sections 72 to 78 of the *Municipal Structures Act* (RSA, 1998c). Its purpose is to improve service delivery by bridging the gap between communities and the municipal structures. Among others, ward committees should be able to enhance participatory government, by collectively organising communities concerning ward jurisdiction (Smith, 2008b:13). Local government plays an important role in enforcing municipal, provincial and national government policies within municipalities to ensure effective and accountable service delivery in a specifically defined area of jurisdiction.

A ward committee is an area-based committee whose boundaries coincide with a ward's boundaries (Thornhill & Madumo, 2011:131). These committees have no specifically assigned duties, legislative and executive powers. Hence, they are established as committees that play an advisory role to the council, in accordance with Sections 73 and 74 of the *Municipal Structures Act* (RSA, 1998c). Despite the variety of challenges that municipalities face, ward committees can encourage and formulate programmes to promote public participation. This can ensure that a municipal council is in a more informed position when making decisions to facilitate improved service delivery. Public participation is essentially a process that engages communities from the planning of a particular activity or a project to its implementation, and the monitoring and evaluation phases (Draai & Taylor, 2009:114).

Ward committees in the local government sphere are regarded as special-purpose structures for public participation. They are expected to establish effective and continuous communication with and among communities, and between the ward councillor and the municipality (Shaidi, 2007:47). Effective communication in any institution is critical to its success, and this requirement is contained in a number of legislative prescriptions pertaining to developmental local government. To be successful in respect of service delivery, a municipal council should report back to

its electorate and a municipal council must provide its citizens with regular feedback. This accountability is imperative to ensure an accountable government.

From the above, it can be deduced that consultation with the community plays an important role in every municipal development plan. As already indicated, a proper mechanism with the potential of ensuring an effective public participation process should be in place in all municipalities. Subsequently, ward committees should enable communities to take charge of the participation process. This will result in the transfer of process-based skills, knowledge and ownership to a local community. In attempting to solve the dilemma of service delivery in municipalities, the ward committee structure should focus on increasing the involvement of the municipal communities when decisions are made within the local government sphere (Napier, 2008:163).

Committees concerned with ward-related affairs are regarded as the mechanisms that enable public participation within local government. Ward committees could serve as the structures for promoting local participatory democracy. As a result, the rationale for their establishment is to ensure the necessary contact between the communities and the government institutions. Additionally, ward committees should also support the elected councillor to represent a specific sector in the municipal council, in terms of Part 4 of the *Municipal Structures Act* (RSA, 1998c).

Section 72(1) of the *Municipal Structures Act* (RSA, 1998c) illustrates that ward committees can only be established within metropolitan and local municipalities of a special type (namely executive structures within council), but not in district municipalities. In 2016, there were 278 municipalities in South Africa. Only 226 local (Category B) and eight metropolitan (Category A) municipalities (excluding 44 district municipalities) can establish ward committees. Section 73 of the *Municipal Structures Act* (RSA, 1998c) requires the councillor of a particular ward to be the chairperson of a ward committee. A ward committee is not a political forum, and should therefore not be made up of the members of one interest group, or only of a political party to which the councillor may be affiliated.

The report released by the COGTA in 2009, *The State of Local Government*, stated that within the then 283 municipalities in South Africa, 3 895 municipal wards were demarcated. In 2009, South Africa had a total of 283 municipalities. The number of municipalities decreased to 278 after the 2011 local government elections (Census,

2011:14). The 2009 COGTA report indicates that ward committees were established in all the wards, except for 105 wards in the Western Cape. Their failure was attributed to the perception that ward committees were non-representative and under-resourced, and had no significant authority to make decisions (Naidu, 2008:86). Most municipalities that authorised the establishment of ward committees at the time did so in order to comply with legislation to foster community participation. Some municipalities decided to refer to these community participation structures as development forums, residents' associations or ward forums, and intended to use them for the similar purposes than ward committees (Putu, 2006:14).

The COGTA *2016 National Report on the Functionality of Ward Committees* states that within the then 278 municipalities in South Africa, a total of 4 277 wards had been demarcated. The report indicates that ward committees had been established in all 4 277 municipal wards across the country. It also mentions that ward-level service improvement plans imply that, within the current regime of ward committees, communities actively participate in the IDP for their wards. It found that the functionality of ward committees would be enhanced through funding secured through the National Grant to support ward committee operations. This support will fund ward committee operations in Grade 1 to Grade 3 municipalities (COGTA, 2016:1).

After comparing the two COGTA reports, the one issued in 2009, and the one issued in 2016, it can be argued that ward committees are the structures that municipalities in South Africa use to facilitate local democratic public participation in communities. This argument is based on the statistics shown above, which illustrate that in the period between the 2006 and the 2011 municipal terms, not all municipalities had established ward committees. The 2009 COGTA report further indicates that those that did establish them had done so in order to comply with the legislation intended to foster community participation. However, the 2016 COGTA report shows that the 278 municipalities in the Republic of South Africa have all now established ward committees as the structure tasked with the coordination of public participation in municipalities (COGTA, 2016:3).

By facilitating public participation, ward committees help municipalities to determine community needs. This assists municipalities in identifying the services municipal

communities require, and contributes towards establishing and advancing the municipal IDP. It is important to formulate a suitable IDP to develop an effective mechanism for identifying community needs and priorities, and to design administrative and managerial practices to meet these needs (Thornhill & Madumo, 2011:135).

Chapter 4, Part 4 of the *Municipal Structures Act* (RSA, 1998c) deals with the establishment, functions and powers of ward committees in the South African local government system. According to Thornhill (cited in De Villiers, 2008:72), a ward committee consists of a ward councillor who acts as the chairperson and includes not more than 10 other persons from the ward concerned. The ward committee offers ordinary citizens who may not be interested in campaigning or being fully involved in municipal matters an opportunity to contribute to their communities by way of representation on ward committees.

The ward participatory system of municipal government allows for the establishment of ward committees to facilitate citizen participation in the matters of local governance. By working directly with municipalities, ward committees serve as a channel that facilitates the introduction of the new system of local government to the majority of the people, especially to previously disadvantaged communities. They also provide feedback to the government as to what 'the people' (the country's citizens, the inhabitants of a specific area) want. If this is the role of ward committees within the discourse of 'the people shall govern', it is then necessary to determine why service delivery protests continue to be prevalent.

According to the 2016 COGTA report (COGTA, 2016:3), the criteria to evaluate the functionality of ward committees are based on a set of generic indicators, as provided for in the guidelines for the establishment of ward committees. These include the following:

- (a) the number of ward committee management meetings and the percentage attendance by members (management meetings are attended only by ward councillor and ward committee members);
- (b) the number of community meetings called by the ward committee and the percentage attendance by the ward community (meetings attended by all citizens in the ward, to be held at least once every month);
- (c) the submission and tabling of ward reports and plans to council;

- (d) the coverage of the needs and priorities for the ward;
- (e) the provision of feedback on the performance of the council's various line/service functions and their impact on the ward;
- (f) Number of door-to-door campaigns undertaken to encourage community members to participate in council activities (by attending Municipal Public Accounts Committee meetings (MPAC) and IDP meetings);
- (g) the number of complaints, queries and requests registered from the community and attended to (this refers to a checklist of needs against the registered needs, and the turnaround time to address those needs by the municipality);
- (h) the number of distributed publications (brochures, flyers and newsletters of the municipality) over a period of time;
- (i) the management and updating of ward profiles and databases of indigent households;
- (j) participation in plans and programme of municipalities and other spheres of government that have an impact on ward development and monitoring it; and
- (k) the development and implementation of ward operational/ward level service improvement plans that include basic ward issues.

The table below reflects the status regarding the establishment and functionality of ward committees in South African provinces.

**Table 6.1: The establishment of ward committees in RSA per province**

Province	Population	Number of local and metropolitan municipalities	Number of wards	Number of functional ward committees	Number of dysfunctional ward committees	Percentage % of functional ward committees per province
Eastern Cape	7 061 700	37+ 2 metros	715	715	None	100%
Free State	2 861 600	19+ 1 metro	317	281	36	89%
Gauteng	13 498 200	7+ 3metros	508	327	181	64%
Kwazulu-Natal	11 079 700	51+1metro	828	352	476	43%
Limpopo	5 803 900	25	543	517	26	95%
Mpumalanga	4 328 300	18	402	317	85	79%
Northern Cape	1 191 700	27	194	174	20	90%
North West	3 790 600	19	383	358	25	94%
Western Cape	6 293 200	25+1metro	387	371	16	96%
Total	55 908 900	226+8metros	4277	3412	865	83%

Source: Adapted from COGTA (2016:3) and Statistics South Africa (2016:2)

The 2016 COGTA National Report on the functionality of ward committees as reflected in Table 6.1 above indicates that the provinces of the Eastern Cape, Western Cape, Limpopo and North West have high percentages with regard to the functionality of their ward committees, with 100%, 96%, 95% and 94% respectively. Table 6.1 also shows that KwaZulu-Natal and Gauteng are the worst performing provinces with regard to the functionality of their ward committees, with 43% and 64% respectively. The Northern Cape, Free State and Mpumalanga are slightly behind, with 90%, 89% and 79% respectively.

Section 155(3)(b) of the *Constitution* (RSA, 1996a) provides for a Municipal Demarcation Board that is an independent authority responsible for determining municipal boundaries. The *Local Government: Municipal Demarcation Board Act, 27 of 1998*, passed on 3 July 1998, provides for criteria and procedures for the determination of municipal boundaries (RSA, 1998b). In terms of section 3 of the *Municipal Demarcation Board Act* (RSA, 1998b), provision is made for the establishment of a Demarcation Board that is a juristic person; independent and impartial in exercising its functions without fear, favour or prejudice. The Board is required to demarcate the boundaries of municipalities in accordance with the conditions set out in section 155 of the *Constitution* (RSA, 1996a). It could be concluded that all the municipal boundaries for the whole territory of the Republic of South Africa have been determined by the Municipal Demarcation Board as provided for in section 21 of the *Constitution* (RSA, 1996a).

In addition to determining and re-determining municipal boundaries, the Board is mandated to delimit wards for local elections and assess the capacity of municipalities to perform their functions. Local government plays an important role in enforcing municipal, provincial and national government policies in municipalities to ensure effective and accountable service delivery in a relatively smaller jurisdiction. It is through this approach that wards are established. Ward committees are area-based committees whose boundaries coincide with the jurisdiction of the ward, in terms of the *White Paper on Local Government* (RSA, 1998a:64).

When determining the boundary of a municipality, the Board has to consider

- the interdependence of people, communities and economies;
- the need for cohesiveness, integrated and unfragmented areas;
- the financial viability and administrative resources;

- provincial boundaries;
- areas of traditional rural communities;
- existing and proposed functional boundaries;
- existing and expected land use;
- topographical, environmental and physical characteristics;
- administrative consequences of its boundary determination; and
- the need to rationalise the total number of municipalities (Thornhill, 2008:498).

It follows that the municipalities mentioned in Table 6.1 and their wards were determined by the Municipal Demarcation Board in accordance with section 4 (a) of the *Municipal Demarcation Board Act* (RSA, 1998b). Through public participation, which should be initiated by the municipality, via a ward committee, the municipality should be in a better position to deliver the required goods and services, as expected by the municipal community. Ward committees do not have legislative and executive powers, but they play an important role as consultation structures and advisors to the councils, through the ward councillors, in terms of the *White Paper on Local Government* (RSA, 1998a: 64). For the municipalities to deliver basic services effectively, efficiently and in an economic way, the required contribution of ward committees must be clearly defined to establish their relative importance to municipal government.

According to Statistics South Africa, in 2016 the Republic of South Africa had a total population of 55.9 million people. The census results show that there are more women than men in South Africa. Of the 55.9 million people, about 27.4 million (49%) are male and 28.5 million (51%) are female. Table 6.2 shows that Gauteng, the smallest of South Africa's nine provinces, covering 1.4% of the total land mass, is the most populous province, with 13.4 million people, followed by KwaZulu-Natal, with 11 million people. By contrast, the Northern Cape, covering 30.6% of the total land mass, is the country's largest province, but has the lowest number of people, with 1.2 million people. The Eastern Cape, Western Cape, Limpopo and Mpumalanga Provinces have 7 million, 6.3 million, 5.8 million and 4.3 million people respectively. The Free State Province has only 2.9 million people (Statistics South Africa, 2016:2).

**Table 6.2: Percentage of total population, male and female population and area in square kilometres per province**

Province	Population	% of total population	Number of male population	Number of female population	% of female population	Area in square kilometres
Eastern Cape	7 061 700	12.6%	3 327 495	3 669 481	52%	168 966
Free State	2 861 600	5.1%	1 379 965	1 454 749	50.8%	129 825
Gauteng	13 498 200	24.1%	6 753 269	6 646 455	49.2%	16 548
Kwazulu-Natal	11 079 700	19.8%	5 306 295	5 758 945	52%	94 361
Limpopo	5 803 900	10.4%	2 738 547	3 060 543	52.7%	125 755
Mpumalanga	4 328 300	7.7%	2 139 188	2 196 776	50.8%	76 495
Northern Cape	1 191 700	2.2%	596 421	597 359	50.1%	372 889
North West	3 790 600	6.8%	1 909 589	1 838 846	49%	106 512
Western Cape	6 293 200	11.3%	3 096 458	3 183 273	50.5%	129 462
Total	55 908 900	100%	27 379 728	28 529 137	51%	1 220 813

Source: Adapted from Statistics South Africa (2016:2)

#### 6.4 MUNICIPALITIES IN THE NORTH WEST PROVINCE

The North West Province (the focus of this study) has 3.8 million people of the total population of the country. The North West and Gauteng are the only provinces in the Republic of South Africa that have slightly more male than female citizens (North West has 51% male and 49% female residents, Gauteng has 50.8% male and 49.2% female residents). In North West, this could be partly due to the extensive mining areas which mainly attract male workers, and Gauteng provides more employment opportunities than other provinces.<sup>7</sup>

The map in Figure 6.1, overleaf, shows the entire area of the North West province, which has a land area of 104 881 square kilometres.

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<sup>7</sup> In his State of the Province Address (SOPA) on 23 February 2015, Gauteng Premier indicated that the Gauteng is the biggest contributor to national employment – the number of employed people grew from 2.7 million in 1995 to 4.88 million in 2014; and the province contributes 36% to the country's Gross Domestic Product (GDP).



Figure 3.1: North West province



Source: Adapted from Statistics South Africa (2016:11)

Figure 6.1 shows that the North West Province as an inland South African province that borders Botswana, the Northern Cape, the Free State, Limpopo and Gauteng provinces. North West Province has four district municipalities (Category C), namely Bojanala, Dr Ruth Mompoti, Dr Kenneth Kaunda and Ngaka Modiri Molema.

**Table 6.3: Population, households, area, unemployment rate and population growth rate for North West**

Municipality	Area in square km	Population	Households	Unemployment rate	Population growth (p.a)
Dr Kenneth Kaunda District Municipality	14 642	742 821	240 543	29,7%	1,5 % p.a
Dr Ruth Segomotsi Mompoti District Municipality	43 700	459 358	127 103	35,8%	0,8% p.a
Ngaka Modiri District Municipality	28 206	889 108	269 977	33,7%	0,97% p.a
Bojanala Platinum District Municipality	18 333	1 657 148	611 144	30,7%	2,37% p.a
North West province	104 881	3 748 836	1 062 014	32,8%	1,4% p.a

Source: Adapted from Statistics South Africa (2016)

Table 6.3 shows the population, number of households, distance or area in square kilometres, the unemployment rate and population growth rate for North West. When compared with other district municipalities in the North West province, Bojanala Platinum District Municipality (BPDM) accounts for a total population of 1.66 million, which is 44.7% of the total population in North-West. BPDM ranked as the most populous district municipality in 2013, followed by Ngaka Modiri Molema, with a total population of 889 108 (Census North West Municipal Report, 2016).

The ranking in terms of the size of Bojanala compared to the other district municipalities remained the same between 2003 and 2015. Considering the average annual growth rate, Bojanala ranks highest with an average annual growth rate of 2.2% and an unemployment rate of 30.7% as against the average of 32.8% of other North West District Municipalities. The increase of the population in

Bojanala Platinum District Municipality may possibly be explained by immigration, due to the presence of mining areas that attract people to the area.

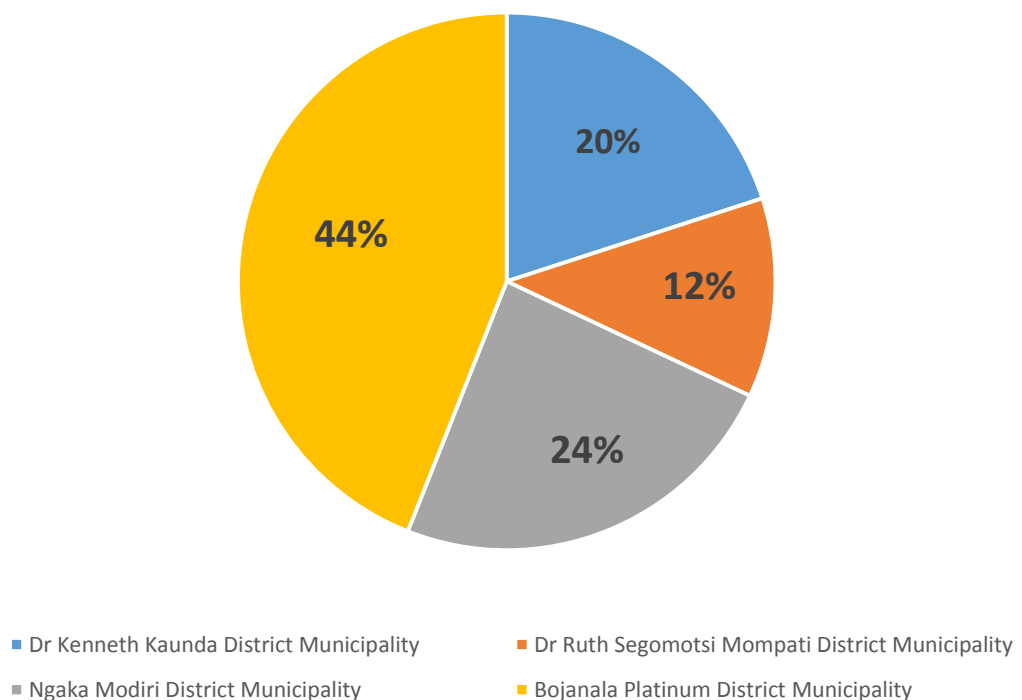
The Premier of North West stated the following during the State of the Province Address (SOPA) held on the 26 February 2016:

...the mining industry is our national heritage, which remains the backbone of the economy in the country broadly, and the North West Province in particular. This province has a lion's share of employment in the industry, representing approximately 27% of total industry employment. Out of an estimated reserve valuation of economically extractible mineral resources exclusive of the energy commodities (such as coal, uranium, thorium, methane, oil and gas, the North West province has a minimum estimated reserve value of R11.5 trillion. This amount is the estimated value that remains trapped beneath the belly of our wonderful land.

The North West Premier's 2016 State of the Province Address (SOPA) confirms that the population of North West Province is likely to grow due to mining. Arguably, the unemployment rate in North West can be reduced. A reduction of the unemployment rate contributes to economic growth, because more people would be able to afford paying for the provision of basic services.

**Figure 3.2: Population – Bojanala and other district municipalities in North-West**

Percentage contribution to the population of North-West Province



Source: Adapted from BPDM (2016b:60)

The graph in Figure 6.2 depicts the percentage contribution that each district municipality contributes to the total population of North West. Bojanala Platinum and Ngaka Modiri Molema District Municipalities contribute 44% and 24% respectively to the total population of North West. The Dr Ruth Segomotsi Mompati (RSMDM) and Dr Kenneth Kaunda (KKDM) District Municipalities contribute 12% and 20% respectively. There are more male members of the population than female members of the population in the BPDM and Dr Kenneth Kaunda District Municipalities, with a total of 52.9% and 50.2% respectively. This could be because there are a high number of mines, which attract a high number of male employees in the two district municipalities. The percentage of the total male population at the Ngaka Modiri Molema and Dr Ruth Segomotsi Mompati District Municipalities are 49.4% and 48.1% respectively.

The North West has 19 local municipalities (Category B) located in the four district municipalities. The province has 383 wards in the respective local municipalities. Functional ward committees are critical to the national strategic objective of deepening democracy through public participation.

**Table 6.4: Ward committees, vacancies on ward committees, budget allocation and stipend payable in North West**

Name of Municipality	Total no of Wards	Total no of ward committees	Total no of vacancies	% of Vacancies	Budget Allocation	Stipend payable to Ward Committee Members
DC37: Bojanala District	139	1 390	102	7,3%	N/A	N/A
NW 371: Moretele	28	280	None	0%	R3 138 840	R1000
NW372 : Madibeng	36	360	46	10%	R1,200 000	R1000
NW373 : Rustenburg	38	380	30	4%	R1 337 070	R1000
NW374:Kgetlengrivier	6	60	None	0%	R150 000	R1000
NW375:MosesKotane	31	310	26	8%	R6 064 00	R1000
DC 38: Ngaka Modiri Molema District	101	1010	40	4%	N/A	N/A
NW381 Ratlou	14	140	6	4%	R1,844 116	R1200 Members R1500 Secretaries
NW382 Tswaing	15	150	4	3%	R100 000	R1000

Name of Municipality	Total no of Wards	Total no of ward committees	Total no of vacancies	% of Vacancies	Budget Allocation	Stipend payable to Ward Committee Members
						Members R1500 Secretaries
NW383 Mahikeng	31	310	14	5%	R2 531 630	R1000 Members R1500 Secretaries
NW 385 Ramotshere Moiloa	20	200	4	6%	R3 600 000	R1200 Members R1500 Secretaries
NW384 Ditsobotla	21	210	12	6%	R252 000	R1000
DC39: Dr Ruth Segomotsi Mompati	65	650	19	2,9%	N/A	N/A
NW 392 Naledi	9	90	None	0%	R981 720	R1000
NW 393 Mamusa	8	80	9	11%	Unspecified	R500
NW 394 Taung	26	260	None	0%	R3 120 000	R1000
NW396LekwaTeemane	7	70	10	14%	R373 970	R500
NW 397 Kagisano Molopo	15	150	None	0%	R120 000	R1000
DC 40: Dr Kenneth Kaunda	78	780	54	6,6%	N/A	N/A
NW 401 Ventersdorp	6	60	5	8%	Not Specified	R600
NW 402 Tlokwe	26	260	10	4%	R2 340m	R750
NW 403 Matlosana	35	350	37	8%	R3 861 010	R1000
NW 404 Maquassi Hills	11	110	2	2%	Not specified	R1000
Total for North West province	383	3830	216	6%	N/A	N/A

Source: Adapted from RSA. North West (2015)

Table 6.4 illustrates the total number of ward committees that have been established in North West. Ward 28 in Rustenburg local municipality was the only ward established in the 2014/15 financial year, according to the *North West Local government and Human Settlements, Ward Committee report* (RSA. North West Province, 2015:2). Ward 28 of Rustenburg's ward councillor was elected after the community rejected the ANC candidate. The ward councillor contested the 2011 local government elections as an independent ward candidate, as illustrated by section 17(1)(2) of the *Municipal Electoral Act* (RSA, 2000a). The ward committee

was not established in time due to allegations of political interference. When meetings to establish the ward committee were called, people disrupted any such meetings. The ward committee was finally established at a meeting where the South African Police Services (SAPS) were called to maintain order. This was done after the Office of the North West Premier had intervened.

The total number of ward committees in the province today is 3830. There are 216 vacancies, which constitute 6% of the total number of ward committee members. It can be argued that North West recognises the contributions of ward committees in community participation, but that if it were not for the intervention of the Office of the North West Premier, Ward 28 in Rustenburg Local Municipality would not have established a ward committee (Rustenburg Local Municipality, 2015).

Table 6.4 illustrates that only local municipalities located in the Ngaka Modire Molema District Municipality pay the ward committee secretaries R1500 as out of pocket expenses, whereas other ward committee members each receive R1000. Table 6.4 also indicates that ward committee members in the province usually receive R1000 per month for the expenses incurred when attending ward committee meetings held monthly. The BPDM has 139 wards, which are located in five local municipalities. This municipality is discussed in more detail below.

## **6.5 THE BOJANALA PLATINUM DISTRICT MUNICIPALITY (BPDM)**

### **6.5.1 Demographic profile**

The Bojanala Platinum District Municipality (BPDM) derives its name *Bojanala* from the Setswana word for tourism. The BPDM is located on the north-eastern side of the North West province. It is a Category C municipality in terms of section 155 of the *Constitution* (RSA, 1996a). As a Category C municipality, it has executive and legislative authority in an area that includes more than one municipality. It is made up of five constituent Category B local municipalities, namely Kgetleng Rivier, Madibeng, Moretele, Moses Kotane and Rustenburg. It is bordered by the Dr Kenneth Kaunda District municipality (KKDM) to the south, the Ngaka Modiri Molema District municipality (NMMD) to the west; the Tshwane metropolitan city municipality and West Rand District municipality to the south east (Gauteng) and the Waterberg District municipality (Limpopo) to the north.



In terms of its assigned powers and functions, the BPDM does not provide basic services directly in its area of jurisdiction, but coordinates and supports local municipalities in terms of section 88(2) of the *Municipal Structures Act* (RSA, 1998c). The map in Figure 6.3 below shows that there are stark contrasts in the landscape settlement patterns of the district. The north-eastern and the north-western areas comprise scattered, low density settlements, causing sprawl, whereas the south-western areas are characterized by a concentration of settlements in strategic areas, which are more compact. The more formal urban areas are located in the southern part of the district. These include the towns of Rustenburg and Brits, which are economic nodes in this district municipality. There are other small noticeable nodes in the southern area, located in the Kgetleng Rivier local Municipality, where the towns of Koster and Swartruggens are located.

