

THE ROLE OF TRADITIONAL LEADERS IN RURAL LOCAL GOVERNMENT

A case of Vulindlela and Impendle Traditional Areas

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ABSTRACT

Approximately three-quarters of the population in South Africa live in rural areas and are under the governance of traditional leadership, whose practice has been the source of controversy in the post-apartheid era. The institution of traditional leadership has been historically regarded as the main ruling system closest to and accepted by the people at grassroots level.

The aim of this research is to investigate the role of traditional leaders in local government in the Vulindlela and Impendle areas, Pietermaritzburg. The objective is to present a historical overview of the role of traditional leaders and to analyse the role traditional leaders have to play in development. The research examines whether the tension between traditional leaders and municipal councillors hinder development to the masses in Vulindlela and Impendle areas. The methodology adopted for this study was a qualitative research approach, which was used to analyse the roles played by traditional leaders in rural local government development.

The main findings of the study reveal that traditional leaders and authorities are essential political, social and economic structures for maintaining the socio-political order that is a prerequisite for rural development. Any endeavor to create a full democratic society in South Africa must utilize the intrinsic strengths of traditional leaders. The institution of traditional leaders should be transformed to move with the times. Many traditional leaders accept the role they have to play as part of the new order as well as the resulting challenge associated with the process of transformation. In principle, traditional authorities should not be drawn into party politics and their role should remain one of neutral leadership. Traditional authorities are seen in their communities as the institutional form of government closest to the people and therefore need to be preserved.

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DECLARATION

Except where explicitly indicated to the contrary, this study is the original work of the author. This thesis has not previously been submitted in any form to another University.

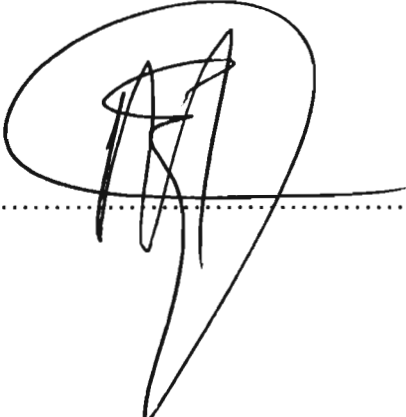
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TABLE OF CONTENTS

| | Pages |
|--|-------|
| Abstract..... | ii |
| Acknowledgements..... | iii |
| Declaration..... | iv |
| | |
| CHAPTER ONE: INTRODUCTION | 1 |
| | |
| CHAPTER TWO: THEORETICAL FRAMEWORK | |
| | |
| 2.1 Introduction | 5 |
| 2.2 Definition of Traditional Leadership | 6 |
| 2.2.1 Who is a traditional leader? | 7 |
| 2.2.2 Hereditary or Appointed | 8 |
| 2.2.3 Powers/ Functions of Traditional leaders | 10 |
| 2.3 Theoretical Context | 11 |
| 2.3.1 The invention of the Tradition Approach | 11 |
| 2.3.2 The Traditionalist Approach | 13 |
| 2.3.3 The Modernist or Eurocentrist Approach | 14 |
| 2.3.4 Feminist Theory | 18 |
| 2.4 African Historical Experience of Traditional Leader’s Role in Local Government | 21 |
| 2.4.1 Ghanaian Experience | 22 |

| | | |
|-------|-----------------------|----|
| 2.4.2 | Namibian Experience | 24 |
| 2.4.3 | Zambian Experience | 25 |
| 2.4.4 | Botswana Experience | 25 |
| 2.4.5 | Malawian Experience | 27 |
| 2.4.6 | Zimbabwean Experience | 28 |
| 2.4.7 | Mozambican Experience | 29 |
| 2.5 | Conclusion | 31 |

CHAPTER THREE:

TRADITIONAL LEADERS, LOCAL GOVERNMENT AND THE CONSTITUTION

| | | |
|-------|---|----|
| 3.1 | Introduction | 34 |
| 3.2 | Traditional Leaders and Local Government in South Africa | 36 |
| 3.2.1 | Pre-colonial Era | 37 |
| | 3.2.1.1 Functions/ Powers | 37 |
| 3.2.2 | Colonial Era | 38 |
| 3.2.3 | Apartheid Era | 40 |
| | 3.2.3.1 Black Administration Act, 1927 | 42 |
| | 3.2.3.2 Black Authorities Act | 42 |
| | 3.2.3.3 The KwaZulu Amakhosi & Iziphakanyiswa Act, 1990 | 43 |
| 3.2.4 | Post-Apartheid Era | 44 |
| | 3.2.4.1 Local Government Municipal Structures Act | 47 |
| | 3.2.4.2 Local Government Municipal Demarcation Act | 49 |
| | 3.2.4.3 The White Paper on Local Government | 49 |
| | 3.2.4.4 Traditional Leadership and Governance White Paper | 51 |
| | 3.2.4.5 Bill of Rights and Traditional Leaders | 52 |
| | 3.2.4.6 Communal Land Right Act, 2004 | 52 |
| 3.2.5 | Traditional Leaders and Party Politics | 55 |
| 3.3 | Conclusion | 57 |

CHAPTER FOUR: RESEARCH METHODOLOGY

| | | |
|-----|----------------------------------|----|
| 4.1 | Introduction | 59 |
| 4.2 | Aim | 59 |
| 4.3 | Objectives | 60 |
| 4.4 | Study Area | 60 |
| 4.5 | Methodology | 63 |
| | 4.5.1 Qualitative Methodology | 63 |
| | 4.5.2 In-depth interviews | 65 |
| | 4.5.3 Semi-structures interviews | 65 |
| | 4.5.4 Sampling | 66 |
| | 4.5.6 Focus Group | 67 |
| 4.6 | Interview Technique | 68 |
| 4.7 | Logistics/ Problems | 68 |
| 4.8 | Data Sources | 69 |
| 4.9 | Conclusion | 70 |

CHAPTER FIVE: TRADITIONAL LEADERS IN VULINDLELA AND IMPENDLE

| | | |
|-----|--|-----|
| 5.1 | Introduction | 71 |
| 5.2 | History of Chieftaincy | 71 |
| 5.3 | Functions of Traditional Leaders | 76 |
| | 5.3.1 Previous functions vs. contemporary functions | 82 |
| | 5.3.2 Traditional Leaders, Development and Delivery | 88 |
| | 5.3.3 Municipal Incorporation and Rates | 90 |
| 5.4 | Relationship between traditional leaders and councillors | 93 |
| 5.5 | Representativity | 100 |

| | | |
|-----|--|-----|
| 5.6 | Government legislation | 104 |
| 5.7 | Traditional leaders and gender issues | 107 |
| 5.8 | Traditional Leaders and Party Politics | 111 |
| 2.9 | Conclusion | 112 |

CHAPTER SIX: EVALUATION AND CONCLUSION

| | | |
|-----|--|-----|
| 6.1 | Introduction | 114 |
| 6.2 | History of Chieftaincy | 115 |
| 6.3 | Overview of the role of traditional leaders | 117 |
| 6.4 | Traditional leaders and development | 119 |
| 6.5 | Relationship between traditional leaders and councillors | 123 |
| 6.6 | Traditional versus democratically elected leaders | 126 |
| 6.7 | Recommendations | 129 |
| 6.8 | Conclusion | 130 |

| | |
|------------|-----|
| REFERENCES | 135 |
|------------|-----|

| | |
|------------|-----|
| APPENDIX 1 | 145 |
|------------|-----|

List of plates

- Plate 1: Map of KwaZulu-Natal showing Vulindlela and Impendle Traditional Authorities.
- Plate 2: Map showing Impendle Traditional Authority in Impendle Local Municipality within uMgungundlovu District Municipality.
- Plate 3: Map showing Vulindlela Traditional Authorities in The Msunduzi Local Municipality within uMgungundlovu District Municipality.
- Plate 4: Electricity supply as part of infrastructure development in the area.
- Plate 5: Nadi community gardening and poultry.

List of tables

- Table 1: Summary of data sources and methodology.
- Table 2: History of traditional leaders.
- Table 3: The hierarchy in the Traditional leadership.
- Table 4: Relationship between traditional leaders and councilors.

CHAPTER 1

1.1 Introduction

South Africa's transformation from an undemocratic, unrepresentative and unaccountable apartheid system necessitated that all structures of governance, practices, institutions and values be revived in the light of the new non-racial, democratic order. The institution of traditional leadership cannot escape this transformatory process in order to adapt with the evolving democratic order. Ever since the multiparty negotiations that preceded the enactment of the interim Constitution in South Africa, much controversy has surrounded the institution of traditional leadership. In particular, there has been disagreement about the role of chiefs in the new democratic dispensation.

The institution of traditional leaders is not new in South Africa or in Africa as a whole. It has existed and worked hand-in-hand with colonial and apartheid governments in South Africa for almost a century. During the apartheid era the institution of traditional leaders served as local government in various rural areas. The subjugation and manipulation of the institution of traditional leadership, its powers and functions, has been the staple of successive administrations since colonization. Such manipulation has distorted the role of traditional leaders in administration and development to such an extent that there is a view that the development of rural areas would be accelerated if traditional leaders were excluded from the process (Botha, 1994).

Tribal authorities exercised governmental functions, which ranged from the provision of services to the preservation of law and order, settling of disputes and to the allocation of land. Approximately 16.5 million people in South Africa live in rural areas and they are under the governance of traditional leadership (Mtimkulu, 1996). In contemporary South Africa, significant sectors of rural society still cherish the institution of traditional leadership and it is still regarded as a symbol of African nationalism. In most parts of rural South Africa, for example, in KwaZulu-Natal and the Eastern Cape, chiefs have strong relationships with political parties, especially with the Inkatha Freedom Party (IFP) and the African National Congress (ANC). This is because of the influence that

chiefs have in rural and tribal communities. These political parties regard chiefs as allies in the process of political mobilization and recruitment.

A public debate is currently taking place in South Africa over the powers of chiefs and the role they can play in the development of a democratic society. In particular, the draft White Paper on Traditional Leadership and Institution (2002) is aiming at clarifying their position, powers and functions. A key issue is whether they can help reduce the socio-spatial inequalities of the apartheid era. Some see no role that chiefs can play in bringing about socio-political changes in this country, for example, Sbonelo Mbanjwa, the journalist (Natal Witness, 12 October 2000). Others, like Chief M. Mzimela, argue that chiefs have an important role in rural areas. Many in the latter category claim that the authority wielded by chiefs today is “traditional” powers, that is, it has not been changed over the years. Historical evidence, however, indicates that the powers which chiefs wield over their subjects today were widely shaped and reshaped by successive colonial and apartheid governments (Thabethe, 2000).

However, with the advent of colonialism, African traditional government was systematically weakened, and the bond between traditional leaders and their subjects was gradually eroded. Apartheid and colonialism deprived African people not only of their land and property but also of their dignity and culture. The ancient African societal system, which was the basis of its humanity and mutual co-operation and protection (*ubuntu*), was destroyed. The policies of successive colonial, apartheid and homeland governments completely distorted the institution of traditional leadership through co-option. Through a complex web of legislation, the institution was transformed into a toll through which cultural differences of the black people were emphasised and used as a basis to Balkanise the country. This was done in terms of laws such as the Bantu Administration Act (1927), which established a framework for the administration of African people separately from other racial groups.

In the post-apartheid era there have been fears amongst rural people that they will have to pay property rates. Since the municipal demarcation process began, there has been an outcry from

traditional leaders, who believed that the reason behind the delimitation of wards was aimed at taking away their powers, especially with regard to land allocation and conflict resolution.

People have different views on the issue of traditional leadership and institution. This has been summarized by the Natal Witness (12 October 2000:4) as follows: What powers do traditional leaders want from the government? Are they happy with the ongoing exploitation of rural people who are forced to respect their Chiefs? Rural areas have not received anything from a chief or his lieutenants (headmen/izinduna), but a lot of money has been spent by families towards activities that benefit the chief.

While chiefs rule primarily over their people, there is a distinct territoriality to their jurisdiction. From a geographical perspective, this study will examine if and how traditional leaders can contribute to the reduction of socio-spatial inequalities of the apartheid era. Issues relating to traditional leaders reflect deeper debates that have real impacts in the political, economic and social realms in South Africa. The issue of the institution of traditional leadership is very important because it touches on the critical issue of a model for rural local government. This sphere of government has a direct bearing on the prospects for development in the country. There are about 800 traditional leaders in South Africa who are governing about 16.5 million people. Botha (1994) believes that these 800 traditional leaders together control approximately 17 million hectares of land. Most of their land is very underdeveloped, that is, they lack basic services like water, electricity, etcetera, and have high population densities.

There is a view that active participation of traditional leaders in local governance will facilitate development, thereby ensuring poverty relief and improving the quality of life of the rural populace. It has not been clear as to what role traditional leaders should play in facilitating socio-spatial and economic development of rural areas. The South African constitution has signaled the advent of a democratic system able to respond to the socio-economic problems created by apartheid. The current legislation such as the Municipal Structures Act and the Municipal Systems Act, while indicating the role and powers of traditional leaders in rural development in the context of municipalities, reserves

more powers and functions for municipalities as compared to traditional leaders. As such, the Integrated Development Plans (IDPs) for rural areas have been made without consultation with traditional leaders.

The aim of this study is to examine the role of traditional leaders in rural local government in post apartheid South Africa with specific reference to Vulindlela and Impendle tribal areas. The research will try and establish if the powers, functions and status of traditional leaders influences their capacity to deliver services to the rural masses. The relationship between traditional leaders and local and national government will be considered. The study will also outline the history of rural governance and structures and traditional leaders. The research will also reflect on the future of traditional leaders in South Africa.

This dissertation is divided into six chapters. Following the introduction in chapter one, chapter two presents the theoretical framework and literature review. Chapter three analyses the constitutional provision and policy guidelines for local government, with particular reference to traditional leadership in South Africa. Chapter four focuses on the methodological approaches and techniques, which were used in executing the fieldwork. The data is analyzed in chapter five. The evaluation, recommendations and conclusion to the study are presented in chapter six.

CHAPTER TWO

THEORETICAL FRAMEWORK AND LITERATURE REVIEW

2.1 Introduction

South Africa and its neighbours are undergoing a process of fundamental political, economic and social restructuring. The debate on the role and future of traditional leaders in the 1990s is perhaps an indication of the strength of the institution. Throughout Africa the institutions of traditional leaders has managed to survive the quest for modernity and state control imposed on it by colonial and postcolonial rulers (Scheepers, 1996).

In South Africa, and other African countries, there is a consensus that the institution of traditional leadership needs to be changed. However, there have been problems in deciding exactly what needs to be changed in traditional leadership and how. This is because most rural communities believe that the institution of traditional leaders is one of the most important elements of their society. There is a belief by traditional leaders and some researchers, like Shubane (1998), that the institution of tribal authorities essentially comprise political, social and economic structures, and that they symbolise and maintain socio-political order, which is necessary for rural development. The institution of traditional leadership represents the conservation of traditions, customs and values of the African people.

The institution of traditional leadership is seen by many as an inherently undemocratic and patriarchal institution and it is often argued that it can have no place in an open and democratic society founded on human dignity and the advancement of human rights and freedom. On the other hand, it is also recognised that the system of traditional leaders is part of the rich cultural heritage that cannot be allowed to go to waste (Pieterse, 1999).

The aim of this chapter is to examine the theories and concepts, which attempt to analyse and explain the role and functions of traditional leaders in local government. Definition of traditional leadership is debated in the first section. The theoretical framework is presented in the second, and the focus is on the invention of tradition in an African context. This section is followed by a definition of a traditional leader. Thereafter, a historical overview of African experience of the role of traditional leaders in local government is assessed.

2.2 Definition of Traditional Leadership

The emergence of the traditional leadership could be traced back to the pre-colonial era when traditional systems of leadership were either hereditary or achieved through recognition of benevolence and loyalty to the clan. While it is believed that the chieftainship is hereditary, there are many instances where it has been usurped or acquired in some other way by trickery or force (Welsh, 1974). Parker (1995) believed that traditional leadership could also be assumed through bravery, especially in territorial acquisitions as a result of tribal warfare. However, as the rule, the chief succeeds automatically to his office by right of birth.

In most of the African continent, the tribe has been the basic unit of the people's organisational structure. Schapera (1996) defines a tribe as the body of people organised under the rule of an independent chief. Each tribe has its own name, occupies its own territory, manages its own affairs, and acts as a single unit, for example, in instances like war. It is through people's allegiance to the same chief that the members of a tribe are conscious of their unity. A chief rules over his people, and not over the territory they inhabit, although the territory forms an important component of the chieftainship. Membership of a tribe is determined more by allegiance to a chief than by birth. Hence, the unity of the tribe depends fundamentally on the common loyalty of the tribesmen to their chief. A popular chief can gradually enlarge his or her tribe by recruiting members from other tribes, while unpopular ones can lose their adherents and become what is called 'chief of the pumpkins' (Schapera, 1966:69).

As the base source for agricultural and other resources within a tribe, the chief's ability to allocate land was critical to sustain an effective leadership. The inability to provide followers with adequate land could well see a chief's subjects effectively shifting their allegiance and choosing to live under the leadership of another chief. The possibility of this degree of fluidity reflects the fact that a chief's authority was not primarily from coercive power but rather derived from patronage, ritual and symbolism (Butler, 2002). It is, therefore, clear that the tribal community effectively gave a chief the authority to rule.

A tribe is not a closed group like the clan. This is because several different tribes can be incorporated under the rule of one chief. A tribe can also be split because of quarrels among members of the royal family. Schapera (1966) believes that a tribe is, therefore, an association into which people may be born, or which they may voluntarily join, or into which they may be absorbed by conquest, and which they may, for one reason or another, leave again.

2.2.1 Who is a traditional leader?

A traditional leader can be defined as a person who, by virtue of his ancestry, occupies the throne or stool of an area. This should be a person who has been appointed to the throne or stool in accordance with the customs and tradition of the area and has traditional authority over the local people. A traditional leader can also be any other person appointed by instrument and order of the government to exercise traditional authority over an area or a tribe (de Villiers, 1997).

Each traditional leader ruled independently and enjoyed unlimited and undefined power over the tribe or territory under his jurisdiction. A traditional leader was also a custodian of the land. Traditional leaders functioned as supreme natural rulers who reigned for life and could only be removed from office through natural death (Parker, 1995).

2.2.2 Hereditary or Appointed?

There is a belief or perception that most chiefs are born or are hereditary leaders. Welsh (1974) believed that not all or most chiefs in Natal were hereditary. This was because in an appendix to the Natal Native Commission of 1881-2 there were one hundred and two (102) tribes under the charge of one hundred and seventy three (173) chiefs or headmen in Natal. Of those chiefs 99 were hereditary, 46 were created or appointed, and 28 were headmen appointed and recognised by the government (Welsh, 1974). There were a number of ways in which appointed chiefs originated. For Welsh (1974), Sherpstone encouraged the fragmentation of tribes, thereby destroying hereditary traditional authorities. Most appointed chiefs came into power because they were principled *indunas* or headmen of the government of the day. The system of power to promote commoners or ordinary people to the rank of chief was often used as a form of patronage. Africans who had performed some useful services could be rewarded by being made chiefs. In some cases, government could appoint what we can call 'government *induna*' to take temporal/ permanent charge of the tribe/area. The Zashuke chieftaincy is a classic example. The appointment of chief Zashuke took place as follows:

Chief Usidoi who lived south of the Mkomazi River attacked chief Umshakangubo's people, who lived sixteen miles away. The attack was because of the quarrel that aroused out of the celebrations at a wedding between a man of Usidoi's people and a woman of Umshukangubo's people. Usidoi invaded Umshukangubo, defeated his forces and then killed and mutilated the vanquished chief. This was an act, which, according to Sherpstone, was the prerogative of an independent chief. Forces of 400 men each were assembled at Upper and Lower Umkomazi and were ordered to seize all castles, horses and guns, together with Usidoi and his principal men. Usidoi fled the Colony and the Government punished the tribe very severely by seizing 90 percent of its cattle. Sherpstone declared to the Usidoi family that neither Usidoi nor any of his family would any longer be chief and appointed what he described as a 'Government *induna*' to take permanent charge of the tribe. This was Zashuke, his great grandson is a hereditary chief at present, Chief Nyanga Ngubane (Welsh, 1974: 121).

During the colonial and apartheid periods a number of people were appointed and some deposed if

they were seen as not serving the government of the day. South Africa has 839 traditional leaders, of those 63 are acting, 25 are landless, and about 73 appointed. This shows that not all traditional leaders are born, or leadership inherited (Welsh, 1974). However, traditional leadership is hereditary. There are many instances, like the one mentioned above, where traditional leadership has been usurped or acquired in some other way by trickery or force, but as the rule, chiefs succeed automatically to office by right of birth.

One of the central challenges in getting to grips with the current issues of traditional institutions and leadership is that of succession and legitimacy. While there is an abstract characterisation of traditional authority being hereditary down the dominant male line, the reality appears to be often more complex. Shaka's claims to Zulu leadership were contested on the grounds of both legitimacy and rights of succession (Welsh, 1974).

In South Africa between 11 and 18 million people fall under the jurisdiction of approximately 839 traditional leaders (de Villiers, 1997). These traditional leaders do not exercise their functions alone. A single traditional leader may be assisted by up to ten more subordinate leaders, resulting in a total of some 10 000 traditional leaders. This makes the issue of traditional leadership quite complex. This is simply because when one talks of traditional leaders in South Africa, one needs to think of more than ten thousand (10 000) people. Traditional leaders or authorities are social leaders and systems rather than actual government institutions (de Villiers, 1997).

Traditionally, the chief's powers were only exercised through a collective traditional council. Structurally, councillors were, and continue to be, drawn from the ranks of headmen, sub-headmen and prominent members of the community who are acknowledged for their skills and leadership qualities. These together form what we call a traditional council. It is, however, imperative to note that in some areas headmen were elected by the community while others ascended to power through hereditary lineage.

The institution of traditional leadership is per definition hereditary and therefore not subject to the

electoral process. However, traditional leaders in South Africa are able to stand for a political office without relinquishing their traditional functions.

Although local leadership engendered a cohesive form of traditional government, with tribal councillors assisting their natural rulers in various forms of decision-making, there was no form of unified government across tribal lines or territorial boundaries. Before the advent of colonial rule in Africa, traditional governments in various local jurisdictions appeared fragmented as tribal warfare was still prevalent, and therefore they could only exercise limited power within the domain of their leadership (de Villiers, 1997)..

2.2.3 Powers and Functions of Traditional Leaders

An incorrect impression has been created that the South African democratic government has reduced the powers of traditional leaders. It is almost impossible to deal with the full range of functions still performed by chiefs in South Africa. This is precisely because chiefs continued to perform administrative functions as they had done under colonial and apartheid eras. They served as a link between the government and the people, they performed ceremonial and religious functions, and they chaired tribal courts (Bekker, 1993).

