

THIS DISSERTATION IS REGARDED AS A COMPETENT PIECE  
OF WORK BY INTERNAL AND EXTERNAL EXAMINERS.

**THE INCORPORATION OF TRADITIONAL LEADERS  
INTO LOCAL GOVERNMENT:  
THE CASE OF MSINGA LOCAL MUNICIPALITY**

**BY**

**GLORIA NONHLANHLA KHOZA**

**Supervisor: Prof. P.S. Robinson**

**Submitted in partial fulfilment of the degree of Master of Town and Regional  
Planning at the University of Natal, Durban**

**2002**

## **Acknowledgements**

First and foremost I would like to thank God for giving me strength, courage and wisdom to carry out this dissertation.

To my supervisor, PS Robinson, thank you very much for your constructive criticisms and advices. Without you this work would not be possible.

I would also like to thank people of Umsinga and all the people interviewed for their time.

To my family, especially my parents, Japan and Doris Khoza, thank you for the sacrifices you made for me and the faith you have in me.

To the Town Planning class, especially my friend Lihlez, 'ngiyabonga' for the role you played throughout the degree.

To Mbongeleni, thank you for your time, input and support.

I dedicate this work to my son, Seluleko Mthunzi Ndlovu, who came in the middle of this degree. Thank you son, you were my inspiration, you made me put in more effort.

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## **List of Acronyms**

|            |   |
|------------|---|
| CC         | Community Council                                   |
| CLA        | Community Land Act                                  |
| CLGF       | Commonwealth Local Government Forum                 |
| Contralesa | Congress of Traditional Leaders of South Africa     |
| DPLG       | Department of Provincial and Local Government       |
| FSM        | Federated State of Micronesia                       |
| IDASA      | Institute for Democracy in South Africa             |
| Idp        | integrated development planning                     |
| IDRC       | Integrated Development Research Centre              |
| KwaNALOGA  | Kwa-Zulu Natal Local Government Association         |
| OTLSA      | Organisation of Traditional Leaders of South Africa |
| RSC        | Regional Services Council                           |
| TLGA       | Traditional Local Government Act                    |
| UBC        | Urban Bantu Council                                 |
| VDC        | Village Development Committe                        |

## **Chapter 1: The need for the study**

**“Traditional leadership had survived the vicissitudes of both the colonial and apartheid eras, and is now looking to play a new role in South Africa's new democratic dispensation.” (McIntosh, 1994)**

### **1.1 Aim of the Study**

Since the establishment of a democratically elected local government in South Africa, there has been a concern about the roles and functions of traditional leaders. Traditional leaders have been incorporated into local government. The aim of this research, therefore, is to investigate the representation and participation of traditional leaders in the planning and development processes, with particular reference to Msinga Municipal Area.

### **1.2 Research Problem**

The 1994 elections in South Africa brought about changes in local government. Transformation at local level meant the creation of grassroots democracy in many communities that have had no experience of this before. There is a concern with creating sustainable democratic governance at grassroots level. Local government, therefore, has a vital role to play in strengthening and building local democracy.

Local government in rural areas has different challenges to those in urban areas. Most of the land in rural areas falls under tribal authorities. Most of rural areas have political problems such as tension between traditional leaders and elected councillors.

Prior to 1994 traditional leaders were responsible for addressing developmental issues and maintaining peace and stability in their areas of

jurisdiction, without aligning themselves with political parties. Once the democratic structures were put in place tension between traditional leaders and elected councillors increased. It is believed that that is caused by differences in terms of political affiliations and conflicts in terms of their respective roles (Khoza, 2001).

Since traditional leaders were previously not part of the local government and now that they have been included in the system, there is a concern as to how the new system is functioning. There is a concern in terms of representation in the local council, degree and areas of participation in the development or planning processes, as well as in terms of the roles, functions and responsibilities.

It is also of great importance to understand issues around demarcation of boundaries which involved extending local government jurisdiction to rural areas. Since traditional leaders have been incorporated into local government it is worth finding out how the process has been applied in the case of Msinga Local Municipality. This could also help identify some gaps in the process. Msinga Local Municipality has been chosen as a case study because it is one of those areas with traditional authority areas and there has been tension between traditional leaders and councillors in some areas.

All this, therefore, gives rise to the research question.

### **1.3 Research question:**

How are traditional leaders incorporated into the local municipalities in terms of representation and participation in the planning and development processes?

## **1.4 Subsidiary Questions**

To investigate the research question the following subsidiary questions should be addressed.

- What are the traditional roles, functions and responsibilities of traditional leaders?
- What are the actual roles, functions and responsibilities of traditional leaders?
- What mechanisms are there for capacity building of traditional leaders?
- What is the relationship between traditional leaders and elected councillors?
- How do they deal with conflicting interests?
- How are the communication channels arranged? How do they interact?
- How do traditional leaders feel about the system?
- What is the nature of the Msinga Municipality? And how are the above issues handled there?

## **1.5 Hypothesis:**

The incorporation of traditional leaders into local municipalities is supposed to bring about coordination in terms of development but the ambiguity of roles, as well as conflicting interests of traditional leaders and councillors, delays development.

## **1.6 Chapter Outline**

The dissertation is organized in chapters, which are presented logically to allow one to get a clear understanding of the discussion.

**Chapter 1: The need for the study.** This is an introductory chapter which outlines the research topic, research problem, research question and the hypothesis.

**Chapter 2: Research Methodology** discusses the methodology employed for collecting and analysing data used in the study. It also outlines difficulties experienced during data collection and collation.

**Chapter 3: Concepts and theoretical perspectives relating to traditional leadership,** provides some definitions of the key concepts used throughout the dissertation. It also provides a theoretical framework for the study and the critical analysis of the perspectives.

**Chapter 4: Traditional Leadership and Government** are examined in this chapter. The chapter presents the inclusion of traditional leaders in the government in countries like Botswana, Ghana, Zimbabwe and Namibia. It also looks at how traditional leadership in South Africa was incorporated into Local Government.

**Chapter 5: The South African Legislation.** This section explores the legislative framework around local government and traditional authority in South Africa.

**Chapter 6: Msinga Local Municipality: Case Study.** This chapter presents the Msinga Local Municipality Case study. It offers the background of the area, and the nature and structure of the municipality and that of tribal authority.

**Chapter 7: The current situation in Msinga Local Municipality.** The research findings will be analysed and presented in this chapter. The analysis looks at the incorporation of traditional authorities in the Msinga Municipality. The representation of traditional leaders in the Msinga municipality

structure and participation of traditional leaders in the planning and development processes in this municipality will be the main focus of the analysis. In addition to that, in order to get a deeper understanding of the situation of the incorporation of traditional authorities in the Msinga Municipality, the analysis will also look at the following key issues:

- ❖ Functions of the traditional leaders in the Msinga Area
- ❖ Mechanisms for capacity building of traditional leaders
- ❖ Nature of the relationship between traditional leaders and councillors
- ❖ Views about the issue of incorporating traditional authorities into municipalities

#### **Chapter 8: Conclusion and Recommendations**

This chapter provides some conclusions drawn from the study as a whole. It also provides recommendations around the incorporation of traditional leaders into the Msinga Local Municipality.

## **Chapter 2: The Research Methodology**

### **2.1 Introduction**

This chapter discusses the methodology employed for collecting and analysing data used in the study. It also outlines difficulties experienced during data collection and collation.

### **2.2 Sources of information**

#### **2.2.1 Primary sources**

Interviews were used to discover the functioning of traditional leaders' and the municipality. They were also used to get information around the incorporation of traditional leaders into local government. Structured interviews were employed because of their advantage in that they comprise a set of questions to which answers are required but should any other issues of interest arise then it is possible to deviate from the schedule. In such a case probe notes were used. (Refer to Appendices 1-4 and what is in them).

#### **2.2.2 Secondary sources**

Secondary sources of data were used to get documented information. This includes books, theses, reports, newspaper articles and government publications. They were accessed through the libraries, government institutions and Internet. These documents provided information that would be difficult to secure through interviews. This method was used mainly to discover information such as the South African legislation around traditional leaders institution and local government.

Most of the documented data will be found in the following key bodies of literature:

- Institution of traditional leaders in South Africa and in Africa as a whole.
- Traditional roles and functions of traditional leaders in South Africa.
- Roles and functions of traditional leaders in terms of the South African legislation.
- Constitution of the Republic of South Africa
- Local government in Africa and in South Africa
- Integrated Development Planning

### **2.3 Sampling**

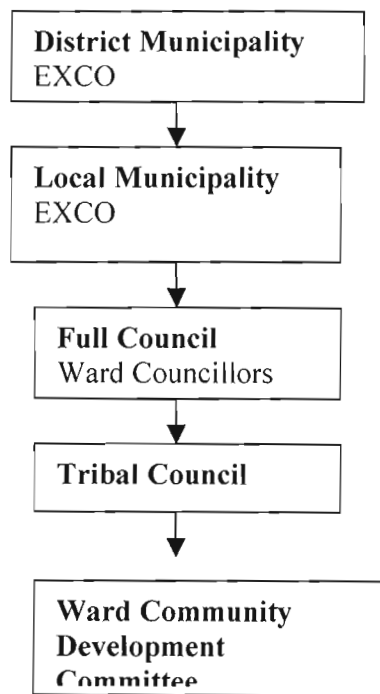
Some of the respondents were selected by virtue of their expertise in the subject of incorporating traditional leaders into local government or in the subject of the functioning of the institution of traditional leaders. In this case snow-balling was used.

Another set of respondents was chosen considering their roles/positions within the study area. Figure 1 outlines the respective roles of institutions in the Msinga development processes (refer to Figure 1). This was used as a framework of who to contact and what kind of method to use.

On this basis twenty-five people were interviewed. Another three subjects were selected as experts on the subject. This means that twenty-eight people were interviewed.

Figure 1 represents the interaction of the role players in the water projects in Msinga. Water service delivery is the responsibility of the District municipality and therefore this is the reason for including the district municipality. The district municipality consults the Local Municipal

EXCO which will therefore consult the full local municipal council (this includes all ward councillors). The responsible ward councillors together with the project facilitator will therefore consult the Tribal Councils (chiefs, headmen, councillors). The project will therefore be introduced to the existing development committee. If there is no such committee, a community meeting will be called to elect a Project Steering Committee.



**Figure 1: The structure of the interaction of the role players in Msinga (water projects).**

The key interviewees includes the following people:

- Msinga Municipality officials
- Local chiefs
- Ward councillors
- Members of the Msinga community development committees.
- Experts in the subject of traditional leaders institution

- Experts in the subject of the inclusion of traditional leaders' institution into the local government

## **2.4 Shortcomings experienced during data collection**

Some problems were encountered during data collection. One is that there was high incidence of car hijacking in Msinga and therefore it became difficult to travel alone around the area. The researcher, therefore, had to rely on someone to accompany her.

Another problem is that it was difficult to get hold of the chiefs since they are not always available. There are days set aside for consulting the chiefs. However those days are set aside for dispute resolution. This means that there will be a long queue.

Another thing which made it difficult to get chiefs is that if you want to talk to the chief you have to go through the headman or, in some cases where the chief and the councillor have a good working relationship, through the councillor. This is because the councillor will take long or may forget to tell the chief.

Another problem encountered was that it sometimes happened that the people to be interviewed were not available when you come for interviews. They often postponed appointments.

## **2.5 Conclusions**

An attempt has been made to include all relevant respondents in selecting the sample. Beside all the problems encountered during interviews and the fact that some of the experts could not be found the information collected from the above sources was useful.

## **Chapter 3: Concepts and theoretical perspectives relating to traditional leadership**

### **3.1 Introduction**

This chapter provides some definitions of the key concepts used throughout the dissertation. It also provides a theoretical framework for the study and the critical analysis of the perspectives.

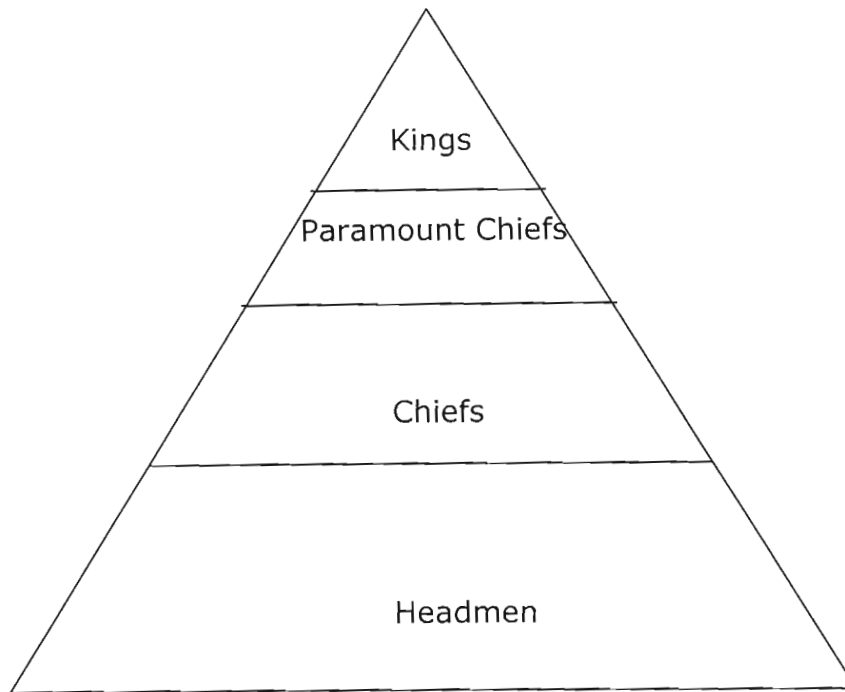
### **3.2 Key Concepts**

#### ***3.2.1 Traditional leader/authority or tribal leader/authority***

A traditional leader is "a person who by virtue of his ancestry occupies the throne or stool of an area and/or who has been appointed to it in accordance with the customs and tradition of the area and has traditional authority over the people of that area..." (Keulder; 1998:21).