The population of the BPDM was estimated to be 1 657 148 in 2016 (Statistics South Africa, 2016:2). In 2016, the BPDM's population consisted of 91.25% Africans (1.46 million), 7.3% White (117 000), 0.75% Coloured (12 000) and 0.70% Indian/Asian (11 200) (BPDM, 2016b:34).

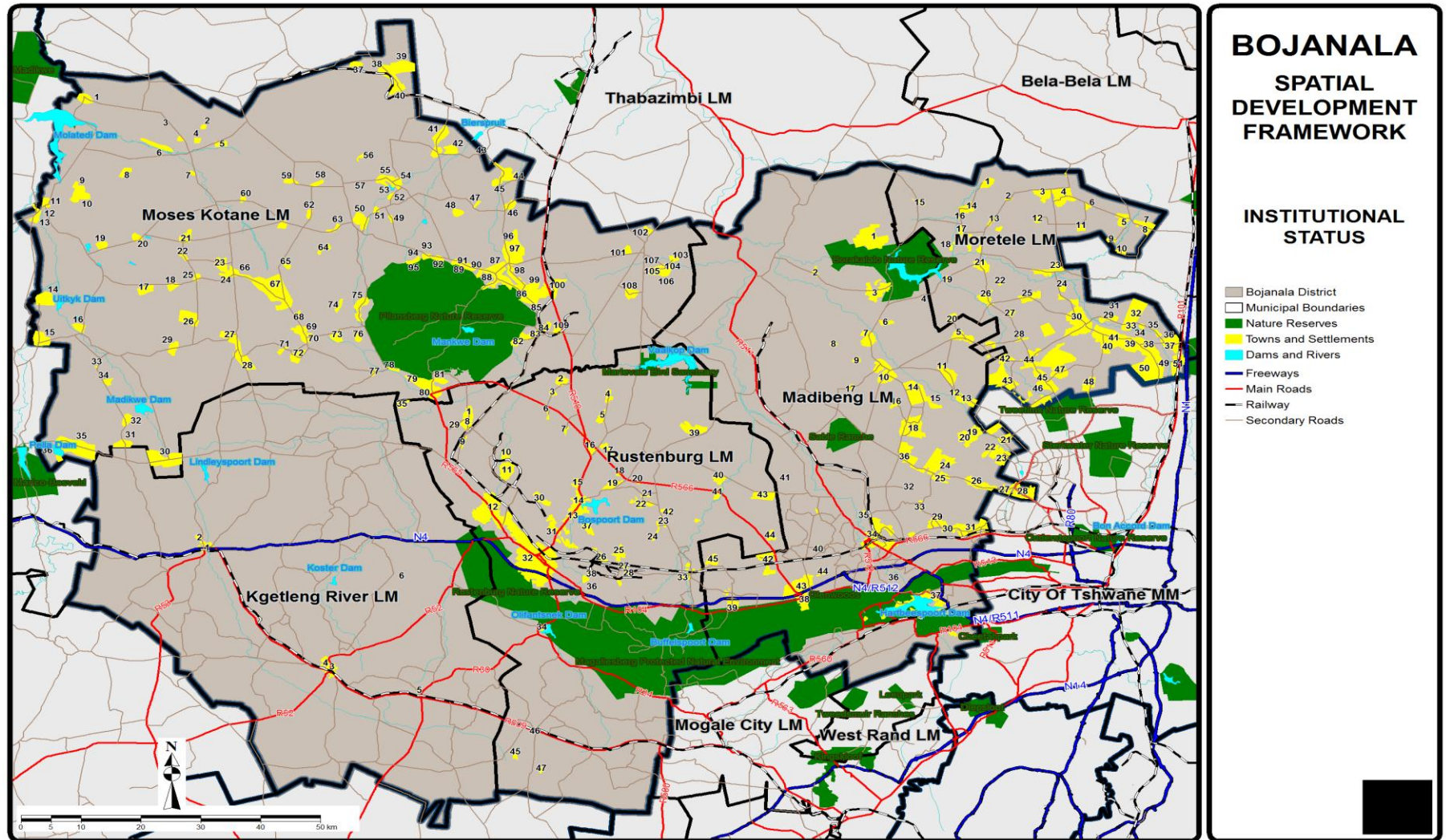
**Table 6.5: Total population of local municipalities of Bojanala District Municipality**

	2003	2008	2013	Average Annual growth
Moretele	185,000	184,000	188,000	0.17%
Madibeng	370,000	429,000	503,000	3.13%
Rustenburg	426,000	498,000	581,000	3.15%
Kgetlengrivier	39,400	45,900	54,200	3.25%
Moses Kotane	240,000	240,000	243,000	0.13%
Bojanala	1,260,122	1,396,692	1,569,891	2.22%

Source: Adapted from BPDM (2016b:60)

With 1.57 million people in 2013, the BPDM housed 3% of South Africa's total population.

Figure 3.3: Settlement pattern of the BPDM



Source: Adapted from BPDM (2016b)



Between 2003 and 2013 the population growth of Bojanala averaged 2.2% per annum. The Kgetleng Rivier, Rustenburg and Madibeng Local Municipalities experienced a higher annual growth rate, at 3.25%, 3.15% and 3.13% respectively, compared to other two constituent local municipalities of Bojanala, as shown in Table 6.4 above. The average annual growth of Moretele and Moses Kotane Local Municipalities is relatively low, compared to that of the other three local municipalities. It can be deduced that these two municipalities are predominantly rural municipalities with fewer economic activities, such as mining and industrial areas.

The Madibeng, Kgetleng Rivier and Rustenburg Local Municipalities displayed average annual growth of 3.12%. The annual average increase can be attributed to the economic activities taking place in these areas. The BPDM's economy is dominated by the mining sector (43%), trade (15.4%), community services (13.6%) and manufacturing (6.1%), as illustrated in Table 6.6. Mining and trade in these areas are the main attractions and contribute to the annual growth of the population (BPDM 2012b:39).

**Table 6.6: Major employer by sector in BPDM**

Sector	% Employment
Mining	43%
Trade	15.4%
Community services	13.6%
Manufacturing	6.1%

Source: Adapted from BPDM (2012b:39)

It can be argued that municipalities need to project their annual growth rate, since it assists them in the annual review and amendment of IDPs. Section 34(a) of the *Municipal Systems Act* (RSA, 2000b) provides that a municipal council must review its IDP annually in accordance with an assessment of its performance measurements in terms of section 41, and to the extent that changing circumstances require this review. An annual budget may only be funded from realistically anticipated revenue to be collected, as provided in section 18 (a) of the *MFMA* (RSA, 2003a). It can therefore be deduced that municipalities budget according to the total number of citizens who reside in a particular municipality. Establishing and recording the total population of its citizens assists the municipality

to anticipate the revenue to be collected. This enables the municipal council to determine policies, plans and programmes that can realistically be implemented.

**Table 6.7: Demographic profile of the Bojanala Platinum District Municipality**

Municipality	Size (km <sup>2</sup> )	Population	Households	Wards
BPDM	18 332	1 657 148	611 144	139
Kgetleng Rivier LM	3 974	59 560	18 787	6
Madibeng LM	3 812	537 500	193 857	36
Moretele LM	1 369	189 900	55 270	28
Moses Kotane LM	5 215	243 600	80 654	31
Rustenburg LM	3 492	626 500	262 576	38

Source: Adapted from Statistics South Africa (2016:14)

### 6.5.2 Municipal council

Section 18 of the *Municipal Structures Act* (RSA, 1998c) provides that municipalities must have municipal councils consisting of a number of councillors determined by the Member of the Executive Committee (MEC) for local government in the province concerned by notice in the Provincial Gazette. A municipality has the power to designate councillors as determined by the MEC for local government as full-time councillors. An MEC's determination must be in accordance with a policy framework as may be determined by the Minister after consulting the MECs for local government of the province concerned.

A municipal council is composed of those councillors (political party representatives or independent) who are elected in accordance with schedules 1 and 2 of the *Municipal Structures Act* (RSA, 1998c). Both Category A and B municipalities may use proportional and ward representation. Through the election of these councillors, a municipal council is established for a period not exceeding five years, as provided for by section 24(1) of the *Municipal Structures Act* (RSA, 1998c). The municipal council is the highest decision-making body in terms of the legislative and executive authority of a municipality. This means that the municipal council is vested with the authority to make binding decisions in relation to the authorisation of the municipal by-laws, and resolutions pertaining to matters as identified in schedules 4B and 5B of the *Constitution* (RSA, 1996a).

provided for by sections 156 and 229 of the *Constitution* (RSA, 1996a), and its basic responsibility is to make municipal decisions. Section 84 of *Municipal Structures Act* (RSA, 1998c) provides for the division of municipal functions and powers between Category B and Category C municipalities. A municipal council must strive within its capacity to achieve the objectives of local government as set out in section 152 of the *Constitution* (RSA, 1996a). Section 19(2) of the *Municipal Structures Act* (RSA, 1998c) obliges the municipal council review, on an annual basis,

- the community's needs;
- its priorities to meet those needs;
- its processes for involving the community;
- its organisational and delivery mechanisms for meeting the community's needs; and
- its overall performance in achieving the objectives of local government, as set out in section 152 of the *Constitution*.

Section 19(3) of the *Municipal Structures Act* (RSA, 1998c) states that the duty to develop mechanisms used to consult the community and its organisations in performing municipal functions and exercising power rests with the municipal council.

Section 29 of the *Municipal Structures Act* (RSA, 1998c) mandates the Speaker of a municipal council to decide when and where the council meets, subject to section 18(2). If a majority of the councillors requests the Speaker in writing to convene a council meeting, the Speaker must convene a meeting at a time set out in the request. The municipal manager of a municipality (or, in the absence of the municipal manager, a person designated by the MEC for local government in the province) must call the first meeting of the council of that municipality within 14 days after the council has been declared elected (or, if it is a district council, after all the members to be appointed by local councils have been appointed).

In the case of the BPDM, the first council meeting after the 2011 local government elections was held on 2 June 2011 (BPDM, 2016b:10). The municipal council elected the Speaker from among the councillors. The municipal manager of the BPDM presided over the election of the Speaker in terms of section 36(3) of the *Municipal Structures Act* (RSA, 1998c). The Speaker presides at meetings of the

council and performs the duties and exercises the powers delegated to him/her in terms of section 59 of the *Municipal Systems Act* (RSA, 2000b). In line with its assigned powers and functions, the BPDM facilitates and supports constituent local municipalities in terms of section 88(2) of the *Municipal Structures Act* (RSA, 1998c) (BPDM, 2016b:10).

The BPDM uses the executive mayoral system of government (Section 7(b) of the *Municipal Structures Act* (RSA, 1998c). The executive mayor performs the executive powers and functions assigned to him/her by the municipal council. The preamble of the *Municipal Systems Act* (RSA, 2000b) recognises the need to create a more harmonious relationship between municipal councils, municipal administration and the local communities through the acknowledgement of mutual rights and duties. It can be deduced that the duty of creating a harmonious relationship between the municipal council and local communities is led by the executive mayor.

The BPDM council designed both its administrative and political structures in terms of sections 156(1) and (4) of the *Constitution* (RSA, 1996a) and sections 83 and 84 of the *Municipal Structures Act* (RSA, 1998c) as detailed below. The political structures and political office bearers of the BPDM are the following:

- the Council, presided over by the Speaker;
- the Executive Mayor;
- the Mayoral Committee (ten members);
- the Office of the Whip of Council; and
- the Chairperson of the Municipal Public Accounts Committee (MPAC).

In terms of Section 80(1) of the *Municipal Structures Act* (RSA, 1998c), if a municipal council has an executive committee or executive mayor, it may appoint committees of councillors to assist the executive committee or executive mayor (in terms of in terms of section 79), but the number of committees may not exceed the number of members of the executive committee or mayoral committee. According to section 80(3) of the *Municipal Structures Act* (RSA, 1998c), an executive committee or executive mayor appoints a chairperson for each committee from the executive committee or mayoral committee. He or she may delegate any powers and duties of the executive committee or executive mayor to the committee. This

committee must report to the executive committee or executive mayor in accordance with the directions of the executive committee or executive mayor.

The members of a mayoral committee remain in office for the term of the executive mayor who appointed them. If the executive mayor vacates office, the mayoral committee appointed by that executive mayor also dissolves. The mayoral committee is not a committee of council. Section 160(6)(c) of the *Constitution* (RSA, 1996a) states that the municipal council may make by-laws which prescribe rules and orders for the establishment, composition, procedures, powers and functions of its committees. Committees of a municipal council should be fairly representative, in terms of section 160(8) of the *Municipal Structures Act* (RSA, 1998c).

In the case of *The Democratic Alliance v Amos Masondo, Executive Mayor of Johannesburg Metropolitan municipality* (Case CCT 29/02). The DA submitted that the decision by the Executive Mayor to appoint mayoral committee members was unconstitutional. The issue was whether minority political parties in a municipal council are entitled to representation on a mayoral committee established under the provisions of the *Municipal Structures Act* (RSA, 1998c). The appellants were the main opposition party in the Johannesburg Metropolitan Council. The appellants contended that the mayoral committee appointed by the first respondent was unconstitutional because minority parties in that council were not appointed to the mayoral committee. The proceedings were initiated by the appellants in the Johannesburg High Court.

The High Court ruled that the composition of the mayoral committee was neither in conflict with the relevant provisions of the *Municipal Structures Act* (RSA, 1998c), nor the *Constitution* (RSA, 1996a). The appellants appealed the High Court decision at the Constitutional Court. At the Constitutional Court, the appellants argued that since the executive authority is vested in the municipal council, any committee that exercises that authority should be a composition of the municipal council within the meaning of section 160(8) of the *Constitution* (RSA, 1996a). They argued that if the submission was correct, it would follow that a mayoral committee is a committee of the municipal council, to which the requirement of minority party representation is applicable. The appeal was dismissed. The Constitutional Court concluded that the mayoral committee is appointed by the mayor and holds office at his or her pleasure – it is the committee of the mayor and not of the council.

The BPDM is headed by the Office of the Executive Mayor as political office-bearer. A political office-bearer is a person performing a particular function as a result of his or her political affiliation (Thornhill & Cloete, 2014:76). Political office bearers are members of a political party elected to play an oversight role in ensuring effectiveness and efficiency in the municipal service delivery. In the BDPM, the primary political office bearers are the executive mayor, the members of the mayoral committee, the Speaker, the Whip of Council and the chairperson of municipal public accounts committee (MPAC).

#### **6.5.2.1 Composition and membership**

Section 23 of the *Municipal Structures Act* (RSA, 1998c) provides that the council of a district municipality consists of councillors who are elected in accordance with Part 1 of Schedule 2. They are elected by voters registered on that municipality's segment of the national common voters roll, to proportionally represent the parties contesting the election in that district municipality. The councillors appointed in accordance with Schedule 2 by the councils of the respective local municipalities in each district municipality directly represent those local municipalities in the district council. The number of councillors representing local municipalities in a district council must be equal to 60% of the number of councillors determined for the municipality in terms of section 20 of the *Municipal Structures Act* (RSA, 1998c). The other 40% of councillors are elected to the district by all voters in the area, according to proportional representation; voters vote for the party in terms of schedule 2(7) of the *Municipal Structures Act* (RSA, 1998c).

A local council must appoint its representatives to the district council within 14 days after the result of the election of the local council has been declared.

Each local, district and metropolitan municipality must have a council which

- has to meet at least once every quarter;
- must consist of the number of councillors which is determined by the member of the executive Council (MEC) for local government announced by notice in the Provincial Gazette; and
- has “the power to designate councillors determined by the MEC for local government as full time in accordance with the policy framework as may be determined by the Minister of COGTA after consulting the provincial MECs for local government” (RSA, 1998c).

### **6.5.2.2 Number of councillors**

According to the *Municipal Structures Act* (RSA, 1998c), the number of councillors of a municipal council is determined by means of a formula decided by the Minister responsible for local government by notice in the *Government Gazette*. At the moment, this is the Minister of COGTA. The formula is based on the number of voters registered on that municipality's segment of the national common voters' roll. No council may consist of fewer than three or more than 90 councillors (if it is a local or district municipality) or of more than 270 councillors (if it is a metropolitan municipality).

The Minister of COGTA published a notice in *Government Gazette* 32407 on 15 July 2009 regarding the formulae applicable to every category of a municipality. The notice acknowledges that there are differences among categories of a municipality and the population of municipalities. Hence, the MEC for local government in a given province may deviate from the number of councillors determined by the Minister for a municipality, and may *increase* the number of councillors in cases

- where there are exceptional distances;
- there is a lack of effective communication in the municipality; or
- there are other exceptional circumstances which may render it necessary, for example, in the Northern Cape which is sparsely populated and in which district municipalities cover a large geographical area (Thornhill & Cloete, 2014:60).

The number of councillors may be *decreased* if it is necessary to achieve

- the most effective size for active participation by all councillors at council meetings;
- effective and timely executive and legislative decisions;
- responsiveness and accountability of councillors, taking into account the possible use of modern communication techniques and facilities; or
- the optimum use of municipal funds for councillor allowances and support facilities (Thornhill & Cloete, 2014:60).

BPDM council consists of 28 councillors, elected on a proportional basis, representing political parties, and 40 councillors seconded from constituent local municipalities. The total number of BPDM councillors is 68. A quorum of council is formed by 35 councillors, which is 50% of councillors plus one in terms of the by-

laws and rules of order of the municipality. The Executive mayor, Speaker, Whip, ten members of the mayoral committee and the Chairperson of the Municipal Public Accounts Committee (MPAC) are full-time councillors.

Councillors have been seconded from constituent local municipalities to the district municipality as indicated in Table 6.8.

**Table 6.8: Number of councillors in Bojanala municipality**

Name of municipality	Directly elected (proportional)	Councillors from local municipalities
BPDM	28	
Rustenburg local municipality		13
Madibeng local municipality		12
Moses Kotane local municipality		7
Moretele local municipality		7
Kgetleng Rivier local municipality		1
Total number of councillors in BPDM		68

Source: Adapted from BPDM (2016a)

### **6.5.2.3 Eligibility of councillors**

Section 158(b) of the *Constitution* (RSA, 1996a) provides, *inter alia*, that every citizen who is qualified to vote for a municipal council is also eligible to be a member of that council, except anyone already appointed by or in service of the state, and who receives remuneration for that appointment. Someone who has been disqualified from membership of a municipal council in terms of the national legislation is also not eligible. Every citizen who is qualified to vote for a council has the right to be nominated as a candidate in an election for the council and remains a member if he or she is not disqualified in terms of the *Constitution* (RSA, 1996a).

The MEC may exempt a person from disqualification to be a member of the municipal council in question only if there is no substantial conflict of interest or irreconcilable conflict between the duties of the person in the capacity described in the *Constitution* (RSA, 1996a) and the person's mandate or duties as a municipal councillor. The probability could also be posed as to possible conflict of interest where a public servant (in the national or provincial sphere) serves as a councillor. The availability of such a councillor for municipal duties, if he or she is in full-time employment of a government department could imply a conflict of interest,



particularly where the department may also be concerned with functions performed by the municipality in question, due to intergovernmental relations in terms of section 41 of the *Constitution* (RSA, 1996a).

#### **6.5.2.4 Election of councillors**

Section 157(2) of the *Constitution* (RSA, 1996a) and the *Local Government: Municipal Electoral Act, 27 of 2000* (RSA, 2000a) provide for the election of councillors. The electoral system ensures that the total number of members elected from each party reflects the total proportion of the votes recorded for those parties. The delimitation of wards must be done by an independent authority (currently the Municipal Demarcation Board) if the electoral system includes ward representation. Only a person registered on that municipality's segment of the national common voters' roll may vote in a municipality. The system allows for parties and interests reflected within the municipal council to be fairly represented on the municipal council to which the appointment is made (Thornhill & Cloete, 2014:61).

The preamble of schedule 5 of the *Municipal Structures Act* (RSA, 1998c) defines councillors as local representatives elected to represent a constituency in the municipal council. Section 73(2)(a) of *Municipal Structures Act* (RSA, 1998c) identifies two kinds of councillors in municipalities. A ward councillor is a representative of a specific geographically defined ward within a municipality. The proportional representative councillor is elected on the basis of representation of political party, according to the number of votes that a party, independent candidates or an association such as the Rate Payers Association, has gained at a municipal election. The cut-off point is determined by the number of councillors assigned by the MEC. A proportional representative councillor is elected through the party list and is primarily accountable to the party.

The justification for making provision for ward-elected councillors and proportionally elected councillors can be found in the concept of representivity. A ward councillor is supposed to represent the inhabitants of a particular ward (the people who live in a specific geographical area). A proportionally elected member is required to represent the general municipal interests of the whole of the municipality. This kind of councillor is also required to balance the requests of ward councillors to ensure that one ward is not unduly favoured or disadvantaged in council deliberations. Unfortunately, it seems that most proportionally elected councillors see their

primary responsibility as representing the political party that assigned them. In this case, they do not consider themselves accountable to the inhabitants of a municipality, but accountable to the political party. They then promote only a particular party's views and interests. "Councillors are elected to represent local communities on municipal councils, to ensure that municipalities have structured mechanisms of accountability to local communities, and to meet the priority of communities by providing services equitably, effectively and sustainably within the means of the municipality" (Thornhill & Cloete, 2014: 65).

To regulate municipal elections, Parliament passed the extensive *Municipal Electoral Act* (RSA, 2000a). This Act states that the national common voters' roll compiled and maintained in terms of the *Electoral Act, 73 of 1998* (RSA, 1998d) must be used for municipal elections. If a person's name does not appear on the certified segment of the voters' roll for a voting district, he or she may submit an application to be registered to vote to the Electoral Commission, established in terms of section 190 of the *Constitution* (RSA, 1996a), at the address of the Commission's local representative, or to the presiding officer of the voting station for that particular voting district.

Significant provisions for elections are, *inter alia*,

- (a) only registered political parties, independent candidates and associations may contest an election;
- (b) a party may contest an election only if it has, in the prescribed format, given notice of its intention to contest the election;
- (c) requirements to be met by ward candidates are satisfactory;
- (d) voting stations have been established by the Electoral Commission;
- (e) the boundaries of voting stations have been determined;
- (f) presiding officers have been provided to perform prescribed duties;
- (g) voting and counting officers as well as counters have been appointed; and
- (h) parties contesting an election have appointed their agents (RSA, 1998d).

Any organisation may apply to the Electoral Commission to observe an election and to accredit persons to provide voter education. Observers oversee an election impartially and independently. The requirement is important, because it ensures that free and fair elections are conducted. Thus it contributes to the guarantee that democracy is maintained.

Provision is also made for unacceptable conduct and the infringement of the *Electoral Code of Conduct*. The Electoral Commission may establish regulations in terms of the Act to expand the provisions of the *Electoral Code of Conduct* (cited in

Thornhill & Cloete, 2014:60). The *Electoral Commission Act, 51 of 1996* (RSA, 1996b) provides specifically for “the registration by a Chief Electoral Officer of political parties for municipalities and may under such registration participate only in elections for councils for those municipalities”. A voter is seen as “ordinarily resident” at the home or place where that person normally lives and to which that person regularly returns after any period of absence (Thornhill & Cloete, 2014:60).

In South Africa, municipal councillors receive a salary. This allows them to participate in council affairs without having to forfeit their livelihood. The *Remuneration of Public Office-Bearers Act, 20 of 1998* provides, *inter alia*, for the determination of the upper limit of salaries and allowances of members of municipal councils (RSA, 1998f). Provision is also made for the differentiation of remuneration according to different categories and types of executive systems. Provision is made for pension benefits of members of municipal councils. The Minister of Cooperative Governance and Traditional Affairs determines the upper limit of the contribution to be made to the pension fund of which a councillor is a member. In this regard, the Minister must comply with the particular conditions of the Independent Commission for the Remuneration of Public Office-Bearers established in terms of the *Independent Commission for Remuneration of Public Office-Bearers Act, 92 of 1997* (RSA, 1997a).

Section 5 of the *Municipal Electoral Act* (RSA, 2000a) provides, *inter alia*, for the compilation of a voters’ roll, the preparation for the election of a municipal council, the eligibility for candidates to contest ward elections and voting procedures, an electoral code of conduct and related matters. The Act determines the eligibility of persons to vote in a particular voting district. Furthermore, the Act stipulates that only registered parties, independent candidates and associations may contest an election. It also contains specific preconditions, such as the submission of a list of names and the nomination of ward candidates. If elections are contested in terms of a party list system, specific conditions apply. Section 17 of the *Municipal Electoral Act* (RSA, 2000a) prescribes the requirements ward candidates must comply with to ensure that such candidates qualify. It is, for example, required that an independent candidate must provide the signature of at least 50 voters whose names appear on the segment of the voters’ roll for the *Electoral Commission Act, 51 of 1996* (RSA, 1996b). The Electoral Commission must also accept such a nomination to be a valid nomination.

A councillor who vacates his or her office during the term of that council, or resigns in writing is no longer qualified to be a councillor. The same applies to a councillor who was elected from a party list and ceases to be a member of the relevant party. Moreover, a councillor who contravenes a provision of the *Code of Conduct for Councillors* set out in Schedule 5 of the *Municipal Systems Act* (RSA, 2000b) and is removed from office in terms of the Code may no longer be a councillor. In the case of proportionally elected councillors, the political party entitled to assign a member does so based on a candidate's seniority in the district or branch. A political party may withdraw a proportional member at any time, and replace him or her with another member to fill its quota in council.

