

**UNIVERSITY OF KWAZULU-NATAL**

**EXPLORING THE ROLE OF COMMUNITY TRUSTS IN DEVELOPMENT  
WITHIN THE MKHWANAZI TRADITIONAL AUTHORITY**

**by**

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## DECLARATION

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- (ii) This dissertation has not been submitted for any degree or examination at any other university.
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## **ABSTRACT**

The focus of this study was on the community of kwaMkhwanazi Traditional Council (MTC). This traditional community's livelihood depends largely on commercial agriculture with some portions of land demarcated for subsistence farming. The main agricultural activities in the area include sugar cane plantations, commercial forestry plantations and livestock farming with notable mineral sand mining operations especially along the coastal zone. The main aim of this study was to investigate and assess the impact of the Mkhwanazi Traditional Council's Trust in supporting the community through development in areas of infrastructure, economic development and education. This study was undertaken by pursuing the following operational objectives: determining the extent to which the community is aware of the Trust and its benefits to the Mkhwanazi community; assessing the community's perceptions of the Trust as a vehicle for service delivery; examining the experiences of trustees regarding challenges they face and prospects of the Trust serving the Mkhwanazi community; and evaluating the usefulness of key stakeholders in supporting the Mkhwanazi Community Development Trust. The study applied qualitative research methodology and data were collected through interviews. The research collected data from various stakeholders in the Mkhwanazi Traditional Council. These stakeholders were Richards Bay Minerals, the community members, the Department of Co-operative Governance and Traditional Affairs, and individuals from the Mhlathuze Municipality. The majority of respondents felt that the community does not benefit from the Trust. Some respondents went so far as to highlight expected characteristics of functional trusts. On the other hand, some respondents made positive remarks about the benefits that the communities derive from the Trust. Important among the benefits is the award of bursaries to learners from the community. Although concerns were raised about community's limited knowledge of the application process, and of the help available to promote entrepreneurship, such as by forming co-operatives for sewing and farming which can be funded by the Trust, the study still concluded that the Traditional Community Development Trust has a significant role to play in accelerating the sustainable service delivery of the community's basic needs.

## **TABLE OF CONTENTS**

DECLARATION.....	ii
DEDICATION.....	iii
ACKNOWLEDGEMENTS.....	iv
ABSTRACT.....	v
TABLE OF CONTENTS.....	vi
LIST OF FIGURES.....	vii
LIST OF TABLES.....	viii
ACRONYMS.....	ix

## **CHAPTER ONE: INTRODUCTION AND OVERVIEW OF THE STUDY.....1**

1.1 Introduction.....	1
1.2 Background to the study.....	1
1.3 Statement of the research problem.....	2
1.4 Aim and objectives of the study.....	4
1.5 Key research questions.....	4
1.6 Conceptual framework.....	5
1.7 Research methodology.....	6
1.8 Ethical considerations.....	7
1.9 Definition of concepts.....	8
1.10 Outline of the dissertation.....	9
1.11 Chapter Summary.....	10

## **CHAPTER TWO: LITERATURE REVIEW.....11**

2.1 Introduction.....	11
-----------------------	----

2.2 Conceptual Framework.....	12
2.3. Explaining Community development.....	13
2.4 History of Community Development.....	14
2.5 Traditional Leadership and Traditional Council.....	15
2.6 Community Trusts.....	16
2.7 The Core Duties of the Trustees.....	18
2.8 The Mkhwanazi Traditional Council.....	19
2.9 Community Trusts and the Approach to Development.....	20
2.10 The Role of the Private Sector in Community Development.....	21
2.11 The Official Recognition of Traditional Councils and the Legal Standing of Community Members.....	22
2.11.1 What the law says about traditional leaders and councils.....	23
2.11.2 Official recognition of traditional councils and legal standing.....	24
2.11.3 Recognition of traditional councils and accountability measures.....	26
2.12 Governance and Traditional Leadership.....	28
2.13 Legislative and Policy Framework.....	27
2.13.1 The Constitution of the Republic of South Africa of 1996.....	28
2.13.2 The White Paper on Local Government of 1998.....	29
2.13.3 Local Government: Municipal Demarcation Act 27 of 1998.....	27
2.13.4 Local Government: Municipal Structures Act 117 of 1998.....	30
2.13.5 The Public Finance Management Act 1 of 1999.....	30
2.13.6 The Local Government: Municipal Systems Act 32 of 2000.....	32
2.13.7 The Municipal Finance Management Act 56 of 2003.....	32
2.13.8 The Communal Land Rights Act, No 11 of 2004.....	31
2.14 The South African Constitution and a Traditional Trust.....	31

2.15 Traditional Leadership and Land Usage.....	32
2.16 Chapter Summary.....	34
<b>CHAPTER THREE: RESEARCH METHODOLOGY.....</b>	<b>36</b>
3.1 Introduction.....	36
3.2 Objectives of the Study.....	36
3.3 Key Research Questions.....	36
3.4 Research Design.....	37
3.5 Research Methodology.....	37
3.6 Qualitative Method.....	38
3.7 The Target Population.....	39
3.8 Sampling and Sample Size.....	39
3.9 Data Collection.....	40
3.10 Data Analysis.....	41
3.11 Ethical Considerations.....	41
3.11.1 Confidentiality.....	42
3.11.2 Informed consent.....	43
3.12 Chapter Summary.....	42
<b>CHAPTER FOUR: PRESENTATION OF RESULTS AND DISCUSSION.....</b>	<b>43</b>
4.1 Introduction.....	43
4.2 Analysis.....	43
4.2.1 Community awareness about the existence of the Trust.....	42
4.2.2 Is the Trust beneficial to the community.....	43
4.2.3 Community's perceptions on Trust as a vehicle for service delivery.....	45
4.2.4 Community's faith on trustees.....	45



4.2.5 Community’s role in promoting development in the area.....	47
4.2.6 Recommendations by the community to improve the extent in which the Trust is currently being managed.....	48
4.2.7 The community involvement in the funds of the Trust.....	49
4.2.8 Respondents’ perceptions on trustees respect towards iNkosi.....	50
4.2.9 Respondents perceptions towards trustees’ commitment to the Trust.....	51
4.2.10 Perceived implications of the Trust’s maladministration in the Mkhwanazi community.....	54
4.3 Chapter Summary.....	55
<b>CHAPTER FIVE: CONCLUSIONS AND RECOMMENDATIONS.....</b>	<b>56</b>
5.1 Introduction.....	56
5.2 Objectives of the study.....	56
5.3 Key research questions.....	56
5.4 Conclusions of the Study.....	57
5.5 Recommendations of the study.....	59
5.6 Conclusion .....	60
REFERENCES.....	61
APPENDICES.....	

## LIST OF FIGURES

	Page
Figure 2.1: Structure of a Traditional Council	34
Figure 4.1: Respondents awareness about the existence of the trust	42
Figure 4.2: Respondents perception about the trust being beneficial	43
Figure 4.3: Respondents' perceptions on trust as a vehicle for service delivery	45
Figure 4.4: Respondents' faith towards trustees	46
Figure 4.5: Respondents involvement in the trust	48
Figure 4.6: Respondents perception on trustees respect towards iNkosi	50
Figure 4.7: Respondents perceptions towards trustees' commitment on the trust	51

## ACRONYMS

ANC	African National Congress
BBBEE	Broad-Based Black Economic Empowerment
CBOs	Community Based Organisations
CPAs	Communal Property Associations
IOD	Institute of Directors
LED	Local Economic Development
LM	Local Municipality
MTEF	Medium Term Expenditure Framework
NDP	National Development Plan
NGO	Non-Governmental Organisation
RDP	Reconstruction Development Programme
RBM	Richards Bay Minerals
UKZN	University of KwaZulu-Natal

# CHAPTER ONE

## INTRODUCTION AND OVERVIEW OF THE STUDY

### 1.1 INTRODUCTION

This introductory chapter provides an outline of this research work. It starts with a brief overview of the background to community development and the role of a community development trust as a vital element for service delivery as well as the importance of traditional leadership in the South African context. It then presents the statement of the research problem, the aim and objectives of the research and it ends with an outline of the structure of the dissertation. In the next chapter, the research methodology used to collect data for the research is explained. The chapter mainly focuses upon the research instrument used, the method of the research, and the design of the process involved in the data collection. The main reason for the researcher to focus on each choice was guided by the objectives of the study.

### 1.2 BACKGROUND TO THE STUDY

In a relatively short period of time after the end of the apartheid era in 1994, the South African democratic government established all-inclusive policies and a governing framework to address past injustices. In this process, community development was a top priority as implied in Section 2 (Bill of Rights) of the South African Constitution. However, developments have been sluggish as social and structural challenges persist, and this must be overcome for the country to achieve its full community development potential. It is widely accepted that rural communities commonly face a myriad of social, economic and cultural challenges that are different from those of their urban counterparts and, as such, the concept of community development is skewed towards rural areas. Generally, rural areas are governed by traditional authority structures which are controlled by a system of traditional leadership which includes *Amakhosi* (traditional chiefs) and *izinduna* (headmen) where the ownership of the land and resources is communal.

More recently, there has been an upsurge in initiatives and programmes that seek to tackle and address rural community development in the Republic of South Africa. These programmes are as varied as they are numerous and a detailed overview of such programmes is presented in Chapter 2. From the literature it appears that most studies on community development have largely been limited to government-based programmes and very little attention has been given to community-centred developmental programmes. For this reason, the current study focuses on community development trusts which are, as the name suggests, community-based. Community development trusts are becoming progressively more popular in various community development programmes.

Since their inception around 1994, there has been intense interest shown in the practical implementation of community development trusts and their overall contribution to the community development agenda. This study is an attempt to examine this interest using the Mkhwanazi community at kwaDlangezwa, on the north coast of KwaZulu-Natal, as an empirical case study. Some practical studies such as those of the Independent Projects Trust (2003) have prompted further investigations into community economic development in KwaZulu-Natal. The results of these investigations indicate that structural flaws in the community economic development inevitably have an influence on the manner in which community projects are executed. As is generally the case in KwaZulu-Natal, it is argued in this study, that the economy in the region governed by the Mkhwanazi Traditional Council is strikingly under-developed and this may be attributable to the abovementioned structural challenge and perhaps other factors that this study will attempt to uncover.

In order to improve and to render community development effective, Chang (2010) maintains that the most fundamental elements include proper identification of local needs, establishing commonly agreed-upon goals and then implementing plans by mobilising accessible resources including community structures.

The focus of this study will be on the community of Mkhwanazi's Traditional Council. Mkhwanazi is a traditional community whose livelihood depends largely on commercial agriculture, with some portions of land demarcated for subsistence

farming. The main dominant agricultural activities in the area include sugar cane plantations, commercial forestry plantations and livestock farming with notable mineral sand-mining operations especially along the coastal zone. As is generally the case, the Mkhwanazi Traditional Council is the custodian of kwa-Mkhwanazi community land and they (the community) benefit in terms of proceeds. A certain percentage of profits is allocated to them by the land users, namely the Richards Bay Minerals (RBM) company and Siyaqhubeka, a subsidiary of Mondi Paper Mill, which is part of the Anglo American Group, being the most prominent.

It was against this background that the Mkhwanazi Traditional Council was established for the community, to manage and distribute resources that would meet their needs and aspirations. According to the Mkhwanazi Trust Deed (2009), a development trust means a trust established by the founders to acquire, hold, improve and manage the general assets of the community for the benefit of the people who are members, in this instance, of the Mkhwanazi community.

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

South Africa has three spheres of government (national, provincial, local), and governance and service delivery centres on these spheres. An additional component of governance for community development is the Community Development Trust, the formation of which is chiefly aimed at bringing sustainability and equitable development to local communities.

Because community development trusts are still in their infancy, it is believed that local communities have very little, if any, understanding of their role in developmental matters. It is not surprising, therefore, that people often question the relevance of these trusts in communities. Specifically for the Mkhwanazi Traditional Council, the community own a 2.75 per cent share in equity from Richards Bay Minerals. In fact, Richards Bay Minerals is the first corporate within the Mhlathuze Municipality, and hopefully it will not be the last, to establish a Community Development Trust with the Mkhwanazi Traditional Council. The main goal of this establishment was to provide quality service delivery to those who are needy through a formal structure.

Not long ago, Independent Projects Trust (2003) established that community development is often reliant on the character and ingenuity of a community leader such as a traditional leader, a chairperson of the development committee, or a councillor. The challenge is whether or not the Mkhwanazi community is benefitting from the proceeds of the Trust.

#### **1.4 AIM AND OBJECTIVES OF THE STUDY**

The main aim of this study was to investigate and analyse the impact of the Mkhwanazi Traditional Council's Trust that was set up to support the community through development in areas of infrastructure, economic development and education. This study will hopefully be achieved by pursuing the following operational objectives:

- To determine the extent to which the community is aware of the Trust and how it benefits the Mkhwanazi community;
- To assess the community's perceptions of the Trust as a vehicle for service delivery;
- To examine the community's experiences regarding challenges they face and the prospects of the Trust serving the needs of the Mkhwanazi community; and
- To evaluate the usefulness of key stakeholders in supporting the Mkhwanazi Community Development Trust.

#### **1.5 KEY RESEARCH QUESTIONS**

The study will attempt to answer the following research questions:

- To what extent is the community aware of the Trust and its benefits to the Mkhwanazi community?
- To what extent does the community regard the Trust as a vehicle for service delivery?
- What are the community's experiences regarding challenges they face and what are the prospects of the Trust serving the needs of the Mkhwanazi community? and

- What is the usefulness of key stakeholders in supporting the Mkhwanazi Community Development Trust?

## 1.6 CONCEPTUAL FRAMEWORK

The conceptual framework of this research study is premised on the *Batho Pele* principles that are drawn from the *White Paper on Transformation of Public Service of 1997*. The main aim of the study was to investigate the impact of the Community Development Trust on service delivery and on the lives of the Mkhwanazi community.

### ***Batho Pele* Principles**

Based on the fundamentals of the *Constitution of the Republic of South Africa of 1996*, the *White Paper on Transformation of Public Service 1995*, and the *White Paper on Transformation of Public Service 1997*, the *Batho Pele* principles were adopted to enhance the quality and accessibility of government services by improving efficiency and accountability to the recipients of public goods and services (White Paper on Transformation of Public Service 1997:7).

The following principles have been identified in the White Paper on Transforming Public Services of 1997 and are important within Public Administration:

**Consultation**, relates to communication between the public servant and the citizens, therefore citizens should be consulted about the level and quality of public services they receive.

**Service standards**, means that citizens need to know what to expect when served by public servants.

**Access**, it does not only mean that services should be there, but it also refers to the fact that they need to be user-friendly; the attitude of the service providers should be open, and respectful.

**Courtesy**, citizens should be treated with consideration and their dignity should be respected at all times.

**Information** is power, citizens that we serve need always to be provided with useful information about public services.



**Openness and Transparency**, citizens should be informed about how national and provincial governments operate.

**Redress**, means that service providers need to respond urgently to any complaints, rectify any mistakes that might have happened and apologise to those affected.

**Value for money**, refers to how services should be delivered, always do your best to ensure that services are provided effectively, efficiently and economically (White Paper on Transformation of Public Service 1997:7). KwaZulu-Natal province has additional principles, namely Reward, Excellence, and Innovation.

