TRADITIONAL GOVERNANCE STRUCTURES AND UPTAKE OF HOUSING ALLOCATION POLICY IN ETHEKWINI MUNICIPALITY

BY

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DECLARATION

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Abstract

This research study examines traditional governance structures in the eThekwini Municipality and its uptake on their housing allocation policy and policy feedback. It further explores how the dual governance system impacts on state subsidised housing allocation within the eThekwini Municipality particularly in traditional authority areas. The delivery of houses has become a highly politicised mandate with some beneficiaries sidelined due to their political affiliations. Policies are developed to guide service delivery initiatives however the question of proper consultation with the relevant stakeholders has been raised extensively in recent times with some key stakeholders lamenting that they have been left out of service delivery initiatives that are affecting their constituencies. Document analysis on the existing traditional governance literature, municipal administration and policy feedback was necessary to draw views on how traditional structures of government implement a policy that they did not formulate, a principle that they feel is contrary to the democratic values of South Africa and an infringement of their rights as enshrined in the Constitution of the Republic of South Africa. This study utilized primary and secondary data collection methods targeting traditional leaders, municipal officials, Ward Councillors, and residents to draw conclusive analysis. Primary data was collected using semi-structured interviews from 20 participants.

Findings from the study show that while traditional leaders and Ward Councilors sounded reconciliatory about working with each other for the benefit of service delivery, however city officials made it clear that the housing allocation process has become a political havoc. Research findings also highlighted that service delivery beneficiaries are caught up in this policy conflict and there is not much that they can do. Traditional Leaders emphasised that they are not willing to give up their roles as indigenous leaders further stating that unlike Councillors, they are not appointed or voted on five-year terms.   As a result of, balance of power sharing equilibrium needs to be struck soon especially in areas under Traditional Authorities. The effects of this policy conflict between the municipality and traditional governance structures on low-cost housing provision has exacerbated the already dire housing allocation process in traditional authority areas located in the outskirts of the eThekwini Municipality.

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List of Acronyms

AARP   American Association of Retired Persons

ABM   Area Based Management

ANC   African National Congress

APP   Annual Performance Plan

CLRB   Communal Land Rights Bill

COGTA   Co-operative Governance and Traditional Affairs

CONTRALESA   Congress of Traditional Leadership of South Africa

CS   Community Survey

DDM   District Developement Model

EMA   eThekwini Municipal Area

EXCO   Executive Committee

IDP   Integrated Development Programme

IFP   Inkatha Freedom Party

KZN   KwaZulu Natal

NDP   National Development Plan

OECD   Organisation for Economic Co-operation and

                Development

PGDS   Provincial Growth and Development Strategy

PSAM   Public Service Accountability Monitor

PTO   Permission To Occupy

RDP   Reconstruction and Development Programme

SACN   South African Cities Network

SDF   Sustainable Development Framework

SDGs   Sustainable Development Goals

Stats SA   Statistics South Africa

TLGFB   Traditional Leadership and Governance Framework Bill

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CHAPTER ONE : INTRODUCTION

1.   Introduction

This dissertation explores the role of traditional leadership in the enhancement of service delivery in their respective constituencies with special emphasis on the eThekwini Municipality. In particular, this study explores traditional governance structures in eThekwini uptake housing allocation policy and the extent of their policy feedback. To understand this, the dissertation explores the conflict between traditional governance and municipal administration in the service delivery of housing in the eThekwini Municipality. This research study has two aims. The first aim is to explore how traditional government structures uptake housing allocation policy in eThekwini, how they absorb or reject this policy, and explore policy feedback mechanisms. The second aim is to test the hypothesis that traditional leaders attend and participate in deliberations of municipal councils as enshrined in the Structures Act 117 of 1998.

2.   Background and Rationale of the Study

About 68% of eThekwini Municipality is made up of rural areas falling beyond the urban development line with communal land tenure held by Ingonyama Trust Board and Traditional Authorities (District Development Model, 2021: 10). The eThekwini Municipality is divided into three settlement types, namely formal, informal, and traditional settlements. All settlements are located within the Spatial Development Framework, namely peri-urban, urban core, urban periphery and rural. The Municipality faces a staggering housing backlog of some 385 000 units going back to just more than four decades (IDP, 2020-21).

Therefore, the eThekwini Municipality has a bold plan to alleviate housing backlog. This can be achieved by focusing on finding suitable and well-located land to deliver houses and eradicate informal settlements while putting an end to land invasions (eThekwini Municipality, 2019: 35). In order to address the current housing challenges, the Municipality has identified various priority projects which require land acquisition for successful implementation. A big portion of this land is situated in rural areas and is administered by Ingonyama Trust. "The strategic objective of these land acquisitions is to address the shortage of accommodation for

people living within informal settlements, rural areas and to address the overall housing backlog" (eThekwini Municipality, 2019: 35).

Table 1: eThekwini Population Projections 2019.

2019	2020	2021	2022	2023
4 134 487	4 213 711	4 295 316	4 371 277	4 444 516

Statistics SA, June 2019

According to the five-year projections in the table above, the eThekwini population is well over 4 million. Historically, population trends depict a circular migration and the emergence of a new trend of rural-urban interface resulting in rural areas being near urban areas, thereby providing easy access for nearby urban residents to environmental and recreational goods (OECD 2011). Generally, this has paved the way for urbanisation to have a share of the global population and terrestrial land surface as it is perceived to bring about development benefits and sustainable basic services (Parnell, Elmqvist, McPhearson, Nagendra, & Sorlin, 2018). However, less known are the projected spatial expansion rates, area, and locations at the city-scale (Stokes & Seto, 2016).

There has been quite a few studies on cities experiencing urban challenges around urbanization and associated population densities as a result of past trends and future spatial configurations. Such cities must also deal with pressing local socio-economic and infrastructure development issues, such as sanitation and inadequate housing and this can be used as a spring board for novel urban planning approaches in the Global South (Bai et al.,2018).

 The movement of people between rural and urban areas has given rise to more complex set of functional interactions including financial flows, shared or competitive use of amenities, environmental goods such as land and water, public services, infrastructure that connects rural and urban areas and assists in the exchange of commodities (OECD 2011). All the above is facilitated by service delivery as it is an important consideration in the inter-connectedness of rural and urban areas. As a partnership program between eThekwini and the European Union, rural areas of eThekwini were selected as one of the five areas where the Area Based Management (ABM) approach can be piloted within the eThekwini Municipality. This is an institutional mechanism with the focus on key areas for service delivery within the

Municipality, placing more emphasis on rural project areas in the north, west and south of Durban, and includes the peri-urban areas along the N2 and N3 corridors.

These areas include mainly those incorporated when the Unicity was demarcated by the Municipal Demarcation Board in 2000, yielding 68% of the City's spatial footprint to be rural in character (District Development Model, 2021: 10). This translates to about 1 500 km2 and a population of approximately 600 000. "These areas are characterised by factors such as little or no municipal services, fragmented service delivery by government, high levels of poverty and diseases, low levels of sustainable income and economic opportunities and potential to erode key natural asset resources" (IDP, 2020-21). It can be further noted that "Key stakeholder groups include 17 Traditional Authority structures, 32 Municipal Councillors and civic organisations" (IDP, 2020-21).

The study areas are largely made up of geo-spatial features, communal land holdings which in most cases are administered by the Ingonyama Trust. The traditional dwelling structures are predominantly made of traditional materials such as thatched roofs. and located on the rugged and hilly terrain periphery within the eThekwini Municipality. . The eThekwini Rural Development Strategy's (2016:19) programme objective is: "the development and management of rural areas that are fully integrated within the metropolitan context, contributing immensely to the economic and social spheres based on their distinctive character and assets and through systems that are sustainable, affordable and appropriate". Furthermore, "It is envisaged that this programme will allow traditional leaders (Amakhosi) who are within the boundaries of the eThekwini Municipality to fully participate in the affairs and activities of the Municipality to fast-track service delivery" (Mayor's Office, 2016). The eThekwini Municipality views traditional leaders as an important component in bringing service delivery to the rural communities (Mayor's Office, 2016). This is lauded as the best model in South Africa as traditional leaders are viewed as part and parcel of Municipalities in areas under their administration to enhance service delivery (Ikeji,2013:22). When it comes to the mutual co-operation between Councilors, traditional leaders, and ward committees to ensure service delivery in all the regions of the Municipality it needs to be noted that "Traditional leaders should be the ones supporting the Municipality in the identification of community needs, facilitate the involvement of traditional communities in development and review of Integrated Development Plan (IDP) and most importantly, promote indigenous knowledge systems and heritage for sustainable development" (Mayor's Office, 2016)., The focus should be on

creating a healthy relationship between traditional leaders and the Municipality to ensure that through clear policies and guidelines traditional leaders understand their roles and responsibilities (Mayor's Office, 2016). Mayor's Office (2016) highlights that " there is a need for elected Councillors and traditional leaders to cooperate and complement each other in order to ensure that communities receive the best service(Mayor's Office, 2016).

Notwithstanding the positive views of the Mayor's office the eThekwini Traditional Leadership Office (2017 argues that there is a widely held view amongst traditional leaders in eThekwini Municipality that although they have representation in the highest Municipal decision-making body such as the Executive Committee (Exco), there is no meaningful role that they play when it comes to service delivery decisions and policies affecting their traditional constituencies. This came to light when there was a call to draft a policy to address traditional leadership participation in municipal business, a policy similar to Councillorship Participation Policy. Traditional leaders argued that they receive the Exco agenda just like everybody else, they attend the meetings to complement audience numbers and meeting minutes are sent to them for their perusal and it ends there until the next meeting (eThekwini Traditional Leadership Office, 2017). The Local Government: Municipal Structures Act 117 of 1998, "allows traditional leaders who should not constitute more than 10% of the members of the municipal council and who are identified by the MEC for Co-operative Governance and Traditional Affairs to attend and participate in the deliberations of a municipal council". "These members may participate in deliberations but may not vote because they are not full members of the municipal council" (Rugege, 2003:171). "However, this participation of traditional leaders in a municipal council without the power to vote may reduce their influence regarding the decisions of the municipal council" (Rugege, 2003:171). According to Rugege, "the power given to the MEC to identify traditional leaders who may participate in a municipal council might be incongruent with the status given to the institution of traditional leaders by the Constitution of the Republic of South Africa, 1996".

3.   Location of the Study

The study was undertaken in traditional areas within eThekwini Municipality in the City of Durban which is located on the east coast of South Africa in the KwaZulu-Natal (KZN) province. The City of Durban is labelled as one of the country's fastest growing urban centres. In addition, the city is the largest municipal region on the east coast of South Africa)

encompassing an area of 2,556 km^2 (Roberts, 2005). The Durban coastline is dominated by sandy beaches, which are not only sought after by tourists, but are also an important recreational resource for the local population (Allen and Brennan, 2004). Durban's beaches, with favourable climatic conditions, serve as a draw card for coastal recreation (Maharaj et al., 2006). Durban is the most popular destination of choice in KwaZulu-Natal and is in fact purported to be "the country's most visited destination" (IDP, 2020-21). Domestic tourist numbers have increased over the years, with 87.7% in 2014, 88% in 2015 and 93.56% in 2016. According to the research undertaken by Durban Tourism (2016), Durban's main domestic tourism market is the province of Gauteng (49%). Another recent study conducted in 2020 by KZN Tourism, Durban notched a 55% share compared to other KZN tourism destinations and noted a trend in interest among tourists to visit surrounding rural areas especially the Valley of Thousand Hills.

The eThekwini Municipality is bordered by three rural district municipalities, namely, iLembe in the north, Ugu in the south and uMgungundlovu in the west. As a result of the demarcation process and the incorporation of Vulamehlo Wards, the eThekwini Municipal Area (EMA) has increased in extent and spans an area of approximately 2556km2, extending from uThongathi in the North to uMkhomazi in the South and from the coastline in the East to Cato Ridge in the West and is characterised by coastal plains and steep and dissected topography (IDP, 2019-20). Durban consists of a diverse society which faces various social, economic, environmental and governance challenges (IDP, 2015-16: 24). Population migration to eThekwini is an important contributing factor to population growth.

According to the eThekwini Rural Development Strategy 2016, this migration has not only contributed to the rapid increase of informal settlements but has also resulted in some people seeking sites in areas that are under traditional leadership. According to Census 2011 results, "the province that provided most migrants to eThekwini was KwaZulu-Natal". Considering other sources besides KwaZulu-Natal, the largest source of migrants (39 500) was from outside the country and most of them are undocumented. The next largest source was the Eastern Cape (38 500), then Gauteng (24 300). Many of these migrants are taking up residence in informal settlements thus joining queues for RDP houses. Only about 15% of migrants from outside South Africa take up residence in informal settlements and noteworthy that about 35% of the Eastern Cape migrants reside in informal settlements (SACN, 2018). Those who cannot find suitable living spaces in informal settlements end up in rural areas. Some foreign nationals are

known to operate tuck-shops in rural areas while others still commute to the city to work or seek employment. Generally, it has been argued that "migration has direct implications for the labour force, social services, infrastructure, housing and basic household services backlogs" (SACN, 2018: 3).

"The eThekwini Municipal Area (EMA) accommodates a wide range of land uses including formal and informal, urban and rural settlements and these are complemented by economic, transport, public and social infrastructure". The other prominent land uses within the EMA include agriculture practices, while the metropolitan open space system occupies a large part of the municipal area. A situation unique to eThekwini Metropolitan Municipality is that, as stated previously, "about 68% of the Municipal area is considered rural, compared to other Metros in South Africa" (IDP, 2019-20). About 10 % of the rural areas is made up of commercial farms and Durban Metropolitan Open Space System (DMOSS) while about "90% of the rural areas is characterized by geospatial features, such as hilly, rugged terrain, dispersed settlement patterns in traditional dwellings and communal land holdings under the Ingonyama Trust" (IDP, 2019-20). In a unique land holding arrangement in South Africa, applicable only to KwaZulu-Natal, the Ingonyama Trust is a corporate entity established to administer the land traditionally owned by the Zulu people, represented by their king for the benefit, material welfare and well-being of the Zulu nation who continue to occupy the land as they historically have done. The Ingonyama Trust controls 29.67% of the land in KwaZulu-Natal, which is equivalent to 28,000 square kilometers. According to the Constitution, "the Trust is governed by Ingonyama Trust Act, No 3KZ OF 1994. Act No. 3KZ of 1994, formerly an Act of the KwaZulu Legislative Assembly, which has now been given the status of a National Act as it is now administered by the Minister of Agriculture, Land Reform and Rural Development of the National Government, or any other Minister designated by the President (Constitution of the Republic of South Africa, Act No. 108 of 1996).

The Board of the Trust is chaired by the Zulu Monarch. After consultation with the Monarch, the Premier of KwaZulu-Natal and the chairperson of the KwaZulu-Natal House of Traditional Leaders, national Minister of Agriculture, Land Reform and Rural Development could appoint eight members of the Board (Act No. 108 of 1996). It should be noted that in the dying days of the segregation there was a need for a Trust to assist, as a last resort at controlling previously black-owned land at a convenient arms-length. To realise this, an Act of the legislature of the then self-governing territory of KwaZulu was used to guide the establishment of the Trust. To

this day, "the Ingonyama Trust is deemed as an outcome of a deal between Inkatha Freedom Party and National Party during the dawn of democracy in South Africa". Controversially, "the Trust, as a state institution manages about 2.8 hectares of land in KwaZulu Natal but was exempt from paying tax from April 1994 to July 2005" (Motlanthe, 2017). This position was challenged in a case considered by the Supreme Court of Appeal". As a result of the judgement, those residing in formal townships under its control are now municipal taxes and rates payers as per the wider national laws (Ingonyama Trust Board). So, while Section 2 (2) of the Ingonyama Trust Act proclaims that, the Trust shall administer land for the benefit, material welfare and social well-being of the members of the tribes and communities as per KwaZulu Amakhosi and Iziphakanyiswa Act, however, the nature of individual and community land rights is questionable as most of these rights are not well documented. Section 2 (5) of the Ingonyama Trust Act advocates for land rights to be upheld and should the need arise to dispose of any such land held under the Trust, then prior written consent from the affected traditional authority or community authority should be sought. Section 2(8) protects the individual rights except in cases permitted by law including customary law. This means that with the exceptions permitted by law, the Trust cannot interfere with the current rights held by rural land dwellers. To this end, there has been a protracted legal tussle between eThekwini Municipality and Ingonyama Trust. According to Ingonyama Trust Board Strategic Plan 2015-2020, in a case involving "eThekwini Municipality vs Ingonyama Trust 2014 (3) SA 240 (CC)", brought by the City of Durban in the Durban High Court, seeking to impose municipal rates on tribal land properties, the Trust pushed back citing the Municipal Property Rates Act 6 of 2004 as a defence mechanism to be exempted from paying rates. One of the provisions of this Act is to "exempt certain properties from rating out of the national interest". eThekwini Municipality reiterated that it intended to go after affluent residents who live on Ingonyama Trust land to coerce them to start paying the City for services, including rates. The Municipality further clarified that this was in the backdrop of a shift in property ownership in which many people who had been living in city suburbs are now settling in rural areas around the City.

The Trust, and the greater question of land ownership and occupancy, remains a contested topic in South African discourse and law. Most recent, was the former South African Deputy President Kgalema Motlanthe's High Level Panel Report. The Panel Report called for the repeal of the Ingonyama Trust (Motlanthe, 2017). The Panel's assessment of the Ingonyama Trust Act of 1994 is that "it should be repealed or, at the very least, substantially amended".