In October 2011, the North West Provincial Executive Council resolved to invoke the provisions of section 139(1)(b) of the *Constitution* (RSA, 1996a) at the Madibeng Local Municipality. Section 139(1) of the *Constitution* provides that when a municipality cannot or does not fulfil an executive obligation in terms of the *Constitution* or legislation, the relevant provincial executive may intervene by taking appropriate steps to ensure fulfilment of that obligation. In terms of section 139(2), if a provincial executive intervenes in a municipality, it must submit a written notice of the intervention to the Cabinet member responsible for local government affairs (RSA, 1996a). It is based on this constitutional obligation that the North West Provincial Executive Council wrote to the Minister of COGTA. The Minister of COGTA, after consultation with the North West Provincial Executive Council, established a Ministerial Task Team to conduct a due diligence investigation with regard to the interventions invoked by the North West Provincial Executive Council (COGTA, 2013:3). In its report, the COGTA Ministerial Task Team (2013:3) recommended that

- (a) disciplinary action be instituted against the Municipal Manager, Acting Chief Operations Officer, and Acting Head of Corporate Services;
- (b) disciplinary action be instituted against the Speaker;
- (c) criminal Cases be opened with the South African Police Services against Municipal Manager, Acting Chief Operations Officer, and Acting Head of Corporate Services and the Speaker;
- (d) that the Municipal Manager, Acting Chief Operations Officer, and Acting Head of Corporate Services be suspended or placed on special leave pending the finalisation of the disciplinary or criminal cases against them.

In case of the BPDM, the Executive Mayor, Speaker and Whip of the Madibeng Local Municipality were withdrawn from their positions in January 2014 by the ANC (the political party they belonged to). Their positions were filled by other councillors.

Failure to implement the 2013 COGTA Ministerial Task Team's report was cited as the reason for their withdrawal.

#### **6.5.2.5 Term of office and benefits of councillors**

Section 24 of the *Municipal Structures Act* (RSA, 1998c) provides that the term of municipal councils is five years, calculated from the day following the date set for the previous election of all municipal councils. Whenever necessary, the Minister should consult the Electoral Commission, and should then, by notice in the *Government Gazette*, call and set a date for an election of all municipal councils. These must be held within 90 days of the date of the expiry of the term of municipal councils. The notice may be published either before or after the term of municipal councils expires. If the Minister does so after the expiry of the term, councillors remain in office until the results of a new council has been declared by the MEC. By-elections are also held if a court sets aside the election of the council for the municipality or district, or if a vacancy occurs in a ward. The procedure to be applied for by-election is also prescribed.

Provision is made for conditions that apply when an elected member is appointed to serve on a district council (RSA, 1998c). Privileges and immunities are prescribed by provincial legislation in terms of section 61 of the *Constitution* (RSA, 1996a). The provincial legislation must allow councillors freedom of speech in the municipal council, and its committees are subject to the council's rules and orders. Members are not liable to civil or criminal proceedings, arrest, imprisonment or damages for anything they have said in, revealed or produced before or submitted to the council or any of its committees. The research for this thesis showed that the BPDM and its constituent local municipalities have also adopted council rules of order that apply to the conduct of councillors during council meetings. These rules of order ensure that the dignity of a council is guaranteed. Section 19 of the *Municipal Systems Act* (RSA, 2000b) provides for a code of conduct that applies to every member of a municipal council. The preamble in the extensive code is quoted to illustrate the role and responsibilities of a councillor:

Councillors are elected to represent local communities on municipal councils, to ensure that municipalities have structured mechanisms of accountability to local communities, and to meet the needs of communities by providing services equitably, effectively and sustainably within the means of the municipality. In fulfilling this role, councillors must be accountable to local communities and report back at least quarterly to constituencies on council matters, including the

performance of the municipality in terms of established indicators. In order to ensure that councillors fulfil their obligations to their communities, and support the achievement by the municipality of its objectives set out in section 19 of the Municipal Structures Act, 1998 this Code of Conduct is established.

Schedule 1 of the *Municipal Systems Act* (2000b) provides for

- the general conduct of councillors, including attendance and non-attendance of meetings,
- disclosure of interest in matters before the council or its committees;
- withdrawal from such council and committee meetings;
- misuse by councillors of their position or privileges for personal gain, or to avoid paying rates, tariffs and rent;
- the declaration by councillors of interest in prescribed matters; and
- the rewards, gifts and favours that councillors may not request from the council or its committees, or from members of the community, to vote or refrain from voting on a particular matter, or persuade the council or any of its committees to obtain confidential information.

The code of conduct also states that unauthorized interference in the management or administration of any department of the municipality (except at the request and with the permission of the council), and misuse of property or assets of the municipality are prohibited.

#### **6.5.2.6 Meetings and activities of councils**

A majority of the councillors must be present at a meeting of the council before a vote may be taken on any matter. In terms of section 160(2) of the *Constitution* (RSA, 1996a), a municipal council may not delegate functions such as the passing of by-laws, the approval of budgets, the imposition of rates and other taxes, levies and duties or the raising of loans. These functions are determined by a decision taken by a municipal council with a supporting vote of a majority of the councillors. All other questions before a municipal council are decided by a majority of the votes cast, subject to section 34 of the *Municipal Structures Act* (RSA, 1998c). Section 30(5) of the *Municipal Structures Act* (RSA, 1998c) provides that before a municipal council takes a decision on any matter, its executive committee or executive mayor must first submit to it a report and recommendation on the matter.

In the BDPM and its constituent local municipalities, the rules of order provide that half of the councillors plus one councillor constitute a quorum in municipal councils. These municipalities conduct meetings in an open manner in line with their rules of order and have all adopted by-laws prescribing rules and order. The rules of order also elucidate internal arrangements, business and proceedings, and the establishment, composition, procedures, powers and functions of committees. Closed meetings, where members of the public are not allowed to attend a council or its committees, may be held, depending on the nature of the business conducted.

Municipalities are required to promote community participation in the local affairs entrusted to municipalities. Every municipality must develop a culture of public participation in local affairs. This implies that every municipality must establish appropriate mechanisms, processes and procedures to enable communities, individual residents and ratepayers in the municipality to participate in the local affairs of that municipality. Every municipality must build the capacity of communities and residents as ratepayers to participate in municipal affairs. A public notice of a meeting of municipal councils must be issued to enable interested persons to attend. Meetings of municipal councils and their committees may be closed to members of the public only as prescribed in the regulations and guidelines issued by the minister responsible for local government (currently the Minister of COGTA).

The High Court of South Africa, North West Division, examined the processes concerning the extent to which public participation was facilitated by the BPDM in the case of *Munsolve (Rate Payers Association in Rustenburg) v the Bojanala Platinum District Municipality (Case No: M133/2015)*. *Munsolve* argued that the procedure to be followed with public participation when adopting the oversight report on annual report was not followed. The High Court Judge ruled in favour of the *Munsolve Rate Payers Association* and ordered the BPDM to repeat the public participation process, following the prescribed process. The Judge also ruled that *Munsolve* must be provided with the 2013/14 annual report before public consultation could be undertaken again. This case shows the power that citizens have when they are dissatisfied by the conduct of council in not allowing sufficient opportunity for public participation. The 2013/14 *Annual Report* of the BPDM was

eventually adopted by the municipal council on 30 March 2015, after public consultation was undertaken again (R472/14/15).

#### **6.5.2.7 Dissolution of municipal councils**

Section 34 of the *Municipal Structures Act* (RSA, 1998c) provides that a municipal council may dissolve itself at a meeting called specifically to adopt a resolution dissolving the council, provided there is a supporting vote of a least two thirds of the councillors. This may only happen after two years have passed since the council was elected. However, the MEC for local government in a province may dissolve a municipal council by notice in the *Provincial Gazette* if

- in terms of section 123 (2)(a) of the *Municipal Demarcation Act, 27 of 1998* (RSA, 1998b), the Electoral Commission is of the view that a boundary determination affects the representation of voters in that council;
- the remaining part of the existing term of municipal council is more than one year; or
- an intervention in terms of section 139 of the *Constitution* has not resulted in the council's being able to fulfil its obligations in terms of legislation; and
- the minister responsible for local government concurs, after notice of the dissolution has been tabled in the National Council of Provinces and this has approved the dissolution.

This requirement ensures the unity of government in the state. It also acknowledges the role of National Council of Provinces as a representative body concerned with the interests of provinces and municipalities.

President Zuma issued a proclamation in 2009 in terms of the *Special Investigating Units and Tribunals Act, 74 of 1996* (RSA, 1996c) to investigate allegations of maladministration in the affairs of all municipalities in the North West Province. The investigation included the BPDM and its constituent local municipalities. They were investigated for

- alleged unlawful, irregular or unapproved acquisitive acts, transactions, measures or practices that have a bearing on state property;
- offences related to the *Prevention and Combating of Corrupt Activities Act, 12 of 2004* (RSA, 2004c); and



- unlawful or improper conduct by any person which has caused or may cause serious harm to the interests of the public or any category thereof.

The *Special Investigating Units and Tribunals Act, 74 of 1996* (RSA, 1996c) is proof of the supervisory role of government, through the President, regarding the local sphere of government. It also serves as an example of the legal framework within which municipalities operate.

If a municipal council is dissolved in terms of section 34(4) of the *Municipal Structures Act* (RSA, 1998c) or does not have sufficient members to form a quorum for a meeting, the MEC for local government in the province must appoint one or more administrators to ensure the continued functioning of the municipality, until a new municipal council is elected or until the council has sufficient members to form a quorum. When appointing one or more administration, the MEC for local government, by notice in the *Provincial Gazette*, must determine the functions and powers of the administrator or administrators. This requirement is necessary to ensure that service delivery is continued in the case where a council fails to perform its legislative and executive responsibilities.

In the BPDM, the constituent local municipality of Madibeng was considered unable to perform its functions under section 139(1)(b) by the North West Provincial government in 2013. Placing the Madibeng Local Municipality under section 139(1)(b) is also proof of the supervisory role of government regarding the local sphere of government. On 23 March 2015, the North West Provincial Government again invoked section 139(1)(b) of the *Constitution* (RSA, 1996a) to intervene at the Madibeng Local Municipality. The nature of the intervention affected only water and sanitation.

The National Council of Provinces' Select Committee on COGTA summoned the North West Provincial Government to a meeting where North West was expected to explain why the Madibeng Local Municipality was put under administration. The MEC for Local Government and Human Settlements argued as follows before the National Council of Provinces' Select Committee on Cooperative Governance and Traditional Affairs on 22 April 2015:

Madibeng local municipality experienced water and sanitation challenges that led to service delivery protests in 2014. Most of the water challenges and service delivery protests were in Majakaneng, Oukasi, Jericho, Klipgat, Madidi, Lethabile, Mmakau and Mothutlung. Even areas like Hartbeespoort dam

experienced serious water quality issues, like levels of algae. The municipal council had failed to fulfil its legislative and executive obligations in terms of the law by not reigning in office bearers and senior management to fulfil what is required in terms of local government legislation. (SA Government News, 2015)

The decisions with regard to water and sanitation were taken by the administrator on behalf of the North West Provincial government (Madibeng Local Municipality, 2016a:19). Legislative powers and decision-making are still vested in the municipal council at the Madibeng Local Municipality, as section 139(b) of the *Constitution* (RSA, 1996a) only affected the provision of water and sanitation in Madibeng.

### **6.5.3 Functions and powers of municipal council**

The powers and functions of a municipality are contained in sections 156 and 29 of the *Constitution* (RSA, 1996a). However, the *Constitution* does not distinguish between a district and a local municipality. *The Municipal Structures Act* (RSA, 1998c) makes this distinction in section 84 and provides for the adjustment of powers and functions between a district municipality and a local municipality. In terms of section 85(2) of the *Municipal Structures Act* (RSA, 1998c), adjustment of the division of functions and powers between district and local municipalities is based on the capacity required to execute such a power or function.

Section 83(3) of the *Municipal Structures Act* (RSA, 1998c) provides that the district municipality must achieve the integrated, sustainable and equitable social and economic development of its area as a whole, for example, by

- ensuring integrated development planning for the district as a whole;
- promoting bulk infrastructural development and services for the district as a whole;
- building the capacity of local municipalities in its area to perform their functions and exercise their powers where capacity is lacking; and
- promoting the equitable distribution of resources between the local municipalities in its area to ensure appropriate levels of municipal services within the area.

Specific functions regarding services required for the district are also assigned to district municipalities, such as

- potable water supply systems;
- bulk supply of electricity (including for the purpose of such supply systems);

- the transmission, distribution and, where applicable, the generation of electricity,
- domestic waste-water and sewage disposal systems; and
- solid waste disposal sites.

Every local municipality has been assigned functions and powers, excluding those functions and powers retained by the district municipality. If a dispute arises between a district and a local municipality concerning the performance of a function or the exercise of a power, the MEC for local government of the province, as prescribed by section 86 of the *Municipal Structures Act* (RSA, 1998c), may resolve the dispute after consulting the councils concerned. The resolution must be made known by notice in the *Provincial Gazette*. The municipal Demarcation Board must also be consulted by the MEC as prescribed. The notice must define the respective roles in the performance of a function by the district council and the local councils respectively. There can also be temporary allocation of functions and powers to adapt to a municipality's lack of capacity. The district municipality and the local municipalities must cooperate with one another by supporting and assisting each other, as provided by section 88 of the *Municipal Structures Act* (RSA, 1998c).

Section 85 of the *Municipal Structures Act* (RSA, 1998c) regulates how the adjustment of powers and functions between a district and local municipality must be done: a section 12 notice must be published in the *North West Provincial Gazette*. The Minister or MEC for local government may adjust the following powers and functions:

- potable water supply;
- bulk electricity services;
- domestic waste water and sewage disposal systems; and
- municipal health services (RSA, 1998c).

The current powers and functions of the BDPM are gazetted in the *North West Provincial Gazette* No. 6161 of 3 May 2005 DC 37, and are shown in Table 6.9, overleaf. The functions allocated to the district municipality, which are functions of a local municipality in terms of section 83(3), require a district municipality to build the necessary capacity in the affected municipality to execute such functions when the MEC adjusts the function. The functions and powers relating to services contemplated in Part B of Schedule 4 of the *Constitution* (RSA, 1996a) in the area of the local municipality are as indicated below.

**Table 6.9: The functions and powers of the BPDM**

NAME OF MUNICIPALITY	SUPPORT PROVIDED BY BPDM
NW373 Rustenburg Local Municipality	84(1)(e) - Solid waste 84(1)(f) - Roads 84(1)(j) - Fire fighting services 84(1)(l) - Cemeteries 84(1)(n) - Public works relating to the above functions
NW372 Madibeng Local Municipality	84(1)(e) - Solid waste 84(1)(f) - Roads 84(1)(j) - Fire fighting services 84(1)(l) - Cemeteries 84(1)(n) - Public works relating to the above functions
NW375 Moses Kotane Local Municipality	84(1)(e) - Solid waste 84(1)(f) - Roads 84(1)(j) - Fire fighting services 84(1)(l) - Cemeteries 84(1)(n) - Public works relating to the above functions
NW371 Moretele Local Municipality	84(1)(j) - Fire fighting services 84(1)(l) - Cemeteries 84(1)(n) - Public works relating to the above functions
NW374 Kgetleng-Rivier Local Municipality	84(1)(e) - Solid waste 84(1)(f) - Roads 84(1)(j) - Fire fighting services 84(1)(l) - Cemeteries 84(1)(n) - Public works relating to the above functions

Source: Adapted from BPDM (2016b)

Table 6.9 shows the powers and functions that the BPDM provides to support its constituent local municipalities. Currently, the BPDM provides fire fighting services at the Kgetleng Rivier, Moretele and Moses Kotane local municipalities. The Madibeng and the Rustenburg Local Municipalities provide their own fire services. The BPDM is unable to provide fire services to these two municipalities, due to insufficient funds. Solid waste, roads and cemeteries are the functions which BPDM

provide to the constituent local municipalities. This implies that each constituent local municipality provides water, sanitation, electricity and waste removal to its own residents.

#### 6.5.4 Constituent local municipalities of the BPDM

##### 6.5.4.1 Rustenburg Local Municipality

Rustenburg Local Municipality is a Category B municipality. It is demarcated into 38 wards. Rustenburg is a large town situated at the western end of the Magaliesberg mountain range. Rustenburg (meaning 'town of rest' or 'resting place') was proclaimed a township in 1851. It is a municipality with a mayoral executive system in terms of the *Municipal Structures Act* (RSA, 1998c). The council consists of 76 councillors, with a full-time Executive Mayor, Speaker, Chief Whip, 10 members of the Mayoral Committee and the Chairperson of the Municipal Public Accounts Committee in line with section 9(c) of the *Municipal Structures Act* (RSA, 1998c). The local municipality is a water services authority in terms of the *Water Services Act, 108 of 1997* (RSA, 1997b).

**Table 6.10: Services provided to households**

Type of service	Percentage (%) of population
Weekly refuse removal	57%
Access to electricity	72%
Sanitation including flush toilets	72%
Access to piped water	80%
Reside in formal dwellings	67%

Source: Adapted from Rustenburg Local Municipality (2015:12)

According to the 2014/15 financial year's *Annual Report*, the Rustenburg Local Municipality provided services to 208 526 households as indicated in Table 6.10. The table illustrates that 80% of households in Rustenburg receive piped water. Moreover, 57% of households receive refuse removal, 72% have sanitation and 72% have electricity. Table 6.10 also shows that 67% of citizens in Rustenburg reside in formal dwellings, which implies that 33% reside in informal settlements (Rustenburg Local Municipality, 2015:12).

In order to reduce the number of households who reside in informal settlements, the Rustenburg Local Municipality partnered with the Provincial Department of Local Government and Human Settlements to build 292 RDP houses and 252 rental units in Marikana. When beneficiaries were identified, not all the people who were on the list identified by the Ward Committee of Ward 32 appeared on the final list. There is a possibility that the houses could be occupied by people who do not qualify and this could cause conflict. The 2014/15 *Annual Report* of the Rustenburg Local Municipality shows that the 252 rental units built in Marikana remain unoccupied, because the residents in the ward cannot afford to rent these units.

**Table 6.11: Basic services provided to households in Rustenburg**

Type of service	Provision
Water	Free basic water of 6 kl per household per month Free basic water of 9 kl per indigent household per month Free stand pipe water for all informal settlements
Sewerage	Free basic sewerage of 6 kl per household per month Free basic of 9 kl per indigent household per month
Electricity	Free basic electricity of 100 kwh per month for all users Registered indigents in Rustenburg Local Municipality receive free electricity
Refuse removal	Free weekly refuse collection for indigent households Free refuse service to all informal settlements
Property rates	First R150 000 assessment rates qualify for rebates for residential properties 100% assessment rates rebate to indigent households Assessment rates rebate to pensioners
Other indigents support	Excess water & electricity consumption by indigents which is written off every month as per the municipality's indigent management policy The indigent support policy assists several community members living in poverty to be buried in dignity free of charge

Source: Adapted from Rustenburg Local Municipality (2015:46)

Table 6.11 illustrates that the Rustenburg Local Municipality provides 6 kl of free basic water of per household per month to all the residents. The municipality provides additional free basic water of 3kl per indigent household per month. This implies that the Rustenburg Local Municipality provides 9 kl of free basic water to each indigent household per month. Stand pipe water for all informal settlements is provided free of any charge. Free basic sewerage of 6 kl per household per month is provided to residents and additional free sewerage of 3 kl per indigent household

per month is provided. With regard to electricity, 100 kwh free basic electricity per month is provided for all users.

Free weekly refuse collection is provided for indigent households and informal settlements. In the Rustenburg Local Municipality, the first R150 000 assessment rates qualify for a rebate for residential properties, and 100% of assessment rates qualify for a rebate for indigent households and pensioners. Excess consumption of water and electricity by households classified as indigent is written off every month in accordance with the municipality's indigent management policy. There is also an indigent support policy of the municipality which assists with burial at no charge for several community members who lived in poverty, so that they can be buried with dignity when they die (Rustenburg Local Municipality, 2015:46).

The Rustenburg Local Municipality has a total population of 626 522. There are more male residents (342 865, 54.7%) than female residents (283 657, 45.3%) in Rustenburg, probably because of the main industry, mining. The council of the Rustenburg Local Municipality consists of 76 councillors (see Table 6.12). The councillors reflect the total number of female and male members of the population in the municipality. There are 49 (64.5%) male councillors and 27 (35.5%) female councillors in the municipal council of Rustenburg.

**Table 6.12: Composition of Rustenburg local municipality**

Political party	Number of councillors	Male	Female
ACDP	1	1	–
ANC	54	33	21
Independent	3	3	–
UCDP	1	–	1
DA	15	10	5
Total	76	49	27

Source: Adapted from Rustenburg Local Municipality (2015:47)

The municipality has 380 ward committee members, located in the 38 wards. Of the ward committee members, 170 (47.7%) are male and 190 (52.3%) are female (Rustenburg Local Municipality, 2015:27). Ward councillors and their ward committee members hold monthly meetings in terms of the public participation policy of the municipality. Community meetings are coordinated and facilitated by ward councillors. Ward committee members give feedback to their respective

communities every quarter on the performance of the municipality. Because of the ward committee reports, community meetings where employment appears on the agenda of such a meeting are well attended by the residents of that particular ward. Ward committee reports serve at the council meeting every quarter.

According to Statistics South Africa’s 2014 report, the unemployment rate in South Africa was 25.1%, and in North West the unemployment rate was higher, at 26.2%. However, according to its annual report for 2014/15, the unemployment rate in Rustenburg was less than the national rate or the North West rate, at 18.37% (Rustenburg Local Municipality, 2015:9). This could be ascribed to the more extensive industrial and commercial enterprises in the town, as compared to the more rural areas in North West.

#### **6.5.4.2 Madibeng Local Municipality**

The Madibeng Local Municipality is located in North West between the Magaliesberg and the Witwatersrand. It is situated 60 km from Rustenburg and 50 km north of Pretoria. It is positioned along the heritage route, linking the World Heritage Site with the Pilanesburg and Madikwe Game Reserves. It is known for its diversified economy. Currently, mining is the main economic activity. In terms of section 9(c) of the *Municipal Structures Act* (RSA, 1998c), the Madibeng Local Municipality is a Category B municipality. It is demarcated into 36 wards with 72 councillors. It is a municipality with a mayoral executive system, a full-time Executive Mayor, a Speaker, Chief Whip, 10 members of the Mayoral Committee and the Chairperson of the MPAC. The local municipality of Madibeng is a water services authority in terms of the *Water Services Act* (RSA, 1997b), which means it provides water directly to its communities.

**Table 6.13: Services provided to households in Madibeng**

Type of service	Percentage (%) of population
Weekly refuse removal	49%
Access to electricity	81%
Sanitation including flush toilets	84%
Access to piped water	78%
Reside in formal dwellings	60%

Source: Adapted from Madibeng Local Municipality (2016:16)



In terms of the 2015/16 financial year's annual report, the Madibeng Local Municipality provides services to 160 724 households, as indicated in Table 6.13.

Table 6.13 also shows that 78% of households in Madibeng receive piped water. Moreover, 49% of households receive refuse removal, 84% receive sanitation and 81% have electricity. Table 6.15 shows that 60% of citizens in Madibeng reside in formal dwellings, while 31% reside in informal settlements (Madibeng Local Municipality, 2016:36).

**Table 6.14: Basic services provided to households in Madibeng**

Type of service	Provision
Water	Free basic water of 6 kl per household per month
Sewerage	Free basic sewerage of 6 kl per household per month Additional free basic of 3 kl per indigent household per month
Electricity	Free basic electricity (FBE) of 50 kwh per month for indigents.
Refuse removal	Free weekly refuse collection for indigent households Free refuse service to all informal settlements
Property rates	First R150 000 assessment rates rebates for residential properties 100% assessment rates rebate to indigent households and pensioners
Other indigents support	Excess water & electricity consumption by indigents is written off every month in terms of the municipality's indigent management policy

Source: Adapted from Madibeng Local Municipality (2016:73)

Table 6.14 illustrates that the Madibeng Local Municipality provides 6 kl of free basic water of per household per month to all residents. The municipality provides an additional 3 kl free basic water per indigent household per month. Free sewerage of 6 kl per household per month is provided to residents and additional free sewerage of 3 kl per indigent household per month is provided. With regard to electricity, 100 kwh free basic electricity per month is provided for all users. Free weekly refuse collection for indigent households and informal settlements is provided (Madibeng Local Municipality, 2016: 65).

**Table 6.15: Composition of Madibeng Local Municipality**

Political party	Number of councillors	Male	Female
ANC	54	28	26
DA	14	8	6
Others, such as the FF (Freedom Front Plus), the APC (African People's Convention) & Independents	3	2	1
COPE (Congress of the People)	1	1	0
Total	72	39	33

Source: Adapted from Madibeng Local Municipality (2016:65)

The Madibeng Local Municipality has a total population of 537 516. There are more male residents (287 984, 53.6%) than female residents (249 531, 46.4%) in Madibeng. The council in Madibeng Local Municipality consists of 72 members (see Table 6.15). The Municipality has 360 ward committee members, located in the 36 wards; 118 (45.6%) of ward committee members are male and 190 (54.4%) of ward committee members are female (Madibeng Local Municipality, 2016:86). Ward councillors and their ward committee members hold monthly meetings in terms of the public participation policy of the municipality. Community meetings are coordinated and facilitated by ward councillors. Ward committee members give feedback to their respective communities every quarter on the performance of the municipality. Ward committee reports serve at the council meeting every quarter.

#### **6.5.4.3 Kgetleng Rivier Local Municipality**

Kgetleng Rivier Local municipality is a Category B municipality, with six demarcated wards. It is located in the south-eastern part of North West and borders on Rustenburg Local Municipality in the west and Moses Kotane Local Municipality in the north. The area has a rich natural environment and natural resource base which provides opportunities for agriculture and slate quarry development. The area's mining activities are related to diamonds, slate and aggregate sand. It has a strong competitive advantage in terms of its climate, biodiversity and numerous dams (BPDM, 2016b:30).

The Mayor and the Speaker are the same person, because Kgetleng Rivier is a municipality with a plenary executive system in terms of section 9(f) of the *Municipal Structures Act* (RSA, 1998c). A councillor may not hold office as speaker and

mayor or executive mayor at the same time, but in a municipality of the type mentioned in sections 9(e) or (f) or 10(c), the speaker must be called the mayor. This implies that the Kgetleng Rivier Local Municipality has a Chief Whip of Council. The local municipality is a water services authority in terms of the *Water Services Act* (RSA, 1997b). In terms of its IDP, the municipality has prioritised the services rendered to the community, as illustrated in Table 6.16 (BPDM, 2016b:30).