## **1.7 RESEARCH METHODOLOGY**

Research is described as a process of looking for answers to find a solution to a problem, which contributes to the body of knowledge in order to understand the phenomenon, situation or behaviour (Plooy-Cilliers, Davis and Bezuidenhout, 2014). There are two basic methodologies for collecting data, quantitative and qualitative methods. These methods make use of specific techniques to collect data, amongst other things, literature reviews, interviews, questionnaires and direct observation (Brynard and Hanekom 1997:27). In essence, the research methodology indicates how the study will be planned and implemented.

### **1.7.1 Qualitative and Quantitative Methods**

Qualitative research is a method used for exploring and understanding the meaning that individuals or groups ascribe to a social or human problem. The process of research involves developing questions and procedures, data are typically collected in the participant's setting, data analysis is inductive, proceeding from particular to general themes, and the researcher interprets the meaning of the data (Creswell, 2009: 131). This study used interviews to obtain the necessary information and these were processed and presented using thematic analysis. Respondents were community members under the Mkhwanazi Traditional Authority and officials from Richards Bay Minerals within the Mhlathuze Local Municipality. In a quantitative study the emphasis is on the quantification of constructs, whereby the properties of phenomena such as the attitudes of the individuals towards certain topics can be measured by assigning numbers to the perceived quality of things (Mouton and Prozesky, 1998).

### **1.7.2 Population**

The term population refers to all the elements such as individuals, objects, events or substances that meet the sample criteria for inclusion in the study (Burn and Grove 2005:746). The population for this study consisted of community members living under the jurisdiction of the Mkhwanazi Traditional Council and officials working for Richards Bay Minerals within Mhlathuze Local Municipality.

### **1.7.3 Sampling**

According to Babbie (1990:148), random sampling is when each individual in the population has an equal probability of being selected. The non-probability sampling method was employed to select the participants for inclusion in the study, since the selection in this method is based on the judgement of the researcher. The researcher considered the purpose, the design, the size of the population and the sample size. The size of the sample consisted of ten (10) community members (representing the Traditional Council and the Community Trust) that were interviewed by the researcher and two (2) officials from Richards Bay Minerals and one (1) official from the Department of Co-operative Governance and Traditional Affairs.

## **1.8 ETHICAL CONSIDERATIONS**

Researchers need to protect their research participants and develop a trusting relationship with them and to promote the integrity of the research. It is important for researchers to guard against misconduct or impropriety that might reflect on their organisation or institution, and that might affect their ability to cope with the new challenging problems (Israel and Hay 2006:208). Prior to implementing this research, authorisation was received from the University of KwaZulu-Natal Research Ethics committee, the Mkhwanazi Traditional Council, Richards Bay Minerals and the Mhlathuze Local Municipality.

### **1.8.1 Confidentiality**

According to Massey (2010:141), privacy and confidentiality of individuals, communities, ethical groups and other minorities must be respected. In other words, no participant may be identified without the consent of the participant. The confidentiality of the information obtained incidentally during research, must also be

respected except where disclosure is necessary to avoid grave harm. This possibility needs to be addressed in the information provided to potential participants.

### **1.8.2 Informed Consent**

Informed consent is where participants give approval before they engage in the research. A form issued to participants, before they participate in the study, acknowledges that the participants' rights will be protected during data collection (Sarantakos, 2005:194).

## **1.9 DEFINITION OF CONCEPTS**

### **Traditional community and council**

Traditional community and council refers to traditional community as captured in section 2(1) of the *Traditional Leadership and Governance Framework Act 5 of 2003*, while Traditional council refers to the council as applied in section 3 of the same Act (Traditional Leadership and Governance Framework Act, 2003).

### **Synergic partnership**

Synergic partnership is defined as a working relationship or co-operation between two or more parties. In this study it refers to the relationship between traditional councils and municipalities as presented in section 5 of the *Traditional Leadership and Governance Framework Act 41 of 2003* and section 10 of *KwaZulu-Natal Traditional Leadership and Governance Act 5 of 2005*. The terms also entail the working relations between and within different government spheres (Traditional Leadership and Governance Framework Act, 2003).

### **Local governance**

Several definitions of local government exist, but all relate to problems of securing convergence among the diversity of actors and organisations or redistributing power in a social field (Contandriopoulos et al., 2004). In this study, the term refers to the system of governance that incorporates both traditional and democratic governmental systems.

### **Isilo**

*Isilo* is the Monarch of the KwaZulu-Natal province, as recognised in section 17, or 'king' as defined in section 1 of the *Traditional Leadership and Governance Framework Act 41 of 2003*.

### **Inkosi**

An *Inkosi* (mainly used in KwaZulu-Natal) is a senior traditional leader of a traditional community as defined in section 1 of the *Traditional Leadership and Governance Framework Act 41 of 2003*, and recognised as such in terms of section 19 of the *KwaZulu-Natal Traditional Leadership and Governance Act 5 of 2005*. The word 'Amakhosi' (Plural) has a corresponding meaning. *Inkosi*, Chief and traditional leader are used interchangeably and these refer to a leader of a traditional community.

### **Isiphakanyiswa**

*Isiphakanyiswa* is an *Inkosi* who holds office in terms of a customary electoral procedure or appointment, compared to a chief who is of the royal blood-line.

### **Ibambabukhosi**

*Ibambabukhosi* is a regent or an acting traditional leader appointed in terms of section 30 of the *KwaZulu-Natal Traditional Leadership and Governance Act 5 of 2005*.

### **Induna**

*Induna* refers to a traditional leader who is under the authority of and hence exercises authority within the jurisdiction of an *Inkosi* in accordance with customary law and who is recognised as such in terms of section 27 of the *KwaZulu-Natal Traditional Leadership and Governance Act 5 of 2005*.

### **Traditional Leadership**

In principle, traditional leadership is used to refer to customary structures or institutions including their customary practises, government procedures, recognised or perhaps followed by traditional communities as provided for in the *Traditional Leadership and Governance Framework Act 41 of 2003* (Traditional Leadership and Governance Framework Act, 2003).

## **1.10 OUTLINE OF THE DISSERTATION**

This dissertation is organised into a total of five chapters and the contents of each are briefly outlined below:

**Chapter one** is an introductory chapter that gives the orientation of the study. It provides the background from which this study was conducted, and the significance of the study is spelled out. The statement of the problem is presented and the study objectives are formulated. Lastly, key terms are defined to clarify their meaning in the study.

**Chapter two** reviews and synthesises literature on community development trusts and their role in delivering services within the context of community development. Important legal frameworks that govern the operation of traditional leadership as the custodian of a community development trust are presented.

**Chapter three** presents the methodological framework within which this study was conducted. Research methods and instruments are explained in detail and the study area from where the study was undertaken is described.

**Chapter four** presents the findings of the study and analysis and interpretation of the results is provided. This chapter also integrates the results with the information in the first and the second chapters.

In **Chapter five**, the researcher will provide a broad discussion of the findings and then provide the link with the research objectives of the study and provide answers to the research questions. Recommendations and a conclusion will then be given to conclude the dissertation report.

## **1.11 CHAPTER SUMMARY**

This chapter has discussed the need for the study, the objectives, research methodology, sampling, data collection procedure, data analysis and scope of the study. The chapter further discussed ethical considerations, the definition of key concepts and the structure of the dissertation. The next chapter discusses the literature review.

## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### **2.1 INTRODUCTION**

This chapter reviews and examines the role of traditional community development trusts in service provisioning. Associated statutes are also reviewed, so as to lay a foundation for the legal and practical operation of traditional leadership and community development trusts. For the purposes of this study, in order to understand fully the perspective adopted, it is important to define what community development entails and to describe its origin generally, and in a South African context, in particular.

#### **2.2 CONCEPTUAL FRAMEWORK**

The conceptual framework of this research study is premised on the *Batho Pele* principles that are drawn from the *White Paper on Transformation of Public Service of 1997*. The main aim of the study was to investigate the impact of the Community Development Trust on service delivery and on the lives of the Mkhwanazi community.

##### ***Batho Pele* Principles**

Based on the fundamentals of the *Constitution of the Republic of South Africa of 1996*, the *White Paper on Transformation of Public Service 1995*, and the *White Paper on Transformation of Public Service 1997*, the *Batho Pele* principles were adopted to enhance the quality and accessibility of government services by improving efficiency and accountability to the recipients of public goods and services (White Paper on Transformation of Public Service 1997:7).

The following principles have been identified in the White Paper on Transforming Public Services of 1997 and are important within Public Administration:

**Consultation**, relates to communication between the public servant and the citizens, therefore citizens should be consulted about the level and quality of public services they receive.

**Service standards**, means that citizens need to know what to expect when served by public servants.

**Access**, it does not only mean that services should be there, but it also refers to the fact that they need to be user-friendly; the attitude of the service providers should be open, and respectful.

**Courtesy**, citizens should be treated with consideration and their dignity should be respected at all times.

**Information** is power, citizens that we serve need always to be provided with useful information about public services.

**Openness and Transparency**, citizens should be informed about how national and provincial governments operate.

**Redress**, means that service providers need to respond urgently to any complaints, rectify any mistakes that might have happened and apologise to those affected.

**Value for money**, refers to how services should be delivered, always do your best to ensure that services are provided effectively, efficiently and economically (*White Paper on Transformation of Public Service 1997:7*).

### **2.3 EXPLAINING COMMUNITY DEVELOPMENT**

The United Nations defined 'community development' as the process by which the efforts of the people themselves are united with those of government authorities to improve the economic, social and cultural conditions of communities. The further aim is to integrate these communities into the life of the nation and to enable them to contribute fully to the progress of the nation (UNDP, 1996).

### **2.4 HISTORY OF COMMUNITY DEVELOPMENT**

Community development is certainly not a new concept as it has been part of the development agenda for a number of decades, with origins traceable as far back to the 18th century (United Nations Report, 1963:4). In many parts of the world where this concept was implemented, it enjoyed both success and failure.

## **2.5 TRADITIONAL LEADERSHIP AND TRADITIONAL COUNCIL**

According to Creswell (2009:23), the literature review “helps to determine whether the topic is worth studying, and it provides insight into ways in which the research can limit the scope to a needed area of inquiry”. In this context, the main aim was to generate and support the researcher’s ideas. This also allowed the researcher to discuss the various aspects of the study. The study also delved into the following elements: the working relations between traditional community development trusts and the inter-governmental structures, quality service development, transparency, collaboration, skills development and skills transfer.

The Traditional Council is the governing structure at rural community level which is respected by the people of that community. The traditional leadership has the power to control the community in case of a crisis arising over such matters as allocation of land and the handling of criminal cases. The Constitution, together with Traditional Leadership and Governance Framework Act (No 41 of 2003), plays a significant role in the functioning of traditional leadership within the larger structure of general governance and it is important that the institution of traditional leadership is fully integrated into the democratic governance structure, as well as into the development and service delivery processes (RSA, 2003).

The government’s major objective in terms of the Traditional Leadership and Governance Framework Act (No 41 of 2003), is to restore the dignity of the institution of traditional leadership as custodians of African customs, traditions, cultural heritage and land usage. It also has, as an objective, to transform the structure so that it may be able to play a significant role in the reconstruction and development of South Africa working in partnership with government and other interested stakeholders. The main function of the traditional leadership structure is to promote and contribute to development, nation building, service delivery, community peace, stability and social cohesion. It is also tasked with the preservation of culture and tradition, and moral regeneration. In implementation of the legislation regarding traditional leadership, the government needs to re-think its capacity to provide enough support to the traditional leadership structure to enable it to function properly in terms of legislative and customs issues (RSA, 2003).



The provision of new legislation by the government makes provision for a number of different departments to allocate functions to traditional leadership to strengthen the working relationship between the traditional leadership structures and the government. For example, the introduction of the Mining Charter in 2002 by the South African government helps the local community to form a solid partnership with the mining industries that are mining in their areas. Furthermore, some of the traditional leadership institutions have formulated traditional community development Trusts, thereby cementing the relationship between the mining industry and the traditional leadership institutions.

## **2.6 COMMUNITY TRUSTS**

There has been very little research focused on trusts and, as a result, Tshikululu Social Investments (2014) confirmed that no direct theoretical framework has been formulated within which to conduct the analysis of the functions and functioning of trusts. The cited work further remarked that trusts do not feature in academic literature and that is why the number of previous studies is meagre. The current study reviews and synthesises the peer-reviewed documents.

In view of their relevance and growing significance, the lack of publications relating to trusts is highly surprising, and this predicament presents an opportunity for empirical research. In their operation, trusts, as vehicles for corporate or private philanthropy, have a long history traceable to well before South Africa's democratic era in 1994.

In English there are two meanings of the term 'trust'. As an abstract noun 'trust', according to Cummings and Bromiley (1996:303), is seen as an individual's belief or a common belief among a group of individuals that another or group, makes good-faith efforts to behave in accordance with any commitments, both explicit and implicit. A trustworthy person is someone who can be relied upon to be reliable, truthful and honest. On the other hand, a legal Trust is a legal entity administered or managed by a trustee or Board of Trustees for the benefit of a community of owners. 'Trust' in this sense is a common noun. The trustees of an organisation are appointed with the expectation that they will be trustworthy.

According to Pauw, Woods, Van der Linde, Fourie, and Visser (2009:1) the purpose of the public sector is to render service. As Trustees work for the community they are regarded as people who are working for the public service; their duty is to satisfy the needs of the community by delivering good services to the people, as they are taxpayers.

What is being examined in this study is the operation of a Traditional Community Development Trust which is funded by public money and is meant to render services, either directly to the people, or indirectly, by rendering services to the Traditional council who are the custodians of the Trust. *The Trust Property Control Act (No 57 of 1988)* states that 'a trustee must act in all trust matters with the almost good faith, and must observe all duties imposed in terms of the trust itself and the common law' (RSA, 1988).

According to Grey, Mazibuko and Obrain (1996:32), community development refers to a process of change starting with an individual's development of confidence, cooperativeness, awareness and skills. Thus for the trustees to render the social/community development, they have to acquire skills and be acquainted with the services to be rendered to the community, so as to gain their confidence. The trustees must do their work in such a way as to provide equitable benefits to the beneficiaries who must get a fair share of money, goods or benefits that are due to them, in terms of service delivery. A trustee actively participates in the affairs of the trust and it is clear that there is no room in South African law for a silent, sleeping or puppet trustee. The trustee must certainly not act under the instructions or undue influence of the planner, founder or any other beneficiary, and must act in an independent and objective manner in respect of trust affairs.

The *Amakhosi* need not be biased during the election or the selection of the trustee members, as they have to allow the communities and the traditional council to play their roles. In the case under study, the selection of the trustee members tends to be personal, in the sense that their selection is based on loyalty of the community members to their king. This selection becomes problematic when we look at the issues of service delivery to the community and the share equity. The *Amakhosi* sometimes demand a bigger stake in the community trust funds than the community,

who are the owners of the shares. The *Amakhosi* can then manipulate the system which regulates the community development trust. The loyalty of the trustee members to a king sometimes results in corruption, due to the fact that the trustee members are used to deviating from the system and from the *Traditional Leadership and Governance Framework Act (No 5 of 2005)* which controls and regulates the behaviour of the traditional leadership (RSA, 2005).