The Panel recommended that, "the Ingonyama Trust, was abrogating the land rights of those it exists to protect and consequently, it should be dissolved. Just days after the report was released, the Ingonyama Trust ramped up its campaign to persuade rural subjects across KwaZulu-Natal to surrender their informal land rights to the Trust and to accept 40-year leases that could be cancelled for non-payment or other violations of the contract (Motlanthe, 2017). In a case between the Council for the Advancement of the South African Constitution, Rural Women Movement vs Ingonyama Trust Board, Minister of Rural Development and Land Reform, Minister of Co-operative Governance and Traditional Affairs and lastly, KwaZulu-Natal Provincial House of Traditional Leadership, a landmark judgement delivered by the KwaZulu-Natal High Court in Pietermaritzburg on the 11th June 2021, declared that customary land notional held by the Ingonyama Trust should be returned to the people occupying that land as true and beneficial owners of that land rather than mere tenants. The judgment confirmed that the Trust is not the real owner of the land and cannot convert the customary land rights of the occupiers to rent paying leases as has been the case. Furthermore, that "the Trust acted unlawfully and unconstitutionally in cancelling Permission to Occupy (PTO) rights and concluding residential lease agreements with the holders of PTO rights with regards to residential and arable land or commonage". This judgement has direct implications on housing delivery in areas under Traditional Authority as gate keeping rights of the Ingonyama Trust have just been curtailed. A judgement like this should be viewed as a solid foundation and giving impetus to the Traditional and Khoi-San Leadership Act of 2019. The Act recognises the traditional and Khoi-San communities as landowners including their leadership and their related roles and functions. Of paramount importance is the fact that, the Act can take away such recognition and provide regulatory powers for the Minister and Premiers thus allowing the establishment, composition, and functioning of a National House of Traditional and Khoi-San Leaders. Section 20 (1) (h) of this Act advocates for the promotion of the ideals of co-operative governance, integrated development planning, sustainable development, and service delivery, while Section 24 (5) encourages Traditional and Khoi-San Councils to enter into service delivery agreements with municipalities in line with Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and any other applicable legislation and that. It is also stated that Premiers should monitor such partnerships and agreements – section 24(6). Although the Act is enacted, it would be good to monitor its service delivery implications especially in the light of the June 2021 judgement against Ingonyama Trust by the KwaZulu Natal High Court.

With a sizeable rural populous unique to eThekwini compared to other metropolitan areas in South Africa, this 2021 judgement resonates well with the wishes of eThekwini Municipality in its quest to increase their rates base footprint as hinted above. "The eThekwini rural area is a vast 1500 km.sq. located northwest and southwest of the city, including the peri-urban areas alongside the N2 and N3 corridors" (IDP, 2019-20:46). "This institutional arrangement is unique to the eThekwini Metropolitan Municipality and presents several challenges particularly with respect to land, planning and urban management" (SACN, 2018). The remainder of the municipal area, approximately 32%, is urban and is dominated by residential, commercial or office and industrial land uses. The economic land uses, located in closer proximity to the N2 and N3 highways are unevenly distributed throughout the Municipality and separated from the higher density residential areas (SACN, 2018).

The Municipality has 17 Traditional Authorities and 110 Wards inclusive of 6 Wards that used to be in the Vulamehlo Local Municipality in the South Coast (Scottburgh). The 6 Wards are rural wards under Umnini Traditional Authority, so not much municipal rates can be generated by their incorporation into eThekwini. The map shows the spatial distribution of eThekwini Traditional Authorities.

Map 1: Location of Traditional Authorities in eThekwini Municipality

Source: eThekwini Municipality, 2017.

4. Objectives of the study

The objectives of this study are the following:

a) To examine how traditional leaders, perceive the housing allocation policy in eThekwini Municipality.

b) To understand how traditional structures of government implement a housing allocation policy that they did not formulate.

c) To determine the impact of this policy development ideology on housing allocation in traditional authority areas.

d) To investigate how the dual governance system impacts on state subsidised housing allocation in eThekwini Municipality.

5.   Research Questions

Questions that guided the study are:

a) What administrative roles and responsibilities do traditional leadership play in low-cost housing delivery and allocation in the eThekwini Municipality?
b) How do traditional leaders perceive, absorb and/or reject housing allocation policy that they did not develop in the Municipality?
c) What effects does this policy development ideology between the Municipality and traditional governance structures have on low-cost housing provision in traditional areas?
d) How and why traditional leaders choose certain policy feedback mechanisms on housing allocation in their areas?

6.   Structure of Dissertation

This dissertation is comprised of four chapters. Chapter one presented background to the study, location, the legislative role-players in that location and the implications of their actions in the land ownership polity and its impact on service delivery and lastly, the objectives which are informed by the research questions. Chapter Two dwells in literature review, theoretical framework and housing delivery mandate and milestones in South Africa, KwaZulu-Natal, and eThekwini Municipality. In this chapter the South African Policy on housing and backlog is discussed to understand housing allocation policy at provincial and local spheres of governance. The analytical framework used in this dissertation sets the tone of the whole dissertation. Chapter three presents the methodology and research design while chapter four is dedicated to the findings, analysis, and conclusion of the dissertation.

CHAPTER TWO: LITERATRE REVIEW

Thinking Tradition and Local Governance: Traditional Authorities and Service Delivery

1. Introduction

Traditional leaders have a constitutional mandate in local government structures and are responsible for the daily administration of their area as well as for the lives of their subjects. During the pre-colonial era, traditional leaders got more recognition as their leadership was based on governance of the people and the leader was accountable to their subjects. Under the post-1994 South African democratic Constitution, issues of traditional authority were negotiated to ostensibly address the damage done to traditional systems of leadership by previous administrations. This chapter explores the role of traditional authorities in local government and development. The public administration exponents cited in this chapter weigh in on the post 1994 struggle under the stewardship of the ANC between local government and traditional authorities. These exponents argue that traditional leaders are often excluded in political and policy debates that are directly affecting their indigenous governance mandate. While the literature review is purposed around understanding this tussle, the theoretical framework is framed around the influence of administrative policies on politics and policy feedback thereof.

2. Traditional Leadership and its Relevance to Democratically Elected Local Government Structures in South Africa

According to the White Paper on Traditional Leadership and Governance of 2003, "the transformation of the institution of traditional leadership must, among other things, promote sound relationships between itself and other spheres of government, and act in partnership with the Municipality by creating good relationships in order to enhance service delivery and development". The role of the institution of traditional leadership is to support the government in improving the quality of life for traditional communities through development projects including housing delivery in areas under traditional administration.

This is supported by the Local Government: Municipal Structures Act (Act No. 117 of 1998) which provides in Section 81 that "traditional leaders may participate in Municipal Councils,

to ensure that matters relating to Traditional Councils are considered in the decision-making processes of Municipal Councils". Furthermore, the Traditional Leadership and Governance Framework Act (Act No. 41 of 2003 as amended) and other subsidiary provincial legislative transcripts take into consideration the various levels of traditional leadership positions and structures. The narrative of the Traditional Leadership and Governance Framework Bill seeks to facilitate co-operative governance through the establishment of national, provincial and district houses of traditional leaders. The idea is to convert the existing traditional authorities to traditional councils. In terms of this Bill, traditional authorities are conceived important actors that must be consulted by municipal councils on all matters concerning their areas of jurisdiction. To this end, traditional leaders are regarded as "de facto primary structures of local government" as they have an important role in facilitating the provision of state services and improve quality of life in rural communities (Municipal Structures Act, 1998). However, scholars interject that, "this will be possible only if the state provides the councils with the requisite material, financial and human resources". According to CONTRALESA, a national organisation of traditional leaders, the only anomaly pertaining to this Bill is that "the role of the traditional houses is to act as advisers to the corresponding legislatures on matters of custom and tradition only". Due to this anomaly, some traditional leaders do not take kindly to this as they believe all issues affecting the lives of rural folks and traditional communities are their responsibility. Another problem is that the Bill is silent on the provision of amenities and other services to members of traditional houses compared to what elected representatives are entitled to in the form of medical aids, pension benefits and other associated benefits. The other contentious issue revolves around the staffing of traditional houses and their funding. They are understaffed and there are no budget allocations under their direct control.

Section 28 of Traditional Leadership and Governance Framework Act (Act No 41 of 2003) deems "the tribes that were created during apartheid to now be traditional communities". It also deems "the tribal authorities created in terms of the Bantu Authorities Act of 1951 to now be traditional councils, provided that they comply with new composition requirements". These requirements stipulate that "40% of the members of a traditional council be elected, while 60% should be appointed by the senior traditional leader". The Act also makes a provision of 30% women's quota. Section 20 of the Act gives mandate to national and provincial governments to pass laws that look after the interest of traditional councils, primarily focusing on a wide range of roles and functions. Chapter 2 of the Traditional Leadership and Government

Framework Act provides for the "recognition of traditional communities under traditional leaders". Post-colonial South Africa has warmed up to the use of the word traditional councils than tribal authorities as conceptualised in the above narrative. However, it is not clear how traditional authorities in a democratic South Africa provide feedback on policies that they do not actively formulate such as the housing policy.

Section 26 of the Constitution of the Republic of SA stipulates that "everyone has the right to adequate housing". This simply means the state must take reasonable legislative and other measures within its available resources, to achieve the progressive realisation of this right. This is further enshrined in the Housing Act of 1997. This Act lays down the roles, responsibilities, and functions of the different spheres of government on the facilitation of a sustainable housing development process. This resonates well with the Sustainable Development Goal 11 which "seeks to make cities inclusive, safe, resilient and sustainable". Similarly, the National Development Plan (NDP: Chapter 6) requires "all municipalities in South Africa to prioritise development in rural areas". The NDP also requires "all municipalities to include a chapter in the IDP/SDF to demonstrate the approach to rural development within areas under their jurisdiction". Furthermore, the eThekwini Spatial Development Framework (SDF) is also expected to "incorporate a Rural Development Strategy which reflects how the Municipality is responding to the National Development Plan's call for prioritising rural development". To this end, "as a result of several spatial challenges, the eThekwini Municipality has also put-up contingency plans to pay more attention to planning for the rural areas" (NDP: Chapter 6).

3. Relevance of Ubukhosi in the KwaZulu-Natal Context

In the contemporary institutional landscape of KZN, Ubukhosi (traditional governance) is viewed as critical, however traditional leaders continue to occupy uncertain positions and play ambiguous roles in the polity. Of all the 9 provinces in South Africa, KwaZulu Natal was the hardest hit by political upheavals as KwaZulu-Natal was ravaged by civil war during the apartheid era which quickly spread to rural areas. This presented amakhosi and their izinduna with a dilemma as they were not politicians and had little knowledge of politics, most of whom were staunch supporters of Inkatha Freedom Party (IFP) and were fueling violence from the countryside. Generally, traditional leadership in South Africa was undermined and left to its own devices by colonialism and the apartheid systems (Kompi,2018). Out of desperation, they

called on their subjects to fight and attack the militant youth in the city's townships. As Kentridge has explained, "they were able to exact their traditional rights from rural dwellers in the form of military duty". "They did so in return for favours ranging from land allocation to the issuing of licenses which though not a legal obligation was a difficult summons to resist nonetheless" (Kentridge, 1990:52). The ANC was ultimately successful at national level with Nelson Mandela having popular urban support base in KZN while the IFP had a lot of supporters in the rural areas of KZN. This, to a certain extent curtailed pockets of violent and divisive tendencies in the province at the time of transition, in which the IFP was deeply implicated. This new phenomenon presented the IFP with a platform to redeem itself as a formidable political party not just a tribal faction, from which to try and win over a larger vote within the province. It also countered a long-standing tendency, dating back to colonial times, "for local politics and governance in KZN to work 'within and without' the South African polity and often at odds with the mainstream". According to Beall et al., (2004:9) "under-currents of separatism were rife in the region and were not confined to the white population in Natal". "Furthermore, these were matched by IFP leader Mangosuthu Buthelezi's periodic threats of withdrawing KwaZulu-Natal from the South African politics and administration, which continued until the early years of the democratic era" (*Natal Mercury*, 18 March 2002). Indeed, "it was only at the last minute that the IFP was added to the national ballot paper, when Buthelezi finally agreed to participate in the historic 1994 elections following a lengthy negotiated process facilitated by Dr Nelson Mandela". Against this background, for the first time in its troubled racial imbalanced history, the rest of the country was caught up in the euphoria of declaring itself a rainbow nation, few were surprised that KZN was experiencing a more difficult and protracted transition to democracy (*Natal Mercury*, 18 March 2002).

"The amalgamation of the old Natal and KwaZulu administrations proved much more difficult because they both had different organisational ethos". "One outcome was the fragmentation of the provincial bureaucracy between three geographical centres (Pietermaritzburg, Ulundi and Durban) because of a messy political compromise that made inter-sectoral coordination difficult" (Johnston & Johnston, 1998). According to Johnstone et al., (2004: 10) "another outcome was that key provincial government portfolios fell under ministers of different political parties and would not necessarily co-operate with their opposition counterparts". This political arrangement rendered the achievement of the national government's target of integrated development planning very difficult. "In part giving rise to these outcomes and affecting political and policy accord was the significance accorded to ubukhosi in the old

KwaZulu administration so that reaching an acceptable decision on the role, powers and functions of the amakhosi emerged as a fissure in ANC and IFP relations in the province"

A critical point of conflict has been repeated attempts and determination by the KwaZulu-Natal government since 1994 to pass its own Constitution. "A draft Provincial Constitution was passed in 1996 and ratified by all seven parties in the Provincial Legislature but was disallowed by the Constitutional Court". "The draft contained a chapter on the monarch, traditional authorities, and related matters. It sought to curtail the powers of the King by requiring that his actions needed to be approved by the Premier and where appropriate, the competent Minister" (Goodenough, 2002:36). Unsurprisingly, given its origins with IFP supporters, it simultaneously sought to elevate the position of the amakhosi, as the primary local government administrators of their respective communities (Goodenough, 2002). The application to the Constitutional Court was opposed but the debate con,, inues to simmer. There was not much constitutional or legislative guidance on local government, particularly in rural areas and it was left to provincial government to decide on what form of local government was most appropriate. The result was that traditional leaders were given tremendous powers over a relatively lengthy period of transition (Mbatha, 2003:191). This enabled them to exact their already considerable influence at local level and then to extend it further in the context of national level negotiations. In KZN much more permissive legislation already existed in the former self-governing territory of KwaZulu in the form of the KwaZulu Amakhosi and Iziphakanyiswa *Act* (Act No. 9 of 1990) and its various amendments (Goodenough, 2002:30). "These Acts saw the Amakhosi and Iziphakanyiswa (traditional leaders not of royal blood) not only upholding traditional laws and customs but also having a more significant role at local government level". McIntosh, Sibanda, Vaughan and Xaba (1996) point out that this came to be the ANC position as well, with the government hoping to create bodies that could render what were in effect local government services. As the ANC has identified the role that traditional leaders can play in the polity and has since become increasingly conciliatory towards them therefore the role of the traditional leaders in local government is becoming not only clearer but also stronger (McIntosh et al, 1996, :38-39).

The enaction of the Municipal Demarcation Act (Act No. 27 of 1998) had a noteworthy impact that gave rise to a blistering backlash from traditional leaders following the first round of local government elections in 1995/6, established a Municipal Demarcation Board to redraw municipal boundaries across the country. "The demarcation process aimed at introducing

uniformity in local government structures based on cohesive physical and environmental areas. and potential for sustainable service delivery, financial viability within functional boundaries and administrations, political acceptability and the potential for redistribution of functions and resources". This demarcation process was presented as a technical exercise, concerned first and foremost with overcoming the legacies of apartheid planning and racially skewed resource distribution but eventually blossomed as an intensely political discourse, resulting in the number of municipalities reduced from 843 to 284 (Goodenough, 2002:40). A major point of contestation related to traditional authority areas, as they were incorporated into municipalities with some of the new municipal boundaries cutting right across rural districts and tribal land. This shortcoming persists till today, with boundaries changing whenever local government elections are looming. Some protested that the consultation process was poor and unilateral. Although in KZN consultations took place between the Board and every tribal authority however the demarcation process was particularly volatile as in some instances it was fueled by the historical political uprisings that could only take place under the protection of the army (Mkhize, Sithole & Vawda, 2001:45).

Following this, traditional leaders held a protest imbizo in Umlazi, an urban township south of Durban in January 2000 to oppose the new municipal boundaries in KZN, the subdivision of their land and a representation of only 10% on elected councils. Subsequently, to the protest , King Goodwill Zwelithini decided to consult with President Mbeki to ventilate all issues and concerns of the amakhosi. This necessitated a meeting between representatives of traditional leaders from across the country and Thabo Mbeki and Sydney Mufamadi, the then Minister of Provincial and Local Government. Thabo Mbeki and Sydney Mufamadi advised these representatives to make submissions to the Department of Provincial and Local Government now called Department of Co-operative Governance and Traditional Affairs. The Demarcation Board initiated investigations into potential municipal outer boundaries in KZN around June 2000. As anticipated that there might be a pushback from the traditional leaders' representatives, it was not long before a scathing attack from Buthelezi who claimed the "way of life of traditional leaders" was under threat. By August of the same year (2000), the pushback seemed to have yielded a certain degree of results as the participation of traditional leaders in local councils was increased from 10% to 20% by Mbeki. This turnaround was also seen as dividends of pressure from within the ANC itself. However, as much as Mbeki was willing to listen to traditional leaders but he was not willing to give in into their demand for 50% representation as against 50% elected representatives. A stand-off ensued that resulted in

Mufamadi postponing the announcement of a local government election date for the third time. Following an undertaking from Mbeki which was accepted by traditional leaders to act on proposals to preserve their powers and functions in the new local government structures, the date for local government elections was eventually set for the 5th December 2000 (Goodenough, 2002:50-52). On numerous occasions King Zwelithini had to adopt a negotiating role. The King was assisted by church leaders to ease tensions in relations between the KZN province and central government as they remained tense and to avert a possible showdown. "Even the then ANC Secretary-General Kgalema Motlanthe said in July 2001 that relations between the KZN amakhosi and the party had to be addressed as a matter of urgency" (Goodenough, 2002 :53-57)..