**Table 6.16: Services provided to households in Kgetleng Rivier**

Type of service	Percentage (%) of population
Weekly refuse removal	68%
Access to electricity	64%
Sanitation including flush toilets	88%
Access to piped water	81%
Reside in formal dwellings	67%

Source: Adapted from Kgetleng Rivier Local Municipality (2016:32)

According to the 2015/16 financial year's annual report, the Kgetleng Rivier Local Municipality provides services to 14 152 households. The table shows that 81% of households in the Kgetleng Rivier Local Municipality receive piped water; 68% receive refuse removal, 88% have sanitation and 64% have electricity. Of the citizens in Kgetleng Rivier Local Municipality, 67% reside in formal dwellings, while 40% reside in informal settlements (Kgetleng Rivier Local Municipality, 2016:32).

**Table 6.17: Basic services provided to households in Kgetleng Rivier Local Municipality**

Type of service	Provision
Water	Free basic water of 6 kl per household per month Free basic water of 9 kl per indigent household per month
Sewerage	Free basic sewerage of 6 kl per household per month Free basic of 9 kl per indigent household per month
Electricity	Free basic electricity (FBE) of 100 kwh per month for all users
Refuse removal	Free weekly refuse collection for indigent households Free refuse service to all informal settlements
Property rates	First R100 000 assessment rates rebates for residential properties 100% assessment rates rebate to indigent households Assessment rates rebate to pensioners
Other indigents support	Excess water & electricity consumption by indigents is written off every month as per the municipality's indigent management policy

Source: Adapted Kgetleng Rivier Local Municipality (2016:33)

The Kgetleng Rivier Local Municipality has a total population of 59 562. The municipality has more male residents (31 906, 53.4%) than female residents (27 656, 46.6%). According to the 2015/16 financial year's annual report, the Kgetleng Rivier Local Municipality provides basic services to 59 560 households, as indicated in Table 6.17.

**Table 6.18: Composition of Kgetleng Rivier Local Municipality**

Political party	Number of councillors	Male	Female
ANC	9	5	4
DA	3	2	1
Total	12	7	5

Source: Adapted from Kgetleng Rivier Local Municipality (2016:39)

The council in Kgetleng Rivier Local Municipality consists of 12 members (see Table 6.18). The councillors do not reflect the total number of the female and male population in the municipality. There are seven (58.3%) male councillors and five (41.7%) female councillors in the municipal council of the Kgetleng Rivier Local Municipality.

The municipality has established six ward committees. The municipality has 60 ward committee members located in the six wards. Of these ward committee members, 23 (38.3%) are male and 37 (61.7%) are female (Kgetleng Rivier Local Municipality, 2016:39). Ward councillors and their ward committee members hold monthly meetings in terms of the public participation policy of the municipality. Community meetings are coordinated and facilitated by ward councillors. Ward committee members give feedback to their respective communities every quarter on the performance of the municipality. Ward committee reports serve at the council meeting every quarter.

#### **6.5.4.4 Moses Kotane Local Municipality**

The Moses Kotane Local Municipality is a Category B municipality, with 31 wards. It was established after the redemarcation of municipal boundaries and subsequent municipal elections in 2000. In terms of section 9(e) of the *Municipal Structures Act* (RSA, 1998c), it is a municipality with a plenary executive system, where the Mayor, the Speaker, Chief Whip and the Executive Committee members are full-time councillors. The municipality consists of the Chairperson of Municipal Public

Accounts Committee (MPAC), who is a fulltime councillor. The Moses Kotane Local Municipality is a water services authority in terms of the *Water Services Act* (RSA, 1997b).

The local municipality has adopted a policy on the establishment of ward committees. With the exception of one, the ward committees are functional. Ward 19 is not functional, because the election of a ward councillor in October 2014 necessitated the re-election of new ward committees. In Ward 19, only half (five) of the required number of ward committees were elected (Moses Kotane Local Municipality, 2015:3). Meetings to elect the required ward committees were held. The ward is composed of two villages, namely Pella and Madikwe. Five members were elected from Pella. The Madikwe meeting was required to elect the other five members, but the electoral meeting was disrupted. The disruption was caused by a few residents who did not agree with the nominations for ward committee members. When they realized that they were a minority, they opted to disrupt the meeting. In the follow-up meetings, those ward committee members who were nominated in the previous meeting were elected. The municipality has 113 male and 171 female ward committee members, and there are 26 ward committee vacancies in the municipality (a 9% vacancy rate). It could be argued that ward committees play an important role, hence the vacancy level is relatively small in relation to the operational ward committees.

The 30 ward councillors conduct monthly meetings as scheduled in the annual calendar, except Ward 19. Minutes and records of meetings are submitted to the Office of the Speaker and are filed. Minutes and ward committee reports are used to facilitate payments of out of pocket expenses incurred by ward committees on a monthly basis. Ward 19 had challenges with their ward committee election due to internal conflicts within the ward, but the issues are being addressed (Moses Kotane Local Municipality, 2015:3). Ward councillors conduct ward/public meetings regularly as required by the *Municipal Structures Act* (RSA, 1998c). Wards 15, 10, 13,14, 28, 30 and 19 have experienced some challenges in convening meetings, due to service delivery protests. The issues concerned have been dealt with, with the intervention of the Office of the Premier of the North West.

**Table 6.19: Services provided to households in Moses Kotane Local Municipality**

Type of service	Percentage (%) of population
Weekly refuse removal	100%
Access to electricity	96%
Sanitation including flush toilets	60%
Access to piped water	96%
Reside in formal dwellings	86%

Source: Adapted from Moses Kotane Local Municipality (2016:86)

The 2015/16 financial year's annual report shows that the Moses Kotane Local Municipality provides services to 75 193 households. Table 6.19 illustrates that 96% of households in Moses Kotane Local Municipality are receiving piped water, 100% of households receive refuse removal, 60% have sanitation and 96% have electricity. Table 6.19 also shows that 86% of the citizens in Moses Kotane Local Municipality reside in formal dwellings, while 14% reside in informal settlements (Moses Kotane Local Municipality, 2016:94).

**Table 6.20: Basic services provided to households in Moses Kotane Local Municipality**

Type of service	Provision
Water	Free basic water of 6 kl per household per month Free basic water of 6 kl per indigent household per month
Sewerage	Free basic sewerage of 6 kl per household per month Free basic of 6KL per indigent household per month
Electricity	Free basic electricity (FBE) of 100 kwh per month for all users
Refuse removal	Free weekly refuse collection for indigent households Free refuse service to all informal settlements
Property rates	First R100 000 assessment rates rebates for residential properties 100% assessment rates rebate to indigent households and pensioners
Other indigents support	Excess water & electricity consumption by indigents which is written off every month as per the municipality's indigent management policy The indigent support policy assists several community members living in poverty to be buried in dignity free of charge

Source: Adapted from Moses Kotane Local Municipality (2016:87)

**Table 6.21: Composition of Moses Kotane Local Municipality**

Political party	Number of councillors	Male	Female
ANC	49	21	28
COPE	4	2	2
UCDP	3	1	2
DA	3	2	1
Independent	3	1	2
ACDP	1	1	–
Total	62	27	35

Source: Adapted from Moses Kotane Local Municipality (2016:87)

The Moses Kotane Local Municipality houses a total population of 243 649. There are slightly more female residents (122 263, 50.2%) than male residents (121 385, 49.7%) in Moses Kotane. The council in Moses Kotane Local Municipality consists of 62 members (see Table 6.21). The councillors do not reflect the total number of the female and male population in the municipality. There are 27 (43.5%) male councillors and 35 (54.5%) female councillors in the municipal council of Moses Kotane. The municipality has established 31 ward committees.

The Moses Kotane Local Municipality has 310 ward committee members located in the 31 wards. Of the ward committee members, 113 (44.8%) are male and 171 (55.2%) are female (Moses Kotane Local Municipality, 2016:27). Ward councillors and their ward committee members hold monthly meetings in terms of the public participation policy of the municipality. Community meetings are coordinated and facilitated by ward councillors. Ward committee members give feedback to their respective communities every quarter on the performance of the municipality. It can be deduced from ward committee reports that community meetings where employment is on the agenda are well attended by the residents of that particular ward, due to high unemployment rate. Ward committee reports serve at the council meeting every quarter.

#### **6.5.4.5 Moretele Local Municipality**

The municipality is located in an area called Moretele, which is situated north of Pretoria, and was established in terms of the *Municipal Demarcation Act* (RSA, 1998b). The Moretele Local Municipality is a Category B municipality in terms of the *Municipal Structures Act* (RSA, 1998c). Moretele is the Setswana name for a river

that runs through the area, namely 'Noka ya Moretele' (the Moretele River). The municipality is made up of 66 villages and plots. Most of the villages are ruled by four traditional leaders (*dikgosi*), who are recognised by legislation and represent their respective tribes/communities on the council. It is a municipality with a plenary executive system. The council consists of a Mayor, Speaker and Chief Whip and the Executive Committee in terms of section 9(e) of the *Municipal Structures Act* (RSA, 1998c). In terms of the *Census 2016* results, 189 000 people live in Moretele. The local municipality is a water services authority in terms of the *Water Services Act* (RSA, 1997b).

**Table 6.22: Services provided to households in Moretele Local Municipality**

Type of service	Percentage (%) of population
Weekly refuse removal	100%
Access to electricity	92%
Sanitation including flush toilets	36%
Access to piped water	73%
Reside in formal dwellings	76%

Source: Adapted from Moretele Local Municipality (2016:12)

In terms of the 2015/16 financial year's annual report, the Moretele Local Municipality provides services to 52062 households as indicated in Table 6.22. The table shows that 73% of households in the Moretele Local Municipality receive piped water, 100% of households receive refuse removal, 36% have sanitation and 92% have electricity. Table 6.22 shows that 76% of citizens in the Moretele Local Municipality reside in formal dwellings, while 24% reside in informal settlements and plots (Moretele Local Municipality, 2016:73).

**Table 6.23: Services provided to households in Moretele**

Type of service	Provision
Water	Free basic water of 6 kl per household per month. Indigent households and all informal settlements receive free water from the municipality.
Sewerage	Free basic sewerage of 6 kl per household per month. Free sewerage provided per indigent household per month free of charge.
Electricity	Free basic electricity (FBE) of 100 kwh per month for all users. Free basic electricity to all registered indigents and people who reside in informal settlements.



Type of service	Provision
Refuse removal	Free weekly refuse collection for indigent households. Free refuse service to all informal settlements.
Property rates	First R150 000 assessment rates rebates for residential properties. 100% assessment rates rebate to indigent households and pensioners.

Adapted: Moretele Local Municipality (2016:65)

**Table 6.24: Composition of Moretele local municipality**

Political party	Number of councillors	Male	Female
ANC	46	21	25
Independent	3	3	–
DA	3	2	1
APC	2	2	–
COPE	1	1	–
Total	55	29	26

Source: Adapted from Moretele Local Municipality (2016:23)

There are more female residents (97 353, 51.5%) than male residents (92 548, 48.5%) in Moretele. The council in the Moretele Local Municipality consists of 55 members (see Table 6.24). The representation per gender of councillors does not reflect the total number of female and male members of the population in the municipality. There are 29 (52.7%) male councillors and 26 (47.3%) female councillors in the municipal council of Moretele.

The Moretele Local Municipality has established 28 ward committees located in 28 wards. Of the ward committee members 117 (41.8%) are male, and 163 (58.2%) are female (Moretele Local Municipality, 2016:70). Ward councillors and their ward committee members hold monthly meetings in terms of the public participation policy of the municipality. Community meetings are coordinated and facilitated by ward councillors. Ward committee members give feedback to their respective communities every quarter on the performance of the municipality. Ward committee reports show that community meetings where employment appears on the agenda are well attended by residents of that particular ward. Ward committee reports serve at the council meeting every quarter.

**Table 6.25: Houses with access to Basic Services in BPDM municipalities**

Local Municipalities	Moses Kotane LM	Kgetleng Rivier LM	Moretele LM	Madibeng LM	Rustenburg LM
Total number of Households	63 557	14152	52062	160 724	146 542
Water supply	61 057 (96%)	11 025 (78%)	38 046 (73%)	125 739 (78%)	116 738 (80%)
Sanitation	38 275 (60%)	11 025 (78%)	18 654 (36%)	66 783 (42%)	105 136 (72%)
Electricity	60 990 (96%)	11 272 (80%)	48 019 (92%)	129 724 (81%)	70 000 (72%)
Waste management	63 557 (100%)	10 982 (78%)	52 062 (100%)	78 652 (49%)	83 000 (57%)
Housing	54 384 (86%)	9 882 (70%)	39 664 (76%)	96 435 (60%)	98 314 (67%)

Source: Adapted from BPDM (2016b:71)

Table 6.25 depicts all houses with access to basic services in the constituent local municipalities of Bojanala Platinum District Municipality. The table shows that Moses Kotane local municipality provides water to its communities better than other local municipalities. Table 6.25 also indicates that Moretele and Moses Kotane local municipalities manage waste better than the other local municipalities. It could be argued that it's because the two municipalities are located in the rural area and as such many households prefer digging a hole for waste removal.

**Table 6.26: Houses without access to basic services in BPDM municipalities**

Local Municipalities	Moses Kotane LM	Kgetleng Rivier LM	Moretele LM	Madibeng LM	Rustenburg LM
Total number of Households	63 557	14152	52062	160 724	146 542
Water supply	2 500 (4%)	3 127 (22%)	14 016 (27%)	34 985 (22%)	8 900 (20%)
Sanitation	25 282 (40%)	3 343 (22%)	33 408 (64%)	93 938 (58%)	20 502 (28%)
Electricity	2 567 (4%)	2 880 (20%)	5 434 (8%)	31 000 (19%)	20 000 (28%)
Waste management	0%	3 170 (22%)	0%	82 072 (51%)	20 000 (43%)
Housing	9 173 (14%)	4 270 (30%)	12 398 (24%)	64 290 (64%)	98 314 (33%)

Source: Adapted from BPDM (2016b:72)

Table 6.26 depicts all houses without access to basic services in the constituent local municipalities of Bojanala Platinum District Municipality. The table shows that Kgetleng Rivier, Moretele, Rustenburg and Madibeng local municipalities are experiencing challenges when it comes to water provision to its communities. Table 6.26 also indicates that Madibeng and Rustenburg local municipalities are experiencing challenges with regard to waste management.

**Table 6.27: BPDM Comparison of basic service provision with MDG, RSA and North West**

Basic Service	MDG 2015 Target	RSA	North West	BPDM
Water supply	50%	91,2%	80,2%	81%
Sanitation	50%	60,6%	56%	57,6%
Electricity	50%	91,1%	89,9%	84,2%
Waste removal	50%	61%	56%	76%
Housing	50%	68%	87,2%	87,2%

Source: Adapted from Statistics SA (2016:79)

The United Nations Millennium Project is an independent advisory body commissioned by the UN Secretary-General to propose the best strategies for meeting the Millennium Development Goals (MDGs). The MDGs are the world's quantified targets for reducing poverty in its many dimensions by 2015. The target of the MDGs is halving, by 2015, the proportion of people without access to drinking water, access to hygienic sanitation, electricity, removal of waste and a lack of proper housing. Table 6.27 compares the provision of basic services in the Republic of South Africa, the North West and the Bojanala Platinum District Municipality to the MDGs' 2015 targets. The empirical evidence from the study indicates that North West and BPDM have reached many of the MDG targets in the provision of basic services to residents. It is, however, important to note that the provision of sanitation by the Moretele and Madibeng Local Municipalities is below the MDG targets, with 36% and 42% respectively. The waste removal at Madibeng Local Municipality is 49%, which is also below the target. It could be argued that the BPDM's plans and targets are in line with the world's standards, because the provision of basic services is generally above the MDG targets.

#### **6.5.5 Relationship between local municipal councils and the BPDM**

The IDP is a municipality's five-year plan which contains all the priorities of every local municipality as raised by communities during community consultation meetings. The municipal council of the BPDM adopted a five-year IDP in 2012. It is reviewed annually in terms of section 34 of the *Municipal Systems Act* (RSA, 2000b). The performance of the municipality is measured annually against the IDP in the form of the Service Delivery and Budget Implementation Plan (SDBIP). Each local municipality develops its own IDP, which is then consolidated by the BPDM.

Section 21(1)(b) of the *Municipal Systems Act* (RSA, 2000b) provides that, at least 10 months before the start of the financial year, the mayor of a municipality must table in the council a time schedule outlining key deadlines for the preparation, tabling and approval of the annual budget. The mayor must table the annual review of the IDP and budget policies in terms of section 34 of the *Municipal Systems Act* (RSA, 2000b). The tabling and adoption of any amendments to the IDP and budget-related policies can only be approved by council, by means of a council resolution.

The integrated development plans of the five constituent local municipalities of BPDM show that water, sanitation, electricity and housing are the top five priorities of these local municipalities (see Table 6.28). In terms of sections 27 to 29 of the *Municipal Systems Act* (RSA, 2000b), municipalities are required to consult with citizens in order for their IDPs and budgets to be credible. In implementing these legal prescripts, consultation processes are held with communities and citizens coordinated by ward committees.

**Table 6.28: Priorities of local municipalities as they appear in their IDPs**

Local Municipality	1	2	3	4	5
Kgetleng Rivier LM	Water and sanitation	Electricity	Roads	Parks, Cemeteries and recreation	Wastes management
Madibeng LM	Water and sanitation	Roads	Electricity	Social services	Land and housing
Moretele LM	Water and sanitation	Roads and storm water	Electricity	Housing	Sport, Arts, recreation and community facilities
Moses Kotane LM	Water and sanitation	Health and Social Development	Safety and security	Education	Electricity
Rustenburg LM	Water and sanitation	Housing	Roads and storm water	Electricity	Local economic development

Source: Adapted from BPDM (2016b)

The priorities listed in Table 6.28 also appear in the reports of ward committees that are tabled in council meetings of the constituent local municipalities of the BPDM. It

can therefore be deduced that the reports of the ward committees are reliable and valid because they reflect the will of the residents.

### 6.5.6 Composition of local municipalities in the BPDM

In terms of the rules of order of all the constituent local municipalities of the BPDM, a quorum is 50% plus one of the total number of councillors. Decisions of municipal councils are taken in terms of section 70 of the *Municipal Structures Act* (RSA, 1998c). Table 6.29 shows that the majority of councillors in all the municipalities come from one party, namely the ANC, followed by the DA, which is the official opposition in all the constituent local municipalities. During the term (2011–2016), constituting a quorum or decision-making in the municipal councils of all these five constituent local municipalities was not an issue affecting decisions, since the majority of councillors come from the same party.

**Table 6.29: Composition of local municipal councils in Bojanala**

Municipality	ANC	COPE	DA	Other (FF, APC & Independent)	Total
Moretele	46	1	3	5	55
Madibeng	54	1	14	3	72
Rustenburg	55	1	15	5	76
Kgetleng	9	0	3	0	12
Moses Kotane	49	4	3	6	62
Bojanala	52	2	10	4	68

Source: Adapted BPDM (2016a)

Clearly the ANC enjoys overwhelming support in this region, which may affect the possible role ward committees can play in influencing council decisions.

### 6.5.7 Committees

The *Municipal Systems Act* (RSA, 2000b) provides the core principles, mechanisms and processes necessary for municipalities to move progressively towards social and economic upliftment of all communities, and ensure access to affordable essential services for all. Different committees can be established for municipal councils, namely: an executive committee, sections 79 and 80 committees.

Ward committees are not committees of council – they consist of inhabitants of the relevant wards and are not members of council. They are mentioned here just to complete the reference to committees.

### **6.5.7.1 Executive Committee**

Section 160(1)(a) of the *Constitution* (RSA, 1996a) provides that a municipal council may elect an executive committee. Only municipalities with the types of executives prescribed in Sections 8(a), (b) and (c) of the *Municipal Structures Act* (RSA, 1998c) may establish an executive committee. If the council of a municipality establishes an executive committee, it must elect the number of councillors necessary for effective and efficient government. An executive committee may not have fewer than three members. It must be composed in such a way that the parties and interests represented in the municipal council are substantially represented in the same proportion that parties are represented on the council.

An executive committee is the principal committee of the council of a municipality that is eligible to establish an executive committee. An executive committee receives reports from the other committees of the council when it cannot dispose of an issue in terms of its delegated powers. The executive committee must, *inter alia*,

- (a) identify what the municipality's needs are;
- (b) review and evaluate those needs in order of priority;
- (c) recommend to the municipal council any strategies, programmes and services that can address priority needs through the IDP and estimates of revenue and expenditure (with due consideration of any applicable national and provincial development plans); and
- (d) determine and recommend the best methods to deliver those strategies, programmes and services to the maximum benefit of the community, including partnership and other approaches – an executive committee has policy-making functions in this respect.

This implies that the executive committee performs a governing function, by providing direction and determining the relative importance of the functions entrusted to the municipality.

In terms of section 44(3)(b) of the *Municipal Structures Act* (RSA, 1998c), the executive committee, in performing its duties, must

- identify and develop criteria to establish progress in implementing the strategies, programmes and services (this includes key performance indicators specific to the municipality and common to local government in general);
- evaluate progress against the key performance indicators;

- and review the performance of the municipality to improve the economy, efficiency and effectiveness of the municipality;
- assess the efficiency of credit control and revenue and debt collection services;
- consider the implementation of the municipality's by-laws;
- monitor the management of the municipality's administration in accordance with the policy directions of the municipal council;
- , oversee the provision of services to communities in the municipality to ensure the sustainability of services; and
- report annually on the involvement of communities and community organisations in the affairs of the municipality.

An executive committee must report to the municipal council on all decisions taken by the committee. This proves that the executive committee operates under the jurisdiction of council. Section 44(4) of the *Municipal Structures Act* (RSA, 1998c) provides that the members of an executive committee are elected for a term ending when the next municipal council is declared elected. The mayor (not to be confused with an executive mayor) as chairperson of the executive committee decides when and where the executive committee meets.

If a majority of the members requests the mayor in writing to convene a committee meeting, the mayor must convene a meeting at a time set out in the request. Section 50(2) of the *Municipal Structures Act* (RSA, 1998c) provides that if the mayor and deputy mayor are absent from a meeting and there is a quorum, the members present must elect another member to preside at the meeting. An executive committee, by resolution taken with a supporting vote of the majority of its members, may determine its own procedures, subject to any directions and the rules and orders of the municipal council.

A majority of the members of an executive committee constitutes a quorum for a meeting. A matter before the committee is decided if there is agreement among at least the majority of the members present at the meeting. If on any matter there is an equality of votes, the member presiding must exercise a casting vote in addition to that member's vote as a member. A municipal council may, by resolution, remove an executive committee member from office. Prior notice of the intention to move a motion for the removal of members must be given.

Sections 59(1) and (2) of the *Municipal Systems Act* (RSA, 2000b) provides for the delegation of powers and functions by municipal councils to committees. A municipal council must develop a system of delegation that maximizes administrative and operational efficiency and provides checks and balances. In accordance with this system, appropriate powers and functions may be delegated to

- the executive committee;
- the executive mayor;
- the plenary executive committee;
- metropolitan sub-councils (if it has such sub-council, e.g. in Cape Town);
- other committees or elected office-bearers; and
- the municipal manager or any of its other officials.

A municipal council as delegator may withdraw any delegation or instruction. As is normal legal practice, delegation or an instruction must be in accordance with the *Constitution* (RSA, 1996a) and sections 59 and 60 of the *Municipal Systems Act* (RSA, 2000b). A delegation must be in writing and is subject to any limitations, conditions and directions the municipal council may impose. It may include the power to sub-delegate a delegated power if that is provided for in the relevant legislation, for example, to the municipal manager or executive mayor. In terms of section 59(2)(e) of the *Municipal Systems Act* (RSA, 2000b), the delegation does not divest the council of the responsibility concerning the exercise of the power or the performance of the duty, and must be reviewed regularly or may be reconstituted when a new council is elected or reconstructed. Specific powers may not be delegated, such as approval of the budget, the IDP, municipal tariffs, the annual report, the oversight report and the appointment of managers in terms of section 56 of the *Municipal Systems Act* (RSA, 2000b).

#### **6.5.7.2 Other Committees**

Sections 79 and 80 of the *Municipal Structures Act* (RSA, 1998c) provides that a municipal council may be or in some cases are obliged to appoint committees to assist it in performing its functions. Most councils have a number of council committees that specialise in specific areas. Councillors are then afforded an opportunity to discuss issues and to become experts in those areas. Committees make recommendations to council and save the full council from having to deal with all matters in detail.



Committees do not have final decision-making powers, since most decisions need approval by council as a whole. The following committees could be established by a municipal council:

- *Portfolio committees:*

These are the most common and usually have the same names as the different departments in council, for example, a health committee, planning committee, or finance committee.

- *Geographically based committees:*

These are set up to deal with issues in a specific area. This system is usually used in large metropolitan municipalities that also have sub-councils.

- *Issue-related committees:*

These may be set up to deal with a specific issue in a way that involves people from different committees. This helps to stop problems from being treated in isolation.

- *Audit committees (strictly speaking, not a committee of council):*

This kind of committee is appointed in terms of section 100 of the *MFMA* (RSA, 2003a) as an *independent* advisory body to advise the council, the political office-bearers, the accounting officer and the managerial personnel of the municipality (or municipal entity) on matters related to internal financial control and internal audit, risk management, accounting policies, performance management, effective governance, compliance with the Act and other matters referred to it by the municipality or municipal entity (RSA, 2003).

