

6149 763 28

UV - UFS

BLOEMFONTEIN

BIBLIOTEEK - LIBRARY

HIERDIE EKSEMPLAAR MAG ONDER  
GEEN OMSTANDIGHEDE UIT DIE  
BIBLIOTEEK VERWYDER WORD NIE

University Free State



34300002898173

Universiteit Vrystaat

Universiteit van die  
Vrystaat  
BLOEMFONTEIN  
17 FEB 2006  
UV SASOL BIBLIOTEK

**THE IMPACT OF LOCAL GOVERNMENT RESTRUCTURING ON THE  
FUNCTIONING OF THE KAI !GARIB LOCAL MUNICIPALITY**

by

**LYNDON MARK DU PLESSIS**

Submitted in fulfillment of the requirements for the degree

**MAGISTER IN PUBLIC MANAGEMENT**

In the Faculty of Economic and Management Sciences at the University of the  
Free State  
(Department of Public Management)

May 2005

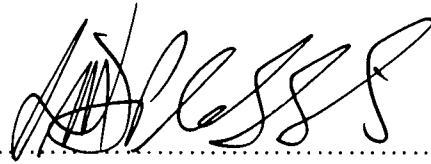
**SUPERVISOR:** Professor J.C.O. Bekker

## DECLARATION

I hereby declare that this dissertation, submitted by me, for the degree

**Magister in Public Management (M.Pub)** at the

University of the Free State, is my own work and has not previously been submitted to any other university for this or any other purpose. I furthermore cede copyright of this dissertation in favour of the University of the Free State.

A handwritten signature in black ink, appearing to read 'Lyndon Mark du Plessis', written over a horizontal dotted line.

Lyndon Mark du Plessis  
Bloemfontein, 31 May 2005

**This dissertation is dedicated to my late mother, Mercia du Plessis, who, although not physically present, has inspired me endlessly in my quest to improve myself.**

## ACKNOWLEDGEMENTS

On completion of this study I wish to express my sincere appreciation to those, who through their unwavering support, have contributed to the success of this project.

I wish to express my sincere gratitude and appreciation to Professor J.C.O. Bekker for his commitment to this study, his competent guidance and moreover his patience during the completion of this dissertation.

To all the Councillors and Officials of the Kai !Garib Local Municipality, I would like to say thank you for their participation and valuable contribution to the outcome of this study. A special word of appreciation must go to Mr. Vivian Kotzee for his continuous assistance during my interactions with the municipality.

A word of thanks also goes to my colleagues in the Department of Public Management for their continuous encouragement. In this regard I wish to thank Professor Kroukamp and Doctors Sinadane and Luvuno for their academic inputs.

To my parents, my sisters and brothers, thank you for the belief in me and the never-ending encouragement. To my father, Franklin, thank you for so positively influencing my outlook on life and all the sacrifices you have made over the years.

A special word of appreciation goes to my wife, Perlé, for her loving support and unselfish understanding during this challenging period in our lives.

Over and above everything, I thank my Heavenly Father for the ability and undeserved grace to complete this study.

**TABLE OF CONTENTS**

	<b>PAGE</b>
ACKNOWLEDGEMENTS	i
TABLE OF CONTENTS	ii
LIST OF TABLES	viii
LIST OF APPENDIXES	ix
LIST OF FIGURES	x
SUMMARY	xii
OPSOMMING	xiv
<b>CHAPTER ONE</b>	<b>1</b>
<b>INTRODUCTION</b>	
1.1. INTRODUCTION	1
1.2. MOTIVATION FOR THE STUDY	2
1.3. STATEMENT OF THE RESEARCH PROBLEM	4
1.4. OBJECTIVES OF THE STUDY	4
1.5. HYPOTHESIS OF THE STUDY	5
1.6. METHOD OF THE STUDY	6
1.7. DEMARCATION OF THE STUDY	6
1.8. SCOPE OF THE STUDY	7
1.9. REFERENCE TECHNIQUE	8

	<b>PAGE</b>
<b>CHAPTER TWO</b>	<b>9</b>
<b>HISTORICAL DEVELOPMENT OF LOCAL GOVERNMENT IN SOUTH AFRICA</b>	
2.1. INTRODUCTION	9
2.2. DEFINING LOCAL GOVERNMENT	10
2.3. LOCAL GOVERNMENT DEVELOPMENT IN SOUTH AFRICA – A HISTORICAL OVERVIEW	12
2.3.1. The Dutch-Colonial phase	13
2.3.2. The British-Colonial phase	14
2.3.2.1. The Creation of Municipal Boards	15
2.3.3. The Union phase	18
2.3.4. The Republican Phase and the Abolition of Apartheid	21
2.3.4.1. White Local Authorities	21
2.3.4.2. Coloured and Indian Management Committees	22
2.3.4.3. Black Local Authorities	23
2.4. THE TRANSITION TO DEMOCRATIC LOCAL GOVERNMENT	24
2.4.1. The new Constitutional/Political Dispensation and Local Government	26



	<b>PAGE</b>
2.5. ESTABLISHMENT OF THE KAI !GARIB LOCAL MUNICIPALITY	32
2.5.1. Constitutional Background	32
2.5.2. Geographical Implications of the Establishment of Kai !Garib	33
2.6. CONCLUSION	34
 <b>CHAPTER THREE</b>	 36
 <b>THE LEGISLATIVE FRAMEWORK FOR LOCAL GOVERNMENT RESTRUCTURING IN SOUTH AFRICA</b>	
3.1. INTRODUCTION	36
3.2. THE NATURE OF THE STATE	37
3.2.1. The Nature of a Constitution	38
3.2.2. Unitary vs Federal States	39
3.3. THE PURPOSE AND FUNCTIONS OF LEGISLATIVE INSTITUTIONS	41
3.4. THE SOUTH AFRICAN LEGISLATIVE PROCESS	44
3.5. THE LOCAL GOVERNMENT LEGISLATIVE FRAMEWORK: A MODEL FOR RESTRUCTURING	46
3.5.1. <u>The Constitution of the Republic of South Africa,</u> 1996 (Act 108 of 1996) (The Constitution)	46
3.5.2. The White Paper on Local Government	48
3.6. <u>THE LOCAL GOVERNMENT: MUNICIPAL DEMARCATION ACT,</u> 1998 (ACT 27 OF 1998) (THE DEMARCATION ACT)	51

	<b>PAGE</b>
3.7. <u>THE LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT,</u> 1998 (ACT 117 OF 1998) (THE STRUCTURES ACT)	53
3.7.1. Categories of Municipalities	53
3.7.2. Types of Municipalities	54
3.7.3. Establishment of Municipalities	54
3.7.4. Internal Systems, Structures and Office Bearers	55
3.8. <u>THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT,</u> 2000 (ACT 32 OF 2000) (THE SYSTEMS ACT)	58
3.9. <u>THE LOCAL GOVERNMENT: MUNICIPAL FINANCE</u> <u>MANAGEMENT ACT,</u> 2003 (ACT 56 OF 2003) (THE MUNICIPAL FINANCE MANAGEMENT ACT)	62
3.10. POLITICAL LEADERSHIP AND MUNICIPAL MANAGEMENT	63
3.11. CONCLUSION	64
 <b>CHAPTER FOUR</b>	 67
 <b>THE IMPORTANCE OF ORGANISING IN THE CONTEXT OF THE</b> <b>RESTRUCTURING OF KAI !GARIB</b>	
4.1. INTRODUCTION	67
4.2. CREATING ORGANISATIONAL STRUCTURES: THE RATIONALE	68
4.2.1. Structural Design	69
4.2.1.1. Macro-level of structural design	69
4.2.1.2. Micro-level of structural design	73

	<b>PAGE</b>
4.2.2. Establishing specialized work units	74
4.2.2.1. Kai !Garib: Category and Type	77
4.2.2.2. Municipal Functions	78
4.2.2.2.1. The Constitution	78
4.2.2.2.2. The Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)	82
4.2.2.3. Directorate: Finance	84
4.2.2.4. Directorate: Corporate Services	85
4.2.2.5. Directorate: Technical Services	85
4.2.3. Establishing channels of communication and coordination	87
4.2.4. Ensuring accountability	88
4.2.5. Establishing behavioural relationships	88
4.2.6. Delegation of authority	89
4.3. CONCLUSION	90
 <b>CHAPTER FIVE</b>	 92
 <b>ORGANISATIONAL CHANGE AND THE IMPACT THEREOF ON THE FUNCTIONING OF THE KAI !GARIB LOCAL MUNICIPALITY</b>	
5.1. INTRODUCTION	92
5.2. THE RESEARCH METHODOLOGY	92
5.3. QUESTION CATEGORIES AND RESPONSES	93
5.3.1. The practical realities of the restructuring process	94

	<b>PAGE</b>
5.3.2. The impact of the restructuring on basic service rendering	98
5.3.3. The Local Municipality and development	100
5.3.4. Community Participation	104
5.3.5. Cooperation with other spheres of government	107
5.3.6. Influence of restructuring on staff	109
5.3.7. Activities of Councillors	112
5.4. CONCLUSION	114
<b>CHAPTER SIX</b>	<b>117</b>
<b>CONCLUSION AND RECOMMENDATIONS</b>	
6.1. CONCLUSION	117
6.2. RECOMMENDATIONS	121
<b>BIBLIOGRAPHY</b>	<b>125</b>

**LIST OF TABLES**

	<b>PAGE</b>
<b>TABLE 1:</b> Areas comprising the Kai !Garib Local Municipality	33
<b>TABLE 2:</b> Classification of Municipal Functional Activities	76

**LIST OF APPENDIXES**

**APPENDIX A:** Notice for the establishment of the Kai !Garib Local Municipality in terms of Section 12 of the **Local Government: Municipal Structures Act, 1998** (Act 117 of 1998)

**APPENDIX B:** Questionnaire to Councillors and Officials of the Kai !Garib Local Municipality

**LIST OF FIGURES**

	<b>PAGE</b>
<b>FIGURE 1:</b> Schematic portrayal of the organisational structure of the Kai !Garib Local Municipality	74
<b>FIGURE 2:</b> Schematic portrayal of the Directorate: Finance of the Kai !Garib Local Municipality	84
<b>FIGURE 3</b> Schematic portrayal of the Directorate: Corporate Services of the Kai !Garib Local Municipality	85
<b>FIGURE 4</b> Schematic portrayal of the Directorate: Technical Services Of the Kai !Garib Local Municipality	85
<b>FIGURE 5:</b> Question Category 1 responses: Councillors	95
<b>FIGURE 6:</b> Question Category 1 responses: Officials	95
<b>FIGURE 7:</b> Question Category 2 responses: Councillors	98
<b>FIGURE 8:</b> Question Category 2 responses: Officials	99
<b>FIGURE 9:</b> Question Category 3 responses: Councillors	101
<b>FIGURE 10:</b> Question Category 3 responses: Officials	102
<b>FIGURE 11:</b> Question Category 4 responses: Councillors	105
<b>FIGURE 12:</b> Question Category 4 responses: Officials	105

	<b>PAGE</b>
<b>FIGURE 13:</b> Question Category 5 responses: Councillors	108
<b>FIGURE 14:</b> Question Category 5 responses: Officials	108
<b>FIGURE 15:</b> Question Category 6 responses: Councillors	110
<b>FIGURE 16:</b> Question Category 6 responses: Officials	111
<b>FIGURE 17:</b> Question Category 7 responses: Councillors	113
<b>FIGURE 18:</b> Question Category 7 responses: Officials	113



## SUMMARY

The ultimate aim of government is to act on behalf of the citizens they serve. In doing so, governments have to render basic services and create an environment in which citizens can initiate endeavours to improve their living conditions. Government in South Africa was transformed in 1994 and the post 1994 government has since had the challenging task of providing services to citizens and eradicating the legacy of a previous system, characterised by disparities.

As far as direct responsibility for service rendering is concerned, local government has a particularly meaningful role, because it is the sphere of government people relate to most easily. In order to be able to meet the increasing challenges of governance, local government also underwent fundamental changes. 5 December 2000 heralded a new era for local government in South Africa, with the transformation of local government leading to the number of municipalities in the country being reduced from more than 800 to 284. These changes meant that many formerly independent municipalities have amalgamated to form new municipal organisations.

Change in organisations invariably leads to conflict that, if not sufficiently dealt with can have a negative impact on the functioning of an organisation. The purpose of this study is to investigate the impact of local government restructuring on municipalities with specific reference to the Kai !Garib Local Municipality in the Northern Cape. The study focuses on aspects such as the historical development of local government in South Africa, the legislative framework for the new system of local government in the country as well as the need for efficient organisational structures as a means to deal with potential ill effects of the restructuring of local government. Finally, empirical research is conducted at the Kai ! Garib Local Municipality in order to determine the views of role players in the Municipality, and finding solutions to potential problem areas.

**KEY TERMS**

Local government; Historical development; Restructuring; Transformation;  
Legislation; Organisational structures; Local government role players.

## OPSOMMING

Die uiteindelijke doelwit van 'n regering is om namens die burgers wat dit dien op te tree. Om dit te doen moet regerings basiese dienste lewer en 'n omgewing skep waarbinne burgers inisiatiewe van stapel kan stuur om hul lewensomstandighede te verbeter. Die regering in Suid Afrika is in 1994 getransformeer en die post 1994 regering het sedertdien die uitdagende taak om dienste aan burgers te lewer en om die nalatenskap van 'n vorige bedeling wat gekenmerk is deur ongelykhede uit te wis.

In terme van direkte verantwoordelikheid vir dienslewering, het plaaslike regering 'n betekenisvolle rol, omdat dit die sfeer van regering verteenwoordig met wie mense die maklikste kan assosieer. Ten einde die toenemende uitdagings van regering na te kan kom, het plaaslike regering ook fundamentele veranderinge ondergaan. 5 Desember 2000 het 'n nuwe era vir plaaslike regering in Suid Afrika ingelui met hierdie transformasie wat gelei het tot die vermindering van die aantal munisipaliteite in die land van nagenoeg 800 tot 284. Hierdie veranderinge het in baie gevalle beteken dat voorheen onafhanklike munisipaliteite saamgevoeg is om nuwe munisipale organisasies te vorm.

Verandering in organisasies lei dikwels tot konflik wat, indien dit nie aangespreek word nie, 'n negatiewe impak op die funksionering van 'n organisasie kan hê. Die doel van hierdie studie is om die impak van die herstrukturering van plaaslike regering op munisipaliteite te ondersoek met spesifieke verwysing na die Kai !Garib Plaaslike Munisipaliteit. Die studie fokus op aspekte soos die historiese ontwikkeling van plaaslike regering in Suid Afrika, die wetlike raamwerk vir die nuwe plaaslike regeringstelsel sowel as die belangrikheid daarvan om te midde van die herstrukturering doeltreffende organisatoriese strukture te vestig om moontlike negatiewe uitwerkings van herstrukturering die hoof te bied. Ten laaste is 'n empiriese ondersoek by die Kai !Garib Plaaslike Munisipaliteit

onderneem om rolspelers by die munisipaliteit se mening rakende herstrukturering te bepaal en oplossings te vind vir potensiële probleemareas.

### **SLEUTELWOORDE**

Plaaslike regering; Historiese ontwikkeling; Herstrukturering; Transformasie; Wetgewing, Organisasoriese strukture; Plaaslike regering rolspelers.

## CHAPTER ONE

### INTRODUCTION

#### 1.1. INTRODUCTION

Local government is viewed as an important component of the overall state system. This is because of its closeness to local communities and therefore its perceived improved ability to render services in pursuit of promoting the quality of life.

Local government in South Africa has undergone fundamental changes since 1994. It could be assumed that these changes would have impacted upon the way in which services to communities are rendered.

The ensuing study will, against this background, be undertaken in order to ascertain the impact of the mentioned changes in the system of local government on service rendering at this level. Specific focus will be placed on how these changes had affected the functioning of newly created municipal structures and thus its ability to perform its service rendering duties.

Based on the above, the following issues will be addressed in this Chapter:

- Motivation for the study;
- Statement of the (research) problem;
- Objectives of the study;
- Hypothesis formulation;
- Method according to which the study will be carried out;
- Demarcation of the study;
- Scope of the study; and
- The method of referencing.

## 1.2. MOTIVATION FOR THE STUDY

The local sphere of government is enshrined in Chapter 3 of the **Constitution of the Republic of South Africa, 1996** (Act 108 of 1996) (herein after referred to as the Constitution), which deals specifically with co-operative government. According to Section 40(1) of the Constitution, the three spheres of government namely the national, provincial and local spheres must be viewed as distinctive, interdependent and interrelated (Pauw **et al.** 2002:255). This provision in the Constitution clearly calls for cooperation between the three government spheres while at the same time emphasizing the distinctive nature of each of the three.

Local government's distinctiveness is furthermore emphasised in Chapter 7 of the Constitution, where specific obligations are placed upon local government, namely:

- Providing democratic and accountable government for local communities;
- Ensuring the provision of services to communities in a sustainable manner;
- Promoting social and economic development; and
- Encouraging the involvement of communities and community organizations in the matters of local government.

The Constitution thus clearly stipulates broad guidelines in terms of the role of local government in rendering services and promoting development on its own initiative as well as through cooperation with the national and provincial spheres of government. Since the Constitution is the supreme law of the country, these constitutional provisions must be continuously pursued.

The constitutional framework for local government has led to radical changes in the local government environment and brings about various challenges to

municipalities if the ultimate goals of service rendering and development are to be met.

The most notable change to the local government environment was brought about by the restructuring of municipalities through the municipal demarcation process in terms of the **Local Government: Municipal Demarcation Act, 1998** (Act 27 of 1998). In terms of this process the number of municipalities in South Africa has been reduced from 843 to 284.

According to Smith (2000:6) the underlying rationale for the demarcation of municipalities was that:

- It provided the basis for legitimate local government entities;
- It promoted the strive towards financial soundness, stability and long-term financial viability in the local government sphere;
- It moved towards the enhancement of capacity within the municipalities to meet financial and delivery commitments; and
- It provided a basis for developmental local government.

The demarcation process was thus based on creating municipal structures that would be able to render basic service delivery functions as well as being at the forefront of economic and social development at the local sphere of government as provided for in Chapter 7 of the Constitution. However, the creation of new structures, more often than not, brings about obstacles, that, if not sufficiently dealt with, can seriously threaten the working and progress of such structures. In this regard local government is no exception.

The restructuring process poses unique challenges to municipalities. In many instances, through demarcation, established municipal structures have been amalgamated to form single municipalities. These municipalities are faced with

the task of rendering services to local communities as well as reaching out to newly acquired constituent areas in an effort to promote development.

An example of the above scenario, is the Kai !Garib Local Municipality, situated in the Northern Cape Province of South Africa. The municipality includes the former municipalities of Kakamas, Keimoes and Kenhardt as well as the former Eksteenskuil Management Board (see attached appendix indicating the mentioned region).

The area of jurisdiction of this newly formed municipality has dramatically changed, since it now comprises four separate towns as well as the rural areas between these towns that were formerly managed by the Lower Orange District Council. A more detailed discussion on the geographical location and characteristics of the area will be discussed later in the study.

Inevitably, the question of whether these new municipal structures possess the capacity needed to take on these new challenges arises. It is against this background thus imperative that the impact of the local government restructuring process on the functioning municipalities should be examined.

### **1.3. STATEMENT OF THE RESEARCH PROBLEM**

This study proposes to examine the impact of the local government restructuring process on the functioning of the Kai !Garib Local Municipality and, subsequently, the ability of the municipality to perform its key functions in the interest of the local community.

### **1.4. OBJECTIVES OF THE STUDY**

The primary objective of this study is to examine the impact of the local government restructuring process on the functioning of the Kai !Garib Local



Municipality. In order to achieve this objective, the following components need to be addressed:

- Defining restructuring and placing it within the broad transformation objectives within South African society;
- Defining local government restructuring with specific reference to the impact of the local government demarcation process;
- Examining the influence of the demarcation process on the organisational structures of municipalities with specific reference to the Kai !Garib Local Municipality;
- Gaining insight into key role-players of the Kai !Garib Local Municipality's perceptions on the impact of the restructuring process on the functioning of the municipality; and
- Based on the literature study and the responses of the participants in the empirical study, make recommendations on potentially improving the operation of the Municipality.

### **1.5. HYPOTHESIS OF THE STUDY**

The local government restructuring process has led to deficiencies in the functioning of the Kai !Garib Local Municipality to the extent that the municipality is unable to optimally perform its functions in the interest of the local community. It will furthermore be concluded in this study that, in order to eliminate the impact of the deficiencies referred to, there should be improved clarity in terms of:

- The roles and functions of the municipal council; and
- The roles and functions of the municipal council in relation to that of the appointed officials within the newly created organisational structure.

## **1.6. METHOD OF THE STUDY**

The study could be seen to be a combination of research into both the fields of Public Management and Human Resource Management due to the nature of the variables as mentioned in the hypothesis. Organisational restructuring implies an impact on the working conditions of employees and the impact of the restructuring process on human resources could therefore pose certain complexities.

In terms of describing and explaining the restructuring process, a wide range of literature on the topic will be utilized to explore the nature and extent of the process. Councillors and officials of the Kai !Garib Local Municipality will furthermore be consulted in order to ascertain the extent to which the restructuring process has affected its organisational structure and overall functioning.

Qualitative research in the form of questionnaires will be utilized to gain insight into the perceptions of senior managers and political office bearers on the impact of the restructuring on various functioning of the municipality. A description of the exact nature of the method and reasoning behind it will be provided in Chapter five of the dissertation.

## **1.7. DEMARCATION OF THE STUDY**

The study includes the period from 6 December 2000 when the new Municipality came into existence in terms of the demarcation process. Naturally, as part of the background study, the path leading up to 6 December 2000, in terms of the relevant legislation and practices will also come under discussion.

In terms of the impact of the restructuring process on the functioning of the municipality, questionnaires will be directed at the following role-players:

- Members of the municipal council (political representatives);
- Appointed officials at senior management level in the organization;
- Trade union representatives as representatives of lower level employees;

## 1.8. SCOPE OF THE STUDY

It is proposed that the study will consist of the following chapters.

Chapter one rationalises the need for research on the impact of local government restructuring on the Kai !Garib Local Municipality. A brief background and reason for the study is provided, the research problem identified, hypothesis formulated and objectives of the study are provided.

Chapter two provides information on the current realities facing local government in South Africa. As point of departure, it is imperative to provide an overview of the historical development of local government in the country and the various stages leading up to the current situation.

In Chapter three the changes in the South African local government environment will be discussed against the backdrop of changes in the legislative framework. In government, legislative guidelines form the backbone to organisational endeavours and an attempt will be made to examine the extent of legislative reform to facilitate the restructuring process. The legislative reform at the local sphere of government will furthermore be discussed against the background of the broader transformation process that has taken place since 1994. According to Cloete (1994:42), "...the apartheid value system in South Africa manifested the strongest at the local level where racial communities were separated by law in every sphere of society". This caused for great disparity in the level of services rendered to local communities based on racial differences. The

restructuring process will thus be examined against the background legislative reform in order to promote equal treatment to all residents of local authorities.

Chapter four will put into perspective the need for effective organising in order to attain organisational objectives. Focus will be placed on the fact that in order to attain organisational objectives, effective and efficient structures, linked to the overall functions of the organization have to be established. The Kai !Garib Local Municipality's organisational structure will then be discussed amidst the restructuring process in local government.

Chapter five will deal with the responses of the mentioned participants in the study to the question of the impact of the local government restructuring process on the functioning of the Kai !Garib Local Municipality. The qualitative research method and the rationale behind it will be discussed as well as the reasoning behind the various questions posed to participants. The responses of the participants will be analysed in an attempt to test the information gathered against the hypothesis of the study.

Finally in Chapter 6 various recommendations will be considered based on the findings of the study in order to propose effective means to deal with the possible obstacles presented by the local government restructuring process.

### **1.9. REFERENCE TECHNIQUE**

The Harvard method of referencing will be employed as reference technique in this study.

## **CHAPTER TWO**

### **HISTORICAL DEVELOPMENT OF LOCAL GOVERNMENT IN SOUTH AFRICA**

#### **2.1. INTRODUCTION**

It has already been stated that local government forms a significant part of the service delivery efforts of government. It will therefore be of importance to examine how at best local government can fulfill its service delivery responsibilities. However, before any consideration can be given to this aspect, it would be ideal to firstly define exactly what is meant by the term local government. To this end, the first purpose of this Chapter is to clearly define the term local government and to illustrate how it can be placed within the overall system of government. A clear definition of local government will be of invaluable assistance in highlighting the peculiar nature of this facet of government.

In addition to providing a suitable definition, it has to be noted furthermore that this dissertation will focus on the South African context specifically. It is therefore imperative for local government to be specifically defined within the South African context. The governmental dispensation has changed dramatically over the last decade. Any discussion on South Africa would therefore be incomplete without providing an overview of the changes that have taken place in the country and how it has impacted on local government in particular. Against this background, the second purpose of this Chapter will be to provide some insight into the historical development of local government in South Africa in order to understand more clearly the processes that have taken place prior to the current dispensation.

In conclusion, the establishment of the Kai !Garib Local Municipality in the Northern Cape Province of South Africa will be discussed. It is envisaged that this Municipality will be used as a case study with regard to the restructuring of local government in South Africa and it would therefore be of relevance to discuss its establishment within the context of the historical development of local government.

## **2.2. DEFINING LOCAL GOVERNMENT**

Barber (1974:1) defines local government as "...the authority to determine and to execute matters within a restricted area inside and smaller than the whole state". It is furthermore argued that the administering of services on a local basis by local bodies forms the central reason for the existence of local government.

According to Geldenhuys in Bekker (1996:16) local government could be defined as "...a decentralized representative institution with general and specific powers devolved on it in respect of an identified restricted geographical area within a state". He furthermore states that the geographical units referred to in the aforementioned definition are known as municipalities or local authorities.

A local authority as described by Cloete (1995:45) is an institution that is created to provide prescribed municipal services to inhabitants in cities or other urban areas, usually consisting of:

- A council with elected members to perform legislative functions;
- A management and/or other committees consisting of members of the council to perform governmental functions; and
- Departments, divisions or Sections staffed by officials to perform the management functions.

The Constitution, in referring to the status of municipalities, provides that:

- The local sphere of government in the Republic consists of municipalities;
- The executive and legislative authority of a municipality is vested in its municipal council;
- A municipality has the right to govern, on its own initiative, the local government affairs of its community, subject to national and provincial legislation; and
- The national and provincial government may not compromise or impede a municipality's ability to exercise its powers or perform its functions (Section 151 of the Constitution).

From the above definitions and the relevant constitutional provision, the following unique features of local government can be identified:

- Local government consists of municipalities with well defined geographical areas of jurisdiction;
- Municipalities operate within the overall framework of both national and provincial government, and in the case of South Africa, also within the framework of the Constitution;
- Municipalities have a legal mandate to provide all inhabitants living within its area of jurisdiction with basic services;
- Legislative and executive powers in municipalities are vested in councils, elected by eligible voters living in that area of jurisdiction; and
- Municipalities employ officials to conduct its daily business.

According to Kickert and Vught (1995:63) closeness to the citizen is one of the most important characteristics of local government. This notion implies a perception that because of its closeness to citizens, local government is in the best position to address the needs of citizens. From the definitions discussed

earlier in this Chapter, it should be borne in mind that all these features might not be present at all times. It has been determined that local government operates within a framework of national and provincial government legislation and on the basis of specific powers and functions allocated to local government by these spheres of government. This implies that the ability of municipalities to satisfy the needs of their inhabitants will largely depend on these specific powers and functions allocated to it. To this end, Clarke (1996:19) is of the opinion that although decentralization of powers provides a useful means of being closer to the people, any moves towards it (decentralization) need to be accompanied by clear thinking about objectives and what needs to be done to make it work.

From the above, it can thus be concluded that although decentralization of government service rendering to local government may seem to be a flawless option, this is not the case unless there is thorough planning and absolute clarity in terms of local government functions. However, before the functions of local government in a South African context can be discussed, it is necessary to ascertain precisely how it has developed from a historical perspective.

### **2.3. LOCAL GOVERNMENT DEVELOPMENT IN SOUTH AFRICA – A HISTORICAL OVERVIEW**

For the purpose of this dissertation, the historical development will be discussed within the following timeframes:

- The Dutch-Colonial phase (1652 – 1795);
- The British-Colonial phase (1795 – 1909);
- The Union phase (1909 – 1961);
- The Republican phase (1961 – 1993); and
- The Democratic phase (1993 – 2000).



### 2.3.1. The Dutch-Colonial phase

According to Eybers (1918:xviii) the Cape Colony was established in 1652. The main reason for this was that the Dutch East India Company established a Refreshment Station at the Cape to serve as a halfway base for Dutch traders on the sea route between Europe and the Far East countries (Ismail *et al.* 1997:37). This led to regulatory relations to be forged between the indigenous people and the Dutch traders. On this basis Basson and Viljoen (1988:36) suggest that the initial constitutional system of the South African state can be attributed to the Roman Dutch Law that the Dutch traders brought to the Cape.