As the focus was on addressing political representation, control over land was left unsolved and this was viewed as an important reason for the stand-off. Control over land was regarded as one of the crucial issues around which the amakhosi would not rest. Although amakhosi wanted more assurances than the provisions of the White paper they were content that at least something was being done. The White Paper provided that traditional authorities should continue to make recommendations on land allocation and the settling of land disputes, however, this was not enough in the eyes of amakhosi. This sudden power to control and allocate land and the accompanying Traditional Leadership and Governance Framework Bill (TLGFB) were ultimately achieved through the Communal Land Rights Bill (CLRB). These two were discussed in parliament at the end of 2003. "The first draft provided for the community to appoint an administrative structure of its own members". "Traditional leaders could sit on these bodies as ex- officio members, but they could make up no more than a quarter of the body and would have no veto powers". However, in October 2003, "the Cabinet approved a change to the bill that gave effective control over these administrative structures to traditional leaders". They are now called traditional councils. However, a question was posed on why on the eve of achieving its largest electoral victory yet, did the ANC put at risk the very democracy for which it fought so hard by rushing through legislation that entrenches the power of traditional authorities over their mainly rural subjects (Goodenough, 2002:53-57).

Goodenough (2002:55) argued that "there is a need to recall how the usually pro-ANC CONTRALESA traditional leaders during the 1995 local government elections threatened to dissuade their subjects from participating, after government had sought to abolish headmen in the Eastern Cape". It was following this episode that the ANC recognised the power of

traditional leadership (Jacobs, 2000:1). Similarly, to appease traditional leaders, their allowances and stipends were elevated to some degree just before the 1999 general election. Regarding the more recent legislation that elevates the position of traditional authorities, veteran journalist Alistair Sparks stated: "it is a sweetener to the traditional leaders and izinduna, either in the hope of winning them over in the ANC's bid to gain control of KwaZulu-Natal or, on a more charitable analysis, to prevent them instigating bloodshed during the election campaign" (Natal Witness, 25 February 2004). The then Deputy Minister of Land Affairs, Dirk du Toit, told a media briefing in Cape Town that, "it was imperative that the bill should be passed before the election, "If we want to get security we must work with the traditional groups", du Toit said. The Minister cautioned that, "the price to be paid for political expediency is very high" (*Natal Witness*, 25 February 2004). As displeasing the chief could potentially render an individual or a family homeless and without a livelihood". "Does this mean that chiefs influence voters' behavior in their constituencies because of their subjects' fear of victimisation" (Mamdani 2018; Conroy-Krutz 2018; Ntsebeza 2005; Stokes 2005; Boone 2003; Ribot 2002). The coercive nature of this potential influence on voters as opposed to co-operative nature with free and fair underpinnings has negative implications for electoral accountability and democratic responsiveness in new democracies (Gottlieb 2017; Baldwin 2013). History tells us that, colonial government used traditional leaders to pursue indirect rule, while on the other hand traditional leaders used power available to them to oppress their subjects (Gumede, 2019; Ntsebeza, 2005, and Williams, 2004). Indigenous people were doubly oppressed, first by the colonial governments and secondly by their traditional leaders (Gumede, 2019). In pursuit of voters' approval at the polls, the government of South Africa has no option but to work with traditional leaders and royal families and even allocate budget for the Royal Households especially in the case of KwaZulu Natal to counter clientelism especially in rural areas. Coercion and personal obligations are fundamental principles of clientelism, pushing citizens to vote for candidates for reasons tangential to political performance (Baldwin, 2013). This system of clientelism has not gone unnoticed by African politicians seeking to lure and sway voters towards their political parties' agendas and campaigns. Baldwin (2014) further highlights that there is a tendency by African politicians to delegate power to traditional leaders aimed at mobilising electoral support from non-ethnic groups.

In the same vein, majority of South Africans still question the role and legitimacy of traditional authorities in present day democratic South Africa. This pessimism about traditional authorities has even stretched to within the ruling party structures (ANC) as many believe that the

traditional leaders cannot expect the same rights as democratically elected representatives. This posture, which is also widely held within the ranks of Inkatha's traditional political ally, the Democratic Alliance (DA), holds that, "traditional authorities should not be allowed to hold the government to ransom" (Mkhize et al.,2001). There are those that support traditional systems of governance, arguing that "traditional authorities have continued salience in contemporary South Africa and must be accommodated". Furthermore, under the umbrella of the Constitution of the Republic of South Africa, traditional authorities themselves know it very well that, they will stop at nothing short of constitutional protection of their powers and functions. Up to now, this is something that the Government has resisted, "insisting that traditional authorities must work together with democratically-elected bodies and in the interests of local development while transforming themselves to become more democratic within the framework of the Constitution (Mkhize et al.,2001).

The then eThekwini City Manager, Michael Sutcliffe, proudly announced that 17 March 2003 will go down in history as a day of significance for developing broad-based institutions of governance in eThekwini and South Africa. In the eThekwini Council meeting of that date, Council agreed that, "those traditional leaders with jurisdiction within the boundaries of eThekwini should be invited to participate in municipal affairs". "Given the way that colonial and apartheid governments had whittled down traditional areas, from comprising most of our country to today comprising some 6% of the area of South Africa, that decision of eThekwini Municipal Council will go a long way to restoring our sense of who we are and where we have come from as a City", Sutcliffe said (City Manager Newsletter, March 2003). In section 212 of the Constitution, provision is made that, "national legislation may provide for a role for traditional leadership as an institution at local level on matters affecting local communities". "The Municipal Structures Act regulates that arrangement and that day's decision by Council brought it into effect". By doing so, "eThekwini became the first metropolitan area, and the first major Municipality, to allow for traditional leaders to participate in the affairs of governance".

4. Traditional Authorities Under Colonial And Post-Colonial Imaginaries

South Africa has a dual governance system comprising of national, provincial, and municipal governance institutions led by democratically elected officials, and traditional institutions led by unelected traditional leaders (Turner, 2014). According to Turner (2014), contemporary

traditional leaders enforce substantial authority over their subjects and within the boundaries of their traditional communities. Turner goes on to say, such authority is vague by any standards, ill-defined and highly contested. This kind of authority, according to Turner, allows traditional leaders to preside over meetings, resolve disputes, mete out fines, interpret customary law, allocate communal land, mediate between external actors and their subjects and grant or withhold support for development initiatives. However, there is now a new system enshrined in the Traditional Leadership and Governance Framework Act 41 of 2003 as amended by Traditional Leadership and Governance Framework Amendment Act 23 of 2009. The amended Act requires that, "4/10 Traditional Councils should comprise of Traditional Leaders elected by their communities.

The Act:

- provides for the recognition of traditional communities,

- provides for the establishment and recognition of traditional councils,

- provides a statutory framework for leadership positions within the institution of traditional leadership,

- provides for the recognition of traditional leaders and the removal from office of traditional leaders

- provides for houses of traditional leaders,

- provides for the functions and roles of traditional leaders,

- provides for dispute resolution and the establishment of the Commission on Traditional Leadership Disputes and Claims,

- provides for a code of conduct,

- provides for amendments to the Remuneration of Public Office Bearers Act, 1998, and to provide for matters connected therewith.

However, critics have strongly argued that, "the present system closely resembles the colonial and apartheid system condemned by Mahmood Mamdani in his celebrated text, *Citizen and Subject*". Mamdani (1996) argued that, "During colonialism and apartheid, citizenship was racialised, subjection was ethnicised and a system of what he famously called decentralised despotism was established in which black rural people were ruled through unaccountable traditional leaders".

According to Beinhart (1985) modern traditional leadership had been viewed as a creation of the colonial state. In his book, *Chieftaincy and the Concept of Articulation*, he stated that it was widely recognised that, "the current form of traditional leadership was entrenched in the latter period when government officials accompanied by tame anthropologists and black information officers scoured the rural districts for the remnants of chiefly lineages". Beinhart (year: page number?) further pointed out that, "tribes were defined, tribal and regional authorities were created, and some of the traditional leaders were installed with much pseudo-traditional ceremony". Traditional leaders were also given salaries and scope for personal gain. They were regarded as agents who managed activities such as land allocation, agricultural affairs, road infrastructure (Rugege, 2003). In this way the state hoped to secure a conservative or reactionary rural hierarchy which would help to defuse broader national struggles. Rugege argued that during the pre-colonial era, traditional leaders played an important role in traditional life as they were responsible for the daily administration of their area as well as for the lives of indigenous people. Their leadership was based on governance of the people and the leader was accountable to their rural subjects. Rugege (2003) further stated that 'this kind of co-option by the colonial state resulted in the loss of legitimacy by the traditional leadership institution".

Though looking back during the pre-colonial era, the institution of traditional leadership was a political and administrative centre of governance for traditional rural communities in South Africa (Beall and Ngonyama, 2009). Beall and Ngonyama (2009) further add that the institution of traditional leadership was the form of government with the highest authority. However, when the colonial authority and rulers introduced their governance to the landscape of traditional governance the leadership control of traditional leaders changed. Beall and Ngonyama (2009) argued that, in the pre-colonial era, 1880 -1893, "traditional authorities were important institutions which guided the daily traditional life of rural communities". So, the arrival and ultimately settlement of the Europeans in South Africa brought about changes in the traditional leadership landscape as various laws were enacted to legalise their invasion and push traditional communities out of their land with a negative impact on subsistence rural livelihoods (Khunou 2011).This kind of imposing authority over people's lives through Traditional Leaders and other associated structures, enabled them to provide political, societal, economic, cultural and religious leadership for local communities (Gumede, 2019). Holomisa (2009) highlights that those who resisted the imposed authority of the colonial regime and laws were subjected to harsh punishment and humiliation. As a result, those Traditional

Leaders who rebelled were demoted, disposed, banished and forced into exile while others were executed or sent to prison with no clear prosecution trial. . Due to this mandate, traditional leaders saw themselves as responsible for the normal functioning and existence of each traditional community under their jurisdiction. Unlike Ward Councillors today, they were not elected, but the son would automatically inherit and ascend the father or uncle's leadership throne. This gave rise to centralised leadership vested in hereditary leaders. During the colonial period, the 19th century, traditional authorities were viewed as the means of indirect rule to administer Africans under the colonial administration rather than give them the right to vote. Indirect rule was a British concept subjecting traditional leaders to be agents of the colonial government. This form of authority ensured that traditional leaders depended on the colonial government for resources and power. Colonial government gave traditional leaders orders on how to administer and control their communities (Beall and Ngonyama, 2009).

According to Beall and Ngonyama, the traditional leaders' roles included:

- "judicial functions, allocation of land held in trust (the ownership of the land is held by the traditional leader for the benefits of the people who live in it)",
- "the preservation of law and order",
- "the provision of administrative services at local government",
- "administration of social welfare such as the processing of applications for social security benefits and businesses",
- "premises, the promotion of education such as the erection and maintenance of schools",
- "the administration of access to education and finance".

Most traditional leaders did not comply with this as they view it as a weapon to annihilate their subjects' livelihoods, but a few found themselves caught up in this web of manipulation by the colonial state (Koenane, 2017). To pursue this indirect rule into the future, the colonial government of South Africa passed the Black Administration Act of 1927, mainly to restrict the powers and roles of traditional leaders. At the same time, "the Act aimed at the recognition and application of customary law to control the institution of traditional leadership by making sure that Africans were subjected to a political regime from the remainder of the country". "It also gave traditional leaders the powers to control the land at regional, tribal and territorial levels". "In the same year, the Bantu Authorities Act was passed, making traditional leaders

the administrative agents of the Apartheid state in the reserve areas, starting a process of setting up new separate political institutions for the African population". "This was reinforced by the passing of the Promotion of Bantu Self-Government Act in 1959, which provided for the establishment of 10 self-governing homelands or Bantustans such as Transkei, Bophuthatswana, Venda and Ciskei" (Beall and Ngonyama, 2009).

This provided a good example of change in the leadership roles of the traditional leaders during the colonial period. Traditional authorities colluded in the segregationist policies of the South African government. Amid these developments, Beall and Ngonyama (2009) pointed out that, "the office of Governor-General was created with the aim of prescribing traditional leaders' duties and autonomy". "The Governor-General had the powers to appoint whosoever was considered by the government to be a Chief, irrespective of whether such a person was entitled to the position by the natural and traditional laws of succession". "The Governor-General was also empowered to remove and replace any traditional leader who was not willing to implement the colonial government's policies". "This was because the Governor-General was made the Supreme Chief of all traditional leaders in the then Union of South Africa" (Beall and Ngonyama, 2009).

However, "the South African Act of 1909 sought to control native affairs under the Governor-General, and the government's primary concern was to crash a revival of the military power of African chiefdoms". This culminated in a system of indirect rule being adopted and ultimately imposed upon the chiefdoms. In their efforts to outline the implementation of this indirect rule, Banks and Southall (1996) have illustrated how Chiefdoms were transformed into units of local government, stating that, "this was initiated by introducing an administrative system that cut across tribal boundaries". "A grid of twenty-seven magisterial districts, that paid scant regard to the old political units, was imposed on the traditional pattern" (Banks et al.,1996:40). These districts themselves were further subdivided into locations. Each district was comprised of thirty locations, and over each a headman was allocated. The headman was appointed to the post by the administration. "Although, in fact, succession to office was almost invariably inherited, in law the traditional leader was appointed by Government and was subject to bureaucratic rules of censure and dismissal". According to Dladla (2018), in the judicial sphere, the authority of traditional leaders was overlooked and not enforceable. This meant that traditional leaders were not permitted to decide any criminal case and even in civil cases their role was merely one of arbitration. "They had no power to enforce their decisions and any

litigant not satisfied with these decisions could bring his case to the magisterial court" (Dladla, 2018:415).

In fact, contrary to Banks and Southall's illustration, "by the late 1980s and early 1990s, traditional governance was beginning to emerge as a subject suitable for policy analysis" (van Rouveroy 1987, Ray and van Rouveroy 1996). Ray et al (2011) argued that traditional leaders in the post-colonial states of Ghana, Botswana, and South Africa are beginning to reinvent themselves and their offices as their communities and countries are increasingly challenged by a unique combination of governance and development. They argued that "while traditional leaders as indigenous community leaders have unique resources such as indigenous knowledge and community opportunities to respond to these challenges, they are often missing voices in the contemporary political and policy debates around these African issues". To add to Ray et al stance, Holomisa stated in 2019 that rural communities still respect and believe in traditional leadership as they are the custodians of African culture and heritage. I Institution of traditional leadership proved to be very resilient when it was tested to the core by the colonial regime in South Africa (Koenane, 2011).

Looking at the eThekwini Municipality, apparently after the fall of the apartheid regime, "the struggle to implement political democracy has meant two contrasting views of the role of traditional authority in local government and development". Vawda (2003) examined this discursive struggle over local governance between the post-colonial state under the ANC, and traditional authorities in the KwaZulu-Natal province in rural areas formerly under the traditional leaders which are now being incorporated into the rapidly expanding greater eThekwini Municipality. He noted that there are two differently rooted legitimacies at play. He shows that this politics of local governance is far more nuanced and complicated than the post-colonial state's portrayal of traditional leaders as "tradition-bound" reactionaries who wish to hold back democracy while oppressing the poor by rejecting their socio-economic and political interests against municipal development services.

Through the examination of the areas on Durban's periphery, Vawda (year) found that the traditional leaders through their legitimacy and control of land defend the economic and political interests of citizens against the attacks on them by the municipalities' service development that only those who can pay for services can access them. In this case, these rural

citizens depend on traditional leaders to defend their customary access to land for subsistence farming against the swallowing up of this land by urban development.

This argument attempts to address the question raised by Mamdani (1996) as to whether the division between a politically modern urban and potentially democratic system of governance and a rural-based authoritarian politically conservative traditional form of government can be overcome. Ntsebeza (2005) argued that terms of debate centre around the more complex reality of contestation and negotiation of tradition within the confines of a democratic state between different and competing political parties, interests, and development agendas". "This contestation and negotiation over tradition is also not simply about the resurgence of custom and tradition or harnessing (Oomen 2005). Amoteng (2007) suggests that harnessing would point out that the institution of traditional leadership be attached in a positive way to democracy or incorporated into some form of modern government system. This would be to miss the point that traditional forms of governance are already implicated in modernity as reconstituted institutional forms through which governance take place.

In a study by Mkhize (2000) it was found that there is a uneasy relationship between traditional leaders (amakhosi) and the post-apartheid, post-colonial South African state. Mkhize (2000:325) interviewed amakhosi on the periphery of Durban or eThekwini Municipality whose land was being or had been incorporated into the new megacity. The initial interviews with the amakhosi were conducted before the 2000 local government elections, which implemented the new boundaries set by the post-colonial government. A second round of interviews was conducted after these elections. Mkhize examined the questions of demarcation of boundaries, consultation with amakhosi by the state over demarcation, the new distribution of powers between the traditional authorities and local government Councillors, the role of traditional leaders in development and the future of traditional leaders in the new South Africa (specifically the Durban/eThekwini Municipality), the traditional leaders' perception of government's attitudes towards themselves, and how the demarcation process has affected the land problem in their peri-urban areas". Contrary to some expectations, Mkhize (year?) pointed out that, "amakhosi have on the whole recognised the new realities of local government and are often trying to constructively engage with it and to promote development in order to reinvent themselves as governors in the new South Africa".

In line with Lambert (1995) and Mamdani (1996), "a new body of literature on the challenges aligning traditional leadership with democratically elected governance structures emerged during the first decade of the twentieth century". It is deemed necessary to articulate the complexities of transforming traditional structures in South African, as it saw sharp political polarisation and violence during the 1980s and 1990s (Mkhize, 2000). The government has an arduous task of absorbing traditional leadership into the new constitutional democracy without being seen to be secretly plotting the demise of the institution of traditional governance. There is widely held societal view that, "Traditional Authorities claim to be part of Africa's heritage, but it is also one in which the origins of some of the Traditional Authorities which emerged during the late nineteenth and early twentieth century were colonial inventions" (Mkhize, 2000).