Traditional Authority is built up by roles, customs and practices that are accepted into the ritual of life. Certain things do occur because they used to happen that way (precedent). Traditionalism in this regard is then seen as a psychic attitude-set for habitual workaday life and the belief in everyday routine as an inviolable form of conduct. The domination resting upon this basis is called traditional authority. Those who for some reason of birth or ritual selection represent the traditional custom inherit authority and position as a commodity invested in them and they are not to be challenged. In this traditional set-up, the legacy of passing it on is mostly encouraged from one generation to another. Most traditional leaders inherit leadership because it was passed on them from their predecessor (Mabutla, 2001)

A traditional leader, for the purpose of this dissertation, is used to include categories of leadership such as kings, paramount chiefs, chiefs and headmen as well as appointed councillors (**refer to Figure 2**).



**Figure 2: Hierarchical structure of traditional leadership**

Traditionally, the functions of traditional leaders include, among others, leading tribal government, maintaining local culture, leading ceremonies, applying customary law, granting or confiscating land, confiscating stolen cattle and promoting the well being of their communities.

Traditional leaders have somehow lost some of their traditional functions but rather fulfil modern functions such as, inter alia, advising central and local government, assisting in development planning and implementation (Keulder, 1998).

### **3.2.2 Tribal area**

A settlement or land, which is under customary tenure and administered by a tribal leader. This excludes farms or areas that are privately owned.

### **3.2.3 Local Government**

In South Africa there are three spheres of government namely, national, provincial and local government. The three spheres of government do not exist in a hierarchical relationship with one another instead each sphere has its own powers and functions. Although some areas may overlap, each sphere enjoys some exclusive powers. The three spheres are distinctive, interdependent and interrelated. They are bound together by the principles of co-operative government, which the new Constitution sets out in its Chapter 3, to put the national interest first, to co-operate with each other, inform, consult and support one another, co-ordinate their actions and legislation with each other, adhering to agreed procedures, avoiding legal proceedings against each other and destructive competition over resources. This obligation calls for an efficient intergovernmental system and structures for interaction, co-operation and co-ordination between the three spheres.

Local government is that tier of government which operates at a local level dealing with grassroots and tangible issues affecting people in their daily lives. It is the closest sphere of government to the people. The responsibilities of local government include the provision of democratic and accountable government for local communities, ensuring the provision of services to communities in a sustainable manner, promoting social and economic development and encouraging the involvement of communities and community organisations in the matters of local government.

### **3.2.4 Municipality**

Within the local government there are three categories and types of municipalities. The Municipal Structures Act establishes criteria for

determining which category a municipality falls into and what kind of municipality should be created in a particular area. The three broad categories of municipality are called categories A, B and C.

**Category A (Unicities):** A municipality that has exclusive municipal executive and legislative authority in its area. They are single tier municipalities in large urban areas. Metropolitan council has high density populations with central business districts (CBDs) close to each other and interdependent on each other.

**Category B:** A municipality that shares municipal executive and legislative authority in its area with Category C municipality within whose area it falls. Local council is part of the two-tier local government structure outside of the metro-area, with the local council being the primary tier and the district council being the secondary tier.

**Category C:** A category that has municipal executive and legislative authority in an area that includes more than one municipality.

Types of municipalities mean different ways in which municipalities can be organised to perform its powers and functions effectively. These are basically executive systems that a municipality may have.

Since December 2000, South African local government, has 6 Category A municipalities (Unicities), 231 Category B municipalities and 42 Category C municipalities (Khoza, 2001).

### **3.2.5 Demarcation**

The Municipal Demarcation Act was signed into law by the President in 1998. The Municipal Demarcation Act created the Municipal Demarcation Board to demarcate the municipal boundaries. The purpose of demarcating new boundaries was to:

- Address spatial segregation
- Create financial viable municipalities
- Enable redistribution
- Allow local government to play a positive role in the nation's economy and well being (Khoza, 2001:6).

The new demarcation has resulted in the decreased number of municipalities in South Africa from 843 to 284 (Khoza, 2001).

### **3.3 Theoretical Perspectives**

There has been an ongoing debate on the roles of traditional leaders in national and local government in the new South Africa. This resulted from the idea of a democratic government especially at local level. This therefore questions the future of the institution of traditional leaders which is closest to the rural people.

#### **3.3.1 Modernists**

They argue that there is a need to transform traditional leaders' institutions so that it can meet the requirements of a modern, non-sexist and non-racial democracy. Under modernists we have three perspectives namely: feminists, liberals and civics.

##### **(a) Feminists**

Feminists are more concerned with gender inequalities in rural areas. They argue that the institution of traditional leaders promote gender inequalities especially in rural areas since the institution is based on patriarchal norms and values.

To redress these imbalances, Walker (1994) argues, the key institutions in rural societies need to be radically transformed including the institution of local government. In addition to that the legitimating discourses of

"tradition", "custom" and "African culture" should also be transformed to meet contemporary goals of a non-sexist and non-racial society. She argues that the system promotes "official rural patriarchy" which is an obstacle to the achievement of gender equality in and through a state initiated rural reconstruction programme.

Walker (1994:349) argues

"Clearly, any process of rural institution and social transformation has to proceed carefully, mindful of the brittle nature of social networks and enormous damage that has been wrought on people's lives by decades of underdevelopment and abuse. Equally people's commitment to 'custom', 'culture' and 'tradition' has to be treated with respect if any programme of rural reconstruction is to succeed while the level of support of many rural women for tradition has to be acknowledged and its ambiguities explored. However, both tradition and custom have to be critically deconstructed, so that rural policy is not developed on the basis of the historical, partisan and essentially self-serving use that many male traditionalists make of those term"

From the feminists' point of view, custom can be refashioned again, as it has been refashioned before, in order to match the contemporary goals of a non-sexist and non-racial society. Gender inequality needs to be redressed.

**(b) Liberals**

Liberals such as Bekker (1994:200) argues that the traditional leaders' institution is against the precepts of a democratic society. They argue that its hereditary title, its male centredness, its racial and tribal nature are major problems to achieve democracy. He argues that since the chief's title is hereditary it is impossible to get rid of the incompetent ones. Its male centredness is in conflict with having a non-sexist society. The fact

that only Africans can become chiefs is also against the non-racist society. Its tribal nature is divisive and may hinder the creation of unitary state.

**(c) Civics**

The civics are totally against a substantial role for traditional leaders in local government. According to the civics, the institution has no place in the local government and in the society, for that matter, and should be abolished.

**3.3.2 Traditionalists**

Traditionalists are in favour of the traditional leaders. They strongly believe that traditional leaders have an important role to play in rural governance, political stability and successful policy implementation. They reject the view that the institution of traditional leaders is not in accordance with democracy. Most of all, traditional leaders are a symbol of unity, peace, customs and culture and in addition to that they maintain socio-political order necessary for rural development (Keulder; 1998).

For the traditionalists, in order to meet the needs of the people traditional leaders need to be incorporated into the rural local government and the majority has to be traditional leaders.

From the CONTRALESA workshop, which was held in 1994, they concluded that:

- ❖ The constitution must acknowledge and protect the status of traditional leaders as fully-fledged primary local government structures in rural areas.
- ❖ Rural local government should be given equal powers and functions as that of local government.
- ❖ Traditional areas of jurisdiction should be regarded as rural local government areas.

- ❖ Traditional leaders of the area should automatically become members of the council.
- ❖ The senior traditional leader of the rural local government should have ex-officio participation in the district councils.
- ❖ Traditional leaders should in their capacity as rural local government render serviced to all individuals residing in their areas of jurisdiction. (Keulder, 1998).

### **3.4 Critical analysis of the theories**

Both, modernists and traditionalists do agree that the institution of traditional leaders should change in terms of its position, functions and legal manifestations in order to adapt to the changes in the social and political environment. However, they disagree on the nature and extent to which it can be changed.

With regard to gender, some traditionalists agree with feminists that women's position should be improved. Holomisa (1994) cited in Keulder (1998) argues that the South African Constitution promotes non-sexist society and therefore all negative forms of bad practices and oppression should be done away with. He further states that the wives of traditional leaders should be given powers to assume duties on behalf of their husbands in the event of incapacitation of the husband or minority of the heir.

However, feminists do not fully agree with Holomisa (1994). They argue that this would do little towards making the institution more gender sensitive. Thus, they call for a complete restructuring of the institution. They argue that this is the only way to get rid of rural patriarchy.

Keulder (1998:9) argues that some traditional leaders are not opposed to promoting gender equality. Some of them have realized that the

effectiveness of their institution depends on their ability to adapt to changes in the social, cultural and political fields. For an example, at Ufafa area in Ixopo and at Umgangeni in Umzinto the chiefs are women who took over after the death of their husbands. Traditionally if the chief dies the older son takes over chieftainship and in the case where the son is still young, one member from the family will take the seat until the heir is ready.

The feminists' view of traditional leaders could be said to be limited. As it has been pointed above, the feminists call for the representation of women in the institution of traditional leaders. They, therefore, tend to ignore the fact that representation of women in the institution does not guarantee more gender sensitive policies. This is supported by Walker (1994) in her argument that rural women's views are likely to display ambivalence. Most rural women still regard men as the head and still believe in traditional policies.

On the very same note, one should, however, not ignore the fact that if rural women are represented in the institution they may gain their self-esteem and thus be able to have influence on gender sensitive policies.

Unlike traditionalists, the feminists' main focus seem to be on the issues of gender and pay little attention to issues related to service provision, financial viability and other important issues related to rural local government debate. They give few clues on the desired outcome of the transformation, aside from improving gender equality.

Another point on which modernists and traditionalists disagree with each other is their views of democracy. The modernists' view of democracy is inspired by Western ideas while traditionalists' view is based on philosophical inspirations from Africa. The liberals focus on procedures. They argue that positions for public office should be open to everyone and

a voting system should be used. The traditionalists' focus is on the outcome rather than procedures. They argue that their government system is more accessible, closer to subjects and is more participatory because more people attend tribal meetings and express their views (Keulder, 1998:11).

The liberals are against the hereditary aspect of traditional leadership and they argue for a voting system. The hereditary aspect of traditional leadership is problematic so as the majority rule because of the complexity voting system, corruption during elections and lack of education.

## **Chapter 4: Traditional Leadership and Government**

### **4.1 Introduction**

This chapter presents the inclusion of traditional leaders in the government system in the African countries like Botswana, Ghana, Zimbabwe. It is also important to look at other countries outside Africa, in this case traditional leaders and government system in Micronesia is going to be discussed in this section. This chapter also looks at how traditional leadership in South Africa was incorporated into Local Government.

The last section of this chapter analyses the debate around the roles and functions of traditional leaders in South Africa. This section is important in this dissertation so as to allow the reader to understand some of the issues which may arise in the discussion of findings.

### **4.2 International precedents**

#### **4.2.1 Botswana**

The roots of Botswana's democracy lie in Setswana traditions, exemplified by the Kgotla, or village council, in which the powers of traditional leaders are limited by custom and law.

The Botswana government saw chieftaincy to be a unifying force in forging and maintaining national identity. If there were any differences between chiefs and government, this was rather one of the degree of recognition by government as to what functions chiefs would be allowed by

government to carry out. Since independence, in 1966, there has been a shift of power from the chiefs to government, including local government.

At independence the new elite had little faith in the traditional leaders' ability to promote modernization. As a result much effort was put in to strengthen the influence and control of modern structures over the traditional ones. It became clear that a positive relationship with the traditional leaders was important to achieve successful institutionalisation. As a result a blending of traditional and modern institutions can be found in Botswana.

In Botswana chiefs were offered a House of Chiefs separate from the Unicameral Legislative Assembly. The establishment of the House of Chiefs in Botswana was as a result of the chief's participation in the constitution-making process of that country (de Waal, 1997)

Botswana's parliament is bicameral, which is comprised of the House of Chiefs and the National Assembly. The former is a fifteen-member body consisting of chiefs (dikgosi) of the eight tribes recognised at independence with an advisory role on matters of custom, culture and tradition to the latter, a National Assembly comprised of forty-four voting members.

Parliament is now elected. Rural administration is now carried out by the Land Board, District Councils, District Development Committees and Village Development Committees rather than by the chiefs. Some chiefs saw this as evidence of an erosion of their power base and the lowering of their prestige. Government, however, saw these changes as having been made necessary by the rapidly growing complexity of government which demanded a government more sophisticated than that provided by the chiefs. Chiefs, government believed, are the convergence point of citizen discussions which have been vital to the democratic process. A number of

problems remained, most especially those concerned with the processes by which a democratic government could properly recognise and incorporate chiefs into the democratic framework. Chiefs continued to perceive that their power was being eroded by government. Chiefs wanted a greater share of government's resources. Overall much has been achieved, especially with regard to the justice system and the House of Chiefs (Commonwealth Local Government Forum (CLGF), 1997).

The traditional courts maintained their support and legitimacy throughout the colonial period and remained important after independence. In Botswana chiefs are judges, ruling on more than 70 per cent of civil and criminal cases according to the codified law. Botswana has a national 'House of Chiefs' that acts in an advisory capacity to parliament. Botswana has tribal administration offices, in which chiefs participate in certain aspects of local government and the judiciary. However, the relationship between the elected government and traditional leaders is sometimes not without tension (IDRC, 2001).

Legislative power within Botswana lies with the National Assembly. The House of Chiefs, which is not part of the legislature, is composed of eight tribal chiefs of the main tribes plus seven other members, and is the equivalent of the British House of Lords. The House of Chiefs is an assembly of traditional leaders, ex-officio and elected members, who give advice to Parliament on matters of a customary nature. It has the constitutional function to advise the National Assembly on proposed bills affecting land use, social customs and so forth, however their recommendations have no force in law. In particular, Parliament is constitutionally obliged to consult the House of Chiefs beforehand if it is considering the powers of chiefs, customary courts, customary law, tribal property, and constitutional amendments. On the other hand, the House of Chiefs is constitutionally obliged to consider and submit its resolution, to the National Assembly, on any Bill referred to it by the latter.

In Botswana about 70 % of the land is Tribal land, 25 % can be classified as state land and 5% as free hold land. Up to 1970 all the Tribal land was held communally. The implementation of the Tribal Land Act made provision for the allocation for individual leasehold on Tribal land (CLGF, 1997). In Botswana, land is allocated by the District Land Board and chief's powers over natural resources have been curtailed by national legislation.

In Botswana the main village institution is the Village Development Committee (VDC), although the Kgosi, or headman, also retains some influence and presides over the village meeting forum, the kgotla. The kgotla remains the cornerstone of rural development. Without the co-operation of the chief, local government officials have little access to the peasantry and little chance to consult with them or to implement development policies. The traditional leaders remain the most viable, and in some deep rural areas the only, link between government agencies and the people (Keulder, 1998).