According to Parker and Pfukani in Ismail *et al.* (1997:37), the main reasons for the establishment of the Refreshment Station were for the officials of the Dutch East India Company to:

- Grow vegetables in order to supply passing ships with fresh food;
- Foster friendly relations with the indigenous Khoi-Khoi people in order to obtain sheep and cattle; and
- Build a fort to house the garrison and to serve as a hospital for sick sailors.

Governing at this initial stage of South Africa's establishment was conducted by officials of the Dutch East India Company who, according to Eybers (1918:xviii), "followed the methods and procedure that were universally adopted by the officers on board a fleet or vessel sailing between Holland and the East". This implies that the company, in its trading endeavours between Holland and the East, had established similar posts in other parts of the world, and as a result attempted to create a uniform method of governing these posts. These officials acted both as a governing (decision makers on relevant matters) and judicial (decision makers in cases of conflict) body, resulting in the officials becoming a class distinct from the other employees of the company.

In order to reduce the cost of managing the Refreshment Station, the Company in 1657, granted nine of its employees land in order to cut down on expenses and increase production by growing crops that they could sell to the Company. The land grants were significant, because it created a group of people (called "free burghers") whose interests were now centred on the development of the settlement as they regarded the Cape as their home. These "free burghers" gradually spread to the inland of the Cape region making governance very difficult, thus increasing the need for an effective system of governance. This led to the further development of the system of local government. The so-called "College of Landdrosts" (officials with limited judicial and administrative powers) and "Heemraden" (councillors) were appointed from among the "free burghers" to serve as local authority, first in Stellenbosch (1685) and later in Swellendam (1745) and Graaf Reinett (1785) (South African Yearbook 1987/88:24). The College dealt with, among other things, matters such as the construction and maintenance of roads and bridges, water supply, public safety and fire protection (Ismail *et al.* 1997:39).

In 1795 a British fleet arrived at Simons Bay (in the Cape) and presented to the Dutch their demands for taking over the Cape Colony. Although there was a level of resistance, this seemed futile as in 1806 the Cape was finally conquered by the British.

### **2.3.2. The British-Colonial phase**

As the European settlement of 1814 the Cape became the property of Britain by formal cession (South African Yearbook 1987/88:24). This meant that the Cape now formally became a British Crown Colony similar to other territories around the world. This information presents and implies a rather interesting scenario in the Cape at that stage. The British, at the helm in terms of governing the area were thus responsible for the well-being of the British people in the Cape as well

as the Dutch, from whom they seized power in a volatile manner and finally also the indigenous people in the area.

In spite of the change of rule, the old Landdrost and Heemraden system remained in place under British Colonial rule until the end of 1827 after which the new administration began to overhaul the government system on the principle of separating judicial from other administrative or civil functions (Green 1957:5). The British were however seen to steadily impose its authority in the area through "relentless efforts to anglicize the local communities" (South African Yearbook 1987/88:24). An example of these efforts included a reduction of the use of the Dutch language in government services and later also in schools and churches. The deduction can thus be made that the British employed considerable efforts to ensure that the British culture would be embraced, not only by the British themselves, but also by all their subordinates (Dutch and indigenous) in the Cape. A relevant question at this point in time would be what the implications of British rule meant for local government?

According to Green (1957:5) the Colony was divided into eleven local divisions namely the Cape, Simonstown, Stellenbosch, Worcester, Swellendam, George, Beaufort West, Graaf Reinett, Uitenhage, Somerset East and Albany. These divisions were furthermore divided into an Eastern Province (of six divisions) and a Western Province (of five divisions) for the purpose of rural administration in 1836. This year also heralded a new era in the history of local government.

#### **2.3.2.1. The Creation of Municipal Boards**

According to Eybers (1918:78) municipal boards for the Colony (in other words the above-mentioned local divisions) were created on 15 August 1836 in terms of Ordinance 9 of 1836. The boards, to be elected by residents of the local divisions, were to initiate a process of drafting local regulations for each of the

local areas. Issues to be addressed for the local areas by the municipal boards included inter alia:

- The appointment of police, watchmen, night patrols and street keepers to protect life and property, regulate their duties and issue them with weapons and clothing;
- The provision and maintenance of fire-engines;
- Providing and maintaining public lighting systems, water supplies and drainage systems;
- Building and repairing public streets and roads;
- Establishing and regulating markets for the sale of cattle, fish, poultry, vegetables and fruit and charging market dues;
- Abating all public nuisances, if necessary by legal proceedings;
- Entering into contracts, to be signed by two or more commissioners; and
- Enforcing any municipal regulations relating to the assigning of weights and measures, slaughtering, the loading and drawing of carts and carriages, street obstructions, house repairs and the control of dogs (Green 1957:20).

Out of growing dissatisfaction with the British rule as well as continuous conflict with the indigenous people of the country, thousands of Afrikaners speaking Dutch moved to other parts of South Africa, a process commonly known as the "Great Trek" (Muller 1986:151). On this journey many intricate battles with the British as well as the indigenous people took place in a fight, mainly for land (Colvin 1956:265). During the "Great Trek" the following three Boer Republics were established in different regions of the country ([www.infoplease.com](http://www.infoplease.com)):

- Port Natal, in 1838. It was however annexed by the British in 1843 and became a British Crown Colony;

- The Zuid Afrikaanse Republiek, which later became Transvaal, in 1853; and
- The Republic of the Orange Free State in 1854. The Orange Free State and Transvaal remained independent Boer Republics until it was surrendered to the British on completion of the Anglo Boer War between 1899 and 1902.

The three Boer Republics and the Cape Colony would form the foundation for the establishment of the four provinces in the Union and Republican phases.

The system of elected municipal councils as instituted in the Cape served as an example as to how municipalities were initially instituted in the three newly established provinces, although the system in the four regions did later undergo changes to their peculiar circumstances (Cloete 1976:11).

The Anglo Boer War, mentioned earlier, started in October 1899 and raged for approximately three years, resulting in the British gaining supremacy over the Boer territories in 1802 (Cameron 1988:181). The cause of the war mainly revolved around the struggle between the British and the Afrikaner for political and economic supremacy. The result of the war did not mean the end of Afrikaner Nationalism and the white rulers of the former Boer Republics and the rulers of the British Colonies, in 1910, united their political and economic interests in a unitary state (Cameron 1988:181). An important facet regarding this time in the South African history centered on the position of Black indigenous people, Coloureds (descendants of indigenous Khoi-Khoi slaves and Whites), and Indians (who came to South Africa as labourers, many of whom later became permanent inhabitants). According to Cameron (1988:181) the gaining of power by the British in the Anglo Boer War raised expectations on the part of these people regarding their future role in the country. These expectations and subsequent struggle to attain them would in future become an integral part of South Africa's history.

It can thus be deduced that the South African local government system was in a major way influenced by the Dutch and British systems. It has been discovered that the first form of local government started as a result of the Dutch arrival at the Cape and the need to foster relations with the indigenous people of the area. The system was further developed after the British took control of the Cape, initially in 1795 and finally in 1806. The first formal municipal structures were created in 1836 in the form of municipal boards that, in terms of its establishment, had clear guidelines in terms of the issues they had to address. It is furthermore evident that the need for more advanced government grew with the movement of people to other regions of South Africa and growing complications in the relationship between the Dutch (and later the Afrikaner), the British and the indigenous Black population that later also included the Coloureds and Indians. The political landscape in South Africa entered a new era with the establishment of the Union of South Africa in 1910. It is thus important to establish the further development of local government during this new era.

### **2.3.3. The Union Phase**

The **Union of South Africa Act** (South Africa Act of 1909) received royal assent on the 20<sup>th</sup> of September 1909, paving the way for the establishment of the Union of South Africa. It consisted of four provinces, the two former Boer Republics of Transvaal and the Orange Free State and the two former British Colonies, Natal and the Cape of Good Hope ([www.abacci.com](http://www.abacci.com) [date unknown]). Although the Union's establishment was initially met with much euphoria, the harsh realities of divisions among the inhabitants of South Africa would soon surface. Issues such as class, race, language and cultural divisions had not been bridged and led to widespread political conflict.

As South Africa was classified a unitary state, the provinces surrendered most of their powers to the central government. Federal features were added to the unitary state in that a provincial system of government constituted the second tier

of government, and local government the third tier. It is important to emphasise though that final decision-making authority in governing the South African State remained with the central government. Municipalities were established in terms of the following Provincial Ordinances that also defined the areas of jurisdiction of municipalities:

- **Local Government Ordinance, 1939** (Ordinance 17 of 1939) (Transvaal);
- **Local Government Ordinance, 1962** (Ordinance 8 of 1962) (Orange Free State);
- **Municipal Ordinance, 1974** (Ordinance 20 of 1974) (Cape Province); and
- **Local Authorities Ordinance, 1974** (Ordinance 25 of 1974) (Natal).

The regulation and control of municipal affairs took place through the various Provincial Ordinances although it should once again be stressed that the central government (Parliament) possessed overriding powers to alter any decision taken by the provincial or municipal governments (Ismail **et al.** 1997:43).

The functioning of the various government structures was furthermore largely racially based. This becomes evident when considering that:

- Between 1910 and 1922 African (Black) townships were administered at central government level by the then Department of Native Affairs. Black Advisory Committees, established in terms of the **Urban Areas Act, 1923** (Act 21 of 1923), took over the administrative responsibilities for African townships in 1923 ([www.colophon.be](http://www.colophon.be) [date unknown]). A definite plan to deal with and administer affairs relating to Black people specifically is thus implied. Of significance, furthermore is that these advisory committees possessed no more than advisory powers and the

final decision-making authority thus still rested with the White municipal authorities for the specific areas;

- Different rules applied for Coloured and Indian citizens, compared to their Black counterparts. Between 1910 and 1948 there was much debate for example about the status of Coloureds and Indians. When the South African Union was established, the four provinces had different systems of political representation. In the Cape Colony and Natal, some Black, Indian and Coloured people could gain the right to vote on the basis of wealth and property criteria, while in the Transvaal and Orange Free State the vote was reserved purely for White people (Robinson 1996:41). In 1936 however, Parliament approved a proposal by Prime Minister J.B.M. Hertzog to scrap Blacks from the voters roll and place them on a separate voters roll (Muller 1986:439). Black citizens could, in terms of this arrangement vote for people to represent them in parliament, however these representatives would have no vote; and
- In 1948 the Nationalist Party under Dr. D.F. Malan came to power and this paved the way for far greater emphasis to be placed on the Afrikaner ideology (O'Toole:[www.postcolonialweb.org](http://www.postcolonialweb.org) [date unknown]). In 1949 a system of formalized racial segregation, popularly known as Apartheid was introduced and this system provided for the legal segregation between citizens of South Africa purely based on race.

It is thus clear that, in terms of local government during the Union phase, much emphasis was placed on the powers of the central government and that local authorities were in fact dependent on the central and provincial governments in terms of decision-making. Furthermore the promotion of racial divisions can also be clearly seen as a characteristic of this period of the South African history.



On 31 May 1961, after much debate and a referendum, the Republic of South Africa was established (Cameron 1988:288). The British monarch was replaced by a State President as the head of state although the Republican Constitution could be regarded as a replica of the Westminster form of government of the Union (Muller 1986:520). Although the form of the state changed, the development of local government continued in the same vein initiated in the Union phase and leading to the invention of the system of Apartheid.

#### **2.3.4. The Republican Phase and the Abolition of Apartheid (1961-1993)**

The implications of Apartheid on the local sphere of government were reflected throughout the 1950's up until the 1980's when the process towards democratization was intensified. According to Van Rooyen in Ismail *et al.* (1997:47), local government development in South Africa from 1950 to the early 1980's was characterized by the following:

- A continuation of the system of local government representative of the White population.
- The development of new local government institutions for the black, Coloured and Indian population groups.

Some of the most important features of the mentioned segregated local government system included the following:

##### **2.3.4.1. White Local Authorities**

The central and provincial levels of government had a direct influence in the affairs of municipalities. Provincial administrations could for example repeal, amend or substitute the provisions of local government ordinances passed before 1986. Furthermore, the provincial ordinances stipulated the rights and duties of citizens on the one hand, and those of councils on the other.

In terms of the **Local Government Affairs Council (House of Assembly) Act, 1989** (Act 84 of 1989), the Local Government Affairs Council was constituted. The purpose of this council was to serve as an umbrella body for White local authorities (Ismail *et al.* 1997:48). The council could *inter alia* advise municipalities and the respective ministers on local government matters as well as administering the provisions of any law that had been assigned to the councils by the respective ministers.

#### **2.3.4.2. Coloured and Indian Management Committees**

In line with the racial division at other levels of the South African society, local government was also subjected to the process of the establishment of separate structures based on racial criteria. In this regard the then four provinces also had different ways in which such provisions were applied.

When the National Party (NP) came to power in 1948, municipal voting rights and electoral eligibility remained extended to Whites only in the Transvaal and Orange Free State provinces ([www.anc.org.za](http://www.anc.org.za) [date unknown]). In the Cape and Natal provinces Coloureds, Indians and Whites were on the same legal footing and they appeared on the same voters' role as Whites. However, their participation in the electoral representation process was based on property ownership of a certain value, which in reality restricted the eligibility to vote of the majority of Coloureds and Indians.

In 1961 a committee of investigation to investigate the development of local government for urban Coloureds recommended the following:

- The creation of Consultative Committees which consisted of nominated members having advisory powers only, and functioning under close official guidance of the local authority of the area in which they were geographically situated.

- Setting up Management Committees, some of whose members were elected and some nominated, which also had advisory powers, but in addition certain powers could be delegated to them by their "parent" White local authorities.
- Granting fully –fledged municipal status equivalent to that of White local authorities. This was however difficult since the prerequisites such as sufficient revenue, trained staff, minimum area size and the capability of being geographically consolidated had to be considered (Ismail **et al.** 1997:49).

The creation of the discussed separate structures clearly indicates concerted efforts to distinguish between the affairs of White communities and those of Coloureds and Indians. These structures can however be regarded as contradictory in nature in that they were still dependent on the White authorities for final decisions and thus not truly separate.

#### **2.3.4.3. Black Local Authorities**

In the previous dispensation the Black population of South Africa was regarded and subsequently treated differently to the other non-White population groups.

African townships were initially administered at central government level by the Department of Native Affairs. In 1923 Black Advisory Committees were established in terms of the **Urban Areas Act, 1923** (Act 21 of 1923). These committees had the function of advising white local authorities, which in turn administered the townships. The advisory committees thus had no policy-making powers.

In 1961 Urban Bantu Councils to administer townships were established in terms of the **Urban Bantu Councils Act, 1961** (Act 79 of 1961) and in 1971 Bantu Affairs Administration Boards took over this function. African townships were

given control over local affairs in terms of the **Black Local Authorities Act, 1982** (Act 102 of 1982). All of these structures were met with resistance within communities, because apart from the fact that they never really possessed decision-making authority, it treated communities differently, based on racial criteria.

Based on these historical facts it becomes increasingly clear that the changes in the local government dispensation were necessary to provide equal services in a more efficient and effective manner and in a more decentralized manner in order to afford municipalities the opportunity to take the initiative in terms of addressing community needs.

#### **2.4. THE TRANSITION TO DEMOCRATIC LOCAL GOVERNMENT**

A significant aspect of the historical development of local government in South Africa is the positioning of local government in terms of the constitution of the country.

South Africa has, between 1909 and 1996, had five different constitutions, namely:

- **The Union of South Africa Act, 1909** (South Africa Act of 1909), enacted by the British parliament and that led to the formation of the Union of South Africa in 1910;
- **The Republic of South Africa Constitution Act, 1961** (Act 32 of 1961) became South Africa's second constitution and was enacted as a result of South Africa becoming a Republic under Prime Minister H.F. Verwoerd in 1961;
- In 1983 the Republic's next constitution was enacted in the form of the **Republic of South Africa Constitution Act, 1983** (Act 110 of 1983). This constitution inter alia provided for a tri-cameral parliament with

separate houses for White, Coloured and Indian representatives. Significantly, but perhaps not surprisingly, no provision for Black representatives was made in the tri-cameral parliamentary system;

- **The Constitution of the Republic of South Africa Act, 1993** (Act 200 of 1993) became South Africa's fourth constitution. This was an interim constitution produced through multi-party negotiations between the previous government and other political parties, including the now unbanned liberation movements, leading up to the first democratic elections in 1994; and
- In 1996, South Africa's current constitution, produced by the democratically elected Constitutional Assembly was enacted. **The Republic of South Africa Constitution Act, 1996** (Act 108 of 1996) was the result of a process which started in 1994 and which signaled a new chapter in the country's constitutional history (Craythorne 1997:3-4).

What is especially significant about the constitutional history of South Africa, is that it was only in the Interim Constitution of 1993 and subsequently the final Constitution of 1996, that meaningful provisions with regards to local government and the roles thereof were included in the Constitution (Craythorne 1997:4). This implies that only since 1993 have the powers and functions of local government been entrenched constitutionally and that the other spheres of government could therefore not interfere in the local government process unless it was within the constitutional guidelines.

In addition to the mentioned constitutional reforms, the political landscape of South Africa also changed dramatically since the early 1990's. On 2 February 1990 the then State President F.W. de Klerk announced dramatic measures to steer the Country towards a democratic dispensation, during the annual opening of Parliament. This led to the releasing of political prisoners, most notably the African National Congress (ANC) leader, Nelson Mandela, and the unbanning of

various banned political parties. These measures all led to the start of a process of negotiations that would ultimately lead to the formation of the first non-racial democratically elected government in South Africa.

It is thus clear that notable changes in South Africa's constitutional and political environment have taken place. These changes were directly aimed at eradicating the country's past that was characterized by racial division. Against this background, it is necessary to focus on the exact course of events that have taken place to change the face of local government.

#### **2.4.1. The new Constitutional/Political Dispensation and Local Government**

According to Cloete in De Villiers (1994:295), the two major stakeholders in local government negotiations, the National Party and the African National Congress, over a period of nine months (April to December 1993), negotiated a settlement about the future of local government. The principles on which this settlement was based were contained in three documents namely:

- **The Local Government Transition Act, 1993 (Act 209 of 1993);**
- **The Constitution of the Republic of South Africa Act, 1993 (Act 200 of 1993); and**
- The 1994 Agreement on the supply and financing of local government services.

On 22 March 1993 the Local Government Negotiation Forum (LGNF) with representatives of central, provincial and organised local government on the one hand and the South African National Civics (SANCO) on the other hand was established ([www.citymayors.com](http://www.citymayors.com)[date unknown]). The purpose of the LGNF was to compile and analyse the necessary data and to seek agreement among the delegations on the process and content of local government restructuring, within the framework of the national negotiation process.

The LGNF furthermore appointed the following technical working groups to give effect to the terms of reference of the LGNF (De Villiers 1994:297):

- A Legal and Constitutional working group.
- A Services and Finance working group.
- A Management, Administration and Training working group (De Villiers 1994:297).

Most of the work of the LGNF was carried out in the above-mentioned groups.

In terms of the Local government Transition Act, 1993 (Act 209 of 1993), local government transformation had to take place in the following three distinct phases:

- The pre-interim phase, which referred to the period from the adoption of the Local Government Transition Act to the first elections for local governments in terms of the Interim Constitution.
- The second or interim phase, starting with the first election of local governments under the Interim Constitution and ending with the implementation of the final model of local government.
- The third and final phase that would be governed by the provisions of the final constitution (Sections 6 to 11 of the **Local Government Transition Act, 1993** [Act 209 of 1993] ).

In terms of the first or pre-interim phase Transitional Local Councils (TLCs) or Local Government Coordinating Committees (LGCCs) for non-metropolitan urban areas and Transitional Metropolitan Council (TMCs) and Transitional Metropolitan Substructures (TMSs) for metropolitan areas were appointed by the Administrator or Provincial Committee (Cloete 1994:51).

The second or interim phase provided, as mentioned, for elections to be held under the Interim Constitution. Under this particular provision, elections were held in geographically demarcated TLCs and TMCs (De Villiers 1994:300). In addition to this Transitional Rural Councils (TRCs) were also established. The reference to geographical demarcation will be discussed in depth in chapter four of this dissertation and will deal specifically with the process of restructuring municipalities.

The pre-interim phase would be regulated by provisions of the Interim Constitution, while the interim phase would be regulated by provisions of the Local Government Transition Act (De Villiers 1994:300).

The first democratic local government elections, regulated by the Local Government Transition Act and the Interim Constitution of 1993, took place in November of 1995. A number of steps had to be done in order for the elections to take place. These had to be carried out by the LGNF as described earlier. Firstly, the LGNF had to determine the terms and conditions for new structures that replaced the old Apartheid municipalities. Secondly, pre-interim local government structures had to be established in order to manage local affairs while elections were being organised. Finally, preparations for the election of interim local councils had to be made.

The **Constitution of the Republic of South Africa**, 1996 (Act 108 of 1996), was assented to by former President Nelson Mandela and published on 18 December 1996. As had been mentioned, the final Constitution would regulate the final transition to democratic local government in the country. This final Constitution made some groundbreaking provisions in terms of what the objectives of local government should be.

It is thus clear that an integrated approach was followed in which all the relevant stakeholders participated in efforts to transform local government from racially



divided entities to fully democratic structures of the state. This era of transformation will thus always stand out as a crucial and significant time in the development of local government.

The following are the most significant provisions on local government on the Constitution. Section 152(1) of the Constitution deals with local government and states inter alia that local government must:

- Promote democratic and accountable government for local communities;
- Provide services to citizens in a sustainable manner;
- Promote social and economic development;
- Promote a safe and healthy environment; and
- Encourage citizen participation in local government matters.

In 1998, the White Paper on Local Government was drafted. The White Paper as the government's official policy document that envisaged the restructuring of local government in order to become fully democratic in terms of service delivery and development and in so doing eradicating the legacies of South Africa's divided past. The White Paper on Local Government (1998:17) defined the following challenges for local government in a new South African dispensation. In terms thereof, municipalities have to address (White Paper on Local Government, 1998: 17):

- Settlement patterns that leads to inefficiency;
- The redistribution of economic resources to ensure that not only formerly White areas benefit from local government activities;
- Backlogs in terms of service infrastructure in historically underdeveloped areas;
- Modes of decision-making, administration and delivery to ensure that it conform to the new inclusive approach of the government;

- Cooperation between local government and the private sector in order to secure resources from this sector for development;
- Variations in capacity that exist in municipalities; and
- Building constructive relationships between the municipalities and the communities they have to serve

The White Paper furthermore spells out specific courses of action that need to be undertaken to address the above-mentioned challenges. These are contained in the following eight Sections into which the White Paper is divided:

- **Current Reality** – In this Section, a brief history of local government in the previous political dispensation is provided, which points to the origins of the problems currently faced by local government in South Africa. The need for flexibility in local government systems outside metropolitan areas to accommodate different settlement patterns are also discussed as well as the challenges facing local government because of these unique settlement patterns.
- **Co-operative Government**- Emphasis is placed on local government situated in a system of co-operative government and it is noted that, under the new Constitution, local government is a sphere of government in its own right and no longer only a function of national or provincial government. However the need for co-operation between the three spheres of government is highlighted.
- **Developmental Local Government** – The White Paper puts forward a vision for developmental local government, which centres on working with local communities to find sustainable ways to meet their needs and to improve the quality of life. The need for developmental local government is of particular significance since it is seen as the centre of

government's strategy to address the socio-economic backlogs that exist within local communities.

- **Institutional System** – The particular needs and circumstances which South African local government institutions must cater for is highlighted. The need for the retention of metropolitan institutions is motivated, while motivation for a system for district government outside metropolitan areas is also discussed. Criteria for the demarcation of municipal boundaries are furthermore outlined.
- **Political Systems** – The need for dynamic political leadership at local government level is emphasised. Attention is also given to the advantages of allowing for the delegation of executive powers by a council to either an executive mayor or committee. Furthermore the electoral system at the local sphere of government is discussed.
- **Municipal Administrative Systems** – Focus is placed on local government institutions as service delivery agencies and municipalities are encouraged to develop institutional transformation programmes to enhance the capacity of the municipality to meet this requirement.
- **Finance** – Principles to guide the development of a new framework for municipal financial management are proposed in this Section.
- **Transformation** – The White Paper finally discusses the need for transformation at local government in terms of ensuring that the demography is reflected within local government institutions.

The White Paper on Local Government thus provided a broad policy framework for the changes needed to achieve the objectives of the new local government dispensation.

It can be concluded that the historical development of local government in South Africa is characterized by many significant occurrences. The most notable when considering the current developments is obviously the movement away from a system that segregates communities based on issues of race to a system where service rendering is undertaken on an equal footing.

## **2.5. ESTABLISHMENT OF THE KAI !GARIB LOCAL MUNICIPALITY**

Since the Kai !Garib Local Municipality forms an integral part of this study, it is necessary to provide an outline of the historical development of this Municipality. It is furthermore necessary to clearly understand the circumstances surrounding the establishment of the municipality.

### **2.5.1. Constitutional Background**

One of the issues highlighted in the White Paper on Local Government, was the changing of settlement patterns to ensure more effective and efficient service rendering to local communities. Based on this the following constitutional provisions regarding the establishment of municipalities are relevant.

Section 151 (Chapter 7) of the Constitution states that "the local sphere of government consists of municipalities, which must be established for the whole territory of the Republic."

Furthermore, Section 155 (Chapter 7) provides specifically for the establishment of municipalities. Of importance is that the Constitution clearly stipulates that national legislation must facilitate the process of establishing municipalities. Since a Chapter in this dissertation will be directed exclusively toward the whole local government restructuring process and thus the establishment of "new" municipalities, not much detail on the actual restructuring process will be provided in this discussion.

It is however important to know that, based on the abovementioned constitutional provisions, the Kai !Garib Local municipality was established in terms of Section 12 of the **Local Government: Municipal Structures Act, 1998** (Act 117 of 1998). It was furthermore established in terms of a decision of the Municipal Demarcation Board, established in terms of **the Local Government: Municipal Demarcation Act, 1998** (Act 27 of 1998). As mentioned earlier, the process of restructuring and re-establishment of municipalities will be discussed in detail in Chapter 4 of this dissertation.

### 2.5.2. Geographical Implications of the Establishment of Kai !Garib

The establishment of the Kai !Garib Local municipality has resulted in major changes in terms of the geographical location of the municipality and in terms of the traditional boundaries of towns.

The Kai !Garib Local Municipality consists of the following areas (Table 1):

**Table 1: Areas comprising the Kai !Garib Local Municipality**

Name of Area	Previous Status	Number of Households	Popoulation
Kakamas	TLC	1117	6712
Keimoes	TLC	1420	7122
Kenhardt	TLC	909	4014
Kingsby	TRC	1181	5467
Oranje	TRC	6360	31885
			<b>55200</b>

Source: [www.demarcation.org.za/demarcprocess/wards](http://www.demarcation.org.za/demarcprocess/wards)

From the above statistics it becomes clear that the newly established Kai !Garib Local municipality is made up of areas that mainly formed individual municipal structures previously. The fact that these previously separate entities now have

to combine their efforts to render services and promote development furthermore implies that a new approach would have to be adopted towards these goals and objectives. Finally it becomes clear that there is indeed a necessity to examine the extent to which the mentioned changes have affected the operations of the municipality.

## **2.6. CONCLUSION**

In the above discussion, various aspects relating to the historical development of local government in South Africa have been discussed. It can be concluded that South Africa owes much of its initial systems of local government to the influence of the Dutch and British people, who came to South Africa, initially in pursuit of business endeavours, but later remained to become inhabitants of the country. The fostering of meaningful relations between these people and the indigenous people of the country became essential, and this led to the creation of structures to formally govern the actions of the people.

It was also discovered that at various stages of the history of South Africa, did conflict occur between the various groups, none more so than in 1899 when the Anglo Boer War broke out. The Union of South Africa was established in 1910 and a feature of this time in the history of South Africa was the division of people based on racial differentiation. During the Union phase, more emphasis on racial classification developed, ultimately leading to the formalization of racial segregation, or Apartheid as it was commonly known. Apartheid was intensely experienced at local government level as it was at this level where people were physically separated. This period was also characterized by the centralization of government authority, meaning that municipalities were in most cases centrally created with very little or no concrete powers at all.

The process of democratization started in the early 1990s after increased pressure on the South African government to change its stance on racial

segregation. A new dispensation was born, also for local government, after intense negotiations between the various stakeholders in the South African political arena.

The new South African dispensation led to the creation of new municipal structures, of which the Kai !Garib Local Municipality in the Northern Cape is an example. Extensive legislative measures for the restructuring of local government had to be established in order to legitimize the process. The legislative framework for local government restructuring in South Africa will thus be discussed in the next Chapter.