The role of traditional leadership in the new South Africa has become more pronounced recently. This is evident when considering that the institution of traditional leadership was recognised in section 212 of the Constitution. The White Paper on Traditional Leadership and Governance and the Traditional Leadership and Governance Framework Act of 2003 aimed at transforming the institution of traditional leadership. The White Paper required that, "provision be made for the allocation of additional roles to traditional leadership". "It had to be noted that section 19 of the Traditional Leadership and Governance Framework Act of 2003 did not allocate any specific roles and functions to traditional leaders whereas the White Paper had indicated a peremptory allocation of roles and powers to traditional leaders", (Cogta, 2014). It should also be noted that, "Section 20 only provided for the discretionary allocation of roles and functions to traditional leaders". Section 20(1) on the other hand, "vested in national and provincial governments the discretion to allocate additional roles and functions to traditional leaders and traditional councils by means of legislation or other measures" (Cogta, 2014). Cogta (2014) pointed out that, democratisation of governance, decision-making, law making processes and decision implementation was impossible without effective traditional leadership participation, particularly in the development of rural communities. However, a concern still lingers on that municipalities had the financial capacity to undermine traditional leaders and traditional councils. The issue of traditional leaders playing political roles in Parliament is still under consideration specifically looking at measures to prevent conflicts of interest (Cogta,2014). More and more attention is being given to rural areas and that has been demonstrated by the new government's decision to establish the Ministries of Rural Development as well as Co-operative Governance and Traditional Affairs (Mkhize, 2000).

Mkhize (2000) highlighted that rural areas are the terrain of traditional leaders and that it will be interesting to see how the new department penetrates traditional leadership structures and secures cooperation.

The perception that many of the amakhosi (traditional leaders) were apartheid collaborators or accomplices and that they participated in the implementation of apartheid has contributed to the denting of their image and historical legitimacy (Sithole and Mkhize 2000). Since traditional leadership was used as a strategy to divide and rule for most rural communities as alluded to above with the passing of Black Administration Act in 1927 by the colonial government, its legitimacy and influence fell through the cracks. For this reason, the institution of traditional leadership is no longer what it was before the advent of the colonial rule (Koenane, 2011). It was against that complex background and the role played by traditional leaders that when there were negotiations for a democratic South Africa during the early 1990s, there was an impasse over the issue of traditional leadership within the new dispensation. In a study done by Williams (2010) it was stated that despite the perception of collaborating with colonial and apartheid governments, Traditional Leaders have struggled with the masses to fight apartheid and can be accredited with the formation of the African National.

Rathbone (2000) has shown how nationalists, such as Kwame Nkrumah, regarded Traditional Leaders as being imperialist tools who held back independence and the nationalist agenda in Ghana. Similarly, in South Africa, many traditional leaders did collaborate with the neo-colonialist apartheid regime in South Africa (Mamdani 1996; Ntsebeza 2005). Through apartheid policies, the government exerted so much control over the traditional leadership and rural communities that the dominant system was for the white minority and subservient system was for the majority Africans Mamadani, 1996). Over two decades after the democratisation of South Africa, questions of tradition and accountability continue to trouble polity (Turner, 2014). Turner (2014) further noted that although the dawn of democracy saw the nominal independent black Bantustans administrations being integrated back into the new democratic South Africa, yielding universal suffrage for all South Africans as the country transitioned from apartheid regime, however these Bantustans remain fragmented by place and by race as 14.5 million black South Africans remain subject to state recognised so called traditional leaders in the form of kings, queens, traditional leaders, headmen, headwomen and regents" (South African Government News Agency 2013). "The Bill of Rights and the multiparty government

of national unity as enshrined in the 1996 Constitution of the Republic of South Africa are not the only legislative accomplishments of the Constitution but also the recognition of traditional leaders, traditional authorities, and customary law are part of that legislative accomplishment package". Turner (2014) argued that about, 28% of the population is placed under a condition she referred to as "citizen subjection. In line with Mamdani (1996), Turner argues that "these people nominally possess the political, civil and social rights to which all citizens are entitled but are concurrently and officially subject to unelected traditional leaders". He makes an example of the victims of citizen subjection who expressed similar views at national and provincial public hearings and in comments on proposed legislation. At the 19th July 2010 Public hearings gathering on the Black Authorities Act Repeal Bill, a speaker and activist on behalf of Rural People's Movement (2010) mentioned that: "As women, we do not really like traditional leaders that much, we voted for a democracy of the people by the people, we did not vote for individuals, we did not vote for apartheid, we prefer municipalities, we see abuse only from traditional leaders, we do not want government of the traditional leaders in rural areas". Furthermore, the activist asserted that "from this perspective, subjection to traditional leadership denies one full citizenship".

While Turner, Ntsebeza and Mamdani (2018) were preoccupied with the legitimacy of traditional authorities and their undemocratic nature, other scholars took their existence as a matter of fact and sought to explain their endurance. "Numerous factors are jointly responsible for the proper functioning and continued survival of state- recognised, state-supported, minimally reformed traditional leadership beyond apartheid". "First, the conditions and structure of South Africa's transition negotiations facilitated the continued recognition of traditional leaders (Oomen 2000, 2005; Beall et al. 2005; Koelble and LiPuma 2011)". The stance taken by the African National Congress (ANC) towards Traditional Leaders shifted as it began planning for a post-apartheid future. The perception that traditional leaders were influential vote-brokers also entered into the ANC's political calculus, as did the party's awareness of its narrow rural support base (van Kessel and Oomen 1997, Koelble and LiPuma 2011; Beall et al. 2005). "Thirdly, traditional leaders were strong and effective self-advocates throughout the transition, while the rapid decline in civic organisations meant that the latter no longer served as a counterweight to the former" (van Kessel and Oomen 1997, Koelble and LiPuma 2011; Beall et al. 2005). The role played by Traditional leaders in the interim and final constitutions could not be watered down. Their efforts shaped policy documents and legislation by participating in negotiations, lobbying decision-makers, and threatening to disrupt the

transition if they were not given the recognition, they so deserved (Oomen 2005). The international political-economic environment facilitated the continued recognition of traditional leaders. South Africa's democratisation coincided not only with a global decline of the nation-state, a rise in culturalism and growing acceptance of group-based rights claims, but also with the global ascendance of neoliberalism (Oomen 2005, Koelble and LiPuma 2011, Crais 2006).

In addition to these factors, one could also add that, "the post-apartheid government's neoliberal policies have sharply constrained its ability to create effective municipal governments that could provide an alternative to traditional institutions. This boosted Traditional leaders' efforts to preserve chiefly authority and this authority was further reinforced by the Traditional Leadership and Government Framework Act of 2003 and the Communal Land Rights Act of 2004. However, the Constitutional Court invalidated the Communal Land Rights Act in 2010. Subsequent to this invalidation, the re-introduction of the Traditional Courts Bill in 2012 sent a clear signal of the government's disinclination to reconsider its approach to traditional leadership. Research in traditional communities shows that many rural subjects are marshaling to pursue effective, accountable governance as well as development and it illustrates how they are working with, against and through traditional leaders and councils, hybrid organisations and independent groups (Turner, 2014). Their persistent stance came to light during the 2012 Provincial Public Hearings on the Traditional Courts Bill. Community members wanted to know why they were to be treated differently to people living in urban areas, why they were being taken backwards and why they had not been consulted on the Bill in the first place. They felt betrayed but did not backdown and used the hearings to express their feelings against the "Bill in the presence of their traditional leaders thus exposing themselves by contradicting positions held by traditional leaders who hold legislative powers that determine their livelihoods". The fact that these hearings were conducted in vernacular languages of the various provinces, broadened the scope of who could participate and this, allowed for maximum participation.

However, Turner's (2014) analysis also underscores the need for further democratising reforms by illustrating how the present structure makes citizen-subjects unduly dependent on the idiosyncratic inclinations of their Traditional Leaders. Traditional leaders, given the opportunity can easily block or undermine collective initiatives because state officials rarely respond to intervention requests, and residents of traditional communities have few means

available to them to hold these leaders accountable. Those that have the willpower to voice their grievances are often met with hostility (Turner, 2014). These constraints make it difficult to sustain collective action but in the same vein many rural people participate in community-based organisations to uplift themselves instead of relying upon traditional leaders for development and social protection such as mutual aid associations, school governing boards, water committees and cultural groups, among others. "The democratisation of South Africa saw the emergence of new organisations that claim to represent each locality to speak for and act on its behalf" (Turner, 2014).

I In the North West province, Turner (2014) points out that two leading organisations in Lekgophung and Molatedi, the Balete ba Lekgophung Development Trust and the Sebolao Development Trust, worked with their Traditional Leaders throughout at least the first decade of the 2000s. Both organisations were created in response to state conditions. The North-West Parks and Tourism Board offered 45-year Madikwe Game Reserve lodge concessions to Lekgophung, Molatedi, Supingstad and two other nearby localities in the year 2000. These offers were extremely attractive, for if the community lodges succeeded, the concessions could foster local development by increasing employment and granting local people access to and control over a share of Madikwe tourism revenues. The North West Parks and Tourism Board relied upon the traditional leaders as intermediaries issuing the offers to traditional leaders rather than communicating directly with residents. The Lekgophung and Molatedi trusts then came under severe stress with the onset of the recent global financial crisis. The traditional leaders of Molatedi and Lekgophung responded to the trust crises very differently: Kgosi Matlapeng chose to intervene directly while Kgosi Tsiepe maintained a hands-off approach. When the Molatedi trustees struggled to respond to this difficult situation, Kgosi Matlapeng asserted direct control over the trust. Rather than working with the other trustees to address this situation or seeking their consent for his intervention, the kgosi went first to the Batlokwa Traditional Council and then to Molatedi residents to seek their support for his decision. The contrasting experiences of the Lekgophung and Molatedi trusts illustrate the risks and opportunities inherent in working with local traditional leaders. These new organizations worked with their traditional leaders, they gained access to these individuals' insights, networks and administrative resources and received assistance in obtaining government grants and loans. Partnering with Kgosi Tsiepe and Kgosi Matlapeng also provided a means for the trusts to share information with residents and to solicit feedback from them. However, working with traditional leaders also comes with risks, as the Molatedi case shows. Hybrid

organizations may be vulnerable to intervention in high-pressure situations where traditional leaders may use their access to the kgotla, their control over traditional councils, and their connection to hybrid organizations to intervene. While it may be possible for such organizations to resist intervention by cultivating greater autonomy, doing so would require organisational leaders to work more closely and directly with other citizen-subjects and with government than they did in Molatedi (Turner, 2014).

These case studies illustrate how traditional leaders and citizen-subjects are shaping rural governance in North-West Province. While Lekgophung exemplifies how traditional leaders can create space for local cooperative initiatives, the Molatedi trust's trajectory highlights the risks inherent in working with the chief. While local trustees collaborated with traditional leaders to pursue development through nature tourism in Lekgophung and Molatedi, many citizen-subjects in nearby villages like Pitsedisulejang and Supingstad saw their traditional leaders as an obstacle to good governance and used kgotla meetings, mass mobilizations and petitions to express their discontent. Community-based organizations in the latter two villages became vehicles for local struggles. Activism can deepen existing divisions in localities. Close examination of contemporary South African traditional governance thus affirms the African proverb kgosi ke kgosi ka batho ("A chief is a chief through the people"). Rather than affirming or refuting broad claims such as "We see abuse only from traditional leaders". We do not want the government of the traditional leaders in rural areas" or "Traditional leadership offers unique attributes of leadership that fulfill specific social, and governance needs of people as communities", the four cases underscore the need for more nuanced analysis (Mbelekane and Rural People's Movement 2010; Sithole and Mbele 2008). Although these cases provide additional evidence that many traditional leaders are not fulfilling their citizen-subjects' expectations and that the legitimacy of many state-recognised leaders is contested, the cases also indicate that South Africa's continued recognition of traditional leadership has produced diversity, not uniformity. Some traditional leaders are locally legitimate, and others are not. Some traditional leaders look after their subjects, and others do not. Some traditional leaders interact with their subjects in a more democratic way than others. South African citizen-subjects are doing their best to get the Traditional Leaders and forms of local governance they desire in this context. This analysis underscores the need for greater state responsiveness to citizen-subjects and for democratising traditional leadership reforms (Turner, 2014).

While Lekgophung, Molatedi, Pitsedisulejang and Supingstad in the North-West province illustrate how rural people are mobilising in pursuit of collective goals, these cases also show that most community-based organisations cannot secure transparent governance, accountability, or improved well-being that citizen-subjects desire without state recognition and support. Local mobilisation may be necessary for accountable and democratic governance, but it is not sufficient. South Africa's post-apartheid constitution declares the state to be founded on democracy, constitutional supremacy and common South African citizenship: South Africa's citizen-subjects want and need their state to act in a manner consistent with these founding provisions. "Restoring a measure of downward accountability to traditional governance would be a promising step in this direction (Turner, 2014)".

5. Traditional Authorities as an Evolving Institution

According to Beall et al., (2004), one of the key problems facing South Africa is that traditional leadership in Africa functions on principles that are antithetical to democratic ideals. A classic example is around the selection of a chief for office. The selection and bestowing of a chief are not by popular vote but are usually hereditary and for life (Beall et al, 2004). These are characterized by a hierarchical and patriarchal system that has largely excluded women from office. The interpretation of customary laws is such that, "they are exclusionary and oppressive towards women, particularly in relation to property rights". Beall et al., (2004) noted that, "in such a system, there are obvious limits to representation and downward accountability and in Africa more generally, traditional authorities have become dependent on elected or military governments for resources or recognition, leading to awkward lines of upward accountability".

The hierarchical and patriarchal systems quoted above operated in relation to the apartheid regime in South Africa. Nevertheless, political pragmatism has sought and subsequently demanded that a variety of political administrative authorities and governments struck a co-existence balance with traditional leadership in Africa, so that over the years the institution of chieftainship has endured. "In many countries the power and influence of traditional authorities is such that politicians seeking elected office compete with them at their own risk". "During the colonial period the British experimented with two contrasting systems for ruling the indigenous African population". "The first was to try and weaken the institution of Chieftainship and govern through the colonial bureaucracy". A classic example is that of the Eastern Cape, South Africa, wherein this system was attempted. The second system was

devised by Lord Lugard in Northern Nigeria and others such as Sir Donald Cameron in British East Africa. "This system relied on local indigenous rulers to administer and control the local population in a system of indirect rule and adopted in Colonial Natal by the Secretary for Native Affairs, Sir Theophilus Shepstone (1845-76)". This was subsequently known among the Zulu people as Somtseu. "Shepstone's approach to native administration at the time became known as the Shepstone System, which saw both appointed and hereditary traditional leaders become agents of the colonial government and totally dependent on it for resources. This gave rise to the institutionalisation of traditional leadership as the only recognized representative of indigenous communities and overseers of customary law (Sithole, 2010). This association of native affairs with colonialism changed the nature of ubukhosi in the territory of present day KZN.

It has been argued that in pre-colonial South Africa, traditional authorities were considered to be on the same level as other forms of authority but with a slight power less than them. Back then communities were fluid resulting in them yielding easily to external pressure and the inkosi had no clear authority over the homesteads in his jurisdiction. "Bound together by ties of kinship, marriage or clientelism, they derived their authority from the allegiance of subjects and functioned through the distribution and redistribution of accumulated tribute, usually in the form of cattle", (Beall et al, 2005). In other words, the authority of the amakhosi was derived from patronage, ritual and symbolic power which was not coercive. This symbolic power was the product of negotiated processes at the local level, as Butler (year?) explains:

- certainly, the chief would have been looked to as the guarantor of tribal harmony (by playing a key role in conflict resolution);
- economic viability of homesteads (by playing a key role in managing the allocation of land rights and land-use rights to households) and,
- social and cultural coherence and continuity (by playing a key role in social and ritual aspects of tribal life).

To a considerable degree, these remain the core responsibilities of the amakhosi in KZN to the present day. "However, this is by way of a sometime turbulent history that changed the texture, if not the basic functions, of ubukhosi and even in the pre-colonial era traditional leadership or traditional authority was not unchanging". Using his powers, Shepstone elevated the position of the amakhosi during the early colonial period in Natal. This by recognising their right to

allocate land held under the communal tenure and this right did much to reinforce their authority. With the right to allocate land in the hands of traditional leaders, the right to dispose as well as appoint traditional leaders was retained by Sheptstone. Consequently, traditional leaders who were perceived to be uncooperative and recalcitrant were dealt with severely. As a show of force and authority, "1850 magistrates were appointed to administer Native Law and to try criminal cases, leaving traditional leaders in charge only of minor criminal cases and dispute resolution" (Beall et al, 2005). "In later years the Shepstone System was refined and codified, ossifying the fluidity and malleability of custom, in what Mamdani has described as a regime of total control" (Mamdani, 1996:63). Indirect rule was entrenched under Union, with the Black Administration Act (No. 38 of 1927) stripping traditional leaders of more of their autonomy and allowing the Governor-General of South Africa to prescribe the duties, powers, and conditions of service of the traditional leaders. The Nationalist Government that came to power in 1948 initially adopted a conciliatory stance towards Traditional Leaders as they fitted into their vision of separate development. However, as Govan Mbeki concluded, that "Traditional Leaders served apartheid as baas boys and tried and convicted in bush courts subjects who contravened the regime's regulations" (Mbeki, 1964).