In the case of BPDM, the Audit Committee consists of five members with appropriate experience. The BPDM Audit Committee also audits the Moses Kotane and Moretele Local Municipalities. The Rustenburg, Kgetleng Rivier and Madibeng Local Municipalities have appointed their own audit committees. No councillor serves as a member of the Audit Committee in the BPDM and simultaneously in its constituent local municipalities. The audit committees in Bojanala reports to the respective municipal councils every quarter (BPDM, 2015a).

The *Municipal Structures Act* (RSA, 1998c) allows for section 79 and section 80 committees of council. Such issue-related and special function committees are governed by section 79 of the Act. These committees are usually only *temporary* and are appointed by council. They are also chaired by members appointed by council and are usually set up to investigate a particular issue. They do not have

any final decision-making powers, but play a political oversight role regarding section 80 committees. External experts, as well as councillors, can be members of a section 79 committee. The purpose of section 79 committees is to contribute to the effective and efficient performance of council's powers and functions in terms of the *Municipal Structures Act* (RSA, 1998c).

A system of delegation maximises administrative and operational efficiency and provides for adequate checks and balances (Cloete & Thornhill, 2005:99). Section 80 of the *Municipal Structures Act* (RSA, 1998c) affirms the power of the municipal council that requires the executive mayor to appoint committees that will assist them in fulfilling their obligations as discussed earlier.

The Municipal Council of the BPDM was compelled to appoint an *ad hoc* committee in terms of section 79 of the *Municipal Structures Act* (RSA, 1998c) in 2014. The committee was appointed to deal with a matter raised by the Public Protector after she had investigated the BPDM. The residents of Ward 19 in the Madibeng Local Municipality requested the Public Protector to investigate allegations of *procurement irregularities, maladministration and corruption* in the BPDM. After her analysis of the complaints, the Public Protector investigated the allegations relating to procurement, human resources management and financial irregularities against the Municipal Manager of the BPDM. *Tender and Employment Politics* is a provisional report by the Public Protector in terms of section 182(1)(b) of the *Constitution* (RSA, 1996a) and section 79 of the *Public Protector Act* (RSA, 1994a).

The Public Protector informed the BPDM Council, through the Office of the Speaker, that she intended to make the following findings:

- (a) The awarding of a tender for the purchasing of mobile water tankers to Lekgapha Development cc was not irregular; however, the action of the Municipal Manager in accepting the changes of the bid specifications made by Lekgapha Development cc was unlawful, improper and constitutes maladministration. No evidence could be found to indicate that the Municipality continued to rent the mobile water tankers after it had purchased its own water tankers. [...]
- (g) The awarding of a bursary to Ms Carol Montsho was contrary to the provisions of the Bojanala Platinum District Municipality Mayoral Bursary Scheme and accordingly constitutes improper conduct and an act of maladministration. It was also established that Ms Carol Montsho is a daughter of Cllr Nkone Montsho, a Councillor within Madibeng Local Municipality (BPDM, 2014b:R384/13/14).

The Provisional Report of the Public Protector in terms of section 182(1)(b) of the *Constitution* (RSA, 1996a) and section 79 of the *Public Protector Act* (RSA, 1994a) advised the Council on the remedial actions to be taken. The appropriate remedial action to be taken in terms of section 182(1)(c) of the *Constitution* and section 6(4)(c)(ii) of the *Public Protector Act* were the following:

- (b) The Municipal Council should investigate and, if warranted, take disciplinary action against the Municipal Manager in respect of his conduct referred to in the findings made in paragraph (d) above.
- (c) The Municipal Council should adopt a monitoring system that ensures that individuals who do not qualify to be awarded bursaries are not awarded same irregularly.
- (d) The Municipal Council should ensure urgent recovery of the amount paid irregularly to Ms Carol Montsho, further that appropriate actions should be taken against individuals who awarded a bursary to her. (RSA, 1994a)

The Provisional Report of the Public Protector served before the BPDM Council on 28 August 2013, and the resolutions of the Municipal Council (BPDM, 2014b:R384/13/14) were the following:

- (a) That the contents of the report be noted;
- (b) That the recommendations in the Public Protector's provisional report be accepted by Council;
- (c) That the municipal council, through the Office of the Speaker, appoints an investigating team comprising of the following five people: The Municipal Manager of Dr Kenneth Kaunda District Municipality; The Municipal Manager of Dr Ruth Segomotsi Mompati District Municipality, Municipal Manager of Moretele local municipality, and two independent advocates to investigate the findings of the Public Protector with regard to the allegations detailed under paragraph (d) and (g) of the Preliminary report of the Public Protector;
- (d) That the investigating team be appointed in terms of recommendation (c) above must, within a period of thirty (30) days of their appointment submit a report to Council.

The outcome of the Committee proves its effectiveness and also the legislative powers of municipal council. The Committee that handled the Public Protector's report on behalf of the BPDM Council was dissolved immediately after submitting its report to council.

Portfolio committees operate in terms of section 80 of the *Municipal Structures Act* (RSA, 1998c) and are usually permanent committees specializing in one area of work. They are sometimes given the delegated power to take decisions about minor issues. Section 80 committees also advise the executive committee on policy matters and make recommendations to council. These committees are usually

chaired by a member of the mayoral committee if the executive mayoral system is used. They advise the executive mayor in the execution of his or her duties.

It could be argued that ward committees in the BPDM play a significant role in explaining the policies of the municipality to the citizens. Upon hearing that the daughter of a councillor had been awarded a bursary by the district municipality, the residents requested the Public Protector to investigate the matter. The Public Protector found that the awarding of the bursary to the said student was contrary to the provisions of the BPDM mayoral bursary and it constituted improper conduct and an act of maladministration. One could argue that had it not been the residents of Bojanala, this matter would not have been raised.

### **6.5.8 Office-bearers**

A political office-bearer is a person performing a particular function as a result of his or her political affiliation (Thornhill & Cloete, 2014:76). Political office-bearers are politicians elected to play a specific role in ensuring effectiveness and efficiency in municipal service delivery. In municipalities, the primary political office-bearers are the

- Mayor/executive mayor (depending on the type used);
- Deputy Mayor (where appointed);
- members of the Mayoral Committee;
- Speaker;
- Chief Whip; and
- Chairperson of the Municipal Public Accounts Committee (MPAC).

The Office of the Speaker of the municipal council regulates the functioning of the ward committees in addition to its usual function of presiding at council meetings.

#### **6.5.8.1 Executive Mayor**

Section 54(1) of the *Municipal Structures Act* (RSA, 1998c) provides for executive mayors for particular types of municipality. The Act also provides for the election of mayors for those municipalities that do not qualify to have executive mayors. Section 56 of the *Municipal Structures Act* (RSA, 1998c) provides that executive mayors act under delegated authority from the council. Mayors under the executive committee type do not have delegated powers entrusted to them. The mayors have to consult municipal councils on any matter affecting the municipality. In the study

area, the Kgetleng Rivier, Moretele and Moses Kotane Local Municipalities have mayors, while the BPDM, Madibeng and Rustenburg Local Municipalities elected to have the executive mayoral type of structure. The executive committee and the executive mayor are responsible for analysing the reports received from the other committees of the council, and as a result they take recommendations to the municipal council in a case where they are not permitted to make a decision in terms of delegated powers.

In accordance with sections 44(2) and 56(2) of the *Municipal Structures Act* (RSA, 1998c), an executive mayor is empowered to

- (a) identify the needs of the municipality;
- (b) review and evaluate those needs in order of priority ;
- (c) recommend strategies to the municipal council; and
- (d) recommend or determine the most appropriate methods to implement the identified strategies.

Sections 44(3) and 56(3) of the *Municipal Structures Act* (RSA, 1998c) determines that both the executive committee and executive mayor are required by legislation to implement the identified strategies, as well as to ensure the evaluation and the review of the key performance indicators for the functioning of the municipalities. According to *Municipal Structures Act* (RSA, 1998c), the Executive Mayor of the BPDM appointed ten members of the mayoral committee in terms of section 80 of the *Municipal Structures Act* (RSA, 1998c) in June 2011. Members of the Mayoral Committee advised the Executive Mayor on playing an oversight role to the administration. They headed the following portfolio committees:

- (i) Integrated development plan (IDP), Performance monitoring and evaluation;
- (ii) Special projects which focus on youth, the elderly, HIV/AIDS and people with disability;
- (iii) Budget & Treasury;
- (iv) Sport, arts and culture;
- (v) Economic development and tourism;
- (vi) Corporate support services;
- (vii) Agriculture and rural development;
- (viii) Technical services and infrastructure;
- (ix) Community development services;
- (x) Health and environmental services. (BPDM, 2011)

The Executive Mayor of the BPDM monitors the management of the municipality's administration in accordance with the directions of the municipal council. He or she also oversees the provision of services to communities in the municipality in a sustainable manner, and performs whatever duties, and exercises whatever powers

the council delegates to him or her in terms of section 59 of the *Municipal Systems Act* (RSA, 2000b). He or she annually reports on the involvement of communities and community organisations in the affairs of the municipality, ensures that regard is given to public views, and reports on the effect of consultation on the decisions of the council. Besides performing ceremonial roles, he or she reports to the municipal council, in every council meeting, on all decisions taken by him or her.

Section 51 of the *Municipal Systems Act* (RSA, 2000b) states that a municipality must, within its administrative and financial capacity, establish and organise its administration in such a way that it enables the municipality to

- facilitate a culture of public service and accountability amongst its staff;
- be performance-oriented and focus on the objects of local government set out in section 152 of the *Constitution* (RSA, 1996a) and its developmental duties as required by section 153 of the *Constitution*;
- ensure that its political structures, political office bearers and managers and other personnel align their roles and responsibilities with the priorities and objectives set out in the municipality's IDP;
- establish clear relationships, and facilitate co-operation, co-ordination and communication between its political structures and political office bearers and its administration, its political structures, political office bearers and administration and the local community; and
- organize its political structures, political office bearers and administration in a flexible way in order to respond to changing priorities and circumstances.

Section 38 of the *Municipal Systems Act* (RSA, 2000b) provides that a municipality must perform its functions through operationally effective and appropriate administrative units and mechanisms, including departments. Responsibilities for the management and co-ordination of these administrative units and mechanisms are assigned to relevant managers and heads of department. In terms of section 51(i) of the *Municipal Systems Act* (RSA, 2000b), the municipal manager

- is accountable for the overall performance of the administration;
- must maximise the efficiency of communication and decision-making in the administration;
- delegates responsibility to the most effective level in the administration;
- involves personnel in management decisions as far as is practicable; and

- provides an equitable, fair, open and non-discriminatory working environment.

### **6.5.8.2 Speaker**

Each municipal council must have a chairperson in accordance with section 36 of the *Municipal Structures Act* (RSA, 1998c). This chairperson is called the Speaker. The Speaker is elected at the first sitting of a municipal council, and must be chosen from among the councillors of the municipal council. The municipal manager of the municipality or, if the municipal manager is not available, a person designated by the MEC for local government in the province, presides over the election of a Speaker. The functions of the Speaker are prescribed by section 37 of the *Municipal Structures Act* (RSA, 1998c). These include ensuring that the council meets at least four times a year, presiding at meetings of the council, and maintaining order during the meetings. The term of office of the Speaker of a municipal council ends when the term of office of the municipal council expires. However, the Speaker may vacate office during a term, subject to section 39 of the *Municipal Structures Act* (RSA, 1998c). If the speaker is absent or not available to perform the functions of Speaker, or during a vacancy, the council must elect another councillor to act as a Speaker. In addition to the duties listed above, the Speaker of council must ensure compliance in the council and council committees with the Code of Conduct set out in Schedule 1 to the *Municipal Systems Act* (2000b).

### **6.5.8.3 Municipal manager**

Section 54A of the *Municipal Systems Act* (RSA, 2000b) (as amended by Act 7 of 2011) provides that a municipal council must appoint a municipal manager who is the head of administration and also the accounting officer for the municipality, and when absent an acting municipal manager may be appointed. The amendment to the *Municipal Systems Act* brought about by Act 7 of 2011 obligates a council to appoint a municipal manager that possesses the required skills, knowledge and expertise to perform his or her functions. If these requirements are not met, the appointment is null and void, and the provincial executive is required to intervene (Thornhill & Cloete, 2014:81).

According to section 57(6)(a) of the *Municipal Systems Act* (RSA, 2000b), the municipal manager is appointed by a council for a fixed term contract of

employment up to a maximum of five years, not exceeding a period ending one year after the election of the next council of the municipality. As head of administration, the municipal manager (subject to the policy directions of the municipal council) is responsible and accountable for the formation and development of an economical, effective, efficient and accountable administration, equipped to carry out the task of implementing the municipality's integrated development plan in accordance with Chapter 5. The administration must also operate in line with the municipality's performance management system in accordance with Chapter 6; and must be responsive to the needs of the local community to participate in the affairs of the municipality.

Section 55(1) of the *Municipal Systems Act* (RSA, 2000b) provides that the municipal manager is responsible and accountable for the management of the municipality's administration in accordance with this Act and other legislation applicable to the municipality. He or she must implement the municipality's IDP, and monitor progress with the implementation of the plan. The municipal manager also manages the provision of services to the local community in a sustainable and equitable manner, and appoints personnel other than those referred to in section 56(a), subject to the *Employment Equity Act, 55 of 1998* (RSA, 1998d). He or she oversees the management, effective use and training of personnel, the maintenance of discipline of employees, the promotion of sound labour relations and compliance by the municipality with applicable labour legislation.

In terms of section 55(i) of the *Municipal Systems Act* (RSA, 2000b), the municipal manager is responsible for

- advising the political structures and political office bearers of the municipality;
- managing communications between the municipality's administration and its political structures and political office bearers;
- carrying out the decisions of the political structures and political office bearers of the municipality;
- administering and implementing the municipality's by-laws and other legislation;
- exercising any powers and performing any duties delegated by the municipal council, or sub-delegated by other delegating authorities of the municipality, to the municipal manager in terms of section 59;
- facilitating participation by the local community in the affairs of the municipality;



- developing and maintaining a system to assess community satisfaction with municipal services is assessed;
- implementing national and provincial legislation applicable to the municipality; and
- performing any other function that may be assigned by the municipal council.

Section 55(2) of the *Municipal Systems Act* (RSA, 2000b) provides that as accounting officer of the municipality, the municipal manager is responsible and answerable for all income and expenditure of the municipality, all assets and the discharge of all liabilities of the municipality, and proper and diligent compliance with the *MFMA* (RSA, 2003a).

The BPDM appointed its municipal manager in terms of 54A of the *Municipal Systems Act* (RSA, 2000b), as amended by *Act 7 of 2011*. The municipal manager must possess the required skills, knowledge and expertise to perform his or her functions. The duties of the Office of the Executive Mayor and the municipal manager are to ensure the maintenance and sustainability of a culture of high performance towards the improvement of the socio-economic conditions of the BPDM residents through efficient, effective and sustainable service delivery.

The Corporate Support Services Department of the Municipality is an internal service department that provides structural support to all the municipal departments, various political office-bearers and the council. The BPDM has the following departments:

- the Office of the Municipal Manager;
- the Department of Corporate Support Services;
- the Department of Economic Development, Tourism, Agriculture & Rural Development;
- the Department of Budget and Treasury;
- the Department of Community Development Services;
- the Department of Health & Environmental Services;
- the Department of Technical Services and Infrastructure; and
- political offices (Executive Mayor, Speaker and the Chief Whip's offices).

These departments have been established to obtain efficient and effective delivery of services in accordance with its mandate. The departments are managed by directors.

#### **6.5.8.4 Chief Financial Officer**

The Department of Budget and Treasury in every municipality is headed by the chief financial officer (Cloete & Thornhill, 2005:149). The chief financial officer is designated by the municipal manager to perform administrative responsibilities of the office, including budgeting, accounting, financial reporting, cash management and all the other duties that pertain to budget and treasury affairs. As a protocol, the chief financial officer of a municipality is accountable to the municipal manager. According to section 81 of the *MFMA* (RSA, 2003a), the chief financial officer, *inter alia*,

- (a) must advise the accounting officer on the exercise of powers and duties assigned to the accounting officer in terms of this Act;
- (b) must assist the accounting officer in the administration of the municipality's bank accounts and in the preparation and implementation of the municipality's budget;
- (c) must advise senior managers and other senior officials in the exercise of powers and duties assigned to them in terms of section 78 or delegated to them in terms of section 79; and
- (d) must perform such budgeting, accounting, analysis, financial reporting, cash management, debt management, supply chain management, financial management, review and other duties as may in terms of section 79 be delegated by the accounting officer to the chief financial officer.

It could be argued that that the chief financial officer plays a complementary role to the municipal manager. However, the chief financial officer is the accounting specialist who has to perform all the financial duties of the municipality. The above-mentioned officials play a significant role in facilitating the work of the ward committees. The municipal manager authorises the monthly allowance given to ward committees, while the chief financial officer facilitates the payment of the approved allowance as provided for in the budget.

## **6.6 FUNCTIONING OF WARD COMMITTEES IN THE BPDM**

The ward committee system was established in terms of part 4 of the *Municipal Structures Act* (RSA, 1998c). The purpose of ward committees is to create an enabling environment for meaningful community participation in local government,

thereby enhancing service delivery in general. This is done within the context of producing a developmental local government system. A developmental state is one whose ideological underpinnings are developmental and one that seriously attempts to construct and deploy its administrative and political resources to the task of economic development (Mkandawire, 2001:291). A local council instituting ward committees must make rules regulating the procedure to elect members of a ward committee.

A council that establishes ward committees must furthermore take into account the circumstances under which those members must vacate office, and the frequency of meetings to be held by ward committees. A council may make administrative arrangements to enable ward committees to perform their functions and exercise their powers effectively. A council may, for example, provide secretarial support, provide cell phones or make provision for a travel allowance. Committee members are not remunerated, but receive an honorarium for meetings they attend.

A ward committee may make recommendations on any matter affecting its ward to the ward councillor, or through the ward councillor, to the particular council, the executive committee or the executive mayor. Members of a ward committee are elected for a five-year term. If a vacancy occurs among members of a ward committee, the vacancy must be filled in accordance with a procedure determined by the council. The activities of ward committees are coordinated through the Office of the Speaker.

#### **6.6.1 Ward composition and membership in the BPDM**

Section 73(2) of the *Municipal Structures Act* (RSA, 1998c) and *A Handbook for Ward Committees* (2005) provide that each ward must have ward committee, made up of no more than ten members. The ten elected members represent the diverse interests in the ward. Diversity has typically been understood to mean variety of representation, for example, civic or rate-payers' bodies, development organisations, labour unions, business associations, transport and commuter associations, women, youth, faith-based, cultural and other organisations elected by communities residing in the ward area (DPLG, 2005:25).

#### **Table 6.30: Composition of ward committees in BPDM local municipalities**

Municipality	No of wards	Total no of ward committee members	No of vacancies	Percentage of vacancies of ward committees	No of households
Kgetleng	6	60	-	-	14 152
Madibeng	36	360	46	10%	160 724
Moretele	28	280	-	-	52 062
Moses Kotane	31	310	26	8%	63 557
Rustenburg	38	370	30	4%	146 542
Total	139	1 380	102	4.4%	437 037

Source: Adapted from North West Province (2016)

Table 6.31 shows the composition of ward committees in BPDM's constituent local municipalities. One may argue that the municipal councils of the five local municipalities consider the contribution of ward committees very significant by looking at the overall percentage of vacancies (4.4%).

**Table 6.32: Total male and female population and total number of male and female ward committee members per local municipality in BPDM**

Municipality	Total Population	Total Male population	Total Female population	Total Ward Committee members	Total Male Ward Committee members	Total Female Ward Committee members
Bojanala	1 657 148	876 689	780 459	1 390	531 (38.3%)	747 (61.7%)
Moretele LM	189 900	92 548	97 353	280	117 (41.8%)	163 (58.2%)
Madibeng LM	537 516	287 984	249 531	360	118 (45.6%)	196 (54.4%)
Rustenburg LM	626 521	342 865	283 656	380	160 (47.4%)	180 (52.6%)
Kgetleng Rivier LM	59 562	31 906	27 656	60	23 (38.3%)	37 (61.7%)
MosesKotane	243 649	121 385	122 263	310	113 (44.8%)	171 (55.2%)

Source: Adapted from BPDM (2016a:60)

All five constituent local municipalities of the BPDM have developed and approved policies regulating the procedure to elect ward committee members. All the local municipalities in the BPDM pay an amount of R1000 for out-of-pocket expenses for each ward committee member in their municipalities, in line with section 73(5) of the *Municipal Structures Act* (RSA, 1998c). They have all allocated funds and resources to enable ward committees to perform their functions, exercise their powers and undertake development in their wards. The budget for the functioning of

the ward committees was approved in terms of section 24(1)(2)(3) of the *MFMA* (RSA, 2003a).

In the 2015/16 financial year, Moses Kotane allocated the highest budget (R6 064 000) for the functioning of the ward committees, followed by the Moretele and Rustenburg Local Municipalities, with R3 138 840 and R1 337 070 respectively. The Kgetleng and Madibeng Local Municipalities have the lowest budgets, at R150 000 and R1 200 000 respectively. It has also been observed that Rustenburg has the highest number of wards (38) followed by the Madibeng and Moses Kotane Local Municipalities, with 36 and 31 respectively, and the Kgetleng and Moretele Local Municipalities have the lowest number of wards, with 28 and six respectively. It is logical that the Rustenburg Local Municipality, which has 38 wards, would budget more than other local municipalities, since Rustenburg has more wards than the others. However, the other municipalities which have allocated more funds (Moses Kotane and Moretele) are predominantly rural municipalities, so a higher amount is spent on transporting ward committee members to meetings.

#### **6.6.2 Election procedures and methods of nomination**

The nomination and election of ward committees has mostly been conducted in an informal way. As a result, the outcomes varied and it is not possible for municipalities to claim that ward committee legitimacy is based purely on voter turnout and the rigour of the election process. At the same time, the conditions under which many municipalities operate and the resources at their disposal must be noted. Municipalities conduct nomination and election procedures in a number of different ways and frequently conflate the nomination procedure with the election procedure.

Public perceptions and awareness are often quite different. For this reason, municipal stakeholders need to be careful about using a formal electoral procedure to claim legitimacy for ward committees. Community members representing various interest groups are elected at a community meeting by show of hands or formal ballot to serve on the ward committee. Given resource and capacity constraints, this is unlikely to change, and ward committees are best treated as bodies with a partial public mandate that need to remain as open as possible to promote public

representation. This should not detract from the fact that ward committees exist as the primary vehicle for participation.

In wards with a homogenous sectoral basis (for example, women's groups, farmers' organisations), people might meet to nominate their representative to represent their sectoral interests in the ward committee. Existing structures in the ward, as alluded to earlier, are requested to send their nominations to a meeting where names are to be confirmed by residents of the ward to constitute the ward committee. Whatever nomination or election process is used, it is important that this process is agreed upon by all stakeholders and that clear written records of the process are put in place and available for public scrutiny. Ward councillors should also be encouraged to review the process at the first meeting of their ward committee, and if necessary put in place ward plans to improve the credibility and public awareness of the ward committee (DPLG, 2005:36).

### **6.6.3 Functions of ward committees**

Ward committees exist as a vehicle for public participation in municipal affairs. They constitute the most feasible and pragmatic base for civic representation. Ward committees form a link between the community and ward councillors. By virtue of being a function of civic society, they can function independently of the strictures imposed by party alliances. The primary function of a ward committee is to be a communication channel between the community and the council. Section 74(a) of the *Municipal Structures Act* (RSA, 1998c) specifies that a ward committee may make recommendations on any matter affecting the ward to the ward councillor, or through that councillor to the council. A ward committee is the appropriate channel through which communities can lodge their complaints. The committee is obliged to forward such complaints to the council in the most effective manner. Ward committees can be a forum for communication between the ward councillor and residents about general municipal issues, development and any service delivery matter.

Ward committees make recommendations on any matter affecting the ward to the ward councillor or the local council, the executive committee and the mayor. They execute other functions as delegated by the municipality. Ward committee

members participate in the stakeholder cluster forums and are represented on the council's study groups by their chairpersons (*DPLG, 2005:36*).

Ward committees ensure that there is contact between the municipality and community through the use of, and payment for, services. They create harmonious relationships between the residents of a ward, the ward councillor, the geographic community and the municipality. Ward committees facilitate public participation in the process of development, review and implementation management of the IDP of the municipality. They also act as advisory bodies on council policies and matters affecting communities in the ward (*DPLG, 2005:36*). Ward committees serve as officially recognised and specialised participatory structures in the municipality and serve as a mobilising agent for community action. They receive and record complaints from the community within the ward and provide feedback on council's responses as explained in the next case.

The community of Mmakau, Ward 19 at Madibeng Local Municipality, during its community meeting coordinated by ward committee members and chaired by a ward councillor in July 2010 raised the social challenges affecting the youth in the area. Amongst other challenges raised were youth unemployment, child pregnancy, drug and alcohol abuse, a high violent crime rate, and child delinquency, lack of skills development and women and young people affected by HIV/AIDS. They resolved to write a letter to the Madibeng Local Municipality requesting the development of a sport facility in Mmakau. Another letter was addressed to the South African Police Service's (SAPS) Provincial Commissioner requesting the establishment of a police station in Mmakau.

The Madibeng Local Municipality requested the BPDM to assist with the establishment of the Mmakau sport facility, because of limited funds. The Madibeng Local Municipality argued that the quality of life of communities can never be improved if sport and recreation are not part of the developmental goals of communities. The municipality maintained that governments throughout the world endeavour to reach the MDGs. Sport development has become increasingly important in this regard. The municipality argued that it has been proven through various studies that areas with no sport and recreation facilities develop youth, men and women vulnerable to social evils such as crime, teenage pregnancies,

communicable diseases and increased dependency on social grants, as is the case with the community of Mmakau.