## **CHAPTER THREE**

### **THE LEGISLATIVE FRAMEWORK FOR LOCAL GOVERNMENT RESTRUCTURING IN SOUTH AFRICA**

#### **3.1. INTRODUCTION**

Governance must take place within the confines of a particular legislative and regulatory framework in order for those activities to be legitimate. In a democratic dispensation the role of legislation is crucial. The importance of legislation stems from the fact that the legislators are seen to be the custodians of the will of the community. It is therefore expected that in initiating, debating and passing legislation, the wishes, expectations and needs of the community will be reflected.

It can be deduced that for any significant change in the operation of government or in the case of local government, a particular sphere of government, legislation will play an important role. Any change, it can furthermore be assumed, is initiated to improve an existing state of affairs. The need to restructure local government has been established in discussing the historical development of local government in the previous Chapter of this dissertation, as well as against the background of the overall system of government in South Africa that prevailed prior to 1994.

The purpose of this Chapter is to outline the legislative framework that has been established to facilitate the local government restructuring process in order to improve the operations of municipalities. The following elements will be highlighted:

- The nature of the State.
- The purpose and functions of legislative institutions.



- An overview of the legislative process in South Africa.
- Local government legislation: a framework for restructuring.

### 3.2. THE NATURE OF THE STATE

Before any meaningful discussion on the legislative process and institutions in South Africa can take place, it is necessary to define these processes and institutions within the overall state system. Various definitions have been used to define the term "state". These include, inter alia that:

"The state can be seen as a set of associations and agencies that claim control over defined territories and populations" (Van Niekerk *et al.* 2001:41).

"A state is an internationally recognized demarcated territory with a self-governing, permanent population, which enjoys independent political sovereignty and international recognition" (Botes *et al.* 1992:5).

"A state consists of a territory with recognized borders, citizens, public authorities for its government, administration and maintenance of law and order and freedom from control by another state (Cloete 1995:72).

From the above definitions the following elements can be deduced to be essential for the existence of a state:

- **Territory**, referring to a clearly defined geographical area;
- **Population**, in other words the people/inhabitants living in the mentioned geographical area;
- **Government**, referring to the specific occupants of public office who possess the legal right to exercise power and make binding decisions;

- **Independence/Sovereignty**, meaning to possess the final and supreme authority, above and beyond which no further legal power exists; and
- **Comprehensive Jurisdiction** that public authorities have over the various areas of peoples' lives with different limits at different times.

In addition to the characteristics of a state, the nature of the state is also determined by:

- The nature of the constitution of a particular state; and
- Whether a federal or unitary state system is in existence.

### 3.2.1 The Nature of a Constitution

According to Botes **et al.** (1992:28) a constitution may be defined as a mechanism regulating the relationship between the citizens of a state and the state machinery to ensure the happiness and continued existence of populations. It can thus be concluded that a constitution will determine rights and responsibilities for both the state and its structures and the citizens of a state.

According to Van der Waldt and Helmbold (1995:26), constitutions possess the following unique characteristics:

- Specific rules that determine the relationship between the legislature and the citizens;
- A clear vision of power and functions;
- A determination of basic principles in accordance with which the authorities undertake their functions;
- Constitutions may be flexible or inflexible. Flexible constitutions are characterized by the fact that Sections contained in them can be

amended relatively easily by way of majority vote. The contrary is true about inflexible constitutions;

- A constitution serves as a protector that guards the interests and rights of the community and it prevents arbitrary action on the part of the government; and
- Constitutions serve as the basis on which actions of the government are built.

A distinction is also made between written and unwritten constitutions. Written constitutions generally comprise a document or act compiled at a given time, while unwritten constitutions do not flow from a particular act, but from constitutional conventions and conventional rules. An example of written constitution is that of South Africa while an example of a constitution made up of an Act and constitutional conventions is that of Canada ([www.canadiana.org/citm/specifique/written\\_e](http://www.canadiana.org/citm/specifique/written_e) [date unknown]).

In addition to the constitution of a country determining the nature of local government, the overall state system, in which a distinction between Unitary and Federal states can be made, also play a role.

### **3.2.2. Unitary vs Federal States**

A unitary state is a state or country that is governed constitutionally as one single unit, with one constitutionally created parliament. In a unitary state, any sub-governmental units can be created or abolished and functions of sub-governments can be broadened or narrowed ([www.encyclopedia.thefreedictionary.com](http://www.encyclopedia.thefreedictionary.com) [date unknown]). According to Stillman (1992:18) "unitary forms of government allow for little or no semiautonomous local units of government and power flows from the top downward". The implication of these definitions for local government can be summarized as follows:

- Local government is dependent on a central legislative body with supreme authority for policy directives; and
- Local government, to a large extent sacrifices its autonomy in favour of the central authority.

In a federal system of government power is divided by constitutional right between national and local units of government in regions. The local units of government have their own independent, constitutionally guaranteed authority. These local units remain part of the overall state and they do not possess national sovereignty ([www.factindex.com/ffe/federalism\\_1.html](http://www.factindex.com/ffe/federalism_1.html) [date unknown]). The definition thus implies a large degree of own authority for the constituent parts of the federal state.

According to Rodee **et al.** (1976:41), the following characteristics are found in a federal state:

- A constitution according to which the state is united and which can be viewed as the final authority;
- The functions and powers of each of the units forming the federal state are clearly defined in the common constitution;
- Disputes on the functions and powers of the units are normally settled in a court of justice according to the regulations of the constitution; and
- Each of the constituent units retains a large degree of autonomy.

As far as classifying South Africa, there is a notion that elements of both unitary and federal state forms are applicable to the Republic. Van Niekerk **et al.** (2001:61) argue that "the South African form of government is not a purely federal or unitary state, but has elements of both. The Constitution of the Republic of South Africa Act, 1996 (Act 108 of 1996), herein after referred to as the Constitution, spells out the functions of all the constituent units of the state in the following way:

Section 40 (1) of the Constitution states that "government in the Republic of South Africa is constituted as national, provincial and local spheres, which are distinctive, interdependent and interrelated. The Constitution furthermore states that legislative authority in the Republic shall be vested in Parliament at the national sphere of government, Provincial Legislatures at provincial sphere and Municipal Councils at the local sphere. It is however clear that final authority is vested in the national government for in Section of the Constitution it is clearly stated that "In the event of a dispute concerning the legislative powers allocated by the Constitution concurrently to the National Government and provincial governments which cannot be resolved by a court on a construction of the Constitution, precedence shall be given to the legislative powers of the National Government".

South Africa thus comprises three spheres of government each with a legislative authority. The legislative authority of the provinces and local government institutions must however be in line with national policy framework otherwise it could be changes/abolished by the national sphere of government.

### **3.3. THE PURPOSE AND FUNCTIONS OF LEGISLATIVE INSTITUTIONS**

In order to be able to meaningfully discuss the purpose and functions of legislative institutions, it is necessary to locate the legislative authority in the overall government system.

As was already mentioned, government in South Africa consists of three spheres and legislative authority in these three spheres is manifested in the following way according to the Department of Provincial and Local Government ([www.dplg.gov.za/researches/cdp2002-32.rtf](http://www.dplg.gov.za/researches/cdp2002-32.rtf) [date unknown]):

- National Parliament comprises two houses namely a National Assembly and a National Council of Provinces (NCOP). The NCOP

represents the nine provinces and organised local government at the national government sphere.

- The nine provinces each have their own legislatures and executive committees, as well as administrative structures.
- There are 284 municipalities in South Africa, categorised according to whether they are metropolitan, district wide or local structures, and comprised of political and administrative components.
- Provinces are accountable to provincial legislatures and municipalities to council.

From the above information, it becomes clear where legislative authority is vested at each government sphere, bearing in mind that in cases where conflict may arise, the national sphere of government could be seen as the final authority.

As far as the functions of legislative institutions are concerned, Gildenhuys **et al.** (1991:5) identify the following functions:

- Passing legislation, because existing legislation of a country serves as a basis for executive action and as a guide to the judiciary;
- Maintaining equilibrium between the divergent interests within a state in order that a reasonable state of civil welfare may be maintained. This implies that the legislature, as the custodian of community needs, has a responsibility to see to it that limited resources are allocated in a manner that will ensure that all needs are considered in decision-making;
- Setting objectives and priorities in the political, social and economic fields; and
- Debating and ensuring that this aspect is not limited to the legislative authority only, but that it is driven by active citizen participation and debate, a key requirement for democratic governance.

In addition, Cloete (1988:75) suggests that the most important matters subject to legislation are the following:

- The rights and privileges of individuals and their relationship with the government;
- Services rendered by the government for the benefit of the public at large;
- Organising and establishing procedures of administrative and judicial bodies;
- Expenditure of public monies; and
- Procuring government revenue.

It can thus be concluded that the legislature must ensure that the general interest of the public is protected, conflict and dominance eliminated and public values enforced, services rendered economically and order in society maintained.

It can furthermore be concluded that legislative matters concerning local government would be of particular significance since it would be the basis for tangible service rendering where it matters most. Local communities look to their municipalities to effectively render services and in South Africa this is of particular importance considering service backlogs and developmental challenges caused by past inequities. It would therefore be of critical importance that all legislative issues, from a national, provincial as well as local perspective be geared towards giving effect to the above functions of legislative institutions.

Having provided a brief background on the state system and legislative functions, the discussion will now proceed to focus on the legislative framework for local government in South Africa. However, before this is done, a brief overview of the South African legislative process will be provided.

### 3.4. THE SOUTH AFRICAN LEGISLATIVE PROCESS

A relevant question to reflect upon when considering the legislative process is why is legislation necessary? The most appropriate way of dealing with this question would probably be to consider the overall purpose and goal of governance. It has already been determined that the ultimate goal of any authority is to improve the quality of life of its citizens through effective service rendering. This is done mainly through the decisions authorities take in the form of laws, policies and regulations. It would thus be logical to assume that such decisions are taken based on an identified need for action in a particular area of societal interest.

As was already discussed the authority to pass legislation in South Africa is vested with the various legislative authorities at the national, provincial and local spheres of government. The following is a brief explanation of the legislative process at the national sphere of government ([www.polity.org.za/html/govdocs/legislation/process:1](http://www.polity.org.za/html/govdocs/legislation/process:1) [date unknown]):

When a change in policy is made, the government first puts forward its proposals in a Green Paper, which is a discussion document on policy options. It originates in the department of the ministry concerned and is then published for comment and ideas. This implies that the relevant role players in the particular matter are afforded an opportunity to make representations on the matter to ensure an inclusive as possible process.

The Green Paper forms the basis for a White Paper, which can be regarded as a broad statement of government's policy intentions on a specific matter. The Green and White Papers on Local Government were for example published in October 1997 and March 1998 respectively and afforded all relevant role players including organised local government, organised labour the opportunity to



express their views on the proposed policy direction for the local sphere of government ([www.gov.za](http://www.gov.za)).

Once the inputs in terms of the Green and White Paper processes have been taken into account, the minister and officials within the state department concerned may draft legislative proposals. At this stage the proposals are also considered by cabinet or the executive branch of government. Cabinet must discuss the appropriateness of the proposed legislation in terms of it being viable or not as well as the resources required for implementation (Van Niekerk *et al.* 2001:88). Legislative proposals are then submitted to state law advisers to ensure that proposed new legislation does not contradict existing laws. The proposals are then introduced either in the National Assembly or the National Council of Provinces and are known as Bills of Parliament.

The next step is for the Bills to be discussed in the various committees instituted by Parliament in order to refine and/or improve the proposed legislation. When the committee has approved the Bill, it goes for the debate in the house in which it was first introduced (either the National Assembly or the National Council of Provinces). When both houses have passed the Bill it goes to the President for assent after which it is published in the Government Gazette as an Act of Parliament.

From the above it can be deduced that the process of passing legislation in South Africa is a comprehensive one, aimed at ensuring that the proposed legislation effectively addresses an identified problem, while at the same time ensuring that the legislation is legally sound and not in contradiction with existing legislation.

Having discussed the South African legislative process against the background of the nature of the state, the local government legislative framework can now be examined.

### **3.5. THE LOCAL GOVERNMENT LEGISLATIVE FRAMEWORK: A MODEL FOR RESTRUCTURING**

In Chapter 2 of this Dissertation, dealing with the historical development of local government in South Africa, attention was given to the various stages of moving from where local government previously was to where it is today. It is now necessary to provide a more detailed overview of the legislative measures that have facilitated the process of change as well as those legislative measures that have been instituted to ensure effective governance at the local sphere of government.

#### **3.5.1. THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 (Act 108 of 1996), (The Constitution)**

The Constitution is regarded as the supreme law of the Republic of South Africa. In simplistic terms, this means that any other law that in any way contradicts the provisions of the Constitution would be regarded as unlawful. In the previous Chapter, the fact that previous constitutions of South Africa did not explicitly outline the role of local government was discussed. The new Constitution's improvement in this regard was also highlighted.

Local government's distinctiveness as a government sphere is emphasised in Chapter 7 of the Constitution, where specific obligations are placed upon local government namely:

- Providing democratic and accountable government for local communities;
- Ensuring the provision of services to communities in a sustainable manner;

- Promoting social and economic development; and encouraging the involvement of communities and community organizations in the matters of local government (Section 152 [1] of the Constitution).

The Constitution thus clearly states broad guidelines in terms of the role local government in rendering services and promoting development on its own initiative as well as through cooperation with the national and provincial spheres of government (Section 153 [b] of the Constitution). Since the Constitution is the supreme law of the country, these constitutional provisions must be continually pursued.

The Constitution in Section 155 (1) furthermore provides for the establishment of different categories of municipalities, namely:

- Category A – municipalities with exclusive legislative and executive authority in its area;
- Category B – municipalities that share legislative and executive authority in its area with a Category C municipality within whose area it falls; and
- Category C – municipalities that have legislative and executive authority in an area that includes more than one municipality.

Details surrounding these categories are provided under the discussion on the **Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)**.

In order to give effect to this further pursuit of the constitutional provisions, it was imperative to provide clearer policy and legislative guidelines for as was earlier mentioned, the Constitution provides broad guidelines only. Therefore, based on the constitutional provisions, the following policy and legislative measures were taken.

### 3.5.2. The White Paper on Local Government

The White Paper on Local Government was published in March 1998 and in essence it provided an overview of challenges faced by local government and proposed measures in order to deal with those challenges. As was discussed in Chapter 2, the following important issues were addressed in the White Paper:

- **Current Reality** – In this section, a brief history of local government in the previous political dispensation is provided, which points to the origins of the problems currently faced by local government in South Africa. The need for flexibility in local government systems outside metropolitan areas to accommodate different settlement patterns are also discussed as well as the challenges facing local government because of these unique settlement patterns.
- **Co-operative Government**- Emphasis is placed on local government situated in a system of co-operative government and it is noted that, under the new Constitution, local government is a sphere of government in its own right and no longer only a function of national or provincial government. However the need for co-operation between the three spheres of government is highlighted.
- **Developmental Local Government** – The White Paper puts forward a vision for developmental local government, which centres on working with local communities to find sustainable ways to meet their needs and to improve the quality of life. Development was furthermore highlighted as a process implying changes for the purpose of improving the socio-economic conditions of communities in terms of creating employment, developing the economy and improving the capacity levels of people. The following aspects regarding the developmental duties of government were emphasised:

- **Maximising Social Development and Economic Growth** – This implies that everything that a municipality does should impact as much as possible on the social and economic development of its area. In particular, municipalities should seriously strive to render services that meet the basic needs of the poor in their communities in a cost-effective and affordable manner such as water and electricity. Social development must be promoted by making arts, culture and recreational facilities accessible. In terms of economic growth continuous efforts to provide employment opportunities through for example skills training should be attempted.
  
- **Integrating and Coordinating** – Developmental local government should provide leadership to all those who have a role to play in achieving local prosperity. This implies ensuring coordinating the efforts of the many different agencies that contribute towards development such as national and provincial government, parastatals, trade unions, community groups and private sector organizations.
  
- **Democratising Development** – In addition to representing community interests within the council, councillors should ensure that citizens and community groups are involved in the design and delivery of municipal programmes. Developing democracy can also include support by municipalities for individual and community initiatives and especially the involvement of youth organizations (Joseph 2002:10).
  
- **Leading and Learning** – The leadership of a development orientated municipality should be able to strategise, develop visions and policies and mobilize a range of resources to meet basic needs

and achieve developmental goals in their area, in spite of the rapid changes taking place in the environment.

- **Institutional System** – The particular needs and circumstances which South African local government institutions must cater for is highlighted. The need for the retention of metropolitan institutions is motivated, while motivation for a system for district government outside metropolitan areas is also discussed. Criteria for the demarcation of municipal boundaries are furthermore outlined.
- **Political Systems** – The need for dynamic political leadership at local government level is emphasised. Attention is also given to the advantages of allowing for the delegation of executive powers by a council to either an executive mayor or committee. Furthermore the electoral system at the local sphere of government is discussed.
- **Municipal Administrative Systems** – Focus is placed on local government institutions as service delivery agencies and municipalities are encouraged to develop institutional transformation programmes to enhance the capacity of the municipality to meet this requirement.
- **Finance** – Principles to guide the development of a new framework for municipal financial management are proposed in this section.
- **Transformation** – The White Paper finally discusses the need for transformation at local government in terms of ensuring that the demography is reflected within local government institutions. The White Paper on Local Government thus extensively focuses on the restructuring of local government in order to meet the demands placed upon it by the new order.

In the discussion on the South African legislative process, it became clear that a White Paper is but a step in the legislative process. An important difference between the White Paper on Local Government and other White Papers should be noted. The White Paper on Local Government proposes policy measures for entire sector of governmental activities while other White Papers normally deal with a segment or part of a particular sector. The implication of this is that whereas other White Papers normally lead the completion of one piece of legislation, the White Paper on Local Government has led to the formulation and completion of more than one piece of legislation. These have all been drawn up with the aim of addressing all the challenges facing local government as identified in the White Paper and to facilitate the local government restructuring process. Following will be a discussion of the legislation that were enacted to give effect to the provisions of the White Paper on Local Government.

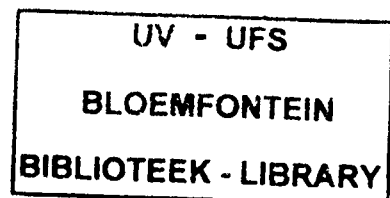
### **3.6. THE LOCAL GOVERNMENT: MUNICIPAL DEMARCATION ACT, 1998 (Act 27 of 1998) (The Demarcation Act)**

The purpose of the Demarcation Act was to provide for criteria and procedures for the re-determination of municipal boundaries by an independent authority called the Demarcation Board (Pauw *et al.* 2002:262). The demarcation process resulted in the establishment of:

- 6 Category A or Metropolitan municipalities;
- 231 Category B or Local municipalities; and
- 47 Category C or District municipalities.

According to Cameron (1999:3) the demarcation process was initiated to deal with the following problems of the existing local government system:

- Some municipalities were created on the basis of subjective needs and preferences rather than on the basis of any national norms and



1180 48456

standards. In certain provinces for example, there were councils with fewer than 100 voters, whereas in the same province, some urban communities with over 15 000 voters had no primary local government.

- Major disparities in council sizes existed, resulting in a situation that, in some councils the number of registered voters ranged from 10 voters in some cases compared to over 7000 in others.
- Approximately one third of all councils in rural areas were quite small with less than 2000 voters.
- The Demarcation Board thus had to deal with the spatial problems as identified in the White Paper on Local Government.

According to Cameron (1999:5) the following criteria, based on the constitutional objectives of local government were used in the demarcation process. Newly formed municipality had to be in a position to:

- Provide democratic and accountable government for local communities in their area;
- Render services to communities in a sustainable and equitable manner;
- Provide social and economic development;
- Provide a safe and healthy environment;
- Implement integrated development planning; and
- Have a tax base as inclusive as possible of users of municipal services in the area

Thus, the Demarcation Act was aimed at creating new municipalities to meet the challenges of rendering services on an equal basis and effecting social and economic development.



### **3.7. THE LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998 (Act 117 of 1998) (The Structures Act)**

The Structures Act can be regarded as the second pillar of new local government and it came into operation on 1 February 1999. The Act in essence determines criteria for the establishment of the various categories of municipalities as provided for in the Constitution as well as different types within each category. It furthermore divides the functions and powers between categories of municipalities as well as regulating matters connected to local government and its internal systems and structures (de Visser 1999:1).

#### **3.7.1. Categories of Municipalities**

In terms of Section 2 of the Structures Act, an area must have a single category A or Metropolitan Municipality if it can be regarded as:

- A conurbation featuring areas of high population density; an intense movement of people, goods and services; extensive development; and multiple business districts;
- A centre of economic activity with a complex and diverse economy;
- A single area for which integrated development planning is desirable; and
- Having strong interdependent social; and economic linkages

In terms of Section 3 of the Structures Act any area that does not comply with the criteria as set out in Section 2 must have municipalities of both categories B (Local Municipalities) and C (District Municipalities).

### 3.7.2. Types of Municipalities

Sections 8, 9 and 10 of the Structures Act list the types of municipalities that are possible within each category of municipalities. For the purpose of this dissertation reference is made to two of these types namely:

- **The Collective Executive Type** – In this type the metropolitan, district or local council can establish an Executive Committee that collectively exercises executive authority over the municipality. This means that a small group of persons can be assigned to administer the municipality like a “mini cabinet” (de Visser 1999:4).
- **The Executive Mayoral Type** – In the Executive Mayoral Type an executive mayor, one person, in most instances assisted by a mayoral committee, is afforded executive authority. The Act in Sections 44 and 56 refers to the functions and powers of executive committees and executive mayors respectively.

### 3.7.3. Establishment of Municipalities

Municipalities are established after the re-determination of boundaries by the Demarcation Board, by the Provincial Minister (Member of the Executive Council) for local government ([www.idasa.org.za](http://www.idasa.org.za) [date unknown]). Section 12 of the Structures Act provides guidelines in terms of which MECs must establish municipalities. In terms of the Section 12 the MEC for local government must by notice in a Provincial Gazette establish municipalities for the particular province. This notice must include the following information:

- The category of the newly established municipality.
- The type of municipality to be established.
- The boundaries of the municipality.
- The name of the municipality.

- The number of councillors to be elected.
- Whether councillors are full-time or part-time.
- Any amendments (if any) regarding the division of functions and powers.
- The disestablishment of the currently existing municipality.
- Transitional arrangements relating to staff.
- Transitional arrangements relating to assets and liabilities
- Investments, cash and cash balances.
- Dispute resolution.
- Intervention powers of the MEC.
- Transitional provisions relating to existing by-laws and resolutions.
- Duties of chief executive officers of existing municipalities.
- Appointment of an acting municipal manager.
- Commencement date.

The Kai !Garib Local Municipality was established in terms of an Extraordinary Provincial Gazette, 2000 (No. 555 of 2000) (Please See Appendix A).

#### **3.7.4. Internal Systems, Structures and Office Bearers**

As was referred to when discussing the Section 12 notice, the MEC for Local Government and Housing will decide on the category and types of municipalities to be established in the province based on the criteria mentioned under Section 2 of the Structures Act. The Kai ! Garib Local Municipality is a Local (Category B) municipality with a collective executive system (Section 12 notice, Provincial Gazette No. 555, 22 September 2000). Thus, the following internal structures and functionaries are found within the municipality:

- **Executive Committees**

The executive committee is seen as the most important committee of the council. It must consider the reports of all other committees of council and in the case where the executive committee does not possess the delegated authority to decide on such a matter refer such matter to the full council. The functions of the executive committee include the following:

- Identifying the needs of the municipality.
- Reviewing and evaluating the identified needs in order of priority.
- Recommend to the council, strategies, programmes and services to address the priority needs through the integrated development plan and estimates of revenue and expenditure
- Recommend or determine the best method, including partnership and other approaches to deliver those strategies, programmes and services to the maximum benefit of the community
- The executive committee must also ensure that the performance of council can be measured by ensuring that key performance indicators are developed.
- Monitor the management of the municipality's administration in accordance with the policy directions of the municipal council
- Perform such duties and exercise such powers as the council may delegate to it
- Annually report on the involvement of communities and community organisations in the affairs of the municipality
- Ensure that regard is given to public views and report on the effect of consultation on the decisions of the council
- Finally the executive committee must report to the municipal council on all decisions taken by the committee.

- **Ward Committees**

Sections 72 to 78 of the Structures Act provides for the establishment of ward committees to give effect to the constitutional provision of participatory democracy at the local sphere of government. Ward committees can only be implemented in category B (Local Municipalities) and certain types of category A (Metropolitan Municipalities). In terms of Section 73(2) of the Structures Act ward committees will consist the ward councillor and not more than 10 persons residing in that particular ward.

- **Mayor**

The municipal council must elect a member of the executive committee as the mayor of the municipality. The functions of the mayor include:

- Presiding at meetings of the executive committee
- Performing the duties, including any ceremonial functions, and exercises the powers delegated to the mayor by the municipal council or the executive committee.

- **Speaker**

Each council must have a chairperson, called the speaker. The Speaker's functions include:

- Chairing the meetings of council;
- Ensuring that the council meets at least once every quarter;
- Ensuring that order is maintained during council meetings; and
- Ensuring that councillors act within the provisions of the code of conduct for councillors.

From the above discussion it thus becomes clear that the Structures Act played a crucial role, together with the Demarcation Act to bring about the new local government dispensation.

### **3.8. THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (Act 32 of 2000) (The Systems Act)**

The Systems Act endeavours to establish the content of “developmental local government” and elaborates on the core principles, mechanisms and processes that are required to enable municipalities to move progressively towards the social and economic upliftment of communities. It therefore, focuses primarily on the internal systems and administration of the municipality and sets out basic requirements for a developmental system of local government.

The following important issues are addressed in the Systems Act:

- **The legal nature of municipalities-** The Act defines a municipality as consisting of a municipal institution (political and administrative structures) and the people who live in the local area. In this regard, this Section of the Act also looks at the rights and duties of the municipality and the rights and duties of the local community ([www.pmg.org.za](http://www.pmg.org.za) [date unknown]).
- **Municipal powers, functions and duties-** The Systems Act regulates the process of assigning powers and functions to local government to ensure that municipalities receive adequate funding to fulfill assigned powers and functions. In other words, this Section aims to ensure that functions assigned to local government are viable in terms municipalities having the capacity and the financial resources (Sections 8 to 15 of the Systems Act).
- **Community participation** – It is important that local inhabitants do not only participate in municipal issues when voting for representatives every

five years. In this regard the Systems Act prescribes that citizens should actively participate in municipal processes by having a more direct say in processes such as municipal planning and budgeting. The Act obliges municipalities to establish procedures for

- Receiving and responding to petitions and complaints lodged by members of the community;
  - Giving notice of public meetings, and allowing for public comment when appropriate;
  - Holding consultative sessions with locally recognized community organizations and, where appropriate, with traditional authorities; and
  - Reporting back to the local community ([www.pmg.org.za](http://www.pmg.org.za)).
- 
- **Integrated development planning** – Each municipality must, in terms of the Systems Act adopt a single, inclusive and strategic plan for the development of the municipality. The plan is called an integrated development plan (IDP) and it must link, integrate and co-ordinate all the municipality's plans. The IDP must furthermore align the resources and capacity of the municipality with the implementation of the plan. Integrated development plans will form the policy framework and general basis on which annual municipal budgets must be based. As far as core components of IDPs are concerned, they must reflect:
    - The municipal council's vision for the long term development of the municipality with special emphasis on the most critical development and internal transformation needs;
    - An assessment of the existing level of development in the municipality, which must include an identification of communities which do not have access to basic municipal services;

- The council's development priorities and objectives for its elected term, including its local economic development aims and its internal transformation needs;
  - The council's development strategies which must be aligned with any national or provincial sectoral plans and planning requirements binding on the municipality in terms of legislation;
  - A spatial development framework which must include the provision of basic guidelines for a land use management system for the municipality;
  - The council's operational strategy;
  - Applicable disaster management plans;
  - A financial plan, which must include a budget projection for at least the next three years; and
  - Key municipal performance indicators and performance targets ([www.pmg.org.za](http://www.pmg.org.za) [date unknown]).
- 
- **Performance management** – Every municipality must, in terms of the Systems Act establish a performance management system that must be in line with the priorities, objectives, indicators and targets contained in the IDP. The performance management system must also ensure that a culture of performance is entrenched in the structures political offices and administration of the municipality (Mettler 1999:4).