In much of the country traditional authorities were estranged from their people as they became increasingly indebted to the South African government, leading to their declining. legitimacy and popularity (Beinart & Bundy 1987). However, "the position of Inkosi Mangosuthu Gatsha Buthelezi, himself as a traditional leader, as well as being premier of the self- governing territory of KwaZulu, was more ambiguous". Buthelezi cleverly employed a strategy of what Maré, and Hamilton called "loyal resistance. "This involved pragmatic accommodation with apartheid state institutions, from within the KwaZulu Bantustan, which Buthelezi dubbed a liberated zone. "Combining the resources of office, his IFP power base and an appropriation of many of the symbols of Zulu culture, Buthelezi challenged the supremacy of the ANC in resistance politics at the national level and mounted a serious struggle for control of Natal and KwaZulu at the regional level. Thanks to his support base among KZN's amakhosi and their izinduna, or headmen, who both bought into and gave credence to his use of Zulu ethnic identity for political purposes, Buthelezi was successful in his endeavors for control of Natal and KwaZulu Natal. "To understand the struggle over ubukhosi within the broader polity of the province, it is important to recognise that historically, as in the present, Buthelezi has not always had exclusive purchase on the institution" (Maré, 1992). In the early years of the century, traditional authorities were closely associated with the liberation struggle in KwaZulu-

Natal and a classic example was that of ANC's early leaders like Chief Albert Luthuli. In his address on being awarded the Nobel Peace Prize in 1961, Chief Albert Luthuli emphasised the role of traditional leaders in resistance. He said that "Our history is one of opposition to domination, of protest and refusal to submit to tyranny.... Great chieftains resisted manfully white intrusion". Traditional leaders back then supported the ANC considerably, mainly because of the way they were affected by the Natives and Land Act of 1913. Therefore, the early ANC was perceived to be their voice against the colonial stance on land issues. However, their support of the early ANC declined when the ANC failed to win back the land. Consequently, traditional leadership got absorbed within apartheid homeland structures, leading to the ANC openly associating traditional leadership with apartheid and tribalism and, as late as 1988, the ANC declared in its constitutional principles that traditional leadership was anachronistic to their modernist vision and that the organisation would abolish it with the advent of democracy (Jacobs, 2000:1). "Indeed, in the period immediately prior to the negotiated settlement and during the negotiations themselves, forces broadly allied to the ANC were locked in violent conflict with those supportive of traditional authorities, notably the KwaZulu-Natal based IFP" (Jacobs, 2000:1). "However, the ANC position softened and at its 50th National Conference in 1997 it adopted a resolution on traditional leadership" (Jacobs 2000 :1). This development paved the way for traditional authorities to play a full and constructive role in consultative processes on local development matters rather than being entangled in party politics.

There is also a Provincial House of Traditional Leaders in six of the nine provinces. "In 1998 the White Paper on Local Government accorded them a role in local government, and in 2003 the Traditional Leadership and Governance Framework Bill (TLGFB) sought to reinforce their role in local governance". According to The Municipal Structures Act (Act No. 117 of 1998), "the White Paper on Local Government issued by the Ministry for Provincial Affairs and Constitutional Development in March 1998 saw traditional leaders playing an important developmental role in local government, but under the rubric of the National Constitution and with municipalities having final and sole jurisdiction, reflecting the 1997 ANC position on traditional authorities". The White Paper states that "on issues such as development, a cooperative relationship will have to be developed, and it generally presents an image of traditional leaders as benign overseers of local disputes, adjudicators of traditions and customs and facilitators on matters of development". "Both the White Paper and the Municipal Structures Act (Act No. 117 of 1998) built in a consultative role for traditional authorities at

the local level, especially on development issues. However, this did not constitute a direct role in decision-making. Hence the role of traditional leaders and their position and functions relative to elected councillors and democratic government remained unclear although in the run up to the 1999 general election, the remuneration of traditional leaders was finally set, effectively doubling the salary bill for traditional leaders across the country (Goodenough, 2002, :20). Levy & Tapscott (2001) argued , that the Constitution was deliberately vague on their powers and functions because of ambivalence within the ANC itself over the future of traditional structures.

Consequently, "efforts by the government in post-apartheid South Africa to confine the traditional leaders to an advisory role or to matters affecting traditional communities and customary law, sometimes appear half-hearted and they are constantly contested by traditional leaders, nowhere more vigorously than in KZN" (Levy & Tapscott,2001). The TLGFB, "provides for traditional councils that will operate within and alongside other local government structures". Section 3 of the Bill states, "traditional communities must establish these councils, which in turn must comprise of traditional leaders and members of the traditional community selected by the principal traditional leader concerned in terms of custom". "Where the old tribal authorities exist, established in terms of the Bantu Authorities Act of 1951, they will simply be converted into traditional councils". What this means in effect is that legislation introduced in the 21st Century will give perpetual life to old apartheid institutions created by the much-hated Bantu Authorities Act, all in the name of preserving tradition (Beall et al, 2004).

6. Theoretical Framework

As some theorists have shown, the relationship between administration and politics is that a policy is more than the letter of the law: it also includes administrative practices of translation and implementation (Moynihan, 2014). If one accepts this assumption, then the claim "policy shapes politics" implies the sub-claim "administration shapes politics" (Moynihan, 2014). This assertion directs scholars to study not just how political forces impinge on administration but also how administrative organisations act on and transform political relations (Moynihan, 2014). Therefore, the concept of policy feedback is useful. It is a widely used concept and has emerged as a popular concept in policy analysis in the last three decades (Jordan & Matt, 2014). However, this is the first attempt to interrogate its utility in the South African literature on traditional governance.

Since the early 2000s, scholars like Joe Soss (1999), Soss and Schram (2007), Suzanne Mettler (2002), Mettler and Welsh (2004), and Andrea Campbell (2002, 2003, 2008) have explored the relationship between existing policy legacies and political participation, with the primary focus not on interest group formation but on the electoral and political participation of individuals directly affected by concrete public policies. This means moving away from interest group analysis to electoral sociology and the study of individual behaviour as related to specific policy legacies.

For example, in her book *How Policies Make Citizens,* Campbell argues that existing policies can have strong effects on the "bottom–up" political participation of individuals (Campbell, 2002: 572). In line with Beland (2010) and drawing on the work of Seymour Martin Lipset (1959/1981), Campbell argues that "state programs that directly affect the life of citizens can encourage them to develop an interest in political matters and participate in the electoral process". "Individual actors who see a visible effect of government policy on their wellbeing have a better chance to participate in government activities than would otherwise be expected". These include government employees and mobilised members of the public (Campbell, 2002: 572). Her robust quantitative analysis suggests that public policies that explicitly affect the economic wellbeing of citizens have the greatest chance to increase their levels of political participation. Overall, Campbell's work on the interaction between policy development and political participation is a major contribution to the policy feedback literature (Beland, 2010).

As already intimated above, there is a scholarly consensus that politics and administration need each other to achieve sustainable development and uninterrupted service delivery. Service delivery in the context of local government is the provision of municipal goods, benefits, activities, and satisfactions that are deemed public, to enhance the quality of life in local jurisdictions. "Within this framework, the main focus should be at discharging of municipal services, which can either be tangible or intangible". The tangible services are those that are construed as being visible to local communities, such as, public housing, roads, water and sanitation systems, and public transport, whilst the intangible services are those that are not necessarily visible, such as public drainage and sewage systems and public safety standards (Ndudula 2013:10).

"The key question tends to focus on political will, which to a large extent drives the administration and is an integral part of local governance". The local governance system, given the challenges is inadequately designed and at best poorly managed, often by people who are accountable to their political principals rather than the constituents below who are at the receiving end of poor service delivery (Booysen 2012a:7). "Policy feedback denotes the potential for policies to transform politics and, as a result, influence future courses of policy development". Political scientists have long acknowledged that policies can have political repercussions. Moynihan (2014) argues, "that in contemporary political science, the concept of policy feedback suggests that policies can transform the political landscape in ways that are far more fundamental and varied". Policies in this view are not just political objects; they are political forces that reconfigure the underlying terms of power, reposition actors in political relations, and reshape political actors' identities, understandings, interests, and preferences (Moynihan 2014). Therefore, policy feedback as a conceptual framework is useful for this study.

At the mass level, "feedback research has explored how policies make citizens and influence publics," (Mettler and Soss 2004). As Campbell summarises, "policies shape patterns of citizen participation by affecting levels of politically relevant resources, affecting feelings of political engagement such as political efficacy and political interest, and affecting the likelihood of political mobilisation by interest groups and other political entrepreneurs", (2012: 336). Policies convey cues to the public about civic standing, group deservingness, and the nature of social problems (Schneider and Ingram 1997; Soss and Schram 2007). The idea that, "new policies create a new politics has drawn renewed attention in recent years, as students of policy feedback have sought to show more precisely how specific types of policies set particular political forces in motion," (Pierson 1993; Skocpol 1992).

The concept of policy feedback does not deny these insights. It incorporates them in an analysis of how administration fits into, and matters for, the broader interchange of politics and policy in a society. To develop this kind of analysis, scholars must specify, first, how policies shape the political environment for administration and, second, how administration of a policy can transform broader relations in the polity (Moynihan, 2014).

In political analysis, "the concept of policy feedback poses a direct challenge to systems' theories that treat citizen demands as inputs and public policies as outputs," (Easton 1957). In

policy analysis, "it is equally hard to square with models that envision the policy process as a linear series of stages," (Bardach 1977). In normative political theory, "it complicates efforts to use responsiveness to citizens as a yardstick for evaluating representative democratic systems," (Disch 2013). "A feedback perspective also highlights how policy implementation can generate powerful new political interests". Civil War pensions stimulated the growth of new veterans' organizations that pressed for expanded benefits (Skocpol 1992). Similarly, modern welfare states have created administrative constituencies that act today as powerful defenders of their programs, often inhibiting reform efforts (Pierson 1994). In the United States, the Social Security Administration anchored a political process that gave rise to powerful advocacy groups, such as the American Association of Retired Persons (AARP) (Béland 2010; Campbell 2003). The American Farm Bureau, a dominant agricultural interest group since the New Deal, arose as a direct result of publicly funded cooperative extension services (Olson 1965). "Such cases underscore that studies of how administrators engage stakeholders can be significantly enriched by attention to how administrative actions produce stakeholders," (Moynihan, 2014). Ndudula (2013:6), quoting Hanekom *et al.*, defines politics as being the aspirations for and, more importantly, the retention of power over residents of a particular jurisdiction by certain individuals or groups of individuals. "The basis of this definition is the allocation of values authoritatively in such a manner that it seeks to regulate or accommodate conflicts within the local communities in question". "The individuals or groupings will, through a locally defined process, introduce policies and programmes that will enhance the quality of life of their constituents". This process to a certain extent determines who shall assume local leadership positions and furthermore how power shall be exercised in the municipal jurisdiction (Thornhill 2012:57).

"Feedback research also suggests how organised interests and bureaucracies can develop through relations of reciprocal empowerment". "On one side, administrative agencies mobilise collaborators and constituents as allies to bolster their effectiveness and advance their agendas". The Social Security Administration is often cited as an example (Béland 2010), and recent research suggests that the U.S. Department of Education benefited from a similar dynamic as it implemented Title IX which explored how citizens think of public policies that affect them and the manner in which citizens respond to relevant policies has fundamental implications for democratic responsiveness (Sharrow 2013).

The concept of discretion has been central to scholarly accounts of how bureaucrats transform policy (Lipsky 1980). In trying to understand what a policy is and does, one must explore the ways it is shaped through examination of discretion. "A feedback perspective reconceives this relationship as a two-way street". Actors at all levels of administration use their discretion in ways that remake policy and help explain policy effects. "A policy, however, is not a tabula rasa that implementing actors can write on in any way they like". Policies guide decision making, and frame choice sets. In this way policies can define parameters for discretionary action. They supply rationales and incentives that can make some administrative decisions more "thinkable" or desirable than others (Moynihan, 2014).

Where my study will hopefully add new theoretical insights is that, in the policy feedback literature, the focus has generally been around how citizens engage and provide feedback to policy. My study on the other hand examines how this conflict plays out among different sectors of government, in this case, traditional governance and the municipal administration. A modern society is governed by policies, but the question remains as to how traditional governance uptakes and absorbs these modern-day policies they did not formulate and the effect of this policy development ideology on the ground and finally, how the dual governance system in eThekwini Municipality impacts national housing policy and delivery. How traditional governance in eThekwini uptakes housing allocation policy and their policy feedback.

7. South African Policy on Housing and Backlog

"The 1994 Housing White Paper (Reconstruction and Development Programme) provided a framework for housing development target of building 1 million state funded houses, within the first 5 years a target of 338 000 units per year". This target was never achieved. By 2014 about 4.3 million RDP houses were constructed since 1994.

According to Statistics South Africa's General Household Survey of 2021 it was found that about 83,6% of South African households live in formal dwellings , followed by 11,7% in informal dwellings, and 4,2% in traditional dwellings. It was found that households that lived in formal dwellings were most common in Limpopo (96,3%) and Mpumalanga (89,8%) while traditional dwellings were most common in Eastern Cape (21,6%) and KwaZulu-Natal (9,3%).

In the same year (2021), the Department of Human Settlement (DHS) estimated a backlog of over 2 million houses nationwide. While this number is already so high, there is an average of six people per family, which then leaves about 12 million people in need of housing in South Africa (Human Settlements, 2021). However, in 2022, DHS stated that an amount of R 14 billion has been set aside to tackle the housing backlog and anticipated to roll out at least 1 572 housing projects by 2023 in a bold attempt to reduce the 2.6 million housing units required. According to the 2017 National Human Settlements Budget Notebook, the budget for 2016/17 amounted to R30.7 billion and was expected to increase to R37.4 billion in 2019/20, at an average annual rate of 6.9 per cent. The DHS planned to initiate 25 catalytic projects that it would use as the main driver for delivering housing opportunities. The Department of Human Settlements highlighted that, "housing opportunities are implemented by provinces, metropolitan municipalities and public entities that are funded through conditional grants and transfers to departmental agencies and accounts. The Housing Development Finance Programme is the custodian of the budget for these transfers. As a result, the department expected to facilitate the delivery of 368 530 fully subsidised units, disburse 66 554 finance linked individual subsidies and upgrade 623 635 houses in informal settlements by 2019 (Human Settlements, 2017). Unfortunately, the department noted that these targets were never met, and part of the reasons cited was the issue of demand far exceeding supply and the issue of moving targets – targets that are never achieved.

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This severe housing backlog poses immense challenges to the "National Department of Human Settlements' 2050 vision of coordinating spatial planning systems to transform human settlements in South Africa into equitable and efficient spaces with citizens living in close proximity to work with access to social facilities and essential infrastructure (National Department of Human Settlements, 2015)". It should be noted that "all of the Department's Annual Performance Plans (APPs) are developed in line with provincial performance plans and the performance plans of other entities". The table below by Public Service Accountability Monitor 2018 (PSAM) shows the housing backlog by provinces as reported by Statistics South Africa in the 2016 Community Survey:

Table 2: Housing Backlog in South Africa.

Province	RDP Dwellings	RDP Dwellings Backlogs 2016-17 estimates
North West	261 693	237 000
Western Cape	571 997	526 000
Gauteng	1 227 729	600 000
Mpumalanga	241 801	170 000
Northern Cape	105 541	52 000
Free State	289 414	Figure not available
KwaZulu-Natal	559 302	716 079
Limpopo	260 976	157 420+
Eastern Cape	386 802	600 000+
National	3 905 255	2 301 079

Source: PSAM, 2018

KwaZulu-Natal has a fairly high number of RDP dwellings, but still has almost 3 quarters of a million-housing backlog. Part of the reason KZN has a bigger slice of RDP housing development has been identified by the KwaZulu-Natal Provincial Growth and Development Strategy (PGDS) as that, "the KZN Province has a high percentage of rural areas in comparison with the other provinces". Therefore, the PGDS emphasises, "the need for municipalities in KZN to prioritise rural development in their areas of jurisdiction". The then Minister of Cooperative Governance and Traditional Affairs (COGTA) in the 2015/2016 and 2016/2017 SDF Review Comments also raised concerns that, "the eThekwini SDF did not adequately reflect its intentions to develop rural areas". Unfortunately there are no latest consolidated figures available by province as Census 2021/22 results are still pending.

8. eThekwini Municipality Housing Backlog

According to the 2021-22 IDP, to date, the Municipality has delivered over 199 000 homes, 2 754 Community Residential Units have been delivered as part of the hostel upgrading project and approximately 23 000 rental units have been transferred to tenants. The current backlog for housing provision stands at approximately 496 000 dwellings as can be seen in Table 3 below. The total amount required by the city to clear the current backlog is estimated to be R68 to R96 billion at current prices (depending on definitions of backlogs). Informal settlements comprise 65% of the entire housing backlog. There are over 580 urban informal settlements comprising approximately 287 000 eThekwini Municipality IDP, 2021/22:179).

The table below shows the eThekwini housing backlog, the anticipated housing delivery milestone per year and the timeframe within which this backlog should be addressed given the current funding trends in the City:

Table 3: Housing Backlog in eThekwini Municipality in 2021-22

TYPE	NEED	BACKLOG
Urban & Suburban shacks in informal settlements	316 000	Tenure, services, top structures
Transit facilities	8500	Tenure, services, top structures
Urban & suburban backyard structures in formal areas	49000	Services, some top structures
Non-urban structures	96000	
Total combined for top structure, infrastructure & tenure	**496, 000**	

Table 4: Housing Backlog and Annual Target in eThekwini Municipality

Basic service	Estimated backlog as of May 2022	Targeted Annual Delivery	Timeframe to deliver on current levels
Housing	496,000	5000	90 + years

Source: Human Settlement, Engineering and Transport, eThekwini Municipality

The third plan of the IDP Eight Point Plan advocates for the creation of quality living environment. The goal of Plan 3 is to promote access to equitable, appropriate, and sustainable levels of household infrastructure and community services and facilitate access to housing. According to eThekwini's Municipal Spatial Development Framework (MSDF) 2019-2020, "the City has a bold plan to eradicate more than 40 years of housing backlog through its focus to find suitable and well-located land to deliver houses and eradicate informal settlements while putting an end to land invasions". This raises significant strategic decisions that need to be made regarding alternative solutions. Currently, the City is preoccupied with balancing the equation as in most South African cities, jobs are not where the people live, and vacant land for housing is not where the jobs are. Most jobs in the manufacturing, warehousing and transport industry are in the central, south, and west (Pinetown Industrial Area) of the municipality but many workers live in the north (MSDF, 2019-20 :174). The economic and residential growth axis is now towards the North. It has been occurring for the last decade and this momentum is increasing with the development of the Greater Dube Trade Port (DTP) and Greater Cornubia. With the current human settlements' funding trends, it is then envisaged that it will take between 45 and 80 years to completely clear the backlog in eThekwini (MSDF, 2019-20 :175).