#### **4.2.2 Ghana**

In Ghana, chiefs have long been central to Ghanaian society. The Ghanaian constitutions provide evidence of this continuing trend. Even the most radical constitution did not abolish chieftaincy. The most recent (1992) constitution guarantees the institution of chieftaincy. It also spells out the details of the National and Regional Houses of Chiefs. Today there is a general consensus that chieftaincy must be integrated somehow into local government but Ghanaians are not agreed on the extent of this process (CLGF, 1997).

The first involvement of traditional leaders in Ghana was in 1949 in the Coussey Committee on Constitutional Reform which had strong representation from traditional elements. The National Liberation

Movement, among other things fought for the protection of traditional interests. As a result of its input a House of Chiefs was established on independence( de Waal, 1997).

In Ghana, there is an elaborate system of Houses of Chiefs. This includes several hundred traditional councils, each of which elects members to one of ten Regional Houses of Chiefs, each of which sends five members to a National House of Chiefs. Its administrative staff is provided by the Government of Ghana, which also maintains a Chieftaincy Division in the President's Office for liaison purposes ([www.idrc.ca/reports](http://www.idrc.ca/reports)).

In Ghana, chiefs are banned by the constitution from officially taking part in partisan politics, yet every candidate tries to gain the acceptance of the local chiefs. In fact, many politicians want to remove chiefs from the electoral arena because of their continued influence ([www.idrc.ca/reports](http://www.idrc.ca/reports)).

Ghana, like South Africa and Botswana, has a national 'House of Chiefs' that acts in an advisory capacity to parliament. These bodies are concerned with how the post-colonial state — the government — should respond to the problems of indigenous (pre-colonial) people who have been colonized, but whose political, social, cultural, and economic (including land) values, relationships, and structures have survived to a greater or lesser degree. The Houses of Chiefs act as a conflict resolution mechanism when disputes arise between different ethnic groups over traditional matters (CLGF,1997)..

Chiefs participate as appointed members in Regional Co-ordinating Councils and District Assemblies. The government recently announced that 30% of the seats it allocated to each District Assembly would be reserved for chiefs. Chiefs continued to assist in the mobilisation of the people because chiefs continued to have relevance for the people.

### **2.2.3 Zimbabwe**

The situation at independence in Zimbabwe consisted of parallel institutions of "government" and "traditional authorities" under the African Affairs Act. The Council of Chiefs and Provincial Assemblies Act allowed for the creation of the former to play an advisory role to the Government. However, there was no direct part played by traditional leaders in local government.

At the time of independence rural local government in many parts of Zimbabwe had been destroyed. Traditional leaders were eliminated and discredited by the guerrilla movement. At this time traditional leadership institution was very weak. Traditional leaders were eliminated because of their support for the previous administration and because the ruling party wanted to maintain as much political and social control as possible over the peasantry (Keulder, 1998).

Shortly after independence in 1982, these Acts were repealed and replaced with the Chiefs and Headman Act and the Communal Land Act (CLA). Within this reformed structure the kraal head was abolished by law, although in some areas in Zimbabwe this role was still being carried out in the traditional manner. There was a system of traditional leadership institutions at both ward and council levels, with the responsibilities of the traditional leaders prescribed by law. However, it was incumbent upon the traditional leaders to forward to the Ministry of Local Government, any matters of local interest raised by or within their communities. Apart from the Chiefs and Headman Act, other pieces of legislation provided for the operational functioning of traditional leaders. For example, the Rural District Councils Act allowed for the appointment of three traditional leaders to each rural district council. Traditional leaders were also given a role in rural land allocation by the Communal Land Act.

In the post-independence period, the need has emerged for the harmonisation of elective or democratic institutions with the traditional institutions in Zimbabwe. The review of communal and resettlement area legislation has led to the restoration of some legislated authority to traditional leaders so that they can be effective at the critical village/grassroots level. According to Konrad (1997) other mechanisms by which this harmonisation might be achieved could be the bi-ennial conferences between the Association of Rural Development Councils and the Council of Chiefs, and through greater applied research and networking.

The Constitution of Zimbabwe which was adopted after independence, recognizes the institution of traditional leadership. It recognises the importance of traditional leaders in maintaining political stability.

#### **4.2.4 Micronesia**

Micronesia is located in Oceania, island group in the North Pacific Ocean, about three-quarters of the way from Hawaii to Indonesia

In 1979 the Federated States of Micronesia, a UN Trust Territory under US administration, adopted a constitution. In 1986 independence was attained under a Compact of Free Association with the United States.

In the days before colonial rule, the chiefs enjoyed uncontested authority over the people. Traditional political systems may have differed from one island to the next, chiefs may have been challenged by contenders for their titles at times and quarrels arisen over jurisdiction, but the system itself stood intact and inviolate. However, that has changed since the introduction of a modern political system during the years of foreign rule ([www.micsem.org](http://www.micsem.org)).

The change has been especially noticeable during the forty years of American presence, a period that saw the rise of the modern democratic

apparatus of government in Micronesia. They now have legislators, presidents, governors, judges and other officials serving in the modern government. Each of the states now has a political system that purports to be a government "by the people, of the people and for the people." Yet, islands in Micronesia also have their traditional chiefly systems superimposed on the modern political system ([www.micsem.org](http://www.micsem.org)).

The two political systems, the modern and the traditional, appear to be on parallel tracks. Traditional chiefs still enjoy considerable respect in their own sphere, but it is modern political leaders who control today's Western government.

#### **(a) Bringing Chiefs into the Modern System**

In the early years of US Trusteeship, various attempts were made to incorporate traditional leaders into the modern system of government. Many of the early legislatures, set up separate chambers for traditional chiefs. This arrangement was apparently found unsatisfactory for it has been discontinued almost everywhere in Micronesia. Today's legislatures are composed entirely of elected representatives ([www.micsem.org](http://www.micsem.org)).

The issue of the role of traditional chiefs in the modern government was hotly debated in 1975. In the end, a compromise was settled upon. The Constitution contains a clause stating that a chamber of traditional chiefs could be set up on the state level or national level in the future if such was needed in the future. Yet, the delegates did not actually establish such a chamber, nor did they provide any other formal role for chiefs in the new government (Rechebei, 1999).

Traditional leaders, however, did have their part to play in the preparations for self-government. Several of them, as delegates to the Constitutional Convention in 1975, took an active role in framing the constitution. They were also pressed into service a few years later to visit different islands and campaign for Micronesian unity (Rechebei, 1999).

Their role in this latter case was an informal one, but one at which they seemed to be very effective in places like Pohnpei.

The legal groundwork has been laid to give chiefs a formal role in the government, although to some Americans a move in this direction would appear to be a return to the islands' pre-democratic days. Not all people seemed confident that chiefs will ever have a niche of their own in the modern government. The closest things to this are the two councils of chiefs in Yap: the Council of Pilung and the Council of Tamol. These councils, although quite separate from the rest of the apparatus of government, can jointly veto any legislation that has to do with custom and tradition. Furthermore, their veto may not be overridden. The main role of the councils, however, seems to be to provide a forum for the discussion of issues not directly related to governmental authority (Rechebei, 1999).

It has also been argued that if traditional leaders are to be connected to the modern government, it should be at the state rather than the national level. After all, there are no traditional leaders at the national level. But even at the state level there has been no strong movement to provide chiefs with a power base in the modern government. This is very different from what we see happening in other parts of the South Pacific. In Tonga and Fiji, for instance, high chiefs have maintained a strong hold over the modern government, whether through their membership in the parliament or their monopoly over other political forms ([www.micsem.org](http://www.micsem.org)). It does not seem to be an exaggeration to say that the chiefs are expected to preserve the modern government.

Some chiefs are extending their own power base by running for elective office. Most people seem to feel that there is something cheap about their traditional leaders running for office. They believe their chiefs should remain aloof. The chiefs themselves are not usually eager to be openly involved in politics; otherwise, they would have to take the blame for

water and power problems and all the other minor catastrophes that befall the island (Rechebei, 1999). The position of the chief requires that he distance himself to some extent from such mundane considerations.

In the post-war days of the late 1940s when the first elections were held in Micronesia, chiefs were often picked as the magistrates of their islands or municipalities. Soon many of them delegated one of their school teachers or someone else who spoke a little English to act as their stand-in. It was not long before the magistrate developed a following of his own and became a more independent voice in the community (Rechebei, 1999). In other words, early efforts to integrate the two political systems proved unsuccessful and a two-track system evolved.

#### **(b) Elected officials vs. Traditional leaders**

As the modern political system developed, the power of elected officials increased. This was in large part due to the increased powers of these officials and the access they enjoyed to government funding. Since then modern and traditional leaders seem to have staked out separate spheres of influence, with traditional chiefs retreating to the domain of customary rule and elected leaders becoming the major agents in development programs and the like. But these areas are by no means entirely distinct; there is sometimes much overlapping of powers. On Pingelap, for instance, the island chief once had the authority to impose bans on fishing in order to conserve valuable fish resources, but since the creation of an island legislature the chief can not effectively utilize this power any longer ([www.micsem.org](http://www.micsem.org)).

Time and money appear to be on the side of elected officials and the modern government. Many might wonder whether the traditional system can survive. Nonetheless, chiefs seem to have surprising staying power in island societies. Pohnpeian chiefs are a good case in point. At one time, the Pohnpeian chiefly system was propped up by several supports: the

semi-religious nature of the chieftainship, chiefly ownership of the land, and chiefly control of all means of production. Then, one by one, these props slipped away. The old religious beliefs faded as the island was converted to Christianity, German land reforms gave ownership rights to commoners, and chiefs no longer held a monopoly over production. Even so, chiefs have retained their authority and the titles they confer appear to be as sought after today as ever. Against all odds and the expectations of many outsiders, the chiefly system seems to be surviving nicely. This is so in other parts of the nation as well. Only in Kosrae have traditional leaders faded entirely from the scene, but this happened in the last century and was in large part owing to the terrible depopulation that wiped out the early social system as it destroyed ninety percent of the people. To all appearances, the chiefly systems in other places have an astonishing resilience. Chiefs are not yet even close to being an endangered species in Micronesia. If they show proper restraint in using their authority and show a respect for the people they lead, they will probably maintain their authority for a long time (Haglegam, 1998).

Traditional leaders seem to have a secure place in the island societies of Micronesia. Although they have lost much of the economic influence they had in former times, they are still greatly honoured. The younger generation today may not be as respectful of traditions as older people, but they will probably fall into line like everyone else.

While the usual protocol accorded to traditional leaders remain unquestioned, the viability of traditional leaders in the islands has been raised on many occasions especially in relation to the modern constitutional governments and local government systems. The legitimisation of the roles of traditional leaders seems to naturally follow the political process of creating a government structure.

The authority and role of traditional leaders differs according to respective island groups and even subgroups. This makes it even more difficult to

come up with a simple set of meanings relating to traditional leaders. People who are very much a part of the traditional system associate chiefs with kinship, titles, authority over land and resources, and their allocation. They are given special places and recognition in formal occasions and they perform special functions. Some people describe chieftainship in Micronesia as a system consisting of various forms and levels, but with the common strand throughout that chiefs are expected to serve the people by what we might today call community building. However, it is also clear that the reciprocal relationship between traditional leaders and the people is disappearing. While in the past, traditional leaders needed the people as much as the people needed them, today this restraint is frequently absent because of deterioration in the traditional check and balance system (Haglegam, 1998).

While some of the island constitutions recognize the roles of traditional leaders, this is the extent of that recognition. In carrying out action or program, the local government officials still play an important role in supporting the efforts of traditional leaders. The reverse could probably be said in some situations. Some writers even went so far as to suggest that if the traditional leaders are important and needed in contemporary politics, then we should be straightforward about formalizing their roles with as little ambiguity as possible.

### **(c) Micronesians' views about legitimising traditional leadership**

This attempt to legitimise traditional leadership is not new in Micronesia. Early attempts to put traditional leaders on a par with the legislative bodies were not successful for several reasons. The discourse in a democratic process is not appropriate in a setting where chiefs are present and if they have a specific role as traditional leaders in the process.

Other writers point to the irony of depending on the government processes in promoting traditional leaders when the underlying

assumptions and purposes of the traditional leadership system are different from the current governmental structure and its underlying assumptions (Rechebei, 1999). The issues may overlap, but the means of addressing those issues are often divergent. This presents a problem in formalizing the complex and ambiguous roles into a structured system akin to a bureaucratic system. The debate on this process can be expected to be extended and difficult.

Some Micronesians argue that a reconstruction of traditional leadership, while keeping a hands-off approach on the governmental functions of elected officials, may help revitalize traditional leadership. In addition, the dual authority system between traditional leadership and modern politics that exists today needs to be recognized more formally. They also argue that the specific roles to be assigned to traditional leaders at different levels (village, national, etc.) should be carefully thought out and fully agreed by both systems from the start (Rechebei, 1999).

There are those who support the greater value of traditional system in Micronesian societies. The claim that the ambiguity of the roles of traditional leaders is in a way protecting their significance and power that they possess. They believe that keeping the two "apart" with regard to their spheres of authority would render more clarity to their respective roles than if they are to be integrated. It is also believed that the role of traditional leaders is social and cultural in nature. They maintain community order, promote respect for moral and cultural values and advocate those that are relevant to today's way of life.

#### **(d) Existing government system**

The present system of authority is that of the western government system, a democratic process with leaders elected by people of all background and rank. However, there are certainly areas where traditional leaders may be more effective than government at present. These include

programs dealing with community health in remote areas that the local government has difficulty accessing, education facilities maintenance, cultural activities including teaching of culture and language, certain semi-judicial disciplinary processes involving families and youths, management of resources, both inland and inshore marine resources, village level economic development and capital improvement projects, etc. it is believed that elected officials can support these practices through legislative processes and financial backing ([www.micsem.org](http://www.micsem.org)).

In Micronesia, the future of traditional leaders can be assured so long as they are able to change with the times to meet the needs of the people as well as to work well with modern government systems. Whether more of the island traditional leadership systems will be incorporated into the governmental structure in some fashion remains to be seen.

Perhaps the underlying reasons for inclusion of the traditional leaders in the Micronesian Constitutional Convention were that the chiefs still commanded power and respect among their people and it would have been politically imprudent to exclude them; and they could be counted on to lend their support to the constitution in the approval process.