The powers of traditional leaders can be classified roughly into three categories. Firstly, the power to participate in service delivery such as the establishment, maintenance and management of schools, bridges, roads, dams, etc. Although traditional leaders may be empowered through government intervention to perform these functions, it is not their direct responsibility. Secondly, they have the power to create and maintain a safe and secure community environment. These are generally powers to maintain law and order and involve reporting to the magistrate on matters such as the protection of lives. The third level of power is judicial and is assigned to traditional leaders by the Minister of Justice. Traditional leaders have the authority to preside over minor criminal offences committed in areas under their jurisdiction (Natal Witness, 24 February 2000: 8).

Their primary function is to regulate and control relationships and social behaviour within a traditional community. They are in essence people oriented and not service oriented as local government structures. The authority of a traditional leader is derived from tradition and is exercised in consultation with senior advisers without being regulated by legislation (de Villiers, 1997). A traditional leader is further responsible for maintaining law and order throughout the tribal area. He must protect the right of his subjects, provide justice for the injured and oppressed, and punish wrongdoers. A traditional leader is the supreme judge, whose decision is final.

A traditional leader, as the head of the tribe, occupies a position of outstanding privilege and authority. For Schapera (1966) a traditional leader is the symbol of tribal unity, the central figure around whom the tribal life revolves, he is at once ruler, judge, maker and guardian of the law, repository of wealth, dispenser of gifts, and leader in war (Schapera, 1966). The chief is the executive head of the tribe. Nothing of any importance can be done without his knowledge and authority.

2.3 Theoretical Context

Many traditions and customs are the product of codification, petrification and coercion under modernist projects of colonial rule, missionary activity and postcolonial state formation. It can also be argued that tradition is a specific construction at a specific time for specific purposes (van Nieuwaal et al, 1999). Tradition and custom in Africa have become culturally specific historical phenomena. (van Nieuwaal et al, 1999:1) argues that “the codification of certain practices as authentic traditions by colonial rulers and missionaries led to many instances in which local leaders themselves began trying to legitimize their position along such lines.”

2.3.1 The Invention of the Tradition Approach

Chieftaincy in Africa can be understood in terms of the development and invention of tradition. Three perspectives have emerged out of the invention of the tradition approach in attempting to

understand the primordialness of chieftaincy in Africa. The first position argues that chieftaincy existed, in most cases in Africa, prior to the arrival of the European rulers and missionaries. The arrival of colonial rule had all sorts of ramifications in terms of internal divisions, alliances, bureaucratic arrangements, and above all, co-option of chiefs into a system of indirect rule ((van Nieuwaal, 1999). Colonialism favoured the codification of one line of power in local society, which was then fortified against rival or more fluid forms of power brokering, ultimately creating an artificial tradition of hereditary power. This was the creation of something that seemed to resonate deeply with locally held cultural perceptions.

The second approach in the invention of the tradition perspective emphasizes that in cephalous societies, colonial rulers did not hesitate to impose an African form of traditional rule (van Nieuwaal et al, 1999). Here colonial administrators randomly selected individuals to serve as a channel of communication with locals, and gradually started calling them chiefs. Tradition here was truly a colonial and modernist invention.

The third position deriving from the invention of the tradition approach focuses on the situation in which modernist projects of power were absent and therefore did not impose such invented traditions. Some remote areas remained unaffected by colonial and missionary endeavors, and no externally inspired traditions and customs were created. However, it was not just in Western modernizing projects that traditions were invented, such inventions took place in other, non-Western hegemonic projects as well, such as the influence of the expansion of Islam (van Nieuwaal et al, 1999).

The main problem with the invention of the tradition approach is the question of acceptability and legitimacy. There have been concerns about how something that is imposed can be acceptable to a local population. This is because inventing and creating a structure is one thing, but it is entirely something else to give meaning and significance to it and imbue it with respect (van Nieuwaal et al, 1999).

Tradition is a form of legitimization which is based on a construction of history (Trotha, 1996). This means that tradition underlines the meaning of the past for the identity of people and the constitution of traditional institutions. However, legitimacy by tradition is not sufficient to guarantee the future of the institution of traditional leadership. It needs to be complemented by the idea that the chief is an agent of the present and is a guarantor and agent for the future (Trotha, 1996). Tradition is not a rigid preservation of the past, but a continuous dialogue with the past directed towards the challenges of the present and the future. Therefore, traditional leaders must ground their understanding of tradition on the dynamic character of the community they represent.

2.3.2 The traditionalist approach

The way African communities live today is not the same as they did some 150 years ago. Since their contact with the outside world, especially after the partitioning of Africa into spheres of different colonial influences, and the introduction of western values, the practices of government, education and religion have changed drastically in the continent. The colonialists, through their education and religious systems, made a wholesale condemnation of almost all-African cultures and institutions which they termed as primitive and unchristian (Trotha, 1996).

In African society, traditional leadership was regarded as the custodian of the people's cultural values that bond them together and made sense out of their lives. Kayila (1995:65) argues that "resistance made by certain communities were often met with the force of government machinery, oppressive laws that were meant to safeguard the interests of the colonial governments and their foreign ideologies, and their religious beliefs."

One school of thought that has emerged out of the debate on traditional leadership is the traditionalist approach, which believes that the institutions of tribal leaders are at the heart of rural governance, political stability, successful policy implementation, and hence, rural development. Botha (1994) argues that the institution of chieftaincy in Southern Africa is an integral part of the rural African community. It is argued that traditional leaders act as symbols of unity, maintain peace, preserve

customs and culture, allocate land to people, and resolve disputes and conflicts. For them, the institution, despite past policies and practices, commands substantial support and legitimacy to justify extensive formal participation in the management of society (Botha, 1994).

In traditional structures, the chief of an area has ultimate authority, although he often governs according to tradition by consultation with senior members of the tribe and tribal council. The traditional leaders regard this as a form of African democracy, on the basis that the local area or a tribe is not “one-person-centred”. Traditional leaders have powers to call meetings and set agendas, as well as appoint *Izinduna* and traditional councillors. They may establish community committees, which traditional leaders may feel are necessary for overseeing and managing their area.

On the gender issue, for example, some traditionalists agree with the feminists that women’s position in rural life should be improved, but propose that it be done within the existing framework and structure. This type of reform would, however, do little towards making the institution more gender sensitive. Hence, the feminist appeal for the complete restructuring of the institution and the ‘customs’ and ‘traditions’ on which it is built (Keulder, 1998).

It is worth noting that traditionally, most communities had a clear division of responsibilities between men and women, based on each community’s cultural beliefs and practices. Traditionally, women were responsible for bringing up the family, which involved looking after children, preparing meals, production of food, and generally ensuring that the home was as comfortable for the family as possible. Under exceptional circumstances some women were allowed to play roles not associated with them, for example, being accorded eldership status to be consulted when major decisions requiring their expertise were at stake. Men were always the head of the family (Botha, 1994).

Keulder (1998) points out that there is agreement between modernists and traditionalists that the institution of traditional leaders, its composition, functions and legal manifestation should change in order to adapt to transformation in the social and political environment. They disagree, however, on the nature and scope of the perceived changes (Keulder, 1998).

2.3.3 The Modernist or Eurocentrist approach

The second school of thought is the modernist or Eurocentrist one, which calls for a transformation of the institution of traditional leaders to meet the requirements of a modern, non-sexist and non-racial democracy. Mamdani (1996) points out that modernists believe that the problem is that civil society is an embryonic and marginal construct in Africa. The basic premise behind this approach is that African societies are in the process of becoming modern rational entities in which efficiency and scientific logic replaces traditional values and belief systems. Social change and education are undoubtedly important targets, but the focus on these issues tended to overlook the ongoing roles of traditional institutions and norms (van Nieuwaal et al, 1999).

Modernisation often refers to the transformation which takes place when a traditional or pre-modern society changes to such an extent that new forms of technological, organisational, or social characteristics of advanced society appear (Coetzee, 2001). Democratization is one aspect or variable that can be enhanced in the transition, from traditionality to modernity. Modernisation is the process where different societies tried to bring their own level of development to be in line with those of the advanced or more modern societies. While modernisation is associated with transformation or progress, there are no clear and mutually exclusive categories of modernity and traditionality. Modernity creates its own traditions. Most of the time modernity includes forms of traditionality. According to Coetzee et al (2001:42) “traditions often provide strong stimuli for the process of modernisation”.

Keulder (1998) argues that the institutions of traditional leaders are believed to be the basis of rural patriarchy. He argues that the institutions of traditional leaders are not in accordance with the precepts of democracy. In original African tradition, leadership is hereditary and is not subject to an electoral process (Mokgoro, 1994). The hereditary nature of traditional leadership removes any direct accountability to a tribal community. This has opened up the institution of traditional leadership to

corruption and political manipulation (Mokgoro, 1994).

The modernist or eurocentrist approach argues that during the colonial and apartheid eras traditional authority acted as a unique linkage between the contemporary state and civil society in the areas of democratization and development. It further argues that these linkages are, however, often ignored, misunderstood and not recognized.

In terms of the modernist approach the chieftaincy needs to be transformed, together with the postcolonial state, into an intermediary, administrative institution. Ray and van Nieuwaal, 1996) believe that this administrative chieftaincy should be transformed into what they call 'civil chieftaincy' which would be more just, responsive and responsible.

However, Trotha (1996) believes that this kind of administrative chieftaincy was used by colonial and apartheid governments who sought to impose a more homogenous pattern of chieftaincy by utilizing chiefs as part of the process of building the new colonial state. He further argues that the reliance of the colonial and post-colonial states upon chiefs to act as instruments of intermediary administration between these state forms and local people, demonstrate the weakness of the organizational power of those state forms (Trotha, 1996).

The modernist approach suggests that despite the various attempts to write off the chieftaincy, it is likely to be part of the process of democratic renewal of African states. According to this view neither chiefs nor the state are going to disappear in the near future, but they do need to be transformed. As such, there are eight principles that this approach has suggested in the evaluation of transforming chieftaincy (Trotha, 1996).

First, the modernist approach argues that the state has to recognize de facto legal pluralism and to institutionalize the chiefs as an independent component of the legal system. While acknowledging that this may perpetuate the injustice of the local order, this approach suggests that local autonomy is preferred. The second principle is that of local autonomy. It is believed that local problems must be

solved locally. The legal pluralism of state and local systems of dispute resolution must be recognized as leading to healthy legal competition that urbanization will not undermine. This is the third principle. Traditional leaders need not only be guardians of tradition but they must also be active agents of the present and future by promoting the well-being of the community. Trotha (1996) believes that this is what can validate traditional leadership where they will have to deal with modern economic, administrative and political challenges. This forms the fourth and fifth principles of agency and competence, respectively (Ray and van Nieuwaal, 1996).

The sixth principle calls for chieftaincy to become a civil chieftaincy. Here the chieftaincy needs to become a forum where issues can be debated and resolved, and local interests can be articulated. The chieftaincy will also serve as defender of local interests in discussions with other spheres of government. The seventh principle calls for the integration of the chieftaincy into constitutional structures of government. The last principle calls for mechanisms which need to be developed to ensure that traditional leaders and other spheres of government are subject to the democratic practices of checks and balances. This will restrain the abuse of power by both the formal structures of local government and traditional leaders (Ray and van Nieuwaal, 1996).

The above context can result in the development of what can be termed the zero-sum kind of theory. The zero-sum game is any competition /situation where the losses equal the winnings. This can be exemplified in sports where for every winner there is a loser, and winners can only exist if losers exist, what the winning gambler wins, the losing gambler must lose (Thurow, 1980). Before dealing with the zero sum game within the local government context, it is worth looking at the issue of power and authority. This is important because the issue of power and authority are at the heart of the debate of the role of traditional leaders in local government.

The concepts of power and authority are at the centre of any study of local government and traditional leadership. Upon closer examination it proves rather difficult to make an analytical distinction between the concept of power and the authority. Power is usually conceived as the ability of one person to impose his/ her will on others using physical or psychological violence or the threat

of it (Ray and van Nieuwaal, 1996). Authority, on the other hand, is seen to be based on the shared conviction of the subjects that the state authority imposes its will in a legitimate way. Ray and (van Nieuwaal et al, 1996) try to exemplify this point by suggesting that violence can be used in the implementation of both power and authority, not only to subjugate citizens but also to provide them collectively with goods and services. They further argue that the very fact that the authoritative ruler provides them with goods and services, makes subjects believe that his/her position of power over them is founded on a legitimate base. It is within this context that the relationship of modern authority and traditional authority is fundamental.

Chiefs and states are profit-maximizing actors who constantly strive to expand or to at least stabilize their power. The very important issue of the zero-sum theory is the nature of resistance that the parties make in a given environment. Chiefs and the state, as mentioned above, will resist any attacks made on it. The resulting effect will be competition between the two actors in order to perpetuate or consolidate their position of power. The interesting point is that should neither actor be out to perpetuate or consolidate his/her position of power and both are seeking the status quo, the competition will be eliminated. The result will be a well-balanced and stable relationship. A problem arises when one tries to expand his/ her power, since this will be at the expense of the other. In general terms, this means that if both actors who seek power operate within the same domain, the expansion of one's power will always pose a threat to the other's position.

Ray and van Nieuwaal et al, 1996) argue that competition is not the only factor that binds the two actors together, but they also need each other for various other things. This can be seen where, on the one hand, government depends on traditional leaders for the implementation of its policy, as well as the flow of specific information about the local community over which the traditional leaders exert authority. On the other hand, traditional leadership has been dependant on government since colonial times for the recognition of its legitimacy as the representative of the people, as well as for obtaining economic and/or political favours to satisfy their subjects. Ray and van Nieuwaal et al, 1996) believe that this situation of mutual dependence is at least as important as the competitive atmosphere between the two actors. The main problem with this situation is the danger that one of them may use

his indispensability to consolidate his/ her position and to achieve certain goals. Traditional leaders habitually use Africanism and respect for indigenous culture as a means of justifying patriarchal controls over women and young men.

2.3.4 Feminist Theory

Not only is traditional leadership insulated from the electoral process, it is also fundamentally patriarchal and discriminatory against women. Customary law does not recognize gender equality and favors males with respect to marriage, property, maintenance, etc. (Prinsloo, 1995). This is in direct conflict with the precepts of human rights as contained in the Bill of Rights of South Africa, and as the constitution points out, everyone is equal before the law.

There is a belief which is shared by most feminists that women suffer injustices or oppression because of their sex. The way in which gender roles are assigned also depends on the ways in which such relations are institutionalized and played out in a community or society (Coetzee, 2001). According to Walker (1995) tradition is not gender neutral. As a result, dominant men are very keen to promote their views of culture as the only correct perspective, and given their subordinate position, women found it difficult to challenge this male dominant view of tradition.

Development implies improvement in the quality of life and well-being of individuals living in a particular locality in a previously colonized country (Coetzee, 2001). Development is not only measured in terms of income, but also the quality of life, knowledge and standard of living. This is particularly relevant when dealing with issues relating to gender in the institution of traditional leadership. The level of life for some women in most rural areas under traditional leadership is not satisfactory (Coetzee, 2001).

Traditionalism is viewed by many feminists as one obstacle in the process of the emancipation of women in most parts of rural areas. South Africa is defined as a non-racial, non-sexist and democratic country but at the same time patriarchy is at its best in most rural areas. Walker (1995)

noted that one of the biggest obstacles for rural women is the contradiction between the government's commitment to gender equality and its persistent engagements with the politics of traditionalism. The continued engagement of the South African government with traditional leaders has given credence to traditionalists because of the need of government to gain political control over traditional leaders.

Traditional leaders were assisted by councillors who were drawn from the ranks of headmen, sub-headmen and prominent elders in the community known for their skills and leadership abilities. As such, the hereditary process is fundamentally male dominant and by nature excludes women. Ray and van Nieuwaal et al (1996) believes that the transfer of power in traditional leadership appears to be an anachronism, since traditional institutions are structured on the hereditary devolution of power.

Costa (2000) argues that in the institution of traditional leadership the chieftainship passes from father to son. This, however, does not happen to each and every son of the chief. As Schapera (1966:175) puts it "the rightful heir is the eldest son of the chief's great wife, the woman for whose *lobola* cattle have been contributed by members of the tribe".

The hereditary title, its racial and tribal nature are serious obstacles to democracy (Keulder, 1998). This school of thought includes both feminist and liberal scholars who are primarily concerned with gender equality in rural areas. The scholars believe that in order to redress the disadvantages associated with this system, not only do key institutions in rural society have to be radically transformed, including the institutions of local government, but also the legitimating discourses of 'tradition', 'custom' and 'African culture'. According the Coetzee at al (2001:170) "the democratic transformation of local authority and land allocation institutions would deepen the process of political democracy in the countryside and create an enabling environment for gender equality and women's empowerment".

One of the strategies for rural transformation is for the women's movement to adopt a concept of tradition as dynamic and constantly changing, and an understanding that tradition is never pure or pristine, but complex and malleable. In other words, accepting that tradition has been refashioned in

relation to the changing needs of the past and that it is perfectly capable of being refashioned again, in order to realise contemporary goals of a non-sexist and non-racial society (Coetzee, 2001).

The feminist contribution to the current debate has a somewhat rather limited focus, namely, to make rural local government more accessible to women, both as office bearers and as subjects. They pay little attention to issues such as service provision, financial viability and a range of other issues that are an integral part of the rural local government debate. There have been assumptions by some researchers, like Mokgoro (1994) that greater representation of women in all structures in our societies would lead to more gender-sensitive policies. According to Mokgoro (1994:16) “a more constructive approach would be to have adequate women’s representation on all structures of traditional authority-national, provincial and local. This would inject these structures with an element of representivity and enable them to find common ground on views and recommendations to be submitted to legislature”.

2.4 African Historical Experience of Traditional Leaders’ Role in Local Government

In several parts of the African continent chiefs are probably the most recognizable local personalities because of the myriad religious, social, administrative, and judicial functions they perform. The knowledge that people, particularly non-natives, have of chiefs comes largely from the ceremonial functions they see them perform in public. In the eyes of strangers, chiefs seem to enjoy a life of luxury and privilege. In reality, however, they have to artfully negotiate around several strictures that could potentially destroy them. People expect their chiefs to diligently observe local tradition and uphold high moral standards in their personal lives (Fatton, 1992).

An ironic element in African political behavior is the institutional checks on the power of chiefs. Chiefs in their respective roles as traditional representatives of their towns or villages epitomize local government at its most practical and democratic form. As an integral part of local government administration in many countries, the institution of chieftaincy has by far been the best representation

of grassroots government in rural communities. Before colonial administrators came to the shores of Africa, local chiefs were already in charge of well-established governmental systems (Elkeh, 1975).

Over the years, some chiefs became despotic, but citizen groups have always tried to maintain vigilance over chiefs to ensure that they do not abuse their power. The system of checks and openness that is exhibited in traditional government has been an integral part of the system from the beginning. However, recent discussions of African politics hardly recognize those values in local government administration or even attempt to separate them from the despotic tendencies of some leaders (Matlala, 1995).

African political observers, drawing from the examples that leaders such as Mobutu, Banda, and Mengistu have set, have customarily drawn the inevitable conclusion that all African leaders and the institutions they represent are autocratic. Chiefs, who have been among the prominent personalities in sub-national politics, have also had their leadership style singled out for criticism. By criticizing African traditions and religions as being savage and superstitious, European colonialists succeeded in weakening and undermining them, leading to the conversion of several Africans to Islam and Christianity (Manning, 1988).

Today, chiefs themselves have inadvertently helped to perpetuate this perception of autocracy and arrogance that outsiders have had of them. They generally present themselves to visitors only in their resplendent native costume and in the company of attendants. The exhibition of such opulence against the backdrop of extreme rural poverty, portrays an institution that appears to be out of touch with the people that it is supposed to serve (Manning, 1988).

The next section briefly discusses the experience of traditional leaders in different African countries. It looks at how some of the countries have dealt with the issue of traditional leadership and institutions. It will show, among others that South Africa is not the only country faced with issues relating to traditional leadership and that there are lessons to be learnt from elsewhere in the continent. It will also reveal that the institution is not an unchanging facet of society and that it can

adapt.

2.4.1 Ghanaian Experience

Ghana is a post-colonial state containing political structures known as chieftaincies that are rooted in the period of pre-colonial states. When Britain imposed itself over the various pre-colonial polities of Ghana by means of direct and indirect force, it created and administered a colonial state. Chiefs were, on the one hand, brought into the colonial state when needed and, on the other hand, encapsulated when not needed by those who controlled the colonial state. Since independence in 1957, the Ghanaian post-colonial state has faced a situation in which political legitimacy is divided or shared between the state and the chiefs (Ray, 1986).

In Ghanaian politics traditionalism is both powerful and influential. The Ghanaian government believed that in order to ensure genuine participation in the decision-making process, the issue of chieftaincy had to be taken into account. According to Owusu (1996) a member of Ghana's 1978 Constitutional Commission admitted that when one talked about grassroots democracy one was already making overtures to the chieftaincy. He pointed out that this was because in Ghana one could not realistically implement a programme of empowerment successfully without the involvement of chiefs (Owusu, 1996).

In Ghana, chiefs are very important in facilitating participation of all the people in government and they are used from grassroots to the national level. This is because chiefs in Ghana have popular support at the grassroots level. The whole institution of chieftaincy is so closely bound up with the life of Ghanaian communities that its disappearance would spell disaster (Owusu, 1996). The 1949 Constitutional Commission in Ghana argued that chiefs and what they symbolised in the society were so vital that the subject of their future must be approached with great caution. However, the status and position of chiefs in modern Ghana remains controversial. There are those who on doctrinal grounds believe that such institutions impede the development of a vibrant, prosperous, democratic,

and just society, and that traditional leaders have no place in any progressive society (Antubam, 1963). It has been argued that the representation or active participation of chiefs in decentralised institutions, for example, new district assemblies or organs of popular power, was both undemocratic and even counter-revolutionary. However, Ghanaian chiefs do not, as a rule, see central authority as their adversary but as a partner (Bourrett, 1969).

2.4.2 Namibian Experience

In Namibia the issue of traditional leaders and their role in governance became part of public debate with the introduction of a Traditional Authority Bill in 1995 (Keulder, 1998). The focus of the debate was on the past and not the future. During the pre-colonial period, the autonomous chiefs governed most communities. As the legislators and policy makers of their communities, chiefs and their subordinate headmen had functions such as allocating land, defence, peace and order, coordination of agricultural activities as well as looking after the general welfare of the group, including the poor. They were performing all the functions that the current local government councillors were performing. Colonialism and other forces of modernity not only disrupted and destroyed most of the moral economy, but also, at the same time, undermined the social and political authority of traditional leaders (Du Pisani, 1986).

Most of the traditional leaders were co-opted by the colonial rulers. During the period when German South West Africa (Namibia) was placed under South African administration, several pieces of legislation, to bring traditional leaders under state control, were introduced. The 1968 Development of Self-government for Native Nation in South West Africa Act No. 54 provided for a system of government for each of the ethnic groups, comprising a legislative council, an executive council and local authorities (Keulder, 1998).