Mmakau is a rural area situated in the Madibeng Local Municipality, just adjacent to the Tshwane Metropolitan Council. It has a population size of approximately 13 000 people, predominately Black people, with just under 100 Coloured people. As in many other rural areas, Mmakau experiences various challenges in terms of socio-economic issues. However, development initiatives from the government are visible through road infrastructure development, electricity, schools and clinics. The need for sport and recreation facilities in Mmakau has been identified by the community as one of the key projects indicated in the community needs of Ward 19 in the municipality's IDP.

The BPDM approached the National Lottery Distribution Trust Fund, established in terms of *South African Lotteries, Act 57 of 1997* (RSA, 1997c), since the establishment of a Mmakau sport facility was not budgeted for when the municipal council approved its budget. The National Lottery Distribution Trust Fund is the largest single fund for sport, arts, culture and heritage in South Africa. It disburses between R500 million and R1 billion per annum, through finance secured from the National Lottery. Funds generated for good causes in a particular financial year are available for distribution in the following year. The *National Lotteries Amendment Act, 32 of 2013* stipulates that 23% of money secured for good causes should be allocated to arts, culture and heritage sector; 28% and 47% for sport and recreation and charitable sectors respectively (RSA, 2013). The BPDM was allocated an amount of R3 million for the development of a Mmakau sport facility.

It could be argued that had it not been the active role played by the ward committee in Mmakau, neither the police station nor the sport facility would have been planned for in the IDP or built. The area benefited in other ways too: 28 young people from Mmakau were employed for a period of three years while the sport facility was being built. This research did not focus on establishing whether the statistics on the incidence of crime went down after the police station was built, given the possible effects of numerous other factors such as a high employment rate, changes in social considerations and political stability. Particularly significant for this study was following up on the establishment of both a police station and the sport facility. With



regard to Ward 19 at the Madibeng Local Municipality, the planning process for the sport facility and police station was initiated by residents at ward level.

Ward-based planning aims to empower the community to plan for itself and assist local government and the municipality to understand and address the service needs of the citizens. They assist the municipality to be responsive to the community. The objectives of ward-based planning are to improve the quality of plans and of services, the community's control over development and community action, and to demand regular feedback on the performance of the municipality.

The ward-based planning model outlines a specific role for ward committees in the needs analysis and participatory review procedures of the IDP. Ward-based plans should include specific targets for service delivery and infrastructure development which can be monitored through properly defined ward indicators. Reporting systems to council and line departments should accommodate periodic feedback given to residents guided by the ward plans. The presentation of the annual report to council should make special provision for a summary report on ward committee feedback.

It is noted that the work of a ward committee is not limited to attending ward committee meetings or residents' meetings or municipal council meetings. Ward committees are expected to be active in undertaking voluntary community representation. These include meetings with the community within their respective wards, engaging with stakeholders' structures such as street committees, managing grievances and complaints in the community.

In the case of the BPDm, a ward committee is also responsible for undertaking a social study to develop an indigent policy and compile its register in the community. The primary purpose of such a study is to identify persons in the community who qualify for free basic services. Indigents are people who are unable to make monetary contributions towards paying basic services, no matter how small the amounts seem. Any household earning less than R1600 (as stated by the Financial and Fiscal Commission) from time to time qualifies to be registered as indigent (Madibeng Local Municipality, 2016b:3). Pensioners, students, the unemployed, people with disabilities and single parents (depending on how much they earn) are classified as indigents. Municipalities have the right to increase or decrease the threshold of R1600, depending on the applicability of this to local conditions,

according to the *Municipal Indigent Policy Framework* which was approved by the Social Sector Cluster and MIN/MEC in 2005 and 2006 respectively (Municipal Indigent Policy Framework, 2006).

The indigent policy provides a basis for the provision of free basic services to the indigent and enhances better planning by municipalities. Water, sanitation, electricity and refuse removal are provided free of charge to indigents. Each local municipality in the BPDM approves its indigent policy every year. It is the role of ward committees to assist the municipalities to update their indigent policies on a yearly basis in terms of the approved indigent policies of the constituent local municipalities of the BPDM.

Section 2(a) of the *Water Services Act* (RSA, 1997b) requires a municipality as a Water Services Authority to develop a Water Services Development Plan. This duty is given to municipalities which are Water Services Authorities to ensure that all consumers in its area of jurisdiction have access to water services. The Act provides that a Water Services Development Plan must be aligned to the IDP of the municipality which is a Water Services Authority. The IDP priorities require that the impact on water and sanitation must be cross-referenced to the Water Services Development Plan which must include detailed information on these aspects.

In terms of Section 2 of the *Water Services Act* (RSA, 1997b), the Water Services Development Plan must ensure that each of the following questions is addressed and that no uncertainty exists.

- (a) What is the backlog?
- (b) Cost of eradicating backlogs?
- (c) What is the status of supply to higher levels of service?
- (d) What is the strategy to eradicate backlogs?
- (e) Effective services issues?
- (f) What are the impacting factors?
- (g) What is the status of all water infrastructure?
- (h) Comments on the Water Balance in the area?

The information on the Water Services Development Plan document is developed from the ward-based level through community participation coordinated by ward committees. Water Services Development Plan must be approved by council and

reviewed every year before is submitted to the National Department of Water and Sanitation for approval.

Ward committees also form part of the Project Steering Committee when a project is to be implemented in the community. Ward committees establish the Project Steering Committee for any project in their ward and one of the ward committee members chairs the Project Steering Committee. Such committees manage the project from the inception stage until the end on behalf of the community (BPDM, 2016a:39). The ward committee develops a list of workers to be appointed in the project and develops a list of small medium micro enterprises (SMMEs) in the ward. It can therefore be deduced that ward committees assist municipalities in planning, because indigents are identified through meetings coordinated in each and every ward.

#### **6.6.4 Meeting procedures**

The current thesis explores the power dynamics within ward committees and the relationship amongst the members. Creighton (2005:7) argues that public participation requires two-way communication and is an interaction process by which public concerns, needs and values are made known and incorporated into governmental decision-making. The issue is whether it is possible for the community to hold a homogenous worldview about what development is. If it is not possible, it should be established whose views are upheld and whose are discarded at the ward committee level of participation in municipalities in South Africa.

Ward committees have no legislative or executive power to make decisions on any issue within their jurisdiction. At the highest form of tokenism, through placation, some municipal councillors are able to protect themselves by establishing ward committees only to satisfy section 73 of the *Municipal Structures Act* (RSA, 1998c) and not to promote genuine public participation. It should be understood that placation is an advanced level of tokenism, which could be applied to the ward committees and, hence, municipal councils still hold the power to make decisions, determine policies, compile an IDP and assign funds to programmes.

## **6.7 AREAS WHERE WARD COMMITTEES IN THE BPDM CONTRIBUTE TO, MEASURE, MONITOR AND EVALUATE MUNICIPALITIES' PERFORMANCE**

### **6.7.1 Integrated Development Planning (IDP)**

Prior to 1994, municipalities were mainly concerned with providing services and implementing by-laws, provincial ordinances and national legislation (Subban & Theron, 2012:21). After the *Constitution* (RSA, 1996a) and related new legislation and policy frameworks were introduced, local government's functions and powers were greatly expanded. Municipalities are now required to be developmental in their approach and activities. The value of the IDP process for municipalities lies in formulating focused plans and developmental priorities (Subban & Theron, 2012:21). The approach assists in avoiding wasteful expenditure and perpetuating unwarranted spending patterns, viewed as common challenges in municipal government. The aim of adopting a more business-based approach is thus not to manage councils like companies, but to ensure that scarce resources were spent effectively, efficiently and economically.

The legal and policy framework for development planning in South Africa envisages that municipalities will play an essential role in realising coherent planning across the three spheres of government. Section 23 of the *Municipal Systems Act* (RSA, 2000b) provides that a municipality must undertake developmentally oriented planning to achieve the objectives of local government set out in section 152 of the *Constitution* (RSA, 1996a). Each municipality is required, in terms of section 25 of the *Municipal Systems Act* (RSA, 2000b) to adopt an IDP. The IDP must be adopted shortly after the beginning of a municipal council's term. Section 34 of the *Municipal Systems Act* (RSA, 2000b) states that a municipal council must review its IDP annually, in accordance with an assessment of its performance measurements. An IDP is the municipality's strategic plan, and should be based on an intensive community participation process to gauge and prioritise the municipal community's needs. The IDP is expected to integrate the planning of all municipal departments under the umbrella of a united strategy for the municipal area.

As mandated by section 25 of the *Municipal Systems Act* (RSA, 2000b), a municipality must prepare an IDP as a strategic development plan for a five-year

period linked to the term of a council. The overall purpose of an IDP is to coordinate the planning efforts of different spheres and sectors of government and other institutions in the local government sphere. The process should be participatory and should cover a process of six to nine months to draw in various stakeholders in the area who can have an impact on or benefit from development in the area. Once the IDP is compiled, all municipal planning and projects should be undertaken in terms of the IDP. Section 35(b) of the *Municipal Systems Act* (RSA, 2000b) indicates that an IDP adopted by the council of a municipality binds the municipality in the exercise of its executive authority, except where the IDP is inconsistent with provincial and national legislation, in which case such legislation prevails. The annual budget should reflect the communities' development priorities, and other government departments working in the area should take the IDP into account in their own planning and budgeting processes.

The compilation of an IDP is a process through which municipalities prepare a strategic development plan, for a five-year period. The IDP guides and informs all planning, budgeting, management and decision-making in the municipality. According to section 25 of the *Municipal Systems Act* (RSA, 2000b), all municipalities have to undertake an IDP process. Because the IDP is a legislative requirement, it has a legal status, and it supersedes all other plans that guide development in the local government sphere. Because of its participatory nature, its timing is closely related to the municipal budgeting cycle. It is reviewed every year, and the review should result in amendments if necessary (Thornhill *et al.*, 2014:222). An IDP allows a municipality to identify its priority goals or challenges, which determine its vision, objectives and strategies, followed by the identification of projects to address the issues concerned.

Typical strategies, programmes and projects in an IDP represent the functions that matter most in the daily lives of people:

- for those who wait for provision of houses and shelter, the upgrading of informal settlements;
- access to the full range of public facilities for health, education and recreation;
- disaster management;
- electricity;
- water and sanitary services;
- the provision and maintenance in infrastructure;

- integrated public transport;
- the fostering of opportunities for enterprise and business development; and
- a generally attractive and healthy natural environment (Thornhill *et al.*, 2014:222).

Some of the pitfalls identified by Theron (2009:144-150) and reasons for the inadequacies of the IDP process are the following:

- (a) The IDP is often seen as the sole responsibility of a specific department or a few allocated officials who do not facilitate the interaction, alignment and integration between departments internally as well as with other sectoral governmental and non- governmental stakeholders, which is the essence of the IDP philosophy.
- (b) There is a shortage of planning and implementation skills and especially of project management capacity in the local sphere, as the IDP, as a holistic planning process, is based on project management principles and aims to achieve specific development objectives through the implementation of specific programmes and projects.
- (c) The alignment of the budget and the needs identified in the IDP are still major challenges for most municipalities: some municipalities do not spend their budget as is expected of them. Municipalities request rollovers from the National Treasury as a result of underspending on the capital budget.
- (d) The standard engagement strategy of community meetings is sometimes perceived as limiting participation. People are often instructed about what topics will be discussed; if they speak on any other subjects they are cut off as officials presenting the IDP process at community meetings come with own priorities, and politicians put forward and implement party political decisions, which are not necessarily the priorities articulated by the community.
- (e) The process of needs-prioritising is a controversial as it is perceived that councillors take decisions regardless of community input and do not communicate information and give feedback about the IDP to community members effectively.

In the case of the BPDM, all the constituent local municipalities tend to request National Treasury to allow money budgeted for one financial year to be transferred to another financial year as a result of underspending on the capital budget (Rustenburg Local Municipality, 2015).

The municipality is expected to be the pivot that skilfully mediates between the diverse needs of a municipal community and the requirements of departments and parastatals in the two other spheres of government (Patel & Powell, 2008:353). This is to be done within the parameters of a limited municipal budget. A report by the Good Governance Learning Network (2008) indicates that capacity for compiling IDPs in the municipal sphere is low. The dependency on consultants to realise an

IDP is not being implemented as expected. Lack of capacity and dependence on consultants must encourage municipalities to involve ward committees and traditional leaders in planning. Good Governance Learning Network's (2008) report found that 28% of local municipalities lack the most basic capacity to prepare an IDP, and will find it difficult to prepare one, even with additional support. Only 37% of municipalities have independent capacity to prepare an IDP, and another 35% have some basic capacity and can prepare an IDP with additional support (Good Governance Learning Network, 2008:51). In the case of the BPDM and its constituent local municipalities, an IDP is compiled by the political leaders, traditional leaders, ward committees and residents.

The creation of IDPs has become a regulated process that must absorb the input of a multitude of development actors towards the adoption of a document within prescribed deadlines. This process has thus become a 'pressure cooker', which is incompatible with unwieldy community input, which tends to disrupt intergovernmental cohesion and adherence to intergovernmental deadlines (Good Governance Learning Network, 2008:52). There is then a real danger that communities and community organisations may become dissatisfied with an IDP, as they perceive the process to be inadequate in responding to their needs. It may be worthwhile to consider the identification of a limited number of national key priorities and insist on their alignment, whilst relaxing the effort towards synchronisation on other, less important policy areas. This may provide the necessary opportunity for municipalities to develop their planning capabilities, devise mechanisms for genuine interaction with communities, and display creativity.

The previous term of municipal councils from 2011-2016 was characterised by the drafting, reviewing and assessing of the outcomes of IDPs. In terms of section 23 of the *Municipal Systems Act* (RSA, 2000b) and section 152(3) of the *Constitution* (RSA, 1996a), municipalities are responsible for development processes and municipal planning. Municipalities have to formulate and review IDPs. Two 'generations' of IDPs have been drafted and reviewed from 2001 to 2011 by South African municipalities. COGTA and its predecessors have evaluated and measured legal compliance of the drafting and submission processes (Subban & Theron, 2012:21).

Ward committees in the BPDM's constituent municipalities has contributed significantly to the drafting, reviewing and assessing the outcomes of IDPs. Local municipalities' meetings held to draft the IDPs were coordinated by ward committees, as indicated in the annual reports of the BPDM's constituent local municipalities.

### **6.7.2 Reports of the Auditor-General**

Section 188 of the *Constitution* (RSA, 1996a) provides that the Auditor-General of South Africa (AGSA) must audit and report on the accounts, financial statements and financial management of all national and provincial state departments and administrations; all municipalities and any other institution or accounting entity required by national or provincial legislation to be audited by the AGSA. The AGSA submits reports to any legislature that has a direct interest in the audit, and to any other authority prescribed. The AGSA has a constitutional mandate. As the Supreme Audit Institution (SAI) of South Africa, its purpose is to strengthen the country's democracy by enabling oversight and accountability and governance in the public sector through auditing, to build public confidence.

The AGSA is a state institution established in terms of section 181 of the *Constitution* (RSA, 1996a) to support and strengthen constitutional democracy in the Republic of South Africa. Chapter 9 of the *Constitution* (RSA, 1996a) establishes, *inter alia*, the Public Protector, the South African Human Rights Commission, the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, the Commission for Gender Equality, the AGSA and the Electoral Commission. Section 181(2) of the *Constitution* provides that Chapter 9 institutions are independent, and subject only to the *Constitution* and the law. They must be impartial and must exercise their powers and perform their functions without fear, favour or prejudice. Section 181 of the *Constitution* stipulates that other organs of state, through legislative and other measures, must assist and protect these institutions to ensure the independence, impartiality, dignity and effectiveness of these institutions. No person or organ of state may interfere with the functioning of these institutions. These institutions are accountable to the National Assembly, and must report on their activities and the performance of their functions to the Assembly at least once a year.



The powers and the functions of the AGSA are set out in detail in section 20 of the *Public Audit Act, 25 of 2004* (RSA, 2004d). The *Constitution* (RSA, 1996a) provides that the AGSA must audit and report on the accounts, financial statements and financial management of all national and provincial state departments and administrations, all municipalities; and any other institution or accounting entity required by national or provincial legislation to be audited by the AGSA. The AGSA must submit audit reports to any legislature that has a direct interest in the audit and to any other authority prescribed by national legislation. All reports must be made public.

Section 20 of the *Public Audit Act* (RSA, 2004d) provides that an audit report must reflect such opinions and statements as may be required by any legislation applicable to the auditee (the subject of the audit). The audit report must reflect at least an opinion or conclusion on whether the annual financial statements of the auditee fairly represent, in all material respects, the financial position at a specific date and the results of its operations and cash flow for the period which ended on that date, in accordance with the applicable financial framework and legislation. It must also reflect the auditee's compliance with any applicable legislation relating to financial matters, financial management and other related matters; and the reported information relating to the performance of the auditee against predetermined objectives.

In addition, the AGSA may report on whether the auditee's resources were procured economically and used efficiently and effectively. Based upon this background information, the public has an interest in the AGSA's report. The public is also interested in checking the AGSA's report on the performance management system (PMS) of municipalities. Communities are equally interested in scrutinizing whether the set targets and key performance indicators were achieved and if municipalities monitored and reviewed the performance based on those indicators during the financial year under review. The AGSA expresses an audit opinion after the auditing process. The opinion can be unqualified, qualified, adverse or a disclaimer, as discussed below.

#### **6.7.2.1 Adverse opinion**

An adverse opinion is a professional opinion made by an auditor indicating that a municipality's annual financial statements are misrepresented, misstated, and do

not accurately reflect its financial performance. An adverse opinion is a warning for investors and can have major negative effects. Auditors give a warning if the financial statements are significantly different from generally accepted accounting principles (GAAP). The AGSA expresses an adverse opinion when the auditor, having obtained sufficient appropriate audit evidence, concludes that misstatements, individually or in the aggregate, are both material and pervasive to the financial statements.

#### **6.7.2.2 Disclaimer of opinion**

A disclaimer of opinion is issued when the limitation of scope is imposed by the municipality and the auditor is unable to obtain sufficient appropriate evidence on which to base the opinion, and when the auditor concludes that the possible effects on the financial statements of undetected misstatements, if any, could be both material and pervasive. The auditor must also disclaim an opinion when, in extremely rare circumstances involving multiple uncertainties, he or she concludes that, although he or she has obtained sufficient appropriate audit evidence regarding each of the individual uncertainties, it is impossible to form an opinion on financial statements due to the potential interaction of the uncertainties and their possible cumulative effect on the financial statements (ISA 705:703). In the case of the BPDM, two of its local municipalities received a disclaimer during the period while the research was done. The BPDM as a whole also received two disclaimed opinions, as reflected in Table 6.32.

#### **6.7.2.3 Qualified opinion**

GSA expresses a qualified opinion when the auditor, having obtained sufficient appropriate audit evidence, concludes that misstatements, individually or in the aggregate, are material, but not pervasive, to the financial statements. The AGSA also expresses a qualified opinion when he or she is unable to obtain sufficient appropriate audit evidence on which to base the opinion, but concludes that the possible effects on the financial statements of undetected misstatement, if any, could be material, but are not pervasive (ISA 705:703).

#### **6.7.2.4 Unqualified opinion**

The AGSA expresses an unqualified opinion if, after obtaining sufficient appropriate audit evidence, he or she concludes that the financial statements present fairly, in

all material respects, the financial position of the municipality, its financial performance and cash flows for the year then ended, in accordance with the South African Standards of Generally Reliable Accounting Practice (GRAP) and the requirements of the *MFMA* (RSA, 2003a) and the Division of Revenue Act (DoRA) (ISA 705:703).

**Table 6.33: Audit opinions of the AGSA in the BPDM municipalities**

MUNICIPALITY	2011/12	2012/13	2013/14	2014/15	2015/16
Kgetleng	Disclaimer	Disclaimer	Qualified	Qualified	Unqualified
Madibeng	Disclaimer	Qualified	Qualified	Qualified	Qualified
Moretele	Disclaimer	Disclaimer	Qualified	Qualified	Qualified
Moses Kotane	Qualified	Qualified	Unqualified	Qualified	Qualified
Rustenburg	Qualified	Qualified	Qualified	Unqualified	Unqualified
BPDM	Unqualified	Unqualified	Unqualified	Disclaimer	Disclaimer

Source: Adapted from AGSA (2011-2016)

Table 6.32 shows a slight improvement, between the 2011/12 and 2013/14 financial years in all the constituent local municipalities with regard to the financial statements, which are fairly represented in all material respects, the financial position of the municipalities, financial performance and cash flows for the year then ended in accordance with the South African Standards of GRAP and the requirements of the *MFMA* and the DoRA (ISA 705:703). Thus it could be argued that the political oversight on the municipal administration and the involvement of communities in matters of local government has resulted in an improvement of the audit. Ward committees play an important role in coordinating community meetings where the local municipality presents its annual report, which includes the performance of the municipality in relation to the audit opinion. An improved audit opinion gives the local communities and the public confidence that the funds of the municipality are used efficiently, effectively and economically.

#### **6.7.2.5 Dealing with Auditor-General's reports**

Section 131 of the *MFMA* (RSA, 2003a) compels a municipality to address any issues raised by the AGSA in an audit report. The mayor of a municipality must ensure compliance by the municipality with regard to issues raised by the AGSA. The MEC for local government in the province must assess all annual financial statements of municipalities in the province, the audit reports on such statements and any responses of municipalities to such audit reports. The MEC must

determine whether municipalities have adequately addressed any issues raised by the AGSA in audit reports; and reports to the provincial legislature if there is any omission by a municipality to address those issues adequately within 60 days.

The accounting officer of a municipality must submit the annual report to the provincial legislature within seven days after the municipal council has adopted the relevant oversight report in terms of section 129(1) of the *MFMA* (RSA, 2003a). The annual report must be submitted by the municipal manager within seven months after it has been tabled in council to the provincial legislature, according to sections 127(3) and 129(1) of the *MFMA* (RSA, 2003a).

The MEC for local government in a province must monitor whether municipalities in the province comply with the submission of annual reports to the legislature. A provincial legislature may deal with the documents referred to it in terms of the *MFMA* (RSA, 2003a). If the accounting officer of a municipality or municipal entity fails to submit financial statements to the AGSA, in accordance with sections 126(1) or (2), or if the mayor fails to table the annual report of the municipality or a municipal entity in the council in accordance with section 127(2) of the *MFMA* (RSA, 2003a), the mayor must promptly table in the council a written explanation for the failure, inform the speaker of the council, the National Treasury and the MEC for local government and the MEC for finance in the province of such failure.

The mayor must also issue a special report on the failure to the relevant provincial legislature. The municipal council must also request the Speaker or any other councillor to investigate the reasons for the failure and report back to the council. The mayor must take appropriate steps to ensure that the financial statements are submitted to the AGSA, or that the annual report (including the financial statements and the audit report on those statements) is tabled in the council, as the case may be. The mayor may order that disciplinary steps be taken against the accounting officer or other person responsible for the failure.

The provincial executive may intervene in a municipality in terms of section 139 of the *Constitution*. The National Treasury may take appropriate steps against the municipality in terms of section 5(2)(e) of the *Constitution*. The provincial treasury may also take appropriate steps against the municipality in terms of section 5(4)(d) of the *Constitution*. The BPDM and its constituent local municipalities have, for the

last five financial years, submitted the annual and oversight reports to the North West provincial legislature consistently in accordance with the legal requirements.

The AGSA must submit to Parliament and the provincial legislatures, no later than 31 October of each year, the names of any municipalities or municipal entities that have failed to submit their financial statements to the AGSA in terms of section 126 of the *MFMA* (RSA, 2003a). The AGSA also submits at quarterly intervals thereafter, the names of any municipalities or municipal entities whose financial statements are still outstanding at the end of each interval. The Cabinet member responsible for local government must, as part of the report referred to in section 48 of the *Municipal Systems Act* (RSA, 2000b) report annually to Parliament on actions taken by MECs for local government to address issues raised by the AGSA in audit reports on financial statements of municipalities and municipal entities.

It can be deduced that when a municipality addresses issues raised by the AGSA in the audit report, it convinces residents that the money allocated to the municipality is used efficiently, effectively and economically. This can be proven by the increased collection of rates and taxes in the municipality and adequate proof that all expenditure could be justified. The Rustenburg Local Municipality received an unqualified audit report from the AGSA in the 2013/14 financial year. This resulted in a 60% collection rate in the municipality (Rustenburg Local Municipality 2015:43).

### **6.7.3 Reports of Municipal Public Accounts Committees (MPACs)**

Department of Cooperative Governance and Traditional Affairs (COGTA) together with the National Treasury has issued guidelines on the establishment of the Municipal Public Accounts Committee (MPAC). In terms of these guidelines, each municipality was expected to establish its own MPAC by 30 November 2011. The purpose of the guidelines was to assist municipalities in establishing MPACs in terms of the provisions of the *Municipal Structures Act* (RSA, 1998c) and the *MFMA* (RSA, 2003a) to serve as an oversight committee to exercise oversight over all executive obligations of the council. The MPACs assist the council to hold the executive and municipal administration to account, and to ensure efficient and effective use of municipal resources.

All constituent local municipalities of the BPDM established MPACs in their municipalities in terms of the guidelines. MPACs have contributed to the council's

and public awareness of the financial and performance issues of the municipality and its entities, as shown by the improved audit opinions indicated in Table 6.32. Since the establishment of the municipalities in 2000, accountability in local government has become more rigorous, because of the MPACs. The MPAC considers and evaluates the content of the annual report and makes recommendations to the council when adopting an oversight report on the annual report in order to assist with the conclusion of matters that may not have been finalized. The MPAC makes sure that information relating to past recommendations made on the annual report is reviewed. The MPAC also examines the financial statements and audit reports of the municipality and municipal entities.

The MPAC considers if there has been any improvement from previous statements and reports and evaluates the extent to which the audit committee's and the AGSA's recommendations have been implemented. The MPAC promotes good governance, transparency and accountability on the use of municipal resources. The committee recommends to council any investigation that needs to be done by the municipality in its area of responsibility. The MPAC performs any other functions assigned to it through a resolution of council within its area of responsibility. The MPAC performs its functions of oversight on annual reports in terms of section 129 of the *MFMA* (RSA, 2003a).