#### **4.3 Lessons for South Africa**

Traditional leaders are crucial since they enhance the state's social control and legitimacy, especially in the rural areas (Keulder, 1998). South African legislation regarding the incorporation of traditional leaders in central and provincial government is in line with the options followed by Zimbabwe and Botswana. Experiences of these countries showed that such structures bring legitimacy to newly formed states and governments and in addition to that they help link the central government and rural areas.

With regard to traditional leaders' representation in local government structures in Zimbabwe traditional authorities were completely excluded from formal local government structures. In Botswana and Ghana traditional leaders were retained as part of formal local government structures. One of the advantages of the latter model is that local government structures are closer to the people than in any of the former cases (Keulder, 1998). The Botswana experience shows that the incorporation of traditional leaders enhances local government capacities.

#### **4.4 Traditional leadership and government in South Africa**

The incorporation of indigenous political structures within the wider South African state has a long history, running from the arrangements of indirect rule at the beginning of this century to the pivotal role played by traditional leaders in the homeland administration and, after 1994, the recognition of the "institution, status and role of traditional leadership" in the country's first democratic constitution.

##### **4.4.1 Historical background**

For many years before the settlers South Africa was ruled by a succession of kings such as Shaka, Makhado and Sekhukhune. They were regarded as the sole source of political power. These men governed through a hierarchy of territorial chief, who held office by their favour and their gift. Each chief had to give tribute and service either directly to the king; or indirectly through the chief next above him in the hierarchy, and the higher chief had to attend the king's court when called upon. Traditionally, it seems this state of affairs was acceptable to everyone. The system was justified by both myth and rituals, and it may be supposed that, on the whole, conflicts were reasonable in terms of values which were shared by both rulers and subjects.

Before the advent of colonial rule in South Africa, traditional leaders were rulers of their territories. They were vested with all the powers of state, that is, legislative, administrative and judicial powers.

During the colonial rule traditional leaders were co-opted into the colonial administration in the sense that chiefs were made servants of the political system rather than the personification of their tribes (de Waal, 1997). The Black Administration Act of 1927 took this process further and made the President the supreme chief of all blacks in South Africa. A situation emerged whereby some traditional leaders were appointed because of their compliance with government policy instead of their hereditary status. At this stage chiefs did not have any executive powers nor any financial base. This perpetuated their dependency upon their political masters.

In the apartheid era, the Black Administrative Act provided government with the mechanism to restructure traditional institutions to suit the policies of the time. In 1951, the government grafted new local authorities on to the existing structure of traditional leadership in terms of the Black Authorities Act. Under this Act, the respective traditional leaders became responsible for the peaceful and orderly administration of their areas of jurisdiction (de Waal, 1997).

Under the 1962 and 1963 legislation the government of South Africa established bodies known as Urban Bantu Councils (UBC's) with elected majority and minorities composed of representatives of tribal chiefs. These bodies were meant to advise local white authorities in the day-to-day administration of local government. By 1976 they had ceased to play any significant role in local affairs. The Soweto unrest of that year had a massive degenerating impact on them.

In 1977 the government abolished UBC's and replaced them with elected Community Council (CC's), which fell directly under the control of the Minister of Cooperation and Development. Allowance was made in the

legislation for CC's to make recommendations on housing, transportation and recreation. By 1979, 198 CC's had been established, and a government spokesman declares that they would eventually receive the same status as white municipalities (Thompson, 1982, p. 97-8).

After the political changes brought about by the white government, the position of the traditional leader was often reduced to that of an official being subordinate to the magistrate.

#### **4.4.2 Land usage and allocation**

To be able to understand quite clearly about the traditional leadership and their relation to the land we should first look at the history of the land usage and allocation in the South African politics. During the period of British colonialism that preceded the Commonwealth, the colonial power often devolved much of the functions of local government to traditional leaders. After independence most, sometimes nearly all (or even all) of the local government functions were transferred to the local government structures newly created by the post-colonial states.

Until 1913 Europeans were indeed able to purchase "native" land in Cape and in Natal. The operation of a free land market, however, naturally benefited the wealthier whites; had Europeans been granted full freedom of purchase, the "native" areas would largely have disappeared, and the blacks would have been reduced to a landless proletariat. Revolutionary capitalism, with its corollary of a free land market and free social mobility, did not therefore prevail in South Africa. The Native Land Act of 1913 put an end to the erosion of native land holdings. Under this new Act, Europeans and Africans were alike forbidden to acquire land in each other's areas. Just over 7% of the South African territory (later enlarged to 13%) became scheduled areas reserved for Africans' occupation alone. Africans, on the other hand, could no longer acquire land outside their reserves (Gann, 1981, p. 57).

The main characteristic of traditional leadership is the tribe and the land where their authority is fully exercised. The number of people and the area of the land occupied mostly measure the strongest and popular traditional leader. The most important fact that needs to be taken into consideration is traditional tribal war was about uniting different tribes into one. Therefore one can conclude all African kings have been fighting for the united Africa because of their belief in one nation. A traditional leader cannot exist without a tribe and the land. Both have to co-exist.

The tribe owns tribal land but the traditional leader, on behalf of the same tribe, holds it in trust. Custom and tradition is clear in the indigenous law that traditional leader be in control of the land. It is the duty of the traditional leader to administer the allocation and use of the land with agreement to his councillors, who enjoy the trust of their members of the community. The allocation of land is mostly guided by the views of the community members who reside in the same area. The tribe is the owner of the land, which determines how and when it should be used. Elected councillors have no land and accordingly, while they may rule over their subjects they cannot decide on the use of tribal land. For purposes of rural development, therefore, it is imperative that traditional leaders be integral part of elected local government structures. According to Holomisa (1997) this will hasten the development process in that area.

#### **4.4.3 Tribal loyalties and the omnipresent traditional leaders**

One major reason why traditional leaders continued to exist in this critical time is that their existence is deeply rooted in the culture of their people. They are much more closely associated with culture or the tradition of their people. They are the mediators; they are the mouthpieces of civilians who are unable to express themselves, and above all leaders of leaders. Even in pre-colonial times, the tribe was in some sense a category of interaction. Among other things, tribal loyalties explain certain divisions, oppositions, alliances, and modes of behaviour between, and towards,

different human groups. This solidifies the loyalties that each man has to his tribe. Today, the tribe is still being seen as a category of interaction, but it operates within a different, and much wider, system. Social changes have given tribal loyalties a new importance and a new relevance. This remains the foundation of omnipresent traditional leaders. Traditional leaders have been engaged in social engineering and experimentation, and they have also learned to adopt and apply their ethnic loyalties to new experience in a time of change (Mthimkhulu, 1996).

#### **4.4.4 The incorporation of traditional leaders into the local elected Government**

Developing from the apartheid position towards traditional leaders, the KwaZulu-Natal Indaba in 1986 made a number of proposals on the position of traditional authorities in local authority systems in the future KwaZulu-Natal. Among other things, traditional authorities were to be treated as part of the future system of local government. Traditional authorities in the urban and peri-urban areas of the region were to be encouraged to evolve into part of the system of local authorities. The KwaZulu-Natal Indaba also made provision for the establishment of a "Council of Chiefs" to represent the interests of traditional authorities and cultural councils treated by cultural bodies and organizations. Cultural councils would deal with the protection, maintenance and promotion of religions, language and cultural rights, as well as the interests of groups representing the major segments of the population in KwaZulu-Natal (Zungu, 1997).

After 1994, however, the working group on local government for tribal authorities in South Africa provided three models. First, that the tribal systems disappear as legally recognized bodies. In accordance with the general principle of free association, members of a tribe could also form a "group" like any other group in South Africa. This means that a tribe could manage its own schools and land and could have internal rules of life

which could be enforced as with any other club. Rural management systems could be established and residents of a rural area could elect their traditional leaders (Zungu, 1997).

The second provision would be a full recognition of the traditional powers of traditional leaders, with expansion of such powers to create fully functional local authorities. This system would leave people living in tribal areas with no other option for leadership. The third provision would be for the tribal system to be amalgamated (in accordance with the choice of the majority in the tribal area), into the Regional Services Council (RSC) for infrastructure and service provision. This means that the tribal system is recognized, but only for traditional purposes (Zungu, 1997).

Political parties put forward their positions on the role of traditional leaders at the transitional talks at the World Trade Centre in Kempton Park, Johannesburg. There was consensus that traditional leaders should be recognized, and this was included in the Interim Constitution of South Africa. A Transitional Local Government Act (TLGA) was formulated, but it lacked mention of rural local government restructuring. Eventually an amendment to the Local Government Act was made (Proclamation R65, 1995) which set a framework for the restructuring of rural local government by providing each provincial local government minister with a range of options. According to the Local Government Act, traditional leaders would be *ex officio* members of a local council.

#### **4.5 Debates about the roles and functions of traditional leaders in South Africa**

There have been some debates following the incorporation of traditional leaders into government. The debates revolve around the roles and functions of traditional leaders and their representation in the government structures.

This section presents a detailed analysis of the debate around the roles and functions of traditional leaders.

The position of traditional leaders in local government was the last hurdle that had to be crossed before the election date could be announced by the Minister of Provincial and Local Government. The announcement was delayed three times as a technical team comprising of traditional leaders and officials of the Department sought to determine the impact of the new local government dispensation on traditional authorities.

The debate was at times presented as a dispute between traditional leaders and government that reached crisis proportions because of government's refusal to accede to "demands" of certain traditional leaders. The Minister then explained that the notion of a dispute of "crisis" proportions between government and traditional leaders that required the intervention and mediation of institutions such as churches was incorrect ([www.dplg.co.za](http://www.dplg.co.za)).

The Minister, Sydney Mufumadi, said that the problem with presenting a debate as one between traditional leaders on one side and the government on the other is that this approach ignores the fact that all South Africans have a direct interest in a matter that touches on governance, democracy and development. It also assumes that all traditional leaders have a common view of both the issues under debate and the desired outcome of the debate ([www.dplg.co.za](http://www.dplg.co.za)).

#### **(a) Consultation process**

In August 2000, the Department of Provincial and Local Government initiated a consultation process with the release of a discussion document on roles and functions of traditional leaders and institutions that was circulated for comment among stakeholders and interest groups and individuals. This was the start of a process

aimed at drafting policy and legislation that would include the co-ordination of a public consultation process by Parliament itself (as is the case with all major legislation processed by Parliament).

On the eve of the 2000 local government elections, certain traditional leaders started questioning the consultative process and again presented the debate as one in which there were only two parties – traditional leaders and government.

On 21 March 2001 the Cabinet appointed a Ministerial Committee to consult all stakeholders on the Bill aimed at addressing, on an interim basis, the issue of the roles and functions of traditional leaders.

The Organisation of Traditional Leaders in South Africa (OTLSA) wrote a letter (copied to Minister Mufamadi) to the chairperson of the National House of Traditional Leaders, in which they expressed their discomfort with the coalition's handling of the debate, while affirming OTSLA's commitment to working in and with municipal councils to deliver developmental programmes to people in rural areas.

#### **(b) Traditional leaders' representation in the local government**

There have been some negotiations between Traditional Leaders and President Thabo Mbeki. The government argued that traditional leaders would have 20 percent representation at local government level. This, however, would only be on an attend and be heard level, and they would not have any voting powers. The traditional leaders' proposals, which combined elected municipalities at regional level with the continuation of traditional authorities at local level was rejected. This was even though there had been a suggestion from traditional leaders that 50 percent of local government be elected (Sunday Times, 24 November 2000).

Traditional leaders argue that very little progress has been achieved in negotiations between the government and traditional leaders. Traditional leaders also argue that they understand there have been some discussions in the Cabinet about some legislation that may be introduced to accommodate their concerns, but they have not seen anything tangible response (Sunday Times, 24 November 2000).

According to Minister Mufumadi the government firmly believes traditional leaders are the custodians of traditional values, standards and customs. "Traditional leaders can add enormous value to the programme, particularly in ensuring that while we forge ahead we do not lose what it is that makes us who we are; that we do not lose our African heritage and identity"([www.dplg.co.za](http://www.dplg.co.za)).

### **(c) Demarcation of traditional authority land**

The Demarcation Board redetermined some of the boundaries after traditional leaders raised their concerns. But still demands grow. Traditional Leaders want to extend the substantial concession they have already won. The demarcation of traditional authority land into different municipalities is indeed a demarcation issue. There is a dispute over the demarcation process - a genuine demarcation issue that the affected traditional authorities are taking up with the Municipal Demarcation Board. Dr. Mike Sutcliffe, Demarcation Board Chair, maintains that the demarcation process is not solely about demarcation of land, but also municipal jurisdiction. In some cases traditional authority land consists of pieces of land that lie kilometres apart. As a result it becomes extremely difficult to draw municipal boundaries, and the demarcation of traditional authority land into different municipalities becomes unmaintained.

Demarcation is about the determination of the jurisdiction of municipalities, not about the demarcation of land or redrawing of political border over the traditional land. Apart from the constitution, there are two

pieces of legislation that deal with the role of traditional authorities. The Local Government Municipal Structures Act of 1998 provides for participation of traditional leaders in the affairs of a municipality. The Act requires a municipality to consult with traditional authority on any matter that directly affects the power or jurisdiction of a traditional leader. The same Act of 1998 also requires the Demarcation Board to take into account areas falling under traditional leaders when it determines the demarcation of municipal boundaries. It is on the basis of this Act that the Board adopts a policy position not to interfere with traditional authority land unless the situation so dictates.

**(d) Traditional leaders' right to vote**

Traditional leaders have several demands to be met. They fear that the restructuring system of local government, which extended district municipalities into rural areas, will subvert their un-elected traditional authority. The issue here was that traditional leaders want not only to be present in the elected council but also to have the right to vote there. This eventually makes an unacceptable nonsense of democracy.

**(e) Two-tier rural local government**

Traditional Authority wants to be the primary level of local government and to amend legislation including the constitution, to further accommodate their hereditary powers. The LGTA was amended in 1994 and then again in 1995 to provide for regional councils which would operate as regional local government structures in a rural area, not at the local level, but rather at the regional one. When such amendments were debated in Parliament, the IFP vigorously proposed and espoused that a two tier system be adopted in rural areas which comprised two structures of local government, one operating at a regional level and one at local level.