The modern state of post-independence Namibia attempted to enhance its autonomy by marginalizing traditional leaders in the political process and to effectively replace them with organs of the state, and to establish itself as the primary (and ultimately the only) source of social control in

Namibia. Shortly after independence Namibia was redivided into constituencies from which the members of the regional councils are elected for a period of six years (Werner, 1987).

The Local Authorities Act of 1992 identifies three forms of local government. These are municipalities, town councils and village councils. However, the 1992 Act makes no mention of any structures for traditional leaders, nor does it specify any role for traditional authorities. Instead, all local government functions are to be performed by the designated administrative institutions (Keulder, 1998).

As to the relationship between traditional leaders and the modern state, the 1992 Act makes it very clear that the policies, structures and authority of the modern state will prevail with regard to law, order, planning and implementation of development programmes and customary law and principles. Powers of traditional leaders in the allocation of land have apparently been reduced (Diescho, 1994). As it stands, like in many other African countries, the position status and role of traditional leadership in Namibia is still not clear and very vague. Functions previously performed by traditional leadership during the colonial state have now been transferred and are now performed by the state.

2.4.3 Zambian Experience

In Zambia, under the system of indirect rule, traditional institutions catered for local needs under the guidance and control of central government officials. These traditional institutions were given legal recognition in 1930, when native authorities were established to administer or control tribal areas. They acted primarily as agents of the central government. After the Second World War, the native authorities ceased to be purely traditional bodies consisting of chiefs and their traditional councillors, and were expanded to include non-traditional elements (Vosloo et al, 1974).

Many of the inherited rural local authorities were based in traditional units that were too small to be either administratively or financially viable. They were therefore amalgamated into groups of two or three to form larger units, which often embraced people of different tribes.

2.4.4 Botswana Experience

In many respects Botswana's political situation is unique in the African political context. The country has experienced political stability unknown in the other states of southern Africa. It has a political system based on free elections and an economy that has grown progressively since independence. At the time of independence traditional authorities were established as powerful role players in all aspects of rural life. Tribal structures adapted well to the European influence. This not only ensured their survival, but also maintained their legitimacy (Bouhen, 1987).

Five options were presented in this regard during the first round of constitutional negotiations. The first option was that they maintain the existing system with no special arrangements. Second, the setting up of a council of chiefs, consisting of heads of principal states to advise the government on tribal matters. Third, to reserve seats for chiefs in a unicameral legislation. Fourth, the establishment of bicameral legislation composed of chiefs. The last option was to establish a federal system in which tribal administration would function as regional government. It was generally agreed that the first option was unacceptable as the institution of traditional authority was too influential to be denied a special place in the new order. Its incorporation was crucial for the political and social stability of the new system. It was also agreed that the chieftainship should be isolated from party politics. The chief should remain above party politics. The fifth option was regarded as unsuitable for a country with such a small and relatively homogenous population and expensive for its limited resources. The only mutually accepted option was the establishment of an advisory council, which was formally endorsed by the chiefs (Lekorwe, 1997).

The recognition of traditional leaders at the national level had important benefits for the new government. They secured expert advice on tribal institutions and tribal life. An acceptable channel through which tribal needs and grievances could be articulated was established. To deny them

participation would sever the links between the central government and rural areas. It was hoped that the chiefs would facilitate modernisation through their ability to influence the more traditionally minded people. According to the Constitution, the House of Chiefs had no capacity to make laws. This right was vested in the democratically elected parliament. Chiefs were dissatisfied when they realised they had no real powers (Keulder, 1998).

The traditional leaders were reluctant to surrender their powers and influence to the new structures, and the relationship remains conflictual. The new local government had very little faith in the traditional leaders' ability to promote modernisation and as a result much was done to strengthen the influence and control of the modern structures over the traditional ones. However, it was very clear that a positive relationship with traditional leaders was pivotal to achieve successful institutionalisation. Hence, a syncretic blending of traditional and modern institutions can be found in Botswana (Keulder, 1998).

2.4.5 Malawian Experience

In Malawi the population is largely rural as over ninety percent live in villages and on agricultural smallholdings. Malawi was formerly the British Protectorate of Nyasaland, and became independent in 1964 (Vosloo, 1974). The first official provision for rural administration in the former Protectorate of Nyasaland was the District Administration Ordinance of 1912. The districts, administered by district commissioners, were simply demarcated into administrative sections controlled by principal headmen. There was no intention that the sections should coincide with tribal areas or other accepted traditional political boundaries. The principal headmen were not necessarily traditionally acknowledged heads, and considerations were to be given to the appointment of other persons of good standing. A large number of tribal heads were nominated as principal headmen (Vosloo at al, 1974).

This system was tantamount to employing local African leaders to facilitate the administration of districts. It can be described as a system of direct administration controlled by officials of the central

government. According to Vosloo at al (1974) this system was substituted by the Native Authority Ordinance and the Native Court Ordinance of 1933. Here the chief was not recognised as tribal head-in council but as sole native authority. Chiefs still had their traditional councils which continued to function and the councillors assisted them in an advisory capacity. Native authorities rendered neither important local service nor carried out any important development projects. Their main contribution was the maintenance of peace and order (Vosloo at al, 1974).

In 1955 the Native Authority Ordinance of 1933 was substituted by a new Ordinance in terms of which the constitution of the native authorities was now more similar to that of traditional tribal councils and that the recognised chief was an ex-officio member, and usually chairperson of the authority. The reasons for the abolition of native authorities and replacing them with tribal heads individually responsible for tribal control were two fold. Firstly, tribal control simplified the political power over the rural population, and secondly, placed the tribal heads in a stronger personal position for consolidating political hegemony. It was also felt that the authorities had become redundant after the elected district councils had taken over the rendering of local services (Vosloo at al, 1974).

2.4.6 Zimbabwean Experience

Zimbabwe has a long history of colonial occupation that culminated in a war of liberation. Traditional leaders, as in Namibia, were used by the colonial administration to maintain control over the African population and to implement unpopular policies for modernizing peasant production.

The first form of local government was the Sanitary Board set up by the British South Africa Company (BSAC) in 1891 (Keulder, 1998). In 1897 the civil service was organized into departments. The Native 'department' established by the proclamation of November 1898 handled native affairs. All the political powers relating to native affairs were placed in the hands of the administrator and his council who were responsible for the appointment of chiefs and the amalgamation of tribes. Native commissioners assumed many of the functions previously performed by traditional leaders like allocation of land, etc. In 1910 they were given full criminal and civil jurisdiction over Africans

(Keulder, 1998).

This marked the beginning of the period of direct intervention in traditional political and administrative systems. It was also the first step taken by the colonial power to extend social control over the African population and to subordinate traditional authorities to modern forms of government. Chiefs were now appointed as government officials and their term of office depended on their good behaviour and fitness. They were answerable to the administrator for the conduct of their communities, and were by law obliged to notify him of crime and other issues of concern in their area of jurisdiction (Ranger, 1985).

The Zimbabwean constitution as adopted after independence recognizes the institutions of chieftainship. Section 111(1) states that there shall be chiefs to preside over the different tribes in Zimbabwe (Keulder, 1998). As in Namibia and Botswana, the chiefs in Zimbabwe were appointed by the president, which in effect means that they were controlled by government. The modern state thus achieved victory over the traditional power configurations, which have now been incorporated into its structures and have to function within its political parameters. In Zimbabwe these parameters were laid down to exclude traditional leaders from the modern administrative structures. To some extent these leaders have therefore been eliminated or sidelined from the post independence state delivery machinery. However, while the institution of traditional leadership has been eliminated or rather sidelined, their existence is still felt in some rural communities (Keulder, 1998).

As in Botswana, the incoming government, in line with its policy of national reconciliation, recognized the importance of traditional leaders in maintaining political stability. To optimise their influence at a central policy level, a council of Chiefs was established and chiefs were brought into the Senate. The Council of Chiefs has advisory powers only. As a part of the Senate, the chiefs would comment and advice on legislation that originated in the House of Assembly, and could propose new legislation. But all the legislation could be accepted or rejected with or without their comment and advice (Bennett, 1982).

2.4.7 Mozambican Experience

In the 1990s Mozambique had undergone a historic and symbolic process of multi-party presidential and parliamentary elections. This democratisation of political processes followed a long civil war that left hundreds of thousands of Mozambicans dead. Under the rubric of democratisation, the issue of state decentralisation has also been raised. The issue of the role that traditional leaders might play in local government could not be left out of this process (West, 1998).

Since the establishment of Frente de Libertacao de Mocambique (FRELIMO) the majority of Mozambicans have been advocating that some chiefs derived their power from the Portuguese colonial regime, and were not original tribal chiefs. FRELIMO believed that those chiefs (called *autoridades gentilicas*) who derived power from the Portuguese and obeyed Portuguese instructions did not only facilitate colonial rule but also derived personal benefit and accumulated power unto themselves (West, 1998). Chiefs facilitated colonial rule through taxation, labour conscription and policing.

After the end of the liberation struggle, FRELIMO sought to liberate Mozambicans not only from the colonial masters but also from local power brokers such as chiefs. FRELIMO believed *autoridades gentilicas* or chiefs sat at the top of what they characterised as feudal and obscurantist institutions (West, 1998). Soon after FRELIMO took government office it aimed at totally transforming all rural areas in Mozambique, and the *autoridades gentilicas* or chieftaincy was abolished. The abolishment of chieftaincy was followed by the formation of a hierarchy composed of dynamic groups which reached deep into remote rural areas, villages, towns and urban areas. These new structures excluded all individuals that were associated with the colonial state. The South African-backed Resistencia Nacional Mozambicana (RENAMO), expanded military operations into the Mozambican interior in the 1980s, and often sought to identify former *autoridades gentilicas* and to use them as intermediaries in its own political hierarchy in areas it came to control (West, 1998).

After its conversion to a vanguard party in 1979, FRELIMO introduced a more formal hierarchy of

party cells, cycles, zones and districts, each headed by a secretary. Chiefs and their subordinates, polygamists, religious leaders, economic exploiters, etc, were all excluded when choosing a secretary in FRELIMO. Party positions became part and parcel of local struggle over state patronage, access to land, and authority between youth and elders and among lineage leaders (Alexander, 1997).

The colonial government in Mozambique integrated traditional leaders into local administration of the rural and sub-urban areas (Ray, 1986). This situation meant that traditional leaders were not representative of their local communities. After the inauguration of the new multi-party constitution in 1990, the Mozambican government initiated a series of studies on the reform of local administration, leading to the establishment of local councils with administrative and financial autonomy. The main question posed has been whether Mozambique should adopt formal or non-formal traditional authorities. The objective was to build traditional authorities which would be representative of the local communities.

The government system of Mozambique can be visualised as two parallel structures which extend from national through to regional and local levels. The national and regional levels were composed of party organisations while the local level was composed of traditional organs of government for the exercise of executive and legislative functions (Nelson, 1984).

While FRELIMO was hostile towards social institutions grounded in local logistics of kinship and hereditary succession, chiefs never truly ceased to exist after the independence of 1975. The 1979 Land Law in Mozambique was a clear FRELIMO assertion that all land is the property of the state. This law was also a clear and strategic manoeuvre on the part of the new state to shore up local state structures vis-à-vis the kin-based institutions that had previously controlled access to land (West, 1998).

The Law of the Municipalities, passed in 1994, called for a wide range of state functions to be decentralised to elected district institutions, and for a greater role to be played by traditional leaders. Though not giving chiefs official status and allowing local variation, the law does elaborate with

great specificity the areas in which municipalities may like to collaborate with chiefs. The suggested roles ranged from the vague maintenance of harmony and social peace and preservation of the physical and cultural inheritance, to the management of land, collection of taxes, census taking, preventing of illegal fires, and hunting and fishing (Nelson, 1984).

2.5 Conclusion

The African chieftaincy reflects the hybrid nature of the traditional institution. This is because, for example, it is never easy to assign chiefs to different categories or to clearly define their political and administrative tasks as distinct from the socio-religious and judicial roles they play in African society. I have argued early in this chapter that traditional leadership in Africa has become what I can call syncretic leadership. Rouveroy van Nieuwaal and van Dijk (1999:22), argues that “syncretic leadership stimulates some form of neo-traditionalism”. The requirement of the syncretism is the ability of traditional leadership to constantly adapt to a changing environment. The ability of African traditional leadership to adapt in different political systems is important for the continued existence of this type of leadership. The syncretic nature of African traditional authorities allows the leadership to gain access to economic resources and socio-political and legal means and also enables the chief to mobilise a wide variety of resources and power instruments that may be in the interest of the people they represent. It is therefore widely acknowledged that in order to keep pace with a changing transforming environment, institutions in Africa need to achieve an internal shift in mindset.

The historical experience of African countries shows that most had adopted uniform local government structures for all or part of their respective countries immediately after independence. In most cases in the African countries local authorities remain strongly under central control. There are three broad aims that inspired local government development in the African continent. First, was the need for more efficient co-ordination of development activities; greater community participation; and greater financial viability. In most African countries more efficient co-ordination inspired the establishment of the district development conferences, and committees and provincial councils and committees. However, some of the countries, like Namibia, have no such structures.

The manner in which the institution of traditional leadership has been dealt with varied greatly from country to country. Traditional leaders have played important developmental, administrative and political roles in rural areas. The underlying premise for these roles is that they represent ethnic units and are the closest authorities to rural people. Traditional leaders act as culture bearers and custodians of customs. As a symbolic representative of the group's collective identity, the traditional leader is expected to preserve the group's heritage and ensure its transmission from generation to generation.

Their role also includes the judicial function, where they act as interpreters of customary laws and practices. Various functions of traditional authorities are similar to that of local government. Traditional leaders have to ensure the enforcement of all law and order, and institutions or the requirements of government relating to the administration within their area. Traditional leaders also have a very important role of mobilising their communities for development. This is due to the fact that they are respected leaders in their communities. Land allocation is of critical importance to traditional leaders precisely because it has remained one of the few de facto powers and sources of influence available to them. Traditional leaders are social leaders and systems, rather than actual government institutions. Their primary function is to regulate and control relationships and social behaviour within a traditional community.

Judged by the role provided for traditional leaders in African countries, the best they can hope for is a House of Chiefs (Bekker, 1993). Since chiefs have traditionally been part and parcel of government in most rural Africa, they are still relevant for people in those areas. However, their involvement in politics has been controversial. The involvement of some chiefs in politics has made the institution to loose credibility and, hence, there is a need for them to be taken out of the political arena.

The issue of powers and functions of traditional leaders is very critical and sensitive. This is because one needs to define and reconsider the powers and functions of traditional leaders. We will need to consider if people are talking about powers and functions that are highly symbolic and ceremonial,

and not ones that are political or administrative in nature. Symbolic and ceremonial powers and functions are those that include being a father or herdsman of the tribe. A traditional leader must in the first place watch over the interest of his subjects and keep himself informed of tribal affairs generally.

CHAPTER 3

TRADITIONAL LEADERS, LOCAL GOVERNMENT AND THE CONSTITUTION IN SOUTH AFRICA

3.1 Introduction

The manner in which the institution of traditional leadership has been dealt with at local, regional and international level has varied greatly from country to country. As it has been seen in the previous chapter, traditional leadership is not unique to South Africa. Prior to colonisation in Africa, systems of governance were characterized by traditional leadership rule. Traditional leaders and institutions dealt with a wide range of issues, which related to indigenous communities. The institution of traditional leadership dates back to time immemorial and its evolution has been affected by a number of external factors, for example, wars between different ethnic groups, contact between the indigenous groups, the missionaries and the impact of colonial administrative policies (Zibi, 1998).

Masemola (1990) argues that virtually all societies the world over has had chiefs at one time or another in their history. Changes in human government from chiefs to kings, to presidents and to mainly elective parliaments have been a slow process brought about by economic and social change. (Masemola, 1990). As societies become modernized the institution of traditional leadership is also affected, and it has to undergo the changes that are directed by the prevailing circumstances.

The European colonial expansion into Africa in the 19th century significantly altered the social organization of African societies and transformed them in a manner that made them amenable to European control. As such, in South Africa, various statutes were introduced. For example, the

Native Administration Act of 1927 Act (Act 38 of 1927) modified and consolidated the system of tribal courts and tribal law. Some of these modifications undermined the powers of the chiefs by placing them under the jurisdiction of a “white Supreme Chief”, who was empowered to rule by proclamation and to appoint, suspend or dismiss chiefs (Levin and Weiner, 1997).

According to Amtaika (1996:12) “the passing of the Native Administration Act (Act 38 of 1927) gave recognition to chiefs and headmen as the rulers of their tribal communities on behalf of the Union Government of South Africa.” The Black Authorities Act (Act 68 of 1951) expanded the existing framework of customary law by establishing tribal, regional and territorial authorities, and meticulously circumscribing their functions.

The big question is why was chieftaincy rather than modern, western-style administration, the preferred model of local political authority by the colonial and apartheid rulers? For Myers (1999) colonial and apartheid rulers believed that they couldn’t do without chiefs. As such the Native Commissioner for Harding in the Native Affairs Department’s Commissioner’s Conference, which was held in 1945, commented as follows: “...If we take away the Chief, we destroy the last link holding the Native together and we lay open to Communism or any other reform...”(Myers, 1999: 33).

The main aim of maintaining the institution of traditional leaders was to use it as a barrier intended to prevent the black working class from entering the political sphere and mounting an effective challenge to the white minority state.

Although it is ten years into the new South Africa, some of the laws of the colonial and apartheid eras are still applicable. The homelands might have officially been reintegrated into the new South Africa, but the traditional authorities are still in charge of 'communal lands' that cover an handful area of the country. Traditional leaders continue to play the role in land allocation, local government and dispute settlement (Oomen, 2000). Developers or elected local councillors cannot access land without permission of the chiefs. The chiefs’ offices are often still staffed by tribal secretaries who,

on the payroll of the government, carry out the same administrative tasks as they have for the past decades, whether these concern cattle dipping or the registration of births (Oomen, 2000).

Amtaika (1996) points out that although the interim constitutions made provisions for the recognition of traditional authorities, there is no specification of what role they should play at local level. He further argues that “the failure of the interim constitution to clarify the role of traditional authorities in a democratically elected local government begs the question as to how well these different existing forms of local authorities will work together” (Amtaika, 1996:138). A major issue is the implication of having two types of local government structures running concurrently, with traditional local authorities under chiefs serving as ex-officio members in the democratically elected local government, while at the same time continuing to run their tribal local authorities. Would it be appropriate to have two distinct types of local government in rural areas, each with its own responsibilities? To assess these issues, this chapter aims to look at the constitutional provisions on the role of traditional leaders in rural local government. A number of laws, which have a direct bearing on local government and traditional leadership, will be assessed. This chapter is divided into four sections. Section one deals with the constitutional provisions on the role of traditional leaders in the pre-colonial era. Colonial and apartheid eras are dealt with in section two and three, respectively. The chapter is concluded by the constitutional provisions on the role of traditional leaders in post-apartheid rural local government.

3.2 Traditional Leaders and Local Government in South Africa

Historically, the interaction between the institution of traditional leaders and government was largely shaped by the quest for social control over the native population in South Africa. The institution of traditional leadership has existed and worked hand-in-hand with the former governments in South Africa for decades. In the former British colonial government and in the Union of South Africa, this institution served as part of the management mechanism in rural areas, in the administrative system commonly known as indirect rule.

3.2.1 Pre-colonial Era

Local government in South Africa can be traced back to the year 1652 when Jan van Riebeeck landed in South Africa. Prior to colonial occupation, autonomous chiefs or kings governed most communities. Each homestead was essentially self-reliant: cattle were used to cultivate the field to produce food; and fuel came from firewood still abundant in the area. People lived in scattered homesteads established by the presence of a married man and his wives. Customs regarding succession reflected the particular character of society. The household would break up on the death of the male head and each son would establish his own household. After the household, the clan was the social unit by which people were identified and this was defined through the male line descended from a common ancestor (Butler, 2002).

Before the seventeen-century, there were no kingdoms in South Africa but clans often recognised a single individual, usually the senior member of the lineage, as their head. Dominant lineage within a clan was the basis for establishing the power of chiefs. A chiefdom comprised people from a number of clans with a degree of political power vested in the dominant lineage of the strongest clan. Chiefdoms existed at relatively small scale and the powers of chiefs were not very substantial. The establishment of kingdoms only started during the seventeen and early eighteen centuries when the most powerful leaders of a Zulu tribe/chiefdom fought the neighbouring tribes and subjected them to his kingdom. The kingdoms before colonialism were established through the merger, or incorporation of various tribes/chiefdoms (Butler, 2002).

3.2.1.1 Functions and Powers

The chiefs' authority was exercised in the name of the subjects and in consultation with a tribal council. The extent of their authority and the scope of their powers expressed the degree to which authority was given to them through the council by the subject. As such, chiefly power was a

dynamic outcome of social processes at local level. The chief would have been looked to as the guarantor of tribal harmony, by playing a key role in conflict resolution, ensuring economic viability of homesteads, playing a vital role in managing the allocation of land rights and land-use rights to households; and supporting social and cultural coherence and continuity, in the social and ritual aspects of tribal life (Butler, 2002).

The rise of the Zulu Kingdom under Shaka is better understood as a consequence of a far broader process of social change and political centralisation within African societies of the region, precipitated by their responses to colonial expansion from the Cape and commercial expansion from Delagoa Bay. Even under conditions of growing political centralisation, pre-existing chiefdoms continued to function. Chiefs remained in place and continued to regulate affairs within the tribe with a fair degree of autonomy as they had done before. The emerging state form might be described as more like a federation of chiefdoms than a centralised union. Subjects were directly ruled by their chiefs, who also allocated land but were more clearly subjected to a central political authority (Butler, 2002).

The authority of the chief or king was hereditary, and he was vested with all political, economic and social power. It is important to look at the authority exercised by chiefs before the establishment of colonial rule in South Africa. Before the 1800s chiefs in South Africa, Natal and Zululand in particular, could form *amabutho* (regiments), that is, age regiment, and use them as a source of labour and a military force to maintain order within chiefdoms. They also held various ceremonies, for example, *umkhosi*, that is, first fruit in the chiefdom. Many chiefs had power to give permission to the youth to marry and this prerogative was solely reserved for chiefs. Chiefs were also the ones who liaised with the ancestors of their chiefdoms. Chiefs exercised both criminal and civil jurisdiction over the subject before the colonial era (Oomen, 2000).

3.2.2 Colonial Era

African political and socio-economic structures were significantly transformed by the combined

impact of merchant capital, missionaries, and colonialism. The involvement of the institution of tribal authorities in the administration of rural areas of African communities started in Natal in the 1830s (Vosloo, 1974). According to Vosloo (1974) when Natal became a British colony after annexation in 1843, the native policy designed by Theophilus Shepstone in respect of Zulu people was based on the distinction between tribal and detribalised groups. Tribal groups were confined to segregated, communally owned reserves under the trusteeship of the government, indirectly ruled by means of traditional administrative machinery. Through this system the tribal authorities mediated between the government and the people (Vosloo et al, 1974).