When preparing the oversight report, the BPDM's MPAC holds meetings with the MPACs of the local municipalities of Moretele, Madibeng, Moses Kotane, Rustenburg and Kgetleng Rivier. The district MPAC committee uses the framework provided by National Treasury in *Circular* No. 32, issued on 15 March 2006, which guides the committee during the evaluation, verification and oversight process. The district MPAC undertakes site visits to selected sites and projects in local municipalities where projects funded by the BPDM are implemented by the respective local municipality. In every ward where the MPAC does site visits, the MPAC committee meets with the ward committee members, because the chairperson of the Project Steering Committee is appointed by a ward committee in consultation with the ward councillor. The MPAC committee conducts public meetings in wards where projects were implemented in local municipalities. The committee performs these functions in collaboration with the Office of the Speaker of the local municipalities, the ward councillor and ward committee members of the relevant wards. The committee invites public comments and input through the local

press, loud hailing and newspapers. Ward committees play an important role in encouraging residents to attend MPAC meetings.

#### **6.7.4 Oversight reports on annual reports**

Section 129(1) of the *MFMA* (RSA, 2003a) provides that the council of a municipality must consider the annual report of the municipality and of any municipal entity under the municipality's sole or shared control. Then, by no later than two months from the date on which the original annual report was tabled in the council, in terms of section 127, the council must adopt an oversight report containing the council's comments on the annual report. This must include a statement on whether the council has approved the annual report with or without reservations, has rejected the annual report, or has referred the annual report back for revision of those components that should be revised.

According to section 129(2) of the *MFMA* (RSA, 2003a), the accounting officer must attend council and council committee meetings where the annual report is discussed in order to respond to questions concerning the report. He or she must submit copies of the minutes of those meetings to the AGSA, the relevant provincial treasury and the provincial department responsible for local government in the province. In accordance with section 21A of the *Municipal Systems Act* (RSA, 2000b), the accounting officer must make public an oversight report within seven days of its adoption.

The National Treasury may issue guidelines on the manner in which municipal councils should consider annual reports and conduct public hearings; and the functioning and composition of any public accounts or oversight committees established by the council to assist it to consider an annual report. No guidelines issued by National Treasury are binding on a municipal council, unless the council has adopted them. This implies that the Treasury guidelines are subordinate to a council unless the council has adopted them. The guidelines on the establishment of municipal public accounts committees were adopted by all municipal councils of the constituent local municipalities of the BPDM.

The meetings of a municipal council at which an annual report is to be discussed or at which decisions concerning an annual report are to be taken must be open to the public and any organs of state, in terms of section 130(1) of the *MFMA* (RSA,

2003a). A reasonable time must be allowed for the discussion of any written submissions received from the local community or organs of state on the annual report; and members of the local community or any organs of state must be allowed to address the council. Representatives of the AGSA are entitled to attend, and to speak at any council meeting. Ward committees and residents in the BPDM regularly attend council meetings in which both the annual and oversight reports are tabled (BPDM, 2014b:74).

The annual report consists of four main components, each of which has an important function in promoting governance and accountability. The main components are the following:

- (a) the annual performance report as required by section 46 of the Municipal Systems Act, 2000.
- (b) annual financial statements submitted to the Auditor-General;
- (c) the Auditor-General's audit report on the financial statements in terms of section 126(3) of the Municipal Finance Management Act, 2003; and
- (d) the Auditor-General's audit report on performance in terms of section 45(b) of the Municipal Systems Act, 2000.

The purpose of the annual report is to

- provide a record of the activities of the municipality;
- provide a report on performance in service delivery and against the budget;
- provide information that supports the revenue and expenditure decisions made;
- and
- to promote accountability to the local community for decisions made.

Allowing communities through ward committees to attend when the report is tabled enhances accountability.

Section 127(5) of the *MFMA* (RSA, 2003a) provides that immediately after the annual report is tabled in council, the accounting officer of the municipality must make the annual report public. The Act instructs that the accounting officer must invite the local community to submit representations in connection with the annual report. It becomes the role of the ward committee to mobilise residents to attend community meetings to discuss the annual report. In the BPDM, the Municipal Manager publicised the 2011/12 financial year's annual report for public comments after it was tabled in council in terms of the Act. During a public consultation meeting in the Moses Kotane Local Municipality, the residents of Magong complained because the sunflower oil project that the annual report of the BPDM



reported as completed and achieved had not in fact been completed, and was thus not achieved as reported. Similarly, in the meeting held at the Madibeng Local Municipality, the residents of Jericho village protested that the Jericho feedlot project was not completed as reflected in the BPDM's 2011/12 *Annual Report*. The complaints raised during these public participation meetings led the municipal council of the BPDM to approve the annual report with reservations, in line with section 129(a) of the *MFMA* (RSA, 2003a) (BPDM 2013:R363/12/13). Thus it can be deduced that ward committees play a significant role in measuring, monitoring and evaluating the work of municipal councils.

## **6.8 THE ROLE OF TRADITIONAL LEADERSHIP IN PUBLIC PARTICIPATION IN THE BPDM**

Traditional leadership existed in southern Africa long before the arrival of Europeans. Each tribe settled in a specific part of the area that eventually became known as the Republic of South Africa. The result is that six of the nine provinces constituting the Republic still have areas in which a tribal system is implemented and operates as a system of traditional authorities, namely the Eastern Cape, the Free State, KwaZulu-Natal, Mpumalanga, Limpopo and North West (Thornhill & Cloete, 2014:38).

Section 211 of the *Constitution* (RSA, 1996a) provides that the institution, status and role of traditional leaders are recognized, subject to the *Constitution*. A traditional authority that observes a system of customary law is recognized, subject to any applicable legislation and customs, which includes amendments to, or repeal of, that legislation or those customs. The *Constitution* (RSA, 1996a) further states that the courts must apply customary law when that law is applicable, subject to the *Constitution* and any legislation that deals specifically with customary law. Section 212(1) of the *Constitution* (RSA, 1996a) requires that national legislation may provide for the role for traditional leadership as an institution at local level, on matters affecting local communities.

Section 5 of the *Traditional Leadership and Governance Framework Act, 41 of 2003* (RSA, 2003b) provides that traditional leaders should be part of democratic leadership and governance structures in the local government sphere. In this co-operative relationship with municipalities, traditional leaders should facilitate public

participation. This applies especially to service delivery and policy decisions affecting rural communities. Municipal councils are not demarcated along traditional leaders' jurisdiction of power across South Africa, except some management areas, which are located within municipal boundaries (RSA, 2003b). With these two types of governance in rural areas, traditional governance and local governance, it is unavoidable that there will be some contestation of power. This conflict arises because municipalities cover the whole country, including the rural areas, which are under the jurisdiction of traditional leaders. One example of conflict arises around the payment of rates and taxes to a municipality in which a traditional leader still demands an allegiance fee (the right to live in the chief's area).

In some provinces, for example, KwaZulu-Natal, because of the Ingonyama Trust, challenges arise if a municipality wants to expand its boundaries and the King of the Zulu nation refuses to grant permission to allow the municipality to encroach onto his land (Thornhill & Cloete, 2014:38). The Ingonyama Trust was established in 1994 by the government of KwaZulu Natal in terms of the *Ingonyama Trust Act, 3 of 1994* (RSA, 1994b). The Trust holds all the land that was owned or belonged to the KwaZulu-Natal government prior to the 1994 national and provincial democratic elections. The mandate of the Trust is to hold land for the benefit, material welfare and social well-being of the members of the tribes and communities living on the land. The Ingonyama Trust is a corporate body established in law and is the registered owner of various pieces of land in KwaZulu-Natal which have been part of the Zulu kingdom dating back to various Zulu kings. His Majesty the King is the sole trustee of the land. When the democratically government came into existence, it became the *KwaZulu-Natal Ingonyama Trust Act, 9 of 1997* (RSA, 1997d). Municipalities and the provincial government in KwaZulu-Natal request approval of land use if they intend to develop any project on the land that belongs to the *Ingonyama Trust*.

Sections 4(c), (d), (e), (f), (g) and (h) of the *Traditional Leadership and Governance Framework Amendment Act, 2003* (RSA, 2003b) provides that the functions of traditional councils are to

- support municipalities in identifying community needs;
- facilitate the involvement of the traditional community in the development or amendment of a municipality's IDP in the area where the community resides;

- recommending, after consulting with the relevant local and provincial houses of traditional leaders, recommend appropriate interventions to government that will contribute to development and service delivery in the area of jurisdiction of the traditional council;
- participate in the development of policy and legislation in the local level; and
- promote the ideas of co-operative government, sustainable development and service delivery.

It can be deduced that traditional leaders play a significant role in planning for all the projects in their areas of jurisdiction in terms of section 4(1) of the *Traditional Leadership and Governance Framework Act* (RSA, 2003b).

Section 81(1) of the *Municipal Systems Act* (RSA, 2000b) provides that the traditional authorities that observe a system of customary law in the area of a municipality may participate through their leaders, who have been identified in terms of subsection (2) in the proceedings of the municipal council. The *National House of Traditional Leaders Act, 10 of 1997* (RSA, 1997e) provides for the establishment of the National, Provincial and Local House of Traditional Leaders and its objectives and functions. For the period under research (2011-2016), the chairpersons of the National, Provincial and Local House of Traditional Leaders were citizens of the BPDM.

Part 6 of the *Municipal Structures Act* (RSA, 1998c) provides for the participation of traditional leaders in municipal councils. Traditional authorities that traditionally observe a system of customary law in the demarcated area of a municipality may participate through their leaders in the proceedings of the council of that municipality. Those traditional leaders must be allowed to attend and participate in any meeting of the council. The number of traditional leaders that may participate in the proceedings of a municipal council may not exceed 10% of the total number of councillors on that council. If the council has fewer than 10 councillors, only one traditional leader may participate. When participating in the proceedings of a municipal council, a traditional leader is subject to the appropriate provisions of the Code of Conduct applicable to councillors. Table 6.33 shows the influence of traditional leaders in rural areas.

**Table 6.34: Composition of wards and villages located in traditional authorities in local municipalities**

Municipality	No of wards	Total no of traditional leaders	No of villages under a traditional leader	Total no of wards under the traditional authority	Total no of wards under one traditional leader
Kgetleng	6	0	0	0	0
Madibeng	36	4	43	22	4 (17 villages)
Moretele	28	4	66	26	14 (32 villages)
Moses Kotane	31	21	107	29	16 (29 villages)
Rustenburg	38	4	43	17	10 (29 villages)
Total	139	33	259	85	46 (98 villages)

Source: Adapted from BPDM (2016b)

The national government promulgated the *Spatial Planning Land Use Management Act, 16 of 2013* to assist national, provincial and local government during planning processes (RSA, 2013b). This Act provides a framework for spatial planning and land use management in the Republic of South Africa. The Act applies to the entire area of the Republic and is enacted in terms of section 155(7) of the *Constitution* (RSA, 1996a) insofar as it regulates municipal planning. The Act specifies the relationship between spatial planning and land use management systems and other kinds of planning. It provides for inclusive, developmental, equitable and efficient spatial planning at the different spheres of government. It also provides a framework to monitor, coordinate and review the spatial planning and land use management system. This Act (RSA, 2013b) complements section 25 of the *Constitution*, which requires the protection of property rights, including measures designed to foster conditions that enable citizens to gain access to land on an equitable basis. The *Spatial Planning Land Use Management Act* (RSA, 2013b) emphasises that sustainable development of land requires the integration of social, economic and environmental considerations in both forward planning and ongoing land use management to ensure that the development of land serves present and future generations.

Section 3 of the *Spatial Planning Land Use Management Act* (RSA, 2013b) states that the objectives of the Act are to

- provide for a uniform, effective and comprehensive system of spatial planning and land use management for the Republic;
- ensure that the system of spatial planning and land use management promotes social and economic inclusion;
- provide for development principles and norms and standards;

- provide for the sustainable and efficient use of land;
- provide for cooperative government and intergovernmental relations amongst the national, provincial and local spheres of government; and
- redress the imbalances of the past and to ensure that there is equity in the application of spatial development planning and land use management systems.

It can be deduced that the *Spatial Planning Land Use Management Act* (RSA, 2013b) complements section 81 of the *Municipal Structures Act* (RSA, 1998c) and the *Traditional Leadership and Governance Framework Act, 41 of 2003* (RSA, 2003b) which provide that a municipality, in the performance of its duties must allow the participation of a traditional council.

In the case of the BPDM, traditional leaders are included with the democratically elected leaders in the municipal councils, in terms of the *Traditional Leadership and Governance Framework Act* (RSA, 2003b). Traditional leaders are sworn in municipal council in the same way as councillors. The BPDM has ten traditional leaders who are members of its municipal council. The number exceeds 10% of the total number of councillors in the municipal council, as the BPDM has a total of 68 councillors. Thus the composition of the BPDM does not conform to section 81 of the *Municipal Systems Act* (RSA, 2000b) in terms of the number of traditional leaders permitted, although in this case it is seen as an advantage, since many villages are represented. Traditional leaders are not elected to serve on municipal councils as full councillors. They are designated to serve on municipal councils by the MEC responsible for local government in a province, as indicated earlier in this thesis.

The BPDM introduced new rules of order to make provision for traditional leaders to become more actively involved in council matters, by allowing them to put forward matters concerning traditional matters in their areas of jurisdiction (Thornhill & Cloete, 2014:39). Traditional leaders attend the council meetings, which are held in terms of the approved corporate calendar of the municipality. Each one of the traditional leaders in the Municipality is allocated to a portfolio committee on which he or she serves. Each of these leaders is allocated a laptop, a computer and an iPad. They are paid a travelling allowance per sitting of a municipal council.

In South Africa, wards are geopolitical subdivisions of municipalities used for electoral purposes, as already mentioned. Table 6.33 (above) illustrates that the

BPDM's 139 wards are situated in its constituent local municipalities. Of those, 85 wards are located under traditional authorities, which constitutes 61.2% of the total number of wards. Table 6.33 (above) also shows that the BPDM has 259 villages, which constitute 85 of the total number of wards. The result shows the influence that traditional leaders wield in planning in the BPDM, because the majority of the wards are located on land owned by them.

Table 6.33 also shows that the Moses Kotane Local Municipality has 107 villages, controlled by 21 traditional leaders, which constitutes 41.3% of the total number of villages in the BPDM. The Moses Kotane Local Municipality has 31 wards, and 29 of the wards are located in the 107 villages mentioned above. It can be deduced that 93.6% of the wards in the Moses Kotane Local Municipality are located in rural areas controlled by a traditional authority. Only two wards, which constitute only 6.4% of the total number of wards in the Moses Kotane Local Municipality are located in the Mogwase and Madikwe townships. A total of 51.6% (16 wards) in the Moses Kotane Local Municipality are located under one traditional authority, the Bakgatla-Ba-Kgafela Traditional Authority (BBKA), which has 32 villages. It can be deduced that the Moses Kotane Local Municipality is a rural municipality, because 93.6% of the wards are located in rural villages. This implies that community participation in municipal affairs is conducted under the auspices of traditional leaders. It could be argued that in municipalities with such a composition, planning has to note the needs of traditional leaders as well. The contribution of traditional leaders in the compilation of the IDPs of these municipalities is significant.

During the 2010/11 IDP processes in Moses Kotane, all 16 wards located in the 32 villages of the Bakgatla-Ba-Kgafela Traditional Authority identified water as a priority. IDP meetings in rural areas were well attended because the *dikgosi* (tribal chiefs) became involved in coordinating such meetings. Ward councillors, ward committees and representatives of the tribal authorities worked together in coordinating these meetings. All the plans were compiled per ward and were then consolidated by the ward councillor, ward committees and representatives of the tribal authority before they were presented them to the *kgosi* concerned (Moses Kotane Local Municipality, 2012).

According to Moyo and Madlopha (2016:104), ward-based planning is a process of development planning rooted and promoted at a ward level. This process involves

the active involvement of all the stakeholders in a ward and is not only limited to ward committees. The municipality might initiate this process, but it does not necessarily have to be the sole role player of the process. Stakeholders in a ward, such as NGOs with the capacity to provide relevant advice, can assist in facilitating some of the processes. In that case, the municipality can assist the process by providing community halls that can be used as venues for meetings. Ward-based planning is intended to find ward-generated solutions. Consequently, all stakeholders contribute their wealth of knowledge in identifying and analysing the development requirements of their ward. Information on the availability of resources is collected. Stakeholders seek viable and sustainable solutions. They work together to find resources to implement the proposed solutions. During this phase, information is collected on the existing conditions within a ward. The identified problems are assessed and prioritised in terms of what is considered a priority and what needs to be done first.

Section 24 of the *Municipal Systems Act* (RSA, 2000b) indicates that areas of cooperation between the municipalities and traditional councils include IDPs as explained earlier. The Act further provides that planning can no longer be regarded as an activity separate from traditional leaders – their involvement should be considered an integral part of the process, which must gain equal commitment from traditional leaders and councillors to deliver services and prioritize development. It is imperative that municipalities and traditional leaders should forge a meaningful partnership to promote the provision of basic services to their local communities in an efficient, effective, economic and transparent way. It is on this basis that the Bakgatla-Ba-Kgafela Traditional Authority partnered with BPDM for the construction of a 15 megalitre reservoir in Moruleng to supply water to the 32 villages which constitute the 16 wards. The project was completed in 2012, and provided 65 employment opportunities to the citizens of the Bakgatla-Ba-Kgafela Traditional Authority during the construction stage. Both the Bakgatla-Ba-Kgafela Traditional Authority and the BPDM funded the project, in line with the signed service level agreement, which provided a detailed explanation on the implementation of the project (BPDM, 2012a:38).

Table 6.33 (above) indicates that the Moretele Local Municipality has 66 villages, controlled by four traditional leaders. This constitutes 25.5% of the total number of villages in the BPDM. The Moretele Local Municipality has 28 wards. Of the wards

in the Moretele Local Municipality, 26 are located in the 66 villages mentioned above. It can be deduced that 92.9% of the wards in the Moretele Local Municipality are located in rural areas controlled by traditional authorities. It was noted during the research that only two wards, which constitute only 6.1%, of the total wards in the Moretele Local Municipality, are located on communal land. Only 14 (50%) of the wards in the Moretele Local Municipality are located under one traditional authority, the Bakgatla-Ba-Mosetlha Traditional Authority, which has 28 villages. It can be deduced that the Moretele Local Municipality is a rural municipality, because 92.9% of the wards are located in rural villages.

Table 6.33 also illustrates that none of the wards in the Kgetleng Rivier Local Municipality are controlled by a traditional authority. Table 6.33 shows that the Rustenburg and Madibeng Local Municipalities have 43 villages each. The 43 villages in the Rustenburg Local Municipality constitute 17 wards; in the Madibeng Local Municipality, the 43 villages constitute 22 wards. In the BPDM, Royal Bafokeng owns large portions of land, on which 98% of the world's platinum is mined. They have access to relatively large funding opportunities from royalties. Although it is located in the Rustenburg Local Municipality, Royal Bafokeng delivers a variety of municipal services to people living in its area of jurisdiction. This could have an effect on this municipality's capacity to compile an IDP.

Traditional leaders may attend meetings held by the municipal councils within their areas of jurisdiction, but their actual attendance is very poor, according to the *Annual Report* of the BPDM (2015). They may not vote and can only speak if invited to do so by the Speaker of the council – this situation seems to be untenable: traditional leaders argue that they can make no meaningful contribution and therefore prefer not to attend council meetings.

Traditional leaders can play a significant role in the identification of community needs and facilitation of the involvement of the traditional community in the development and amendment of the IDP of the BPDM and its constituent local municipalities in terms of sections 4(1)(c) and (d) of the *Traditional Leadership and Governance Framework Act* (RSA, 2003b). Before a municipal council makes a decision on any matter directly affecting the area of a traditional authority, the council is supposed to provide an opportunity to the traditional leader to express a view on the matter. Tables 6.34 to 6.37 list projects in which the traditional leaders



in the BPDM, worked together with the residents, ward councillors and ward committees, to identify the needs of communities. These projects are located in five constituent local municipalities of the BPDM. It can be deduced that cooperation between a municipality and traditional leaders can bring maximum benefits to the local population.

**Table 6.35: Water projects implemented by the BPDM in the 2011/12 financial year**

Project Name	Budget	Local municipality	No of beneficiaries	Employment
Bapong water supply	R5.5m	Moses Kotane	960 households	20
Water meter provision in Maubane	R5m	Moretele	1486 households	28
Communal standpipes provision in Skirlik	R10.5m	Moretele	350 households	35
Madikwe bulk water reticulation	R8m	Moses Kotane	500 households	24
Borolelo Ext 4 water reticulation	R8.7m	Kgetleng Rivier	820 households	30
Pella Water Works augmentation	R3m	Moses Kotane	2100 households	8
Construction of 15 megalitre reservoir in Moruleng	R11.8M	Moses Kotane	2000 households	20

Source: Adapted from BPDM, (2016c:20)

**Table 6.36: Projects implemented by the BPDM in the 2011/12 financial year**

Project Name	Budget	Local Municipality	Number of beneficiaries	Employment
Construction of Koster Fire Station	R7.8m	Kgetleng Rivier	Entire municipality	32
Mmakau Sports Facility (multi year project)	R8m	Madibeng	1000 households	30
Upgrading of Swartruggens Sewer Treatment works	R22.6M	Kgetleng Rivier	2500 households	27
Expanded Public Works Programme	R1.859M	Moses Kotane & Madibeng	110 households	110

Source: Adapted from BPDM (2016c:2)

**Table 6.37: Projects implemented by the BPDM in the 2012/13 financial year**

Project Name	Budget	Local Municipality	Number of beneficiaries	Employment
Borolelo Water Reticulation	R3.6m	Kgetleng Rivier	820 households	30
Water meter provision in Maubane (Ph2)	R4m	Moretele	1486 households	24
Communal standpipes provision in Skirlik	R1.6m	Moretele	200 households	32
Madikwe Bulk Water Reticulation	R1.44m	Moses Kotane	500 households	20
Borolelo Sewer Reticulation (Phase 1)	R7m	Kgetleng Rivier	250 households	25
Upgrading of Mmakau Sports facility(Phase 1)	R7m	Madibeng	1000 households	28

Source: Adapted from BPDM (2016c:25)

**Table 6.38: Projects implemented by the BPDM in the 2013/14 financial year**

Project Name	Budget	Local Municipality	No of Beneficiaries	Employment
Tweelaagte Water Supply	R6.5m	Moses Kotane	150 households	21
2.5 megalitre reservoir in Swartruggens	R3.2m	Kgetleng Rivier	1000 households	15
Makapanstad & Mathibestad Boreholes	R2.8m	Moretele	13 villages	5
Lethlabile elevated reservoir	R3m	Madibeng	500 households	10
Borolelo Sewer Reticulation (Phase 2)	R6m	Kgetleng Rivier	217 households	30
Upgrading of Mmakau sports facility (Phase 2)	R5.5m	Madibeng	1000 households	32
Roads Programme Upgrading (Mabaalstad)	R7m	Moses Kotane	150 households	20
Expanded Public Works Programme (EPWP)	R1m	Madibeng Rustenburg Moretele	130 people employed	130

Source: Adapted from BPDM (2016c:26)

## 6.9 BPDM WARD COMMITTEE REPORTS

The BPDM's local municipalities have promulgated several by-laws on ward committees, aimed at clarifying the roles that ward committees already play. These by-laws highlight, *inter alia*, the powers, functions, duties and obligations of ward committees within a municipality. Thus, a draft by-law confirms a municipality's intent to establish a policy that provides direction in order to enhance active public participation on a ward basis. Ward committees operate as community structures under the chair of a ward councillor. The primary role of ward committees is facilitating communication between residents and appropriate governing structures, and encouraging public participation, as explained in the case of Ward 19 in the Madibeng Local Municipality.

Section 3 of the *Municipal Systems Act* (RSA, 2000b) provides that organised local government in the form of the South African Local Government Association (SALGA) must develop common approaches for local government as a distinct sphere of government, and must enhance co-operation, mutual assistance and sharing of resources among municipalities. It states that the South African Local

Government Association must find solutions for problems relating to local government generally, and facilitate compliance with the principles of co-operative government and intergovernmental relations.

In the case of the BPDM, the District Intergovernmental Relations (IGR) are constituted in terms of section 25 of the *Intergovernmental Relations Framework Act, 13 of 2005* (RSA, 2005c). The purpose of District Intergovernmental Relations is to promote and facilitate intergovernmental relations between the district municipality and local municipalities in the district. District Intergovernmental Relations is composed of the district mayor, local municipalities' mayors and municipal managers. A district mayor is the convenor and the chairperson of the forum; the municipal manager performs a secretariat role.

The South African Local Government Association is invited to all District Intergovernmental Relations meetings and there is a standing item on the agenda in which they are expected to make presentations on various issues affecting municipalities. *Inter alia*, the South African Local Government Association presented on the composition and functioning of the newly established MPAC in the BPDM in March 2012, addressing issues raised by the AGSA during the auditing process, public participation in municipalities, particularly the functioning of ward committees, and many other issues affecting municipalities. The resolutions taken during Intergovernmental Relations meetings are binding to all the constituent local municipalities in the district. With regard to the functioning of the ward committees, the District Intergovernmental Relations took a resolution after the South African Local Government Association's presentation that ward committee reports must form part of agenda items discussed in local municipalities' councils every quarter, according to the *Annual Report* for 2013/14 of the BPDM (2014a:65).

**Table 6.39: Total number of ward committee reports submitted to councils in local municipalities of the BPDM, 2012/13, 2013/14 and 2014/15**

Financial year	2012/13	2013/14	2014/15	Average % in 3 years
Moretele	2	2	3	58%
Madibeng	2	2	3	58%
Rustenburg	1	2	3	50%
Kgetleng Rivier	1	2	3	50%
Moses Kotane	2	3	4	75%

Note: The financial year of municipalities is from 1 July – 30 June.