9. Conclusion

In conclusion, the purpose of this chapter was to outline a theoretical framework for the study. What can be drawn from this chapter is that despite the criticisms of traditional leadership notwithstanding, it seems like the institutions of traditional governance are here to stay. Traditional leaders continue to play a role in the delivery of critical services in their communities. What has been understudied however, is how they translate, implement, and

provide feedback to policies they did not initiate. This chapter provided an understanding of how traditional governance in eThekwini uptakes housing allocation policy and their policy feedback. The upcoming chapter will look at the methodology design of this research study.

CHAPTER THREE: METHODOLOGY AND RESEARCH DESIGN

1.   Introduction

Research is defined as a careful consideration of study regarding a particular concern or a problem using scientific methods (Babbie 2007). According to Babbie (2007:224), research is a systematic inquiry to describe, explain, predict and control the observed phenomenon. It entails data collection, documentation of critical data, analysis and interpretation of that data in accordance with suitable methodologies set by specific professional fields and academic disciplines. Research involves both inductive and deductive methods to research. "The main difference between inductive and deductive approaches to research is that whilst a deductive approach is aimed at testing theory, an inductive approach is concerned with the generation of new theory emerging from the data" (Babbie 2007:23-27). "A deductive approach usually begins with a hypothesis, whilst an inductive approach will usually use research questions to narrow the scope of the study". "Inductive research methods are used to analyze the observed phenomenon while deductive methods are used to verify the observed phenomenon". "Inductive approaches are associated with qualitative research and deductive methods are more commonly associated with quantitative research" (Babbie 2007:23-27).

2.   Research Methodology

Qualitative research approach was adopted, harnessing both primary and secondary data collection methods targeting Traditional Leaders, city officials, Ward Councillors of the

eThekwini Municipality and residents residing in three Traditional Authorities of the Municipality (Embo Ilanga, Ngcolosi and Sobonakhona Traditional Communities).

Traditional Leaders:

- Inkosi EBT_Mkhize: Embo /Ilanga Traditional Authority (1)
- Inkosi B_Bhengu: KwaNgcolosi Traditional Authority (2)
- Inkosi BA_Makhanya: Sobonakhona Traditional Authority (3)

City Officials:

- City Official 1
- City Official 2
  City Official 3
- Anonymous (preferred to remain anonymous)

Ward Councillor requested that their names should not be published for security reasons. Therefore, Wards will be referenced by alphabets rather than numeric:

- Ward A
- Ward B

Residents:

- Resident 1
- Resident 2
- Resident 3
- Resident 4

- Resident 5
- Resident 6
- Resident 7
- Resident 8
- Resident 9
- Resident 10
- Resident 11

2.1 Research Approach

Semi-structured interviews were used in order to collect data from participants. Semi-structured interviews generate qualitative data using open questions and are more flexible (Palys, 2008). Interviews were utilized as they allow the respondent to talk in some depth, choosing their own words. This helps the researcher develop a real sense of a person's understanding of a situation. Interviews also have increased validity because it gives the interviewer the opportunity to probe for a deeper understanding, ask for clarification and allow the interviewee to steer the direction of the interview etc (Palys, 2008).

The non-probability sampling technique was utilized. Purposive sampling frame was used to select a sample size of 20 participants. Purposive sampling allows for the researcher to use his or her own judgment in selecting a reasonable cross section of research participants.

2.2 Data Analysis

Thematic analysis was applied using Nvivo 12. King (2004: 263) endorses Nvivo as a method of data management and further argues that, "software such as Nvivo is invaluable in helping the researcher index segments of text to particular themes, to link research notes to coding, to carry out complex search and retrieve operations, and to aid the researcher in examining possible relationships between the themes". Students have found Nvivo particularly useful with the data analysis approach of template analysis, however it is an extremely flexible tool and can be used across multiple approaches.

Data was labelled and captured into an excel spreadsheet. The excel spreadsheet was then imported into Nvivo 12. Common themes that came up repeatedly were identified and coded. Using Nvivo 12, the researcher was then able to run analysis and produce themes and graphics.

3.   Research Design

A research design is a very important part of research which serves as a road map letting you know your position and where you are going to stand once you have completed the research. For the purposes of this study the exploratory research design was used. Exploratory research design was utilized as this study explored how traditional governance structures in eThekwini uptake housing allocation policy and the extent of their policy feedback. With the exploratory approach the study tested the existence of a conflict between traditional governance structures and municipal administration in housing delivery and the hypothesis that traditional leaders attend and participate in municipal deliberations. According to Lambin (2000:143) exploratory research is conducted to determine the nature of the problem and is not intended to provide conclusive evidence but helps us to have a better understanding of the problem. This type of research is usually conducted to study a problem that has not been clearly defined yet. Saunders, Lewis and Thornhill (2007) explain that when conducting exploratory research, the researcher ought to be willing to change his or her direction as a result of revelation of new data and new insights. Bell (2010) states that exploratory research design does not aim to provide the final and conclusive answers to the research questions, but merely explores the research topic with varying levels of depth. It has been noted that exploratory research is the initial research, which forms the basis of more conclusive research (Brown, 2006).

4.   Ethical Considerations

Ethical considerations need to be considered in any study. Broadly speaking, ethics is a branch of philosophy concerned with how we ought to act (Allhoff and Vaidya (2005). Any research that involves people must show awareness of ethical considerations and an agreement to conduct the research in accordance with ethical procedures (Bak, 2004). "Ethical standards and procedures guide the researcher on how to evaluate his or her conduct". For this study, confidentiality was adhered to, and anonymity was ensured. Participants were informed that

participation was voluntary and that they could withdraw from the study at any time. An informed participant consent document was issued to the respondents prior to the commencement of interviews. For those respondents who could not read and write, translation services into their preferred language were provided by the researcher. Information shared by respondents shall be kept confidential. Under no circumstances can information shared be traced back to the respective respondents as most data is represented numerically. Data will be stored in a password protected computer or storage device. All material will be kept for a period of five years, as per university norm and then deleted.

5.   Sample Stratification

The interviews were conducted in three eThekwini Traditional Authorities namely, Embo-Ilanga, Ngcolosi and Sobonakhona Traditional Authorities. These Traditional Authorities are situated in three Wards of the 110 eThekwini Municipality Wards. These Wards are predominantly rural Wards characterised by high levels of poor service delivery. Embo-Ilanga and Ngcolosi Traditional Authorities are found in the west of the city in Wards 1 and 2 while Sobonakhona Traditional Authority is situated in the south of the city. This Traditional Authority stretches over two Wards, which is Ward 95 and 96.

Table 5: Sample Stratification

Person	Gender	Age	Community	T/A or Ward	Interview Date	Profession/Employment
Respondent1	Female	39	Folweni	Sobonakhona	08-06-2019	Security Guard
Respondent2	Male	37	Nungwane	Sobonakhona	08-06-2019	Taxi Driver
Respondent3	Female	51	Madundube	Sobonakhona	08-06-2019	Domestic Worker

Respondent4	Female	30	Nungwane	Sobonakhona	08-06-2019	Teacher
Respondent5	Female	56	Bhobhonono	Embo/Ilanga	15-06-2019	Unemployed
Respondent6	Male	56	Mophela	Embo/Ilanga	15-06-2019	Bus Driver
Respondent7	Male	51	Cato Ridge	Embo/Ilanga	15-06-2019	Farmer
Respondent8	Male	60	Nonoti	Embo/Ilanga	15-06-2019	Pensioner
Respondent9	Female	40	KwaNqetho	Ngcolosi	22-06-2019	Cashier
Respondent10	Female	41	KwaNqetho	Ngcolosi	22-06-2019	Nurse
Respondent11	Female	75	KwaNqetho	Ngcolosi	22-06-2019	Pensioner
Respondents12	Male	N/A	Mophela	Embo/Ilanga	12-09-2019	Traditional Leader
Respondent13	Male	N/A	Emaphephetheni	Ngcolosi	12-09-2019	Traditional Leader
Respondent14	Male	N/A	Umbumbulu	Sobonakhona	12-09-2019	Traditional Leader
Respondent15	Male	38	Hambanathi	Ward 62	12-08-2019	Official
Respondent16	Female	N/A	Palmiet	Ward 23	12-08-2019	Official

					12-08-	
Respondent17	Male	38	Bluff	Ward 66	2019	Official
Respondent18	Male	42	Umlazi H	Ward 79	12-08-2019	Official
Respondent19	Male	43	Ward 1	Ward 1	13-09-2019	Ward Councillor
Respondent20	Male	49	Ward 2	Ward 2	13-09-2019	Ward Councillor

A total of 20 respondents participated in the study. These were grouped into four categories, namely residents, officials, Ward Councillors and Traditional Leaders. The graph below reflects representation of each category:
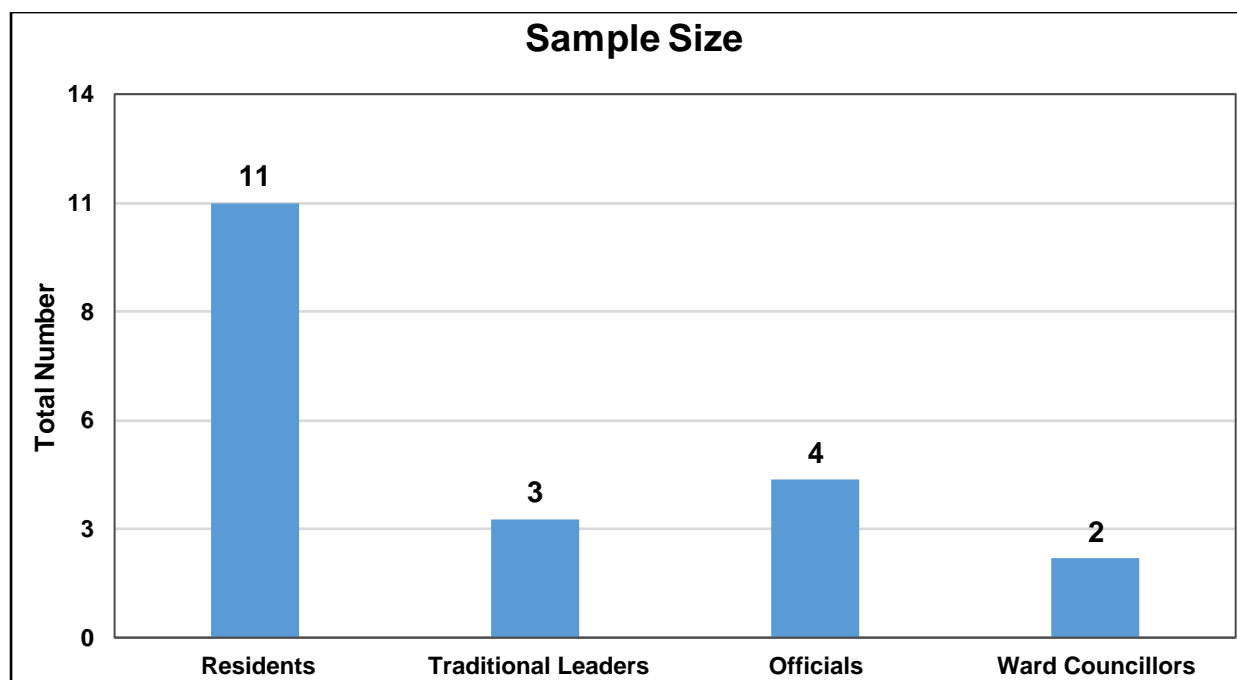
6.   Limitations of the Study

A particular limitation of this study was fear of service delivery victimisation. Some respondents were concerned that participation in this study might jeopardise their low-cost housing beneficiary status. Most of them are still on the waiting list of potential beneficiaries. Some of those who were purported to have tacit knowledge of the subject under investigation, by virtue of being former housing committee members refused to participate. For others it took a lot of convincing from the researcher to gain their confidence. There were those who were concerned about their safety citing service delivery protests as the main concern given the political caps they are wearing. There were also those who were concerned about their job security should it be traced back that they provided the annual performance figures for low-cost housing delivery and the status of the Housing Allocation Policy in eThekwini Municipality. However, these limitations neither hindered the implementation of the study and nor affected or predicted the outcome of the study. Respondents expressed themselves freely.

7.   Conclusion

The main purpose of this chapter was to give an overview of the research methodology and research design harnessed in this dissertation. The different levels of participants were discussed in this chapter. Despite challenges in interviewing these participants, those that participated in this study contributed to the manner in which the findings will be pitched in chapter 4 below.

Chapter 4: DISCUSSION OF FINDINGS

1.   Introduction

The participants are grouped into four categories, namely officials working for eThekwini Municipality directly involved in the housing allocation, residents residing in areas under traditional leadership, Traditional Leaders whose areas are considered for low-cost houses and Ward Councillors. The Ward Councillors who participated have Wards that cover rural areas.

For each category, different questions were asked. These findings were guided by the research questions in chapter one of this dissertation. The gender and employment status of the participants especially the residents were noted. The gender of the participants determined the vulnerability of the beneficiaries as most female beneficiaries are looking after small children and other family members. Therefore, this put them high up in the list of potential beneficiaries. The employment status and the type of employment for those that are employed determined their beneficiary qualification status in order to be allocated a low-cost house. However, it should be noted that these did not have a direct influence on the findings.

Section A: Demographics

Sample Size Breakdown

The figure below reflects the employment status of the residents' participants. The reason behind concentrating on the residents' only employment status is because, one criterion that needs to be adhered to in housing allocation is that, the beneficiary should be unemployed. If employed, they should be earning below a certain salary scale threshold. However, this criterion exempts vulnerable groups who automatically qualify for subsidised housing. The majority of the residents' respondents (73%) were unemployed.
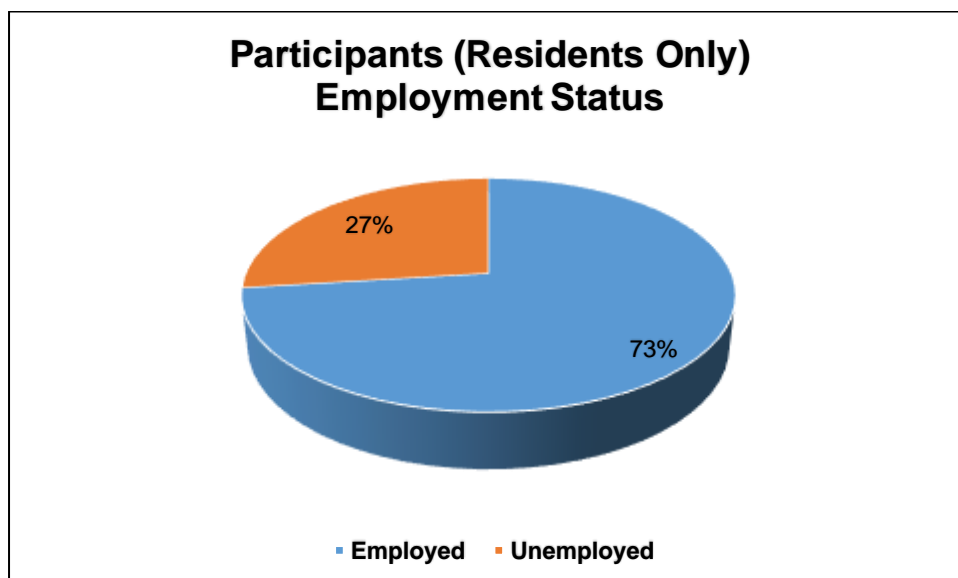

Figure 1: Employment Status

The research constituted 73% unemployed residents and 27% employed residents.
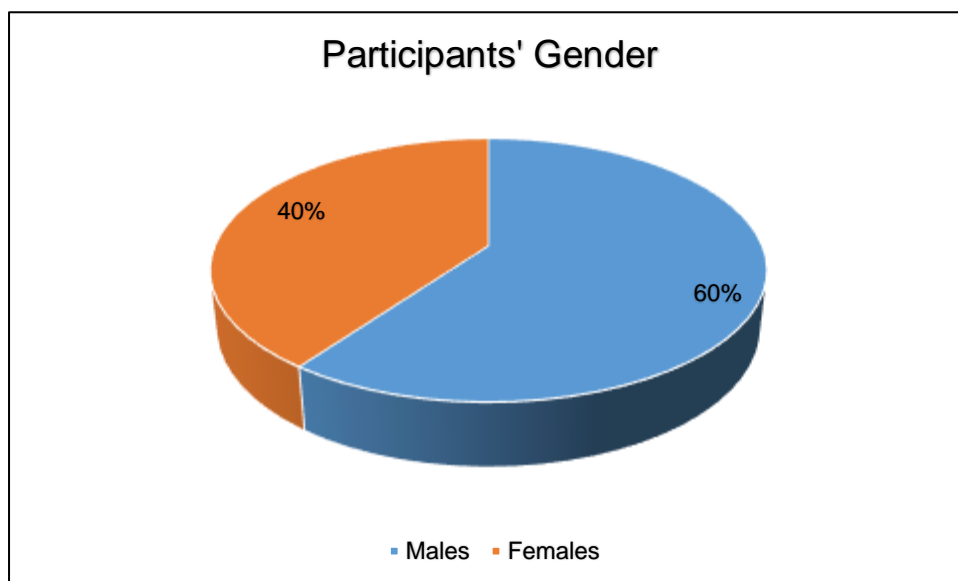
Figure 2: Gender

This research study constituted of 60% males and 40% females.