The IFP two tier rural local government model envisaged traditional authorities maintaining their local government powers and functions and operating as the local government structure at the local level in a system in which regional councils would be established at regional level.

After several discussions the Constitutional Court accepted the challenge and asked the Constitutional Assembly to redraft the local government chapter, but only in respect of the structure of local government, which then resulted in a two-tier system, but not in respect of opening the door to traditional authorities operating as the primary level of local government.

Traditional leaders and the IFP argue that the same power cannot be exercised by two entities, therefore, traditional leaders should operate as the primary level of local government. They also argue that municipalities and traditional authorities operate on the basis of two different legal systems and bodies of law: statutory law as it relates to municipalities and indigenous law as it relates to traditional authorities.

Most traditional leaders have no negative opinions about the new governmental dispensation other than the way these changes are to be implemented. They do hope instead that the new dispensation will give them a better chance to perform their duties like before (Zungu, 1997). The main requirement that was put forward by the new government is that both urban and rural areas be under the jurisdiction of the local government. Under Ordinance 17 of 1939, local governments are expected to provide services and to make delegated legislation to regulate and direct the provision of such services. The Transitional Local Government Act also affirms this state of affairs. The complacency of the situation arises when traditional leaders and elected councils had to carry out certain communal services. Prior to the new governmental dispensation traditional leaders were providing services that local councillors are providing today.

During a joint meeting of the province's amaKhosi and IFP councillors in Ulundi in KwaZulu-Natal on the 20<sup>th</sup> April 2001, IFP councillors threatened to disrupt local government structures in rural areas if the national government does not meet its commitments to traditional leaders (Sunday Times, 2001/04/22).

**(f) Recognition of regional tribal authorities at local level**

The traditional leaders are demanding that the Constitution and the Municipal Structures Act be amended to allow regional tribal authorities to be recognised as official local government structures.

They said the apartheid government had tried to provide traditional authorities with resources to enable them to serve their people and it is ironic that a black government which supports an African renaissance seems reluctant to do so (Sunday Times, 2001/04/22).

**4.6 Conclusions**

It is clear that the institution of traditional leadership has strong roots. Almost every country in Africa still has traditional leadership system either incorporated into the government or stands on its own. Traditional leadership institutions are not only for African countries, even countries like Micronesia still recognise the institution of traditional leadership and it is clear that its future is assured as long as it is flexible with change.

The role of traditional leaders strikes at the heart of the most important democratic principles, the struggle during the apartheid era upon which the constitution is founded: democracy, one man one vote elections which serve as a basis upon which power will be exercised, and the right to call.

The inclusion of traditional leaders in the government system is not without problems. In South Africa the situation has been difficult and it will continue to be until a compromise is reached between government and civic organisations on the one hand and traditional leaders on the

other regarding the specified role and function of traditional leaders. The issue has been exacerbated by the diversity of local government functions that were politically delegated to traditional authorities by the previous government.

## **Chapter 5: The South African Legislation**

### **5.1 Introduction**

This chapter explores the legislative framework around local government and traditional authority in South Africa. It sets out the current provision relating to the participation and representation of traditional leaders in municipal councils and the affairs of municipalities.

For many years, there has been legal recognition of Traditional Leaders in South African laws, such as the Black Administration Act 38 of 1927 and regulations and proclamations issued in terms of other legislation. Recently legal recognition was confirmed in the Constitution of the Republic of South Africa Act 108 of 1996.

Additional recognition of Traditional Leaders and the institution of Traditional Leadership is found in the various provincial legislation providing for Provincial Houses of Traditional Leaders and the establishment and functioning of the National Council of Traditional Leaders.

Prior to the local government elections in December 2000, traditional leaders raised concerns about the impact of the new local government dispensation on the role, power and functions of traditional leaders. Government considered legislation aimed at addressing these concerns. The role, power and functions of traditional leaders are addressed in the White Paper on Local Government.

## **5.2 The Constitution**

Chapter 12 of the constitution deals with traditional leaders. Section 211(1) of the constitution gives recognition to the institution, status, and role of traditional leadership according to customary law.

Section 212. states that:

“(1) National legislation may provide for a role for traditional leadership as an institution at local level on matters affecting local communities.

To deal with matters relating to traditional leadership, the role of traditional leaders, customary law and the customs of communities observing a system of customary law

- a. national or provincial legislation may provide for the establishment of houses of traditional leaders; and
- b. national legislation may establish a council of traditional leaders.”

However, this does not necessarily spells out the role and functions of traditional leaders.

## **5.3 The White Paper on Local Government, 1998**

As it has been stated above, Chapter 12 of the Constitution recognizes traditional authorities and states that national legislation may provide for a role for traditional leadership as an institution at local level on matters affecting local communities. The White Paper therefore goes beyond that by addressing the relationship between traditional leadership and local government.

### **5.3.1 The role of traditional leadership at local level**

The White Paper spells out the following responsibilities and functions of traditional leadership:

- Acting as head of the traditional authority, and as such exercising limited legislative powers and certain executive and administrative powers.
- Presiding over customary law courts and maintaining law and order.
- Consulting with traditional communities through imbizo/lekgotla.
- Assisting members of the community in their dealings with the state.
- Advising government on traditional affairs through the Houses and Council of Traditional Leaders.
- Convening meetings to consult with communities on needs and priorities and providing information.
- Protecting cultural values and providing a sense of community in their areas through a communal social frame of reference.
- Being the spokespersons generally of their communities.
- Being symbols of unity in the community.
- Being custodians and protectors of the community's customs and general welfare.

Traditional leaders have a developmental mandate to fulfil. They have a role in the development of the local area and the community. Therefore, in addition to the above their roles include:

- Making recommendations on land allocation and the settling of land disputes.

- Lobbying government and other agencies for the development of their areas.
- Ensuring that the traditional community participates in decisions on development and contributes to development costs.
- Considering and making recommendations to authorities on trading licences in their areas in accordance with law.

### **5.3.2 The relationship between traditional leaders and local government**

The current responsibilities of traditional leaders and municipalities do overlap. This has been said to be the cause of tension and has hampered development in certain rural areas (White Paper on Local Government, 1998). A number of suggestions have been made regarding a suitable model for rural local government in areas under traditional authority. Proposals that were made range from traditional authorities becoming the primary local government in their areas to a clear and exclusive division of powers and function between elected local government and traditional authorities.

The proposed model recognises the positive contribution that both elected structures and traditional authorities can make in the overall development of traditional areas and communities. There is no doubt that the role that traditional leaders have played in the development of their communities has made a difference to a certain extent and should be continued.

It was therefore proposed that there will be elected local government in all the areas falling under traditional authorities. Traditional authorities are defined as Category B municipalities. Larger Kingdoms, however, covering an entire district has similar relationships with district governments. This therefore requires

traditional authorities to attend and participate in meetings of the Councils and advise Councils on the needs and matters of their communities. This means that traditional authorities have representation on such Councils.

The White Paper on Local Government (1998) states that both district and local municipal Councils must inform and consult traditional leaders regarding municipal projects or programmes within the traditional leaders' area.

### **5.3.3 Representation**

Institutionally, traditional leaders are represented in some local governments on an ex officio basis. In those local authorities which are located in areas under the jurisdiction of traditional leaders, all chiefs in a particular area are represented in the local municipality. Their powers in the council are similar to those of elected representatives.

At provincial level they are represented in a House of Traditional Leaders whose function is to advise the provincial government on matters which affect the customs and traditions of their communities. In this House chiefs are represented by their counterparts and not voted into the institution. A national House of Traditional Leaders has been constituted and it, too, advises the government on matters affecting the customs and traditions of communities.

Chiefs have been much more influential at local government level than at the two other tiers of government, where few issues have arisen requiring the government to consult with chiefs. By contrast, chiefs have had considerable influence at local government level, because of their ongoing role as part of the council.

Rural councils on which chiefs serve, however, have not exercised a great deal of influence because of a lack of resources. The inability to deliver

goods and services which has been the lot of local government has affected rural councils even more. Without even the tenuous revenue base of their urban counterparts, rural councils have been dependent on higher tiers of government to help them effect delivery. Funds from this source have been ad hoc and have thus not contributed to development in rural municipalities.

## **5.4 The Local Government Municipal Structures Act, 1998**

### **5.4.1 Representation**

In terms of section 81(1) of the Act the traditional authority is entitled to be represented. According to this Act, if there is a traditional leader but there is no traditional authority, that traditional leader cannot participate. In terms of this section, a traditional leader represents the traditional authority.

The number of traditional leaders that may participate in the proceedings of a municipal council may not exceed 20 per cent of the total number of councillors in that council. If the council has fewer than 10 councillors, only one traditional leader may participate. If the number of traditional leaders identified in a municipality's area of jurisdiction, exceeds 20 per cent of the total number of councillors the MEC for local government in the province may determine a system for the rotation of those traditional leaders.

The limitation of 20 % was imposed to ensure that where there is more than 1 traditional authority in any municipal area, a limited number of traditional leaders may attend and participate in the municipal council concerned. No traditional authority can and may have more than one traditional leader as a representative.

Before a council takes a decision on any matter directly affecting the area of a traditional authority, the leader must be given opportunity to express

a view on the matter in terms of section 81(3) of the Act. It appears that the Act expects another way of soliciting this view than merely allowing the traditional leader to express her or his view during the council meeting where the matter is considered. If the MEC so decides, a broader role can also be prescribed for traditional leaders in the affairs of a municipality in terms of section 81(4)(b).

#### **5.4.2 Participation**

According to the Act participation means that one could address a meeting: the traditional leader is therefore not merely a silent observer of the proceedings. She or he may, subject to the rules and orders of the municipality and any regulation of the MEC in terms of section 81(4)(a) of the Act, therefore participate in any debate on a matter as if she or he is a councillor. This would include the right to submit motions, make proposals and ask questions. Her or his participation in a council meeting is not limited to the matters directly affecting the area of the traditional authority.

According to this Act a traditional leader is not a councillor. She or he can therefore not become a member of any "regular" committee of a municipality. At best a traditional leader can be appointed as a member of an advisory committee in terms of the Local Government: Municipal Systems Bill, of 2000.

#### **5.5 Justice of Peace and Commissioners of Oaths Act, 1963**

In order to bring justice closer to the people, the Minister of Justice and Constitutional Development, Dr. Penuell Maduna, MP, designated all duly appointed traditional leaders as ex officio-commissioners of oaths in terms of section 6 of the Justice of Peace and Commissioners of Oaths Act, 1963 (Act No. 16 of 1963). All traditional leaders who were issued with certificates of appointment as traditional leaders by the Department of

Provincial and Local Government (DPLG) are now automatically commissioners of oaths ([www.gov.za](http://www.gov.za)).

The designation follows the realisation by the Department that some traditional leaders were appointed in terms of the Black Administration Act, 1927 and that some were already ex officio-commissioners of oaths. The Department did not want to exclude any traditional leader from this important community service and it was therefore decided that all duly appointed traditional leaders be designated as ex officio-commissioners.

The designation of these powers to traditional leaders follows constant requests by the public, especially from rural areas, to have traditional leaders appointed as commissioners of oaths. The most common problem expressed in most of the requests is the distance travelled and travel expenses paid by people to make statements under oath and to have copies of documents to be certified as true copies of the original. Before the designation of these powers to traditional leaders commissioners of Oaths were only available in towns where there are police stations and Post Offices.

The Department of Provincial Government offered training workshops to traditional leaders. Members of Parliament also received training regarding their powers as ex officio-commissioners of oaths.

## **5.6 The Ingonyama Trust Act**

The Ingonyama Trust was set up in 1994 to administer about 2.7-million hectares of tribal land belonging to the former KwaZulu-Natal government. It was administered by a board that was chaired by the Zulu monarch or his nominee for the benefit of the community.

The Ingonyama Trust Board was established in November 1998 under the KwaZulu-Natal Ingonyama Trust Act, 1997 (Act 7 of 1997), to manage the

development and upgrading of Ingonyama Trust land. The board's administrative structures were launched early in 1999.

After a lengthy period of negotiations between the ANC government, the provincial government and the King, an accommodation was reached. An amendment Act was passed by the national parliament to create the Ingonyama Trust Board to assist the King in administering the land.

The Ingonyama Trust Board was established in November 1998 under the KwaZulu Natal Ingonyama Trust Act, 1997 (Act 7 of 1997), to manage the development and upgrading of Ingonyama Trust land. The Board's administrative structures were launched early in 1999.

### **5.7 Communal Land Rights Bill, 2002**

The Communal Land Rights Bill, was published in the Government Gazette for public comment in August 2002.

The Bill is aimed at giving communities and individuals land tenure rights in those areas in which the land is under the ownership of the state.

Traditional leaders will have little say on land allocation and use, as they will no longer have exclusive custody of land on behalf of the communities over whom they preside.

The Bill will apply in all areas in the country including the land under the Ingonyama Trust Land in KwaZulu-Natal.

In many rural areas, traditional leaders are also responsible for the administration of land in accordance with indigenous law. Unlike the current situation, where individuals cannot sell the land, once the new law is in place they can sell it or use it as collateral for loans. The department says the role of traditional leaders in land administration and natural resource management will depend on the choice made by the community.

In its present format the Bill gives individuals a choice to determine the nature and content of land tenure rights through drafting of community rules which will govern tenure. Members of communities will democratically elect a structure that will undertake land administration on their behalf.

Instead of being able to allocate land through consultation with headmen, chiefs will be able to participate in democratic "administrative structures", and only where they have been invited. The structures will be run according to rules made by the community. According to the Bill traditional leaders who are recognised by a community as its legitimate traditional authority may participate in the structures as ex-officio representatives. However, they may not exceed 25% of the representation and they will have no veto powers.

In its briefing notes, the department states: Where the institution of traditional leadership exists in your community you may include it in ex-officio capacity in the (elected) administrative structure. However, the traditional authority should not have a right of veto over your decisions and its representation cannot exceed 25 percent of the composition of that structure.

The law sets out a two-step process. First, it will immediately transfer legal ownership of communal land to the community or clan that holds it according to traditional rights. In the second step, communities will be able to decide whether to register the land in the name of the community collectively or whether to sub-divide and register it in the name of individuals or households.

Tension between government and traditional leaders over their powers is once again expected to flare up after government published draft legislation on land administration, which these leaders claim is part of the agenda to finally get rid of them.