- **Human resource management** – Municipalities are expected to adopt appropriate procedures providing for fair, efficient, effective and transparent human resource management, including:
  - The recruitment, selection and appointment of persons as staff members;
  - Service conditions of staff;
  - The supervision and management of staff;
  
  - The monitoring, measuring and evaluating of performance of staff;
  - The promotion and demotion of staff;
  - The transfer of staff;
  - Grievance and disciplinary procedures;
  - The investigation of allegations of misconduct and complaints against staff; and
  - The dismissal and retrenchment of staff.
  
- **Municipal services** – Municipalities must provide local communities with basic municipal services which are necessary to ensure an acceptable and reasonable quality of life. Services must be rendered in a manner that is equitable, accessible and financially and environmentally sustainable. Municipalities must also consider alternative service rendering arrangements in instances where they lack the capacity to do so themselves. The Systems Act in this regard provides guidelines for alternative service rendering arrangements.
  
- **Credit control and debt collection** – The collection of rates, service charges and other taxes is an important part of a municipality's duties. Municipalities should, in terms of the Act establish a system that creates a positive relationship between the community (customers) and the municipality as service provider. In terms of this relationship customers

must be well informed regarding service standards and there must be sufficient channels for them to complain and receive feedback regarding the quality of services (Pauw **et al.** 2002: 303).

It is thus clear that the Systems Act provides for a wide variety of issues to be addressed by municipalities in order to give effect to the provisions of the Constitution and the White Paper on Local Government concerning service rendering and social and economic development.

### **3.9. THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003 (Act 56 of 2003) (The Municipal Finance Management Act)**

According to the National Treasury, the Municipal Finance Management Act aims to modernize budget and financial management practices in local government. The Act aims at providing a sound financial governance framework by clarifying and separating the roles and responsibilities of the mayor, councillors and officials ([www.treasury.gov.za](http://www.treasury.gov.za)).

Furthermore, the importance of sound relations between the three spheres of government is emphasised by the Municipal Finance Management Act and the most important provisions of the Act covers inter alia:

- National and provincial supervision;
- Municipal revenue;
- Municipal budgets;
- Debt;
- Responsibilities of municipal officials;
- Municipal budget and treasury offices;
- Municipal entities;
- Financial statements and auditing;
- General treasury matters; and

- Financial misconduct (Pauw *et al.* 2002:266).

The Municipal Finance Management Act thus represents a further step towards transforming local government by providing new guidelines for financial reforms at the local sphere of government. It also provides for a system of intergovernmental financial relations between national, provincial and local government.

In the above paragraphs an attempt was made to provide some information on the most prominent legislative guidelines for local government. It is important to bear in mind that the legislative measures for local government can only be effective if the implementation of legislation is of a sound nature. In this regard, it is imperative for municipal councillors and officials to work together effectively in order to attain the objectives of legislative provisions. The relationship between officials and councillors is often a controversial one and therefore it would be of interest to highlight some important matters in this regard.

### **3.10. POLITICAL LEADERSHIP AND MUNICIPAL MANAGEMENT**

In terms of the relationship between political representatives and municipal managers, the notion that exists is that politicians are responsible for making policy, while it is the duty of the managers to execute these policies. Craythorne (1997:112) however argues that both politicians and municipal managers are ultimately involved in developing policy, especially because of the advisory role that management has to fulfill.

It is essential to note, however, that both these role players should have a clear understanding of what their primary roles are. Political representatives are elected based on their leadership role and popularity within the community, while public managers are appointed, based on them possessing specific skills to perform a specific job.

Political leaders should therefore concentrate on acting as representatives of the community by:

- Ensuring continuous contact with community members;
- Identifying community needs, based on the above- mentioned contact;
- Representing these needs in the proceedings of council through for example constructive debating; and
- Inspiring and motivating the community through his/her exemplary conduct.

Political leaders should not, as their primary function, meddle in the day to day management of the municipality, which is essentially the function of municipal management staff. The importance of this issue is emphasised in the code of conduct for councillors, as contained in the Systems Act, which explicitly prohibits a councillor from intervention in the management of the municipality.

Therefore, the relationship between politicians and municipal managers is of critical importance when one looks at the responsibility of politicians and based on the fact that management must act in an advisory capacity as well as ensuring that council policy and decisions are indeed implemented. This would require mature leadership from both parties and definitive levels of cooperation. The notion that the one party (council) is the boss and the other (managers) their servants should at all cost be avoided and both parties should view their role in the context of it being a team effort if legislative guidelines for local government are to be successfully implemented.

### **3.11. CONCLUSION**

In the above Chapter local government was depicted within the framework of the nature of the South African state. It was concluded that in a unitary state such as

South Africa, the national government retains overriding powers to take final decisions on the activities of the government spheres, even though it was concluded that some characteristics of federal governance do exist in South Africa.

It was furthermore discovered that for the first time in South Africa's constitutional history was local government entrenched as a sphere of government with clear objectives set for this sphere of government. The legislative framework as a process to facilitate local government was then discussed.

The Constitution, it was concluded provides the overall framework for local government activities in the country. However, it was necessary to, through further legislative measures build on the provisions of the Constitution. The White Paper on Local Government provided further impetus to the local government restructuring process by identifying more clear aims and objectives for local government.

Based on the White Paper on Local Government, further legislative measures for local government restructuring were established. **The Local Government: Municipal Demarcation Act, 1998** (Act 27 of 1998) provided for the re-determination of municipal boundaries in order to create sustainable municipalities. Together with the **Local Government: Municipal Structures Act, 1998** (Act 117 of 1998), it determined criteria for establishing different categories and types of municipalities. The Structures Act furthermore regulated the internal structures, processes and functionaries to be established in order to facilitate the new municipal system in the country.

**The Local Government: Municipal Systems Act, 2000** (Act 32 of 2000) was established to facilitate a progressive movement towards attaining the objectives

of developmental local government. A variety of important issues were provided for in the Systems Act. **The Local Government: Municipal Finance Management Act, 2003** (Act 56 of 2003) provided guidelines for modernized financial planning and budgeting processes to be implemented in local government. It furthermore emphasised the need for intergovernmental co-operation between the national, provincial and local spheres of government to ensure sound financial management at the local sphere of government.

Finally it was established that in order for the legislative guidelines for local government to be successfully implemented, there needed to be sound relations between the elected politicians and the appointed officials.

Chapter 4 will deal with the restructuring process in local government in more detail with specific reference to the Kai !Garib Local Municipality in the Northern Cape.

## CHAPTER FOUR

### THE IMPORTANCE OF ORGANISING IN THE CONTEXT OF THE RESTRUCTURING OF KAI !GARIB

#### 4.1. INTRODUCTION

Chapters two and three of this Dissertation dealt with the historical development of local government in South Africa and the legislative framework for local government respectively. In discussing the historical development, the need for change in local government was established based on the need to achieve equality in terms of service rendering and development in South African society. The nature of the changes that have taken place so far was discussed and the discussion concluded with reference to the establishment of the Kai !Garib local municipality in the Northern Cape to illustrate one example of where the transformation of local government has led to. In outlining the legislative framework for local government, the need for, and the actual development of new, progressive legislation to facilitate the change process in local government were highlighted.

However, reality dictates that municipalities have to be operational in spite of the structural changes that have taken place in the local government environment. This means that while adapting to a new organisational structure, services have to be rendered and the developmental needs of the community addressed in an effective and efficient manner.

The emphasis in this Chapter will therefore be on theoretically explaining the need for creating suitable organisational structures and how changes in such structures can influence the functioning of an organization. The Kai !Garib local municipality will once again serve as a practical reflection of the theoretical information.

#### 4.2. CREATING ORGANISATIONAL STRUCTURES: THE RATIONALE

In order to be able to rationalise the creation of organisational structures, it is necessary to define a number of key related terms. If the impact of the local government restructuring process on the Kai !Garib local municipality as an *organization* is to be determined, it is essential that certain concepts be clarified.

According to Robbins (1990:4) an organization is a "...consciously coordinated social entity, with a relatively identifiable boundary, that functions on a relatively continuous basis to achieve a common goal or set of goals". For the purpose of local government the municipality can be referred to as the organization described in the above definition, because there are conscious efforts to coordinate the activities of municipalities, a municipality can be described as a social entity as there are many people (role players) involved and finally there are clear boundaries as far as the geographical area and the decision-making authority of a municipality is concerned.

The act of creating this organization can be referred to as organising, defined by Thornhill and Hanekom (1995:157) as "...the activity of formally establishing and designing a structure, bringing together systematically different, independent parts or units to form a unified whole, the result of which is generally referred to as an organization". Meiring and Parsons (1994:100) furthermore refer to organising as "...the establishment of work units, communication channels and behavioural relationships, together with the allocation of functions and delegation of authority to such work units in order to make possible the achievement of pre-determined policy objectives and so to contribute to effective and efficient work performance".

It can thus be deduced that certain critical components make up the activity of organising. It would thus be advantageous to examine the extent to which these components apply in the case of the Kai !Garib local municipality.



#### 4.2.1. Structural Design

Structural (or organisational) design is defined by Swanepoel **et al.** (1998:87) as "...part of management's task to organise the organization into a structure of positions (a hierarchy), ranging from the most senior manager at top management level to the lowest level labourers". However, before looking at the structural design of the Kai !Garib local municipality it is important to consider that structural considerations in respect of local government can be viewed from two different perspectives, namely:

- A macro-level, i.e. the creation of municipal structures in accordance with guidelines set out, and the position of local government within the overall system of government; and
- A micro-level, i.e. the way in which municipalities organise themselves to achieve their goals.

##### 4.2.1.1. Macro-level of structural design

The Constitution, in Section 155, provides for the establishment of three categories of municipalities, namely:

- **Category A (metropolitan) municipalities**

Category A or Metropolitan municipalities have exclusive legislative and executive powers in their areas of jurisdiction. In terms of Section 2 of the Structures Act areas considered to qualify as metropolitan municipalities must have the following features:

- a conurbation, inclusive of the following:
  - Areas of high population density.
  - An extensive movement of people.
  - Multiple business districts and industrial areas.

- A centre of economic activity with a complex and diverse economy.
- A single area for which integrated development is desirable.
- Strong interdependent social and economic linkages between its constituent units.

Six metropolitan municipalities have been established in South Africa namely the city of Johannesburg, the city of Cape Town, the Nelson Mandela Metropolitan Municipality (Port Elizabeth), Tshwane Metropolitan Municipality (Pretoria), eThekweni Metropolitan Municipality (Durban) and the Ekurhuleni Metropolitan Municipality (East Rand) (Cameron 2000:20).

- **Category B (local) municipalities**

Section 3 of the Structures Act states that any area that does not comply with the requirements for metropolitan municipalities, as set out in Section 2 of the Act, should have municipalities of category B as well as Category C municipalities. In terms of this categorization a local municipality shares executive and legislative authority in its area with the district municipality within whose area it resorts.

According to Cameron (2000:17-18) the following factors were considered in determining category B municipalities:

- **Geographical Contiguity and Coherence** – This required that when the boundaries of local municipalities were considered, the Demarcation Board as described in Chapter 3 had to ensure geographic coherence when amalgamating existing municipalities. This is because local government is closely tied to promoting accessibility to local representatives. The rural areas in between Kakamas, Keimoes and Kenhardt previously resorted under the Lower Orange District Council (now Siyanda District Municipality). This

meant that residents of these areas were reasonably distant from their municipality. The underlying logic would thus be to bring the municipality closer to all residents of this particular area.

- **Capacity Development** – A further factor to be considered was to ensure that the newly established municipality would be conducive to developing a critical mass of capacity in terms of staff, assets and finance. The assumption regarding the development of a critical mass of capacity would be that at least one of the towns had to be considerably stronger than the other constituent parts. When looking at Keimoes, Kakamas and Kenhardt however, it could be argued that they were relatively similar in size and capacity. Before the demarcation process took place, both Kakamas and Keimoes had 7 councillors and Kenhardt 6 indicating the similarity between the towns (Status Quo Reports on Keimoes, Kakamas and Kenhardt: November/December 2000). The extent to which one of these municipalities could assist the other constituent parts in developing capacity could thus be regarded as questionable.
- **Resource Sharing** – In terms of establishing new local municipalities, it was important to combine existing municipalities with a view to realizing fiscally sustainable units, with weaker areas being paired with stronger areas so as to achieve a sharing of existing or potential resources. It has been revealed that none of the constituent parts of the new municipality can realistically be regarded as having been significantly stronger financially at the time of amalgamation (Kai !Garib: May 2005). This factor with regards to Kai !Garib once again becomes questionable.
- **Functionality** – Amalgamating places with internal linkages was an important consideration when determining the new boundaries local

municipalities. It was for example necessary to ensure that all areas of the new municipalities were physically accessible. It would thus be imperative for the new municipality to devise strategies to overcome the physical distance between the towns. In a questionnaire circulated to senior officials and councillors of Kai !Garib this was one of the issues raised. The respondents' views will be discussed in Chapter 5.

The municipal area of Kai !Garib is divided into eight wards and the council consists of fifteen members, eight of whom are ward representatives and seven being proportional representatives of political parties. The political party with the majority of members in the council is the African National Congress (ANC) with a total of ten councillors (eight ward and two proportional representatives). The Democratic Alliance (DA) occupies the remaining five seats in council all of whom are proportional representatives. The municipality is furthermore a collective executive type meaning that it has an executive committee. This means that the council may, in terms of Section 32 of the Structures Act delegate certain functions to the Executive Committee allowing it to decide and/or act on behalf of the council. The executive committee consists of two members from the ANC and one member from the DA ([www.demarcation.org.za](http://www.demarcation.org.za) [date unknown]).

It should furthermore be remembered that the Kai !Garib Local Municipality functions within the jurisdiction of the Siyanda District Municipality, that, in terms of Section 155 (1) [c] of the Constitution has legislative and executive authority in an area that includes more than one municipality. This implies that, apart from Kai !Garib, the Siyanda District Municipality has service rendering obligations in other local municipalities in its area.

- **Category C (district) municipalities**

A district municipality exercises executive and legislative authority in an area that includes more than one municipality. In essence this implies that the district

municipality shares responsibility for service rendering and development with all the constituent local municipalities that make up the district. A more detailed explanation of the division of functions will be provided when municipal functions are discussed. District municipalities can thus be seen as umbrella bodies responsible for the facilitation of service rendering on a district wide level.

The establishment of these categories of municipalities involved re-drawing the existing boundaries of municipalities in South Africa. The establishment of the Kai !Garib local municipality furthermore illustrated that in some instances traditionally different towns became part of a single municipality. The municipality is a category B (local) municipality and falls within the Siyanda District (category C) municipality. The municipal area covers 7449 square kilometers and consists of three large towns namely Kakamas, Keimoes and Kenhardt (Kai !Garib IDP 2004:2). Between these towns, settlements previously administered by the Lower Orange District Council are found.

#### **4.2.1.2. Micro-level of structural design**

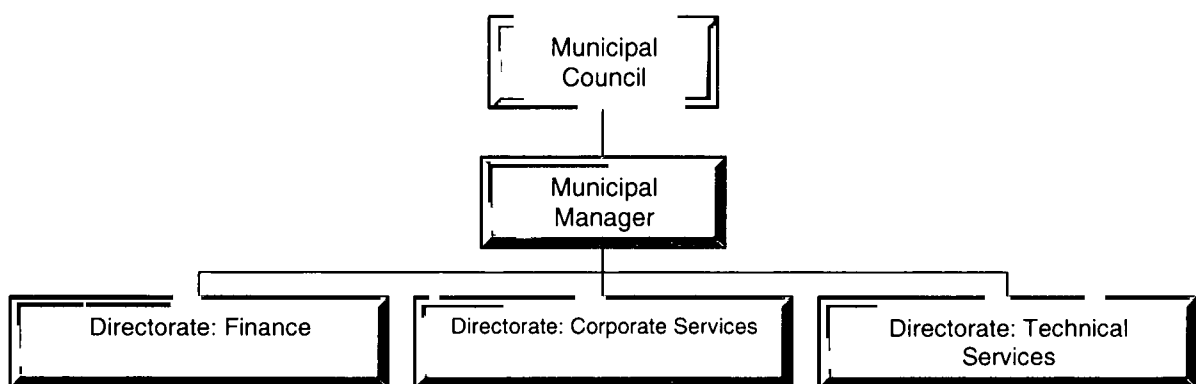
As was, earlier mentioned, the micro-level structural design in the case of municipalities refers to how municipalities as organizations organise themselves to achieve their objectives. An important question would thus be what the objectives of municipalities are and although it has been discussed earlier in this dissertation, it is important to revisit these objectives within this specific context. According to Section 152 of the Constitution, the broad objectives of local government are:

- to provide democratic and accountable government for local communities;
- to ensure the provision of services to communities in a sustainable manner;
- to promote social and economic development;

- to promote a safe and healthy environment; and
- to encourage the involvement of communities and community organisations in the matters of local government.

The following organisational structure applies to the Kai !Garib Local Municipality:

**Figure1**



In the Kai !Garib Local Municipality legislative and executive authority is vested in the municipal council. The council is thus responsible for determining policy measures and is furthermore responsible for monitoring the implementation of policy directives. The council furthermore has an administrative structure at its disposal aimed at operationally focusing on activities that would ensure the attainment of the abovementioned constitutional objectives. In order to better understand the administrative structure, it is advisable to look at another component of organising namely the establishment of work units.

#### **4.2.2. Establishing specialized work units**

The establishment of work units would ensure that an organisation's functional activities are carried out in a well coordinated manner. According to Meiring and

Parsons (1994:102) government organisations' policies and functional activities can only take place if work is divided between officials and this division of work always leads to the creation of work units. The creation of work units can thus be described as the division of work into specific areas of specialization. It is furthermore argued that dividing work between specialized work units has the following advantages:

- Improvement of work performance, because the work is divided into more easily handled units.
- More effective exercise of control, because the span of control is limited.
- More effective training, because similar and related work is grouped into work units.
- Elimination of work duplication.
- Facilitation of work specialization.

In local government, creating work units is important when considering the wide range of services to be rendered by municipalities. According to Ismail *et al.* (1997:69), the following model can be used to conceptualise the functional activities of municipalities.

**Table 2: Classification of Municipal Functional Activities**

CLASSIFICATION	TYPES OF SERVICES
Community Services	- Community Hall - Roads and streets - Storm water drainage
Security Services	- Roads and streets - Civil protection - Traffic control - Law enforcement
Subsidised services	- Libraries - Museums
Commercial services	- Electricity - Water
Environmental services	- Pollution control - Refuse collection
Services of convenience	- Recreation facilities - Swimming pools
Economic services	- Building control - Licensing

Source: Ismail **et al.** (1997: 69)

It can be concluded that the creation of specialized work units has to be effected in order to enable an organization to perform the functions attached to it and ultimately fulfill the purpose for the establishment of the organization in the first instance. For this reason it is essential to consider the Kai !Garib Local Municipality within the context of the demarcation of new municipalities to determine:

- The category and type of municipality Kai !Garib can be classified as; and
- The functions connected to such a category and type of municipality.



#### **4.2.2.1. Kai !Garib: Category and Type**

In the discussion of the legislative framework for local government in Chapter 3 of this Dissertation, it was outlined that the establishment of different categories of municipalities required redrawing the existing boundaries of municipalities. The establishment of the Kai !Garib Local Municipality furthermore illustrates how, in some instances, traditionally different towns became part of a single municipality.

In terms of Section 12 of the Structures Act, Kai !Garib is a Category B (Local) municipality that resorts within the boundaries of the Siyanda District (Category C) Municipality. The municipal area covers 7449 square kilometers and consists of three large towns namely Kakamas, Keimoes and Kenhardt (Kai !Garib IDP 2004:2). Between these towns, a number of settlements previously administered by the Lower Orange District Council are found. Keimoes is situated approximately 75 kilometers North of Kenhardt and 40 kilometers East of Kakamas (Kai !Garib IDP 2004:2). It can therefore be concluded that the establishment of Kai !Garib included the amalgamation of towns into one municipal area that are relatively distant from one another.

In the Kai !Garib local municipality the largest work units are the three directorates outlined earlier in this Chapter namely the directorates of finance, corporate services and technical services. Within the three directorates a number of divisions have been created. Divisions are defined by Meiring and Parsons (1994:107) as "...a grouping of a number of Sections with related objectives and functions to render a specific service", while a Section is a smaller work unit within a division consisting of a number of posts.

In addition to the category and type of municipality being a determining factor in the establishment of work units the specific functions assigned to municipalities will also play a role.

#### **4.2.2.2. Municipal Functions**

For the purpose of this dissertation, the discussion on municipal functions will be limited to those of local and district municipalities, since the focal point of this study relates to the impact of local government restructuring on a local municipality. As a point of departure the provisions of relevant legislation in terms of the functions of municipalities is discussed.

##### **4.2.2.2.1. The Constitution**

**The Constitution of the Republic of South Africa, 1996** (Act 108 of 1996) is the supreme law of the country and all ensuing legislation must thus be based on the provisions of this Act. During the discussion on the legislative framework for local government, the importance of the Constitution in terms of eradicating the legacy of the Apartheid system in South Africa has been discussed. The Constitution aims to bring about changes in the lives of all South Africans by focusing on important ethical considerations such as freedom, equality and human dignity, principles that have been limited to a select few in the past.

The Constitution, in Chapter 7, furthermore acknowledges the important role that the local sphere of government can play as an agent of service rendering due to its closeness to local communities. The following provisions of the Constitution in so far as municipal functions are concerned, are of importance:

- Section 156, in terms of which a municipality has the executive authority in respect of, and has the right to administer:
- The local government matters in Part B of Schedule 4 and Part B of Schedule 5 of the Constitution; and

- Any other matter assigned to it by national or provincial legislation.
  
- Part B of Schedule 4 of the Constitution assigns the following functions to municipalities:
  - Air pollution;
  - Building regulations;
  - Child care facilities;
  - Electricity and gas reticulation;
  - Firefighting services;
  - Local tourism;
  - Municipal airports;
  - Municipal planning;
  - Municipal health services;
  - Municipal public transport;
  - Municipal public works in respect of the needs of municipalities in the discharge of their responsibilities to administer functions specifically assigned to them under the Constitution or any other law;
  - Pontoons, ferries, jetties, piers and harbours, excluding the regulation of international and national shipping and matters related thereto;
  - Storm water management in built-up areas;
  - Trading regulations; and
  - Water and sanitation services limited to portable water supply systems and domestic waste-water and sewage disposal systems.
  
- Part B of Schedule 5 of the Constitution assigns the following functions to municipalities:

- Beaches and amusement facilities;
- Billboards and the display of advertisements in public places;
- Cemeteries, funeral parlours and crematoria;
- Cleansing;
- Control of public nuisances;
- Control of undertakings that sell liquor to the public;
- Facilities for the accommodation, care and burial of animals;
- Fencing and fences;
- Licensing of dogs;
- Licensing and control of undertakings that sell food to the public;
- Local amenities;
- Local sport facilities;
- Markets;
- Municipal abattoirs;
- Municipal parks and recreation;
- Municipal roads;
- Noise pollution;
- Pounds;
- Public places;
- Refuse removal, refuse dumps and solid waste disposal;
- Street trading;
- Street lighting; and
- Traffic and parking.

The Constitution, in Section 156 also assigns the function of making and administering by-laws in its area of jurisdiction. Important in this regard is that no by-law may be in conflict with national or provincial legislation, in which case such a by-law will be deemed *ultra vires*.

Section 229, relating to municipal fiscal powers and functions states that a municipality may impose:

- Rates on property and surcharges on fees for services provided by or on behalf of the municipality.
- If authorised by national legislation, other taxes, or levies and duties appropriate to local government or to the category of local government into which that municipality falls, but no municipality may impose income tax, value added tax, general sales tax or customs duty.

The power of a municipality in terms of Section 229 of the Constitution to impose rates on property, surcharges on fees for services provided by or on behalf of the municipality, or other taxes, levies or duties –

- May not be exercised in a way that materially and unreasonably prejudices national economic policies, economic activities across municipal boundaries, or the national mobility of goods, services, capital or labour; and
- May be regulated by national legislation.

When two municipalities have the same fiscal powers and functions with regard to the same area, an appropriate division of those powers and functions must be made in terms of national legislation. The division may be made only after taking into account at least the following criteria:

- The need to comply with sound principles of taxation;
- The powers and functions performed by each municipality;
- The fiscal capacity of each municipality;
- The effectiveness and efficiency of raising taxes, levies and duties; and
- Equity.

Nothing in Section 229 of the Constitution precludes the sharing of revenue raised in terms of this Section between municipalities that have fiscal power and functions in the same area. This implies that revenue may be shared between

local and district municipalities such as the Kai !Garib Local Municipality and Siyanda District Municipality.

From the above it is clear that the Constitution, in Sections 156 and 229, provides the core of the functions to be fulfilled by municipalities. In terms of the relationship between district and local municipalities as described earlier, there might be questions with regard to how these functions are to be performed by the local municipality and the relevant district municipality. It was thus important that ensuing legislation, relevant to local government would deal with this question.

#### **4.2.2.2 The Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) (The Structures Act)**

Section 83 (1) of the Structures Act provides that a municipality has the functions and powers assigned to it in terms of Sections 156 and 229 of the Constitution (as discussed in 4.3.2.1.). It is furthermore provided that the mentioned functions and powers be divided between district and local municipalities. The division of functions is provided for in terms of Section 84 (1) of the Structures Act that assigns the following functions to district municipalities:

- Integrated development planning for the district municipality as a whole, taking into account the integrated development plans of the local municipalities under its areas of jurisdiction;
- Bulk supply of water that affects a significant proportion of municipalities in the district;
- Bulk supply of electricity that affects a significant proportion of municipalities in the district;
- Bulk sewage purification works and main sewage disposal that affects a significant proportion of municipalities in the district;
- Solid waste disposal sites serving the area of the district municipality as a whole;

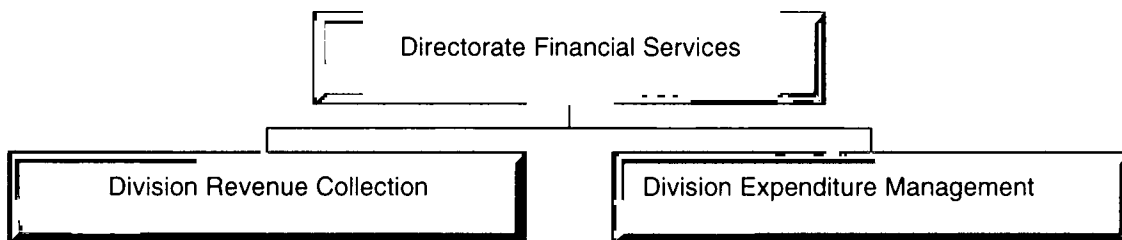
- Municipal roads which form an integral part of a road transport system for the area of the district municipality as whole;
- Regulation of passenger transport services;
- Municipal airports serving the area of the district municipality as a whole;
- Municipal health services serving the area of the district municipality as a whole;
- Fire fighting services serving the area of the district municipality as a whole;
- The establishment, conduct and control of fresh produce markets and abattoirs serving the area of the district municipality as a whole;
- The establishment, conduct and control of cemeteries and crematoria, serving the district as a whole;
- Promotion of local tourism for the area of the district municipality;
- Municipal public works relating to any of the above functions or any other functions assigned to the district municipality; and
- The imposition and collection of taxes, levies and duties as related to the above functions or as may be assigned to the district municipality in terms of national legislation.

In terms of Section 84 (3) of the Structures Act, local municipalities are not prevented from performing the functions in its area and exercising powers in its area of the nature described in Section 84 (1). This implies that local municipalities may in fact perform the functions as assigned to district municipalities in Section 84 (1). The decision in terms of responsibility for the fulfilling of functions may in terms of Section 85 (1) of the Structures Act be taken by the MEC for Local government based on existing capacity of local and district municipalities. In order to fulfill the above-mentioned functions it could logically be assumed that the Kai !Garib Local municipality had to devise an organisational structure in order to effect the functions assigned to it by the Constitution and the Structures Act.

The following divisions within the three directorates are found in the Kai !Garib local municipality with a view of rendering the services applicable to the municipality. It is important to note that no evidence could be found indicating that a scientific approach to creating the organisational structure could be found (Kai !Garib: 2005).

#### 4.2.2.3. Directorate: Finance

Figure 2

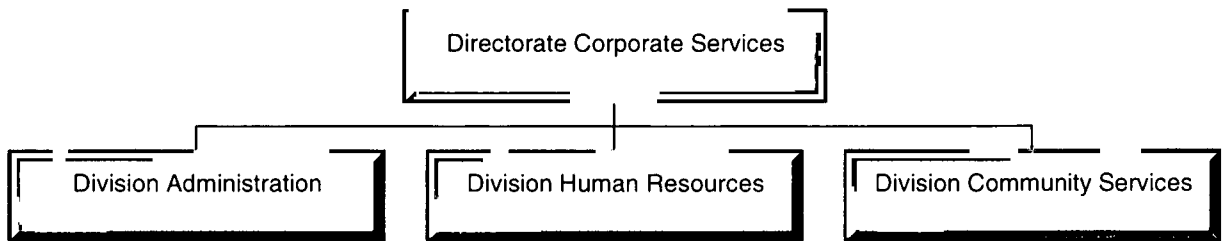


The directorate of finance (figure 2) is responsible for the management of the financial administration of the municipality and has to ensure that the resources of the municipality are utilized efficiently, effectively and economically (Kai !Garib 2005).