Section B: Themes

2. **Theme 1: The Impact of Dual Governance Systems on Low-Cost Housing Allocation in eThekwini**
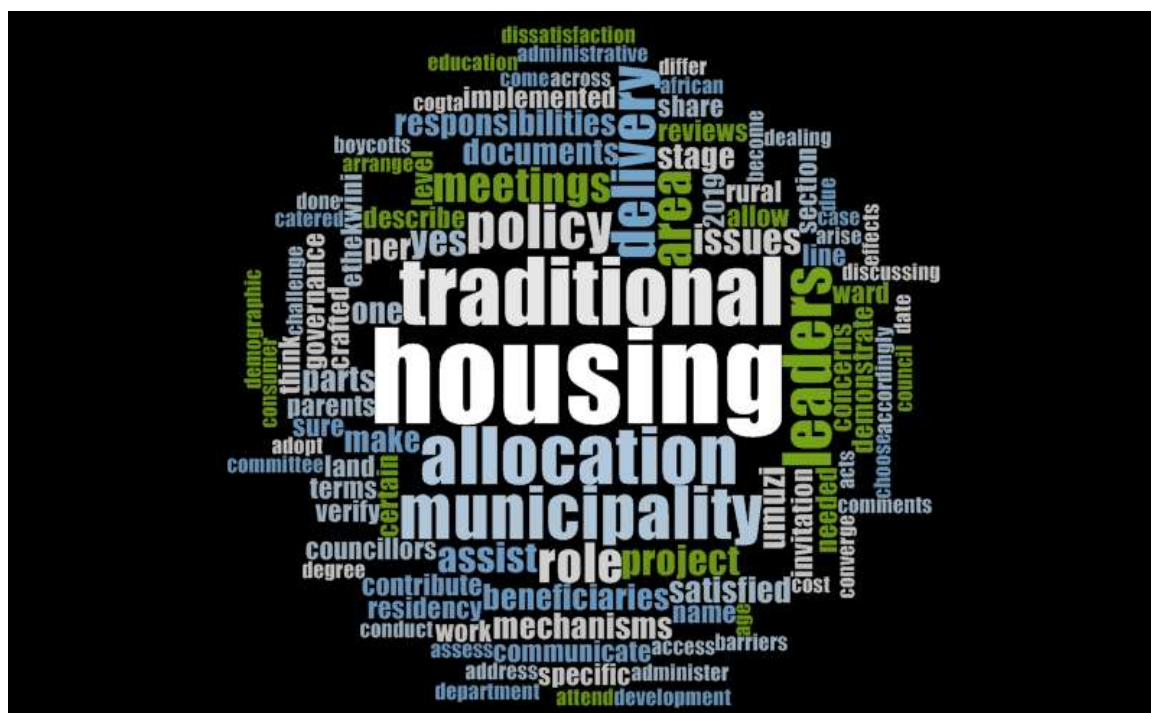

Diagram 1(Nvivo12).

In support of Turner's (2014) argument in chapter two on dual governance systems, Diagram 1 above shows that although housing allocation is a municipal mandate, traditional leadership also plays a role in eThekwini Municipality. Meetings, consultative forums are held, and relevant official documents are shared with them. They administer land and site allocations while Councillors working closely with city officials make sure that the projects are in line with government policies in terms of housing delivery. Their roles and responsibilities are crafted by the Department of Co-operative Governance and Traditional Affairs (COGTA). Traditional leaders play primary administrative roles and assistance especially when some of the beneficiaries have lost their parents and documents cannot be traced. They are responsible for the verification of the existence of those parents so that low-cost houses are allocated to the right beneficiaries. They fully understand the needs of the people and assist in identifying the vulnerable groups for prioritisation purposes when allocating houses. The policy regulates the limit of the allocation of one house per household. This enables a widespread access to the subsidy across all qualifying beneficiaries rather than benefitting just one extended family. With traditional leadership involved as part of project steering committee and review meetings, unnecessary boycotts, service delivery strikes from the community are prevented. There are notable dissatisfactions though amongst the Traditional Leaders. The noted dissatisfactions echo Lambert (1995) stance who challenges the alignment of traditional leadership with democratically elected governance structures and Mamdani's (1996) assertions.

For Mamdani, the traditional system of governance is quaint, illiberal and a breeding ground for citizen subjection to unaccountable Traditional Leaders. These challenges can be overcome by training and educating both the Traditional Leaders and Ward Councillors about the Housing Allocation Policy. However, political ideologies are sometimes the backbone of these dissatisfactions. Considering conflicting political affiliations as pointed out by Goodenough (2002), in which a Traditional Leader supports one political party, and the Ward Councillor supports the opposition party compromise service delivery. A Traditional Leader who is affiliated to the IFP will never support a service delivery project driven by an ANC Ward Councillor. A policy pushback is often as a result of political affiliations than anything else. Municipal officials are always caught up in these political ideologies.

3. Theme 2: Subjects Uptake of Dual Governance Systems and Service Delivery

Diagram 2 (Nvivo12)

Rural residents still believe that their housing problems can be resolved by the Municipality. This, however, is only possible if traditional leaders play a major role in the allocation of houses. Traditional leaders serve as a link between them and the Ward Councillor. Although they are aware of the Ward Councillor, most of the residents do not know their respective Ward Councillors. Those that do, claimed not to have in fact met their Ward Councillors. Residents noted that most of the service delivery projects including housing get introduced by the Ward Committees. Most of these never took off. However, when there are disasters, their point of authority is the Ward Councillor. An example given was that of the April 2019 floods. Residents were advised by their Traditional Councils to be in contact with the Ward Councillors for any assistance that they required. Residents especially those residing next to Inanda dam in the West and those residing next to Nungwane dam in the south were dissatisfied with how some municipal policies are applied. Residents complained that although living next to these water sources, they still do not have access to clean water compared to the neighbouring suburbs (Amanzimtoti and Pinetown suburbs).

In terms of being better serviced by virtue of access to administrative authorities in the form Ward Councillors and Traditional Leaaders, residents felt that there is no proper working relationship between Ward Councillors and Traditional Leaders. This lack of working relations

between these two administrative authorities hinders service delivery. Residents are fully aware that this conflict is the infringement of their rights. In a study by Campbell (2008) it was found that policies have strong effect on the bottom-up citizen participation in state programs that directly affect their lives as residents feel left out of the system. Residents also complained that in rural areas, they pay traditional fees in the form of Permission to Occupy (PTO). Most participants mentioned that, if you do not pay these fees, then chances of benefitting from development projects are very slim especially if they come through Traditional Councils. It was observed that citizen subjection runs along cultural values in traditional authority areas. Rural residents do not challenge instructions from traditional leadership, culturally they are not supposed to question such instructions. As a result, Traditional Leaders command respect in all sectors of the community. Such subjection to traditional leadership denies one full citizenship and lack of access to services (Turner, 2014).

4.   Theme 3: Implementation of Housing Allocation Policy in eThekwini Rural Areas

Diagram 3 (Nvivo12)

The eThekwini traditional leadership put the housing issues faced by residents squarely at the door of eThekwini Municipality. The traditional leadership noted that the houses are allocated according to Wards not Traditional Councils. Some Traditional Councils are made up of more

than one Ward. This results in one portion of the Traditional Council allocated low-cost houses and another portion not to be allocated. This on its own creates tension amongst residents as they complain of double standards, corruption, and nepotism. Traditional leadership must intervene in conflicts that are started by the application of the Municipality's policies. Policies that they did not play any active role in their development. *My role has been reduced to that of land custodian when they want to build RDP houses in Embo"* said Traditional Leader (1). What is evident here is that the bureaucratic manner in which housing policy is handled, cements the place of Traditional Leaders in a box of junior implementers and not producers of policy. To this end, Traditional Leaders feel disempowered by this policy in their own ancestral land. This is how they perceive this policy.

The Housing Allocation Policy is focused on low-cost housing delivery targets rather than the circumstances of the people, complained Traditional Leader (2) residing in the west of the city. Traditional Leader (2) went on to add that, even there, eThekwini Municipality is failing to meet the annual targets. Traditional leadership feels that, it is unfair to allocate houses to people who already have big houses while people who really deserve these houses are left out. Without using any official criteria, Traditional Leaders claim to know which families have never received proper housing generationally. Traditional Leaders claim to know which families have been afflicted by episodes and vicious circle of poverty generationally. Traditional Leader (2) pointed out that, remember in most areas in rural eThekwini, low-cost houses are built in people's yards who are sometimes identified through the indigence programme. These houses should be allocated according to traditional leadership protocol because Traditional Leaders know the people and understand their circumstances. The perception held by traditional leadership is that the Municipality does not even involve them in the housing plans for the areas that are under their leadership: The traditional leadership admitted that they do have representation in some Municipal Committees. However, in those Committees, they are always outnumbered. Most of the decisions are made through votes. Obviously, the votes are always in favour of Councillors. Traditional Leaders' argument is that imagine a lone traditional leadership representative trying to vote against several ANC Councillors. The problem that Traditional Leaders are facing as traditional leadership is that the Municipality is not empowering them to be of value in these Committees. They advise and consent but make no official input whatsoever. This is done in several ways including tokenism in Municipal Committees and majoritarianism. Traditional Leaders feel that policies which would have been ordinarily opposed are passed through votes and there is nothing they can do

about it. As pointed out in the literature review, voting rights hinder full participation of traditional leadership in Council structures. Mkhize *et al.* (2001) argued that although legislation allows for full participation, it remains unclear on the issue of voting rights. There is also an element of cronyism of the highest order which runs along political affiliations. According to the traditional leadership, it is tainting the integrity of these Municipal Committees and has resulted in a breeding ground for isolationism.

Traditional leader (3) stated: 'The Housing Allocation Policy in particular is developed and reviewed by the city officials and by the time it comes to their knowledge, it has already been passed and they cannot object to its implementation. The three Traditional Leaders mentioned that 'If traditional leadership objects to the policy, they are then labelled as intransigent and obstructing development in their areas. This creates a deadly conflict between traditional leadership and the residents.

Traditional Leaders feel undermined by the Municipality and treated just like anybody else. *"We are not Councillors elected and working on a five-year term" said Traditional Leader (1). "We do not have terms but govern because our authority is hereditary".* The widely held perception in traditional leadership circles is that if they are left out, the Municipality will never achieve the housing allocation set goals and targets. As scholars like Mkhize et al., (2001) pointed out in chapter two that, rural areas are the terrain of Traditional Leaders. *"We cannot be treated just like anybody else" complained one Traditional Leader who participated in this study. "We are more than willing to work with the Municipality, but we feel deprived of that full opportunity".* Stated Traditional Leader (1) *"So, this does not only deprive traditional leadership but also deprived the residents of adequate housing and is in total violation of Section 26 of the Constitution of the Republic of SA which stipulates that everyone has the right to adequate housing",* answered Traditional Leader. Who continued stating "Do not undermine and disempower us but give us a platform to also participate in policy development decision making".

In terms of sharing documents regarding housing in areas under traditional leadership, it became clear that although documents are shared their recommendations are not incorporated and subsequently implemented. The recommendations are mainly around poor planning such that in one Traditional Council west of the city called KwaNgcolosi, it was brought to the attention of the Municipality that, *"when building these houses especially those that are not*

build in yards, they should consider the terrain, how they are going to rollout basic services, consider access roads in the event of an emergency e.g. fire-fighters are able to come in and put out fire before it spreads to other houses" stated Traditional Leader (2). As Traditional Leader (2) put it, "The Municipality was also warned about building too close to a school as this would lead to the Department of Education being unable to extend the school should the need arise in future. The Municipality was further warned about just planning for houses but not amenities or social facilities for the community such as stadiums, pre-schools, clinics." Traditional Leader (number) lamented that, *"most of these projects are led by Ward Councillors. These Councillors must be appointed based on their understanding of local government systems and traditional leadership institution"*. In unison, all three Traditional Leaders who participated in this study mentioned that "*although the eThekwini traditional leadership did participate in one meeting aimed at reviewing the Housing allocation Policy, but the perception is that the facilitator did not understand problems faced by traditional leaders as he was from a different racial group and there was an obvious language barrier issue and all he spoke about was theory"*. They complained that this should not be classified as full participation, it was *"more of a publicity stunt for the policy"* mentioned the traditional leaders. All this has resulted in strained working relations between Councillors and Traditional Leaders.

What came out clear in these results is that eThekwini Municipality should strive for creating excellent working relations and legacy with Traditional Leaders hence according to them, unlike Councillors they are not rotated once the five-year term is up. The latter is influenced by a direct parting quote from Traditional Leader (number), who asserted that, *"there are 17 traditional leaders in eThekwini, and you cannot rotate us, we are here to stay long after their five-year terms. All we are requesting is a formal platform and the Mayor can give us that platform to give valuable feedback"*.

Ward Councillors strongly believe that the housing allocation process and associated policies remain the mandate of the Municipality. The Municipality embarks on roadshows to workshop the Integrated Development Programme (IDP) and the annual budget. It is at these roadshows which are rolled out at ward level that infrastructural development projects in the city are discussed. Housing targets are mentioned in these roadshows, currently the target is 1500 low-cost houses per financial year. The local government financial year runs from July to June of the following year. The areas which will be prioritised for housing allocations are identified

and shared with those attending the roadshows. In most of these, traditional leadership is not represented. Traditional Leaders are perceived as gatekeepers and land custodians. So, whenever there is a project, Ward Councillors are obliged to inform the traditional leadership and give details about the project. Ward Councillors are fully involved in the allocation of houses at Ward level, mainly by identifying potential beneficiaries. It is at this level that the roles and responsibilities of Ward Councillors clash with those of Traditional Leaders. The distinction between these two administrative structures is that while Traditional leaders are the custodians of land and customs, Ward Councillors are elected service delivery representatives. However, for service delivery to happen, you need land so a harmonious working relationship between these two administrative structures should be forged through a concerted effort. An effort like this would put meaning to the 17th March 2003 speech by then eThekwini City Manager that sought to develop broad-based institutions of governance in eThekwini and South Africa thereby allowing those traditional leaders with jurisdiction within the boundaries of eThekwini to participate in municipal affairs.

According to the Ward Councillors who participated in this study, the involvement of Traditional Leaders in low-cost housing projects has resulted in several problems. The perception is that Traditional Leaders want to take over the whole housing process. They also want to benefit and should be considered first yet they earn well, paid by government. This on its own does not qualify them as beneficiaries and it is against the policy. In most cases Traditional Leaders come with their own list of potential beneficiaries which is again against the provisions of the policy. This has resulted in the stalling of many housing projects in eThekwini. Documents like the Housing Allocation Policy, Rent to Buy Policy, Hostel Policy and the national documents on Community Residential Units, Access to the City and Right to the City through human settlements have been shared with Traditional Leaders. Ward Councillors who participated in this study strongly believe that *"these can assist in traditional leadership meaningful participation since traditional leaders have indigenous knowledge of the communities. They know who deserves a low-cost house and who does not, based on family history".* Ward Councillor (number) further added that *"some people are from very poor background historically so only the traditional leader would know that".* If they can be part of the planning, policy development and be given access to the list of potential beneficiaries, the issue of allocating houses to people who already have big houses can be avoided. This analogy put meaning to why such policies are often rejected at traditional leadership level.

5. Theme 4: The Importance and Best Methods of Consultation in Service Delivery

Diagram 4 (Nvivo12)

Ward Councillors mentioned that the perceived consultation process with Traditional Leaders to raise their concerns and those of their residents regarding housing development is mainly through meetings. However, attendance of such meetings is entirely dependent on the day and

time of the meetings as some people are often away at work. Vulnerable groups such as child headed households and widows (as custom demands that they should not be surrounded by crowds) are often unable to attend such meetings. In such meetings, participation in policy development is often not discussed and time to interrogate the policy further is very limited. Both Traditional Leaders and residents felt that the municipal consultation process is just a tick box exercise, fraught with arrogance and unilateralism. They believe that the Municipality should take the programme of action from them rather than coming with pre-conceived solutions to their service delivery expectations. *"Through consultation, roles and responsibilities would be clearly defined and linked to the programme of action proposed by all",* said one resident who participated in this study.

The roles and responsibilities of Traditional Leaders are perceived to be solely around the land tenure as they are the custodians of land and are expected to perform ceremonial duties during project inception. Projects like housing development should be sanctioned by them before any construction work can begin while Councillors make sure that such projects are in line with municipal policies in terms of housing delivery. Most participants especially residents and Traditional Leaders held the view that these roles are crafted by the eThekwini Municipality and the Department of Co-operative Governance and Traditional Affairs without consulting traditional leadership:

The perception held by the residents and Traditional Leaders is that Ward Councillors are responsible for service delivery in their respective areas. Traditional Leaders identify deserving beneficiaries so that municipal officials understand how many potential beneficiaries and they also serve as service delivery gatekeepers. However, in a democratic dispensation, this should be done in consultation with residents and traditional leadership. Projects in communities are introduced by Ward Councillors and their ward committee members. No clearly defined community members' roles in housing allocation and associated policies came out of the study except that they get employment opportunities during development projects.

Although residents and Traditional Leaders were in unison in their assertion regarding participation in low-cost housing delivery, but they differed sharply on the allocation of these houses. Most of the respondents felt that housing allocation and associated policy is the mandate of Ward Councillors rather than Traditional Leaders. When there is a disaster especially in the form of floods wherein houses are over-flooded and washed away, the

residents' first point of contact is their Ward Councillors. Traditional Leaders insisted that whatever involves their community members should be brought to the Traditional Council first and then the Traditional Council will escalate further to the relevant authority.