According to the Mkhwanazi Deed of Trust (2010), it is stipulated that the trustee members must not favour one beneficiary above the interests of others. The co-founder of the trust must be treated as a beneficiary of the property and must be treated fairly. This is particularly important when the founder is an *Inkosi* who is also a beneficiary.

According to Medgley (1995:87), social development enhances a sense of community which strengthens community bonds through participation in the decision-making process by ordinary people. The community has to take full responsibility for the decision-making, and must take ownership of any service delivery performed and for any development occurring in their areas. Trustees must not simply act in a manner that pleases and is in accordance with the needs and wishes of the *Amakhosi*, but must act objectively.

According to the Mkhwanazi Deed of Trust (2010), it is stated that the trustees should be able to justify their decisions, especially if they have exercised discretionary power. Good practice, especially when exercising discretionary power, is for trustees, not only to record their decisions once they have been made, but to record the reasons for arriving at those decisions. Any distribution to any beneficiary or any exclusion of a beneficiary from a distribution should be noted and explained.

The function of the development trust is also to make sure that they work hand-in-hand with the local municipality, but, at the same time, to take into account the Integrated Development Plan (IDP). The Local Government: Municipal Structures Act (No 117 of 1998) serves to entrench the focus on the role of the traditional authority in local development, but still firmly under the authority of municipality councils.

According to Wilcox (1998:66), most community development Trusts are committed to sustainability on three fronts: ensuring the trust operations are sustainable, promoting the development of sustainable local communities and practising environmental sustainability.

## **2.7 THE CORE DUTY OF THE TRUSTEES**

Trusteeship is a concept or a generic term applicable to several disciplines in society, with origins that can be traced back to the 18th century. From its inception, community development has aimed at a better life for all. In 1963 the United Nations defined community development as: the process by which the efforts of the people themselves are united with those of government authorities to improve the economic, social and cultural conditions of communities. The aim is to integrate these communities into the life of the nation, and to enable them to contribute fully to the national progress. According to the United Nations Report, this complex of processes is, therefore made up of two essential elements: the participation of the people themselves in an effort to improve their living, with as much reliance as possible on their own initiative; and the provision of technical and other services in ways which encourage initiative, self-help and mutual help and make those more effective. It is expressed in programmes designed to achieve a wide variety of specific improvements (United Nations Report 1963:4).

These factors hold some importance for this study as it seeks to identify the organisational efficacy of the community trusts in implementing their developmental tasks, and the degree of the benefit and satisfaction of the larger community for the activities and projects that the community trust execute in the research area. One of the most important tasks of a community trust is to plan and implement the productive local projects according to their economic abilities, including the projects of the agricultural manufacturing, animal production, poultry and bee husbandry (Barnes, Ernst and Hyde, 1999:2).

The Board of Trustees of Mkhwanazi community is mandated by the community they serve to render sustainable service delivery. Traditional Councils in the community

are the main stakeholders who play a significant role of oversight on the community development trust.

The Board of Trustees of the Mkhwanazi community Trust is mandated by the community it serves to render service delivery. The Traditional Council in the community is the main stakeholder which plays the major role of oversight in the Trust. The Traditional Council in kwa-Mkhwanazi covers fifteen (15) villages and it involves fifteen (15) headmen. The Mkhwanazi Tribes are situated in the Mhlathuze Local Municipality under the uThungulu District Municipality on the North Coast of KwaZulu-Natal.

## **2.8 THE MKHWANAZI TRADITIONAL COUNCIL**

The community of kwa-Mkhwanazi is a traditional community whose survival depends on commercial agriculture, with some portions of land demarcated for subsistence agriculture for survival through stock farming, sugar cane planting, gum tree planting, and large iron ore mining of minerals along the sand dunes. This community takes pride in its natural forest and in its commercial forest under the company called Siyaqhubeka, which, as pointed out above, is a subsidiary of Mondi Paper Mill under the Anglo American Group.

The community members of kwa-Mkhwanazi are the custodians of the land, however they benefit in terms of proceeds and certain percentages of profits are allocated to this community by the land users, the Richards Bay Mineral (RBM) and Siyaqhubeka. The traditional areas are, as mentioned above, under-developed as a result of the past separate development, apartheid, system of government. There is a great need for community development in three areas, namely, Economic Development, Infrastructure Development and Education.

It is against this background that this community Trust was established for the community to manage and distribute resources to meet the needs and aspirations of the community. According to the Mkhwanazi Trust Deed (2009), a Development trust means a trust established by the Founder to acquire, hold, improve and manage the

general assets of the community for the benefit of the people who are members of the community.

Richards Bay Minerals was the first company in Richards Bay which created a Community Development Trust (CDT) with the Mkhwanazi community. Richards Bay Minerals intended to assist the local communities where the mining activity was to take place. Their major aim was to provide quality service delivery to those who are needy through a formal structure. The Board of trustees of the Mkhwanazi community Trust is mandated by the community the trustees serve to render sustainable service delivery. Traditional Councils in the community are the main stakeholders who play a significant role in the delivery of services.

## **2.9 COMMUNITY TRUSTS AND THE APPROACH TO DEVELOPMENT**

Community trusts are one way that companies dispense funds to specific geographic areas. The intention is for communities to take an active role in identifying and addressing relevant social development issues. But is this truly a more productive, inclusive and sustainable approach than project-based funding?

This section highlights a number of problems with community trusts in their current form, and discusses ways in which these challenges could be tackled.

Nelwamondo (2015) argued that despite their challenges, community trusts provide the best model for communities to mobilise resources and to create jobs. The ultimate success or failure of the trust is based on how it is structured in the first instance. The content of the trust deed and a clear definition of the trust's objectives are critical. The objectives can only be achieved if all parties involved have a proper plan rolled-out that is agreed to by all affected relevant stakeholders and role players.

One of these upfront considerations is the constitution of the Board of Trustees. Trustees have a fairly complex and demanding set of tasks. These range from communicating with the beneficiaries, to identifying projects, to issues of corporate governance. Appointing the right people is central to the success of a community trust, but finding suitable trustees may pose a serious challenge, especially in rural

areas where literacy and education levels are low and where more educated people tend to move away. As a result of this rural brain drain, there may be a dearth of candidates who are both involved in the community and are sufficiently well-educated to handle complex legal and governance issues. A matric is generally regarded as the minimum requirement, argued Nelwamondo (2015). The capacitation of both the board of trustees and the beneficiaries is crucial and that education and training need to form part of any community trust. What needs to be emphasised is that trustees must take their role seriously and must be fully committed to their trustee responsibilities and to the principles of good corporate governance. Trustees are often non-executive. The tendency is to prioritise their day jobs and pay less attention to the community trust on which they serve. Stimulating interest and spreading an understanding about the community trust and the role of trustees might help to attract suitable candidates, such as local teachers, public servants, who are educated and who have the community's interests at heart. Community trusts risk being high-jacked by local government and 'community leaders' who may seek to advance their own interests. Chiefs and ward councillors are already stakeholders, with their own priorities, which can make them problematic as trustees (Nelwamondo, 2015:3).

There are often multiple parties affected by or involved with the trust or its projects, including traditional leaders, the traditional council, the municipality, community-based organisations (CBOs), non-governmental organisations (NGOs) and communal property associations (CPAs). It is important to define the roles of all these parties. It has been argued that it can take years to set up a trust, and that it is important to put resources into the set-up groundwork. The key issue is engagement. Due to the limitation of available resources for operational expenditure, a community trust is often unable to conduct effective engagement with intended beneficiaries. "Development initiatives are thus 'parachuted' into beneficiary communities that had limited or no participation in the decision-making processes. While a community trust may be non-partisan on paper, the voiceless within the beneficiary community tends to remain voiceless" (Nelwamondo, 2015:4). While many scholars maintain that community trusts are the best available vehicle for community development, it is clear that the challenges are significant and that there is room for improvement to the model and its implementation.

## 2.10 THE ROLE OF THE PRIVATE SECTOR IN COMMUNITY DEVELOPMENT

After signing its Broad-Based Black Economic Empowerment (BBBEE) deal, in December 2009, mineral sands producer Richards Bay Minerals (RBM) is now focusing on capacity-building in the four host communities. This process is in line with commitments made regarding the deal. The RBM General Manager for Public and Community Relations, Jabu Kubheka, told *Mining Weekly* that the communities receive trickle-down dividends that provide a certain amount of cash-flow each year to communities, outside of the RBM's social investment programmes. Each of the four host communities receive trickle-down dividends of R1,5-million a year paid into the Community Development Trust, a special-purpose vehicle holding the equity and the R1,5-million annual contribution to the Public Benefit Trust for corporate social investment (Hannah, 2010).

According to Hannah (2010), the Sokhulu, Dube and Mkhwanazi communities use these funds to support, among other things, agricultural activities, the buying of tractors, as well as the various clothing projects with new sewing machines, and the awarding of bursaries to school leavers in the community who show academic potential. Kubheka believes that RBM made a wise decision in implementing the full 26 per cent -share BBBEE deal instead of implementing it in two phases. The Mineral and Petroleum Resources Development Act (No 28 of 2002) and the *Mining Charter* state that mining companies had to sell 15 per cent of their equity to previously disadvantaged South Africans by 2009 and a total of 26 per cent of their share equity by 2014. RBM decided to sell the full 26 per cent equity all at once. RBM permanent employees received a 2 per cent share, while Blue Horizon, consisting of lead investors and four host communities, received 24 per cent, with Rio Tinto and BHP Billiton keeping a share portion of 37 per cent each.

Meanwhile, RBM partnered with the Institute of Directors (IoD) to train 74 traditional council members and trustees from three communities on corporate governance. This was part of RBM's capacity-building project in the communities, which is in line with RBM's commitment to the transaction. The community trusts are subject to strict governance practices such as financial audits and yearly reports. A number of



authorities which include the South African Revenue Service, the Department of Mineral Resources, the Department of Co-operative Governance and Traditional Affairs, as well as RBM will hold the trust accountable. The Traditional Councils and Trusts are accountable legally to the Department of Co-operative Governance and Traditional Affairs. For this reason, and for reasons in line with RBM's commitments in relation to the BBBEE transaction, RBM arranged for the training to take place (Hannah, 2010:3).

Furthermore, RBM continues to show its support through providing office space in Richards Bay for all community trusts. This commitment will continue for the next three years. The offices will be equipped with a boardroom, telephone, fax and email access. RBM will also continue to assess the needs of the trust and to provide the required support. The mine views corporate governance as key to the success and sustainability of the trusts and the development of its surrounding communities (Hannah, 2010).

## **2.11 THE OFFICIAL RECOGNITION OF TRADITIONAL COUNCILS AND THE LEGAL STANDING OF COMMUNITY MEMBERS**

Traditional leaders and traditional councils are given official recognition by different national and provincial laws in South Africa. By recognising these institutions, these laws give traditional leaders and councils certain legal powers, which include the powers to manage the resources and financial affairs of specific 'traditional communities' for the benefit of community members. However, the same laws that recognise traditional leaders and councils also provide certain protections to ensure that community members and the government can hold traditional leaders and councils accountable for their actions (Centre for Law and Society, 2015).

This section explains some of these provisions and looks at what some of the South African courts have said about these issues.

### **2.11.1 What the law says about traditional leaders and councils**

At a national level, the most important law governing traditional leadership is the Traditional Leadership and Governance Framework Act 41 of 2003 (or the Framework Act). This Act grants official recognition to traditional councils (and senior

traditional leaders as the chairpersons of these councils) if they comply with certain requirements. Some of these requirements are that there have to be regular elections for 40 per cent of the membership of traditional councils, and that a third of the members of traditional councils must be women. Most of the traditional councils across the country have not met these requirements, but have continued to be recognised and paid by the government. Although there are questions about whether these traditional councils are properly constituted if they fail to meet these requirements, some courts (especially the North West High Court) have ruled that these traditional councils continue to have official status. A new draft law was to be introduced in Parliament in 2014, the *Traditional Affairs Bill*, which tries to skip over the confusion about traditional councils' status. It does so by giving fresh recognition to traditional councils as they existed at the time of the *Framework Act* and ignoring any changes that have been made to these councils over the last decade (Centre for Law and Society, 2015).

Each province (except the Western Cape) also has its own provincial law governed by the *Framework Act* to recognise traditional leaders and councils. The provincial laws must comply with the *Framework Act*, and explain in more detail what the powers and functions of traditional leaders and councils are in a specific province. A key criticism of both the *Framework Act* and the provincial laws is that they entrench the controversial tribal boundaries created in terms of the *1951 Bantu Authorities Act* as the jurisdictional areas of today's 'traditional councils'. They also recognise and retain traditional leaders who were appointed during the apartheid era (Centre for Law and Society, 2015).

According to the *Centre for Law and Society* (2015), in the North West, the provincial law currently governing traditional leadership is the *North West Traditional Leadership and Governance Act 2 of 2005 (also called the North West Act)*. This law replaces the old *Bophuthatswana Traditional Authorities Act 23 of 1987 (or the Bop Act)*, which was an apartheid law that regulated traditional leadership in the former Bophuthatswana Bantustan. The *North West Act* has kept many provisions that are very similar to the Bophuthatswana Act.

The *North West Act* grants official recognition to pre-existing 'traditional authorities' as traditional councils, and gives these institutions, together with traditional leaders, the powers to manage and administer the funds of 'traditional communities'. *Section 3, read with section 43, of the Act* provides that the Premier should officially recognise traditional leaders and councils once they have complied with the requirements already mentioned by publishing their names in the *Government Gazette*. An important provision of the *North West Act* is section 30, which reads:

*(1) The Premier shall cause to be opened for each Traditional Council a trust account, into which shall be paid such amounts as are hereinafter specified and from which all expenditure incurred in connection with any matter specified with the duties and functions of the traditional community shall be met.*

*(2) The Premier may on good cause shown by the Traditional Council and **being satisfied that there are sufficient controls and financial systems**, permit such a Traditional Council to open a trust account, into which shall be paid such amounts as are hereinafter specified and from which all expenditure incurred in connection with any matter specified within the duties and functions of the traditional community concerned shall be met.*

*(3) There shall be paid into an account opened as referred to in subsections (1) and (2) –*

*(a) all fees, charges and voluntary contributions which are payable to the traditional community;*

*(b) all cash proceeds derived from any property of the traditional community;*

*(c) any donation made by any person, institution or organisation to and for the benefit of the traditional community;*

*(d) all other amounts derived from any source whatsoever for the benefit of the traditional community (Centre for Law and Society, 2015:4, Section 30 of the North West Act of 2005)*

In terms of the Centre for Law and Society (2015), this means that all the finances from any source that are for the benefit of a traditional community must be paid into a traditional council account. Importantly, the law says that the Premier may only

allow a traditional council to manage and administer this account, if he or she is sure that there are good financial controls in place to monitor and account for the money that is paid into this account.