#### 4.2.2.4. Directorate Corporate Services

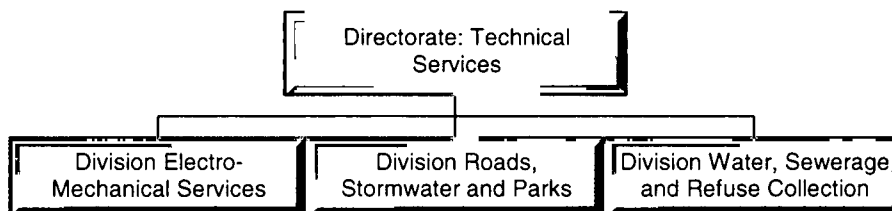
Figure 3



The corporate services directorate (figure 3) provides an extensive administrative and human resource function and is furthermore responsible for local economic development (Kai !Garib: 2005).

#### 4.2.2.4. Directorate Technical Services

Figure 4



The technical services directorate (figure 4) is responsible for the maintenance of infrastructure as well as the facilitating new infrastructural development within the municipality (Kai !Garib: 2005).

In addition to "traditional" service rendering functions, municipalities are also faced with additional challenges to meet South Africa's peculiar environmental characteristics. Against the background of unequal access to municipal services amongst the communities of towns and cities, it has already been discovered that backlogs in terms of service rendering and development exist. Some new approaches to deal with these challenges have been established through continuous consultation between the three spheres of government. These include the following:

- **Integrated Development Planning (IDP)** – According to Gamedze (2001:5) municipalities must purposefully embark on strategic corporate planning setting out goals, objectives and strategies, taking into account short, medium and long term changes in the environment. In this regard Section 26 of the **Local Government: Municipal Systems Act, 2000** (Act 32 of 2000) requires of all municipalities to establish and implement Integrated Development Plans reflecting implementable short, medium and long term objectives. It would thus be of critical importance for the Kai !Garib Local Municipality to provide for the implementation of IDP in its organisational arrangements.
- **Local economic development (LED)** – The Constitution and other ensuing policy documents related to local government emphasises the importance of economic development at the local sphere of government. LED is aimed at identifying local economic development opportunities, for example local tourism, as a means of maximizing local economic opportunity and alleviating poverty ([www.dplg.gov.za/html/progs/led](http://www.dplg.gov.za/html/progs/led) [date unknown]). The Kai !Garib Local Municipality has tasked the corporate

services directorate with the task of facilitating local economic development, but an official responsible exclusively for LED has not been appointed(Kai !Garib: 2005). This suggests that the responsibility for LED has to be shared by officials with other different primary tasks. It could be argued that the municipality will be best served if a post is created to exclusively focus on local economic development.

It is clear that, apart from traditional municipal services a strategic plan for development will be essential and that municipalities should also prioritise in terms of facilitating economic development. In establishing work units, these issues should be provided for.

#### **4.2.3. Establishing channels of communication and coordination**

Communication is defined by Thornhill and Hanekom (1995:180) as "...sharing with others, impart, pass on, and transmit thoughts, ideas and opinions by speech or writing". Communication in local government is important, because not only does it relate to exchanging ideas within the municipality, but also involving the community it serves in the process. In the Kai !Garib local municipality the issue of communication is of particular importance, because of the amalgamation of different organizations and the nature of the geographical area in which distance plays a major role. Ample use should for example be made of modern modes of communication, such as e-mail in order to ensure efficient communication without much time delays.

Organising can furthermore ensure coordination between the various work units. Although there are divergent functions to be carried out necessitating the creation of specialized work units, their activities are in some way or another related. If for example the technical directorate of a municipality is considering a new method of road construction, it must be discussed and communicated with

the financial directorate in order to assess the financial implications of employing such a method.

#### **4.2.4. Ensuring accountability**

According to Hughes (1998:225) any act of government should in the final analysis be acts of the citizens through their representatives. Accountability is seen as an important component of democratic government, because it requires of elected representatives and appointed officials to give account for and explain all their actions. Organising is, against this background, seen to lead to better accountability, because with clear organisational and structural guidelines in place, employees can be expected to account for outcomes for the portion of work directly under their control. When considering municipal financial management as an example, it is possible to see the importance of accountability. The **Local Government: Municipal Finance Management Act, 2003** (Act 56 of 2003), in Chapter 4 requires of municipalities to compile their budgets in an open and transparent manner that provides for active community participation. In this manner communities are able to monitor municipalities' actions and require of them to account for their actions.

#### **4.2.5. Establishing behavioural relationships**

According to Cloete (1994:125) organising involves much more than merely arranging people in a specific order. People are living entities and their attitudes and feelings may constantly change. In the South African context this is even more significant due to cultural diversity. Establishing behavioural relationships is thus important to maintain a positive organisational culture. According to Kreitner and Kinicki (1995:232) organisational culture reflects the values shared among organisational members. These values tend to persist over time and are more resistant to change. In the case of the Kai !Garib Local Municipality organisational culture is of importance, because of the amalgamation of

previously separate organisational entities each with its own organisational cultures. It will therefore be of utmost importance to ensure that organisational arrangements in the new municipality promote shared values in terms of striving towards organisational goals and objectives.

#### **4.2.6. Delegation of authority**

According to Fox and Meyer (1995:34) delegated authority "...is the action in which an individual or institution transfers political or legal authority to subordinate individual or institution for execution or application". Kuye **et al.** (2002:154) cite the following advantages of delegated authority: distant operations can be managed and more diverse tasks performed; subordinate employees become more involved and committed; and managers have more time for planning, organising, controlling and other tasks only they can perform. Meiring and Parsons (1994:112) are of the view that when work units are created, there should not only be allocation of functions, but also delegation of authority as it is impossible for the chief official/s to perform all the activities within an organization. It can thus be deduced that an effective system of delegation would lead to increased efficiency in terms of performing organisational functions.

It will be essential for the Kai !Garib Local Municipality to have an effective system of delegation considering that it is a relatively new organisational structure. In terms of delegation of authority in local government there are various legislative guidelines. Section 32 (1) of the **Local Government: Municipal Structures Act, 1998** (Act 117 of 1998) states that a municipal council must develop a system of delegation to maximise administrative and operational efficiency. In terms of this provision municipalities may delegate any authority to:

- The executive committee;

- The executive mayor;
- Metropolitan sub-councils;
- Ward committees;
- Other committees or office bearers; and
- The municipal manager or any other official.

Delegation of authority to these functionaries would depend on the type of municipality established in a particular area. Kai !Garib is for example classified as a ward executive type municipality implying that functionaries such as an executive mayor and metropolitan sub-councils do not apply to this municipality.

The Structures Act, in Section 32 (2) furthermore provides guidelines for delegation. In terms of these guidelines delegations:

- Must be in line with the Constitution and the Structures Act;
- Must be in writing;
- Are subject to limitations, conditions and prescriptions to be determined by the municipal council;
- May include the authority to sub-delegate delegated authority;
- Do not exempt the council from being accountable for the exercising of authority or the performing of a duty; and
- Must be revised when a new council is elected.

Delegation of authority can thus be seen as an important part of organising since, in addition to the organisational structure, it would provide clarity in terms of who is responsible for what and the exact nature of such responsibility.

### **4.3. CONCLUSION**

In this Chapter, an attempt was made to theoretically define organising and the importance of creating organisational structures aligned to the functions of a

particular organization. The discussion revolved around various elements of organising and how it applied to the Kai !Garib Local Municipality. The various municipal functions in terms of relevant legislation, i.e. the Constitution, the Structures Act and the Systems Act were outlined. Finally, the organisational structure of the Kai !Graib Local Municipality was provided in order to ascertain the nature of the structure created by the municipality.

In Chapter 5 the results of a questionnaire circulated to senior officials and councillors of the municipality will be discussed. The questionnaire focused on perceived key areas for newly established municipalities, taking into account the various municipal functions.

## **CHAPTER FIVE**

### **IMPACT OF CHANGE ON THE FUNCTIONING OF THE KAI !GARIB LOCAL MUNICIPALITY**

#### **5.1. INTRODUCTION**

This Chapter will focus on the qualitative research conducted at the Kai !Garib Local Municipality in order to ascertain the impact of local government restructuring on the overall functioning of the municipality. The following aspects will be covered:

- The research methodology employed;
- The reasons for focusing on the included areas of research
- The results of the research

#### **5.2. THE RESEARCH METHODOLOGY**

It is firstly important to note that the research focused mainly on the perceptions of senior managers and councillors about the impact of the local government restructuring process on the functioning of the new municipality (the amalgamated Kai !Garib Local Municipality). The study can therefore be seen to be of a qualitative nature, because according to Monobe (2001:104) qualitative research concerns itself with an assessment of a situation expressed in words. Monobe (2001:104) continues and states that qualitative research describes types, styles and similar factors in an effort to understand the phenomenon. Respondents in this study were required to consider various aspects relating to the restructuring of local government and how it applied to their working environment with the aim for the researcher to better understand their perceptions. The ultimate aim was then to, based on the findings of the study, make recommendations on how the status quo could be improved.



In order to gather the data, questionnaires were distributed to the selected target sample, i.e. senior managers of the municipality and the municipal councillors. A questionnaire is described by Rankwana (2004:11) as a device that enable a respondent to answer questions and provide information on a specifically selected research topic. To this end questionnaires were distributed to the 15 councillors as well as the Municipal Manager, the three directors reporting to him and their immediate subordinates.

In total, 22 questionnaires were distributed to:

- 15 councillors;
- The Municipal Manager, three Directors of Departments and their immediate subordinates (seven).

A total of 20 questionnaires were received completed (13 councillors and 7 officials), a response rate to the questionnaire of 91%. It is important to note that in terms of analyzing the data, the responses of councillors and officials will be separated in order to determine the extent to which the two groups have different views on the issues addressed in the questionnaire.

### **5.3. QUESTION CATEGORIES AND THE RESPONSES**

The questionnaire consisted of 7 different sub-headings considered to be relevant against the background of the local government restructuring process. Questions were in the form of Lickert scale questions allowing for respondents to indicate their perceptions on particular matters on a scale from one to four. Furthermore, open-ended questions were posed, providing respondents to express in more detail their views on particular matters.

The most important findings relating to the responses of the councillors and officials will be discussed in the paragraphs that follow. Specific attention will be

given to the most radical differences in opinion between the councillors and officials in terms of the Lickert scale questions. As far as the open ended questions are concerned the views of councilors and officials were integrated since questions in this category mainly focused on key challenges and suggestions from the perspective of every individual.

### **5.3.1. The practical realities of the restructuring process**

The purpose of this category was to ascertain the opinion of councillors and officials in so far as how well the change from being three different municipalities to becoming one sufficed. The questions focused on issues such as the daily administrative operations, communication between officials and communication between officials, councillors and the community. Finally respondents were also questioned on whether they felt that the new structure created competition between people from the previously independent towns that could be unhealthy for the new municipality as a collective.

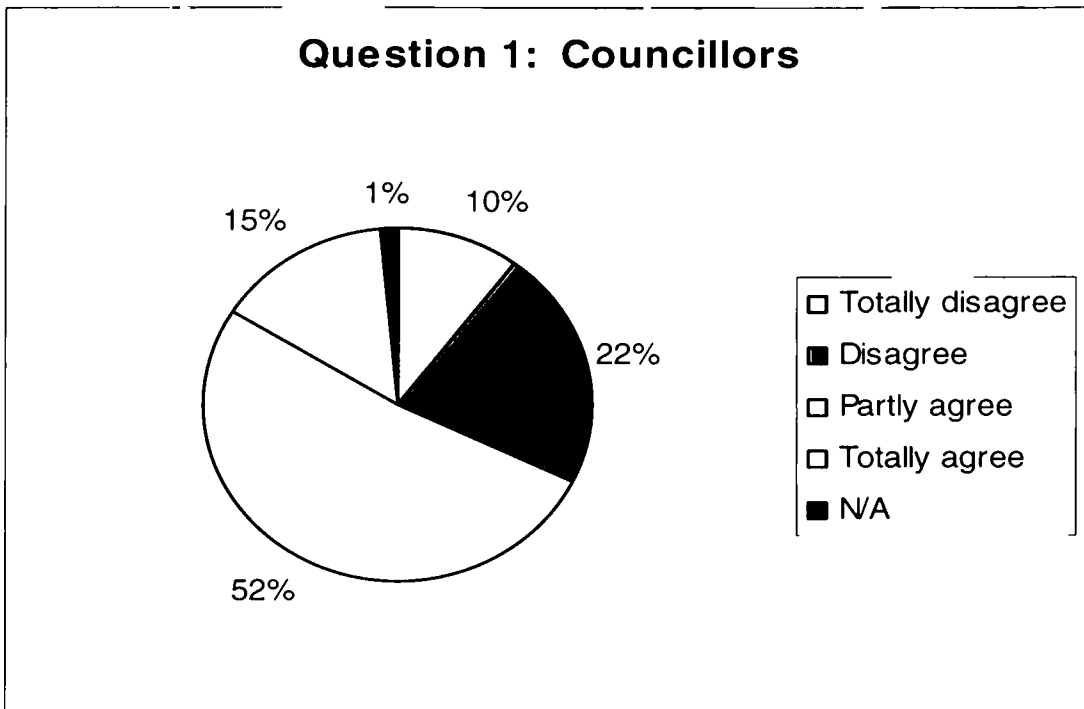


Figure 5

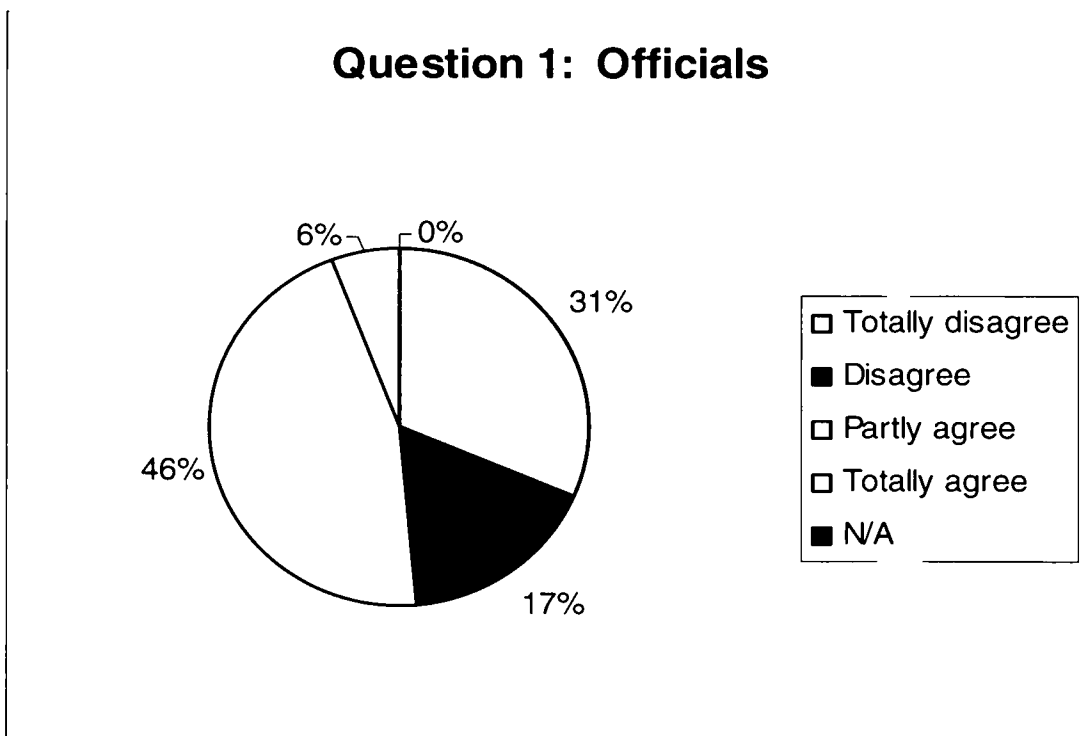


Figure 6

From the above figures (figures 5 and 6) it becomes clear that in regard to the practical realities of the restructuring the councillors were more positive compared to the officials. Only 32% councillors as opposed to 48% officials were of the opinion that in general the day to day activities of the municipality were negatively affected. Perhaps more significant was that 15% councillors were of the opinion that activities were in actual fact unaffected as opposed to a mere 6% officials sharing the same view. It could be argued that this difference in opinion is a logical one since it is the officials who have to deal with logistical shortcomings and the accompanying frustrations of the new system on a daily basis.

An open ended question relating to what respondents viewed as the most important practical challenge brought about by the restructuring process was posed. Eighteen out of the twenty respondents provided varying answers. Most of the respondents (39%) referred to the extensiveness of the geographical area and the need to render services to areas that did not previously form part of the municipality's service area. Other challenges identified included:

- Providing in the needs of the community with a limited revenue base;
- Coping with the financial impact of rendering services to areas not previously part of the municipality;
- Amalgamating the technical services department into a unified entity, because the view is that they are not operating as part of one organization;
- Implementing the Integrated Development Plan (IDP);
- Centralizing administrative procedures, software systems and policy documents;
- Unifying the staff in order for them to view their responsibility in a regional rather than a town centered perspective;
- Providing infrastructure; and
- Gaining access to financial resources to initiate development projects.

Finally in this category, participants were requested to provide suggestions to eliminate perceived shortcomings in the new municipality. Of the fourteen responses to this question only two were of a similar nature. This involved a suggestion that alternative service rendering agents (private contractors) be utilized to maintain streets/infrastructure in the various towns. Other responses included:

- Increased visibility by departmental directors in service areas to listen to the complaints of clients;
- Increased provision of feedback to council by senior staff;
- The establishment of a centralized mail system from where incoming and outgoing mail is dispatched;
- Moving the seat of the municipality from Kakamas to Keimoes as it is more centrally situated;
- The appointment of a civil engineer and a senior staff member to coordinate the activities of the technical department in the various towns;
- To effectively impose property taxes in order to gain extra revenue;
- The compilation of clear job descriptions for officials in order for them to understand and effectively and efficiently execute their functions;
- Broadening the revenue base and an increase in the equitable share of nationally raised revenue allocated by the national government;
- Ensuring that councillors do not interfere in the daily administrative activities of officials and that councillors be subjected to training in order for them to understand the nature of their role;
- Returning to the "old" system; and
- The combination of wards with similar needs.

It is interesting to note how the responses to this question varied. It could however be concluded that, when carefully considering the nature of these varied

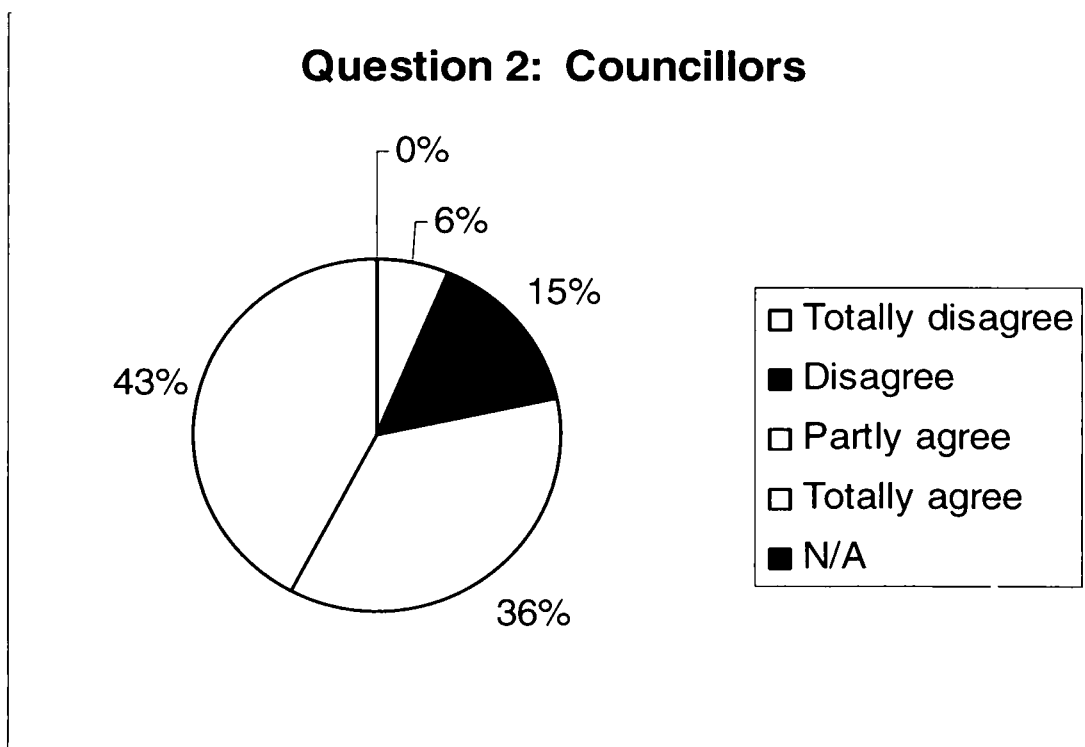
responses, most of them can be linked to the extensiveness of the geographical area.

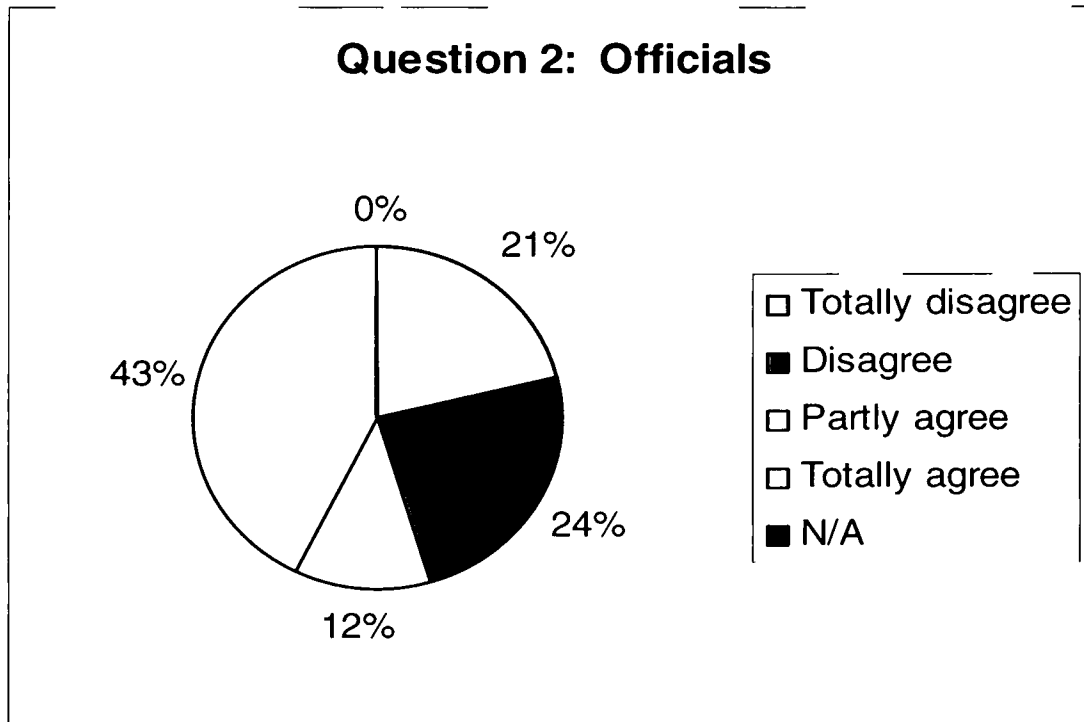
In summarising respondents' opinions in regard to the questions posed in this category, it can be deduced that most of the difficulties encountered in the newly established municipality stem from the extensiveness of the geographical area. Recommendations for Improving the functioning of the municipality would therefore have to be considered in the recommendations at the end of this Dissertation.

### 5.3.2. The impact of the restructuring on basic service rendering

It has been stressed in the introduction to this dissertation that the Constitution of South Africa in Section 152 places an obligation on all municipalities to provide services to communities in a sustainable manner. The questions in this category thus related to the ability of the Local Municipality to continue to provide these services in the wake of the organisational changes that have taken place in the municipality.

**Figure 7**





**Figure 8**

Questions in this category ranged from whether the expansion of the geographical area had an impact on the municipality's ability to provide basic services to the impact on the cost of rendering services. Finally respondents were questioned on whether the municipality had sufficient credit control mechanisms in place as well as an indigent policy to assist poor Sections of the community. Interestingly, in both the cases of the officials and councillors, 43% of the respondents (in figures 7 and 8) agreed that service rendering was on par with expected standards. However, only 12% of the officials partly agreed with this sentiment compared to 36% of the councillors, while 45% officials disagreed compared to the 21% councillors.

Two open ended questions were furthermore asked in this category. The first question related to how the municipality ensured that services rendered complied

with pre-determined quality requirements. A total of 35% of respondents referred to monitoring the work of the various departments as the most utilized method to ensure service quality. Other responses to this question included:

- Feedback at ward meetings when they take place;
- Regular quality test, for example the regular testing of water; and
- One respondent (5%) was of the opinion that there was absolutely no policy in place regarding quality control.

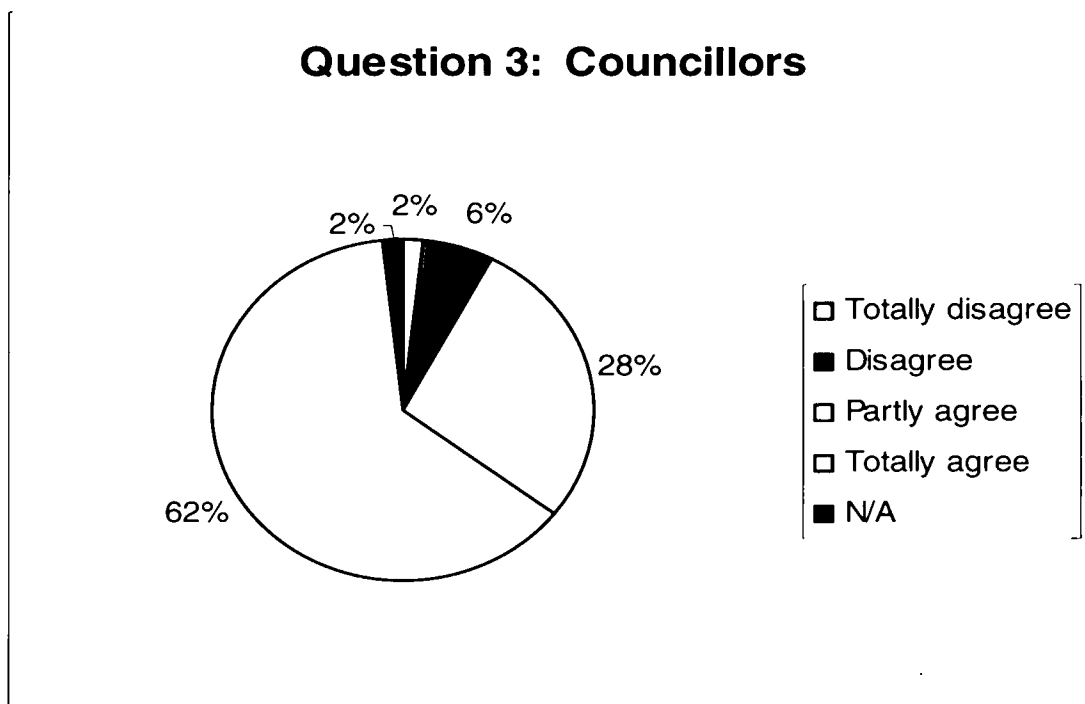
Finally the participants were asked whether there were efforts to obtain the opinion of the community regarding the quality of services. Twenty percent (20%) of respondents were of the view that there were no proactive steps taken, but that attention to quality standards was only there when complaints were received. Seventy percent (70%) of the respondents were, however, of the view that efforts were made to invite inputs from the community. These efforts included community, ward and ward committee meetings.