The Congress of Traditional Leaders of South Africa (Contralesa) said traditional leaders and rural people should forge forces and oppose the new land bill as it required people to use their land as a security to access housing loans from financial institutions (Mail&Guardian, 16 September 2002) They argue that this bill will render rural people landless and all the land will be owned by banks.

## **5.8 Conclusions**

For many years there has been legal recognition of Traditional Leaders in South African laws, such as the Black Administration Act 38 of 1927 and regulations and proclamations issued in terms of other legislation. Recently legal recognition was confirmed in the Constitution of the Republic of South Africa Act 108 of 1996.

There are changes happening as the time changes in terms of the recognition of traditional leaders. With the introduction of the Communal Land Rights Bill the Ingonyama Trust Act will be amended or repealed.

The Bill has some implications for traditional leaders and hence for traditional authorities. Traditional leaders are to lose the cornerstone of their power - their right to allocate and administer land – through the Communal Land Rights Bill. The Bill is also much less overtly pro-chief than earlier versions, with a maximum of 25% of positions on administrative bodies to be occupied by traditional leaders.

## Chapter 6: Msinga Local Municipality Case Study

*"The name Msinga always has a ring of terror attached to it"  
(Sunday Times, 24 November 2000)*

### 6.1 Introduction

This chapter presents the Msinga Local Municipality Case study. It offers the background of the area, and the nature and structure of the municipality and that of the tribal authority.

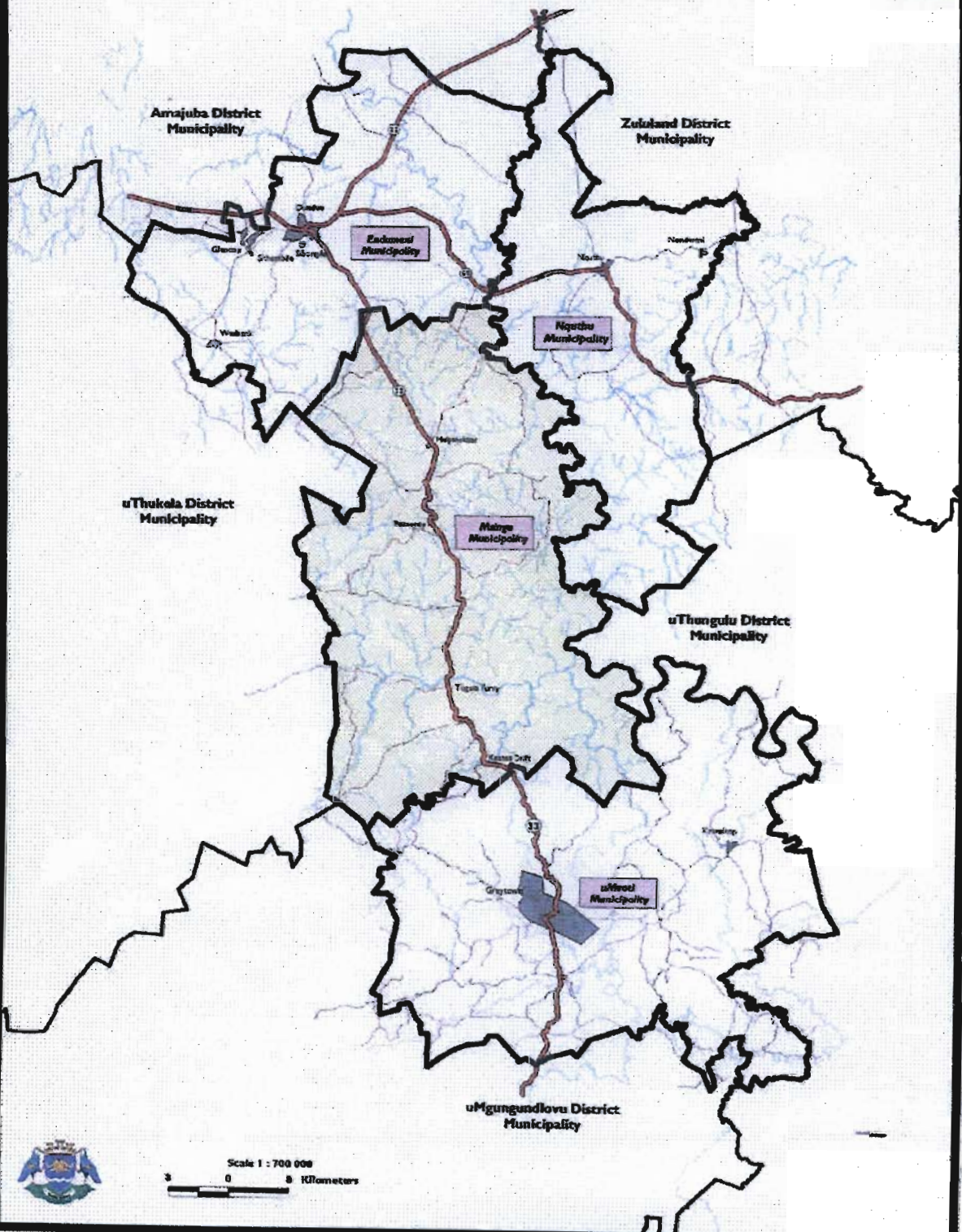
### 6.2 Location and background of the Msinga Municipal Area

Msinga Municipal area is located in KwaZulu-Natal. Msinga Local Municipality (KZ244) is one of the four local municipalities constituting Umzinyathi District Municipality (DC24). It occupies the centre of the district area and shares boundaries with Nkandla to the east, Umvoti to the south, uThukela District to the south west (**refer to Map 1: Umzinyathi District Municipality**). The Local municipality of KZ244 consists of 17 wards (**Refer to Map 2: Msinga Municipality Ward Boundary**).

It is composed of six areas of Traditional Authority namely, Qamu, Mchunu, Bomvu, Ngome, Mabaso and Mthembu on an area of 2504 km<sup>2</sup> (**refer to Map 3: Msinga Municipality Tribal Authority Map**). The population of Msinga is estimated to be 160 000 (Census 1996) resulting in a population density of 64 people / km<sup>2</sup>. The majority of the population is located in traditional villages and in major settlements of Keates Drift, Tugela Ferry and Pomeroy.

Msinga Municipal Area is poverty stricken with few economic resources and little economic activity. Msinga mainly functions as a dormitory area with economic activities taking place outside its borders orienting towards Greytown, Dundee and Kranskop.

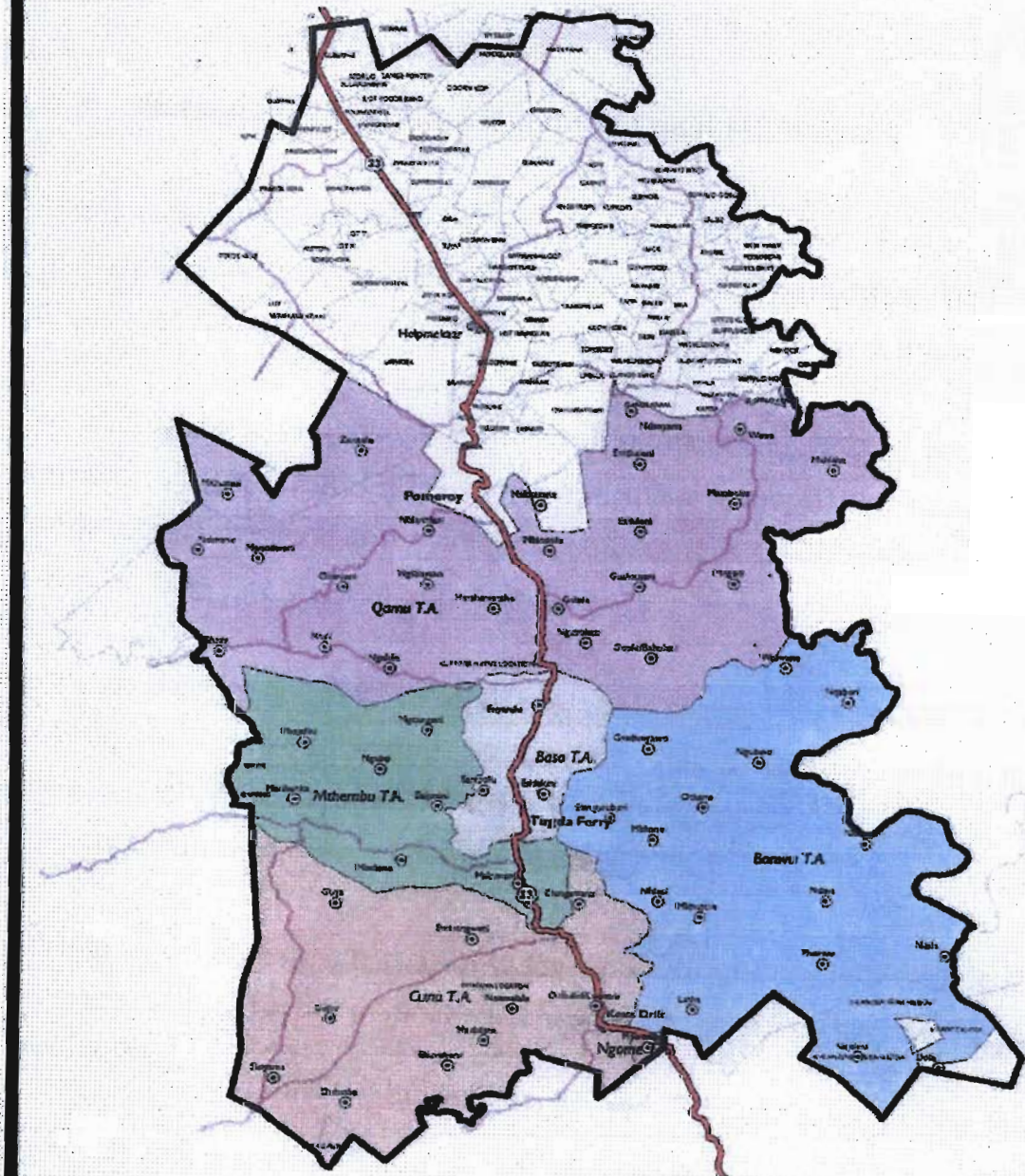
# UMZINYATHI DISTRICT MUNICIPALITY General Map



Scale 1 : 700 000  
0 5 10 Kilometers



# MSINGA MUNICIPALITY Tribal Authority Map



Scale 1 : 360 000  
0 10 Kilometers

**Legend**

|               |                    |
|---------------|--------------------|
| Word Boundary | Municipal Boundary |
| Baso T.A.     | Water              |
| Basovu T.A.   | Water Provisional  |
| Qamsi T.A.    | Water Provisional  |
| Mthembu T.A.  | Water Provisional  |
| Ngome T.A.    | Water Provisional  |
| Quta T.A.     | Water Provisional  |

Msinga Municipality is in the process of developing an organogram that will satisfy its institutional requirements. Further there are a large number of institutional structures such as NGOs, CBOs operating in the area that influence development. The capacity of these institutions to act in partnership and to facilitate the development of Msinga has still to be tested.

### **6.3 Reasons for choosing Msinga Local Municipality**

There are a lot of reasons for choosing this area. Firstly, Msinga municipality has been chosen because of its remoteness. Most of the areas that fall under Msinga Municipality are remote rural areas.

Another reason for choosing Msinga municipality is that it includes a number of Tribal Authorities. Since the main focus of this dissertation is on local government and traditional leaders it is therefore appropriate to have an area like Msinga Municipality.

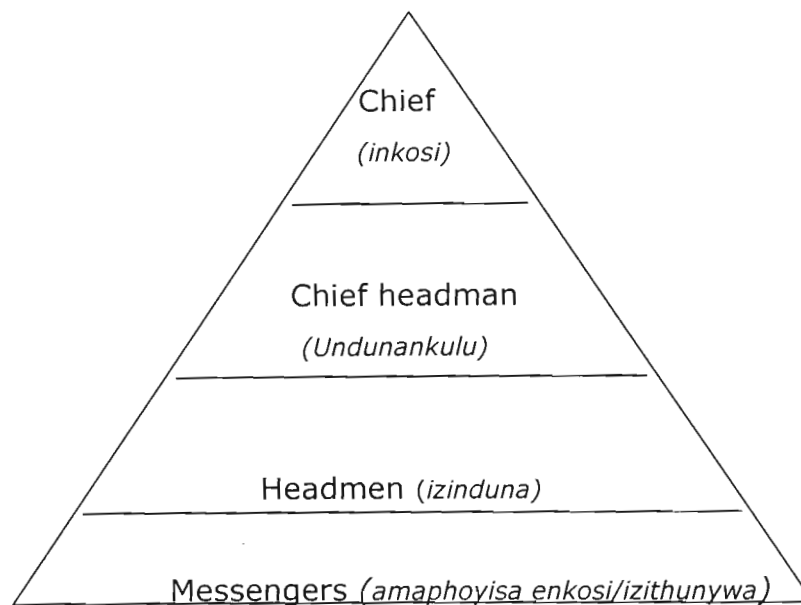
Another factor is that, in addition to Msinga Municipality having a number of Tribal Authorities, is the fact that traditional leaders in that area still enjoy their powers in the sense that people have more respect and confidence on their traditional leaders.

Msinga is an area which is known for violence and it is believed that this violence was a result of political clashes and clashes between clans or chiefdoms.

Many people were murdered in Msinga more for reasons ranging from jealousy to not liking someone than in political clashes. It could be traced back to the area's history: in the 1800s many of the Msinga men were paid in guns on the diamond fields. "This is gun-trafficking territory."(Sunday Times, 24 November 2000)

## 6.4 Structure of the Tribal Authority

The structure of the Tribal Authorities in Msinga is not different from that of other tribal authorities in KZN. The hierarchal structure of the tribal authorities in Msinga will be explained from top down.



**Figure 3: Hierarchical Structure of traditional leadership in Msinga**

### **Chief**

At the top of the hierarchy there is a chief (inkosi) who is regarded as the superior. He is highly respected by the members of the community and even a person from outside the area is expected to do as they do. From the interviews conducted it became apparent that in that area the chief is still given the same respect as it was before.

**Chief headman**

Below the chief is the chief headman. The chief headman is very close to the chief and is viewed as the chief's eyes and ears.