The *North West Act* also empowers the provincial government to perform a number of financial and governance oversight roles over traditional leaders and councils (Centre for Law and Society, 2015). Specifically, these powers relate to monitoring the financial affairs of traditional councils to ensure that the funds are being used for the benefit of the traditional community. Some of these provisions are:

- *Section 30(4) gives the provincial Premier the power to monitor any investment of surplus funds in the tribal account (and can set conditions for any investment);*
- *Section 30(5) gives the Premier the power to approve estimates of revenue and expenditure and monitor whether actual expenditure corresponds to these estimates; and*
- *Section 30(6) says that any expenditure that does not fall within the estimated expenditure must be authorised by the Premier (unless this is not a recurring expense such as amounts paid in terms of a validly concluded debt).*
- *Section 31(1) of the North West Act also provides that the financial records of the traditional community must be audited by the Auditor-General (the Auditor-General is an independent institution created in terms of the Constitution to monitor government's finances).*
- *Section 31(4) stipulates that after the Auditor-General has audited the financial records, he or she has to report to the Premier and the traditional community on the financial situation of the trust account (Centre for Law and Society, 2015:3).*

### **2.11.2 Official recognition of traditional councils and legal standing**

Some traditional leaders and councils have interpreted their official recognition in terms of these laws to mean that *only* they have the right to call meetings of the 'traditional community', to access information about community revenue or assets and to have the sole authority to represent the traditional community. These

traditional leaders and councils seem to believe that their official recognition, in terms of the law, protects them from community scrutiny and oversight. This interpretation is at odds with the participatory nature of customary law and can be criticised for undermining indigenous accountability mechanisms and for closing down the democratic space for community members to participate in decisions about their land, resources and finances. The Constitution specifies in section 211 that the recognition of traditional institutions and leaders is “according to customary law”, and subject to the rights enshrined in the Constitution (Centre for Law and Society, 2015:5).

For instance, traditional councils have used their ‘official status’ or ‘recognition’ to prevent members of traditional communities from organising meetings to hold traditional leaders accountable. In court, traditional councils do this by arguing that, because they are the official traditional council, other people in the community do not have the legal standing or *locus standi* to demand accountability or to convene meetings for members of the traditional community.

### **2.11.3 Recognition of traditional councils and accountability measures**

The national and provincial laws that provide for the recognition of traditional leaders and councils also provide important controls and protections to ensure that these institutions act within the law and manage the affairs of the traditional community in a transparent and accountable way. However, the provincial government in the North West does not seem to be enforcing these important checks and balances in a way that holds traditional councils to account. Therefore, while the provincial government provides and affirms the ‘official status’ of traditional leaders and councils as ‘official’, it fails to enforce those provisions of the law that require financial oversight and accountability (Centre for Law and Society, 2015).

The Centre for Law and Society (2015) contends that, to worsen the situation, community members and groups that are trying to enforce the law and hold traditional leaders and councils accountable are unable to do so because the North West High Court has ruled that they do not have the legal standing or *locus standi* to bring these abuses to court.

## **2.12 GOVERNANCE AND TRADITIONAL LEADERSHIP**

The World Bank defines governance as “the exercise of political authority and the use of institutional resources to manage society’s problems and affairs” (*World Bank*, 2006:11). In this regard, governance is the activity of governing; it is also relates to decisions that define expectations, grant power as well as verify performance. The role of the Department of Co-operative Governance and Traditional Affairs is to lead the government in implementing the Traditional Leadership and Governance Framework Act (No 41 of 2003), the White Paper on Traditional Leadership and Governance and other national and provincial legislation relating to the structure of traditional leadership in South Africa. It will champion the integrated planning and the overall transformation, and provide the support to the structure of traditional leadership, especially on issues of community development (Traditional Leadership and Governance Framework Act, 2003).

The Department of Co-operative Governance and Traditional Affairs will have to work closely with provincial departments, the Municipality and traditional leadership or Traditional Councils and coordinate and monitor the work they do. They will have to provide leadership, and provide advice as well as support. In addition they will have to evaluate their performance, coordinate the work of the relevant National Departments, act as a facilitator regarding the interaction between Provincial Departments and National Departments, and ensure that an integrated approach toward traditional affairs is adopted by all spheres of government and key stakeholders (Traditional Leadership and Governance Framework Act, 2003).

## **2.13 LEGISLATIVE AND POLICY FRAMEWORK**

Traditional leadership is recognised by a number of sections of the legislation which provides guidelines for its institution and operation. In overall terms, the guiding legislative framework for traditional leadership is mainly derived from the Constitution of Republic of South Africa of 1996, specifically section 211 and 212. In addition, several other pieces of legislation provide for the functional association between the authorities and Municipalities and these include:

- *The Constitution of the Republic of South Africa of 1996;*
- *White Paper on Local Government of 1998;*

- *Local Government: Municipal Demarcation Act, No 27 of 1998;*
- *Local Government: Municipal Structures Act, No 117 of 1998;*
- *The Public Finance Management Act, No 1 of 1999;*
- *Local Government: Municipal Systems Act, No 32 of 2000;*
- *The Municipal Finance Management Act, No 56 of 2003; and*
- *The Communal Land Rights Act, No 11 of 2004.*

For the sake of clarifying the roles of each of these key legislations in governing the extent to which traditional leadership functions, a brief summary is now presented:

### **2.13.1 The Constitution of the Republic of South Africa of 1996**

Traditional leadership was established long before South Africa gained democracy and before the Constitution was enacted in 1996. The re-definition of roles and status of traditional leadership was required and it was among the key issues tabled for discussion during negotiations shortly after the unbanning of the liberation movements. A consensus was ultimately reached and captured in the Chapter 11 of 1993 interim constitution. Remnants of unresolved concerns were included in the adoption of the Constitution of the Republic of South Africa of 1996. The traditional leadership is recognised in section 211 of the Constitution, and it recognises that traditional structures observe the customary law system which may sanction an action subject to any applicable legislations and customs.

### **2.13.2 The White Paper on Local Government of 1998**

The White Paper on Local Government of 1998 gives the history of local government under apartheid and exposes the origin of the problems currently faced by local government. The Act advances a vision of a developmental local government which centres on working with communities to find sustainable ways to meet their needs and improve the quality of their lives.

The councillors, who serve to administer local government legislation and policies, have a major role to play within the communities that elected them. This includes making sure that effective communication and mutual understanding is achieved

between the councillor and the community. The councillor should provide regular report backs to make the community aware of whatever has occurred in their areas.

### **2.13.3 Local Government: Municipal Demarcation Act 27 of 1998**

This Act Local Government: Municipal Demarcation Act of 1998 permitted country-wide delineation of municipal boundaries in the year 2000. This had a substantial impact on traditional authorities simply because, prior to this Act, government played little or no role in traditional authority matters. The process of demarcation witnessed a reduction in the number of municipalities, from a total of 843 to 285. This process affected rural districts, tribal lands and municipal areas – with wards being the smallest statutory administrative units. The process yielded 277 traditional authorities in KwaZulu-Natal, followed by 189 in Limpopo, 186 in the Eastern Cape, 62 in North West, 47 in Mpumalanga, and 12 in the Free State.

### **2.13.4 Local Government: Municipal Structures Act 117 of 1998**

This Act defines the structure of local government and provides for the establishment of municipalities and suggests possible municipal types that could be formulated. It also provides separation of functions and powers between categories of municipalities. Furthermore, it outlines which spheres should have classes A, B and C municipalities and it defines several types of municipalities within these classes. Concerning traditional leadership, Chapter 4 Section (81) provides for the participation of traditional leaders in Municipal Councils, in that traditional authorities observe the customary law system in their jurisdiction and participate in proceedings of the Municipal Council and are permitted to be part of, and to participate in any council meetings.

While traditional leaders may not have voting rights, this Act provides the basis that they should be consulted on matters relating to traditional issues. The *Amakhosi* or their equivalents can participate in this process. Goodenough (2002) notes that traditional leaders tend to be silent observers of the proceedings in Council meetings. In addition, they should be subject to the rules and orders of the Municipality and MEC's regulations, and they can also participate in any discourse on a matter if elected as a councillor. Examples include the right to submit motions,



to document proposals and to query issues. This is only applicable in their area of jurisdiction.

### **2.13.5 The Public Finance Management Act 1 of 1999**

The purpose of the Public Finance Management Act of 1999 is to:

- Regulate financial management in the national and provincial governments;
- Ensure that all revenue, expenditure, assets and liabilities of government are managed efficiently and effectively; and
- Provide for the responsibilities of persons entrusted with financial management in government.

The Public Finance Management Act of 1999 covers: Departments, legislatures, constitutional institutions, parastatals, public entities, and public corporations.

### **2.13.6 The Local Government: Municipal Systems Act 32 of 2000**

One of the most important legislations for traditional leadership is the Local Government: Municipal Systems Act 32 of 2000, which defines the extent to which municipal powers and functions can be executed. This empowers and enables municipalities to set up bills and credit control policies which necessitate accounting, by providing the basis for service provisioning and delivery with a central goal of benefiting deprived communities. This Act further specifies key municipal organisational, planning, participatory and service delivery systems. It covers the rights and duties of the municipal councils and those at the local community. Little is said in this Act about traditional leadership, but it opens up the means for proactive traditional leaders to ensure that the community is hand-in-hand with the municipalities they fall within. As an example, section 29 (i) and (ii) provide for participation of traditional leaders in Integrated Development Plans (IDPs).

### **2.13.7 The Municipal Finance Management Act 56 of 2003**

The aim of the Municipal Finance Management Act of 2003 is to secure sound and sustainable management of the financial affairs of municipalities and other institutions in the local sphere of government; and to establish treasury norms and standards for the local sphere of government.

### **2.13.8 The Communal Land Rights Act, No 11 of 2004**

The Communal Land Rights Act of 2004 recognises the traditional leadership as having the authority to administer and allocate land to the people in the rural areas. In a traditional council, allocation of land in the villages is done through an *Inkosi* in consultation with the headman.

### **2.14 THE SOUTH AFRICAN CONSTITUTION AND A TRADITIONAL TRUST**

In terms of the South African Constitution, a trust is a structure which falls under the jurisdiction of the traditional leadership. According to the Constitution, Chapter 12 section 211 subsection 2, it is stated that a traditional authority that observes the system of customary law may function subject to any applicable legislation and the customs, which includes amendments to, or repeal of, that legislation or customs. This informs us that the traditional leadership is a structure which is governed by rules and regulations of South Africa (RSA, 1996).

A traditional development trust is also a structure which is governed and regulated by the Trust Property Control Act (No. 57 of 1988). The trustees are members of the community who serve under the control of the *Traditional Council*. They are also appointed by the Master of the High Court. They serve as public servants due to the fact that they sometimes control public funds (RSA, 1988).

The trust is governed and regulated by the Public Finance Management Act (No 1 of 1999), as amended by Public Finance Management Act (No 29 of 1999), which states as follows: to regulate financial management in the national government and provincial government, to ensure that all revenue, expenditure, assets and liabilities of those government entities are managed efficiently and effectively, to provide for the responsibilities of persons entrusted with financial management in those divisions of government administration, and to provide for matters connected therewith. The Trustees are supposed to be empowered with the skills of handling the public funds so as to be aligned with the Public Finance Management Act as mentioned above (RSA, 1999).

The selection of the development community trustees needs to be done carefully considering the skills and the value which will be added by each member of the

trustees. Each member is supposed to be well-equipped in the sense that s/he understands the nature of the economy and is effective and efficient. Members should also be generally well-informed and well-connected.

## **2.15 TRADITIONAL LEADERSHIP AND LAND USAGE**

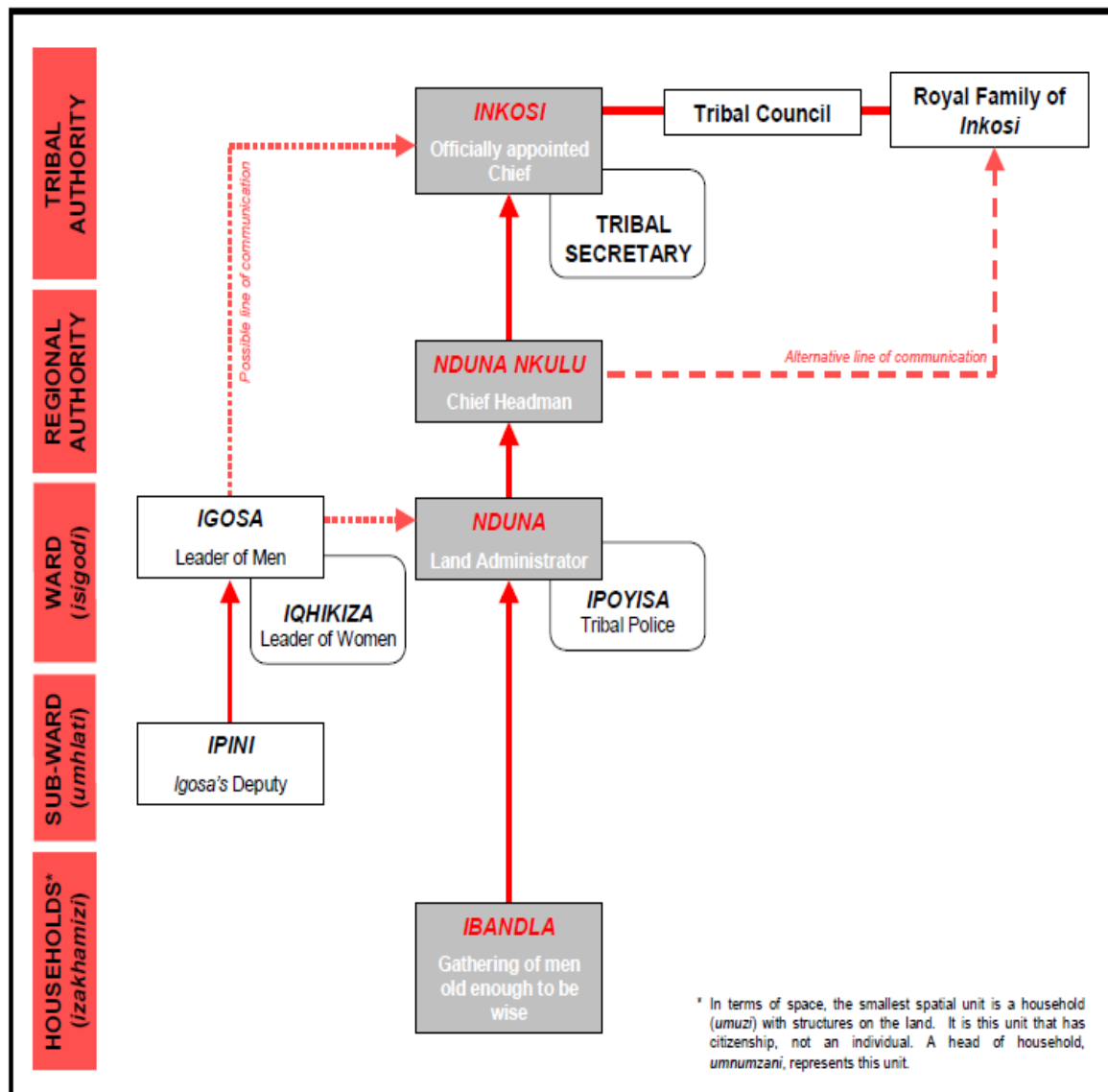
The land in the rural areas is still zoned as agricultural land, controlled by the traditional leadership. In cases where development or infrastructure is to be introduced, that land tends to be rezoned so as to permit any kind of development. The Ingonyama Trust Board plays a significant role in the issuing of the lease of land in those areas where the land is to be used for commercial purposes. The Ingonyama Trust Board is the custodian of the land which is controlled by the traditional leaders. The Traditional Development Community Trust is also the structure which is meant to control assets of the traditional leadership in Kwa-Mkhwanazi Traditional Council. In this regard, all the parties are united when it comes to the land issues. The Acts were introduced to control the disputes which occurred between interested stakeholders.