### **5.3.3. The Local Municipality and development**

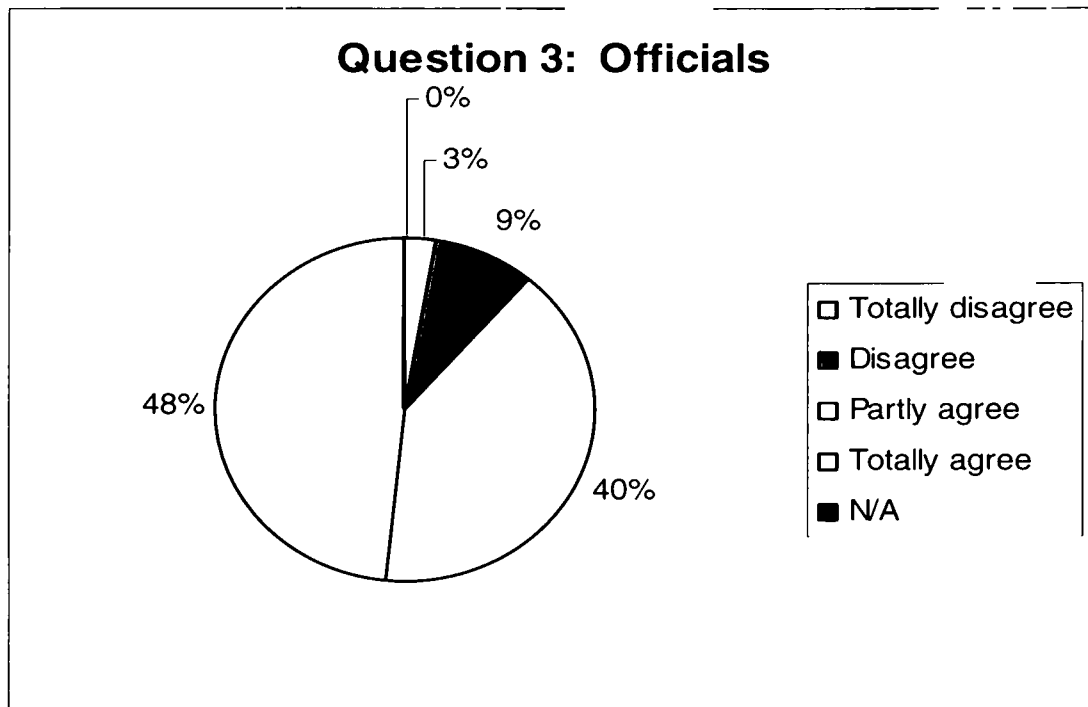
Development is another important local government obligation stressed in Section 152 of the Constitution. Specific reference is made to the importance of economic and social development. The need for economic development requires of the municipality to be an active actor creating market conditions that would promote skills development and job creation. The municipality cannot do this on its own and therefore cooperation with the private sector, other spheres of government and any relevant stakeholder is of importance. Social development on the other hand requires of the municipality to consider an array of issues such as providing shelter to the poor through provincial and/or national housing programmes; educating communities on important issues such as HIV/AIDS; providing recreational facilities and generally educating people on issues of governance.



In this category respondents were questioned on the municipality's commitment to development and the extent to which this commitment was expressed through the municipality's Integrated Development Plan (IDP). The **Local Government: Municipal Systems Act, 2000** (Act 32 of 2000), in Section 23 obliges municipalities to compile Integrated Development Plans (IDPs) aimed at addressing the short, medium and long term development needs within the community.



**Figure 9**



**Figure 10**

In terms of development the data in figures 9 and 10 reveals that both councillors and officials are generally satisfied that the Local Municipality is attempting to effect development in the area. Ninety percent (90%) of councillors either partly or totally agreed with this view while the figure for officials amounted to 88%.

Open ended questions in this category related firstly to what the respondents viewed as the most important development challenges facing the municipality. In response to this question 40% of the respondents were of the view that economic development in order to enhance job creation, scarce financial resources and efficient financial planning represented the biggest development challenges. Other areas of importance highlighted included:

- Provision of housing and shelter;
- The extensiveness of the area making it difficult to attend to all the community's needs immediately, considering the limited resources;
- The need to integrated the municipality's IDP with that of the District Municipality and the Provincial Government's development framework; and
- A perceived inability by some councilors to distinguish between community and political leadership role and therefore leading to preferential treatment based on political criteria.

Respondents were then asked what in their opinion represented the greatest stumbling blocks to sustained development. The majority of respondents (62%) thought that a lack of financial resources was the single most contributing factor hindering development. A factor that was thought to lead to the lack of financial resources was the issue of non-payment for municipal services by residents and failure on the part of the Local Municipality to enforce the credit control policy. Other responses included:

- The need to embark on more long term and sustainable development projects rather than focusing on short term projects; and
- The need to diversify the economy, because of its current reliance on the agricultural sector.

Finally respondents were asked to provide suggestions for overcoming the mentioned stumbling blocks to development. Answers to this question in essence ranged from stricter implementation of policies such as credit control (32%) to involving the private sector (25%) and the involvement of the community and all other stakeholders in development initiatives (19%).

#### **5.3.4. Community Participation**

One of the most significant legacies of the Apartheid dispensation was the fact that the majority of South African citizens were denied access to decision making in government. The result of this is hesitancy on the part of most South Africans to participate meaningfully in the governance process.

One of the cornerstones of South Africa's new democracy is the emphasis placed on citizen participation by various government policy documents, the Constitution being the most notable and authoritative. Citizen participation at the local sphere of government is furthermore particularly important, because it is at this sphere where meaningful participation can have a direct impact on the quality of governance as citizens are in an improved position to convey their needs and expectations to the decision makers. This category of the questionnaire deals with various aspects relating to citizen participation in the Kai !Garib Local Municipality.

Questions in this category aimed at ascertaining whether sufficient efforts were being made to promote community participation and whether councillors abided by their representative role by meeting with communities regularly. Finally, respondents were questioned on whether the legislative prescription for the establishment and functioning of ward committees were being executed as well as the extent to which citizens were included in the budgetary and Integrated Development Planning processes.

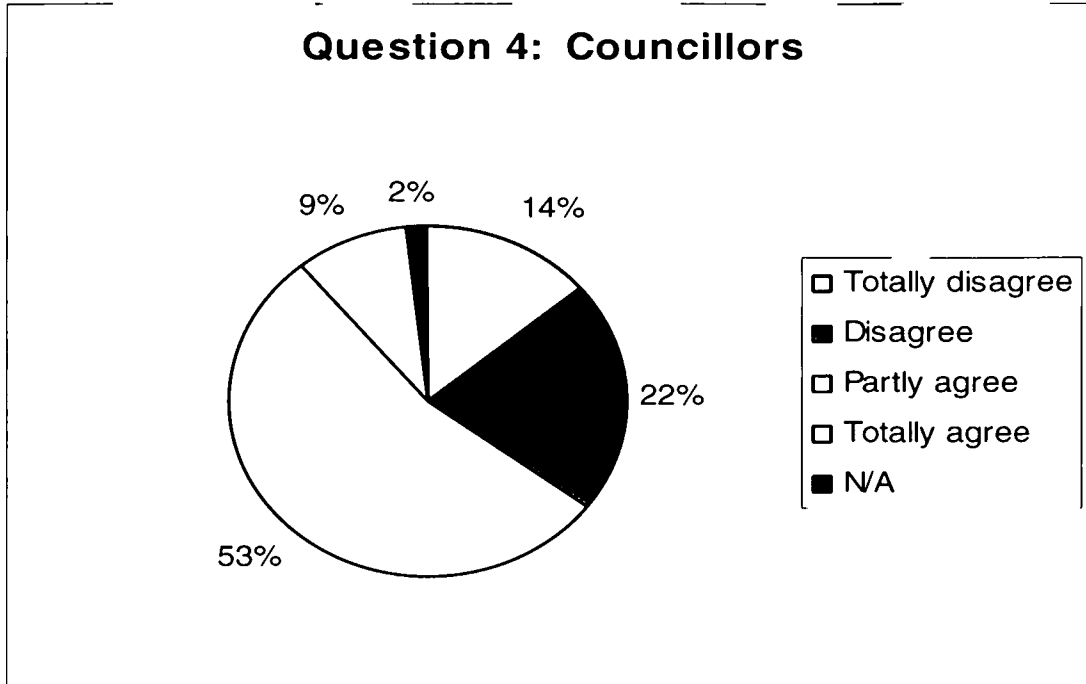


Figure 11

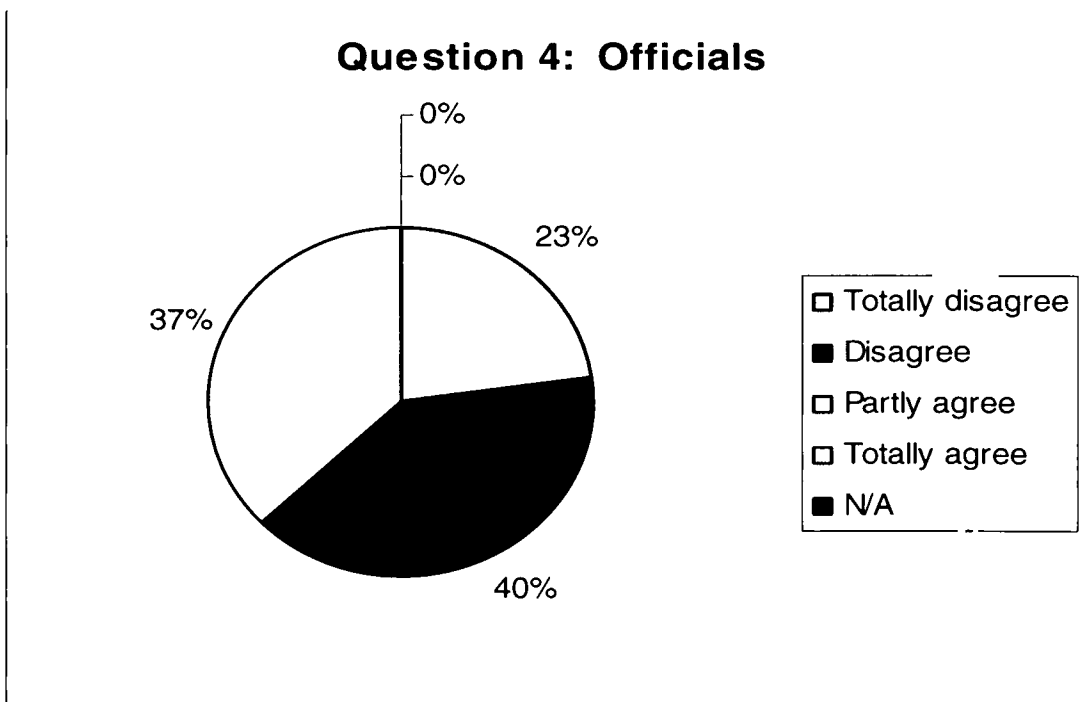


Figure 12

It is evident when looking at figures 11 and 12 above that there are fundamental differences of opinion between councillors and officials regarding community participation. A total of 63% of officials were of the opinion that serious weaknesses existed in terms of effecting community participation, while only 36% percent of the councillors held the same view. The vast difference in how councillors and officials view the efficiency of citizen participation represents a concern as far as local democracy is concerned. This concern is accentuated when considering that both officials and councillors should be equally committed and therefore work side by side to promote local democracy.

In terms of open ended questions the first question dealt with what the respondents viewed as the biggest stumbling block to community participation in Kai !Garib. The extensiveness of the geographical area was cited by most respondents (31.25%) as the most important stumbling block. Other responses varied and included:

- Citizen apathy;
- Lack of commitment on the part of officials who do not want to assist councillors in the process of initiating participation drives;
- A general lack of involvement on the part of both councillors and officials; and
- The influence of using community participation drives for gaining party political ground.

Finally, respondents were asked whether ward committees (if they were in fact functional) did contribute to improved service rendering. While there were some responses that they did contribute positively, the majority of respondents (68.75%) indicated they could not contribute since they (ward committees) were not functional. It can be regarded as rather ironic that 31.25% of the respondents were of the view that ward committees contributed positively to service rendering

when in the question on the functionality of these committees, 80% were of the view that they were not functional.

### **5.3.5. Cooperation with other spheres of government**

According to Thornhill, in Kuye **et al.** (2002:44-45) intergovernmental coordination and cooperation is vital if all services that citizens need are to be rendered to them. This is because some services are better suited to being rendered by National Government, while some are better suited to provincial and local government. Irrespective of which sphere of government seems to be better suited to render a particular service, the spheres of government cannot perform their functions isolation. The Constitution, in Chapter 3, refers to the three spheres of government being interdependent, interrelated and distinctive. Based on this information, the fifth category of the empirical research related to the effectiveness and efficiency of this interdependent and interrelated relationship between the three spheres of government.

In this category respondents were asked whether there was meaningful cooperation between Kai !Garib and the Siyanda District Municipality in terms of service rendering obligations. Respondents were furthermore asked whether the municipality had sufficient contact with and participated in provincial and national programmes.

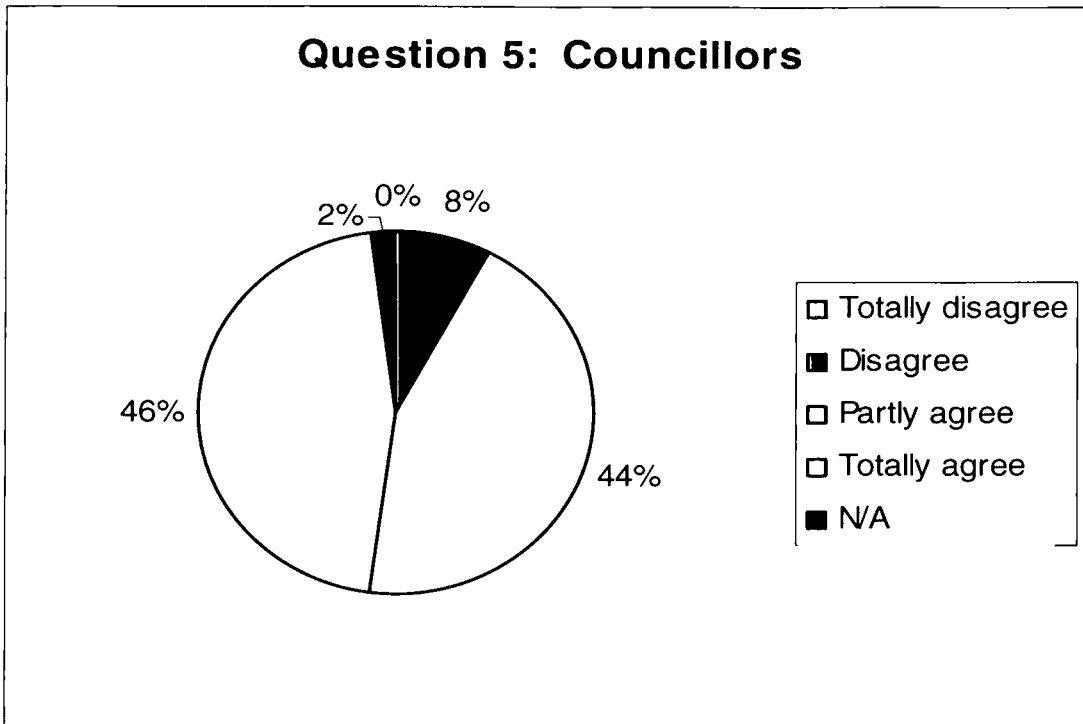


Figure 13

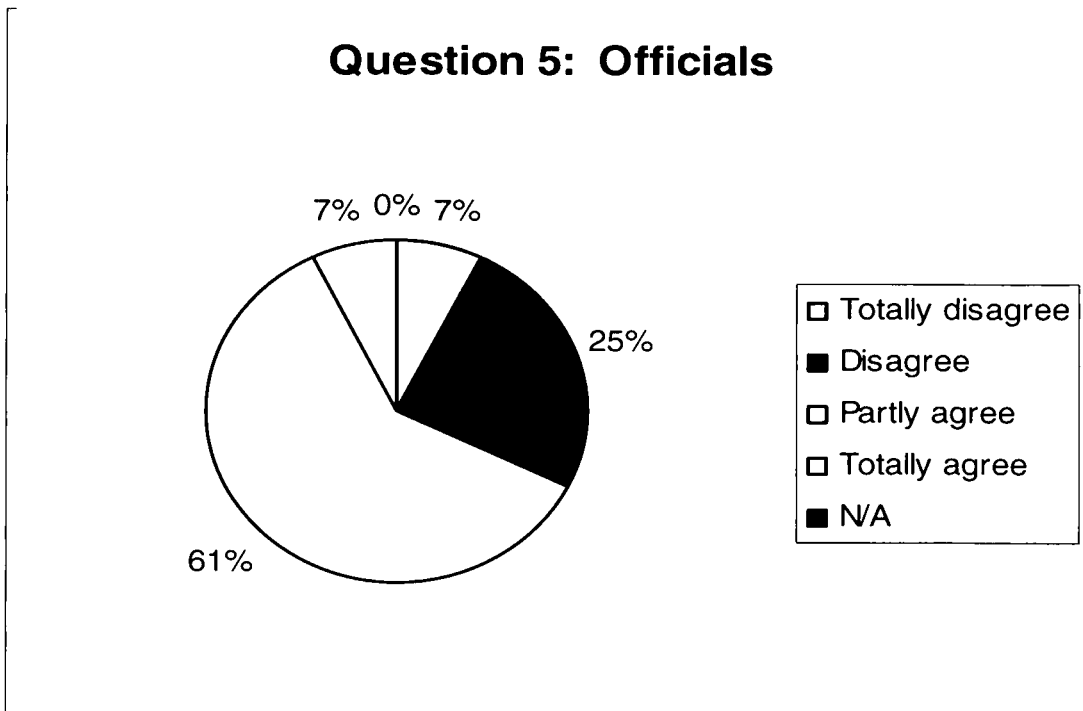


Figure 14



The data on the questions regarding the interaction with the District Municipality and other spheres of government (Figures 13 and 14) suggests that both councillors and officials are satisfied with the municipality's intergovernmental relations and cooperative governance.

As far as open ended questions were concerned respondents were asked what they thought could be done to improve cooperation with the other spheres of government. Most of the respondents were of the view that continuous communication was the only way to maintain good cooperation. Another view was that more structured forums especially between the district and local municipalities needed to be established.

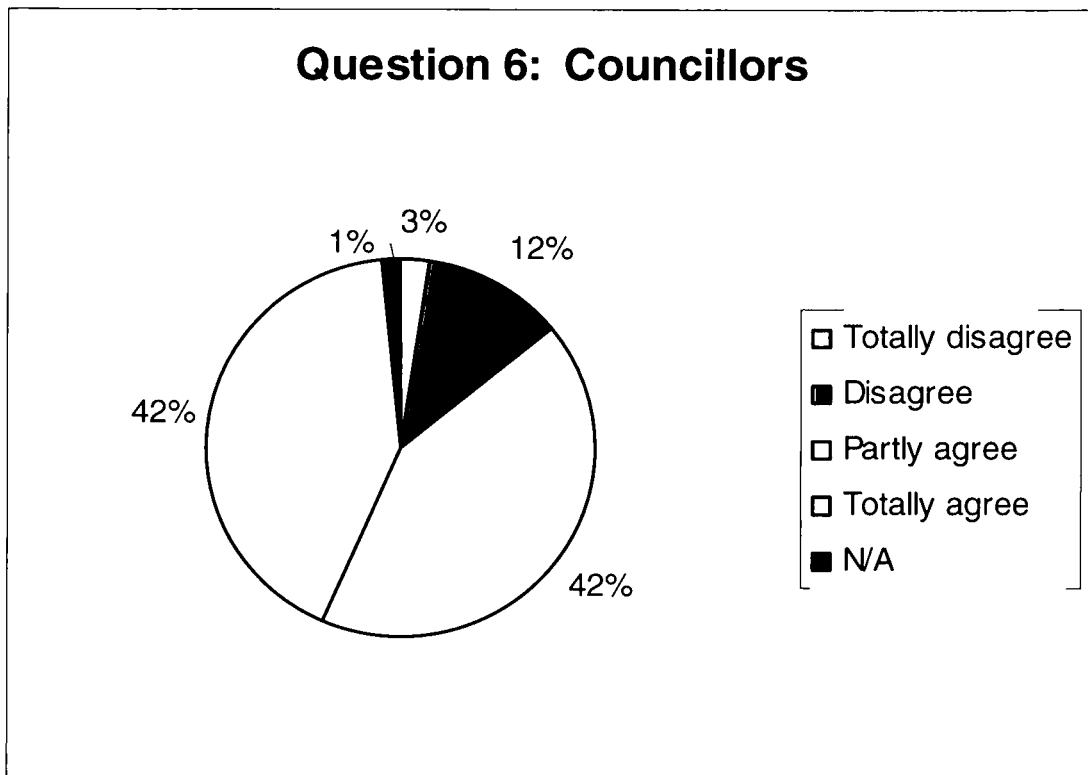
Finally the respondents were asked whether the Kai !Garib Local Municipality had access to funds made available by the national and provincial spheres of government and 100% of the respondents believed that this was the case.

#### **5.3.6. Influence of restructuring on staff**

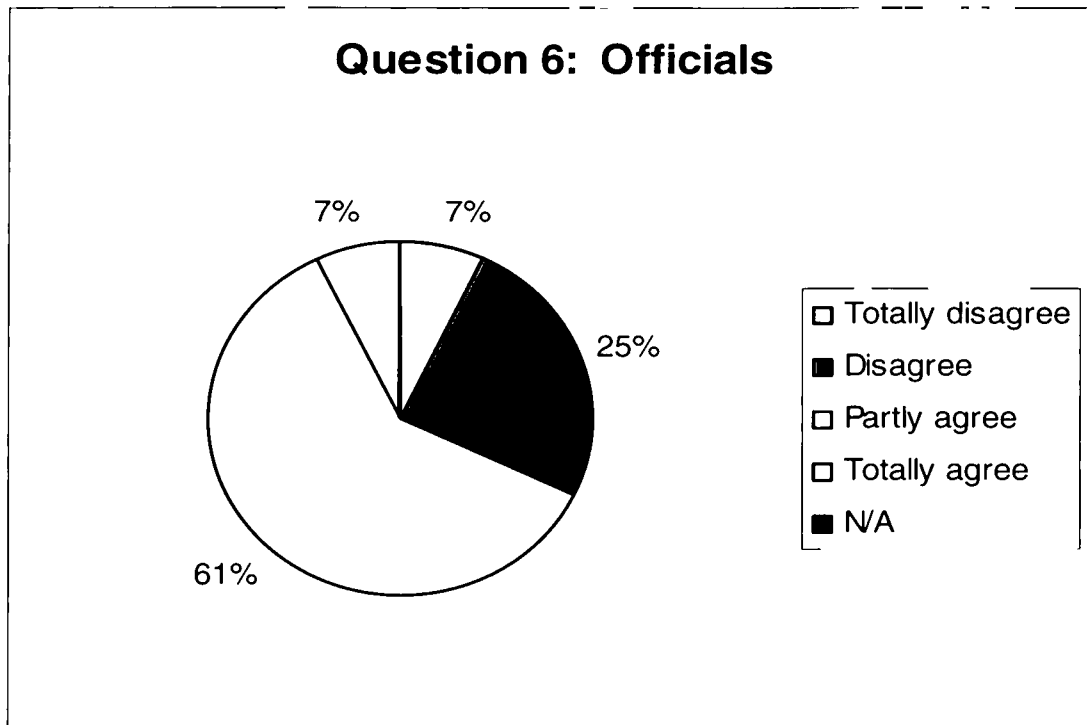
In any organization, human resources play an important role. Organizations employ a varying range of people with varying skills to promote its goals and objectives. In order for employees to function at an optimum level of productivity, suitable conditions should be created in which they can promote the cause of the organization. In South Africa, a culturally diverse workforce poses many challenges that have to be dealt with by organisational management. In the Kai !Garib Local Municipality this is coupled with the fact that it is a relatively newly restructured organization.

In this category, questions relating to the influence of the restructuring on municipal staff were asked. Respondents were asked whether staff had access to information regarding, and opportunities to make inputs regarding the newly established organisational structure. Furthermore respondents had to indicate

whether they regarded the new organisational structure as conducive to meeting the municipality's objectives and whether staff members were subjected to adequate training to perform their functions.



**Figure 15**



**Figure 16**

The data captured regarding these questions (figures 15 and 16) illustrates a view by councillors that the restructuring process was indeed handled efficiently as far as staff is concerned (42% was in total agreement and 42% in partial agreement), while 32% of the officials did not agree and 61% in partial agreement with only 7% of officials in total agreement. This difference in opinion is once again a concerning factor for the municipality since councillors and officials are expected to work closely together for the municipality's aims and objectives to be achieved. It should furthermore be borne in mind that this view is representative of senior managers. It is vital for these differences to be addressed since it could lead to a negative impact on the rest of the municipal staff.

Participants were finally asked whether they thought the staff was generally happy with matters concerning their careers in the new municipality. Generally the answers ranged from staff not being entirely happy to most of the participants

(53%) stating outright that staff members were not satisfied. Some of the reasons for this state of affairs included:

- The pending relocation of staff from the Keimoes to the Kakamas office;
- The fact that for many of the staff members the seat of the municipality (Kakamas) is not ideally situated and they would rather have the seat in Keiomes;
- Uncertainties about work division;
- Disparity in terms of salaries in the various towns ;and
- That staff were to an extent still loyal to their town and not necessarily the entire municipal area.

#### **5.3.7. Activities of Councillors**

Councillors as representatives of local communities bear the responsibility in terms of ensuring that their actions are at all times aimed at promoting the interest of the community at large. In this category participants were questioned about the ability of councillors to fulfill their roles and the efforts made to improve that ability. Respondents were furthermore asked about the relationship between councillors and officials.

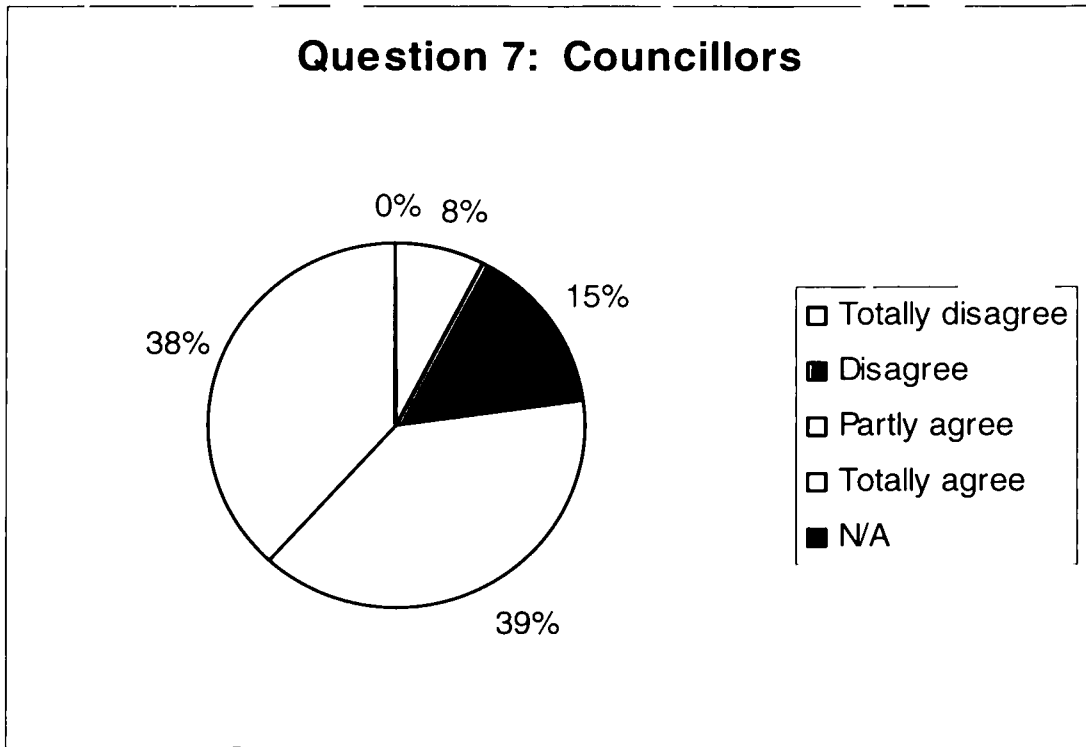


Figure 17

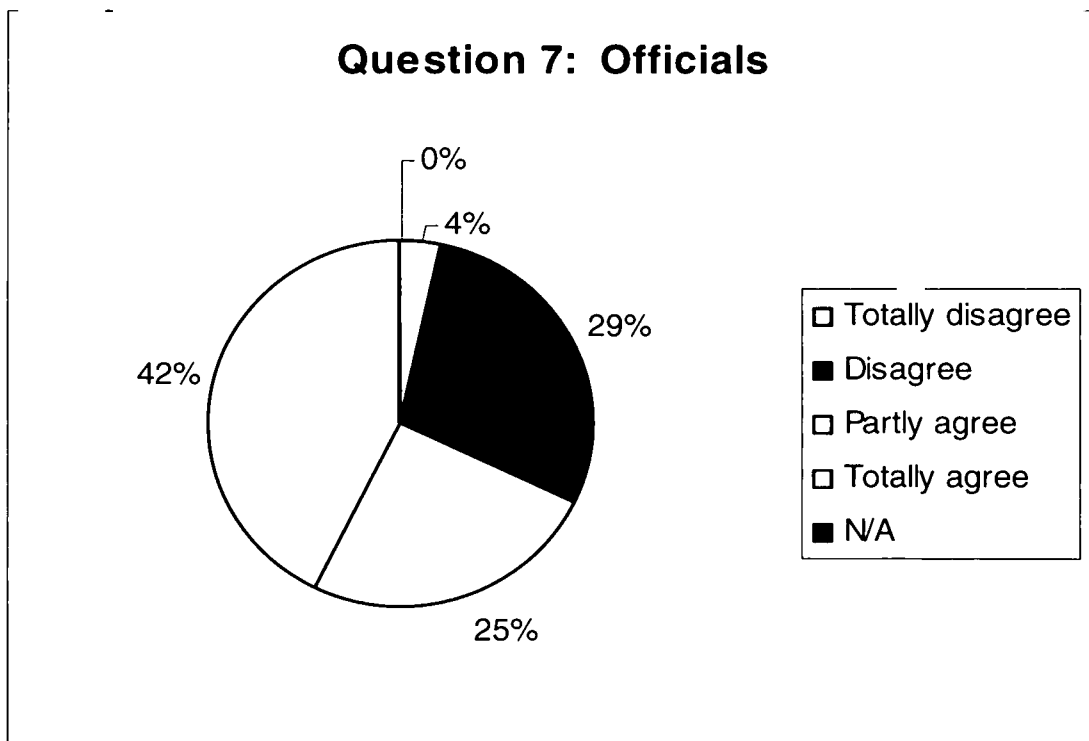


Figure 18

The collected data in figures 16 and 17 illustrates both councillors and officials to believe that fair efforts are being made to assist councillors in their tasks and improving the relationship between them. It should however be noted that the data does not indicate the majority of councillors and officials to be totally satisfied and this is an area in terms of which satisfaction about the working relationship between councillors and officials is essential.