**Headmen**

Under the chief headman there are headmen. The chief is assisted in carrying out his duties by a number of functionaries who are assigned special tasks. For administrative purposes, tribal land is divided into a number of units/wards (*izigodi*) to which an *induna* is assigned. An *induna* is appointed by the chief, acting on advice from his councillors. Each ward has boundaries that are known to the tribe – usually natural geographic landmarks such as rivers, mountains and forests. Some boundaries would be based on the landscape whereas others would be based on the concentration of people of the same clan in an area.

The *induna's* function is to represent his ward at the tribal council. The headman functions as an eye of the chief at this level. There are certain powers delegated to the headman by the chief. He has powers to mediate and arbitrate in disputes arising under the jurisdiction of his clan. The cases which have to be reported to the chief go through the headmen. In that way he decides on what may be taken to the chief. The headman also serves as a gateway to the chief in the sense that people, even from outside the area such as development agencies, who want to see the chief have to go via him.

The *induna* is assisted in performing his duties by a ward council which consists of elders or senior members (*abanumzana*) from different settlements (*imizi*). The *induna's* appointment is based on his abilities and how these are seen by the community in general. This means that this position is not hereditary and an *induna* could be removed at any time if his performance is unsatisfactory.

### **Messengers**

There are also messengers who link the chief with his various functionaries. They convey messages to the community regarding dates of meetings as well as dates of hearings for litigants

The messengers are entrusted with the functions of passing messages from the chief to the community. When the chief calls a community meeting (*imbizo*), it is the function of the messengers to go out and shout out that there is a community meeting.

## **6.5 Democracy in Msinga**

Democracy is government of the people by the people, where there is freedom of expression and everyone is encouraged to participate in community related issues. In a truly democratic society ideas from the public are respected and taken into consideration. Looking at how the traditional leadership system operates in Msinga Municipal Area, ideas from the community are taken into consideration by the traditional leaders. For an example, in the case when a person is looking for a residential site, it is the community of that vicinity who decides whether they accept or decline the application with the traditional leaders. The traditional leadership system in Msinga encourages true participation. In this respect democratic principles are being put into effect.

However, this is not the case with the Msinga local municipality. It has been established that community ideas and presentations are not accepted in the Council meetings of Msinga. This is not the idea of a democratic government.

As a result we cannot say that Msinga local municipal area is a true democratic society. How can it be if people are somehow denied participation?

## **6.6 Conclusions**

Msinga Municipal Area is a typical traditional leadership system. The structure of the traditional leadership in Msinga resembles that of traditional leaders in South Africa in the past. Msinga Municipal Area has been characterised by violence and poverty.

## **Chapter 7: The current situation in Msinga Local Municipality**

### **7.1 Introduction**

This chapter presents and analyses the findings of the study. The analysis looks at the incorporation of traditional authorities in the Msinga Municipality. The analysis mainly looks at the representation of traditional leaders in the Msinga municipality structure and participation of traditional leaders in the planning and development processes in this municipality. In addition to that, in order to get a deeper understanding of the situation of the incorporation of traditional authorities in the Msinga Municipality the analysis will also look at the following key issues:

- ❖ Functions of the traditional leaders in the Msinga Area
- ❖ Mechanisms for capacity building of traditional leaders
- ❖ Nature of the relationship between traditional leaders and councillors
- ❖ Views about the issue of incorporating traditional authorities into municipalities

### **7.2 Structure of the municipality and the representation of traditional leaders in the structure**

There are 6 traditional authorities and 33 councillors in the Msinga Municipal Area. The 6 traditional authorities in Msinga may be represented in the local municipal council of KZ244. However, in the Msinga Municipality it has been established that traditional authorities are not represented in the council proceedings. Traditional leaders argue that they have never received any invitation from the council. However, some of the traditional leaders do attend council proceedings but they only go there as

ordinary citizens. This means that they do not participate as it is required by the legislation.

Lack of traditional leaders' representation in the Msinga Municipality cannot only be attributed to the council. In KZN, the issue of involvement of traditional leaders has not yet been resolved. There are certain issues (that have been discussed in the debate about the roles and functions of traditional leaders section) that traditional leaders want resolved before they involve themselves into the council proceedings. There have been some rumours that there are traditional leaders in this province (Dannhauser Local Municipality) who attend council proceedings and also get remunerated. The MEC for Traditional and Local Government Affairs, Chief Nyanga Ngubane said that they will take this matter seriously because these people know that they are not allowed to attend such proceedings (ILANGA, 17 October 2002). This issue makes it difficult for traditional leaders who want to attend council meetings. It is, however, clear that some of them do want to attend and participate in the council proceedings but they are hindered by this issue, hence they go there as ordinary citizens.

As a result of this issue of traditional leaders distancing themselves from the municipality, development issues have to be dealt with in the council proceeding without them being involved. They will then be contacted outside the council meetings. This makes things difficult because they are also supposed to voice their opinions with regard to issues of development concerning their areas of jurisdiction but instead they are told of the decisions. Although, to date, there are no specific major problems in Msinga on account of this situation, it has a certain impact.

Traditional leaders in the Msinga Municipality are involved when there is development affecting their areas. They are not invited to the council meetings to discuss matters affecting their tribal areas, as the Local

Municipal Structures Act requires, but the councillors consult with them outside the Council. This means that traditional leaders are not officially involved.

It was discovered that the only formal invitation that they received from the council was when they were asked to send tribal authority representatives during the integrated development planning (idp) process. In this case, they were involved in the initial stages of the process.

### **7.3 Participation of traditional leaders in the planning and development processes**

Although traditional leaders in the Msinga area are not officially involved in the Council proceedings, it has been found that there is great participation of traditional leaders when it comes to planning and development processes. The residents of the Msinga Municipality believed that traditional leaders have a major role in development of their areas. They believe that most of the development that is occurring in their areas is a result of traditional leaders' participation and eagerness to improve their areas.

#### **7.3.1 Functions of Traditional Leaders in the Msinga area**

Traditional leaders in Msinga have not lost their traditional functions but in addition to them they also fulfil modern functions such as, inter alia, assisting in development planning and implementation.

Traditionally, the functions of traditional leaders in the Msinga area include, among others, leading tribal government, maintaining local culture, leading ceremonies, applying customary law, granting or confiscating land, confiscating stolen cattle and promoting the well being of their communities.

Traditional leaders in Msinga Municipal Area perform a wide range of functions. Some of the functions are not performed by the chiefs personally because they have a lot of responsibilities. Chiefs, therefore, delegate some powers to the other members of the Tribal Authority.

The traditional leaders in Msinga Area mainly perform the following functions:

- ❖ Presiding over the Tribal Court
- ❖ Land allocation or confiscation and control
- ❖ Commissioners of Oath
- ❖ Development issues

**(a) Presiding over the tribal court**

Dispute resolution is the main functions of the tribal leaders that the people of Msinga Area mentioned. There are a lot of cases which are not serious and those cases are referred to the tribal court. It is believed that if people fail to solve their problems, the chief should interfere.

People of Msinga strongly believe that this is an important function of the tribal leaders. They argue that the tribal court is cheaper and faster than the magistrate court.

Chiefs appear to be complementary, if not rivals, to the administration of justice of the State. Dispute settlement by chiefs deals with a great variety of disputes varying from land tenure law, to family law and witchcraft. Mostly, but not always, they exercise these functions in the shadow of the State administration of justice. They also play the role of auxiliary in the local administration since colonial times. The Administration has often manipulated chiefs with a view to reinforcing state control or to exercise bureaucratic power. Since colonial days they have mostly a limited competence in penal matters, but chiefs are still considered to be guardians to the welfare of their people, not only by

dealing with dispute settlement, but also through religious pleas to ensure social welfare and prosperity. All these activities help them to enjoy respect and maintain their authority.

They not only resolve disputes between individuals but also between tribes. Msinga is an area which is known mostly because of the faction fights between rival chiefdoms and clans. It is therefore the responsibility of the tribal leaders of those tribal authorities concerned to resolve the dispute.

**(b) Land allocation or confiscation and control**

Land allocation is another issue which is felt to fall squarely in the realm of traditional authority, without implying absolute or unchecked powers to the chief. It is said that chiefs are the natural custodians and they hold land exclusively in trust for the community interest. In Msinga traditional authorities, it is the traditional leaders who allocate sites for businesses, schools, housing and ploughing. Chiefs are not allowed to sell land. If a person is allocated land he or she only enjoys the right of occupation and use.

If a person wants a site he or she goes to the headman and the headman informs the people around the site in question to discuss the issue. If the people accept that person the headman will then take the matter further to the chief who will then approve or decline the allocation application. The chief's decision is informed mainly by the views of the people in the vicinity of the site in question. The reasons for leaving the previous area are also required. This system ensures screening of people and criminal elements are rejected and sometimes arrested. Movement of criminals from one area to the other is minimized. This is done for the safety of the community because some people are sent out of the particular tribal authority because of misbehaving.

**(c) Commissioners of Oaths**

Traditional leaders in Msinga are also responsible for the functions that are also done by the Department of Home Affairs, such as, issuing of marriage certificates, death certificates and signing development plans. Some traditional leaders even suggested that they should be given powers to issue identity documents. This follows the problems that people are facing. People are complaining that when they go to the Department of Home Affairs they have to travel long distances and when they arrive there early in the morning the queue is already long and have to come back the next morning. In some extreme cases, they have to spend the night queuing. Traditional leaders argue that there offices, clerks and computers provided for traditional authorities but are underused.

**(d) Development issues**

When there is a development project to be implemented in the area the chief has to sign a business plan. The development plans go through the chief because he has the right to be involved if his area is going to be developed.

It has been discovered from the interviews that traditional leaders in Msinga are not only concerned with their traditional functions, but they are also involved in development. The residents of Msinga mentioned that traditional leaders take a proactive stance in development processes and that without their active involvement their areas may be still without development processes occurring in the area. The officials of Msinga municipality also mentioned that traditional leaders are active in the development of their areas. They said that, chiefs are very pro-active and they want to enhance their leadership and popularity.

### **7.3.2 Traditional leaders and the IDP process**

In terms of the integrated development planning process, as mentioned above, traditional leaders were consulted as stakeholders and they participated. Traditional leaders argue that they were involved in the preliminary stages where they had to identify the needs of the community. This shows that traditional leaders in that area are keen to involve themselves in the development of their areas although they do not attend council meetings.

According to the Local Municipal Structures Act (1998) participation means that one could address a meeting. The traditional leader is therefore not supposed to be a silent observer of the proceedings. This would include the right to submit motions, make proposals and ask questions. Her or his participation in a council meeting is not limited to the matters directly affecting the area of the traditional authority. However, in the case of Msinga Municipality some of the traditional leaders complained that the Council does not accept their presentations. If and when they attend council meetings they end up being observers.

It has also been discovered that traditional leaders are consulted if there are matters directly affecting their areas. This is because they do not attend council meetings. They cannot be kept informed of every issues discussed in the meetings whilst they do not want to attend. However it is inevitable to consult with them on issues directly affecting their areas for the development to continue.

### **7.4 Mechanisms for capacity building of Traditional Leaders**

As we know that chiefs were not that involved in development processes and other planning activities, they therefore need some mechanisms to build their capacity. With regard to this issue two different responses have

been discovered. Councillors and traditional leaders said that there are programmes aimed at building traditional leaders' capacity.

They mentioned that there are training programmes offered by the Department of Local and Traditional Government and they also attend workshops offered by IDASA. One of the traditional leaders argued that traditional leaders sometimes do not understand the need for attending these training programmes. He mentioned that in one other case the chief sent his daughter (who is a nurse by profession) to the workshop. He said that this was a waste of money because this person is not involved in community development issues. Some traditional leaders received customised training in democratic processes, structures of government, and lobbying and advocacy.

On the other hand, the officials of Msinga Municipality said that there are no training programmes, or what so ever, aimed at building capacity of traditional leaders at the moment. However, they said if traditional leaders can involve themselves in the local municipality, they can be given training which is given to the councillors by Kwazulu-Natal Local Government Association (KwaNALOGA).

### **7.5 Nature of the relationship between traditional leaders and councillors in Umsinga**

According to the officials of Msinga municipality the relationship between councillors and traditional leaders is good. They said that they have never heard of any situation where there is conflict between the two. They said if there is a problem between them, it means that it is a minor thing since it is not known to them. The community also mentioned that the relationship between traditional leaders and councillors is a good one.

They said the problem could arise if the councillors attempted to overrule traditional leaders. So far, the councillors have respect for traditional leaders. This could be attributed to the fact that the councillors are from

these tribal authorities and the fact that most of them come from the ruling party, IFP.

### **7.6 Means of dealing with conflicting interests**

According to the councillors, traditional leaders and officials of Msinga local municipality there has not been any major conflict so far. As a result they do not have any means in place to deal with that.

### **7.7 Arrangement of communication channels in Umsinga Local Municipality**

Although traditional leaders in Msinga Local Municipal Area are not part of the Council, they do interact with the officials of Msinga local municipality. According to the officials of Msinga local municipality, one way to interact with traditional leaders is through the councillors since it is clear that there is a good relationship between them. This somehow makes things difficult since there is no direct interaction. Some information could be lost on the way and that could cause misunderstanding. This system also delays things since everything has to go via the councillors.

### **7.8 Views about the incorporation of traditional authorities into municipalities**

The community and the officials of Msinga Municipality all agree that traditional authorities should be incorporated into municipalities. They argue that traditional leaders were there long before the present government, that they live with the people and therefore know their problems and how to deal with them. They also argued that services are going to be delivered in their (traditional leaders') areas and therefore they should be involved in the planning and in taking decisions affecting their areas.

One of the traditional leaders said the issue of incorporating traditional leaders into municipalities could have advantages and disadvantages. He argued that conflict would arise between traditional leaders and councillors in terms of status. On the other hand, it can be beneficial in the sense that they are given opportunity in decision-making.

Another traditional leader argued that it is a waste of taxpayers' money to have elected councillors because traditional leaders are there and they can do the job.

One of the experts on the subject of incorporating traditional leaders into local government argued that the idea of incorporating traditional leaders into local government is a good idea in the sense that in a true democratic society you do what the majority of people want. It is obvious that most of the rural community want the traditional system to be maintained and the best way to do that is to incorporate the institution into local government so as to have integrated and coordinated development.