The Ingonyama Trust used the land for agricultural use and this tended to promote social cohesion and development. The profiling of ethnic or tribal subcultures by colonialists was deliberately meant to create competition, whereas the objective of the traditional approach is to promote social cohesion and development. All anti-colonial struggles are, in most instances, about two things: repossession of lost land and restoring the centrality of indigenous culture (Vilakazi, 2003). To deepen one's appreciation of this statement, one has to look, in depth, at how the colonialist use of land was used to subdue conquered populations; and, the promotion of tribal or ethnic sub-cultures was used to suppress the cross-cutting culture which characterises all, tribal or ethnic groups – Ubuntu or human solidarity, in the case of Africans. The divide and rule tactic was generally used to deepen subjugation. *Ubuntu*, the over-arching African way of life, is integrally linked to land. Any attempt to restore *Ubuntu* without a concomitant land restoration is futile. According to Vilakazi (2003:2), Ntsebenza (2005:1), Dlungwana (2004:1), and Keulder (1998:4), the traditional leadership institution has always been seen as the main governing institution which is close to and accepted by rural communities. Traditional leaders have always had power of distribution, including control over the allocation of land.

Local government has an important role to play in the acquisition of land for leasing in small plots to poor people for intensive cultivation, close to towns with other income opportunities, schools and health facilities. The Department of Land Affairs recommends that the concerned local authority be consulted on the disposal of all state land within its area. This is in recognition of the fact that local government authorities are best placed to take into account local needs and requirements. The development in land issues resulted in the *2003 Communal Land Rights Bill* which was later named the Communal Land Right Act (CLARA) of 2004, (No 11 of 2004). This Act recognises the traditional leadership as having the authority to administer and allocate land to the people in the rural areas. The structure of the traditional councils, in allocation of land is in a way that an *Inkosi* monitored the headman during the allocation of land in the villages.

The Act also provides for the legal assurance by transferring communal land including KwaZulu-Natal Ingonyama land to the communities. Currently, the burning issues are the conflict which has arisen among the elected councillors and the headmen during the bringing of infrastructure to the communities. Sometimes the elected councillor might desire to bring services to the communities, only to find that the headman rejects those services due to political differences. These problems occurred because some of the lands used by the councillor may still be held in the hands of the *Amakhosi*. This mostly occurred in KwaZulu-Natal where most of the lands of the *Amakhosi* are still under the control of Ingonyama trust. This resulted in the Amakhosi and Iziphakanyiswa Act of 1990, and the KwaZulu-Natal Land Affairs Act of 1992 (No 11 of 1992).

**Figure 2.1: Structure of a Traditional Council**



Source: CoGTA (2014)

## 2.16 CHAPTER SUMMARY

The chapter embarked on the historical background and the theoretical issues surrounding the community development trust in kwa-Mkhwanazi community traditional leadership. The historical perspective of the system of traditional leadership and the traditional community development trust was also outlined. The main discussion focused mainly on the legislative framework of the apartheid era and post-apartheid era for traditional leadership and the governance in South Africa. This chapter also dealt with the evolution and transformation of the institution of

traditional leadership, traditional community development trusts and the local government in South Africa. The existence of the traditional community development trust and the traditional leadership was also examined in terms of governance and compliance in the context of inter-governmental relations. The next chapter discusses the research methodology adopted for this study.

## **CHAPTER THREE**

### **RESEARCH METHODOLOGY**

#### **3.1 INTRODUCTION**

This chapter describes the study area where the study was undertaken. It outlines the procedures, techniques and methodology used to collect both primary and secondary data. Bless and Smith (1995) state that research stands or falls on the quality of the facts on which it is based. It was on these grounds that the researcher of this study applied techniques that have been proven in the past to be accurate and reliable to collect data. This chapter discusses the research methodology and research design that was used to accomplish the research objectives.

#### **3.2 OBJECTIVES OF THE STUDY**

The objectives of the study were:

- To determine the extent to which the community is aware of the Mkhwanazi Community Development Trust and its benefits.
- To assess the community's perceptions of the Mkhwanazi Community Development Trust as a vehicle for service delivery.
- To examine the community's experiences regarding challenges they face and prospects of the Trust servicing the needs of the Mkhwanazi community; and
- To evaluate the usefulness of key stakeholders in supporting the Mkhwanazi Community Development Trust (MCDT).

#### **3.3 KEY RESEARCH QUESTIONS**

The study attempted to answer the following research questions:

- To what extent is the community aware of the MCDT and its benefits to the Mkhwanazi community?
- What are community's perceptions of the MCDT as a vehicle for service delivery?

- What are the community's experiences regarding challenges they face and prospects of the Trust serving the needs of the Mkhwanazi community?
- How useful are key stakeholders in supporting the Mkhwanazi Community Development Trust?

### **3.4 RESEARCH DESIGN**

According to TerreBlanche (2007), a research design is a strategic framework for action that serves as a bridge between the research question and the execution of the research. A research design provides a methodological framework for undertaking a research study. The choice of a research design mirrors its main elements (Mouton, 2000) and the approach that will be followed. In this study, the research is designed on a qualitative basis. When researchers conduct research to investigate a research hypothesis or a research question, they collect data from the objects of an enquiry in order to solve the problem concerned. The results should shed some light on the tenability of the hypothesis and should give an indication of whether to accept or reject the hypothesis. Welman, Kruger and Mitchel (2005) describe research design as a plan, according to which researchers obtain research participants (subjects) and collect information from them.

### **3.5 RESEARCH METHODOLOGY**

Research is described as a process of looking for answers to find a solution to a problem, which contributes to the body of knowledge in order to understand the phenomenon, situation or behaviour (Plooy-Cilliers et al., 2014). There are two basic methodologies for collecting data, quantitative and qualitative methods. These methods make use of specific techniques to collect data, amongst other things, literature reviews, interviews, questionnaires and direct observation (Brynard and Hanekom 1997:27). In essence, the research methodology indicates how the study will be planned and implemented.



### 3.6 QUALITATIVE METHOD

When conducting qualitative research, the researcher seeks to discover the meaning that participants attach to their behaviour, how they feel and interpret the situation, and what their beliefs and perspectives are on a particular subject. According to Strauss and Corbin (1990), qualitative research is any kind of research that produces findings not arrived at by means of statistical procedures or other means of quantification. Henning (2004) states that qualitative research is research that utilises open-ended, semi-structured or closed-ended, structured interviews, observations and group discussions to explore and understand the attitudes, opinions, feelings and behaviour of individuals or groups of individuals. According to Woods (2006:1), qualitative research has the following features:

- “A focus on natural settings;
- An interest in meanings, perspectives and understandings;
- An emphasis on process; and
- A concern with inductive analysis and grounded theory.”

Qualitative research is a method used for exploring and understanding the meaning that individuals or groups ascribe to a social or human problem. The process of research involves developing questions and procedures, data are typically collected in the participant’s setting, data analysis is inductive, proceeding from particular to general themes, and the researcher interprets the meaning of the data (Creswell, 2009: 131). This study used interviews to obtain the necessary information and these were processed and presented using thematic analysis. Respondents were community members under the Mkhwanazi Traditional Authority and officials from Richards Bay Minerals within the Mhlathuze Local Municipality.

Fox and Bayat (2007) argue that qualitative interview is not the same as a normal conversation. These are the key characteristics of qualitative interviews and they can be defined as follows:

- A qualitative interview is a research-considered a way of learning about people’s thoughts, feeling and experiences. The researcher eventually

processes and analyses the data gained through qualitative interviews. The outcomes are also shared with interested parties by way of publication;

- A qualitative interview may be conducted between strangers, as well as between acquaintances; and
- Qualitative interviews are guided by the interviewer and typically contain a limited number of questions and requests to interviewees in order that the responses may be explored and analysed in depth. Interviewees are encouraged to reflect, in detail, on events experienced by them. This latter process is known as probing (Fox and Bayat, 2007).

### **3.7 THE TARGET POPULATION**

A population is the entire group of persons or objects which the researcher is interested in investigating (Rensburg, 2010). Terre Blanche (2007) further describes a population as the larger pool from which our sampling elements are drawn and to which we want to generalise our findings. The term 'population' refers to all the elements such as individuals, objects, events or substances that meet the sample criteria for inclusion in the study. Theoretically speaking, population encompasses all the elements that make up the unit of analysis. The population for this study consisted of community members living under the jurisdiction of the Mkhwanazi Traditional Council and officials working for Richards Bay Minerals within Mhlathuze Local Municipality.

### **3.8 SAMPLING AND SAMPLE SIZE**

According to Babbie (1990:148), random sampling is when each individual in the population has an equal probability of being selected. Sampling involves making decisions about which people, settings or behaviour to include in the study. The researcher should decide how many people or objects to include in the study. The non-probability sampling method was employed to select the participants for inclusion in the study, since the selection in this method is based on the judgement of the researcher.

The sample size refers to the number of elements in a sample (Rensburg, 2010). The researcher considered the purpose, the design, the size of the population and the sample size. The size of the sample consisted of ten (10) community members (representing the Traditional Council and the Community Trust) that were interviewed by the researcher and two (2) officials from Richards Bay Minerals and one (1) official from the Department of Co-operative Governance and Traditional Affairs.

The sample will focus on four interested stakeholders:

**The Traditional Community leadership of Mkhwanazi:** The traditional leaders under *Inkosi* Mkhwanazi are one of the main groups that form the structure of the Trust. They elect the trustee members who will represent the community to any donors who have an interest in engaging in business with the community within their area. The main function of the traditional leadership is to control the Trust and to ask the trustee members to make a report on the daily functioning of the Trust activities.

**Richards Bay Minerals:** This is the first private company which came up with the idea of a Trust in the Mkhwanazi community. They wished to pay a community royalty only to a recognised and formal structure called the Community Development Trust that holds the shares on behalf of the traditional leadership, and who are the custodians of the shares. The major function of the trustees is to bring quality service delivery to the people who are the beneficiaries of the shares. RBM gave the community a reasonably equitable share which will assist the community to develop themselves in all spheres of their lives.

**Department of Co-operative Governance and Traditional Affairs:** This is the department which controls and regulates all the issues of traditional leadership, especially in the province of KwaZulu-Natal. They are also tasked to look after all assets, wealth and wellbeing of the community in each village. They mainly resolve the issues of the line leadership within the royal family when disputes occur. In the case of the Community Development Trust, the main aim of the Department of the Co-operative Governance and Traditional Affairs is to make a distinction between the activities to be carried out by the Municipality and the Community Development Trust by concentrating on the Integrated Development Plan.

**Community:** The Mkhwanazi community is the main beneficiary in the Community Trust. Their benefit might either be direct or indirect, but the fact remains they are the main beneficiary of the trust funds. The community includes all the categories of people in the village where they reside. The Community Development Trust members are duty bound to render quality service delivery to the beneficiary group without looking at an individual or a sub-group within the community. The Community Development Trust also has to be operated like a Schedule 5 entity in terms of the South African Constitution of 1996.

### **3.9 DATA COLLECTION**

Interviews were the primary data collection strategy and were a natural outgrowth of observation strategies that were employed by the researcher. The researcher used semi-structured in-depth interviews as a method of collecting data in this study. A semi-structured in-depth interview is a combination of structured and unstructured interviews. It defines the line of inquiry which allows the researcher to use basic interviewing skills (Creswell, 2007).

### **3.10 DATA ANALYSIS**

The data collected was analysed using thematic analysis that made it possible to investigate and analyse the impact of the Mkhwanazi Traditional Council's Trust towards supporting the community through development in areas of infrastructure, economic development and education. Thematic analysis is a popular model of analysis in qualitative research. The researcher analysed the recurring themes deduced from the data collected from the participants.

### **3.11 ETHICAL CONSIDERATIONS**

Researchers need to protect their research participants and develop a trusting relationship with them and to promote the integrity of the research. It is important for researchers to guard against misconduct or impropriety that might reflect on their organisation or institution, and that might affect their ability to cope with the new challenging problems (Israel and Hay 2006:208). Prior to implementing this research,

authorisation was received from the University of KwaZulu-Natal Research Ethics committee, the Mkhwanazi Traditional Council, Richards Bay Minerals and the Mhlathuze Local Municipality.

### **3.11.1 Confidentiality**

According to Massey (2010:141), privacy and confidentiality of individuals, communities, ethical groups and other minorities must be respected. In other words, no participant may be identified without the consent of the participant. The confidentiality of the information obtained incidentally during research, must also be respected except where disclosure is necessary to avoid grave harm. This possibility needs to be addressed in the information provided to potential participants.

### **3.11.2 Informed Consent**

Informed consent is where participants give approval for their participation before they engage in the research. The form issued to participants (See Appendix) acknowledges that the participants' rights will be protected during data collection (Sarantakos, 2005:194).

## **3.12 CHAPTER SUMMARY**

The research methodology is the engine of the social research or scientific study. The appropriate methods chosen channel the purpose of the study holistically, and eventually the researcher is bound to demonstrate the procedures adopted for the study to be conducted effectively. The research objectives and the key research questions of the study were outlined in this chapter, as well as the reasons for why the particular method was adopted. The different study methods were explained, and the method best suited to the sample size and location of the participants was selected. This chapter dealt with the research design and methodology. The sampling techniques, data collection instruments used and ethical considerations were discussed. The next chapter presents the results and data analysis.

## **CHAPTER FOUR**

### **PRESENTATION OF RESULTS AND DISCUSSION**

#### **4.1 INTRODUCTION**

This chapter presents the results of the study on the impact of the Community Development Trust on service delivery to the community of Mkhwanazi Traditional Authority in kwaDlangezwa. The results are based on the feedback provided by the respondents who participated keenly in the study.