Asked what they viewed as the most important challenge for the councillors of the municipality the responses varied and included:

- Improving the lives of the poor;
- The positive application of training received in performing their functions;
- To not interfere in the daily administrative activities;
- To understand their role as employers better;
- To improve the trust relationship between officials and councillors;
- To be objective in decision making and not strive to a specific political objective only; and
- To satisfy community needs by decisions that would improve the economy

#### **5.4. CONCLUSION**

In the above paragraphs the views and insights of councillors and senior managers in the Kai !Garib Local Municipality were analysed in terms of their perceptions of the impact of local government restructuring on various aspects relating to the municipality.

When considering the responses to the various questions, it becomes clear that one of the most important concerns of the respondents related to the effect of the extensiveness of the geographical area of the newly established municipality.

The first category of the questionnaire distributed related to various practical realities in the new municipality. Most of the responses in this category in some way or another drew attention to the impact the vast geographical area had on daily activities of councillors and senior managers.

In terms of basic service rendering respondents were of the opinion that in most areas the municipality was not able to uphold quality standards, once again citing the geographical nature of the new municipality as a main reason. In terms of getting the views of the community on service quality a large number of respondents were of the opinion that the community was indeed consulted. This seems to be an odd contradiction, the majority of respondents being of the opinion that service quality was not up to standard, yet stating that the community was consulted. This suggests that either the community accepts the quality of services rendered or that council and senior managers are able to make people understand why service quality is not up to standard.

In terms of development most of the respondents agreed that concerted efforts by the municipality was made to give effect to the emphasis on developmental local government. The municipality's Integrated Development Plan was compiled, it included the views of the community and it was linked to the annual financial planning of the municipality. Most of the respondents were however in agreement that extensiveness of the area and a lack of funding hampered the speed and quality of development. In category four of the questionnaire the issue of community participation was discussed and it was clear that councillors and officials differed from one another on the whether community participation was efficient. There was however agreement that it was an issue that needed attention and that legislative measures for participation such as ward committees had to be functional.

In terms of questions relating to intergovernmental relations, the participants were in agreement that the municipality performed satisfactorily in terms of

working together with the other spheres of government. Councillors and officials held different views on the impact of restructuring on municipal staff. Issues such as uncertainties in terms of work division, the possible relocation of staff and disparities in salaries were highlighted as potential problems in regard to staff.

Finally the respondents were questioned on efforts to provide the necessary capacity to councillors in order to enable them to fulfill their role as representatives of the community. Although respondents agreed that efforts in this regard were being made, it was also suggested that a strained relationship between councillors and officials existed regarding the day to day management of the municipality.



## CHAPTER SIX

### CONCLUSION AND RECOMMENDATIONS

#### 6.1. CONCLUSION

The primary objective of this Dissertation was to examine the impact of the local government restructuring process on the functioning of the Kai !Garib Local Municipality. The study was based on the hypothesis that the restructuring of local government has led to certain deficiencies in the functioning of municipalities and, for the purpose of this study, more specifically to the functioning of the Kai !Garib Local Municipality. The hypothesis was based on the assumption that change in organizations invariably leads to challenges that, if not addressed can lead to the inefficient functioning on an organization.

In Chapter 2 the historical development of local government in South Africa was discussed in order to provide an understanding of how local government has developed to its position in modern day South Africa. It was concluded that the initial development of local government had much of its origin in the Dutch and British system due to the early involvement of these countries in South Africa. It was furthermore found that a key characteristic of developing South Africa, after Unionisation and South Africa becoming a Republic was the advent of and promotion of governance along racial lines. Apartheid in South Africa was of particular significance, since it was at the local level of government where people were physically separated. Finally, it was established that the new South African dispensation led to the creation of new municipal structures and the Kai !Garib Local Municipality in the Northern Cape Province was highlighted as an example.

Chapter three depicted local government within the framework of the nature of the new South African state. In terms thereof, it was affirmed that, for the first

time in South Africa's constitutional history, was local government entrenched as a sphere of government with clear objectives.

The new Constitution of the country was seen to be the central legislative guideline for explicitly providing direction to the activities of local government. The Constitution furthermore formed a basis on which various new policy documents and legislation were created in order to give impetus to the goals of the Constitution.

In this Chapter it was also indicated that the White Paper on Local Government provided clear guidelines for local government restructuring by providing clear aims and objectives. Based on the White Paper, further legislative measures for local government restructuring were established. **The Local Government: Municipal Demarcation Act, 1998** (Act 27 of 1998) provided for the re-determination of municipal boundaries in order to create sustainable municipalities. Together with the **Local Government: Municipal Structures Act, 1998** (Act 117 of 1998), it determined criteria for establishing different categories and types of municipalities. The Structures Act furthermore regulated the internal structures, processes and functionaries to be established in order to facilitate the new municipal system in the country.

Furthermore, the **Local Government: Municipal Systems Act, 2000** (Act 32 of 2000) was established to facilitate a progressive movement towards attaining the objectives of developmental local government. A variety of important issues were provided for in the Systems Act. **The Local Government: Municipal Finance Management Act, 2003** (Act 56 of 2003) provided guidelines for modernized financial planning and budgeting processes to be implemented in local government. It furthermore emphasised the need for intergovernmental co-operation between the national, provincial and local spheres of government to ensure sound financial management at the local sphere of government.

Finally it was established that in order for the legislative guidelines for local government to be successfully implemented, there needed to be sound relations between the elected politicians and the appointed officials.

Chapter four theoretically discussed the concept of organising and explained the need for organizations to create structures suited to the functions of such organizations. Certain key elements of organising were discussed and particular attention was given to how these elements related to the peculiar needs of the Kai !Garib Local Municipality amidst the changes in local government. The organisational structure of Kai !Garib was discussed to ascertain the nature of the structure created by the municipality.

In Chapter 5 the findings of a questionnaire completed by councillors and senior managers at the Kai !Garib Local Municipality were discussed. The questionnaire dealt with various matters relevant to the restructuring of local government and the aim was to ascertain the extent to which Kai !Garib was affected. The questionnaire included Lickert scale type questions and the responses in this category were analysed in terms of the differences of opinion between councillors and officials. Open ended questions were furthermore included mainly to give respondents an opportunity to provide suggestions to challenges that may exist in the municipality.

In terms of the practical realities of restructuring most of the responses drew attention to the impact the vast geographical area had on the daily activities of the municipalities. Respondents were furthermore questioned on the ability of the municipality to render basic services amidst the changes that have taken place. Councillors and officials' views differed vastly in this regard with officials being of the opinion that difficulties were being experienced in terms of service rendering and once again citing the widespread geographical area as the main stumbling block. It thus seemed strange that councillors were mostly of the opinion that service rendering was indeed satisfactory.

As far as development is concerned, most of the respondents agreed that concerted efforts by the municipality were being made to give effect to the emphasis on developmental local government. The respondents were however in agreement that the extensiveness of the area and the lack of funding hampered the speed of development. Community participation was the focal area of the fourth category of the questionnaire and in this category councillors and officials clearly did not agree on the process of community participation in the activities of the municipalities. Most of the respondents did however agree that legislative structures such as ward committees were not functional and that this needed to be addressed. In terms of questions relating to the municipality's intergovernmental cooperation with the Siyanda District Municipality and Provincial and National government, respondents were satisfied that progress was being made.

Category six of the questionnaire dealt with the impact of the restructuring on the municipality's staff. Councillors and officials in this regard held different views and where officials were mainly in partial agreement that necessary steps were taken to ensure the inclusion of staff in decision-making processes, the majority of councillors were of the opinion that necessary steps were indeed being taken in this regard. Unhappiness regarding practical matters also surfaced in responses to staff matters. Issues such as the pending relocation of staff to Kakamas (the head office of the Municipality), disparity in terms of salaries and uncertainties in terms of work division were highlighted.

Finally, the respondents were questioned on efforts to provide the necessary capacity to councillors in order to enable them to fulfill their duties as citizen representatives. Most of the respondents were of the view that efforts were being made to assist councillors. However responses to the open ended questions did reveal that both officials and councillors felt that the day to day working relationship between the two role-players could be improved.

## 6.2. RECOMMENDATIONS

Based on the findings of the study, a number of recommendations could be made that may assist the Kai !Garib Local Municipality to enhance the quality of services rendered to its communities:

- **Firstly**, it is clear that problems relating to the broadness of the geographical area of Kai !Garib need to be addressed. This is essential if the municipality is going to be able to render quality services and at the same time the staff of the municipality can perform their duties efficiently. Communication in this regard is essential and all endeavours should be made that all stakeholders are clear on what they have to do within which timeframes. This will negate the necessity for too much traveling between the various towns. Furthermore, the problems created by the geographic broadness of the municipal area could be symptomatic of similar problems experienced by other municipalities. Bench-marking exercises to determine how this particular problem is dealt with by other municipalities, is suggested.
- **Secondly**, it is essential for the Municipality to ensure service quality. This can only be done if quality assurance mechanisms are established and adhered to. Citizens furthermore need to be consulted regarding service quality since, as the beneficiaries of services they are probably in the best position to advise the municipality on client satisfaction. For this to happen, it is suggested that a policy for community participation is developed.
- To this end it is **Thirdly** vital for the municipality to efficiently and effectively activate citizen involvement in municipal decision-making. Serious efforts should be made for councillors to fulfill their representative role by continuously interacting with their constituencies. Regular ward

meetings are suggested and in this regard the support of officials in providing administrative and logistical support is vital. It is furthermore vital that legislative participatory bodies such as ward committees are functional. This can only be the case if a clear policy for the functioning of ward committees is in place and members of these committees are motivated to participate. In terms of motivation the ward councillors need to take the lead for the motivation of ward committee members. Success in this regard will depend on the commitment of the councillor as chairperson of the committee. It is essential that matters addressed in ward committees are in fact considered by the Council. In this regard it is suggested that ward committee meetings should be synchronised with the dates of council meetings to ensure that issues discussed in ward committees are in fact presented to Council. Feedback to ward committees should then follow as soon as possible after the Council has discussed these matters. Ward committees will ultimately lose credibility if citizens perceive it as talk forums with no action emanating from its activities.

It is finally suggested that ward committee members are subjected to training on the functions of the ward committees and the role that they have to play in this regard. Meaningful contributions from ward committees can only be ensured if the participants understand their role in the process.

- **Fourthly**, the relationship between officials and councillors needs to be fully functional. The municipality can only be seen to be functioning progressively towards its goals if both councillors and officials are in unison regarding its commitment towards service rendering to the community. Mutual trust and open communication should form the cornerstone of this professional relationship and it could only be detrimental to the progress of the organization if these principles are not

applied. It is suggested that councillor training emphasise specifically the roles of councillors in relation to that of the officials before any effort is made to expose councillors to any other training. Such programmes must include mindset change exercises at all levels, that is political and managerial levels. It is furthermore suggested that regular team building sessions between councillors and managerial staff (at various levels) be conducted. Such team building sessions should have specific agendas and regular follow up meetings should be held to ensure that problems raised are monitored.

- **Fifthly** it is essential for both councillors and officials to have a common vision for the whole municipal area. In the case of Kai !Garib three towns and surrounding areas have amalgamated to form one municipality. The perception among some of the role-players that councillors and staff are competing with each other based on their towns of origin is a genuine concern for the residents of the greater Kai !Garib. If this competition is indeed the case, it suggests that decision-makers will not be totally rational and objective when decisions regarding the allocation of resources have to be taken. This cannot be the case, since ultimately it will be the residents who suffer the consequences of subjective decision-making. Team building activities involving staff members from the Local Municipality's various offices (including decentralised offices) is suggested. Councillors and staff members should furthermore interact on what they view as the common vision and mission of the municipality. It is lastly suggested that venues for council meetings be rotated and that road shows be initiated to demonstrate the goodwill of the governance process. Road shows should include community feedback sessions as well as meetings with ward committees and interest groups.
- **Finally**, it is essential that clarity on the municipality's organisational structure is established and maintained. Uncertainty regarding work

division and the relocation of staff are matters that impact on staff's perception of their employer and ultimately their ability to render optimal productivity. Therefore the functions of the municipality need to be thoroughly considered and the best suited human resources deployed in the various work units for the municipality to perform its functions. It is suggested that this process include a scientific analysis of the municipality's needs in relation to its functions and that the division of work not merely be a subjective placement of people based on what the decision-makers deem fit.



**BIBLIOGRAPHY****A Short History of the Republic of South Africa,**

[www.abbaci.com/atlas/history2.asp?misspellID=455](http://www.abbaci.com/atlas/history2.asp?misspellID=455) (date unknown)

Barber, M.P. 1974: **Local Government**, London, Macdonald & Evans.

Bartol, K.M. & Martin, D.C. 1991: **Management, International Edition**, New York, McGraw-Hill, Inc.

Basson, D. & Viljoen, H. 1988: **Suid Afrikaanse Staatsreg Tweede Uitgawe**, Kaapstad, Juta & Kie, Bpk.

Bekker, K. 1996: **Citizen Participation in local government**, Pretoria, J.L. van Schaik.

Botes, P.S., Brynard, P.A., Fourie, D.J., & Roux, N.L. 1992: **Public Administration and Management: A Guide to Central, Regional and Municipal Administration**, Pretoria, Haum.

Cameron, R. 2000: **Local Government Reorganisation in South Africa**, Paper presented at the annual conference of the International Association of Schools and Institutes of Administration, Beijing, China, 10 to 14 July 2000.

Cameron, R.G. & Stone, A.B. 1995: **Serving the Public: A guide for practitioners and students**, Pretoria, J.L. van Schaik.

Cameron, T. 1996: **An Illustrated History of South Africa**, Pretoria, J.L. van Schaik.

Clarke, M. 1996: **Renewing public management: an agenda for local governance**, London, Pitman.

Cloete, F. 1994: **Local Government Restructuring**, *Politikon*, June 1994, Vol. 21 No. 1.

Cloete, F. 1995: **Local Government Transformation in South Africa**, Pretoria, J.L. van Schaik.

Cloete, J.J.N. 1988: **Central, Regional and Local Government Institutions of South Africa**, Pretoria, J.L. van Schaik.

Cloete, J.J.N. 1976: **Munisipale Regering en Administrasie in Suid Afrika tweede uitgawe**, Pretoria, J.L. van Schaik.

Cloete, J.J.N. 1995: **Public Administration Glossary**, Pretoria, J.L. van Schaik.

Craythorne, D.L. 1997: **Municipal Administration – A Handbook fourth edition**, Kenwyn, Juta & Co, Ltd.

De Villiers, B. 1994: **Birth of a Constitution**, Kenwyn, Juta & Co, Ltd.

De Visser, J. 1999: **Municipal Structures Act: Executive Leadership at Local Level**, *Local Government Law Bulletin*, April 1999, Vol. 1 No. 1.

De Visser, J. 1999: **Municipal Structures Act: The birth of a new generation of municipalities**, *Local Government Law Bulletin*, April 1999, Vol. 1 No. 1.

Eybers, G.v.W. 1918: **Select constitutional documents illustrating South African history, 1795 – 1910; selected and edited with an introduction**, London, Routledge & Sons.

Gamedze, B.N. 2001: **Strategic Corporate Planning at Municipal Level**, Paper submitted to the SADC Regional Information Centre, Harare, Zimbabwe.

Gildenhuys, J.S.H., Fox, W. & Wissink, H.F. 1991: **Public Macro Organisation**, Kenwyn, Juta & Co, Ltd.

Green, L.P. 1957: **History of local government in South Africa: an introduction**, Cape Town, Juta.

Ismail, N., Bayat, S. & Meyer, I. 1997: **Local Government Management**, Halfway House, International Thomson Publishing.

Joseph, C. 2002: **Local Government Legislative Framework**, Occasional Paper No. 15, Friedrich Ebert Stiftung, Johannesburg, August 2002.

Kai !Garib Local Municipality, 2005: **Letter received from the Director: Corporate Services pertaining to questions on the Municipality's organisational structure**, 20 May 2005.

Kickert, W.J.M. & van Vught, F.A. 1995: **Public policy and administration sciences in The Netherlands**, London, Prentice Hall.

Kuye, J.O., Thornhill, C. & Fourie, D. 2002: **Critical Perspectives on Public Administration: Issues for consideration**, Sandown, Heinemann.

La Guma, A: **Apartheid and the Coloured People of South Africa**, [www.anc.org.za/ancdocs/history/misc/laguma12.html](http://www.anc.org.za/ancdocs/history/misc/laguma12.html) (date unknown).

Meiring, M.H. & Parsons, C.R. 1994: **Fundamental Public Administration: a guide for a changing South Africa**, University of Port Elizabeth, Port Elizabeth, School of Public Administration and Management.

Mettler, J. 1999: **Municipal Systems Bill: Erecting the third pillar**, Local Government Law Bulletin, September 1999, Vol. 1, No. 3.

Monobe, R.J. 2001: **The use of information technology in initial teacher education in historically Black universities in the Northern Province**, Johannesburg, Rand Afrikaans University, Unpublished thesis.

Muller, C.F.J. 1986: **Vyfhonderd Jaar Suid Afrikaanse Geskiedenis – Derde, Hersiene en Geïlustreerde Uitgawe**, Pretoria, Academica.

**Municipal Profiles**, [www.demarcation.org.za](http://www.demarcation.org.za), 2003

O'Toole, S.: **Republic of South Africa: A Chronology**, [www.postcolonialweb.org/sa/sachron.html](http://www.postcolonialweb.org/sa/sachron.html) (date unknown).

Pauw, J.C., Woods, G., van der Linde, G.J.A., Fourie, D. & Visser, C.B. 2002: **Managing Public Money – A system from the south**, Sandown, Heinemann.

Rankwana, E.M. 2004: **The influence of the Transformation of Local Government on Service Delivery in Category B Municipalities in the Eastern Cape**, Bloemfontein, University of the Free State, Unpublished thesis.

**Republic of South Africa, Constitution of the Republic of South Africa, 1996** (Act 108 of 1996), Pretoria, Government Printers.

**Republic of South Africa, Local Government: Municipal Demarcation Act, 1998** (Act 27 of 1998), Pretoria, Government Printers.

**Republic of South Africa, Local Government: Municipal Finance Management Act, 2003** (Act 56 of 2003), Government Printers, Pretoria.

**Republic of South Africa, Local Government: Municipal Structures Act, 1998** (Act 117 of 1998), Pretoria, Government Printers.

**Republic of South Africa, Local Government: Municipal Systems Act, 2000** (Act 32 of 2000), Pretoria, Government Printers.

**Republic of South Africa, The White Paper on Local Government, 1998**, Pretoria, Government Printers.

Robinson, J. 1996: **The power of Apartheid**, Oxford, Butterworth-Heinemann.

Rodee, C.C., Anderson, T.J., Christol, C.Q., & Greene, T.H. 1976: **Introduction to Political Science**, New York, McGraw-Hill.

Smit, P.J. & Cronje, G.J. 1997: **Management Principles: A contemporary edition for Africa second edition**, Lansdowne, Juta & Co, Ltd.

Smith, K. 2000: **The changes facing local government**, Government Digest, December 2000, Vol. 20, No. 5.

South Africa 1987 – 1988: **Official Yearbook of the Republic of South Africa Thirteenth Edition**, Pretoria, Department of Foreign Affairs.

Stillman, R.J. 1992: **Public Administration – Concepts and Cases Fifth Edition**, Boston, Houghton, Mifflin Company.

Swanepoel, B.J., Erasmus, B.J., Van Wyk, H.W. & Schenk, H.W. 1998: **South African Human Resource Management: Theory and Practice**, Kenwyn, Juta & Co, Ltd.

Swift, N: **Local Government in South Africa: Building a new structure after Apartheid**, [www.citymayors.com/government/salocgov.html](http://www.citymayors.com/government/salocgov.html) (date unknown).

The Written and Unwritten Constitution,  
[www.canadiana.org/citm/specifique/written\\_e](http://www.canadiana.org/citm/specifique/written_e) (date unknown).

Thornhill, C. & Hanekom, S.X. 1995: **The Public Sector Manager**, Durban, Butterworths.

**Townships in South Africa: A Brief History:**  
[www.colophon.be/pages/townshipen.html#1](http://www.colophon.be/pages/townshipen.html#1) (date unknown).

**Unitary States**, <http://encyclopedia.thefreedictionary.com/Unitary%20state> (date unknown)

Van Der Waldt, G. & Helmbold, R. 1995: **The constitution and a new public administration**, Kenwyn, Juta.

Van Niekerk, D, Van Der Walt, G. & Jonker, A. 2001: **Governance, Politics and Policy in South Africa**, Cape Town, Oxford University Press

[www.dplg.gov.za/researches/cdp2002-32.rtf](http://www.dplg.gov.za/researches/cdp2002-32.rtf) (date unknown)

[www.factindex.com/f/fe/federalism1.html](http://www.factindex.com/f/fe/federalism1.html) (date unknown)

[www.gov.za](http://www.gov.za) (date unknown)

[www.idasa.org.za](http://www.idasa.org.za) (date unknown)

[www.infoplease.com](http://www.infoplease.com) (date unknown)

[www.pmg.org.za/bills/municipalsystemsact.html](http://www.pmg.org.za/bills/municipalsystemsact.html) (date unknown)

[www.polity.org.za/html/govdocs/legislation/process:1](http://www.polity.org.za/html/govdocs/legislation/process:1) (date unknown)

[www.treasury.gov.za](http://www.treasury.gov.za) (date unknown)

---

## OFFICIAL NOTICES

---

### OFFICIAL NOTICE 27 OF 2000

#### NORTHERN CAPE PROVINCE

I, O. P. Dikgetsi MEC, for Local Government acting in terms of section 12 of the Local Government: Municipal Structures 1998 (Act No. 117 of 1998), hereby establish the new municipalities as set out in the Schedule hereto.

Given under my hand at Kimberley on this 20th day of September 2000.

**O. DIKGETSI, Member of the Executive Council of the Northern Cape Province**

**Responsible for Local Government**



## SCHEDULE

## Definitions

In this Schedule, unless inconsistent with the context, a word or expression to which a meaning has been assigned in the Municipal Structures Act has the same meaning, and -

**"Demarcation Board"** means the Municipal Demarcation Board established by section 2 of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998);

**"Demarcation notice"** means Notice 10 of 2000 dated 28 February 2000; Provincial Gazette No. 445 as corrected by Notice 33 of 2000 in Provincial Gazette Extraordinary No. 464 dated 8 May 2000 and again by Notice 68 of 2000 in Provincial Gazette Extraordinary No. 495 dated 5 June 2000.

**"disestablished municipality"** means municipality disestablished in terms of clause 8;

**"district municipal area"** means the area indicated by Map 3 in the demarcation notice;

**"district municipality"** means the Category C municipality established by clause 2 of this Schedule;

**"effective date"** means -

- (a) the day on which the results of the first election of the councils of the district municipality and the local municipalities in the district municipal area are declared in terms of section 190 (1) (c) of the Constitution; or
- (b) if the results of any one or more of these councils cannot be declared and a re-election must be held, the day on which the results of the re-election are declared;

**"local municipality"** means a Category B municipality established by clause 2 of this Schedule;

**"Municipal Structures Act"** means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

**"Northern Cape Determination of Types Act"** means the Northern Cape Determination of Types and Regulation of Privileges and Immunities of Municipal Council Members Act, 2000 (Act No. 7 of 2000);

**"proportionally elected councillors"** means councillors elected to proportionally represent

parties in a municipal council;

**"superseding municipality"** means a new municipality which wholly or partially supersedes an existing municipality in accordance with section 14(1) of the Municipal Structures Act.

**"ward councillor"** means a councillor elected to represent a ward in a municipal council.

### Establishment

2. (1) The following municipalities are hereby established in the district municipal area:
- (a) For the district municipal area as a whole: A district municipality provisionally designated as **BENEDE ORANJE DISTRICT MUNICIPALITY**.
  - (b) For that part of the district municipal area indicated by Map No 19 in the demarcation notice: A municipality provisionally designated as **MIER MUNICIPALITY**.
  - (c) For that part of the district municipal area indicated by Map No 20 in the demarcation notice: A municipality provisionally designated as **! KEI ! KARIEP MUNICIPALITY**.
  - (d) For that part of the district municipal area indicated by Map No 21 in the demarcation notice: A municipality provisionally designated as **GARIEP MUNICIPALITY**.
  - (e) For that part of the district municipal area indicated by Map No 22 in the demarcation notice: A municipality provisionally designated as **! POORT MUNICIPALITY**.
  - (f) For that part of the district municipal area indicated by Map No 23 in the demarcation notice: A municipality provisionally designated as **RE A IPELA MUNICIPALITY**.
  - (g) For that part of the district municipal area indicated by Map No 24 in the demarcation notice: A municipality provisionally designated as **DAN - LIME MUNICIPALITY**.
- (2) That part of the district municipal area indicated by Map No 9 in Government Gazette no.20972 dated 10 March 2000 is a district management area which is to be managed by the district municipality in terms of section 6 of the Municipal Structures Act.

- (3) The establishment of the municipalities mentioned in subclause (1) takes effect in terms of section 12 (2) (b) of the Municipal Structures Act at the commencement of the first election of the councils of those municipalities.
- (4) The councils of the municipalities mentioned in subclause(1) must within 60 days after the first council meeting submit recommendations to the MEC for a final name for their respective municipalities.
- (5) Failure to adhere to subclause (4) will result in the MEC acting without such recommendations.

### Categories and types

3. The municipality mentioned in

(a) clause 2 (1)(a) is -

- (i) a category C municipality as determined by the Demarcation Board in terms of section 4 of the Municipal Structures Act, and
- (ii) of a type as described in Section 4 (b) of the Northern Cape Determination of Types Act.

(b) clause 2 (1)(b) is -

- (i) a Category B municipality as determined by the Demarcation Board in terms of section 4 of the Municipal Structures Act; and
- (ii) of a type as described in Section 3 (b) of the Northern Cape Determination of Types Act.

(c) clause 2 (1)(c) is -

- (i) a Category B municipality as determined by the Demarcation Board in terms of section 4 of the Municipal Structures Act; and
- (ii) of a type as described in Section 3(f) of the Northern Cape Determination of Types Act.

(d) clause 2 (1)(d) is -

- (i) a Category B municipality as determined by the Demarcation Board in terms of section 4 of the Municipal Structures Act; and

- (ii) of a type as described in Section 3(b) of the Northern Cape Determination of Types Act.
  
- (e) clause 2 (1)(e) is -
  - (i) a Category B municipality as determined by the Demarcation Board in terms of section 4 of the Municipal Structures Act; and
  - (ii) of a type as described in Section 3 (f) of the Northern Cape Determination of Types Act.
  
- (f) clause 2 (1)(f) is -
  - (i) a Category B municipality as determined by the Demarcation Board in terms of section 4 of the Municipal Structures Act; and
  - (ii) of a type as described in Section 3(f) of the Northern-Cape Determination of Types Act.
  