6. Theme 5: Co-operative Governance at Work in eThekwini Municipality

The working relations between these administrative structures is cordial except for a few anomalies. These anomalies revolve around consultation delink and have created conspicuous lines of confusion with officials saying one thing and Traditional Leaders saying the opposite. What came out clearly is that traditional leadership is viewed as the backbone of service delivery in rural areas. This revelation can be attributed to citizen subjection discussed in the literature review. Partnerships that enable Ward Councillors to first approach the Traditional Leader to workshop the idea of building houses are in place. Then a meeting is called, and poor households are identified using the criteria enshrined in the Housing Allocation Policy. However not all Ward Councillors follow this housing delivery protocol hence there is a complaint from traditional leadership that, they must deal with conflicts in their respective Traditional Councils arising out of ill - application of this policy. Their participation is still fraught with unilateralism, culminating in it being reduced to that of rubber-stamping decisions in the face of voting powers available to them in Municipal Committees. This dual governance system does have a negative impact on state subsidised housing allocation in eThekwini Municipality.

As Turner (2014) pointed out, traditional leaders exert substantial authority within the boundaries of their communities, presiding over meetings, allocating communal land, mediating between external actors and their subjects, granting, or withholding support for development initiatives. The evidence gathered supports this in that, Traditional Leaders can contribute to municipal administration and policy development using their influence over their subjects to promote transparent service delivery and accountability. When a conflict reared its head because of the ill-application of the Housing Allocation Policy, Traditional Leaders were on standby to intervene with amicable resolutions. In instances where Traditional Leaders resisted, they were labelled as blocking service delivery initiatives. The scholarly consensus that politics and administration need each other to influence policy development as articulated in the theoretical framework is supported here. Moynihan (2014) asserted that the relationship between administration and politics is that a policy is more than the letter of the law: it also

includes administrative practices of translation and implementation. The Traditional Leadership and Governance Framework Bill is aimed at facilitating co-operative governance. Through this Bill, Traditional Councils will be consulted by Municipal Councils to facilitate the provision of state services. It is envisaged that; this will make life in rural areas much easier. However, what comes out vividly in this study is that the South African government has come up with all these good sounding official documents, policies, and Bills to support traditional governance but does not follow through on these, to see whether they are implemented accordingly.

The primary argument advanced by Traditional Leaders is that, although they participate in eThekwini Municipality's Committees through representatives, their participation is merely reduced to rubber stamping decisions that have already been taken. As traditional leadership they are not involved when policies are developed yet they are expected to implement these policies in collaboration with Ward Councillors who are in fact guided by the Councillors' Participation Policy. In other words, this research study findings show that the current situation in eThekwini is similar to a study done by Mamdani (year) where it was found that traditional Leaders have become subjects themselves in the Municipality with very limited powers to influence policy development.

By interviewing Traditional Leaders, it was evident that they want to be part of service delivery initiatives in rural areas. Contrary to the assertions of scholars such as Goodenough, 2002 and Mbatha, 2003 that Traditional Leaders have tremendous powers and functions over their rural areas and subjects, talking to them uncovered a sense of desperation that their powers and functions are diminishing. The secondary argument advanced by Traditional Leaders is that, most of the decisions in Council are taken by voting. In these voting sessions, traditional leadership is always outnumbered, and votes are always swayed in favour of the majority political party. This has reduced Traditional Leaders to mere recipients of policy. As Rugege (year) added that without the power to vote, traditional leadership's influence in municipal councils is severely reduced.

Under these circumstances, their only remedial option is to turn to the eThekwini Traditional Leadership Office in Pinetown to lodge a grievance. Even there, it does not mean the voting decision will be reversed. It simply means further engagements will be arranged, subsequently ending up with another voting session. So most traditional leaders view this as a voting vicious circle with no different outcome. Thinking about this, the solution as advanced by the

traditional leadership is to engage them through their Traditional Leadership Office especially for those policies that have an impact on their traditional governance. Traditional Leaders recommended the development of a Traditional Leadership Participation Policy similar to the Councillors' Participation Policy. In developing this policy, Traditional Leaders should be involved so that they can contribute in the development of their roles and responsibilities. Traditional Leaders believe that unlike Ward Councillors, they have indigenous knowledge, and they are not rotated after a five year-term. So, investing in them is sustainable and would benefit the Municipality in the long run compared to investing in Ward Councillors who are either rotated, reassigned, or recalled. They argue that by following their suggested procedure, institutional memory will be kept and preserved for generations. Traditional Leaders are also concerned that for as long as government and institutions of higher learning still refer to three spheres of governance instead of four, namely national, provincial, local and traditional, those residing in traditional authority areas will continue to suffer.

While both Traditional Leaders and Ward Councillors sounded reconciliatory towards working with each other for the benefit of service delivery recipients on one hand, city officials on the other hand made it clear that the housing allocation process has become a political football. City officials are then reduced to just following their political principals' instructions. In political circles, housing allocation means two things, performance or non-performance. Performance is linked to annual housing allocation targets being achieved while non-performance is linked to these targets not being achieved. City officials believe targets are achieved for political scoring. If not achieved, it is another political scoring for opposition parties. As a result of this, some city officials chose to remain anonymous. The victims here are the potential beneficiaries (residents) of low-cost houses.

Thinking about the residents, who in most cases are caught up in this policy tussle, there is not much that they can do. There was an element of fear of service delivery victimisation that was observed amongst the residents who participated in this study. One resident who participated in this study said, *"do not quote my name, if it can be found that I told you everything that is going on regarding low-cost houses, I will never get one, they will deliberately skip me"*. Another one stated: *"It is so bad in this area, I heard that some people are paying bribes just to be high up in the list"*. Culture is also contributing to the victimisation of residents as another resident complained *that "even when our Traditional Leader is wrong, culturally you cannot publicly challenge him as you will be fined a cow or in a worst-case scenario be banished from*

this area. Tell me, where will you go, because to move to another Traditional Authority you need a testimonial from your current Traditional Leader. How are you going to get it, what will be written about you, then you just have to comply even if you feel otherwise". So, it became clear that, Traditional Leaders still command much respect in all sectors of the community in eThekwini rural areas. This is a clear case of citizen subjection fueled by cultural values discussed broadly in the literature review.

The eThekwini Municipality should take into account that residents are increasingly informed about governance and their rights, so community participation should not be just on paper, but it should be applied practically. The effects of this one-sided policy development ideology which results in policy conflict between the Municipality and traditional governance structures on low-cost housing provision has exacerbated the already dire housing allocation process in traditional areas.

The key theoretical feedback does not only affect service delivery but the actors as well. It can either change how they see themselves or confirm how they see themselves. It can cement historical relationships or forever portray Traditional leaders as junior implementers. The question that comes to mind is that is it possible that one of the effects of the design of the Housing Allocation Policy is to cement the role of Traditional leaders as junior partners in governance to validate Moynihan's argument that policies "reposition actors in political relations, and shape political actors' identities, understandings, interests and preferences" (Moynihan 2014). Some housing delivery projects have stalled in rural areas because of conflicts amongst the tasked actors. This needs to be remedied because Traditional leaders are crucial stakeholders in rural service delivery and should be treated as such. Just like Ward Councillors, Traditional leaders should be trained and empowered so that they can actively participate in municipal policy development. The starting point would be to first develop a policy that will guide their participation in municipal business as Traditional Leader (3) lamented that, *"there is no policy guiding their participation".*

The study's research findings demonstrated that there seems to be no desire to work together practically while the perception held by these governance structures revolve around the willingness to work together to bring services to the people. While all the official documents by different subject specialists and scholars examined in this dissertation give an elaborate picture of how these governance structures are interlinked and how they need each other to

ensure effective and efficient governance, but there seems to be no will to uptake policies that are there to guide service delivery processes in areas under traditional leadership. Scholars examined in this dissertation paint a picture of an institution of traditional leadership that can be incorporated into the democratic system without being robbed of its remarkable attributes of solidity and cohesion and without undermining the hard-won rights of subjects and that ubukhosi could become a site for stability in South Africa. To the extent that it remains a political football and provides increasing concessions towards the amakhosi at the expense of subjects, then ubukhosi will remain a fault line running through South African democracy. Institutions can be left to evolve and mutate, with much depending on the demonstration effect of cooperation in successful development and democratic governance over time. However, this could take too long for the safeguarding of South African democracy. What becomes 'rational' to individuals and normative in society is shaped by the diffusion of cultural values and practices through institutions, requiring a conscious political challenge to the persistence of hierarchical and patriarchal institutions and practices. The resurgence of traditional leadership in South Africa reveals just how muddy are the waters between state and society, how deeply public and private institutions are enmeshed in each other (Hall & Taylor, 1996: 13 -19).

While all the official documents examined in this dissertation pave the way and advocate for unity of all governance structures for the betterment of our people and sustainable quality of life. However, there is a missing link and disjuncture in the governance value chain. Whether the official recognition of traditional governance as the fourth sphere of governance could be the answer to ameliorate policy conflict in traditional authority areas or not, this needs to be explored further. The extent and impact of citizen subjection as asserted by Turner (2014) in traditional authority areas needs to be investigated further. The diminishing roles and functions of Traditional leaders need to be explored as they seem to be hindering their influence in policy development and municipal committees.

7. Conclusion

The feedback from the participants shows that selected Traditional Leaders have been allocated permanent seats in Council and their participation is full. Traditional Leaders participate in the decision-making process of the Municipality and on any policy matters. Traditional Leaders have their own traditional leadership platform in which they deliberate on issues affecting them and subjects under their custodianship: A complaint put forward by the traditional leadership

is that they were not part of the housing allocation policy development process and now they are expected to work within the confines of this policy. They also pointed out that most of the decisions in Council are taken through votes and they are always outnumbered in these Council meetings. When raising their dissatisfaction through the correct platforms given to them by the Municipality, they are often labelled as blocking service delivery. The element of training Traditional Leaders on broad-based institutions of governance came out strongly in this study but Ward Councillors can also benefit from these training sessions especially if rolled out parallel to their induction into Council. Conflicting political affiliations in which a Traditional Leader supports one political party, and the Ward Councillor supports the opposition party seem to be compromising service delivery in eThekwini rural areas.

These findings show the way in which traditional leadership and government relate in Africa and is revealing of national ideology. The barometer of traditional institutions and the ANC's conciliatory stance towards them confirms a post-colonial impulse in South Africa that is unapologetically Africanist at least at a superficial level. In reality, the relationship between Traditional Leaders and government structures speaks to the nature of political alliances and constituencies operating at different levels (Beall et al, 2004). Mamdani (1996) reaches a similar conclusion in his book *Citizen and Subject.* He argues, too, for a historical understanding of the long-term entrenchment of indirect rule in Africa, a system he dubs, a regime of differentiation, which has far outlived its colonial beginnings and is deeply implicated in the tenacity of the institution of traditional leadership today. Beall et al, concur with this view, but do not necessarily support the bifurcated analysis that accompanies it, which paints a dichotomised world of urban citizens and rural subjects. Ubukhosi, like other institutions, is neither monolithic nor coherent. The institution of traditional leadership is not hermetically sealed from other institutions. While institutions are resistant to change, they can and do evolve (Bates, 1995). Moreover, as Bates has argued, we often under-estimate the extent to which political interventions and settlements can create new or lead to the evolution of old institutions. In the same vein all is not lost as all parties involved are willing to work together but there seems to be no Will to create that platform of working together without being wary of each other.

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Appendix One: Interview Guide

Traditional Governance Structures and Uptake of Housing Allocation Policy in eThekwini – 2019

Introduction

Good day. May I speak to the Traditional Leader / Inkosi, Ward Councillor/Municipal Official/ Community member? My name is ……………. I am conducting a study on Traditional Leadership, Councillorship, Municipal Officials and Rural Community Members in eThekwini. This is for a Master's Degree through UKZN. I would like to hear your views and the interview will take about 20 minutes. You were selected randomly to participate in the survey, which is confidential. Under no circumstances you are forced to participate, and you may withdraw your participation anytime, should you so wish.

Section A: Demographic Information

1. Name (if willing to share):

2. Gender:

3. Race:

4. Age:

5. Highest level of education reached?

6. Where do you live (name of traditional area and ward)?

7. What is your role in the area? (i.e. are you a traditional leader, councillor, municipal official, or resident).

8. Residency/profession:

    a) If a resident, in what year did you move into this area?

    b) If a member of the eThekwini Municipality staff, how long have you worked there?

    c) If a traditional leader/elected official, how long have you been in this position?

A. Questions for Traditional Leaders

1. What is the state of housing in your area?

2. To your knowledge, what are the Municipality's housing plans for your area? And have they been initiated?

3. In discussions with the Municipality, what appears to you to be the Municipality's view of the role of traditional leadership in low-cost housing delivery and allocation?

4. And your own view of your role?

5. Are there any discussions that you have been part of where your role as a traditional leader has been discussed?

    a) If so, have you had any influence in shaping this role?

    b) If there have been no discussions, why do you think that is the case?

6. Have there been any documents that the Municipality has shared with you regarding housing in your area?

    a) If so, what have these been?

    b) What was your role in the crafting of those documents?

7. Have there been any Municipal reviews or meetings of the Housing policy or allocation in your area?

    a) Have you participated in any reviews/meetings of the policy and what would be your advice to the Municipality?

8. What are your views on the Housing Allocation policy in the Municipality?

9. How do you communicate your views to the Municipality about the issue of housing in your area?

10. Outside of the Municipal process, how do you address issues of housing needs in your area?

11. Could you describe how you work with the local ward councillor on issues of housing (if at all)?

12. When you have been unsatisfied by Municipal actions regarding housing, what specific actions have you taken to make this known to the Municipality or the community?

13. Any other comments?

B. Questions for Ward Councillors

1. What is the state of housing in your area?

2. To your knowledge, what are the Municipality's housing plans for your area? And have they been initiated?

3. What is your own role in these discussions and in housing allocation in general?

4. In discussions with the Municipality, what appears to you to be the Municipality's view of the role of traditional leadership in low cost housing delivery and allocation?

      1. And that of traditional leaders?

5. What are your own views on the roles of the following in housing policy and allocation:

      1. Ward councillors

      2. Traditional leaders

6. Are there any discussions of housing issues that you have been part where traditional leaders have been actively involved?

    a) If so, do you think their participation was influential? If so, how so?

    b) If there have not been there, why do you think that is the case?

7. Have there been any documents that the Municipality has shared with you regarding housing in your area?

    a) If so, what have these been?

    b) What was your role in the crafting of those documents?

8. Have there been any Municipal reviews or meetings of the Housing policy or allocation in your area?

    a) Have you participated in any reviews/meetings of the policy and what would be your advice to the Municipality?

9. What are your own views on the Housing Allocation policy in the Municipality?

10. Have traditional leaders communicated with you about housing issues in the area?

    1. If so how?

    2. What has been your response?

11. Outside of the Municipal process, how do you address issues of housing needs in your area?

12. Could you describe how you work with the traditional leaders on issues of housing (if at all)?

13. If they have been unhappy about certain housing issues, how do the traditional leaders react? Are there specific actions you can recall?

14. How would you assess the role of traditional leaders in housing allocation? Are you satisfied with their contributions? If not, why not?

15. Any other comments?

C. Questions for Municipal Officials

1. How would you describe the state of housing allocation and delivery in rural parts of the Municipality (with specific reference to the areas of my study)?

    a) Why do you think this is the case?

    b) How is the Municipality dealing with housing in these rural parts?

2. What administrative roles and responsibilities do traditional leadership play in low cost housing allocation and delivery in the Municipality?

    a) How do their responsibilities differ or converge with those of councillors?

    b) Who crafted these roles and responsibilities, and how did they come about?

    c) How (if at all) did traditional leaders contribute to the development of their roles in housing provision in the Municipality?

3. Could you describe how you work with the traditional leaders on issues of housing (if at all)?

4. Have there been any documents that the Municipality has shared with traditional leaders regarding housing in your area?

    a) If so, what have these been?

    b) What was their role in the crafting of those documents?

5. Have there been any Municipal reviews or meetings of the Housing policy or allocation in traditional areas?

    a) If yes, how many and for what reason?

    b) If not, why not?

c) Have traditional leaders participated in any reviews/meetings of the policy

6. How would you assess the role of traditional leaders in housing allocation? Are you satisfied with their contributions? If not, why not?

7. When traditional leaders have been satisfied or unsatisfied by certain issues pertaining to policy, what mechanisms do they usually use to communicate this? For example, are there indirect acts that demonstrate to you their level of satisfaction or dissatisfaction?

8. How and why do you think traditional leaders choose certain mechanisms to demonstrate their views on housing delivery?

9. What have been the effects of these mechanisms on housing allocation and delivery in their areas?

10. How do you respond to traditional leaders when they have expressed concerns to your offices about housing allocation and delivery? Could you name specific things?

11. Any other comments?

D. Questions for Residents

1. Could you describe the state of housing in your area? Why do you think it is the way it is?

2. Looking at your rural area, do you think you are better serviced by virtue of access to two administrative authorities (Traditional leaders and Ward Councillors) especially for low cost housing and allocation?

3. In your view, what is the role of traditional leaders in housing allocation and delivery?

4. Do traditional leaders and Councillors share low cost housing delivery and allocation responsibilities equally?

5. Do you know of (or have your participated) in any meetings where traditional leaders have been present, where issues of housing were discussed?

    a) If yes, how many and for what reason?

    b) If not, why not?

6. How would you assess the role of traditional leaders in housing allocation? Are you satisfied with their contributions? If not, why not?

7. When traditional leaders have been satisfied or unsatisfied by certain issues pertaining to policy, what mechanisms do they usually use to communicate this? For example, are there indirect acts that demonstrate to you their level of satisfaction or dissatisfaction?

8. When you have housing issues, which authority (traditional leader, councillor, Municipality) do you/ or should you go to? Why?

9. Any other comments?

Appendix Two: Ethical Clearance