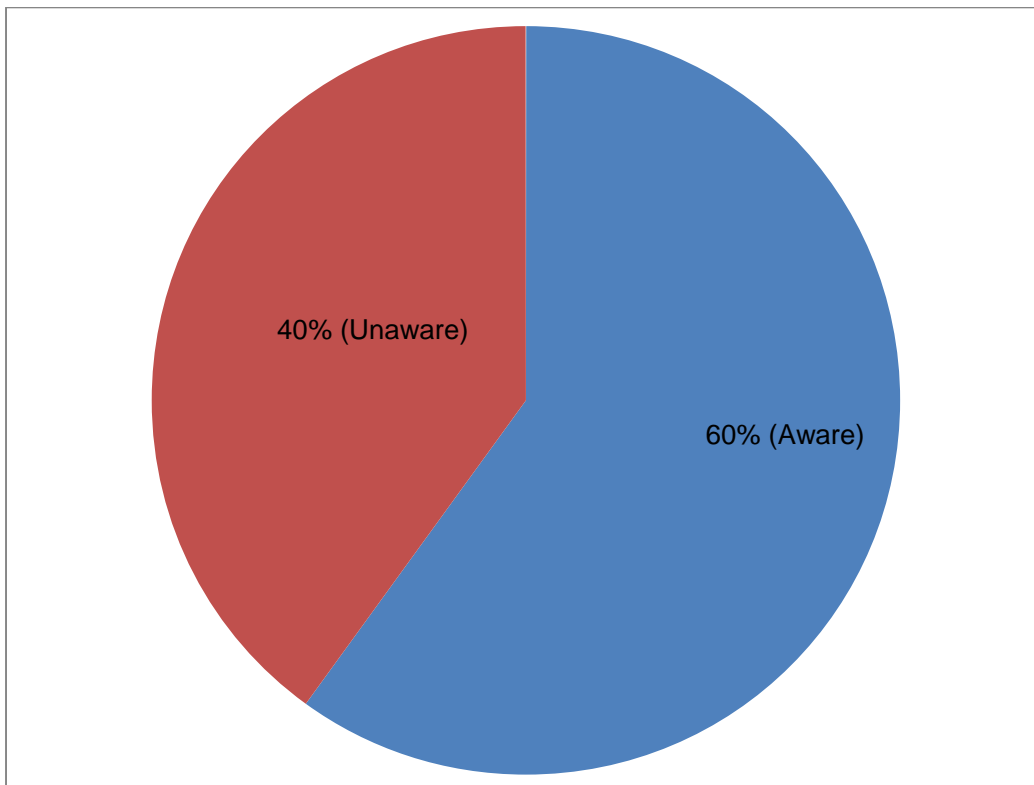
#### **4.2 ANALYSIS**

It is important to note that the data presented in this chapter has been collected from the respondents, mainly community members, within the jurisdiction of the Mkhwanazi Traditional Council and officials from Richards Bay Minerals where the researcher wanted to acquire viewpoints on the benefits of Community Trusts as part of the data collection process.

#### 4.2.1 Community awareness of the existence of the Trust

Undeniably, the extent to which the community is aware of the existence of the Trust is largely dependent on several factors which include the nature of its functioning and the level to which it delivers services to the community. This simply implies that a properly functional Trust is likely to be known to the community members through the services it renders to the community. Community members within the Mkhwanazi Traditional Council were asked whether or not they are aware of the Community Trust and Figure 4.1 is the result. From this figure, it is clear that 60 per cent of respondents are aware of the existence of the Community Trust.

**Figure 4.1: Respondents awareness of the existence of the trust**



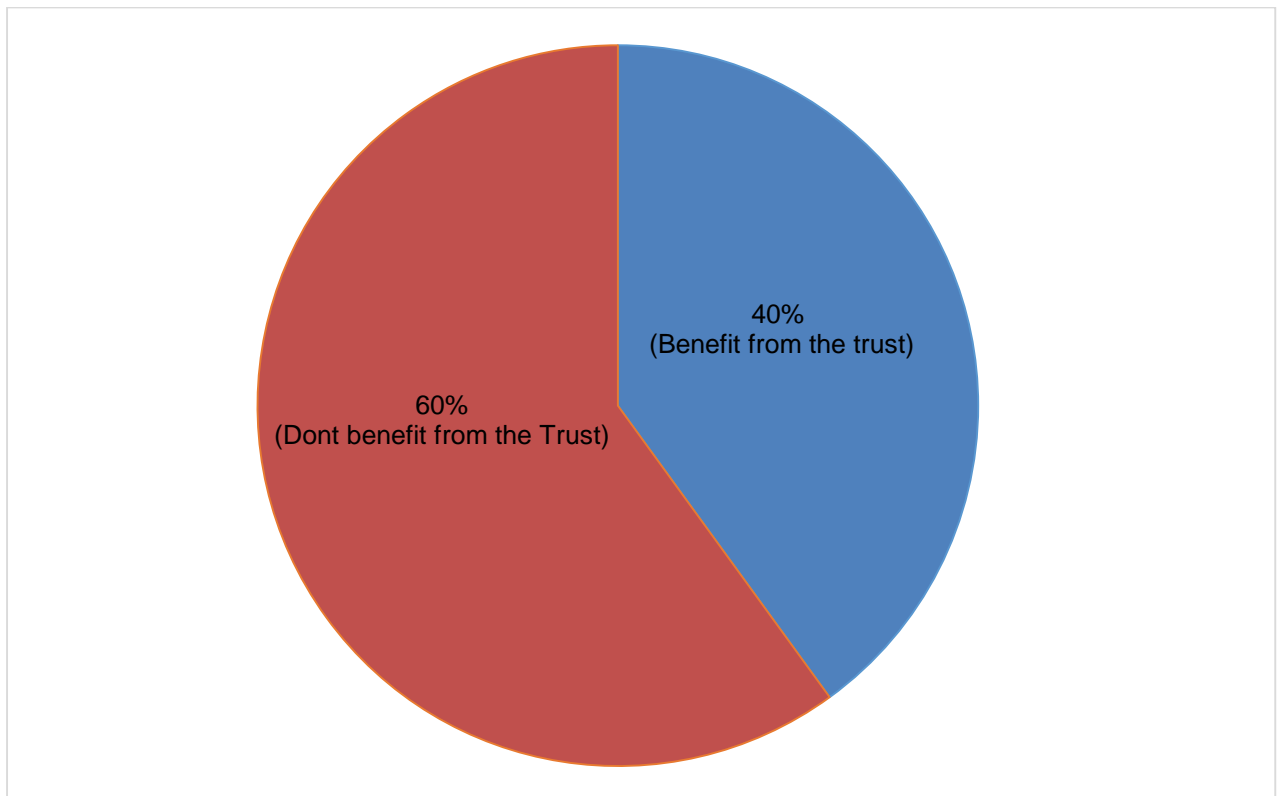
This reflection raises some important questions: for instance, why 40 per cent of respondents are not aware of the existence of the trust? Are they perhaps far from central points? To respond to such questions, respondents were interviewed and the following explanations were recorded:

*"I have never heard of a trust." I have been people talking about the Trust in meetings, but have never been told about it." Whether or not the trust exists, one person said: "It is invisible to most of us".*

#### 4.2.2 Is the trust beneficial to the community?

Respondents gave varied responses to this question. The majority of respondents (60 per cent) felt that the community does not benefit from the Trust. If the Trust exists, then they felt that it failed to reach out to the community.

**Figure 4.2: Respondents' perception of the Trust being beneficial**



Some respondents went so far as to highlight expected characteristics of functional Trusts: -

- (a) tabling the budget at the beginning of the year and even at the end of the year;
- (b) presenting audited financial statements;
- (c) reporting on projects erected or undertaken in our community; and
- (d) organising and reporting to community meetings about key developmental issues that the Trust plans to address.

Because none of these features are apparent to the community, a large proportion of respondents maintained their position that the trust is not benefiting the community. Moreover, some respondents felt that the trustees do not take their job seriously,



indicating that the manner in which they manage the Trust is inappropriate. Some concerns relate to the character of some trustees.

Respondents pointed out that:

*They do not benefit from the Trust [since] some of the members are too arrogant they do not want to communicate with the community in case of crises.*

*The community has no say and do[es] not ha[ve] an experience or knowledge about the Trust. They [are] supposed to have a workshop about the Trust in the community.*

*The Trustees ha[ve] to come and talk to the community about their per[a]meter[s of operation].*

*The Trust also has to give the community the terms of reference so as to prevent the interference of the community.*

*We never ask them to do anything due to the fact that they do things as they wish.*

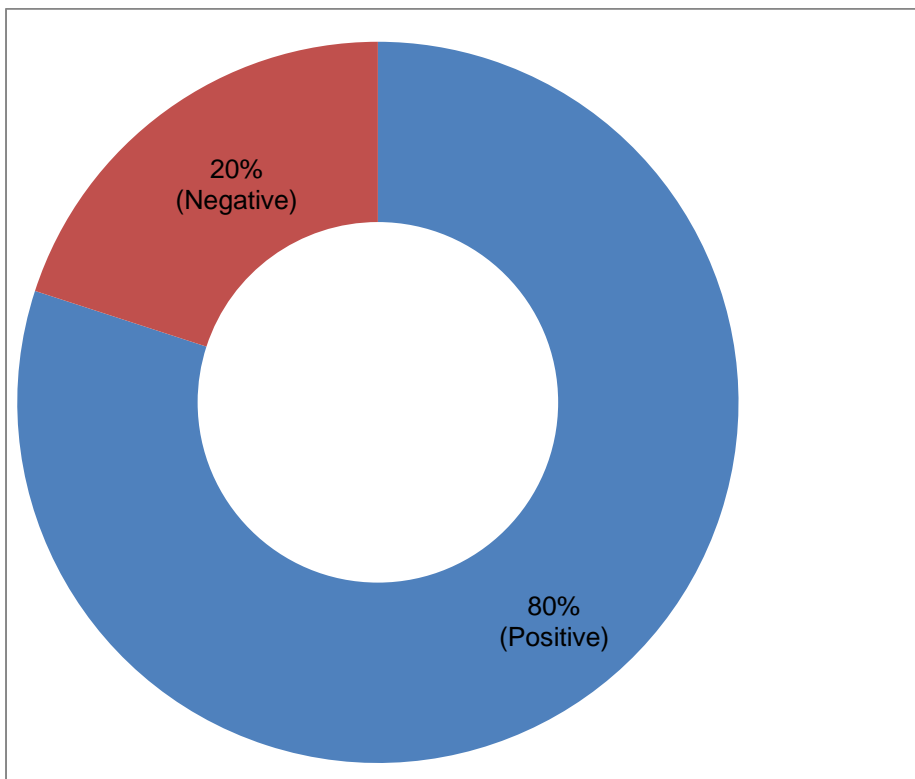
On the other hand, some respondents (40 per cent) had positive remarks about the benefits that the communities derive from the Trust. Important among the benefits are:

- The award of bursaries to learners from the community, although concerns were raised about community's limited knowledge about the application process;
- The establishment of entrepreneurship, such as forming the co-operatives in sewing and farming which are all funded by the Trust. In the case of sewing, the Trust bought the community 75 sewing machines which were distributed according to the villages. In the case of farming, the Trust bought tractors to benefit those members who did not have physical strength; and
- The skills development programmes such as those provided at uMfolozi institutions.

### 4.2.3 Community's perceptions of the Trust as a vehicle for service delivery

Figure 4.2 below shows respondents' perceptions of the trust as a vehicle for service delivery. As can be seen in Figure 4.2, it is eminently clear that a larger proportion (80 per cent) of respondents perceive the Trust as a potential vehicle towards effective service delivery. On the contrary, about one-fifth of respondents had some reservations regarding the Trust being a vehicle for service delivery.

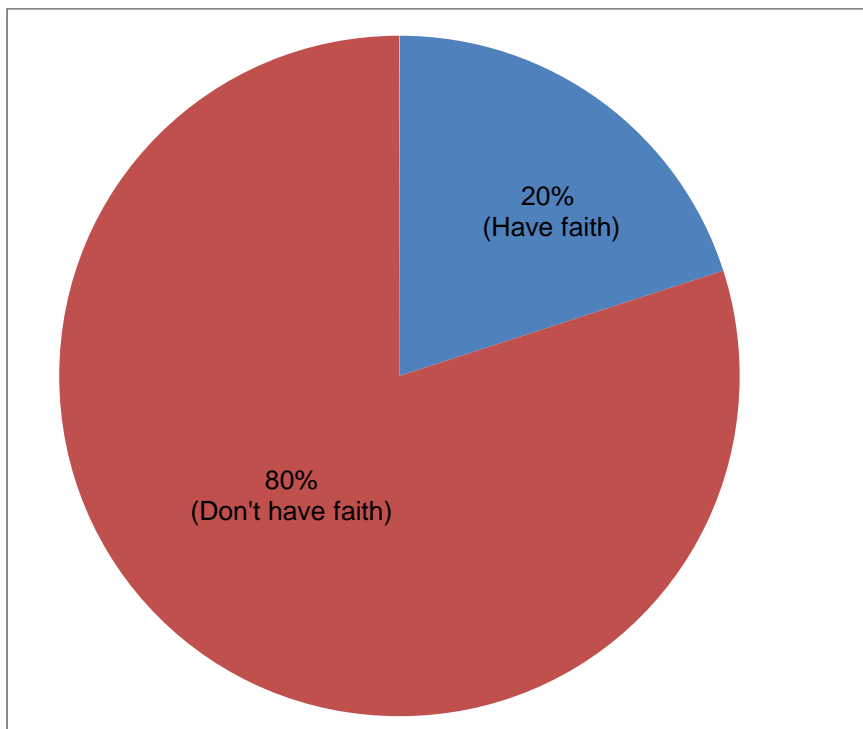
**Figure 4.2: Respondents' perceptions on trust as a vehicle for service delivery**



#### 4.2.4 The Community's faith in trustees

Communities within the Mkhwanazi Traditional Council were asked to scale their faith and confidence in the trustees and the results are encapsulated in Figure 4.3. The results reveal that the majority (80 per cent) of the entire community does not have faith and confidence in the trustees. The greatest concern is the unavailability of trustees to the community. What also emerged from the interviews is that some trustees want to empower themselves in several ways. The remaining proportion of respondents, as shown in Figure 4.3, indicated some degree of confidence in the trustees. Much confidence from the latter cohort stems largely from the award of bursaries to deserving potential members in the community.

**Figure 4.3: Respondents' faith in trustees**



The views of some of the community members were as follows:

*When projects are approved the local trustees sign a memorandum of undertaking that puts benchmarks and goals in place and determines the manner in which money is allocated. The memorandum also establishes the project implementer's accountability.*

It is certainly clear from the results that the Mkhwanazi Community Development Trust faces a myriad of challenges in its efforts to become a reasonably representative, proficient instrument in order to play its proper role.

#### **4.2.5 The Community's role in promoting development in the area**

Development in an area is the responsibility of all the stakeholders committed to the area, which, in this instance, includes the trustees and the community members of Mkhwanazi Traditional Council. When the respondents were questioned as to whether they had formulated any strategies to try and develop themselves and also their community, the responses that were gathered showed that all the respondents had come up with some sort of strategy to enhance the community. The communities had come up with their own committees which could potentially give voice to the communities' concerns and had even come up with an action plan which could assist in formulating strategies which could bring development to the community.

With these committees in place, the community has even formulated co-operatives to assist the community members with skills which they can use to empower themselves and even provide for their families. The biggest obstacle faced by the respondents is the issue of funding these co-operatives. There are even projects which are earmarked for the community which will be beneficial for the development of the community, as well as the community members. The formation of both the committee and even the co-operatives just proves how ready and eager the community is to promote the development of the community.

The respondents also revealed that there were discussions about every family in the community having a garden, which would be very beneficial in terms of providing nutrients for the needy, and even in generating some sort of income for those who might choose to retail the produce. There were also discussions about the need for a crèche in the community which would create job opportunities for the people who would look after the children and would meet other needs of the community, while developing the area.

All of these suggestions and discussions have remained just that, suggestions and discussions. It is very discouraging for the community to have so many dreams and goals which could lead to their development, but no action is being implemented to ensure the development of the community, even though they have a Trust which was allegedly supposed to ensure that the area of the Mkhwanazi Traditional Council was developed. Even though development is not a process which occurs overnight, considering the period of time it has been now since the Trust was created, there should at least be some sort of progress to show that there has been some attempt at development in the area.