During the colonial period, whites did not understand the culture of the Africans who surrounded them, and they believed implicitly in the superiority of their own culture. They believed that Africans could be moulded in accordance with what they considered to be a higher and more desirable civilisation. The use of chiefs in the administration in the early days of the Natal British Colonial era was necessary because of the small number of civil servants that were available to rule the African population. This is shown by the number of African people that were in Natal vis-à-vis the number of magistrates to rule the people during that time. Welsh (1974) noted that by about 1871 the African population in Natal was about 30 000 and there were only eleven (11) magistrates. With such a small staff complement, administration of Africans was impossible and it was only because of the chiefs that the government of the day, and Shepstone in particular, managed to maintain control over African people.

According to Welsh (1971) certain factors made the use of chiefs in the administration more acceptable to the government in Natal than in the Cape. Tribal organisations or structures in Natal had been pulverised, and then revived through Shepstone's efforts. Many chiefs were commoners appointed to office by Shepstone. The appointment in this manner made them more amenable to be controlled by the government (Welsh, 1974). Shepstone noticed the strength of chiefs and noted that in the early days of British rule hereditary chiefs hardly considered themselves as being ruled, indirectly or otherwise, by the Natal authorities. Under Shepstone's rule, hereditary chiefs could be officially deposed by the paramount power he had, be refused recognition or sent into exile.

The chieftainship was profoundly affected by incorporation into the administrative hierarchy, and its legitimacy was steadily ebbing away. In 1875 the Native Administration Law No. 26 of 1875 was passed which was aimed at gradually assimilating native law into colonial laws. The Native Administration Law of 1875 was intended, by at least some of its drafters, to gradually abolish the powers of chiefs and to supplant them with white officials (Welsh, 1974). The introduction of new laws allowed chiefs to move from one place or reserve to another. After 1870 the number of tribes increased since chiefs were given permission to move and leave headmen behind to look after the tribe. Headmen gradually assumed the status of chiefs.

Colonialism led to the emergence of the institution of headmen. The position of individual chiefs and headmen was strengthened vis-à-vis that of commoners, as the former gradually came to rely on their alliance with the colonial government, rather than popular support, to remain in power. What were previously flexible and dynamic African laws were redefined, fixed and codified by colonial administrators into customary laws in line with the imperatives of colonial rule. During the colonial era, traditional leaders continued to derive power and influence from their role as intermediaries between government and rural communities (Mamdani, 1996).

When the four former provinces of South Africa, namely, Cape Colony, Orange Free State, Natal and the Transvaal, united to form the Union Government of South Africa in 1910, the use of the institution of tribal authorities was applied in the administration of rural areas (Amtaika, 1996). This was evident from the passing of the Native Administration Act, Act 38 of 1927, which gave recognition to chiefs and headmen as rulers of their tribal communities on behalf of the Union Government of South Africa (Amtaika, 1996).

3.2.3 Apartheid Era

When the National Party came into power in 1948, a series of laws, especially the 1951 Bantu Authorities Act and the 1959 the Promotion of Bantu Self-Government Act, were used to create

independent states in line with the separate development thesis (Hobsbawn and Ranger, 1990). These Acts also extended the role of tribal chiefs as they provided for the creation of Tribal, Regional and Territorial Authorities. According to Amtaika (1996: 12) “these tribal and ethnic units formed the cornerstone of what the apartheid regime termed ‘national states’, which were later given partial independence in the form of homelands and self-governing states”. Traditional leaders became administrators in their various territories. The apartheid regime also co-opted chiefs to serve the apartheid order through remunerating them as civil servants.

The apartheid policy of separate development according to ethnic groups saw a shift in the role of the chiefs as they increasingly became appendages of the state bureaucracy. Chiefs became administrators in their various territories, and were allowed to create their own legislative assemblies where they were able to pass their own laws according to their customs and traditions. This suggests that although the institution of tribal authorities derived its political form from precolonial society, it acquired its quasi-feudal nature and its prestige as a result of the imposition of the Bantustan policy (Amtaika, 1996).

The co-option of chiefs by the apartheid regime resulted in some traditional leaders abusing their powers and this occurred in different ways. Some traditional leaders abused their powers by imposing livestock taxes, as well as taxes for access to land. The absence of any mechanisms of checks and balances of power made the system of traditional leadership vulnerable to corruption and abuse. Incompetent traditional leaders could remain in the leadership position year with impunity. Mokgoro (1994:13) argues that traditional leaders “often represent government more than they do to the communities they are intended to represent.”

Before the introduction of the 1996 Constitution, the Black Administration Act 38 of 1927, the Black Authorities Act 68 of 1951 and legislation issued in the various former independent states and self-governing territories described the various functions of traditional leaders and authorities (Scheepers, 1998). Some of these functions are similar to local government functions. Scheepers (1998:66) argues that “due to lack of funding, infrastructure and an awareness of these functions few traditional

authorities were able to exercise their powers in this regard”. It is useful to discuss each of these laws in order to get a full understanding of their impact.

3.2.3.1 Black Administration Act (Act 38 of 1927)

The Black Administration Act (Act 38 of 1927) was concerned with the better control and management of native affairs. Goodenough (2002:10) argues that the Black Administration Act “enabled the governor-general to recognize or appoint any person as a traditional leader and to make regulations prescribing the duties, powers, privileges and conditions of service of *amakhozi*”.

In terms of the Black Administration Act 38 of 1927 traditional leaders have to ensure enforcement of all laws, orders, instructions or requirements of government relating to administration within their area of jurisdiction. According to the Act traditional leaders were responsible for the collection of tax, registration of births and deaths, prevention or eradication of animal diseases by dipping or other means, land allocation, prevention, detection and punishment of crime, the eradication of weeds, etc.

An important factor in the Black Administration Act (Act 38 of 1927) that related to land ownership was that of customary law. Customary law denied women the capacity to be allocated land in their personal capacity. Their tenure was linked to their status in relation to other male members of the family as wives, mothers, daughters and sisters. The formal legal system gave ad hoc recognition to customary law by creating a legal framework that enabled customary law to remain undeveloped. The Black Administration Act created a legislative framework that recognized the customary law of succession.

3.2.3.2 Black Authorities Act (Act 68 of 1951)

The apartheid government used this Act to implement their policies of segregation and oppression. The Black Authorities Act 68 of 1951 established the institution of tribal, community, regional and territorial authorities. Regional authorities had the general function to advise and make representations to the government on all matters affecting the general interests of blacks within a

given jurisdiction. The Act also gave the regional authority powers to acquire and hold land as it may deem necessary for the purpose of performing its functions and duties. A territorial authority, according to the Act, is competent to advise and make representations to the government with regard to all matters affecting the general interests of tribes and communities in its area of jurisdiction.

3.2.3.3 The KwaZulu Amakhosi and Iziphakanyiswa Act (Act 9 of 1990)

One of the controversial pieces of legislation dealing with traditional leadership in South Africa, and KwaZulu-Natal in particular is the KwaZulu Amakhosi and Iziphakanyiswa Act 9 promulgated in 1990. This Act makes provision for the recognition, appointment and condition of service, discipline, retirement, and deposition of traditional leaders, including Iziphakanyiswa (people appointed by government to serve as traditional leaders at certain given areas). It is one piece of legislation which provided for the establishment of Traditional Authorities, Regional Authorities and Community Authorities. It made provision for the suspension of traditional leaders and/or Iziphakanyiswa. It also makes provision for Traditional Leaders to preside over cases held in Traditional courts (The KwaZulu Amakhosi and Iziphakanyiswa Act 9 of 1990).

The KwaZulu Amakhosi and Iziphakanyiswa Act provides, in Section 2 (a), that the Minister may define or redefine the boundaries of the area of any tribe or community. It further provides that the minister may divide any existing tribe or community into two or more tribes or communities or amalgamate tribes or communities into one tribe or community. This legislation gave the Minister too much power over traditions and people's cultures. The KwaZulu Amakhosi and Iziphakanyiswa Act is one of the legislations that were hastily engineered which were signed just before the democratic government in South Africa. It is through such legislation that the institution of traditional leadership was undermined and manipulated by apartheid governments. The apartheid government, and KwaZulu government in particular, realized that since all political prisoners are being released from jail, and with so much distortion of traditional leadership, it was important to put up legislation that will not only serve the interest of traditional leadership but also that of the Inkatha Freedom Party (IFP). The result was the emergence of traditional leaders who strongly support the IFP

who tow the party line no matter what. It would be remembered that traditional leaders are very influential in rural areas and having them there is considered very important for rural mobilization for political purposes. It is therefore through this Act that the minister recognized the existence of tribes which never existed before. However, for the IFP, Chief Buthelezi in particular, the Acts that were promulgated in the early 1990s were very important holding instruments which were necessary for the former KwaZulu government to complete the process of transferring the land from the government to traditional leaders (Natal Witness, 24/07/2003).

3.2.4 Post-Apartheid Era

Colonial and apartheid authorities artificially created traditional leadership, filled vacancies with people who did not belong to the lineage or intervened in appointments. The issue of the role, powers and functions of traditional leadership in a post apartheid era has been a subject of intense debate. However, Shubane (1998) argues that in a voluminous White Paper on Local Government few pages were devoted to the issue of traditional leaders. Yet a significant section of the population in South Africa experiences democracy in the form of local authorities in which chiefs serve (Shubane, 1998).

In the local elections, which followed a year after the national and provincial elections in 1994, the main demand by traditional leaders was that elections should not be held in areas under the jurisdiction of chiefs. It was argued that a system of local government comprising the chieftaincy was in place in these areas, had been successful for centuries and should be left alone to continue working. But the Municipal Structure Act (1998) provides that traditional leaders would serve in elected municipal bodies on an ex-officio basis (Shubana, 1998).

In the beginning of the year 2000, traditional leaders threatened to revolt as they feared that the Municipal Structures Act (1998) will split their communities and sap their powers. They were complaining that municipal boundaries will divide a tribal community into more than one local council, making it difficult for the *Inkosi* (chief) to rule over his subjects.

Traditional leaders wanted government to reconsider their proposal of a two-tier model for municipalities in rural areas, as had been the case in between 1994 and 1999. The two-tier model would have an elected municipality at the regional level and traditional authority at community level. The regional tier would remain in charge of all regional planning and coordinating, as well as the administration of bulk delivery functions (Dladla, 2000).

A great deal of colonial influence and political development of African states have reshaped or restructured traditional leadership systems in almost all African countries that have experienced colonial rule. When colonial rule took strong hold in Africa between the 18th and 19th centuries, tribal communities were amalgamated to form territories of various political groups known today as nation states. These territories were further sub-divided into administrative divisions and were put under the control of colonial Commissioners who maintained law and order.

The pre-1993 legislation was never repealed and exists alongside the 1996 Constitution and other legislation passed after the 1994 democratic elections. Legislation and policy on the functions and roles of traditional leaders are often contradictory, vague and unclear. The Constitution of South Africa contains the most important rules of law concerning the political system of our country. This includes rules of law on the institutions of government, including traditional leadership, and their powers. A Constitution therefore empowers government bodies, defines and clarifies their powers, and thereby determines the relationship between the people of a country and their government bodies.

Current laws get their spirit and power from the Constitution that was passed in 1996. The South African Constitution of 1996 and the Bill of Rights laid the ground for the enactment of other relevant legislation, which have a bearing on the social and economic development and reconstruction of both urban and rural areas. This also includes legislation relating to the establishment and functioning of local government in urban and rural areas (Scheepers, 1996).

The Constitution of South Africa, Act 108, 1996, Section 40(1) provides for the three spheres of government, that is, national, provincial and local, to be interdependent and interrelated. These three spheres of government cannot operate in isolation and each has to consider the areas of operation of the other spheres. This clearly indicates that each sphere of government has to operate according to the powers and functions entrusted to it, determine to what extent it relates to functions and what co-operative effort is required to ensure that the services delivered to communities, individuals and societies will meet their needs (Constitution of the Republic of South Africa, 1996).

According to Chapter 12, Section 211 and 212, of the Constitution of the Republic of South Africa, 1996, the institution, status and role of traditional leadership, according to customary law, is recognised, subject to the Constitution. The Constitution recognises the existence of the institution of traditional leadership and its role as an institution at local level on matters affecting local communities. The Constitution also provides for the establishment of municipalities in all areas of South Africa, including those occupied by traditional communities. It further provided that local government should be democratic and accountable to local communities, and ensure sustainable provision of services to communities (Constitution of the Republic of South Africa, 1996).

It is clear that the Constitution provides for two institutions at local and community level that operate within the same functional and jurisdictional areas - one democratic, representative, limited and accountable and the other bequeathed by custom and tradition (Shubane, 1998). The executive and legislative authority of municipalities is vested in a municipal council. Unlike a traditional authority, people are elected to municipal councils. Traditional leaders appoint their councillors rather than elect them.

Chapter 11, Section 183 and 184 of The Constitution of South Africa, 1993, provides for the creation of Provincial Houses of traditional leaders, and the Council of Traditional Authorities which will operate at national level. Constitutionally, traditional leaders are represented in some municipalities on an ex-officio basis. At a provincial level they are represented in a House of Traditional Leaders

whose function is to advise the provincial government on matters which affect the customs and traditions of their communities. Here traditional leaders are represented by their counterparts who are nominated by them. A National House of Traditional Leaders has been constituted and it, too, advises the government on matters affecting the customs and tradition of communities (Shubane, 1998). According to the Council of Traditional Leaders Act (1997) the National House may make recommendations on matters relating to tradition.

Each of the institutions has its own function, which differs in some respects but overlap in others. According to Scheepers (1996) Section 151 of the 1996 Constitution states that the local sphere of government consists of municipalities that have to be established for the whole of South Africa. Before the introduction of the 1993 Constitution in general, no municipalities existed in rural areas. The Regional Services Councils mainly provided services in those areas. Although some towns had local authorities, this was not extended to the non-urban areas (Scheepers, 1996).

3.2.4.1 Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)

Although the constitution forms the framework for the role and functions of traditional leaders and local government, various other legislative measures elaborate on this issue. The Local Government Municipal Structures Act (1998) is one such legislative measure. The Municipal Structures Act of 1998, deals with the institutional or structural aspects of local government and provides, inter alia, for:

- ◆ Establishment of categories and types of municipalities;
- ◆ Criteria for determining the category of municipality to be established in the area;
- ◆ An appropriate division of functions and powers between categories of municipalities;
- ◆ Regulating of internal systems, structures and office-bearers of municipalities; and
- ◆ An appropriate electorate system and matters in connection therewith (Local Government Municipal Structures Act: 1998).

As it has been highlighted, the Constitution made provisions for the recognition of the institution, roles and status of traditional leaders according to customary law. Traditional leaders function subject to applicable legislation and customs, which include amendments to, and repeal of those legislation or customs. The 1996 Constitution also states that national legislation must provide for the role of traditional leadership as an institution at local level on matters affecting local communities (Constitution of the Republic of South Africa, 1996).

The Municipal Structures Second Amendment Act (2000) provides for 20% representation of traditional leaders at district and local level. However, this provision does not guarantee traditional leaders voting rights. Traditional leaders were not in favour of this 20% representation in local government. They had asked for 50% representation so that they could be at equal strength with local councillors (Nonyana, 2001). The Municipal Structures Act of 1998 (part 6 of Chapter 4) provides for the participation of traditional leaders in the proceedings of district and local councils, the regulation of their participation and their ceremonial role.

According to Dladla (2000), BM Mzimela who is the chief of the Mzimela clan near Eshowe and deputy provincial House of Traditional Leaders and National Chairperson of the Council of Traditional Leaders, threatened to take up arms against any attempt to incorporate his area into municipalities. Mzimela and other traditional leaders dismissed the mechanisms set in place to create harmony between traditional leaders and municipalities. They saw the granting of ex-officio status to 20% of traditional leaders within a municipality as a recipe for conflict over who is entitled to such status (Dladla, 2000).

One critical issue in democratic governance, apart from representation and participation, is the right to vote. As it has been highlighted above, traditional leaders have been given a 20% non-voting representation in local government. The issue of whether traditional leaders should be given voting powers is a very contestable one in the political arena. On the one hand the right to vote in local government can enable traditional leaders to influence development issues affecting their areas,

while on the other hand it is very problematic in that they could be drawn into the political arena by supporting one or other party.

3.2.4.2 Municipal Demarcation Act (1998)

The underlying purpose of the demarcation process was to transform local government's responsibilities by bridging the gap between the rich and the poor and between urban and rural areas in access to basic infrastructural needs. According to Nonyana (2001: 6), "the Municipal Demarcation Act facilitated the establishment of boundaries which imposed a duty on municipalities to the said communities; to promote social and economic development and a safe and healthy environment".

The introduction of the Municipal Demarcation Act in 1998 resulted in the establishment of wall-to-wall municipalities in the whole of South Africa, as required by the constitution. This meant that all areas under traditional leaders would form part of municipalities. This was interpreted by traditional leaders as a strategy by the state to undermine their institution. It was also felt that this would make their areas to be subjected to property rates (Dladla, 2000).

Among the reasons that were given by traditional leaders in opposition to the demarcation of their areas was that municipal boundaries would divide their communities into more than one ward/council, which would create difficulties for the chief in executing his responsibilities. Another reason was that the government had not clearly delineated the roles of traditional leaders in the local government. There has been no clear policy on their functions and status in the transformed rural local government.

3.2.4.3 The White Paper on Local Government (1998)

The White Paper on Local Government proposed a co-operative model of rural local government in accordance with the Constitution. Legislation provides that traditional leaders can participate in discussions in the municipal council, but have no voting powers. By virtue of this provision it is clear that their position is only advisory and is subordinate to that of the elected councillors. At the local level, only municipalities are regarded, by the constitution, as the cornerstone of modern democratic systems in the Republic of South Africa.

According to the White Paper, the following are the functions of the chiefs:

- Acting as heads of the traditional authority, and as such exercising limited legislative power and certain executive powers.
- Presiding over customary law courts and maintaining law and order.
- Consulting with traditional communities through *imbizo* (public meetings).
- Assisting members of the community in their dealings with the state.
- Advising government on traditional affairs through the Houses of Traditional Leaders.
- Convening meetings to consult with communities on their needs and priorities and providing information.
- Protecting cultural values and instilling a sense of community in their areas.
- Being the spokespersons of their communities.
- Being symbols of unity in the community.
- Being custodians and protectors of the community's customs and general welfare (White Paper on Local Government, 1998).

According to the White Paper the roles of the chiefs are to:

- Make recommendations on land allocation and the settling of land disputes.
- Lobby government and other agencies for the development of their areas.
- Ensure that the traditional community participates in decisions on development and contributes to development costs.
- Consider and make recommendations to municipal authorities on traditional licenses in their areas in accordance with the law (White Paper on Local Government, 1998).

The majority of the above functions as identified by the White Paper are important because most of them can be executed by no other person except the chiefs. However, the White Paper limited the legislative and executive roles of the chiefs. The chiefs believed that the White Paper was depriving them of their powers in the communities and making them mere political observers (White Paper on Local Government, 1998).

3.2.4.4 The Traditional Leadership and Governance White Paper (2002)

The Traditional Leadership and Governance White Paper (2002) deal with and clarifies the structure and role of traditional leadership and institutions. It should be able to deal with principles regarding remuneration, an audit of traditional leaders, the role of women, role of traditional leaders in politics, the future role of the Houses and National Council of traditional leaders as well as the rationalization of the existing legislation dealing with traditional leaders and institutions.

The White Paper on Traditional Leadership and Governance (2002) aims to define the place and role of traditional institution within the new system of democratic governance. It also aims to transform the institution in line with constitutional imperatives. The White Paper intends to restore the integrity and legitimacy of the institution of traditional leadership in line with customary law and practices.

According to the White Paper on Traditional Leadership and Governance (2002) the institution of traditional leadership can play a key role in promoting socio-economic development, good governance and service delivery. It is with the understanding that the majority of people in rural areas are under the control of traditional leaders and live in abject poverty and conditions of underdevelopment, and it is where there is a lack of access to economic opportunities and poor infrastructure. Within the context of various initiatives driven through the Integrated Sustainable Rural Development Programme the institution of traditional leadership, through the Houses of Traditional Leaders, should advise government in developing policy impacting on rural communities, participate in international and national programmes geared towards the development of rural areas,

and participate in initiatives meant to monitor, review and evaluate government programmes in rural areas. Furthermore, through its custom-based structures the institution should facilitate community involvement in the Integrated Development Programme (IDP), support municipalities in the identification of community needs and implementation of development programmes, and promote indigenous knowledge systems for sustainable development. The Paper on Traditional Leadership and Governance (2002) also provides that provincial legislation be developed to provide for mechanisms that will ensure that traditional authorities work with municipalities in a structured manner. This will include the establishment of the Committees of Traditional Leaders within the District and Metro level (White Paper on Traditional Leadership and Governance, 2002).

3.2.4.5 Bill of Rights and Traditional Leaders

The Bill of Rights, as is enshrined in the Constitution, stipulates that nobody should be discriminated against on the basis of race, religion, language, sex, ethnic and social origin. Traditional leaders and their councillors have always been men. Women are not eligible for ascent to the paramountcy or chieftaincy of a particular group (Mtimkulu, 1996). There is a problem in that traditional leaders are generally male, succeeding on the basis of male primogeniture, which is in direct conflict with the idea of non-sexist society. It is also in conflict with the notion of a non-racial society since only Africans can become traditional leaders. Currently women are marginalized and not allowed to take part in decision making in the proceedings of traditional councils. "Married women attend meetings as observers while those not married do not attend at all" (Tshikwamba, 1996:22). This happens even on material issues that affect women. Tshikwamba (1996) believes that this should change as the Constitution provides for the equality of man and woman regardless of custom. Ironically, the Communal Land Right Act (2004) perpetuates disadvantages against women.

3.2.4.6 Communal Land Rights Act (Act No.11 of 2004)

One of the very important pieces of legislation dealing with the issue of traditional leaders is the Communal Land Rights Act (Act No.11 of 2004). This legislation seeks to extend tenure security to occupiers of land that the apartheid government had reserved for African people, known as the communal areas, and mostly under traditional leaders. Currently, the land tenure rights available to the people living in communal areas are largely based on customary law or insecure permits, for example, the Permit To Occupy (PTO), granted under laws that were applied to African people alone.

One of the main aims of the Communal Land Act (Act No.11 of 2004) is to unlock the economic potential of rural land. At present, people living on the communal land do not have tenure and the land cannot be used to enter the financial market, for example, borrowing funds from the bank and using the land as the surety. As such, rural communities cannot therefore use the land as an economic commodity except for subsistence farming. In South Africa land is an important commodity that is used by households for personal investment or trading which ultimately boost the national economy. An example of this would be a wine growing family whose production contributes to the Gross Domestic Products (GDP).

The Act emphasizes the fact that security of tenure is a constitutional right and creates a legal framework and an enabling environment for development to take place in rural areas. This is particularly important since most of the land in South Africa is held in trust by Ingonyama or the state, but people have no ownership. The Act also aims to contribute to agrarian transformation and the socio-economic development of rural areas from the point of view of leveling the playing field and then creating an enabling legal environment to change the situation of the rural poor (Communal Land Rights Act: 2004).