The functioning of the District Intergovernmental Relations and the implementation of the resolutions is illustrated in Table 6.38. It shows that all constituent local municipalities of the BPDM have submitted ward committee reports to councils regularly. The Moses Kotane Local Municipality performed better than other local municipalities, with an average attendance of 75%, followed by the Moretele and Madibeng Local Municipalities, with an average of 58% each. The Rustenburg and Kgetleng Rivier Local Municipalities submitted the least reports to their councils, with an average of 50% each. The table shows an improvement in the submission of ward committee reports to council as a common trend in all municipalities. The Rustenburg and Kgetleng Rivier Local Municipalities submitted only one ward committee report to its council in the 2012/13 financial year, but two and three ward committee reports respectively in the 2013/14 and 2014/15 financial years.

The ward committee reports acknowledge the functionality of ward committees in each ward. The Madibeng Local Municipality leads with 88% in addressing challenges raised by communities through ward committees, as indicated in Annexure A. It is followed by the Moses Kotane and Rustenburg Local Municipalities, with 82% and 70% respectively. The Moretele and Kgetleng Rivier Local Municipalities have raised financial impediments as the reason why they find it difficult to address all issues raised by communities, and they follow with 62% and 61% respectively. It takes a maximum period of three months to address challenges raised by ward committees in the three local municipalities, except in the Moretele and Kgetleng Rivier Local Municipalities. The five reports on the functionality of ward committees, one from each constituent local municipality of the BPDM, are attached as Annexure A for ease of reference.

The current local government legislation does not compel municipalities to table ward committee reports in the municipal council. The *Constitution* (RSA, 1996a), the *Municipal Structures Act* (RSA, 1998c), the *Municipal Systems Act* (RSA, 2000b) and the *MFMA* (RSA, 2003a) compel municipalities to consult the local community in matters of local government, but none of these Acts state whether public participation reports must be submitted to council monthly, quarterly or annually. These Acts all position ward committees centrally, with regard to the coordination of public participation, but leave the reporting system to the discretion of the individual municipality. This may be manipulated by municipal officials. The Acts compel municipal officials to submit a report on the involvement of residents

(public participation) on municipal matters to council and they are expected to attach attendance registers of residents as proof of attendance. Items include adopting the IDP, budget, and increases in rates and taxes.

Tables 6.34 to 6.37 (above) illustrate projects in which ward committees played a coordinating role and were included in the IDPs of the BPDM and its constituent local municipalities. The projects have been completed and provided employment to residents (see Tables 6.33 to 6.37). Based on the ward committee reports of the BPDM's constituent local municipalities, it can be deduced that ward committees

- educate residents;
- promote public participation and local democracy;
- serve as agents of change and transformation; and
- serve as the watchdogs of the municipal council and municipal administration.

The quarterly ward committee reports to the municipal council in each BPDM local municipality are standardised., containing the name of a ward councillor per ward, the total number of ward committee members (some may resign) per ward, vacancies, ward committee and residents meetings. Ward committees have various functions and deal with a range of issues, including issues beyond a municipality's structured responsibilities in terms of Schedules 4 and 5 of the *Constitution* (RSA, 1996a) – housing, education and unemployment. Ward committees in the BPDM receive their mandate from the communities they represent and convey this directly to the municipal council through the Office of the Speaker.

The main challenges affecting residents in all five constituent local municipalities of the BPDM are classified as principal and subordinate issues.

### **6.9.1 Principal issues**

Issues regularly discussed by ward committees are called principal issues. These are issues within the delegated powers of the ward committees. They include

- water and sanitation;
- electricity, including illegal electricity connections;
- poor service at clinics/ primary health care;
- infrastructure maintenance and development, crime, sport facilities; and
- refuse removal and environmental management.

### **6.9.2 Subordinate issues**

Subordinate issues are matters beyond the control of ward committees and municipalities, even though local residents may regard ward committees as agents of municipal government. These issues include

- unemployment;
- education;
- eradicating the housing backlog; and
- poverty alleviation.

Municipalities attempt to address these identified issues. However, restrictions such as a lack of resources may hamper them. Through co-operative governance, the execution of the Expanded Public Works Programme aims to improve the livelihoods of people by ensuring sustainability through the provision of skills. Local residents need to be capacitated by means of opportunities for employment in the four main sectors – infrastructure, environmental, social and economic – as indicated in Tables 6.34 to 6.37. Through ward committees, the Expanded Public Works Programme has been able to identify infrastructure needs in municipalities. Thus, an Expanded Public Works Programme provides employment and contributes to skills development, which improves citizens' living standards because they earn a salary at least for the duration of the contract.

### **6.10 RESEARCH FINDINGS**

The research found that ward committees are a prominent channel for communication through which communities inform municipal councils about their needs, expectations and problems. The current structure and form of ward committees in South Africa are dysfunctional (Naidu, 2008:86). Furthermore, Naidu (2008:86) believes that ward committees have weakened the role that participation plays in the municipal structure. This failure could be ascribed to reasons such as

- the lack of credibility of ward committees to influence decision-making;
- a lack of commitment by ward committee members in their endeavours, especially where members perceive ward committees as a mere stepping stone towards realising their political ambitions; and
- power relations (especially political interference) that undermine the role of ward committees – a ward councillor is a politically elected representative, and by

default he or she is chairperson of a ward committee that has the potential to promote partisan interests.

The current research shows that the perceptions of Naidu (2008) and other scholars regarding the functionality of ward committees is inaccurate. The projects listed in Tables 6.34 to 6.37 indicate a success story regarding the functioning of ward committees. The projects shown in those tables originated from public participation processes coordinated by ward committees, in consultation with ward councillors, residents and traditional leaders. These projects were completed on time, used fewer resources and were carried out efficiently. The research findings do however bear out Naidu's argument that becoming a ward committee member increases a member's chances of becoming elected councillor. In the case of the Moretele Local Municipality, a Ward 18 councillor served as a member of a ward committee for the 2006 to 2011 municipal term. He was then elected a ward councillor in the 2011 local government elections.

All wards have access to venues which they can use to hold their ward committee meetings. All ward committees are involved in the IDP, budgeting processes, the determination of property rates, local economic development meetings, the presentation of the AGSA's report on the performance of the municipality and the municipality's annual report processes.

The research has shown that

- traditional leaders play a significant role in planning in wards where they own land – 61.2% (85 wards) of land in the BPDM is owned by traditional councils;
- the BPDM ward committees are catalysts in planning,
- becoming a ward committee member increases a person's chances of getting permanent employment;
- service delivery protests are more frequent in townships than in rural villages, due to the respect that residents in rural areas accord their traditional leaders;
- in townships, residents receive proof of residence from a ward councillor, but in rural areas they receive the same document from the traditional council; and
- there is lack understanding of the powers residents have to measure, monitor and evaluate the performance of municipalities.



## 6.11 CHALLENGES FACING THE BPDM WARD COMMITTEES

In terms of their composition, most ward committees comply with the *Municipal Structures Act* (RSA, 1998c). Section 73 of this Act provides that when ward committees are formed, gender representation and diversity of interests should be considered. The aim is to ensure that the various sectors in a ward are represented. Depending on a particular ward, the sectors present in that ward should determine the creation of the portfolios in those wards. The challenges ward committees face can hamper service delivery in municipalities. Ward committees serve as structural communication mechanisms with the municipality. This means that ward committees give community members a platform to raise government-related issues within their jurisdictional boundaries (Reddy & Sikhakane, 2008:680).

Ward committees in the BPDM perform various municipality-related functions. They act as a conduit between the people and governing institutions. More specifically, these area-based committees assist their communities by directing their queries to relevant stakeholders, through the Office of the Speaker. This was highlighted at a particular ward committee meeting, where the issue of the BPDM's awarding a mayoral bursary to a councillor's daughter was discussed. The ward committee argued that it was their obligation to report the matter to the Madibeng Local Municipality, through the Office of the Speaker. When the ward committee did not receive a satisfactory response, they approached the Public Protector for advice on the matter. The Public Protector then investigated the matter as requested by residents.

The effectiveness of the ward committees depends on the usefulness of their instituted portfolios. For example, if a specific portfolio in the ward underperforms, it has a negative impact on the success of the ward committee as a whole. The rationale for instituting portfolios within the committees is based on the notion that effectiveness and efficiency are achieved only through expert knowledge and division of labour. At every ward committee meeting, every member who is responsible for a portfolio is expected to present a report and provide feedback, if the need arises. However, members do not show equal involvement, as the researcher as participant-observer noted. Thus, not all ward committee members show the same passion, enthusiasm and zeal towards ward committee activities. Their engagement may depend on the issues discussed, as the eagerness

regarding or interest in a particular issue differs from one member to the next. Challenges include illiteracy, ignorance of municipal government and the administration system, and local residents who show a lack of interest in municipal affairs.

A debilitating sense of inferiority tends to prevail where there is illiteracy, particularly in the Moretele and Moses Kotane Local Municipalities, which are rural municipalities. Generally, people are reluctant to participate in municipal affairs, arguing that they cannot make any worthwhile contribution (Fourie, 2001:222). A lack of resident participation could lead to an ineffective participatory structure. As a result, communities might be unaware of deviations from IDPs, which could lead to unacceptable governing and administrative actions by a municipality.

Ward committees in the BPDM municipalities receive structural support from the Office of the Speaker. Through this support, ward committees are able to organise themselves as the liaison mechanisms responsible for a particular cluster and to make the necessary logistical arrangements to ensure that they function effectively. Specific officials in the Office of the Speaker are assigned secretarial functions. These officials have to record, manage and reproduce any administrative documents, such as the minutes of the meetings in each ward within a particular zone. The challenges ward committees face can potentially hamper the public participation process that should benefit the communities. The key challenges are discussed below.

#### **6.11.1 Lack of citizen involvement**

Ward committees were established to promote local democracy by enhancing citizen in local government matters. Hence, the BPDM ward committees have to increase involvement and participation to improve decision-making in this municipality. Poor attendance at community meetings, as demonstrated by attendance registers, limit the potential contribution that ward committees can make to the municipality's effectiveness. For example, when a public meeting is called in the informal settlements of Marikana to address issues such as crime prevention or substance abuse, attendance is often very poor. However, when the agenda is housing or unemployment, venues are often filled to capacity. This finding supports the contention that different wards have different needs. Thus a one-size-fits-all

approach where a municipal official or a councillor single-handedly compiles meeting agendas may not address the true needs of a ward, resulting in poor attendance. To encourage participatory governance, local municipalities should provide training to the residents on municipal issues, such as the functions and powers of municipalities.

### **6.11.2 Political interference**

Traces of political interference were found in some BPDM wards. Some prominent political individuals unaffiliated to the Council tend to become involved in ward committee matters. It seems that some ward committee members agree to participate in ward committees in the hope of being remunerated – this was the case in the Moses Kotane and Moretele Local Municipalities.

Some members appear to exploit the ward committee platform to settle party-political scores. Power relations are subject to possible manipulation, which affects ward committees negatively. A municipal councillor may even use a ward committee only in token compliance with the legislation. In most ANC-led wards, the branch political head becomes a ward councillor, who is then the *ex officio* chairperson of the ward committee. This often creates confusion regarding responsibilities. In such cases, the ward committee may become a mere extension of the ruling political party in those wards. Ward committees are then composed of members or supporters of the ruling party in the ward. In such cases, ward committees are used as a platform to increase political leaders' status.

### **6.11.3 Lack of a structured / co-ordinated plan of action**

Organisational studies have proven that organisations require, *inter alia*, a well-co-ordinated and structured plan of action for them to function effectively (Robbins & Coulter 2003:232). A plan of action directs the organisation towards successfully completing or achieving its goals. It is thus imperative for each BPDM ward committee to be able to set its goals and translate them into a plan of action for members to implement. To ensure an effective plan of action, a ward committee should include all stakeholders in its planning.

## **6.12 CONCLUSION**

Taking note of the socio-political environment within which government functions in South Africa, it is important to emphasise that residents should be educated with regard to when, how and why they should participate in municipal affairs. Failure to do so often results in residents' lack of participation, which has a negative impact on a municipality's decision-making processes. Consequently, the ineffectiveness of such a participatory structure would have a direct negative impact on the democratic character of local government, and on the Republic of South Africa in general. Ward committees could also be assigned more powers to make decisions for their respective wards.

Ward committees need to be empowered to act as liaisons and community development workers should be assigned specific functions to assist ward committees. It is important for the municipality to formalise processes for the functioning of ward committees. If there is a legitimate ward committee, it is inevitable that community members will subsequently participate in local government matters. Their participation can help municipal councils to meet their respective communities' expectations.

Ward committees are relevant stakeholders in bridging the communication gap between municipal councils and the communities they govern. Such committees provide a platform for engagement on the issues that concern local government and its processes. Notably, ward committees are in a better position to represent the true views of their communities. Therefore, the functioning of ward committees should be a major focus area for every municipality entitled to establish them.

## CHAPTER 7: CONCLUSION

### 7.1 CONCLUSIONS

The purpose of this study was to determine whether ward-based planning could facilitate effective and efficient service delivery in North West district municipalities.

Chapter 1 introduced this exploratory study. Sections 151(1) and 152(2) of the *Constitution* (RSA, 1996a) describe the local sphere of government in the South African context, as codified. Its mandate is clarified and outlined in the *Municipal Structures Act* (RSA, 1998c). Services that fall within the ambit of the sphere of local government and its constituent municipalities were identified and elucidated; these fall under Part B of Schedule 5 (provincial competence) of the *Constitution* (RSA, 1996a). Water, sanitation, electricity, waste collection/removal have been identified as the minimum basic services for the purposes of the study.

The chapter provided definitions of key concepts, an overview and contextualisation of the topic, a theoretical framework and the rationale for the research. The chapter clarified the problem statement, research objectives and questions, and determined the sequence of the research processes and research methodology. The geographical locations were identified, and the data collection, benefits, assumptions and limitations of the study were explained in detail in Chapter 1.

It was explained that service delivery in North West's municipalities is an important requirement for individuals, families, communities and a prerequisite for sustainable development. A number of service delivery protests have occurred in the province, which includes areas around Mothutlung, Majakaneng and Hebron in the Madibeng Local Municipality in the BPDM. In an effort to promote sustainable municipal service, the focus of the South African government has increasingly shifted to service delivery as the most critical issue confronting communities today. The South African National Department of Cooperative Governance and Traditional Affairs (COGTA) pursues value-for-money service delivery in all municipalities and demands that they be accountable to the citizens for their stewardship. The ultimate goal of the South African public service is to provide services to all South Africans

efficiently and effectively by using public participation in the development of plans to promote quality services.

This study analysed how planning can be integrated into local government and administration by obtaining community participation in district municipalities in North West. The research identified and assessed weaknesses in IDP processes, municipal financial performance drivers and community participation with the purpose of enhancing the provincial government's chances of achieving its goal of improving the quality of life of all citizens in the province. A new framework is proposed for planning in local government to augment existing planning mechanisms. This new framework could contribute to greater effectiveness of municipal government and administration. A qualitative research methodology was followed to analyse alternative ways and means of improving the quality of municipal service in North West. It was argued that the ultimate goal of a ward-based planning system in government is based on the principle of improving service delivery performance.

The study has identified several challenges which are faced by district municipalities and which impede the provision of basic service delivery particularly in those districts that have mining belt areas, like the BPDM. It also analysed IDP and the current status of service delivery in North West's district municipalities. The study recommends a planning framework for South African municipalities that would improve service delivery, with maximum public participation, which could reduce the number of service delivery protests. A different approach to planning was considered justified, because the number of service delivery protests is increasing. The study demonstrates that ward-based planning could improve service delivery performance.

Data were collected from relevant books, journals, official reports, conference proceedings, published articles, government policy documents, speeches, newsletters and newspapers. Methodological, participant observer and interdisciplinary triangulation were applied during data collection and analysis. To offset the risks of using personal experience, the researcher adopted the role of participant observer. Based on existing theories and historical research, a new model was developed to explain the phenomenon of improving service delivery

performance through a ward-based planning system. The objective of the study was thus reached.

Chapter 2 was devoted to the contextualization of public administration both as a subject and as an activity. It focused on historical events and Public Administration theories, and the impact thereof on management and the foundations of public financial management. An analysis of theoretical constructs in Public Administration emphasised the significance of different schools of administrative thought. The functions of public administration highlighted the relationship between politics and administration, with specific reference to policy-making. The chapter concluded with the functions of public administration, which are policy-making, financial administration, human resources, organisation, methods and procedures and control, with reference to their application in local government administration. The relationship between public administration and public management was clarified. Trends in Public Administration were analysed and key concepts were also explained. The objective of the chapter was to locate this study of ward-based planning in the discipline of Public Administration and Management.

Arguments in the chapter identified ward-based planning as a policy-making function to assist in a municipality. The empirical evidence revealed that ward-based planning can also serve as an *ex ante* control measure, because it enables committees, traditional leaders and residents to measure, monitor and evaluate the performance of a municipality. The residents can use ward-based planning to conduct regular performance monitoring and evaluation of programmes and projects in the municipal IDPs and Service Delivery and Budget Implementation Plans (SDBIPs), by ensuring that there is effective and efficient delivery of services, as determined in section 72(1) of the *MFMA* (RSA, 2003a).

Chapter 2 proved that the outcomes of ward-based planning could contribute to and have a direct effect on other public administration-related aspects that are also significant in the management of a municipality, in particular, budgeting (finance), policy implementation, governance, compliance and risk management.

Chapter 3 provided a descriptive and comparative study of the units, organs and processes of local government in four countries (Britain, Uganda, Nigeria and Botswana). The justification for the selection of these countries was that the Republic of South Africa was a British colony, and its form of government was

influenced by British patterns; and Uganda, Nigeria and Botswana were also linked to Britain's colonial rule. There was a firm view that a rational system of local government is indispensable to the well-being of a country, and that only when people are co-participants in shaping their environment will it enable people to live the life to which they aspire. An account was provided of laws pertaining to the structure, tasks, functioning and control of local government. The United Nations Development Programme (cited in Gibney, 2009) was quoted, as it describes development as giving people more choices. The objective of this chapter was to track the relevant development of local government administration historically, in as far as it has a bearing on the South African system.

The research findings on these four countries indicated that Britain had a significant effect on the development of local government in all African countries which were her colonies. Local government is subordinate and derives its existence and authority from law enacted by a higher level or sphere of government. The legal framework and structure of interactions between the three spheres of government determine the degree of autonomy that local government enjoys. Local government is the most suitable institution to facilitate efficient and effective service delivery at grassroots level, but the third tier or sphere of government lacks the financial and human capacity to deliver on all the statutory and shared responsibilities assigned to it. In the African countries included in the study, local governments make a minimal input into the decisions on resource allocations at the federal state or provincial levels.

Chapter 3 also concentrated on the role and functions of government with specific reference to the local sphere of government. The role of government as a facilitator for administration of matters related to this level or sphere was highlighted. The origins of development administration were discussed, with specific reference to the administration of underdevelopment and promoting administrative development.

Chapter 4 discussed local government during imperialism and apartheid in South Africa, focusing particularly on the origins of planning. The objective was also to trace the origin of public participation. This chapter provided a brief introduction to the history of, as well as the legal and policy framework for, local government in South Africa. It discussed the transformation of local government from a racially configured, unacceptable arm of the apartheid government into a system designed



to produce developmentally oriented municipalities. Chapter 4 discussed the progress made by South African municipalities towards realising the vision of developmental local government. The chapter shows that municipalities embarked on the extension of infrastructure and development, whilst absorbing fundamental changes to their internal governance and managerial arrangements, financial management systems and intergovernmental responsibilities. It demonstrated that the local government system offers opportunities for the realisation of improved quality of life for all citizens affected by services provided by municipalities.

The chapter shows that local government has not only survived fundamental restructuring, but has also made progress towards extending service delivery and development to marginalised communities. It was argued that local government has emerged from being an institution that was compliant, racist and unacceptable to an institution with democratically elected leaders, constitutional status and a developmental agenda.

The aim of Chapter 4 was twofold. Firstly, it provided a brief introduction to the recent history of, as well as the legal and policy framework for, local government in South Africa. Secondly, it examined deficiencies in the design and functioning of the system of local government, focusing on the institutional and policy framework. The areas of concern highlighted in this chapter are located in the practice of internal municipal government and administration, the functionality of current intergovernmental arrangements with regard to district municipalities, and the feasibility of an intergovernmental planning framework.

Chapter 5 discussed public participation. The purpose of this chapter was to conceptualise the importance of public participation and how it is defined in the context of community participation, involvement and decision-making. The literature consulted indicates that public participation is a concept that can refer to any process in the relationship between those who govern and those who are governed. As a result, the chapter highlighted the importance of using a combination of participatory democratic models, to gain maximum public participation in the affairs of a municipality. A conceptual framework of public participation was engaged in to investigate the role of the community in participation processes.

The chapter reviewed the constitutional objectives that specify the necessity for public participation. Additional legislative prescriptions that give effect to these

objectives were reviewed. The chapter showed that the establishment of the new democratic South Africa in 1994 was met with enthusiasm and high expectations by the majority of South Africans, especially those who were disadvantaged by colonial and apartheid systems. To the black communities of South Africa, the emergence of a new political dispensation promised the elimination of developmental challenges such as poverty and poor service delivery. This meant that they expected development processes to incorporate the views of previously disadvantaged communities, through various democratic participatory mechanisms.

The three-phase transition of local government from 1993 to 2000 was inferred with reference to *Constitution* (RSA, 1996a), the *White Paper on Local Government* (RSA, 1998a), the *Local Government: Municipal Demarcations Act, 27 of 1998* (RSA, 1998b), the *Local Government: Municipal Structures Act, 117 of 1998* (RSA, 1998c), the *Local Government: Municipal Systems Act, 32 of 2000* (RSA, 2000b), the *Local Government: Municipal Finance Management Act, 56 of 2003 (MFMA)* (RSA, 2003a), the *Local Government: Municipal Property Rates Act, 6 of 2004* (RSA, 2004b) and the *National Policy Framework for Public Participation* (RSA, 2007c).

This chapter was descriptive, as it explained the concepts of public participation and engagement, and highlighted measures undertaken by South Africa to ensure that participation becomes a reality. The chapter indicated the advantages, disadvantages and challenges of citizen participation and engagement. The chapter also explained that municipalities, for example, became legally obliged to involve community organisations in formulating budgets and planning developmental priorities, through their IDPs. In addition to these initiatives, ward committees came to be conceived as a community participatory structure in the South African governance system. It was explained that ward committee system could enhance public participation in municipalities, in the context of the history of public participation within South Africa.

The rationale for this research was to contribute knowledge on how a ward-based planning system can enhance service delivery through public participation in South African municipalities. The rationale touches on aspects such as the role and purpose, characteristics, benefits and challenges of public participation. The chapter focused on the presentation of the theoretical framework adopted in the

thesis to interrogate different meanings of public participation and how these meanings could assist in analysing the role that a ward committee system could play in enhancing service delivery through public participation in the BPDM's constituent local municipalities in North West in South Africa, as a case study.

Chapter 6 analysed alternative ways and means to improve the quality of municipal service delivery in North West. This chapter analysed the composition and duties of ward committees, as well as their functionality. This study identified the participatory role that the community should play, through the facilitation of ward committees. Chapter 6 suggests that, in order to strengthen democracy, the South African government established the ward committee system in December 2000. The intention was to improve service delivery by bridging the gap between the expectations of individual communities and formally structured municipal institutions. Ward committees enhance participatory government by collectively organising communities in line with ward jurisdiction. This chapter explored whether ward committees are effective mechanisms to promote public participation to establish whether ward-based planning can facilitate effective and efficient municipal service delivery.

The impetus for conducting this study was to analyse the current system of ward committees in municipalities, and in the BPDM in particular, with the objective of establishing whether they are effective in terms of public participation. The key question of the research project was to establish whether ward-based planning can facilitate effective and efficient municipal service delivery.

## **7.2 RECOMMENDATIONS**

A number of recommendations can be made on the basis of the findings of the study:

- Capacity-building should be undertaken and support for ward committees and resource allocation should be made available. The need for skills development of ward committee members and support should be prioritised.
- Ward committees should have work programmes that are linked to the portfolio committees to be able to make contribution to the services provided by municipalities.

- Active participation by communities in matters of local government should be encouraged. This includes matters such as capacity-building programmes, ward service delivery audits, needs analysis, enhancing participation, ensuring customer-care principles and strengthening relations with community-based organisations.
- A communication protocol should be established between ward committees, portfolio committees, and the council. Guidelines on the roles, powers and functions of ward committees should be established. In this regard, clearer terms of reference for ward committees need to be identified.
- Emphasis should be placed on the need for allocating additional powers and functions to ward committee.
- Performance evaluation criteria, monitoring and benchmarks for ward committees are proposed. In this regard, important needs such as ward committee meetings, accountability, developing terms of reference, a code of conduct for ward committees, revenue collection and the empowerment of ward committee members are highlighted.
- Development of an integrated participation strategy is mooted. All ward committees should develop integrated plans of action, which should be in line with the municipality's IDP. Such plans of action should be approved by the council and ward committees, who should convene strategic planning sessions to consolidate their plans of action.
- Ward councillors' offices should develop effective administrative and management systems to support ward committee members. Resolutions of council should also be circulated to all ward committee members; and residents who are affected

### **7.3 AREAS OF CONSIDERATION FOR FUTURE RESEARCH**

A number of areas for future research emerge from this study:

- There is a need for research on how to revise the role of ward and proportional representative councillors to ensure that they complement each other in the management and administration of ward functions and responsibilities.
- The justification of district municipalities, particularly those that are not water services authorities, should be investigated.

- A study is needed on whether citizens who reside in rural villages under traditional leadership should pay for basic services.
- Indigent registration in local municipalities should be investigated to ensure that the necessary free basic services are provided only to poor households who are unable to afford to pay the usual rates and taxes.

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