- (g) clause 2 (1)(g) is -
  - (i) a Category B municipality as determined by the Demarcation Board in terms of section 4 of the Municipal Structures Act; and
  - (ii) of a type as described in Section 3(f) of the Northern Cape Determination of Types Act.

**Boundaries**

- 4. (1) The boundaries of the municipality mentioned in -
  - (a) clause 2(1)(a) are as indicated by Map No 3 in the demarcation notice;
  - (b) clause 2(1)(b) are as indicated by Map No 19 in the demarcation notice;
  - (c) clause 2(1)(c) are as indicated by Map No 20 in the demarcation notice;
  - (d) clause 2(1)(d) are as indicated by Map No 21 in the demarcation notice;
  - (e) clause 2(1)(e) are as indicated by Map No 22 in the demarcation notice;
  - (f) clause 2(1)(f) are as indicated by Map No 23 in the demarcation notice;
  - (g) clause 2(1)(g) are as indicated by Map No 24 in the demarcation notice;
  
- (2) The boundaries of the district management area mentioned in clause 2 (2) are as indicated by Map No. 9 in Government Gazette 20972 dated 10 March 2000.

**Councillors**

- 5. (1) The council of the district municipality consists of 18 councillors as determined in

Notice No. 7 of 2000 in Provincial Gazette Extraordinary No. 456 dated 18 April 2000 of which-

- (a) 7 must be proportionally elected councillors;
- (b) 1 must be appointed by the local municipality mentioned in clause 2(1)(b);
- (c) 2 must be appointed by the local municipality mentioned in clause 2(1)(c);
- (d) 3 must be appointed by the local municipality mentioned in clause 2(1)(d);
- (e) 1 must be appointed by the local municipality mentioned in clause 2(1)(e);
- (f) 2 must be appointed by the local municipality mentioned in clause 2(1)(f);
- (g) 1 must be appointed by the local municipality mentioned in clause 2(1)(g);
- (h) 1 must be proportionally elected to represent voters in the area mentioned in clause 2(2).

(2) The council of the district municipality may designate any of the following office-bearers as full-time:

- (a) Speaker
- (b) Executive Mayor

(3) The council of the local municipality mentioned in -

(a) clause 2(1)(b) consists of 5 councillors as determined in Notice 7 of 2000 in Provincial Gazette Extraordinary No. 456 dated 18 April 2000 of which 5 will be proportionally elected councillors and the following office-bearers may be designated by the council of the municipality as full-time:

None

(b) clause 2(1)(c) consists of 15 councillors as determined in Notice 7 of 2000 in Provincial Gazette Extraordinary No. 456 dated 18 April 2000 of which 7 will be proportionally elected councillors and 8 ward councillors, and the following office-bearers may be designated by the council of the municipality as full-time:

None

(c) clause 2(1)(d) consists of 23 councillors as determined in Notice 7 of 2000 in Provincial Gazette Extraordinary No. 456 dated 18 April 2000 and corrected by Notice 12 of 2000 in Provincial Gazette Extraordinary No. 462 dated 4 May 2000 of which 11 will be proportionally elected councillors and 12 ward councillors and the following office-bearers may be designated by the council of the municipality as full-time:

None

(d) clause 2(1)(e) consists of 7 councillors as determined in Notice 7 of 2000 in Provincial Gazette Extraordinary dated 18 April 2000 No. 456 of which 3 will be proportionally elected councillors and 4 ward councillors and the following office bearers may be designated as full time councillors.

None

(e) clause 2(1)(f) consists of 11 councillors as determined in Notice 7 of 2000 in Provincial Gazette Extraordinary No. 456 dated 18 April 2000 of which 5 will be proportionally elected councillors and 6 ward councillors and the following office-bearers may be designated by the council of the municipality as full-time:

None

(f) clause 2(1)(g) consists of 8 councillors as determined in Notice 7 of 2000 in Provincial Gazette Extraordinary No. 456, dated 18 April 2000 of which 4 will be proportionally elected councillors and 4 ward councillors and the following office-bearers may be designated by the council of the municipality as full time:

None

#### Wards

6. The local municipality mentioned in -

- (a) clause 2(1)(b) has 0 wards.
- (b) clause 2(1)(c) has 8 wards with boundaries as set out in maps no 1 - 8 in Notice 75 of 2000 in Provincial Gazette Extraordinary 502 dated 8 June 2000 and corrected by Notice 108 of 2000 in Provincial Gazette Extraordinary 538 dated 9 August 2000.
- (c) clause 2(1)(d) has 12 wards with boundaries as set out in maps no 1 - 12 in Notice 74 of 2000 in Provincial Gazette Extraordinary 501 dated 8 June 2000.
- (d) clause 2(1)(e) has 4 wards with boundaries as set out in maps no 1 - 4 in Notice 73 of 2000 in Provincial Gazette Extraordinary 500 dated 8 June 2000.
- (e) clause 2(1)(f) has 6 wards with boundaries as set out in maps no 1-6 in Notice 72 of 2000 in Provincial Gazette Extraordinary 499 dated 8 June 2000.
- (f) clause 2(1)(g) has 4 wards with boundaries as set out in maps no 1 - 4 in Notice 71 of 2000 in Provincial Gazette Extraordinary 498 dated 8 June 2000.

#### Exemptions

7. The municipality mentioned in -

- (a) clause 2 (1)(a) is exempted from the following provisions of the Municipal Structures Act:

None

- (b) clause 2 (1)(b) is exempted from the following provisions of the Municipal Structures Act:  
None
- (c) clause 2 (1)(c) is exempted from the following provisions of the Municipal Structures Act:  
None
- (d) clause 2 (1)(d) is exempted from the following provisions of the Municipal Structures Act:  
None
- (e) clause 2 (1)(e) is exempted from the following provisions of the Municipal Structures Act:  
None
- (f) clause 2 (1)(f) is exempted from the following provisions of the Municipal Structures Act:  
None
- (g) clause 2 (1)(g) is exempted from the following provisions of the Municipal Structures Act:  
None

#### **Disestablishment of existing municipalities**

8. (1) The following municipalities, district council, transitional representative councils and transitional local councils existing on the date of establishment of the municipalities mentioned in clause 2 are disestablished with effect from the effective date to the extent that those municipalities fall within the district municipal area:
- (i) **Benede-Oranje District Council** established by Provincial Proclamation No. 65 of 1995 in Provincial Gazette No. 94 dated 11 September 1995;
  - (ii) **Mier Management Council** established by Provincial Proclamation No. 46 of 1994 in Provincial Gazette No. 27 dated 21 November 1994 as amended by Provincial Proclamation No. 64 of 1994 in Provincial Gazette 33 dated 19 December 1994.
  - (iii) **Kakamas Municipality** established by Provincial Proclamation No. 19 of 1994 in Provincial Gazette 15 dated 26 September 1994.
  - (iv) **Keimoes Municipality** established by Provincial Proclamation No. 11 of 1994 in

- Provincial Gazette 9 dated 19 September 1994.
- (v) **Kenhardt Municipality** established by Provincial Proclamation No 61 of 1994 in Provincial Gazette No. 33 dated 26 September 1994.
  - (vi) **Eksteenskuil Management Council** established by Provincial Proclamation No. 3 of 1995 in Provincial Gazette No. 39 dated 1 January 1995.
  - (vii) **Upington Municipality** established by Provincial Proclamation No. 27 of 1994 in Provincial Gazette No. 23 dated 21 October 1994 as amended by Provincial Proclamation No. 49 of 1994 in Provincial Gazette 28 dated 28 November 1994;
  - (viii) **Groblershoop Municipality** established by Provincial Proclamation No. 43 of 1994 in Provincial Gazette No. 27 dated 21 November 1994.
  - (ix) **Olifantshoek Municipality** established by Provincial Proclamation No. 20 of 1995 in Provincial Gazette No. dated 13 January 1995.
  - (x) **Postmasburg Municipality** established by Provincial Proclamation No. 5 of 1994 in Provincial Gazette No. 32 dated 22 August 1994.
  - (xi) **Danielskuil Municipality** established by Provincial Proclamation No. 35 of 1994 in Provincial Gazette No. 23 dated 21 October 1994 as amended by Provincial Proclamation No. 48 of 1994 in Provincial Gazette No. 28 dated 28 November 1994;
  - (xii) **Santoy TRC** established by Provincial Proclamation No. 65 of 1995 in Provincial Gazette No. 94 dated 11 September 1995.
  - (xiii) **Hotazel TRC** established by Provincial Proclamation No. 65 of 1995 in Provincial No. 94 dated 11 September 1995.
  - (xiv) **Lime Acres TRC** established by Provincial Proclamation No. 65 of 1995 in Provincial Gazette No. 94 dated 11 September 1995.
  - (xvi) **Beeshoek TRC** established by Provincial Proclamation No. 65 of 1995 in Provincial Gazette No. 94 dated 11 September 1995.
  - (xvii) **Blinkklip TRC** established by Provincial Proclamation No. 65 of 1995 in Provincial Gazette No. 94 dated 11 September 1995.
  - (xviii) **Sandveld TRC** established by Provincial Proclamation No. 65 of 1995 in Provincial Gazette No. 94 dated 11 September 1995.
  - (xix) **Rooiberg TRC** established by Provincial Proclamation No. 65 of 1995 in Provincial Gazette No. 94 dated 11 September 1995.
  - (xx) **Langeberg TRC** established by Provincial Proclamation No. 65 of 1995 in Provincial Gazette No. 94 dated 11 September 1995.
  - (xxi) **Noodvoor TRC** established by Provincial Proclamation No. 65 of 1995 in Provincial Gazette No. 94 dated 11 September 1995.
  - (xxii) **Onseepkans TRC** established by Provincial Proclamation No. 65 of 1995 in Provincial Gazette No. 94 dated 11 September 1995.
  - (xxiii) **Kingsby TRC** established by Provincial Proclamation No. 65 of 1995 in



Provincial Gazette No. 94 dated 11 September 1995.

- (xxiv) **Kanna TRC** established by Provincial Proclamation No. 65 of 1995 in Provincial Gazette No. 94 dated 11 September 1995.
- (xxv) **Groenvallei TRC** established by Provincial Proclamation No. 65 of 1995 in Provincial Gazette No. 94 dated 11 September 1995.
- (xxvi) **Cottonfields TRC** established by Provincial Proclamation No. 65 of 1995 in Provincial Gazette No. 94 of 1995.
- (xxvii) **Oranje TRC** established by Provincial Proclamation No. 65 of 1995 in Provincial Gazette No. 94 dated 11 September 1995.
- (xxviii) **Boesmanland TRC** established by Provincial Proclamation No. 65 in Provincial Gazette No. 94 dated 11 September 1995.
- (xxix) **Gordonia TRC** established by Provincial Proclamation No. 65 in Provincial Gazette No. 94 dated 11 September 1995.

- (2) Until it is disestablished on the effective date, an existing municipality -
  - (a) continues after the establishment of the superseding municipalities; and
  - (b) remains competent to function as the municipality for its area.
- (3) The councillors of an existing municipality vacate office on the effective date.

#### **Transitional provisions relating to staff**

- 9. (1) A person who on the effective date is an employee of a municipality, district council, transitional local council and transitional representative council disestablished in terms of clause 8 becomes an employee of a municipality established in terms of clause 3 in accordance with the following rules:
  - (a) Employees who are full-time or for most of a normal working day occupied with work directly related to the performance of a specific function listed in an Annexure to this Schedule or the performance of a specific function in a specific area, becomes an employee of the municipality which as from the effective date will be responsible for the performance of that specific function or for the performance of that specific function in that specific area.
  - (b) Employees who are full-time or for most of a normal working day occupied with work incidental to the performance of functions listed of a district council or in support of or to enable the performance of those functions, becomes an employee of the district municipality.

- (c) Employees who are full-time or for most of a normal working day occupied with work incidental to the performance of functions listed of a local municipality in support of or to enable the performance of those functions, becomes an employee of the local municipality in whose area the employee is stationed on the effective date.
  - (d) Employees not mentioned in either paragraph (a), (b) or (c), becomes an employee of the local municipality in whose area the employee is stationed on the effective date.
  - (e) For the purposes of paragraphs (a), (b) of (c) "function" includes a power as contemplated in Section 84(1) and (2) of the Municipal Structures Act.
- (2) The employment of persons by the district or local municipality in terms of subclause (1) -
- (a) must be regularized in accordance with any collective agreement reached between the municipality concerned and trade unions representing those employees; an
  - (b) is subject to section 197 of the Labour Relations Act, 1995 (Act No. 66 of 1995).
- (3) That every employee referred to in subclause (1) shall be employed by the newly established municipality on such terms and enjoy such rights and privileges, including membership of a trade union, as are not less favorable than those which applied to him on the day before the effective date on which this Notice comes into operation and the applicable labour law shall apply to such employees.
- (4) That from the effective date, every employee referred to in subclause (1) shall -
- (a) on such date be credited with all the vacation and sick leave standing to his credit;
  - (b) in respect of pensionable service performed in the service of his or her previous employer, be deemed to have performed that pensionable service in the service of the newly established municipalities;
  - (c) in respect of any allegations of misconduct outstanding against him on the day

before the effective date, be dealt with in terms of the conditions applicable to him whilst in the service of his previous employer, unless he consents to the contrary.

- (5) Subclause (4) does not prevent the municipality concerned from implementing a scheme to re-organise its staff subject to the Labour relations Act, 1995.
- (6) A municipality to whom an employee is assigned in terms of subclause (1) may, by agreement with another municipality within the district municipal area, transfer the employee, with that employee's consent, to that other municipality.
- (7) That the acting municipal manager shall be mandated to integrate the employees referred to in subclause (1) into one cost-effective and efficient organization within six months from the effective date after consultation with the MEC.
- (8) A municipality to whom an employee is assigned in terms of subclause (1) may by agreement with an adjoining municipality outside the district municipal area, transfer the employee, with that employee's consent, to the adjoining municipality.

#### **Transitional provisions relating to assets, liabilities and administrative and other records**

- 10 (1) As from the effective date all the assets, liabilities (excluding investments, cash and cash balances) and all the administrative and other records of a disestablished municipality are vested in that municipality established in terms of clause 2 subject to a determination made by the MEC in accordance with the following rules:
  - (a) Assets used, liabilities incurred and administrative and other records kept in connection with the performance of a specific function listed in an Annexure to this Schedule or the performance of a specific function in a specific area: To be allocated to the municipality which is responsible for the performance of that specific function or for the performance of that specific in that specific area.
  - (b) Assets used, liabilities incurred and administrative and other records kept in connection with the general performance of functions of the district municipality to be allocated to the district municipality.
  - (c) Assets used, liabilities incurred and administrative and other records kept in connection with the general performance of functions listed to the local municipality to be allocated to the local municipality in whose area the area falls in regard to which those assets were used, those liabilities were incurred or those records were kept on the effective date.
  - (d) For the purpose of paragraphs (a), (b) or (c) "function" includes a power as contemplated in Section 84(1) and (2) of the Municipal Structures Act.
- (2) The determination contemplated in subclause (1) will be published in the Provincial Gazette after consultation with the affected municipalities.
- (3) A municipality to whom assets, liabilities or records were allocated in terms of sub-clause (1) may, by agreement with another municipality within the district municipal area, transfer

or cede any of those assets, liabilities or records to that other municipality after consultation with the MEC.

- (4) If a disestablished municipality only partially falls within the district municipal area, the following additional rules apply:
- (a) All the assets and liabilities and all the administrative and other records of a disestablished municipality must be dealt with in terms of sub-clause (1) if the disestablished municipality's main administrative office is situated within the district municipal area, except those assets used, liabilities incurred and records kept in connection with an area which falls outside the district municipal area.
  - (b) Only those assets used liabilities incurred and records kept in connection with an area which falls within the district municipal area are vested in a municipality in terms of subclause (1) if the disestablished municipality's main administrative office is situated outside the district municipal area.
  - (c) A municipality to whom assets, liabilities or records were allocated in terms of subclause (1) may, by agreement with an adjoining municipality outside the district municipal area, [or must if the MEC for local government so requests], transfer or cede any of those assets, liabilities or records to that other municipality."

#### Investments, cash and cash balances

10A. As from the effective date all investments and all cash and cash balances in a bank account of a disestablished municipality transitional local council and a transitional representative council accrue to a newly established municipality in terms of clause 2 in accordance with the following rules:

- (a) The investments, cash and cash balances of the disestablished district municipality accrue to the newly established district municipality: Provided that where the area of the disestablished district municipality falls in more than one newly established district municipal area, the portion of such investments, cash and cash balances as determined by the MEC, will accrue to the new district municipality.
- (b) The investments, cash and cash balances of a disestablished local municipality accrue to the newly established municipality in whose area the disestablished municipality falls: provided that where the area of the disestablished local municipality falls in more than one newly established local municipal area, the portion of such investments, cash and cash balances as determined by the MEC, will accrue to the new local municipality concerned.
- (c) The investments, cash and balances of a disestablished transitional local council and transitional representative council accrue to the newly established district or local municipality in whose area the disestablished transitional local council or transitional representative council falls: Provided that where the area of the disestablished transitional representative council and transitional local council falls in more than one newly established district or local municipality, the portion of such investments, cash and cash balances as will be determined by the MEC, will accrue to the new district or local municipality concerned.

#### Dispute resolution

11. (1) A dispute resolution committee is hereby established to resolve disputes between municipalities in the district municipal area concerning the application of clauses 9, 10 and 10A.

- (2) The committee consists of-
  - (a) the municipal manager of the district municipality and one councillor of that municipality nominated by the council of the municipality; and
  - (b) the municipal manager of each of the local municipalities and one councillor of each of those municipalities nominated by the council of the local municipality concerned.
- (3) A municipality may nominate an alternate for its representatives in the committee.
- (4)
  - (a) The councillor nominated by the district municipality is the chairperson of the committee.
  - (b) The chairperson of the committee decides when and where the committee meets, but a majority of the members may request the chairperson in writing to convene a meeting of the committee at a time and place set out in the request.
  - (c) The chairperson presides at meetings of the committee, but if the chairperson is absent from a meeting, the members present must elect another member to preside at the meeting.
- (5) The committee may determine its own procedures, subject to the following:
  - (a) Only those members who are councillors may vote.
  - (b) A question before the committee is decided with a supporting vote of
    - (i) The councillor representing the district municipality at the meeting; and
    - (ii) At least the majority of the other councillors present at the meeting.
  - (c) At least one half of the members who are councillors must be present at a meeting before a vote may be taken on any matter.
  - (d) In the event of an equality of votes, the chairperson must exercise a casting vote in addition to a vote as a member.
- (6) The district municipality and the local municipalities, including affected employees, are bound by the decisions of the committee, subject to clause 12.
- (7) The Code of Conduct contained in Schedule 5 of the Municipal Structures Act applies to members of the committee to the extent that the Code can be applied.

#### **Intervention powers of the MEC**

12. (1) The MEC for local government may at any time intervene in the proceedings of the committee referred to in clause 11 and request the committee to refer an unresolved matter before the committee to the MEC for resolution.
- (2) The MEC for local government may reconsider a matter on which the committee has taken a decision and confirm, vary or withdraw the decision of the committee.
- (3) The district municipality and the local municipalities, including affected employees, are bound by the decisions of the MEC.

**Transitional provisions relating to existing by-laws and resolutions**

13. (1) That the by-laws in force within the areas of jurisdiction of the disestablished Municipality prior to the effective date shall remain and have full force and effect within the area of jurisdiction of the new municipality after the effective date until such time as the new municipality makes other arrangements.
- (2) (i) That the administration of any law or any provision thereof or regulation made thereunder conferring a power or imposing a duty or function on a disestablished municipality shall on the effective date pass to the new municipality.
- (ii) That where any employee referred to in clause 9 in the course of his employment exercised a power or performed a duty or function by virtue of the office held by him or by virtue of a delegation of power conferred on him on the day before the effective date, such employee shall continue to exercise that power or to perform that duty or function until such time as it may be decided to the contrary.
- (iii) That the property rates and any fees or charges for municipal services or for the use of or for access to municipal amenities or facilities of whatsoever nature which were in force and effect on the day prior to the effective date shall remain of force and effect until changed in terms of the laws applying to the new municipality.
- (3) Unless inconsistent with the context or clearly inappropriate, a reference in any such by-law or resolution to -
- (a) a disestablished municipality, must be construed as a reference to the municipality which has to apply the by-law or resolution in terms of subclause (2); and
- (b) a structure or functionary of a disestablished municipality, must be construed as a reference to the corresponding structure or functionary of the municipality which has to apply the by-law or resolution in terms of subclause (2).

**Duties of chief executive officers of existing municipalities**

14. The person who was the chief executive officer of a disestablished municipality must -
- (a) by not later than two days after the effective date draw up -
- (i) a list containing the names and particulars of all persons who on that date were in the

- employ of the municipality; and
- (ii) an inventory of all the assets and liabilities of the municipality as at that date; and
- (b) submit that list and inventory to the acting municipal manager referred to in clause 15(1) below within one day after that person's appointment as acting municipal manager.

#### Appointment of an acting municipal manager

- 15.
- (1) The council of the district municipality and of each local municipality must appoint at the first meeting after the establishment of the municipality, a person as acting municipal manager for a period not exceeding six months until a municipal manager is permanently appointed.
  - (2) The MEC must:
    - (i) appoint an acting municipal manager for each established municipality for the interim periods from the effective date until the first meeting of the council
    - (ii) determine the standing orders applicable for the first meeting ;
    - (iii) determine the seats of the municipality until the newly established municipality determines that seat.
  - (3) The MEC must publish the appointments as contemplated in subclause 2 after consultation with the affected municipalities.

#### Commencement

16. This Notice comes into effect on the date of publication.

**APPENDIX B**

**QUESTIONNAIRE FOR MAGISTER DISSERTATION: DIE IMPACT OF LOCAL GOVERNMENT RESTRUCTURING ON THE KAI !GARIB LOCAL MUNICIPALITY**

The purpose of the questionnaire is to test your opinion concerning various aspects relating to the restructuring of local government. Specific attention will be paid to those aspects that you perceive as positive/negative as well as suggestions for improving the current state of affairs.

It should not take more than 30 minutes for you to complete the questionnaire. If you wish to complete the questionnaire electronically, you may return it to Lyndon du Plessis: [dplesslm.ekw@mail.uovs.ac.za](mailto:dplesslm.ekw@mail.uovs.ac.za). If you have any enquiries, you may contact me at (051) 401 2284.

<b>Title, name and surname (optional)</b>					
<b>Are you a Councillor or Official?</b>					
<b>If an Official, in what Department are you employed?</b>					
<p>Except for where stated otherwise, please answer the questions on a scale from 1 to 4. The following meanings are attached to various values:</p> <p>1=Totally Disagree                  2=Disagree                  3=Agree Partly                  4=Totally Agree                  (a column for recording no answers [for the researcher] was also provided)</p> <p>Please indicate your answer with an X in the appropriate column.</p>					
<b>1. The practical realities of the restructuring</b>					
1.1. The amalgamation of Kakamas, Keimoes , Kenhardt and Eksteenskuil into one municipality took place in an efficient manner.	1	2	3	4	
1.2. The distance between the various towns does not affect the way in which daily administrative duties are executed.	1	2	3	4	



1.3. The new municipal structure is conducive for efficient cooperation and communication between officials.	1	2	3	4	
1.4. The new municipal structure is conducive for efficient communication between councilors and their different wards/communities.	1	2	3	4	
1.5. The new municipal structure does not lead to competition between the various towns that could be to the disadvantage of the municipality as whole.	1	2	3	4	
<p>1.6. What, in your opinion, is the biggest practical challenge caused by the restructuring of your municipality? Please motivate your answer.</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p>					
<p>1.7. What suggestions will you recommend to eliminate practical shortcomings in the new system?</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p>					
<p><b>2. The impact of restructuring on the rendering of basic services</b></p>					
2.1. Despite the expanded area, the municipality is able to render quality basic services to the community.	1	2	3	4	

2.2. The rendering of basic services such as water and electricity have successfully been expanded to rural areas that now resort under the municipality's jurisdiction.	1	2	3	4	
2.3. The expanded service area did not lead to a substantial increase in municipal service charges.	1	2	3	4	
2.4. The municipality has a credit control policy that is applied uniformly in the various towns.	1	2	3	4	
2.5. The municipality has an indigent policy aimed at assisting needy residents in terms of access to basic services.	1	2	3	4	
2.6. The indigent policy is applied uniformly in the various towns.	1	2	3	4	
2.7. How does your municipality ensure that services rendered comply with quality requirements?					
-----					
-----					
-----					
-----					
2.8. Are there efforts to test the views of citizens regarding the quality of service rendering? If so, please explain shortly.					
-----					
-----					
-----					
-----					

<b>3. The new municipality and development</b>					
3.1. There are purposeful efforts to address developmental needs in the new municipal area.	1	2	3	4	
3.2. Such efforts are included in an Integrated Development Plan.	1	2	3	4	
3.3. The Integrated Development Plan was compiled after consultation with the community.	1	2	3	4	
3.4. The development initiatives of the municipality address both infrastructural/physical development as well as human development.	1	2	3	4	
3.5. There are concerted efforts to integrate the municipality's development plan with financial planning (the budget).	1	2	3	4	
3.6. What are, in your view, the greatest challenges in terms of development faced by the municipality? Please motivate your answer. ----- ----- ----- -----					
3.7. What are, according to you, the greatest stumbling blocks to sustainable development within the municipality? ----- ----- ----- -----					

3.8. According to you, what can be done to neutralize the above-mentioned stumbling blocks?

-----

-----

-----

-----

**4. Community Participation**

4.1. There are sufficient efforts aimed at involving the community in municipal activities.	1	2	3	4	
4.2. Ward councilors meet with their respective wards on days and at times as provided for by the council	1	2	3	4	
4.3. Ward committees are fully functional and contribute to efficient community participation.	1	2	3	4	
4.4. Sufficient attempts are being made to gather inputs from the community and considering those inputs in the processes of Budgeting and Integrated Development Planning.	1	2	3	4	
4.5. The community's inputs/objections are at all times considered in decision-making.	1	2	3	4	

4.6. What is, in your view, the biggest stumbling block to efficient community participation? Please motivate your answer.

-----

-----

-----

-----

4.7. If ward committees are indeed functional, does it, in your view, contribute to improved service rendering? Please motivate your answer.

-----

-----

-----

-----

**5. Intergovernmental Cooperation**

5.1. There is a clear division of functions between your municipality and the Siyanda District Municipality.	1	2	3	4	
5.2. There is efficient cooperation between your municipality and the Siyanda District Municipality as far as service rendering is concerned.	1	2	3	4	
5.3. Your municipality actively participates in provincial government initiatives to improve service rendering and to facilitate development.	1	2	3	4	
5.4. There is efficient interaction with the national government in order to address issues of common interest.	1	2	3	4	

5.5. What can, in your view, be done to improve cooperation with other government spheres?

-----

-----

-----

-----

5.6. Does your municipality have access to funds controlled by the provincial and/or national government to improve service rendering? Please motivate your answer.

-----

-----

-----

-----

**6. Impact of the restructuring on staff**

6.1. The staff in your municipality was informed beforehand regarding the structural changes in the municipality.	1	2	3	4	
6.2. Staff members were given access to information in terms of how the changes may influence their position in the organisation.	1	2	3	4	
6.3. Staff members were given the opportunity to provide inputs regarding the structural changes in the municipality after consultation with their labour unions.	1	2	3	4	
6.4. The new organizational structure of the municipality promotes efficient service rendering within the municipality's service area.	1	2	3	4	
6.5. Municipal staff members are exposed to training that enables them to better understand the extent of the municipality's expanded service area.	1	2	3	4	
6.6. The organizational structure is conducive for the efficient application pd performance measurement.	1	2	3	4	

6.7. Do you think that municipal staff members are generally satisfied about their changed working conditions? Please motivate your answer.

-----

-----

-----

-----

**7. Activities of Councillors**

7.1 Councillors were/are exposed to training to understand and fulfill their role as community representatives and policy makers.	1	2	3	4	
---	---	---	---	---	--

7.2. Councillors are exposed to information/training to understand their role as policy makers within the framework of relevant legislation.	1	2	3	4	
--	---	---	---	---	--

7.3. Councillors are supported by officials in regard to advice that may influence their policy making function.	1	2	3	4	
--	---	---	---	---	--

7.4. There is close cooperation between councilors and officials to ensure that local by-laws and/or other legislation are efficiently applied and implemented.	1	2	3	4	
---	---	---	---	---	--

7.5. What do you regard as the most important challenge for the councilors of your municipality? Please explain your answer shortly.

-----

-----

-----

-----

**THANK YOU FOR YOUR PARTICIPATION**

UV - UFS  
 BLOEMFONTEIN  
 BIBLIOTEEK - LIBRARY