He, however, further argued that the issue of incorporating traditional leaders into local government is somehow not democratic. He argued that traditional leaders are not democratically elected. On the other hand the principles of a democratic country is to have free and fair elections. He argued that for the sake of development in rural areas traditional leaders should be incorporated into local municipality because they know their people and the people still respect them. They know how to deal with traditional issues.

In addition, he argued that to some people it is important to maintain their custom and tradition. They argue that it is their identity and they do not want to lose it. Therefore, the best way to do that is to maintain traditional leadership. It should, however, not operate on its own rather incorporated into local government.

Another crucial factor in the incorporation of traditional leaders into local government is the issue of the roles of traditional leaders. People of Umsinga municipal area argued that the incorporation of traditional leaders into local government should not temper with the roles of traditional leaders. They argued that traditional leaders should continue with their roles and also be involved in development processes.

## **7.9 Conclusions**

The findings show that traditional leaders in Msinga continue to have a great role to play in the development of their areas. It has also been clear that traditional leaders are not represented in the Msinga Municipality. This is because there are issues that traditional leaders want resolved before involving themselves with the municipality. However the issue of not being represented, to date, does not have a major impact in the development of that area. So far there is a good relationship between councillors and traditional leaders in Msinga and this could be attributed to the respect shown to the chiefs by councillors in that area. It is clear that there is a necessity to introduce programmes for capacity building of traditional leaders.

## **Chapter 8: Conclusions and recommendations**

**"If chiefs continue to have influence, and if there are still problems in carrying out development projects, one way of aiding the process of development could be to involve chiefs," (John Eberlee March 2, 2001)**

### **8.1 Introduction**

This chapter provides some conclusions drawn from the study as a whole. It also provides recommendations around the incorporation of traditional leaders into the Msinga Local Municipality. Because Msinga Local Municipality is typical of other rural areas some recommendations are directed to the Local Government at large. The issue of involving traditional leaders into local government is not handled by the local government only and therefore some recommendations are directed to the traditional leaders as a group.

### **8.2 Conclusions**

The study shows that traditional authorities of Umsinga are not represented in the Msinga Local Municipality. They do not attend council meetings and this means that they do not participate as is required by the law. This is because they are not invited by the council. Another reason is that there is an impasse in the negotiations between the national government and traditional leaders about the role and functions of traditional leaders.

With regard to participation of traditional leaders in the planning and development processes, it has been discovered that they play an active role. They are pro-active when it comes to development of their communities despite the fact that they do not attend the council meetings.

The study also reveals that in addition to traditional functions, such as, leading tribal government, leading ceremonies, maintaining local culture, applying customary law, granting or confiscating land and confiscating stolen cattle, traditional leaders in Msinga also assist in development planning and implementation.

In terms of capacity building of traditional leaders, the study shows that some mechanisms are in place. There are training programmes offered by the Department of Traditional and Local Government and IDASA. However, some programmes are attended by people who are not supposed to because they are not involved in any community activities. In contrast, Msinga Local Municipality does not offer any mechanisms for capacity building with the argument that once traditional leaders involve themselves with the municipality, they will be given training just as councillors are.

The relationship between councillors and traditional leaders is good and solid because councillors still respect their traditional leaders and they all come from the ruling party in Msinga, the IFP. Because traditional leaders are not involved in the council the communication channels tend to be a little bit awkward. They usually do not interact directly with traditional leaders but via the councillors.

The issue of incorporating traditional leaders into local government is perceived differently by different people. The study shows that people encourage the incorporation of traditional leaders into local government with the argument that traditional leadership system will preserve their

customs and culture. They also believe that since traditional leadership has been there long before the present government, traditional leaders understand their people and their needs.

With regard to the hypothesis which says, 'the incorporation of traditional leaders into local municipalities is supposed to bring about coordination in terms of development but the ambiguity of roles, as well as conflicting interests of traditional leaders and councillors, delays development' one can say it has been proven incorrect. This is because in Msinga Local Municipality there is no evidence which shows any delay in the development processes due to the ambiguity of roles or conflicting interests of traditional leaders and councillors. However, it is important to mention that, it has been difficult to evaluate the extent to which the hypothesis has been proven. The reason being that traditional leaders in Msiga and in KwaZulu-Natal for that matter are not truly incorporated into the local municipalities as is revealed by the study.

### **8.3 Recommendations to the Msinga Local Municipality**

#### **8.3.1 Involve traditional leaders**

Chiefs often play a key role as community advocates and they will continue to do so. In Umsinga people still respect and admire traditional leadership. In that way, it is good for development to have them incorporated into the municipality. Democracy also means doing what the majority of the community wants. People of Umsinga want traditional leadership institution to be maintained. In many respects, chiefs are still the allies of successive central powers in whose name they perform a variety of functions within the society. It is proposed here that traditional leaders be afforded enough space to perform their duties.

The development principles and the regulations prescribing the process of formulating land development objectives, provides for an inclusive process

in which all role players and stakeholders are to be involved. In practice this means that communities, community organisations and institutions, as concerned role players in civil society, are also the concerned and key role players in the development planning and development process at local level. No plan on development strategy will therefore meet the prescribed legal requirements of acceptable development planning standards, if the rural communities and their leaders are not directly and actively involved. Chiefs should play an active role in the planning and development processes. This will also reduce tension between traditional leaders and elected local government councillors. If traditional leaders are not taken seriously the effectiveness of the council is deemed to fail.

### **8.3.2 Empower traditional authorities**

Traditional authorities in South Africa are fora for development. However, it often, but not always, occurs that chiefs have neither the political nor the economic access to international institutions, non-governmental organizations and various associations which compete with the State. In other parts of Africa, however, the institution of traditional leaders has, to a certain extent, become a partner of the State in its search for funds from international institutions. Indeed, in Msinga, a non-governmental organization can be created by chiefs in order to solve socio-economic problems in their own setting. Such an NGO, once established, carries out its activities with the support of chiefs.

In order that development planning could be closer to the felt needs and aspirations of the people, and have the support of the local population, traditional leaders should be involved and made part and parcel of the process since most of the people want them.

The continuing respect shown by local people towards traditional leadership can be used effectively to educate, guide, inform and advise

the local communities on issues relating to welfare, education and development.

### **8.3.3 Encourage good relationships**

Another thing that is needed is to encourage traditional leaders to forge closer ties both with each other and with their governments. The fact that traditional leaders do not want to attend council meetings makes it difficult to achieve greater levels of development. Differences, between traditional leaders and the national government, should be peacefully addressed for the common good.

### **8.3.4 Clarify roles**

Much of the confusion and conflict between Traditional Leadership and Customary Law Councillors on the one hand and elected Local Government Councillors on the other, arose as a result of a misunderstanding of the valuable support role which Traditional Leaders can play in the development process. The difference in the nature and scope of the tasks of elected and traditional community leaders provide a rich, multi-facet basis on which a successful local governance system can be developed within the context of the current constitutional-legal framework in South Africa.

Elected leaders and leaders by traditional heritage are not mutually exclusive of each other, but should complement each other. This will help achieve integrated development. Involvement of traditional leaders in community development activities could be mutually rewarding. The traditional leaders could be more effective instruments of service to the community.

### **8.3.5 Provide training**

Traditional leaders, along with councillors and local authority staff of Msinga Local Municipal Area, need to be provided with the necessary skills and training in the form of workshops and seminars for different categories.

### **8.3.6 Promote principles of democracy**

Democracy is defined as government of the people by the people for the people, which encourages free expression, dialogue and participation by all in the management of their respective areas. In true democracy diverse ideas within a given community are taken into account and respected in an open, transparent atmosphere. The Msinga Municipal Council should therefore accept and encourage ideas from traditional leaders. The imperative of sharing both wealth and duties in accordance with each person's potential must be based on justice and human dignity that must be exercised with caution. Democracy should reinforce the cultural values of community life, guarding against individualistic tendencies.

## **8.4 Recommendations to local government**

### **8.4.1 Clarify roles**

It has been established that much of the conflict arises when the elected councillors want to overpower traditional leaders and while, on the other hand, traditional leaders believe that they have more power than the elected councillors. Therefore, to avoid conflict between traditional leaders and elected local government councillors there must be clear roles for the traditional leaders and elected councillors.

#### **8.4.2 Promote Democracy**

Traditional leaders have historical roles and functions that should not be viewed as static if they are to fit in today's system of human organizations. The desires of the people themselves should be taken into consideration in the discussion of the roles and functions of chiefs.

Democracy is not a ready-made structure, but when communities "inclusively" came together, encouraging a community of harmonious sharing, this signals the presence of unity liberty and freedom. Traditional leaders in South Africa want the government to consider what they refer to as democratic culture. This new concept will enable them to deal with democracy that will be brewed and manufactured within the country. They despised western democracy because it does not in any way recognize their roles.

It is clear that the countrywide impasse over the powers and functions of newly demarcated municipalities and traditional leaders has not been effectively tackled. The debate process about the roles and functions of traditional leaders should at all times involve traditional leaders.

#### **8.5 Recommendations to traditional leaders**

The institution of traditional leadership should evolve with the changing needs of the people and must constantly be adjusted to the challenges of the future. There cannot be any reasonable doubt that traditional leaders are influential, and have a significant role to play in the development and other related processes in South Africa.

The institution of traditional leadership should also provide training programmes to enhance the skills and knowledge of traditional leaders. We know that most of the traditional leaders have little or no formal education or knowledge/skills related to development and planning. They, therefore, need to be given opportunity to enhance their knowledge. They

also need to know how to be a good leader since they are leaders by inheritance. Traditional leaders incorporated into local government should at least be able to read and write.

Traditional leaders should also involve themselves in the council meetings for the sake of development. If traditional leaders do not contribute actively the effectiveness of the council will be diminished accordingly. Their desires should not jeopardise community development. This issue of traditional leaders distancing themselves from the municipality somehow has an impact on development. While traditional leaders fight their battle with the national government they should consider the needs of the community. They are there to serve the community.

**"...chiefs should be part of government programmes if they were not to be marginalized in determining change and destiny." (Daily Dispatch, 1 August 2001).**

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## Appendix 1

### **Interview schedule for community development committee members of Msinga Municipal Area**

1. Do you believe that traditional authorities should be represented in the Council? And why?
2. How do you perceive the relationship between traditional leaders and councilors?
3. How effective has participation of traditional leaders in development been?
4. What roles and functions do traditional leaders currently undertake in Msinga Local Municipality?
5. What role do you think traditional leaders should play?
6. What community development activities are you involved in?
7. In which stages of planning and development do you get involved?
8. How is the relationship between you, as a community development committee member, and traditional leaders?
9. What problems do you encounter when working with traditional leaders?
10. What problems do you encounter when working with councilors?
11. Do you attend community meetings at the tribal court? If yes, are there any community meetings about development at the tribal court?
12. Who is responsible for community development in this area?
13. How is the level of service delivery since the incorporation of traditional authorities in the council?
14. Who do you think should be responsible for development in this area and why?
15. How is the level of respect shown by your community to the chief and headmen? Has it changed overtime?

## Appendix 2

### **Interview schedule for traditional leaders of Msinga Area**

1. How many traditional leaders attend and participate in the council meetings?
2. Are traditional leaders given opportunity in the council meetings to make decisions on matters directly affecting their areas?
3. Are you aware of traditional leaders' responsibilities and functions in terms of the legislation?
4. What functions do you currently undertake in Msinga Local Municipality?
5. What mechanisms are there for capacity building of traditional leaders?
6. What is the nature of the relationship between traditional leaders and councilors?
7. If there is tension, what is the cause of tension?
8. If there is co-operation, what helps facilitate co-operation?
9. What problems are you experiencing when working with councilors?
10. How are communication channels between the council and traditional authorities?
11. In which stages of planning do you get involved?
12. How do you deal with conflicting interests?
13. How do you feel about the process of incorporating traditional authorities into municipalities?
14. Have your aspirations about the process been expressed?
15. What functions and roles do you think traditional authorities should undertake?

## Appendix 3

### **Interview schedule for councilors of Msinga Local Municipality**

1. How many traditional authorities attend and participate in the council meetings?
2. Are traditional leaders given opportunity in the council meetings to make decisions on matters directly affecting their areas?
3. How different is the Msinga Local Municipality now that traditional leaders are incorporated into municipalities?
4. What are traditional roles, functions and responsibilities of traditional leaders in the municipality?
5. What functions do traditional leaders undertake in Msinga Local Municipality?
6. What mechanisms are there for capacity building of traditional leaders?
7. What is the nature of the relationship between traditional leaders and councilors?
8. If there is tension, what is the cause of tension?
9. If there is co-operation, what helps facilitate co-operation?
10. What are the problems that you are experiencing when working with traditional authorities?
11. How are communication channels between the council and traditional authorities?
12. In which stages of planning do traditional leaders get involved?
13. How effective has that participation been?
14. How do you deal with conflicting interests?
15. What are your perceptions about the process of incorporating traditional authorities into municipalities?
16. What functions and roles do you think traditional leaders should undertake?

## Appendix 4

### **Interview Schedule for Experts in the Subject of Incorporating Traditional Authorities into Municipalities**

1. Are traditional authorities represented in municipalities?
2. How different is Local Government now that traditional authorities have been incorporated into municipalities?
3. What are traditional roles and functions of traditional leaders?
4. What mechanisms are there for capacity building of traditional authorities?
5. In general, what is the nature of relationship between councilors and traditional authorities?
6. Is there any co-operation or tension between traditional authorities and councilors?
7. If there is co-operation, what facilitates co-operation?
8. If there is tension, what is the cause?
9. What are the perceptions of traditional leaders about planning and development?
10. In which stages of planning should traditional leaders get involved?
11. What are your perceptions about the process of incorporating traditional authorities in local municipalities?
12. What functions and roles do you think traditional authorities should undertake?

## Appendix 5

### List of Respondents

Most of the respondents asked that the information that they gave be kept confidential and their names not to be mentioned. It is for this reason that the list of respondents is in this format.

|   |    |
|---|----|
| Msinga Local Municipality officials   | 2  |
| Msinga traditional leaders  | 5  |
| Msinga ward councillors   | 5  |
| Members of Msinga community development committees  | 13 |
| Department of Traditional and Local Government Affairs  | 1  |
| Experts in the subject of the inclusion of traditional leaders' institution into local government | 2  |

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