Amongst other things, the Communal Land Rights Act (Act No.11 of 2004) provides for legally secure tenure by transferring communal land, including KwaZulu-Natal Ingonyama Trust land, to communities, or by awarding comparable redress. According to this Act “the outer boundary of land will be held communally in title in the name of a community and the individual members of a community will be granted registerable Deeds of Communal Land Rights for the land they occupy

and use". The major flashpoint is the requirement that communities appoint administrative boards to represent them. As legal entities, these can issue title deeds to individuals in communal areas, who can then lease, mortgage or sell their land. The Act allows traditional authorities no more than 25% representation on these structures (Communal Land Rights Act: 2004).

The main beef of traditionalists, mostly Inkatha Freedom Party supporters, is that the Act undermines the traditional leader's power by weakening their land administration role. It is believed that the Act takes away traditional authorities' power to allocate and administer land, and to determine its use. These are some of the very important functions traditional leaders are playing in rural areas. To administer land and determine its use was the main basis of traditional leaders' power (Natal Witness, 13/02/2004).

The aim of the Act is to provide access to land and to extend rights in land, with particular emphasis on the previously disadvantaged communities, within a well-planned environment. This is particularly important since women have been disadvantaged when it comes to issues relating to land ownership. Women did not qualify as holder of rights and this was due to the manner in which old order rights were allocated. The land administration system created in the Act does not deal with the prohibition of unfair discrimination and therefore it is doubtful whether the system will ensure women have equitable access to land. This is because, while the Act protects the rights of women, the problem with it is that the transfer of land is to the patriarchal community where, in most instances, the rights of women are not recognized. The other factor is the composition of the traditional councils, which is considered undemocratic because 60% of members would be hand-picked by individual chiefs. The Act gives the chiefs more powers to the disadvantage of vulnerable groups, such as women. It is therefore accepted that the implementation of the Act will need more than just legislative guidelines. People themselves will need to empower women and the youth.

However, others like the leader of the Congress of Traditional Leaders of SA, Patekile Holomisa, believe that anyone who is of the view that the legislation did not protect the rights of women is mistaken. He believes that the Communal Land Right Act has been a very progressive piece of

legislation in post-apartheid South Africa. This is because the legislation compelled traditional councils or authorities to ensure that a third of the membership of councils tasked with a responsibility to administer land should be women (Natal Witness, 11/09/2002).

There is a view that the Communal Land Right Act entrenches the power of traditional leaders over their rural subjects. The promulgation of this Act has been seen as the ANC's bid to win over traditional leaders in order to extend their political hegemony in KwaZulu-Natal and the rest of rural South Africa (Natal Witness, 25/02/2004). However, others like Chief Mangosuthu Buthelezi believe that the promulgation of this Act is part of the package to destabilize rural areas of South Africa. Chief Buthelezi believes that "for the past 10 years rural areas have been progressively destabilized both from the social and economic viewpoint" (Natal Witness, 24/07/2003). It is believed that before the democratic government in South Africa, there was less poverty in rural areas and subsistence agriculture was providing enough food for people.

Communal land reform cannot be done in isolation from traditional laws that regulate the lives of people living under communal land. Failure to co-ordinate efforts and the lack of a holistic approach may undermine any achievements. This law runs the risk of failing to translate to benefits for its intended beneficiaries if it does not make the link between family law and communal land reform.

There have been different debates relating to the Act and the position of women in the society. There are concerns relating to the lack of provision for gender equality and the authoritarian wording of the Act where the Minister is empowered to make decisions without community input on the representation on administrative bodies or traditional councils which will serve the communities. The Act stipulates that the traditional council must comprise traditional leaders and members of the traditional community selected by the traditional leader concerned, of whom one third must be women, plus 25% elected members (Natal Witness, 11/09/2002).

3.2.5 Traditional Leaders and Party Politics

The institution of traditional leadership has constantly been claiming to be politically non-partisan.

However, traditional leaders play a very active role in party politics in South Africa. This is evident from the fact that Chief M.G Buthelezi is a leader of traditional leaders (*Ndunankulu*) in KwaZulu-Natal while he is a leader of one of the popular political parties in KwaZulu-Natal, the IFP.

The rural areas of South Africa are a contested terrain. On the one hand, the institution of traditional leadership seeks to enjoy exclusive control of the rural population. While on the other hand, local government, through local councillors, has minimized the claim that rural areas are a sole preserve of traditional leaders. This is further complicated by the fact that while traditional leaders purport to be politically neutral, they are often seen to be aligned with certain political parties (Botha, 1994). The dual role played by traditional leaders in the sphere of politics, and as custodians of the culture, customs and traditions of their tribes blurs the distinction between this institution as a grassroots representation of the people and its role as representative of particular party political interests.

Having noted all the above, it's clear that the institution of traditional leadership is faced with a very tough situation. The call from many organizations and individuals, for example CONTRALESA, has been for the separation of the traditional customary functions from the state areas of jurisdiction. The demand was that these leaders must serve as symbols of unity among the people and not be tainted by political involvement (Botha, 1994).

The issue of traditional leadership is very critical in South Africa precisely because it relates not only to pressing developmental imperatives but also to the broader national political context. This has been clearly demonstrated in the policy differences between key political players, particularly in KZN, like the IFP and the ANC (Butler: 2002). In key policy negotiations regarding land and local government issues, the IFP has consistently favoured positions that appear to empower traditional leaders. This is precisely because the IFP is acutely aware that without the support of the traditional leaders they have no real political base and no claim to regional prominence. On a similar vein, the ANC originally took a position that traditional authorities would undermine democracy and that this illegitimate institution should be phased out. This position, however, changed as the ANC realized that traditional leaders have strong constituencies. After the unbanning of the ANC in 1990, ethnic

mobilization became increasingly important in the IFP's strategy. Amtaika (1996) argues that this probably convinced Chief Buthelezi and his advisors that regional consolidation should become an end in itself.

The significance of the Zulu King in Zulu ethnic politics in KwaZulu-Natal can be understood in the criticisms and counter-criticisms between the ANC and the IFP (Amtaika, 1996). There were accusations and counter accusations from both the IFP and the ANC about the monopolization of the Zulu King, whenever he appears to associate himself with one of the parties. This was because the King and the institution of traditional authorities in KwaZulu-Natal in particular, are seen by the parties as important allies who can play a vital role in mobilizing political support in rural areas. The ANC accused the IFP of trying to maintain its power over the King and his tribal leaders by attempting to introduce clauses in the planned provincial constitution which infringe and undermine the neutrality of the King and the institution of traditional leaders, under the mask of reinforcing Zulu culture and tradition. The IFP's constitutional proposals with regard to the KwaZulu-Natal provincial constitution clearly state that the King and the tribal authorities would have to perform their duties in accordance with Zulu traditions and customs as laid down by the IFP constitution (Amtaika, 1996).

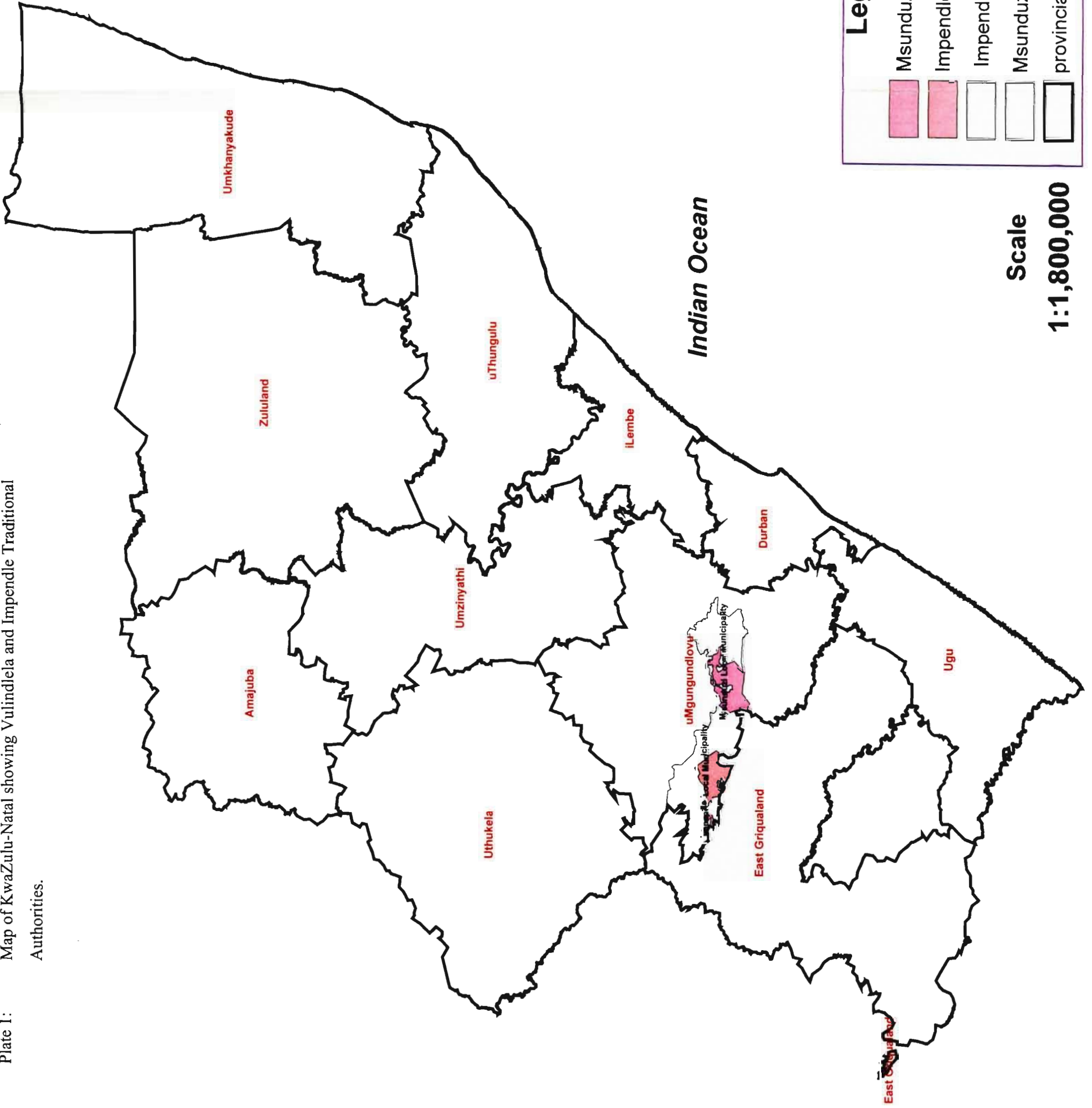
3.3 Conclusion

The South African Constitution of 1996, White Paper on Local Government of 1998, Municipal Structures Act of 1998, Demarcation Act of 1998, and other laws, have been the guiding policies influencing the transformation process of local government. They all, however, largely neglect the role, functions and powers of traditional leaders in local government.

There is a problem with a traditional leader's position in that it is hereditary and not elected. According to the Constitution of South Africa, people have a right to democratically elect the person who will represent them. Representation is a relationship between the electorate and elected. The representatives are required to continuously make a conscious effort to establish what the people or group citizens require.

The relationship and division of powers between local government and traditional leaders must be worked out. There is a need for a co-operative model of local government that takes into account the leadership role of both traditional leaders and local government councillors. There is no reason why African customs and traditions should be seen to be in conflict with the demands of modern governance.

Plate I: Map of KwaZulu-Natal showing Vumindlela and Impendle Traditional Authorities.



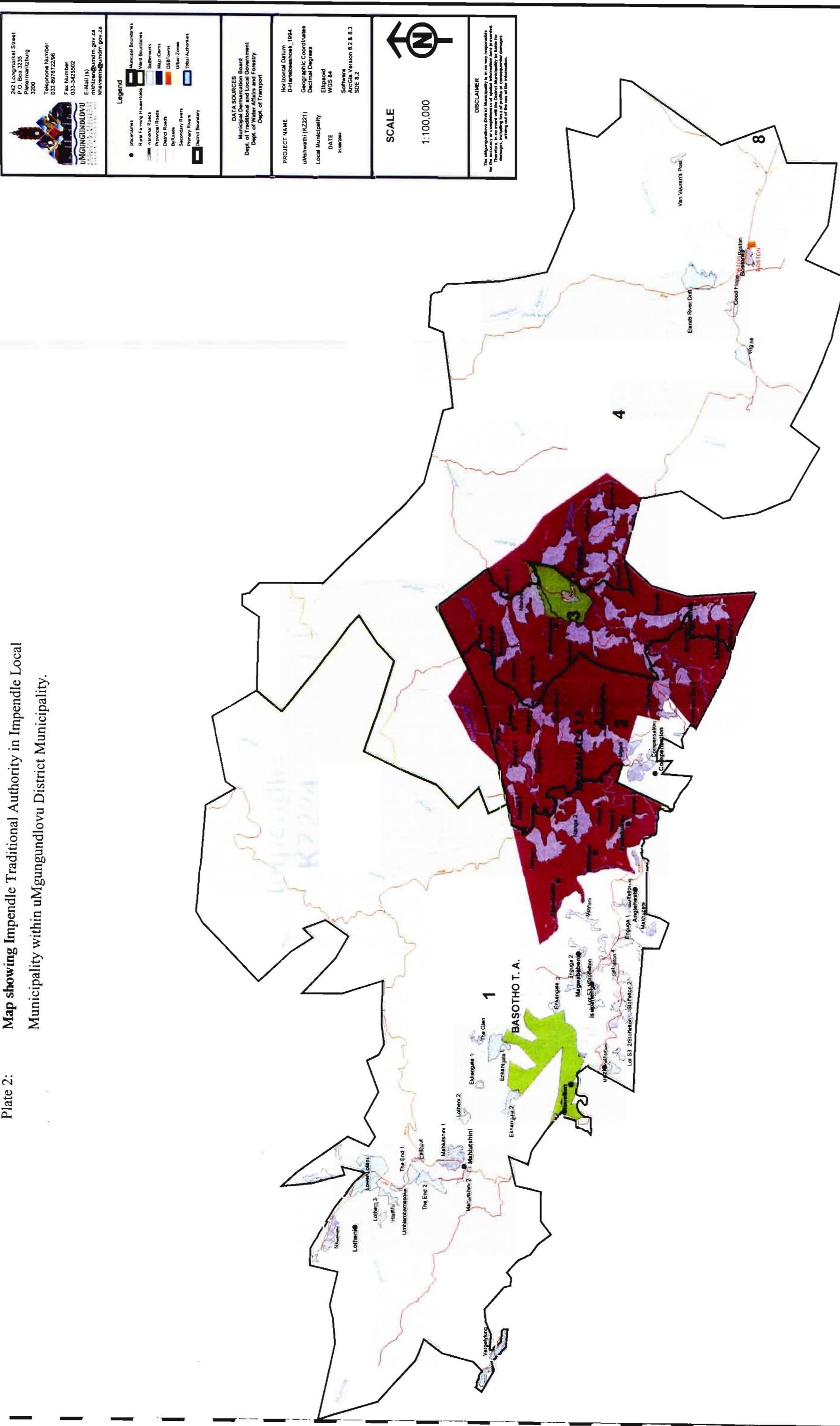
Legend

- Msunduzi Tribal Authorities
- Impendle Tribal Authorities
- Impendle Municipality
- Msunduzi Municipality
- provincial Boundaries

Scale
1:1,800,000

Indian Ocean

Plate 2: Map showing Impendle Traditional Authority in Impendle Local Municipality within uMgungundlovu District Municipality.



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Legend

- Place Names
- Municipal Boundaries
- Rural Farms/ Homesteads
- Ward Boundaries
- National Roads
- Provincial Roads
- District Roads
- R1/Roads
- DSD Towns
- Urban Zones
- Tribal Authorities
- Primary Rivers
- District Boundary

DATA SOURCES
Municipal Demarcation Board
Dept. of Traditional and Local Government
Dept. of Water Affairs and Forestry
Dept. of Transport

PROJECT NAME
Horizontal Datum
D-Hartbeespoort, 1994

uMhlabath (K2221)
Geographic Coordinates
Decimal Degrees

Local Municipality
Ellipsoidal
WGS 84


DATE
31/08/2004

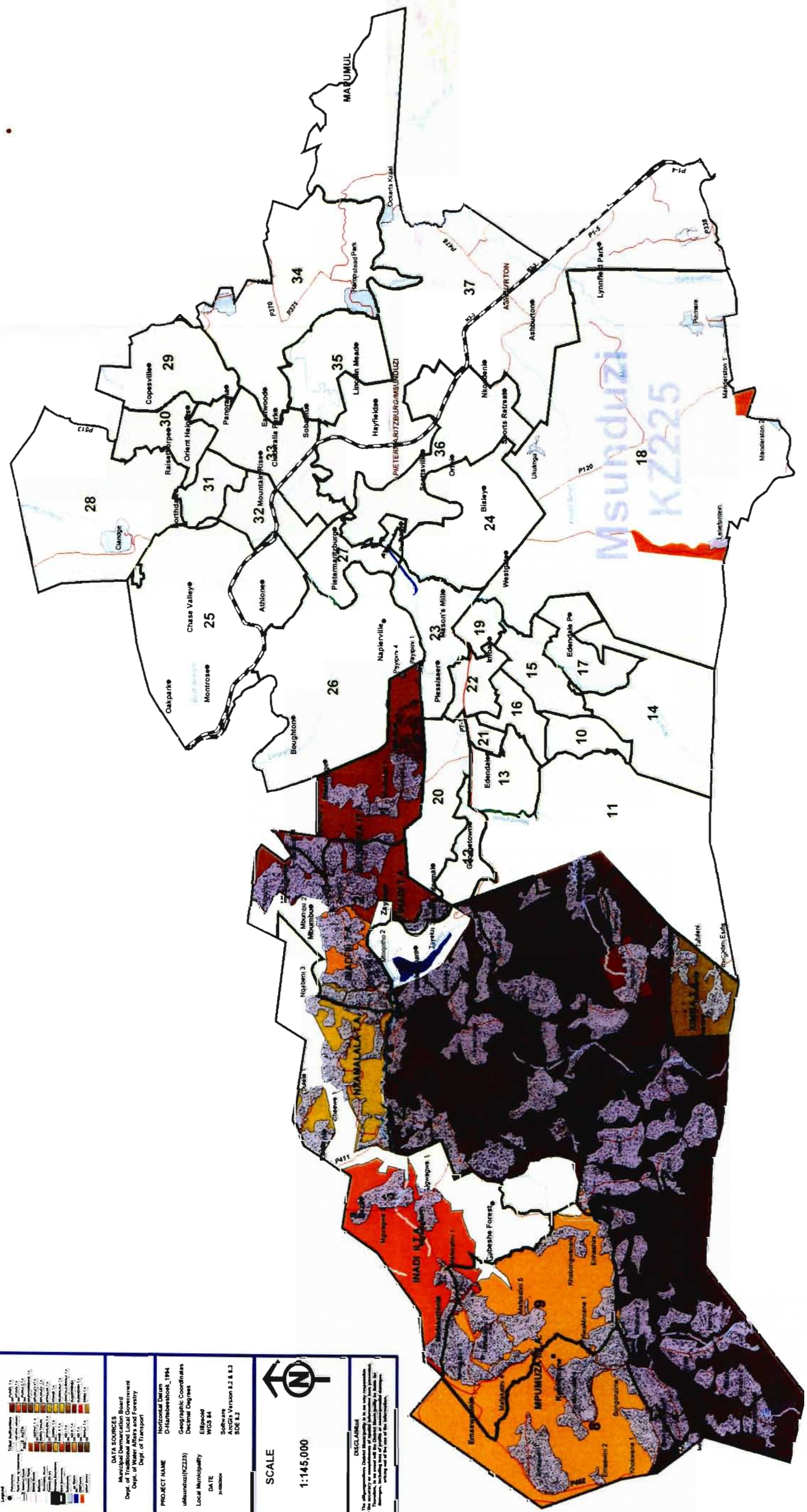
Software
ArcGIS Version 8.2 & 8.3
SDE 8.2

SCALE
1:100,000

DISCLAIMER
The Impendle Traditional Authority is a very important
entity in the uMgungundlovu District Municipality.
Therefore, in no event will the District Municipality be liable for
damages, including consequential damages,
arising out of the use of the information.

Plate 3: Map showing Vulindlela Traditional Authorities in The Msunduzi Local Municipality within uMgungundlovu District Municipality.

| | |
|---|--|
|  <p>Msunduzi Local Municipality Telephone Number: 033-3423502 Fax Number: 033-3423502 Email: info@msunduzi.gov.za Website: www.msunduzi.gov.za</p> | |
| <p>Legend</p> <ul style="list-style-type: none"> Boundaries Water Urban Rural Forest Open Space Other | |
| <p>DATA SOURCES</p> <p>Municipal Demarcation Board Dept. of Water Affairs and Forestry Dept. of Transport</p> | |
| <p>PROJECT NAME Horizontal Datum D-Harabeseboke, 1944</p> <p>Local Municipality Msunduzi (KZ225) Local Municipality Local Municipality DATE 2014 Author [Name]</p> | |
| <p>SCALE 1:145,000</p> | |
| <p>DISCLAIMER The information contained in this report is for the use of the client only. It is not to be used for any other purpose without the written consent of the client. The client is responsible for the accuracy of the information provided to the consultant.</p> | |



CHAPTER 4

RESEARCH METHODOLOGY

4.1 Introduction

In the last ten years the chieftaincy, long assumed to be a relic of the past kept in place by the colonial or apartheid order, has become an issue that has occupied the minds of the policy makers and constitutional designers in South Africa. Since the introduction of democracy, traditional leaders have been rather stringent in their demand for recognition of the institution of traditional rule. The long held assumption by modernists that the demand by chiefs for the incorporation into formal structures of government will somehow 'go away', has given way to a realization that they will be around for some time.

The powers and the role chiefs can play in the development of a democratic society has been the source of controversy. A key issue is whether they can help reduce the socio-spatial inequalities of the apartheid era. However, the question is, if traditional leaders are incorporated into the democratically elected structures of government, what role will they play? Will their incorporation complement the principles of democracy? What will be their position and status? This section aims to address the strategy and method of research used in this study in trying to explore some of these questions.

4.2 Aim

The aim of the study is to examine the role of traditional leaders in rural local government in post apartheid South Africa, with particular reference to Impendle and Vulindlela areas of Pietermaritzburg.