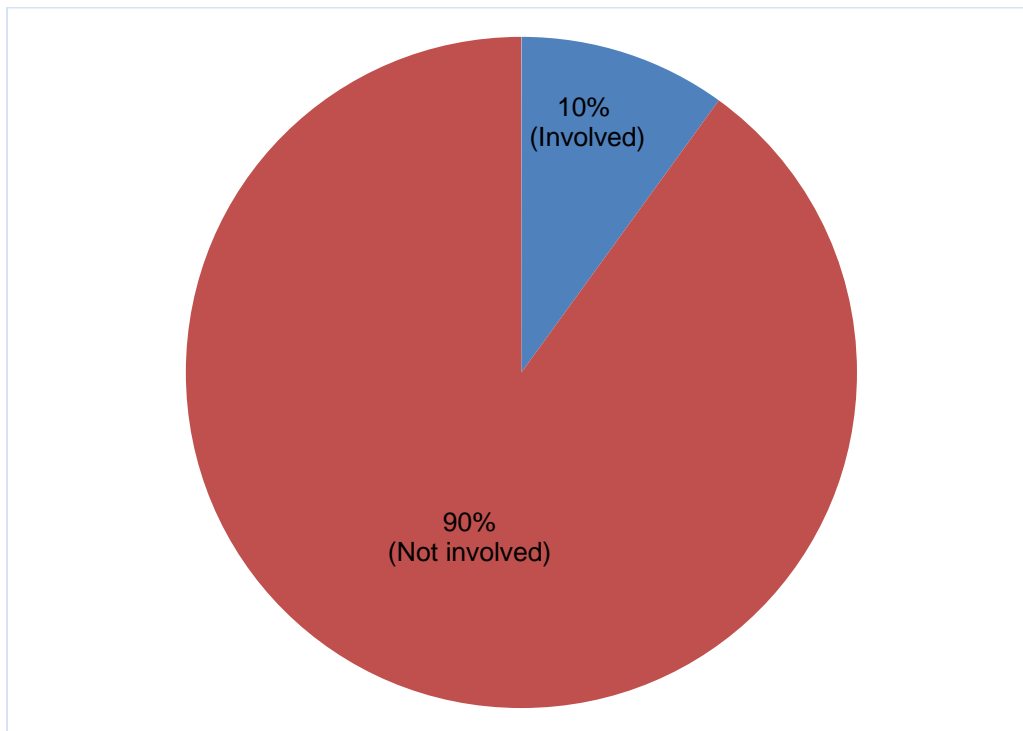
#### **4.2.6 Recommendations by the community to improve the extent to which the Trust is currently being managed**

There are many issues which were raised by the respondents when questioned what their concerns are about the manner in which the Trust is currently being managed. Those issues are discussed further below:

##### **4.6.1 Involving the community in the Trust**

Figure 4.5 below reflects the percentage of respondents who felt that they are involved in the Community Trust. The overwhelming majority of respondents (90 per cent) felt that they were not part of the Trust as they should be. They highlighted how they do not even have a say in the Trust, let alone a democratic right to elect a member of the Trust.

**Figure 4.5: Respondents' involvement in the Trust**



The respondents informed the study that they would even like to be involved in the planning of the projects which were to be conducted in the community. While the community would like to be involved in the planning of the projects formulated by the fund, they would also like to have feedback meetings where the trustees and community committees would report back to the community on the progress of the projects.

#### **4.2.7 The community involvement in the funds of the trust**

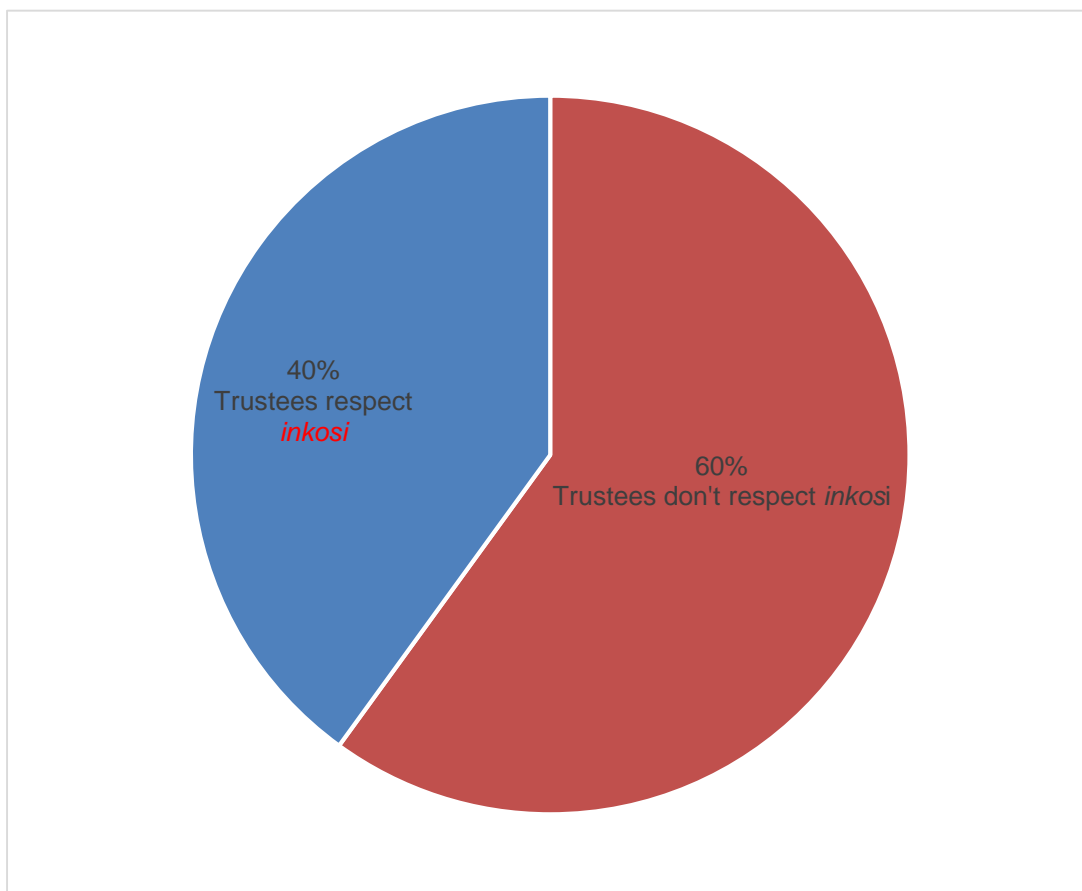
It is recommended that when projects are approved, the local trustees should sign a memorandum of undertaking that puts benchmarks and goals in place and determines the manner in which money is allocated. The memorandum should also establish the project implementers' accountability. This won't only build trust between the community and the trustees, but will also project the development of Mkhwanazi so that the community can have insight to it and it will be much easier to observe the development in the community. The community also has a right to see a detailed budget from the Community Trust at the beginning and before the year ends, every year. This will build trust between the trustees and the community as they will see

and know how the funds were used. Forty percent (40 per cent) of the respondents expressed how they feel they need to be informed about the funds of the Trust at the beginning of the year and even before the year ends. The fact that there are respondents who feel that they are not informed about the funds of the Trust should raise serious concerns about the Trust as a whole.

#### 4.2.8 Respondents' perceptions of trustees respect towards the *Inkosi*

It was considered necessary to gauge respondents' perceptions concerning how trustees respect the *Inkosi* as the leader of the Mkhwanazi Traditional Council. It is eminently clear from Figure 4.6 that respondents perceive the *Inkosi* as not getting the respect he deserves. The majority (60 per cent) think trustees do not respect the *Inkosi* while some think otherwise. The respondents went so far as to state that the *Inkosi* seems not to have major control over or even a final say in the decisions taken regarding the trust.

**Figure 4.6: Respondents' perceptions of the trustees' respect for the *Inkosi***



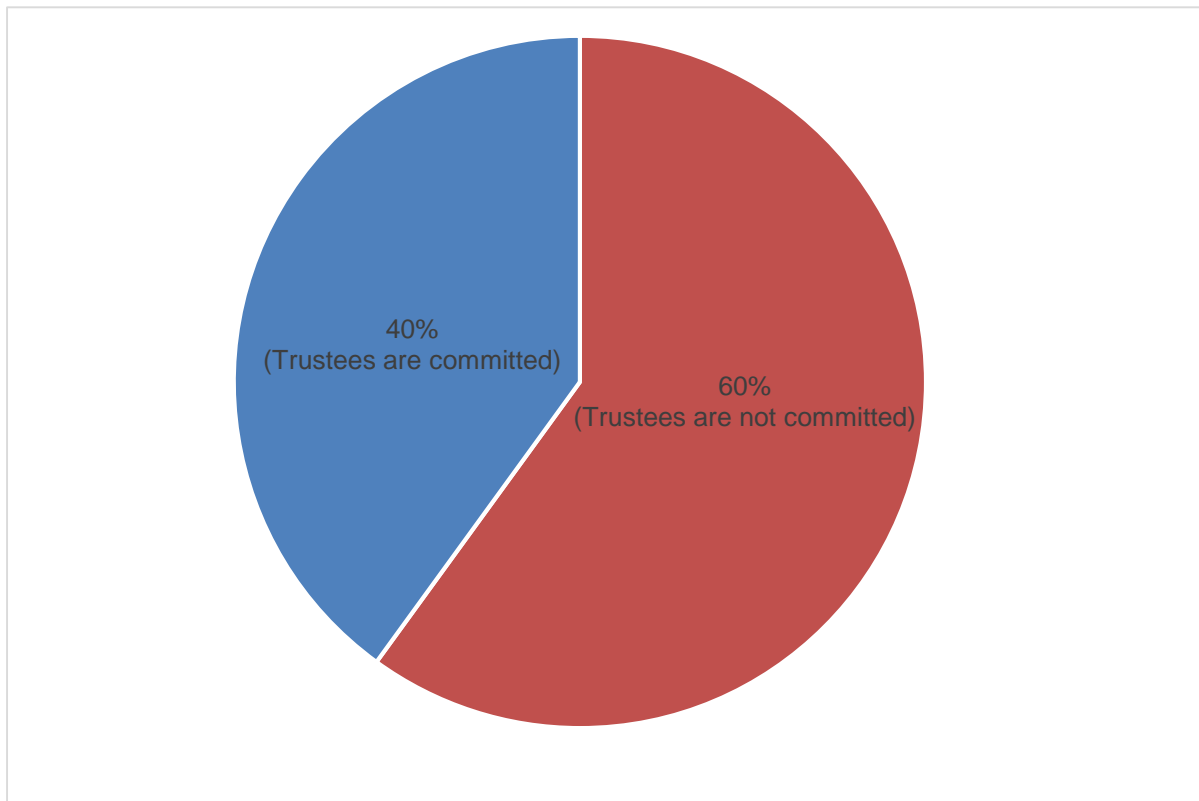
These results have several implications for the community because they clearly believe and have faith in the *iNkosi* as their leader. Although the Trust is merely about the community development it is never-the-less necessary that the trustees are respectful towards the *iNkosi*. Consequently, this could instil positive thinking among the general community members and grant the *iNkosi* the suitable level of social status required for him to lead the Mkhwanazi community. In this way, community development and service delivery might be promoted.

#### **4.2.9 Respondents' perceptions of trustees' commitment to the Trust**

When asked about what they perceive about trustees' commitment towards the Trust, a large proportion of respondents (60 per cent) thought that the trustees are not dedicated to the Trust. Respondents felt that this is the main reason why the Trust does not operate positively and does not yield the desired results. They further stated that community members are neglected and only the trustees benefit from the resources intended to benefit the overall Mkhwanazi community.



**Figure 4.7: Respondents' perceptions of trustees' commitment to the Trust**



Some respondents suggested that trustees need some training on how to handle the community trust funds and how to plan and distribute resources fairly according to community needs.

#### **4.2.10 Perceived implications of trust maladministration in the Mkhwanazi community**

Some respondents went so far as to link the unacceptable behaviour of trustees to the incitement of occurrences of crime. The miscommunication and arguments about the projects of the Trust has led to the unnecessary death of people. They went on to say that if Trust funds were handled well, crime incidents would surely decline. For instance, the establishment of programmes that will empower unemployed youth and general members is necessary. About 40 per cent of respondents thought crime occurrences act as an obstacle to service delivery in the area of the Mkhwanazi Traditional Council.

### **4.3 CHAPTER SUMMARY**

This chapter discussed the findings of the study and provided an interpretation of the findings. The next chapter provides the conclusions and recommendations of the study.

## **CHAPTER FIVE**

### **CONCLUSIONS AND RECOMMENDATIONS**

#### **5.1 INTRODUCTION**

This chapter presents the conclusions drawn and the recommendations made based on the findings of the study as presented in chapter four. The objectives of the study and key research questions of the study are also highlighted. Recommendations are made to improve the governance of the Mkhwanazi Community Development Trust so that it can be of benefit to the communities it should serve.

#### **5.2 OBJECTIVES OF THE STUDY**

The objectives of the study were:

- To determine the extent to which the community is aware of the Trust and its benefits to the Mkhwanazi community;
- To assess the community's perceptions of the Trust as a vehicle for service delivery;
- To examine the community's experiences regarding challenges they face and the prospect of the Trust serving the needs of the Mkhwanazi community; and
- To evaluate the usefulness of key stakeholders in supporting the Mkhwanazi Community Development Trust.

#### **5.3 KEY RESEARCH QUESTIONS**

The study attempted to answer the following research questions:

- To what extent is the community aware of the Trust and its benefits to the Mkhwanazi community?
- What are the community's perceptions of the Trust as a vehicle for service delivery?
- What are the community's experiences regarding challenges they face and prospects of the trust serving the needs of the Mkhwanazi community? and
- What is the usefulness of key stakeholders in supporting the Mkhwanazi Community Development Trust?

## 5.4 CONCLUSIONS OF THE STUDY

When members of 'traditional communities' try to hold traditional leaders and traditional councils accountable, traditional councils use the 'official status' they are granted, according to laws such as the *Framework Act*, to stop them. This reliance on 'official status' to stifle internal debate and undermine accountability reinforces the autocratic version of 'official' customary law, inherited from apartheid. The Constitutional Court has warned against relying on official versions of customary law that entrench past distortions. It has directed us to the important consensus-seeking character of customary law.

The law is meant to apply equally to everyone. The provisions of the law are also meant to be applied equally, yet the government appears to be more intent on enforcing the provisions of the law that provide official recognition to traditional leaders, than on enforcing the checks and balances of their power contained in the same legislation. Community members have no option but to step forward and go to court themselves to try to enforce the checks and balances that the government ignores. But, when they do this, they are told that they have no legal standing to do so and heavy costs are awarded to the traditional leaders. This results in them having to pay, not only their own legal costs, but also the legal costs of the traditional leaders who seek to silence them. This situation cries out for intervention at a higher level.