4.3 Objectives

The objectives of this study are to:

- i. Present a historical overview of the role of traditional leaders;
- ii. Analyse the role traditional leaders have to play in development as per constitutional provisions;
- iii. Assess the nature of the working relationship between councillors and traditional leaders;
- iv. Investigate if the current local government policies undermine the Chiefs' position in the society in any way;
- v. Ascertain the constitutional provisions on the role of Traditional Leaders and elected Local Councillors at rural level, and
- vi. Assess the influence of political party affiliation on perceptions of the role of traditional leaders;

4.4 Study Area

Impendle and Vulindlela areas were the focus of this study. Impendle is under the Hlanganani Regional Authority. It falls under the Impendle Local Municipality that is within the uMgungundlovu District Municipality. It is situated between Pietermaritzburg and Drakensburg, about 72 kilometres outside Pietermaritzburg and 110 kilometres away from the Drakensburg (Plate 2). Impendle is composed of four wards made up of four Tribal Authorities. These are Batloaka Tribal Authority, Amakhuze Tribal Authority, Sminze Tribal Authority, and Nxamalala Tribal Authority. Nxamalala Tribal Authority makes up the larger part of Impendle Local Municipality.

Vulindlela area is situated in the upper Edendale, about 23 kilometres outside of Pietermaritzburg (Plate 3). It falls under The Msunduzi Municipality, which is within uMgungundlovu District Municipality. It is composed of nine wards, which are made up of the five tribal authorities. These tribal authorities are Mpumuza Tribal Authority, Inadi Tribal Authority, Nxamalala Tribal Authority, Kimba Tribal Authority, and Mafunze Tribal Authority. Vulindlela is an underdeveloped section of The Msunduzi Municipality.

Before the first national democratic government of 1994, Hlanganani and Vulindlela were under the administration of the KwaZulu Government. It was run on a tribal basis. The lack of any cohesive administration body in Vulindlela and Impendle areas was responsible for the lack of street lights, restricted water supply, tarred and water-borne sewage system as well as the inability of most of its residents to pay for such services (de Tolly, 1990). In the Msunduzi Municipality, the newly incorporated traditional authorities are largely rural. Only 28 per cent of households have telephones, and 26 per cent have no access at all. About sixty per cent have electricity, while the rest rely on candles or paraffin (plate 3.1). The Vulindlela and Impendle areas are rural in character. Most of its residents live below the poverty line, as the majority of the people are unemployed. Most residents rely on welfare or pension pay-outs (Msunduzi IDP, 2000).

The Impendle and Vulindlela areas were most adversely affected by political violence in KwaZulu-Natal in the late 1980s and early 1990s. The seven days war in 1990 is one of the remarkable events that these areas have experienced. The war was between the Inkatha Freedom Party (IFP) and African National Congress (ANC) supporters. The late Chief Shayabantu Zondi of the Nadi clan led the IFP attack on the ANC at KwaShange-part of the Nadi Tribal Authority. Chiefs were central to most of the political related violence in these areas. According to Smith (1990) induna (headmen) David Ntombela, head of all traditional indunas (headmen) in the Vulindlela area, was spearheading all the IFP led attacks (Smith, 1990).

There were very few basic services to Impendle and Vulindlela areas before 1994. Impendle had no clinic and Vulindlela had only two community clinics. These were found in the Taylor's Halt and the

other in the Sweetwaters areas. People were travelling long distances to access health services. There were no community sports centres and very few community halls.

Plate 4 Electricity supply as part of infrastructure development in the area



Local government demarcation in areas around Pietermaritzburg replaced the Indlovu Regional Council and the Pietermaritzburg-Msunduzi Transitional Local Council with uMgungundlovu District Municipality and a much larger Msunduzi Municipality. In the Msunduzi Municipality, the recent local government demarcation meant the inclusion of bordering rural areas. The rural and mostly tribal land of Vulindlela became part of the newly created and named Msunduzi Municipality.

This inclusion raised questions about the role of traditional authorities in rural areas, if they are now to be governed by an urban municipality. The reasoning behind incorporation of rural areas into new municipal areas lies in the fact that the viability of local government in rural areas depends on the extent to which it is adequately funded.

4.5 Methodology

Both qualitative and quantitative approaches were used in this study. The qualitative approach has helped to unravel the understanding of lives and activities of people in the rural communities and their relationship with the traditional authorities.

I conducted a field survey and I interviewed Traditional Leaders, members of the Department of Local Government and Traditional Affairs, Councilors and ordinary community members, employing the techniques of participant observation, ordinary conversation, as well as consulting whatever written materials, unpublished and published that were available.

4.5.1 Qualitative Methodology

The issue of traditional leaders is difficult to understand and analyze. This can be attributed to the fact that much controversy has surrounded the institution of traditional leadership with regard to their status and role in rural local government. Qualitative research methodology was very useful in understanding and researching on this complex issue. This is due to the fact that gaining a deeper understanding of the complexity of the processes and practices underlying the evidence of change or conflict that we might see around us requires a methodology that enables us to engage in-depth with the lives and experiences of others (Limb and Dwyer, 2001).

Qualitative methodologies are used to explore the feelings, understandings and knowledge of others through interviews, discussions or participant observation. The emphasis when using qualitative methodologies was to understand lived experience and to reflect on and interpret the understanding

and shared meanings of people's everyday social world rather than an extensive or numerical approach. The aim of this study was to assess the role of traditional leaders in rural local government in the post-apartheid South Africa. In order to assess the of role traditional leaders in rural local government it is imperative that qualitative research methodology be used. This is due to the fact that the interest of this study was not in a numerical approach, but rather to understand lived experiences and to reflect on and interpret the people's understanding and shared meaning and encounter the institution of traditional leadership (Limb and Dwyer, 2001).

Qualitative methodologies do not start with the assumption that there is a pre-existing world that can be known or measured, but instead see the social world as something that is dynamic and changing, always being constructed through the intersection of cultural, economic, social and political processes. Thus, I seek subjective understanding of social reality rather than statistical description or generalizable predictions.

I decided to employ qualitative methodology because I wanted to explore in depth the role traditional leaders has to play in rural local government. As Neumann (1994:317) put it, "instead of formal, neutral tone with statistics, qualitative report often contain rich description, colorful detail, and unusual characters and they give the reader a feeling for social setting." Qualitative methodologies are characterized by an in-depth, intensive approach rather than an extensive or numerical approach (Neumann,1994).

Qualitative approach to research concentrates on qualities of human behaviour since proponents of qualitative methodology are harmonistically oriented and try to reconstruct reality from the situational world of the subject. Qualitative methodologies are characterized by a relational construction of knowledge between researcher and research subjects and emphasis is placed upon both developing empathy between researcher and researched as well as focusing upon the reflexivity of the research encounter. Qualitative techniques emphasize quality, depth, richness and understanding (Newman,1994).

Qualitative methodologies also posit a particular approach to theory building. Rather than being methodologies to test pre-existing theories, qualitative methodologies are used to build grounded theory through intensive empirical research so that meanings are clarified and interpreted through the research process. Patton (1987:140) observes that “interviewing people can be invigorating and stimulating.” It is a chance for short period of time to peer into another person’s world. A good interview lays open thoughts, feelings, knowledge, and experiences not only to the interviewer but also to the person answering the questions. The process of being taken through a directed, reflective process affects the person being interviewed. It is not unusual for an interviewee to say, “you know, I hadn’t thought of that for a long time.” As respondents think about questions they may surprise themselves with fresh insights, previously unarticulated concerns and new ideas. It is with the above in mind that semi-structured interviews were used to gather information (Patton, 1987).

4.5.2 In-depth interviews

In-depth interviews were used to get participants to provide an account of their experiences, of how they view their own world and the meanings they ascribe to it. This technique was employed because it can generate a lot of information very quickly, it enables the researcher to cover a wide range of topics, to clarify issues raised by the participants and to follow up unanticipated themes that arose. However, this method largely depends on the interpersonal and listening skills of the interviewer. Interviewers may not ask the right or appropriate questions or an interviewee may not understand them (Newman,1994).

In-depth interviews do not limit the quantity of information or response given by the interviewee, since its main or major use is to collect complex information containing a high proportion of opinion, attitude and personal experience. This was relevant in the research because the issue of traditional leadership is a detailed and abstract one, varying from area to area.

4.5.3 Semi-structured interviews

Together with in-depth interviews, semi-structured interviews were used, since they provide much more scope for the discussion and recording of respondent's opinions and views. Like the in-depth interviews, the semi-structured interview is used to collect discursive information, which usually contains a high degree of expression and opinion, thus relevant to the issue of the role of traditional leaders in local government (Newman, 1994).

Semi-structured interviews with the rural communities of Hlanganani and Vulindlela Traditional authorities were conducted with seven (7) community members of Hlanganani and fourteen (14) members of Vulindlela. Semi-structured interviews can generate a lot of information very quickly and it enables the researcher to cover a wide variety of topics, to clarify issues raised by the participants and to follow up unanticipated themes that arise.

It was found that to implement both these interview structures, it was essential to build up trust in order to discuss matters which are frequently sensitive, like the issue of traditional leaders.

4.5.4 Sampling

The KwaZulu-Natal Department of Local Government and Traditional Affairs assisted me with the access to traditional areas of Vulindlela and Hlanganani. I was introduced to traditional leaders and given the permission to conduct my research without any limitation. Having noted that the Nxamalala Tribal Authority in Impendle forms the larger part of this area, I decided to interview four members of Nxamalala Tribal Authority. The other three came from the Amakhuze, Batloaka and Sminze Tribal Authorities. Three members of each tribal authority in Vulindlela were interviewed, with the exception of the Nxamalala Tribal Authority where only two community members were selected. The reason for this is that Nxamalala of Vulindlela and that of Impendle are under the very same chief and it is only the location that is different.

Since the research is focusing on different tribal areas, the study was done in such a manner that it takes into account the fact that these regions or traditional areas have young and old people with

different affiliations as well as literacy levels. The study consisted of thirteen male and eight females, five of whom were young people. Traditional leaders, councillors, and people both at Msunduzi and Impendle Municipalities as well as Hlanganani and Vulindlela Traditional Authorities were interviewed.

To ensure that the study was not biased or reflected only a certain portion of the community or population the researcher approached people not knowing their status or background. The exception was with the 'informants' or community leaders who had the necessary information and were the direct source of this information. Three traditional leaders from Vulindlela and two from Impendle and four councillors from the Msunduzi Municipality and two councillors from Impendle were arbitrarily selected because of their position in the society. The combination of techniques enabled the researcher to obtain the relevant data which could not be obtained by using any single method.

It has been highlighted that fourteen community members of Vulindlela and seven community members of Hlanganani were interviewed. Traditional leaders gave me the authority to access various areas within their tribal areas. The researcher approached respondents without any information about them. He did not know their status, position in the society or their political background. However, sometimes he had preconceived information about areas relating to political affiliation. For example, when he approached Elandskop in Vulindlela, he knew it was perceived as an IFP stronghold. However, this does not mean that all the people selected for interviews were IFP supporters.

4.5.5 Focus Group

This was planned to be a one-off meeting of between four and eight individuals who were brought together to discuss the role of traditional leaders in local government. Traditional leaders, councillors, government officials and community members of Hlanganani and Vulindlela Traditional Authorities were invited to the focus group but traditional leaders did not attend. As a result, discussions took place between community members and local councillors, and an official from the

local government department. The focus group was not representative of all relevant stakeholders, since traditional leaders were not present. This research technique was to be used to explore peoples' attitudes towards the issue of the role of traditional leaders in rural local government. It aimed at increasing stakeholder participation in the discussion of the role chiefs have to play in rural local government. The focus group was used since it places the individual in the group context, where conversations can develop and flourish in what could be considered more commonplace social situations.

To get thorough information on the role of traditional leaders in rural local government, it is important to ensure that there is a flow of conversation and that there is a dialogue between people where individuals are free to challenge the interpretation or assumptions of other group members (Newman, 1994). Using a focus group ensured all the above, but the concern was with the absence of traditional leaders. Using the focus group gave me (researcher) access to the multiple and transpersonal understanding characterizing social behavior.

In the focus group, unlike in the one-to-one interviews where the interviewer asks for opinion without challenge, the interviewer encountered a situation where the participants challenged each other and contested some of the issues. In the group context, people's opinions and beliefs can be contested or questioned and/ or amplified by others in the group.

4.6 Interview Technique

On approaching the respondents the researcher introduced himself and presented the student card which served as a form of identification. He tried to be as informal as possible. Thereafter interviewees were briefed about the aims, objectives and purposes of the study. The local vernacular (Zulu) was used when conducting the research. The fieldwork was conducted between 01 July 2002 and 21 September 2003. This process is not free of flaws and it is not claimed that it offers an extensive view of or opinions of all the rural people in South Africa. This is a small academic survey which affects the beliefs and preferences of a group of people who have had little opportunity to express them so far.

4.7 Logistics or Problems

Although no major obstacles or problems were encountered during the course of the fieldwork, the following issues were of interest to note:

- i. Hierarchical problems of the traditional leadership where the researcher could not first consult directly, but rather through the subordinate traditional councillors or *Induna*.
- ii. The researcher was not familiar with most of the areas and as such encountered problems trying to identify who was the local *Induna* (headmen) in order to get access to the Chief.
- iii. Some people, traditional leaders and their councillors in particular, were reluctant to talk to the researcher since they thought the research could be politically motivated, until the student card was produced.
- iv. The questionnaires needed to be translated from English to Zulu, and vice versa and that sometimes led to distortions in the translation.

4.8 Data Sources

This study used a variety of secondary data sources. The Hlanganani and Vulindlela Regional Traditional Authorities, KwaZulu-Natal Department of Local Government and Traditional Affairs and the Impendle and Msunduzi Municipalities within the uMgungundlovu District Municipality, were used as sources of data. Newspapers, books, journal articles and previous research on traditional leaders were used to provide additional supplementary information.

The methodology and sources used are summarized in table 4.1.

Table 1 Summary of data sources and methodology

| | | |
|---|--|---|
| Assessing the role traditional leaders can play in rural local government. | Present a historical overview of the role of traditional leaders. <ul style="list-style-type: none"> ➤ Literature review ➤ Interviews ➤ Focus groups | <ul style="list-style-type: none"> ➤ Newspapers ➤ Books ➤ journal articles ➤ previous research ➤ Provincial House of Traditional Leaders ➤ Traditional Leaders |
| Assessing the new model of rural local government and the nature of working relationship between councillors and traditional leaders. | <ul style="list-style-type: none"> ➤ In-depth, structured and semi-structured interviews ➤ Focus groups | <ul style="list-style-type: none"> ➤ Traditional Leaders ➤ Community members of Hlanganani and Vulindlela Traditional Authorities. ➤ Councillors ➤ Impendle, Msunduzi and uMgungundlovu District Municipalities |
| Analyzing constitutional provisions on the powers and functions of traditional leaders. | <ul style="list-style-type: none"> ➤ Literature review ➤ Interviews | <ul style="list-style-type: none"> ➤ Traditional Leaders ➤ councillors |
| | | |

4.9 Conclusion

The research was very interesting since it promoted the interaction with many people, thus exchanging valuable information. The contribution from the participants was good, and responses

were encouraging to further pursue the study. The study was relatively successful and a very educative experience.

CHAPTER 5

TRADITIONAL LEADERS IN VULINDLELA AND IMPENDLE

5.1 Introduction

Local government is perceived as the democratisation of grassroots decision making. It is regarded as particularly important for rural communities, often neglected in central decision making. Traditional leaders and structures, in a sense, exist and function at two levels (de Villiers, 1997). At one level, they operate as they always have within the confines of the tribe, applying traditional customs and practices as far as they are able to in the light of the serious distortion brought about by the second level of operation. The second level of category is the official level. This level is far more dominant because it forms part of state policy and has seriously affected the functioning and role of traditional leaders. This is more applicable to the South African context. Chiefs were used by the colonial and apartheid authorities to rule over the indigenous population.

This chapter analyses the data obtained from the research project. The analysis will focus specifically on the history, roles and functions of traditional leaders, both past and present, and the relationship that exists between traditional leaders and the elected local government councillors, with specific reference to the Vulindlela and Impendle areas

5.2 History of Chieftaincy

One of the initial important questions asked during the fieldwork was that relating to the definition of a traditional leader. The intention was to determine whether the respondents knew what was meant by traditional leaders. It is clear that the institution of traditional leadership was known and could be defined by various people interviewed. A traditional leader is any person who traditionally heads the royal family in a given area. "Traditional leadership is a ceremonial position occupied by the

individual, usually a boy born by uNdlunkulu (supreme wife), who comes from the royal family” (interview: Chief Zondi, 15/07/2003). This is a much respected person within the family and the community at large, who is the head of the whole community, who performs a number of functions. “A traditional leader is a person who looks after the social welfare of the people and is not elected” (interview: Chief Zondi, 15/07/2003). Not every son of the chief can succeed his father, but only those that are born by uNdlunkulu. uNdlunkulu is a chief’s wife whom the tribe has paid ilobola for and who comes from the royal family. In other words this is the supreme wife, simply because she is the tribe’s wife.

An interview with Mr. Khuzwayo (06/06/2003) (director of KZN Department of traditional Affairs and Local Government) revealed that “traditional leaders are not the same. Traditional leaders come from different backgrounds.” It was mentioned that traditional leaders could be divided into two broad categories.

Drawing from written current and historical literature, past research on traditional leaders, interviews with traditional leaders, councillors and members of the communities of Impendle and Vulindlela, the Chieftaincy seems to come from the roots of the history of the African people, and Zulu people specifically. It has been argued in chapter two that a traditional leader is a person who, by virtue of his ancestry, occupies the throne or stool of an area and who has been appointed to it in accordance with customs and tradition of an area. Traditional leaders’ authority is entrenched by birthright (Sunday Tribune, 20 October 2001:4). This means that in a true African context, (of course this has now been influenced by a number of factors including colonialisation) only people born to a supreme house of the royal family could be the chief.

It was emphasised by a number of respondents that most of the people became chiefs because “they were powerful and heroes of the Zulu Kingdom or were respected advisors of the Zulu Kings.” Some of the most powerful warriors became heads of the amabutho (regiments). The places where they were living were ceded to them and they subsequently became chief within those areas. The generation following that saw a son taking his father’s position in the community, and hence the

emergence of the hereditary system of chieftaincy (interview, Mr. Khuzwayo, 06/06/2003). This then accounts for the first category of traditional leadership. Mr. Khuzwayo (06/06/2003) argues that “these are the original traditional leaders (*amakhosi oselwa*)”. These are legitimate traditional leaders. “An example of this is the chief of Hlubi who says he is sovereign (interview, Mr. Khuzwayo, 06/06/2003). “These are the leaders who have been there since time immemorial (interview, focus group, 13/09/2003)”. People believed that the chieftaincy has been in existence since the origin of human society. Some of the people interviewed see the chieftaincy as God’s creation. “Even the bible mentioned many people who were chiefs and Faro, as bad as he may have been, was a chief” (interview, councillor Cele, 06/07/2003). This is in line with the KwaZulu Amakhosi and Iziphakanyiswa Act 9 of 1990 definition of traditional leader. According to KwaZulu Amakhosi and Iziphakanyiswa Act (Act 9 of 1990) traditional leadership is divided into Hereditary Chief and Isiphakanyiswa. “A hereditary chief means a hereditary chief according to Zulu law. Iziphakanyiswa means any person appointed in terms of section 12” (KwaZulu Amakhosi and Iziphakanyiswa Act 9 of 1990). Section 12 of KwaZulu Amakhosi and Iziphakanyiswa Act 9 of 1990 provides that “the Minister may after consultation with the Cabinet recognize, appoint or depose any person as an inkosi for a certain tribe or an isiphakanyiswa for a certain community, as the case may be, in accordance with the provisions of this Act.” It has been mentioned previously that this Act makes provision for the recognition, appointment and condition of service, discipline, retirement, and deposition of traditional leaders, including Iziphakanyiswa.

It was mentioned by most traditional leaders that the political structure within a tribe started, at grass roots, with the homestead or kraal of the extended family. The head of the family administered the family but did so by collective decision-making. Several families within an area were linked together within the tribe under the administration of *Izinduna* (headmen) and they were linked within the tribe under the administration of the chief. Both the *Izinduna* (headmen) and the *Amakhosi* (Chiefs) acted, within their area of jurisdiction, under a collective decision making process involving their respective councils. These structures operated as an organic part of the family or tribe, deriving their authority from the unit. After the formation of the Zulu nation in the early 19th century, the apex of this structure centred on the King. Those people who were appointed to be the headmen (*Izinduna*)

of King Shaka and other Zulu Kings became chiefs on those areas that they were looking after (Mokgoro, 1994).

The second category is formed by those traditional leaders who were appointed by government. As pointed out above, a traditional leader can also be any other person appointed by instrument and order of government to exercise traditional authority over an area or a tribe. It has been mentioned previously that the system of power to promote commoners to the rank of chief was often used by colonial governments as a form of patronage. Whereas originally traditional leadership was acquired only through a hereditary process, throughout successive colonial and apartheid rule, government adopted a practice of appointing its own traditional leaders to replace those who challenged oppression and exploitation. These are mostly referred to as *iziphakanyiswa*. The KwaZulu Amakhosi and Iziphakanyiswa Act 9 of 1990 provides that any person can be appointed as an *isiphakanyiswa* for certain community. This means that the *iziphakanyiswa* are recognized by law as legal traditional representative of communities. “Some of my colleagues are chiefs today not because of our traditional culture but because of the manipulation of chieftaincy by government” (interview, Khosi Ramovha-Municipal Demarcation Board, 30/08/2002).

Moreover, traditional leaders themselves also acquired the power to appoint a large number of councillors whom they manipulated (Mokgoro, 1994). The Black Administration Act (Act 38 of 1927) gave powers to the governor-general to recognise or appoint any person to be a traditional leader. This was how traditional leaders were made to understand that they are government lieutenants (Welsh, 1974). This was one of the Shepstone’s strategies of indirect rule. Khuzwayo of KZN Traditional Affairs believes that the main aim of colonial government was to destroy Zulu culture and Kingdom completely.

Table 2: History of Traditional leaders

| Nature of creation | Chiefs % | Councillors % | Community Members % |
|---------------------|-------------|------------------|---------------------|
| Culture & tradition | 90 | 45 | 85 |

| | | | |
|---------------------------|----|----|----|
| Appointed by governments | 10 | 55 | 10 |
| Have no idea on the issue | 0 | 0 | 5 |

About 90% of chiefs in the study believed that chieftaincy came from the roots of the history of the people, 10% believed that some traditional leaders are the product of colonial and apartheid government (Table 5.1). About 55% of the councillors believed that although the chieftaincy seems to come from the roots of people's culture, some of those who are chiefs today did not merge from this. Tribal structures subsequently shifted far from their ancient Zulu cultural roots and were largely the product of political tinkering by colonial powers and the apartheid government (interview, Councillor Zuma, 13/07/2003). Ever since the colonisation of Natal by the British the traditional leaders and the tribal system had been subverted to serve the interests of political masters. Amazingly, this continued to be the case under the laws inherited from the former KwaZulu Assembly.