The focus of this study was the community of kwaMkhwanazi's Traditional Council. This traditional community's livelihood depends largely on commercial agriculture with some portions of land demarcated for subsistence farming. The main agricultural activities in the area include sugar cane plantations, commercial forestry plantations and livestock farming with notable mineral sand mining operations, especially along the coastal zone. The main aim of this study was to investigate and assess the impact of the Mkhwanazi Traditional Council's Trust in its efforts to support the community through development in areas of infrastructure, economic development and education. This study was achieved through the following operational objectives: determining the extent to which community is aware about the Trust and its benefits to Mkhwanazi community; assessing community's

perceptions on Trust as a vehicle for service delivery; examining the community's experiences regarding challenges they face and prospects of the Trust in servicing Mkhwanazi community; and evaluating the usefulness of key stakeholders in supporting the Mkhwanazi community development Trust.

The study applied a qualitative research methodology and data was collected through interviews. The research used qualitative methods to collect data from various stakeholders at the Mkhwanazi Traditional Council. These stakeholders were Richards Bay Minerals, the community members, and the Department of Co-operative Governance and Traditional Affairs and the Mhlathuze Municipality. The majority of respondents felt that the community does not benefit from the Trust.

“Some enterprising respondents undertook their own research and came up with a list of what they would expect of the trustees:

- Presentation of the annual budget at the beginning of the year and a financial statement at the end of the year;
- Presentation of audited financial statements at an AGM or its equivalent;
- A full progress report on projects undertaken in the year; and
- Community meetings to identify developmental needs and on the Trust's plans to address these.”

On the other hand, some respondents made positive remarks about the benefits that the communities derive from the Trust. Important among the benefits is the award of bursaries to learners from the community, although concerns were raised about the community's limited knowledge about the application process, and the establishment of entrepreneurship, such as forming co-operatives for sewing and farming which can be funded by the Trust.

The research findings of the study were that there is a need for change or to amend the *Trust Property Act*, for example, the Department of Traditional Affairs should be the body that regulates or works closely with the trustees so as to eliminate the disputes which sometimes hinder the programmes which need to be implemented by the Traditional Community Development Trust. The study found that trustees were apparently operating in a self-interested manner by becoming beneficiaries of funding from the Trust. This requires urgent investigation and government

intervention. The study concluded that, despite the difficulties, the Traditional Community Development Trust still has a significant role to play in accelerating the sustainable service delivery of the community's basic needs.

## **5.5 RECOMMENDATIONS OF THE STUDY**

The following are the recommendations by the community to improve the way in which the trust is currently being managed:

- The Traditional Council should take note of all the management issues raised by the community and it should take active steps to deliberate on these limitations and to take urgent action to improve on these.
- Trustees who can add value to the Trust through their understanding of the economy, the effectiveness of their contribution to the Trust and their efficiency should be appointed. They should also be well-informed generally and preferably well-connected.
- The respondents informed the study that they would even like to be involved in the planning of the projects which might involve construction of buildings to be erected in the community. While the communities would like to be involved in the planning of the projects formulated from the fund, they would also like to have feedback meetings where the trustees and community committees would report back to the community on the progress of the projects.
- Although the Trust is concerned solely with community development, it is still necessary that trustees are respectful towards the *iNkosi* as the head of the Mkhwanazi Traditional Council. This can instil positive thinking in the general community and, by enhancing the social status of the *Inkosi*, this will assist him in leading the Mkhwanazi community. In this way, community development and service delivery might be promoted.
- Some other factors that were to be considered that would have an impact on improving the functioning of the Mkhwanazi community Trust were: the need

for collaboration, transparency, skills transfer and training programmes, the creation of job opportunities, managing change and change implementation.

## **5.6 CONCLUSION**

The study is very important to the main donors, the community and other interested stakeholders, and it should form the substance of a formal report to the Mkhwanazi Traditional Council, Richards Bay Minerals, the Department of Co-operative Governance and Traditional Affairs and the Mhlathuze Local Municipality. This report on the impact of the Traditional Community Trust on comprehensive service delivery may hopefully influence strategies adopted by the local municipality to address local economic development through community development, skills development, and place a new emphasis on quality service delivery and job creation as positive spin-offs of the activities of the Traditional Community Trust.

This chapter has briefly discussed the conclusions and provided recommendations that emanated from the data analysis and interpretation of findings.

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# **ANNEXURES**

the mta

THE MKHWANAZI  
TRADITIONAL AUTHORITY  
KWA-ZULU NATAL



P.O. Box 14

KwaDlangezwa

3886

26 February 2015

**TO WHOM IT MAY CONCERN**

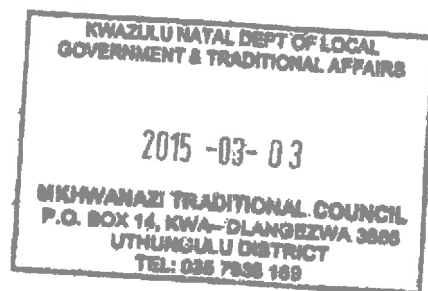
This serves to confirm that MR WILSON SIPHO ZUNGU has been granted permission to conduct his research for the Masters Degree in Public Administration at KwaMkhwanazi Traditional Council in KwaDlangezwa area.

Should you need any clarity please do not hesitate to contact our Traditional Council Office.

Regards,

MM Mkhwanazi

Inkosi



Richards Bay Minerals  
The Farm RBM  
PO Box 401, Richards Bay, 3900  
KwaZulu-Natal, South Africa  
T +27 (0) 35 901 3111  
F +27 (0) 35 901 3442



*Responsible Beyond Mining*

University of KwaZulu Natal  
Westville Campus  
Private Bag X54001  
Durban  
4000

02 March 2015

To whom it may concern

### RESEARCH FOR A MASTERS DEGREE

This serves to confirm that Mr. Wilson Sipho Zungu has been granted permission to conduct his research on RBM's Community Trusts in order to complete his Masters Degree in Public Administration.

Should you need any clarity please do not hesitate to contact Richards Bay Minerals.

Yours sincerely

A handwritten signature in black ink, appearing to be "Gugy Mosalanyane", written over the "Yours sincerely" text.

**Gugy Mosalanyane**  
Superintendent Transformation Local Economic Development

## **Interview Questions**

### **RBM and CoGTA**

- 1) What strategies has RBM put in place to engage iNkosi and communities to benefit from Community Trusts?
- 2) Does RBM provide support to the traditional council in the management of Trusts?
- 3) What has the government (CoGTA) done to support traditional communities to benefit from proceeds of Trusts?
- 4) What is the role of government in promoting the use of Trusts to develop communities and enhance service delivery?

### **Traditional Leaders**

- 1) Is Inkosi familiar with the concept of Community Trusts?
- 2) What do you think should be the role of the traditional council in the Trust?
- 3) What historic local knowledge does Inkosi possess on community development?
- 4) What efforts that have been made by the traditional leadership/council to engage communities for the development of Mkhwanazi area?
- 5) Have there been any discussions conducted in the traditional leadership committee on improving area under iNkosi?

### **Community Members**

- 1) Is the community benefiting from the Community Trusts?
- 2) Does the community see Trusts as a vehicle to accelerate service delivery within the Mkhwanazi Traditional Authority?
- 3) Does the community have faith in the Trustees who are managing the Trust?
- 4) What role does community members play in promoting development in the area?

**UNIVERSITY OF KWAZULU-NATAL**  
**School of Management, IT and Governance**

Dear Respondent,

**MPA Research Project**  
**Researcher:** WS Bhengu (071 504 3600)  
**Supervisor:** Dr TI Nzimakwe (031 260 2606)  
**Research Office:** Ms M Snyman (031 260 8350)

I, Wilson S ZUNGU (981226327), am a Master of Public Administration (MPA) student in the School of Management, IT and Governance, at the University of KwaZulu-Natal. You are invited to participate in a research project *entitled "Exploring the Role of Community Trusts in Development within Mkhwanazi Traditional Authority"*.

The aim of this study is to assess the role of Community Trusts in service delivery in Mkhwanazi Traditional Authority.

Through your participation I hope to assess and explore the impact the Community Trust brings to the lives on Mkhwanazi community through the management of such Trusts.

Your participation in this project is voluntary. You may refuse to participate or withdraw from the project at any time with no negative consequence. There will be no monetary gain from participating in this research project. Confidentiality and anonymity of records identifying you as a participant will be maintained by the School of MIG, UKZN.

If you have any questions or concerns about participating in this study, please contact me or my supervisor at the numbers listed above.

This interview should take about 20-30 minutes to complete. I hope you will take the time to participate in the interview.

Sincerely

Investigator's signature \_\_\_\_\_ Date \_\_\_\_\_

*This page is to be retained by participant*

**UNIVERSITY OF KWAZULU-NATAL  
School of Management, IT and Governance**

**MPA Research Project**

**Researcher:** WS Zungu (071 504 3600)

**Supervisor:** Dr TI Nzimakwe (031 260 2606)

**Research Office:** Ms M Snyman (031 260 8350)

**CONSENT**

I \_\_\_\_\_ (full names of participant)  
hereby confirm that I understand the contents of this document and the nature of the research project, and I consent to participating in the research project. I understand that I am at liberty to withdraw from the project at any time, should I so desire.

**I hereby consent / do not consent to have this interview recorded**

\_\_\_\_\_  
Signature of Participant

\_\_\_\_\_  
Date

*This page is to be retained by researcher*



**UNIVERSITY OF KWAZULU-NATAL**  
**School of Management, IT and Governance**

**MPA Research Project**

**Researcher: WS Zungu (071 504 3600)**

**Supervisor: Dr TI Nzimakwe (031 260 2606)**

**Research Office: Ms M Snyman (031 260 8350)**

Mina, Wilson S ZUNGU (981226327), ongumfundi owenza izifundo zokuphatha (Public Administration) esigabeni seMaster's enyuvesi yakwaZulu-Natal, ngaphansi kwe-School of Management, IT and Governance. Uyamenya ukuba ube yingxenywe yocwaningo olunesihloko esithi: *"Exploring the Role of Community Trusts in Development within Mkhwanazi Traditional Authority"*.

Inhloso yalolucwaningo ukuhlola indima edlalwa ama-Community Trust ekuhanjiseni kwezidingo zomphakathi kwaMkhwanazi Traditional Authority

Ngeqhaza ozolibamba, ngethemba ukuhlola umthelela o lethwa ama-Community Trust ezimpilweni zabahlali bomphakathi waseMkhwanazi ngokusebenzisa izindlela zokuphathwa kwama-Trust.

Ukubamba kwakho iqhaza kulolucwaningo akuyona impoqo. Unalo ilungelo lokunqaba nelokwephula noma yinini ekuzibandakanyeni nocwaningo, ngaphandle kwemibandela noma nemiphumela engahambisani nawe. Ukuzibandakanya kwakho nalolucwaningo akunanzuzo yemali. Ukuba yingxenywe yalolucwaningo kuzohlala kuyimfihlo phakathi kwakho nomcwaningi, kanti futhi konke okuqukethwe kozogcinwa yisikole se-Management, IT and Governance, emnyangweni we-Public Governance yase Nyuvesi yakwaZulu-Natal.

Uma uneminye imibuzo mayelana nokuba yingxenywe yalolucwaningo, wamukelekile ukuxhumana nami noma nomphathi wami (supervisor) kuleminingwane enikeziwe ngenhla.

Kufanele ukukuthatha imizuzu engamashumi amabili kuya emizuzwini engamashumi amathathu ukuqeda lengxoxo. Ngethemba ukuthi uzokubona ukubaluleka kokubamba iqhaza kulolucwaningo.

Ozithobayo

Isignature yomcwaningi \_\_\_\_\_ Usuku \_\_\_\_\_

*Lelikhasi kumele ligcinwe umhlanganyeli*

**UNIVERSITY OF KWAZULU-NATAL**  
**School of Management, IT and Governance**

**MPA Research Project**

**Researcher:** WS Zungu (071 504 3600)

**Supervisor:** Dr TI Nzimakwe (031 260 2606)

**Research Office:** Ms M Snyman (031 260 8350)

**IMVUME**

Mina \_\_\_\_\_ (Amagama aphelele omhlanganyeli) ngiyakuqinisekisa ukuthi ngiyakuqonda okuqukethwe yileliphepha nohlobo locwaningo. Nyiyazibophezela ukuzibandakanya nocwaningo. Ngiyakuqonda futhi ukuthi kusemandleni nasesinqumweni sami ukwephula ekubambeni iqhaza ocwaningeni, noma yingasiphi isikhathi engifisa ukwephula ngaso.

**Ngiyavuma ukuba inkulumo iqoshwe.**

**Angivumi ukuba inkulumo iqoshwe**

\_\_\_\_\_  
Signature yomhlanganyeli

\_\_\_\_\_  
Usuku

***Lelikhasi kumele ligcinwe ngumcwaningi***



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4001  
083 415 2531

3 January 2017

Reg. No. 2006/156780/23

Wilson Zungu

### **EDITING OF RESEARCH DISSERTATION OF WILSON ZUNGU**

I have an MA in English from University of Natal (now UKZN) and have been performing editing services through my company for eleven years. My company regularly edits the research dissertations, articles and theses of the School of Nursing, Environmental Studies and various other schools and disciplines at the University of KwaZulu-Natal and other institutions, as well as editing for publishing firms and private individuals on contract.

I hereby confirm that Dennis Schaffer edited the dissertation of **Wilson Zungu** titled "EXPLORING THE ROLE OF COMMUNITY TRUSTS IN DEVELOPMENT WITHIN THE MKHWANAZI TRADITIONAL AUTHORITY" on behalf of WordWeavers cc and commented on the anomalies he was unable to rectify in the MS Word Track Changes and review mode by insertion of comment balloons prior to returning the document to the author. Corrections were made in respect of grammar, punctuation, spelling, syntax, tense and language usage as well as to sense and flow. Additional comments were provided to assist with corrections. The Appendices were not edited.

I trust that the document will prove acceptable in terms of editing criteria.

Yours faithfully

*C Eberle*

**Catherine P. Eberle (MA: University of Natal)**



01 March 2016

Mr Wilson Siphu Zungu (981226327)  
School of Management, IT & Governance  
Westville Campus

Dear Mr Zungu,

Protocol reference number: HSS/0110/016M

Project title: Exploring the Role of Community Trusts in Development withIn Mkhwanazi Traditional Authority

**Full Approval – Expedited Approval**

In response to your application dated 02 February 2016, the Humanities & Social Sciences Research Ethics Committee has considered the abovementioned application and the protocol have been granted **FULL APPROVAL**.

Any alteration/s to the approved research protocol i.e. Questionnaire/Interview Schedule, Informed Consent Form, Title of the Project, Location of the Study, Research Approach and Methods must be reviewed and approved through the amendment/modification prior to its implementation. In case you have further queries, please quote the above reference number.

Please note: Research data should be securely stored in the discipline/department for a period of 5 years.

The ethical clearance certificate is only valid for a period of 3 years from the date of issue. Thereafter Recertification must be applied for on an annual basis.

I take this opportunity of wishing you everything of the best with your study.

Yours faithfully

.....  
Dr Shenuka Singh (Chair)

/ms

Cc Supervisor: Professor TI Nzimakwe  
Cc Academic Leader Research: Professor Brian McArthur  
Cc School Administrator: Ms Angela Pearce

---

Humanities & Social Sciences Research Ethics Committee

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