Chief Mlaba of the KwaXimba Traditional Authority believes that certain legislation, for example, the Bantu Authorities Act of 1951, were used, during colonial and apartheid eras, to give power to the governor-general to appoint and dispose traditional leaders (interview, Chief Z. Mlaba, 17/5/2003). The result was that many traditional leaders "were appointed because of their compliance to government instead of hereditary entitlements" (interview, Chief Z. Mlaba, 17/5/2003). Some people, therefore, occupy the position of chieftaincy simply because their ancestors were loyal to the government of the time and were then given some land to look after, and eventually became chief. It is true that there are people today who call themselves traditional leaders while knowing very well that their ancestors were not real chiefs anointed in accordance with tradition but were appointed by the colonial and/or apartheid government. A classic example of this is the case of Zashuke.

Interviews revealed that there are some traditional leaders who are being paid by government as traditional leaders but have no land or any territory that they are looking after. "I have heard some chiefs saying their land was taken away by the apartheid government" (Chief Zondi, 15/07/2003).

Khosi Ramovha believes that there are more than twenty (20) traditional leaders in South Africa who do not have land (landless traditional leaders) (interview, Khosi Ramovha-Municipal Demarcation Board, 30/08/2002). A study conducted in 2002 on traditional leaders by the Municipal Demarcation Board shows that there are about 839 traditional leaders in South Africa. Out of those, 25 are landless, 534 have proclamations and 280 have no proclamations. This shows how skewed the institution of traditional leaders remains because of the successive colonial and apartheid systems (Municipal Demarcation Board, 2002).

5.3 Functions of Traditional Leaders

Traditional leaders perform important functions, whether as part of the formal local government structures or not. “Traditional leaders are the only effective channels through which development agencies can approach local communities (Natal Witness, 23/05/1997)”. Some of their functions have changed overtime.

The research revealed that during the formation of chieftaincy, traditional leaders performed various functions to govern their communities. These include presiding over tribal courts and dealing with minor communal cases, and instilling respect to the whole community. “All members of the community knew what was supposed and not supposed to be done in the society. For example, if there was a funeral in one of the families, no one would do any soil work as everyone respected the day” (interview, Female respondent, 18/06/2003). There was a belief, which still prevails in our societies, that should you work on the soil during this day there would be bad luck and in some instances heavy rain. This kind of respect and behaviour was very important in the governing of rural communities. One respondent emphasised the point that where there are traditional leaders you will always find respect. The undermining of the rule of traditional leaders has created problems. “For example, we are now experiencing crime in areas where it has never happened before when traditional leaders still had authority. People used to leave their clothes on the line outside overnight and nothing would happen to them because in the traditional community every member is a police and people respected each other, including their belongings” (interview, Chief Zondi, 09/09/2003).

Among traditional leaders functions were duties imposed upon their office by the recognised customs of their tribe. The collection of tribal levies was another function of traditional leaders. A number of traditional leaders have abused their positions by extorting payments from their subjects for these services which are supposed to be free of charge. People have commented that there has been no meaningful role that traditional leaders have played in the governing of rural communities (interview, male respondent, 13/07/2003). Instead, communities have been forced to pay unnecessary levies and taxes to the chief. “Phuzekhemisi (Traditional singer: Phuzekhemisi Mnyandu) even decided to produce a song *uDlavedwa* to demonstrate people’s plight with regard to taxes” (interview, male respondent, 16/06/2003). *UDlavedwa*, according to the song, was a dog belonging to Phuzekhemisi. The singer was complaining about many *izimbizo* (traditional public meetings) which were called by the chiefs and the main issue was the payment of taxes. The singer complained that these *izimbizo* were not called to talk about community issues but about levies for *uDlavedwa*, for the benefit of the chief.

Some chiefs have used the issue of taxes or levies to get their communities to work for them. In some instance people were expected to work without pay in the chief’s fields every summer. According to Welsh (1971) the Supreme chief had a power to call upon Africans to labour on the public works in the Colony without pay. This was called *isabelo* (a word derived from the practice that the labourers’ names were written down in a register by the official who requisitioned them). Welsh (1971) argues that Shepstone rationalised this system of forced labour as a prerogative which all chiefs enjoyed, of requiring their people to build their kraals, cultivate their fields, and discharge military duties, but giving them no pay. Levin and Mkhabela (1997) believe that women were used for a variety of tasks including planting and weeding, while men with tractors were expected to plough the chief’s fields without being paid.

There have been arguments that traditional leaders have been paid by government and as such they have been petty functionaries of the bureaucracy. Most of the respondents believed that as much as traditional leaders were not paid by government, they were however, indirectly getting some form of

compensation. There are a number of privileges that traditional leaders enjoyed and some still enjoy, for example, the *ilobola* for the chief's child is twice the amount of just an ordinary person in the community. Some of the respondents believed that if a chief has performed well then the King could increase the land or the area under his control. If a boy has made a woman pregnant, then the chief could ask the boy to cleanse the tribe and pay the girl's family and the community (chief). This is another way of how the chief was paid (Ray, 1997).

Traditional leaders were looking after community needs although they could not provide everything (interview, male respondent: 18/06/2003). According to Section 19 of the Traditional Leadership and Governance Framework Act (Act 41 of 2003) "a traditional leader performs the functions provided in terms of customary law and customs of the traditional community concerned, and in applicable legislation". Traditional leaders could not provide infrastructure in their areas as they were not developmentally orientated. Lindokuhle Phakathi (member of development committee in Kwashange in Vulindlela and Ward committee member for ward 5 in Vulindlela) believes that the most important role of traditional leaders was that of looking after the land and then dealing with other community issues including conflict resolution (interview, 16/06/2003).

One of the most important functions of traditional leaders is that of issuing permits for the transfer of stock and overseeing reserved grazing land. This is one of their duties since stock is very important in traditional societies. In most rural traditional societies, a man with cattle was and is still greatly respected and is more likely to be recognised by traditional leadership structures. "As you can see I have many cattle, but I used to have twice as much. Now there is no place to keep many cattle because the government is doing away with chiefs" (interview, female respondent, 18/06/2003). One of the most important tasks of traditional leaders was to provide grazing fields for cattle and to control the burning of fires on the land. It is clear that people can now burn fire anywhere and nothing would be done to them (interview, male respondent, 18/06/2003).

Levin and Mkhabela (1997, 155), believe that "the notion that the chief was a custodian or trustee of land is essentially a colonial creation, produced by the search for a system of customary land tenure.

Traditional leaders controlled the land in the sense that they allocated the land. The moment a tribal member has been given the land the control by the chief ended. It is in this way that the allocated land was the tribesman's, in fact he owned it. Levin and Mkhabela (1997) argue that this is because the link between the land and the individual tribesman was stronger than the link between the land and the chief. Some respondents believed that traditional leaders did not have any specific traditional role. Being a chief was just a ceremonial figure and there was no development purpose associated with the role (interview, councillor Cele, 06/07/2003).

While traditional leaders have not been developmentally oriented, they have been involved in the provision of services and development of their communities. Chief Zondi (interview, 15/07/03) argued that traditional leaders were very powerful in the demand for the services for their areas (see Plate 5.1). His great grandfather, the late Chief Dlokwakhe, was arrested several times because of his role in fighting for the people's needs. According to the KwaZulu Amakhosi and Iziphakanyiswa Act (9 of 1990) "any traditional leader or isiphakanyiswa shall generally seek to promote the interest of his tribe or community and of the region and actively support and initiate measures for the advancement of his people". In actual fact the Act does not provide for any role of traditional leaders in terms of infrastructure development and services provision in their areas.

An important question was who decided on the role and function of traditional leaders. Most of the respondents believed that the King decided on the functions or tasks of traditional leaders. As it will be seen below, the King has the highest ranking in the hierarchy and all the powers in the chieftaincy are vested in him. The King does not perform tasks alone, but is assisted by other respected members of his royal council. It is believed that when Shaka formed the Zulu Kingdom, he together with his council of advisors, allocated certain functions to the people who were looking after certain parts of his land. Mr. Khuzwayo of KZN Traditional Affairs argued that functions or tasks of traditional leaders were prescribed but were not written down (interview, 06/06/03).

Plate 5: Nadi community gardening and poultry.



Plate 5.1 shows some of the community development initiatives where traditional leaders have played an important role in identifying the need and availing the land for such project.

The King is the unifying figure of all clans or tribes. He acts as a symbol of unity. Every tribe looks upon the King as a leader. The Traditional Supreme Chief (*ndunankulu*) serves as a communication channel between the King and the chiefs. He is the mouth of the King (interview, councillor Ndlela, 19/06/2003). The chief ensures that people subscribe to all the rules and behavioural needs of the King. Chiefs are the eyes of the King (interview, councillor Ndlela, 19/06/2003). This included all the functions that have been mentioned earlier in this chapter. *Induna* is an eye of the chief. They perform some of the functions of the chiefs but at the different areas/ level within the tribe. They monitor different areas within the tribe for the chief. Traditional councillors deal with minor issues

and they have direct encounter with the people. They are the link between the community and the *induna*.

Table 3: The hierarchy in the traditional leadership

| Portfolio | Hierarchical Position |
|---------------------------|-----------------------|
| King | 1 st |
| Traditional Supreme Chief | 2 nd |
| Chief | 3 rd |
| Induna | 4 th |
| Traditional Councillors | 5 th |
| Family heads | 6 th |

Table 5.2 shows that the King has the highest ranking, followed by traditional Supreme chief-*ndunankulu*, chiefs, *Induna* (headmen), traditional councillors, and family heads respectively. Chief Zuma of the Nxamalala traditional authority in Impendle believes that chiefs are looking after the King's land. "Amakhosi are just Indunas for the King, all the land belongs to the King" (interview, Chief Zuma, 23/08/2003). Section 8 of the Traditional Leadership and Governance Framework Act (Act 41 of 2003) recognizes the Kingship, Senior Traditional leadership; and Headmanship ranking high middle and low, respectively, within the institution of traditional leadership.

In KwaZulu-Natal there has been controversy surrounding Chief Mangosuthu Buthelezi, as to whether he is an *ndunankulu* or not. It is believed that because of being the Prime Minister of the then KwaZulu government during apartheid times, chief Buthelezi proclaimed himself as the traditional supreme chief of King Goodwill Zwelithini, hence the confusion whether there is anything like a Traditional Supreme Chief.

From the above analysis it is clear that traditional leaders have been important in the governing of the rural communities. Traditional leaders have been very instrumental in the overseeing of stock

transfer through issuing of permits and overseeing reserved grazing land. This is important since stock is a very important commodity within the rural context. Traditional leaders have also played an important role in the overseeing of land allocation. The importance of land cannot be overemphasised when dealing with issues pertaining to traditional leaders. While the study has highlighted the important role traditional leadership has played in the governing of rural communities, it has also been evident that traditional leaders have abused their position in many respects. They have demanded unnecessary payments from their subjects, which to a certain extent has undermined the integrity of traditional leaders.

5.3.1 Previous functions vs. Contemporary functions

The rural areas of South Africa can be divided into two categories: farming areas and traditional authority's areas. Farming areas are those areas which white farmers historically lived and had a privilege of getting infrastructural, financial and support services. Traditional authority areas were those where the African population was forced to live and were governed by traditional leaders. These areas were deprived of infrastructural, financial and service resources. Farming areas were more fortunate and advanced in terms of development since most of those areas were in and around small towns. This was because the small towns near farms already had an established infrastructure to which the farmers linked their services. One limitation to the development of infrastructure in rural areas of KwaZulu-Natal was that the KwaZulu Government was supposed to deliver services, but it did not have enough resources to do so. This resulted in a huge backlog in the provisioning of services in rural traditional areas.

During the apartheid era most of the Bantustan governments conferred the function of local government to traditional authorities. But this hung in balance after the abolition of the Bantustan government and inclusion in a democratic, unified South Africa. Nevertheless, the structures of traditional authorities continued to operate.

Every traditional community has an authority whose head is a representative of the royal family.

Most people under the jurisdiction of a traditional authority considered themselves members of that specific community and, according to custom, are accepted and recognised as such. The head of the royal family maintained law and order in the community and promoted the welfare and interests of the inhabitants through a system of councillors, headmen and subhead men.

One of the primary tasks of traditional leaders was to allocate user rights to land. “Control over land allocation constitutes the fundamental material basis of the power of chiefs” (interview, Male respondent, 16/06/2003). Control over land allocation is also the most crucial mechanisms for the interplay of corruption and control. The corrupt activities by some traditional leaders have steadily eroded the legitimacy of the chieftaincy. Some traditional leaders have been using their power to control land allocation to get money out of the whole process. People had to pay a certain amount of money to be allocated land. In some instances land has been allocated by a traditional leader to more than one person, leading to conflict. While land has been a very important commodity to traditional leader’s claim of power, it is believed that their use of land is not more beneficial to communities as less emphasis is placed on development. According to Graham McIntosh (*Natal Witness*, 22 July 2002) “Commercial farmers see land for production, profit, prosperity, development and job creation but many traditional leaders see land as only a means for settling more people to gain more power and patronage and not about sustainable development”.

The issue of land is one issue critical for development in rural areas. A large percentage of the communal land in KwaZulu-Natal falls under the jurisdiction of traditional leaders and is controlled by the Ingonyama Trust established by The Ingonyama Trust Act (Act 9 of 1997). Section 2(5) of the Ingonyama Trust Act (Act 9 of 1997) provided that the Ingonyama Trust Board may not encumber, pledge, lease, alienate or otherwise dispose any land, or a right in such land, without the prior written consent of the traditional lead or the community authority concerned (The Ingonyama Trust Act 9 of 1997). This is a powerful tool to ensure that traditional leaders will be involved in the development of their areas.

The study revealed that traditional leaders could have a role if the issue of the land is sorted out.

“Yes, traditional leaders can be very instrumental in the accessing of land for development purposes (focus group, 13/09/2003). One has to go through complicated processes in order to get a PTO (Permit To Occupy), which takes time and delays development plans. But traditional leaders have abused their control over land to block development plans. “In the Shange intersection, the municipality identified the area, as you can see the Vulindlela community center, as a development node. SAHECO (a Non Governmental Organization) had even started with the tourism project around that area, but the chief decided to allocate the area to people as sites for houses” (interview, male respondent, 16/06/2003). This is why it is important for the traditional leaders to be involved in the planning and implementation of development activities. It was possible that the traditional leader had allocated the area for housing because he was not informed of any alternate plans to develop the area. Here there was conflict of interests since the Municipality had identified the area as a node for development while the traditional leader had identified the area as suitable for housing, with transportation and other services nearby. This is a classic example where institutions, local government and traditional leadership, need to communicate in the early stages of planning for development.

The focus on the access to land is important as it provides opportunities for development. The deep poverty in rural areas requires that obstacles to development be resolved carefully and urgently. This suggests that the issue of land needs to be resolved urgently. This is because land is an important commodity without which development cannot take place.

The function of traditional leaders was to regulate and control relationships and social behaviour within a traditional community. Traditional leaders played and still have an important role to play in family disputes. It was pointed out that “these functions were derived from custom and tradition” (interview, Chief S Zondi, 15/07/2003). While traditional leaders have been constitutionally deprived of the right to hold courts in their areas, they could hear disputes submitted to them voluntarily by the parties and help them to arrive at some agreement or reconciliation, thus avoiding the need to go to regular courts. Those who take their cases to the chief are usually the very poor who cannot afford court fees and related expenses of formal litigation.

Traditional leaders currently exercise governmental functions that range from being involved in the provision of services to the preservation of law and order. Although it is difficult to categorically explain and elaborate what their current role is, traditional leaders see their role as still the same as one that was practiced in the past (interview, Chief Zondi, 09/09/2003). This includes land allocation, dispute resolution, and that of preserving culture and tradition. The Traditional Leadership and Governance Framework Act (Act 41 of 2003) provides for a number of functions of traditional councils within the community. Section 4 (1) (a)-(l) of the Traditional Leadership and Governance Framework Act (Act 41 of 2003) lists a number of functions of traditional council laws of the community. These included supporting municipalities in the identification of community needs (participating in Integrated Development Planning), facilitating the involvement of the traditional community in the development and so on. Thus it is evident that legislation does provide for the involvement of traditional communities in development.

The nature of the current role of traditional leaders raised emotions. This is because most of the traditional leaders see government as doing everything possible in order to take control of all spheres of communities, including traditional areas. While this was the feeling of most traditional leaders, members of the communities felt that traditional leaders *are* taken as a form of local government in rural areas (interview, female respondent, and 17/06/2003). This suggests that traditional leaders are involved in development activities in their areas while at the same time continuing with their traditional duties. In many cases, a characteristic legacy of South Africa's political-economic history is the special coincidence of traditional authority governance system and deep poverty with urgent development needs. It is true that, on one hand, the role of traditional authorities is not defined by development but on the other hand, development has become a very inclusive and wide-ranging agenda.

Many traditional communities have taken traditional leaders as the form of government closest to the people. While traditional leaders have been arguing that the delivery of basic services to the rural communities has been largely their task for many years, the reality is that their significance has been

necessitated by the role they have played in preserving culture and customs of their communities. Their importance have also been necessitated by their role in improving the lot of ordinary people (Sunday Tribune, 20 October 2001:4). “We are now having community halls and sports centers because of the commitments and support our traditional leaders has given into this community” (interview, female respondent, 18/06/2003). It is an undisputed fact that since the first democratic local government elections in 1996 in KwaZulu-Natal, traditional leaders have been very instrumental in development. This is evidenced by the current infrastructure development which has been delivered where traditional leaders have been useful. Currently, traditional leaders are represented in the Project Steering Committee for the construction of road P399 in the Vulindlela area. They are part of raising awareness amongst the communities about the importance of ensuring that people look after the material which is used to construct the road.

Traditional leaders have also been involved in uplifting of their communities through the use of development committees in their areas. The development committees had traditional representation in their composition. The current Rural Roads Transport Forum of Hlanganani/Vulindlela is composed of traditional leaders and other stakeholders. Various sectors are represented in this Hlanganani/ Vulindlela Rural Roads Transport Forum which covers areas of Vulindlela, Moi Mpofana and Impendle rural areas of uMgungundlovu District Municipality. The Rural Roads Transport Forums are tasked with the responsibility of delivering roads to the rural areas, both tarred main roads and gravel access roads. While councillors delivered development to communities, traditional leaders have been part of that process. Traditional leaders are leaders in the process of rural development. “Traditional leaders are ex-officio members of ward and development committees” (interview, Councilor Zuma, 13/07/2003).

There is a strong belief that despite the loss of many traditional functions, now transferred to the state, traditional leaders are largely doing what they have been doing for centuries. These include leading tribal government, maintaining the local culture, leading ceremonies, applying customary law and promoting the wellbeing of their communities (Business Day, 10/07/2001:2). The current functions of traditional leaders include the following:

- allocation of land held in trust for small scale farming, grazing and residential purposes;
- The preservation of law and order, including adjudication over minor disputes of a civil nature;
- Promotion of education, including erection and maintenance of schools, etc.

The roles of forging unity in the communities, representing a symbol of peace and presiding over minor cases have remained important only for traditional leaders. There is also a general agreement among most people interviewed that the role of service provider is that of government. There were suggestions that traditional leaders should work in partnership with local government councillors to ensure proper provision of services. But it was acknowledged that traditional leaders should not be the service providers (interview, male respondent, and 16/06/2003).

There is a notion that the way traditional courts have been functioning has turned to be the 'Kangaroo courts' (interview, Male respondent, and 16/06/2003). How can we trust a person who is in the opposing party that s/he will not be biased in the trial? These are the questions people have been asking about traditional leaders who have been involved in politics. There is a problem with traditional leaders who are active in party politics. This is because some respondents believed that traditional leaders who are in politics tend to oppose development proposals associated with a councillor who comes from a different party. This issue will be discussed later in this chapter.

Most respondents believed that changes have taken place in the role of the institution of traditional leaders. During the KwaZulu Government era, traditional leaders had a direct role of service provision. Post-1994 the role that used to be played by traditional leaders was transferred to municipalities. Traditional courts have been changed from the old 'feared' courts and now serve as delivery centers for communities.

Traditional leaders have now a right to nominate their representatives to serve in local government and to advise the councils on issues relating to culture and tradition. But traditional leaders, as councillor Cele argues, have decided not to take this opportunity of being part of local government,

because of being politically partisan (06/07/2003). There was a general feeling amongst respondents that traditional leaders should take the twenty percent ex-officio representation into local government as per Municipal Structures Act (1998).

5.3.2 Traditional Leaders, Development and Delivery

A key issue was whether traditional leaders had any role to play in South Africa in the post-1994 era. There was a clear indication from all the people who participated on this study that traditional leaders had a role to play in the contemporary South Africa. “It is important not to confuse traditional leaders with democracy. Traditional leaders have a role to play in the democratic dispensation” (interview: Matole Motsega of Kara Institute, SABC 1 Asikhulume- Lets Talk, 18/05/2003). Phathekile Holomisa (CONTRALESA President, SABC 1 Asikhulume- Lets Talk, 18/05/2003) believes that chiefs are the closest to the local communities and therefore can be very instrumental in service delivery. Traditional leaders need to participate in directing the government on service delivery. Traditional leaders need to be consulted when decisions relating to IDPs and council budgets are taken. However, this does not mean that they will be decision makers (Councillor O. Mlaba-Mayor of Durban Metro, SABC 1 Asikhulume- Lets Talk, 18/05/2003).

Development schemes such as water schemes aimed at bringing better standards of life to the people require educational and technical knowledge and skills which traditional leaders do not have. However, communities and their leaders, including traditional leaders, should be actively involved in local development projects. The role of traditional leaders is liaising between the community and the implementing agents. It is therefore logical that community leaders with the responsibility for guiding the people with regard to development related activities should be persons chosen for their broad knowledge and, preferably, technical or specific training. Traditional leaders are generally poorly educated, are not trained in anything and are not likely to perform well, especially with the increasingly technical nature of development projects. It is however necessary to train and give traditional leaders the skills required for development as they are trusted by a number of people in rural communities (interview: Matole Motsega of Kara Institute, SABC 1 Asikhulume- Lets Talk,

18/05/2003). If traditional leaders are aware of development initiatives they are normally very helpful in ensuring that local conflicts are resolved to the advantage of ordinary people who need development.

There was a view that traditional leaders should not be involved in the implementation of development or in actual provision of services, but should guide the process. While traditional leaders can not be service providers, they need to be instrumental in the whole process of development. Some traditional leaders seem to have accepted the role that they have to play was not that of service providers or implementers of development projects, but as advisors and development facilitators. Chief Zondi of the Nadi clan believes that “all depends on the issues of powers and functions that needs to be provided by the legislation. We are not demanding to be local government councillors, but our role should be clear in the constitution” (15/07/2003). Chief Zuma was very clear on their role as traditional leaders: “development is not for the chiefs, they need to overlook the whole process of development and only act if their intervention is needed as the guardian of the communities”.

Traditional leaders command great respect in the communities and can be very instrumental in making people feel they participate in the development activities in their areas. Traditional leaders will need to be consulted before any development activities are introduced in their areas of jurisdiction. However, there is one problem when a traditional leader has multiple roles to play in development and governing the community. In certain instances traditional leaders need to delegate powers to the local *Induna* and the decision making process becomes too complicated. This is because *Induna* might not want to take a decision without consulting the *Inkosi* and the time taken to consult the *Inkosi* might impact on the finances of the projects since there are penalties associated with not observing timelines by constructors.

In some instances traditional leaders are able to sanction penalties to force people to comply with certain community arrangements. “If any person does not comply with community arrangement of R20 flat rate payment per month per household for water in which the community have agreed upon,

traditional leaders could send police to those families and sanction the individuals concerned accordingly” (focus group, 13/09/2003). Traditional leadership, through its influence, is able to assist in ensuring that there is a common understanding within the community of the need to comply with whatever collective decisions are made.

Mr. Khuzwayo (KZN Director of Traditional Affairs & Local government, 06/06/2003) sees the role of traditional leaders in the democratic dispensation as focusing more on culture. He believes that traditional leaders must work to preserve culture and that history is very important for the future. Traditional leaders should be able to connect the future and the past. They can have a role to play if they can change with time. Culture is not static and is changing within a dynamic environment. So the institution of traditional leadership needs to similarly change and transform.

One of the limitations highlighted as impacting on the role of traditional leaders in a democratic dispensation was involvement in party politics. People believed that traditional leaders can have a meaningful role if they are neutral and not affiliated to any political party. This is because if the chief was affiliated to a political party that was not the majority party in the council, there was the likelihood that he could sabotage the council’s activities. “Chief Zuma of Impendle once chased us away when we wanted to implement a road project in the Inzinga area. The problem was that she wanted the project to come with the IFP PR (Party Representative) councillor in my ward (ward councillor)” (Interview, Councillor Cele, 06/07/2003). Councillor Cele believes she, as the councillor in the area, needs to ensure that every member of the community, irrespective of the political party affiliation, benefit from development in her constituency.

5.3.3 Municipal Incorporation and Rates

The question as to whether the incorporation of tribal areas into municipalities has negatively or positively impacted on traditional areas was a very interesting one. This was due to the fact that most of the respondents, while seeing the need for municipalities to bring about development in their areas, were hesitant in seeing their areas coming under the jurisdiction of municipalities. Some, like

Niki Moore (Natal Witness, 18/06/2002) saw the incorporation as a positive thing since it was one way of balancing development with that of urban areas. Niki Moore (Natal Witness, 18/06/2002) believes that “chiefs are usually the facilitators for development in rural areas”. Bongani Ka Mzolo (Natal Witness, 15/08/2003) is of the view that *amakhosi* have done a lot in developing the communities under them and for providing much needed leadership. The capacity of municipalities in service delivery is incomparable to that of traditional leaders. One issue that was highlighted was the bureaucracy in the institution of traditional leadership, where it takes time for certain decisions to be taken.

People believe that they now have water, electricity, and other basic services provided because of the restructuring that has taken place. “People were drinking water with cattle in springs” (councillor Cele, 06/07/2003). Historically, rural communities have obtained their water from rivers and boreholes. This resulted in the outbreak of diseases such as cholera, and previous regimes, including traditional leaders, did not build the necessary infrastructure for clean water and sanitation. People also believed that the representative that they had elected was more easily accessible to the communities than the chief is. This is useful since people can raise issues at any given time without having to follow a complicated process of consultation (Natal Witness, 05/06/2003).

Others, like Mpiyezintombi Mzimela (Chairperson of National House of Traditional Leaders, saw the incorporation of traditional areas as having negative effects on the community. They saw this as government strategy of taking away their powers. “Our powers and functions are being eroded. If we want to solve this problem we must amend the Constitution (Chief Mpiyezintombi Mzimela, Natal Witness, 24/07/2003)”. First and foremost, traditional leaders argued that they were not consulted on the issues of the incorporation of their areas. Also, they claimed that they were not given a thorough explanation as to why their areas had to be incorporated into municipalities. Traditional leaders saw this incorporation as undermining their powers and authority in their areas of jurisdictions (Natal Witness, 02/04/2003). However, the issue of the incorporation of traditional rural areas into municipalities was a lengthy process. Before the final proclamation of municipal boundaries, three drafts of municipal boundaries were published for public comments. This was a long process of

consultation where all stakeholders were given the opportunity to forward their proposals and comments on the draft boundaries.

While communities were happy with the provision of services, they were not entirely happy with the incorporation of traditional areas into broader municipal boundaries. There is a notion that once the municipal boundaries expand to incorporate rural areas, there is likelihood that rural people will have to pay rates and will not be allowed to bury their family members in their backyards. “Everything is free in rural areas and we are not paying for our land, it is our forefathers land” (interview, male respondent, 13/07/2003). The issue of rates goes hand-in-hand with the issue of service provision. It is the very same rates that the local government uses for services provision to communities. If there is no revenue received local government will not be able to provide sustainable services. However, rural people cannot be expected to pay high rates, if at all, because they do not get the same services as those in urban areas.

Yunus Carrim (Chairman of Provincial and Local Government portfolio committee in the National Parliament) was quoted saying that issues relating to rural local government and the incorporation of rural areas has been turned to be an election issue. According to Susan Segar (Natal Witness, 20/08/2003) the Coalition of Traditional Leaders fear that the government intends to incorporate traditional areas into urban areas so that the traditional communities could be burdened with urban tax to pay for municipalities that were heavily indebted. The argument of the Coalition of Traditional leaders is that many municipalities are still heavily indebted today. The main concern is the issue of title deeds in rural areas. There was a belief that once people have title deeds in rural areas, it means they had total control over land and would be liable to pay rates. The concern is that in the communal areas each household has a huge area for building and plantation of mealies.

The main point of contention on issues of traditional communities paying rates for their land is the Property Rates Bill. However, the Property Rates Bill does not prescribe that property rates must be levied in communal or traditional authorities areas (Natal Witness, 20/08/2003). At the same time the Property rates Bill does not automatically exclude traditional authorities’ areas for rates. It is the

municipalities who should decide whether it wants to apply property rates in traditional areas or not. Municipalities will have to develop rates policies which would clarify the issue of payment.

Traditional areas were divided into many segments within and between municipalities and this made it almost impossible for the chief to govern his/her areas. This division has created 'two worlds in one locality, in that there are some areas, which get more development projects than the other areas within the same area under one traditional leader. It is given that municipalities do not have the same capacity to deliver services. "My area from Incwadi around Bulwer has been taken away, together with Ekukhanyeni which belong to chief Hlongwane, to Kokstad and its very difficult to claim that the area still belong to me" (interview, Chief Zuma, 23/08/2003). The division of one traditional area between two municipalities has caused a lot of confusion amongst both traditional leaders and the communities as to where they belong. The main aim of the Local Government Structures Act (1998) is ensuring that the demarcation of Local Government boundaries does not fragment traditional communities in any way. The complication in chief Zuma's areas in Incwadi around Bulwer is that while this area belongs to the Zuma clan it is not physically connected to the rest of the areas falling within the clan. This is what can be called the pocket areas. A classic example of this is Nxamalala area in Vulindlela, which belong to the very same Zuma clan in Impendle (please refer to the maps). There is no way that this area in Vulindlela can be incorporated into one and the same local municipality with those Nxamalala areas in Vulindlela.

5.4 Relation between Traditional Leaders and Councillors

Traditional leaders are crucial for local level development because of their control over their subjects. The *de jure* establishment of elected local structures does not mean that they would replace the social control of traditional leaders. Rural people seem to have no problem supporting traditional leaders and elected leaders. The support for one does not automatically mean a decline in the support for the other (interview, male respondent, 13/07/2003). The majority of respondents believed that the two systems of social administration should complement each other. Councilor Zuma (13/07/2003) believed that it is much easier to deliver development to communities if there is support from the

traditional leaders. He was also of the view that the mutual understanding between traditional leaders and councillors has a possibility of bringing about more development and co-operation in their areas.

This calls for a clear division of tasks and functions where each of the two systems performs those tasks best suited to it. The Traditional Leadership and Governance Framework Act (Act 41 of 2003) in Section 5(1),(2)&(3) provides that there should be corporation and partnership between traditional councils and municipalities. This must be based on principles of mutual respect and recognition of the status and roles of the respective parties.

The primary function of elected local government is to provide services. While traditional leaders have not performed many functions normally associated with developmental local government, they do maintain certain functions, which are a potential source of conflict within local municipalities. One such function is the allocation of land. It is likely that decisions taken by local government that relate to land use could result in conflict with traditional leaders. More specifically, the lack of consultation on the part of local government precipitates conflict on issues relating to land use in rural areas (McIntosh, 1994).

Many traditional leaders are still waiting for the government to clarify their status in local government. Meanwhile, the working relationship between councillors and traditional leaders is strained. This is because traditional leaders of both Vulindlela under Msunduzi Municipality and Implendle under Impendle Local Municipality have not taken their 20% representation in local government as per the legislation. It emerged that most councillors both in Vulindlela and Impendle have introduced themselves to traditional leaders. "The Mayor of Msunduzi has visited a number of traditional areas and has presented an IDP process to them" (interview, male respondent, 16/06/2003). However, there is still a belief that traditional leaders have received an instruction from their "leadership" that they cannot part take in any municipality as per the 20 per cent proportion accorded by the Structures Act. This is due to the fact that they are still waiting for President Mbeki to respond to their demands (interview, Chief Zondi, 15/07/2003).

The most interesting thing about the current stance of traditional leaders is that the “leadership” they are referring to is not the King but rather Chief M.G. Buthelezi who is the leader of the IFP and who happens to be the chairperson of the KwaZulu-Natal House of Traditional leaders. It is very interesting that traditional leaders were supporting the position of a party political leader. It has been very clear during the research that the issue of traditional leadership has been turned into a political issue. This is because the Inkatha Freedom Party (IFP) has been advocating the view that government should pronounce clear powers and functions of traditional leaders without forwarding precise proposals. The IFP strategy has been that they need to consolidate rural support in order to win the elections. Most of the traditional leaders have been in the forefront in encouraging rural people to vote for the IFP.

It is a fact that traditional leaders need development projects in their areas. But as long as the government is headstrong and too stubborn to address their demands, “we (traditional leaders) will not participate in local government issues. We (traditional leaders) don't want to be seen as sell-outs (Natal Witness, 20 February 2002).” While traditional leaders are currently not involved in the planning and other development process of the municipalities, this is in most cases because of fear for their lives or not wanting to be seen as sell-outs. The late president of CONTRALESA, chief Mhlabunzima Maphumulo, who was assassinated in the late 1980s because he was believed to have been aligned to the ANC. Chief Nsikayezwe Zondi of the Zondi clan in Mpumalanga has publicly indicated that while “Amakhosi need development”, they “don't want to be seen as sell-outs” (Natal Witness, 20/02/2002). This is a clear indication of the pressure traditional leaders have on issues pertaining to their role in development. Traditional leaders of Vulindlela and Impendle have not taken their representation status as prescribed by the legislation. This is one clear indication of the manipulation of the institution by politicians. People have shown the support of the institution and the role they can play in development. However, non-participation by traditional leaders in the Councils activities is a blow to people's development.

The majority of respondents, about 80%, believed that the relationship is not good between traditional leaders and local councillors. This is because of the power struggle that seems to exist

between the two institutions. Traditional leaders see councillors as having more influence on the people than they do. Councillors relate very easily with the people and there is no long protocol that is followed to access them. This is due to the fact that “councillors have to go to the people to hear their views and needs”, while in the traditional leadership, communities need to go to the traditional leader to voice their concerns or needs (interview, councillor Cele, 06/07/2003). In the traditional institution a person needs to start from the traditional councillor, if the traditional councillor fails to deal with the matter it is taken to the local *Induna*. If the *Induna* fails to deal with the matter, then it will go to the chief where the whole traditional council will deal with the matter. Some of the traditional councils sit once monthly, and as a result this process frustrates most of the people on urgent issues that need immediate attention (interview, councillor Cele, 06/07/2003).

One issue critical in the relationship between traditional leaders and local government councillors is that of strategy and tactics used to engage each other. Some councillors believe that this depended on each councillor’s understanding of politics and strategies with regard to their work as development agents. Councillor Cele (interview, 06/07/2003) believes that “if you fail to convince the chief on the way you are working, it is the beginning of the failure of development and the collapse of the opportunity of building a strong relationship with traditional institutions”. Councillor Zuma (interview, 13/07/2003) shares the very sentiments since he believes that it is “through working closely and respecting *amakhosi*” that it is easier to work in traditional areas. “You have to report each and every move, including the introduction during public meetings (protocol), in order to be able to work well in traditional areas” (Councillor Zuma, interview, 13/07/2003).

The issue of clash and overlap of roles of traditional leaders and councillors is very difficult to deal with since traditional leaders are still waiting for the response to their demands. Although traditional leaders are taken as a form of local government in rural areas, they do not have capacity to become service providers, they do not have money and they rely on government (interview, male respondent, 12/07/2003). It is believed that any attempt to turn traditional leaders into service providers will probably fail and undermine the support for the institution. This is because traditional leaders do not have both human and financial resources necessary to deliver services. There is a huge overlap

between the role of traditional leaders and that of councillors. Councillors provide development projects and traditional leaders provide the space for development activities. The Ingoyama Trust Act is still the key to development since traditional leaders decide which land can be used.

The clash of the roles of traditional leaders and councillors was mostly caused by the lack of proper consultation and communication between the two institutions. Whatever development activity councillors are planning they need to involve traditional leaders because of their control over the land. There is no structure that can be built in traditional areas without the knowledge of traditional leaders (interview, Mr. Khuzwayo: KZN Director of Traditional Affairs & Local government, 06/06/2003).

Traditional leaders have claimed that councillors just come with unknown contractors to work in the area. This is one source of conflict. Conventionally, every person coming into the area under the jurisdiction of traditional leader needs to be identified. Traditional leaders have argued that they are the guardians of rural people and as such should ensure the welfare of their community. This can include the provision of job opportunities. Development projects are one major source of employment for rural people and, as such, if councillors come with external contractors they minimise the opportunity for local contractors to benefit from the project.

ANC councillors from both Impendle and Vulindlela areas have not been treated very well by some traditional leaders. "When we wanted to hold community meetings in our areas of jurisdiction as councillors, we are sometimes not allowed" (councillor Zuma, 13/07/2003). Councillors are sometimes the ones to be blamed for this since in some instances they do not respect traditional leaders by not following relevant protocol channels. Traditional leaders have authority in their areas to permit community meetings to take place, thereby ensuring that development initiatives in their area are in their eyes and the eyes of other forces acceptable and gets political blessing. This is, to a certain extent, problematic since development is for the people and needs no political blessings. However, lacking the endorsement of the local leadership, project implementation would be dubious, and sustainability almost certainly a failure. Sometimes councillors would want to hold a meeting in

a tribal court and only to find that there are traditional activities taking place. One problem that can be highlighted here is the lack of communication between the two structures. "Some of the councillors come here with their party political agendas. Their coming into this area is motivated more by political agendas than development" (interview, Chief Zuma, 23/08/2003).

Traditional leaders have been arguing that they are very important agents for a quick delivery of development to the poorest of the poor in rural communities. The delivery of the basic services to the poorest of the poor will be impeded because this is where traditional leaders can help in the implementation of government programmes (Sunday Tribune, 28/10/2001; 4). There has been confusion as to who has delivered community projects, traditional leaders or local government councillors. Vulindlela and Impendle have three multi-million poultry projects and many other small poultry projects that have been implemented. There are a number of community gardens and poultry projects that are in operation, which are part of the District Municipality's strategy to eradicate poverty in rural communities. There are many community halls and sports centres that have been built. Many access roads have been upgraded and constructed and a number of main roads have been tarred. Both councillors and traditional leaders have been very instrumental in these activities (interview, female respondent, 16/06/2003). The television discussion (SABC 1, 11/12/03) by Chief Zondi of Mpumuza and councillor Thobani Zuma who are members of Rural Road Transport Forum in Vulindlela emphasised this point. The discussion revealed that traditional leaders and councillors in Vulindlela are busy with the service delivery for the people of the area. A number of rural road infrastructure has been put in place by the Rural Road Transport Forum as part of Department of Transport's programme. Various sectors, for example youth, traditional leaders, professionals, etc., are represented in the Rural Road Transport Forums.

It also emerged that while Chief Zondi is IFP aligned and councillor Zuma ANC aligned, the working relationship in the Vulindlela Transport Forum is good. Chief Zuma of Nxamalala in Impendle (23/08/03) revealed that communities are using traditional facilities, like traditional court, for meetings and other development related functions. Traditional facilities are also used for church services, choir meetings, youth gospel practices and other activities.

The current relationship between traditional leaders and councillors is summarised in Table 5.3

Table 4: Relationship between traditional leaders and councillors

| COUNCILORS | TRADITIONAL LEADERS |
|--|--|
| Lobbies for service delivery | Symbol of cultural unity |
| Provides basic services like water, health care, sanitation, etc. | Ensures that basic services like water and sanitation are provided. |
| Elected every five years | Not elected but chieftaincy runs in the family. |
| Meet at least once a month to form municipal council | Meet bimonthly to form regional authority. |
| Operates through a ward system, with councillors as heads of wards | Operates through an extensive traditional system, with <i>izinduna</i> (headmen) as heads of wards |
| Receives nationally allocated equitable share and charges property tax | No sustainable revenue but receives ad hoc tribal levies |
| No land ownership rights | Land ownership rights. |

Adopted from Zungu (1996.....pp.....)

It is evident from table 5.3 that the powers and functions of traditional leaders and councillors are mutually dependent. For instance, it is in the general welfare of the traditional leader that all residents receive basic services by means of nationally collected revenue. The constitution, however, gives the local municipality the right to receive and disburse an equitable share for the benefit of all citizens of the country. The traditional leaders' role in this regard is not to provide services, but to ensure that services are provided. Their role is therefore to keep the local councillors checked through a performance management system. In this manner, functions of traditional leaders and local councillors are mutually reinforcing. This is precisely because each party needs the other for the general welfare of residents in their areas (Goodenough, 2002).

In the development process all communities have leaders, and as such communities need leaders and managers. Rural communities have traditional leaders and local government structures. Local government structures provide the need for local leaders to act as managers for development processes. There are differences and similarities in the contribution of both traditional leaders and councillors, and therefore an overlap in functions. The differences and similarities should not be viewed as all resulting in a conflict of interest and a clash of responsibilities. It is when a leader, be it traditional or elected, tries to lay claim to being the only person or institution responsible for the delivery of development, that conflict is created. It happens when clearly defined roles and responsibilities are absent. The Constitution of South Africa is clear about the role of both traditional leadership and local government and therefore there should be no conflict. It is worth noting that development is an inclusive process that requires the involvement of all community leaders and representatives, including traditional leaders. This means that traditional leaders and local councillors should not be in competition with each other. The conflict is as result of intolerance, misperception that the power of one group exceeds that of the other, as well as the lack of understanding of how to democratically achieve sustainable development within the framework and spirit of the constitution (De Waal, 1997).

5.5 Representativity

Most of the respondents believed that traditional leaders are representative of their communities. This is because people believe that traditional leaders have been there for a long time and they have been representing people for most of the time. "Local councillors are elected by the people but that does not mean that they replace traditional leaders" (interview, male respondent, 10/07/2003). These two leaders are viewed by communities as having different representative status. Traditional leaders are seen as representing people in tribal or cultural affairs while councillors are seen as reflecting views of local people in formal government structures. Neither form of representation is perceived as superior or inferior- they are accorded equal status (Interview, Mr. Khuzwayo, 06/06/2003).

However, there have been complaints about the process of electing councillors into local government positions. This is because election into a local government position is a political process. Most of the councillors are elected on a political basis, although there are those who serve as independents. If the political party nominates a candidate for a councillor position only members are allowed to participate in that selection process. This means that even the person who is not the 'best candidate according to people' can be elected as long as s/he is accepted in the organisation s/he is representing. Hence, there are people who do not know the elected councillor and believe that it is therefore difficult to hold him/her accountable for their actions and omissions.

The role of traditional leaders in local government can be understood in relation to two aspects: representative and administrative. In a constitutional democracy like contemporary South Africa it is difficult to justify why some citizens should not enjoy the full democratic right that was at the heart of the broader struggle against apartheid, and should be governed by traditional leaders, whose leadership is not democratically entrenched. Some traditional leaders argue that they should constitute the first tier of local government. Democratic local government is not always close to the people. Chief Zuma of Nxamalala in Impendle argued that "we have two councillors here, one is ward councillor and the other is the party representative, they come from two different organizations—one from IFP and the other from ANC. Instead of going to the councillors they voted for, people always come to our court to report problems and ask for assistance. This applies even to development related issues. Currently I am working with Eskom as I have asked them to provide electricity to Panekuku (one of sub-areas). Councillors will be claiming to have brought electricity to my community" (interview, Chief Zuma, 23/08/2003).

Thus notwithstanding the formal representativity and accountability of democratic local government, it is an imperfect system. Many traditional leaders function, and represent a known system of leadership, in precisely the spaces where these types of weakness are most manifest, particularly in under resourced, poor, marginalized and rural communities. The interview with chief Zondi of Nadi (15/07/03) showed that the traditional leadership has been involved in the provisioning of services in their areas: "we have served from time immemorial as the guardians and custodians of our people's

land and freedom". It has been clear that traditional leaders "have been very instrumental in the combating of water related diseases like cholera and diarrhea" though organizing "special government interventions and community awareness" (Focus Group, 13/09/2003) The interview also revealed that while there are local government councillors, traditional leaders are also constantly in touch with services providers like town engineers to service the roads, etc.

One limitation of the representativity of traditional leaders is their involvement in party politics. According to a community member, traditional leaders ought to represent everyone. However, there are many traditional leaders who are in politics and not representing all their communities, especially those that do not belong to the same political organization (interview, male respondent, 18/06/2003). It was highlighted that it becomes extremely difficult to go to traditional leaders aligned to party politics for help, for example, reporting any misconduct, since there will be a fear that cases cannot be handled in an objective manner. Political parties trying to achieve their goals have used traditional leaders and this is where the conflict arises. Four of the traditional leaders in the Vulundlela area have been used by Ntombela, IFP KZN Member of Provincial Legislature and IFP leader in the Natal Midlands, to make it a point they galvanize support from this area (interview, Councillor Ndlela, 04/09/2003).

The problem with local government and traditional institutions is that both have political agendas which influence the delivery of services to people. There has been a tendency to politicize all the activities relating to development. This is evident by the fact that traditional leaders are currently not active in local government within uMgungundlovu District Municipality since they were given political instruction by the leadership of the IFP to withdraw. On one side, local government councillors want to always claim credit for any development project brought into the community. This happens even if they were not directly involved. This is precisely because delivery can guarantee their re-election to office for the next term. On the other hand, traditional leaders also want to be seen as contributing to development. They believed that some councillors were credited for projects initiated by traditional leaders.

The most popular view amongst respondents was that elected representatives were preferred to those in leadership through hereditary titles. The reason for this was that people had a choice to elect representatives that they believed could respond to their needs. Also, such representatives can lose their positions at the end of term if they did not deliver. A traditional leader is a leader for life, whether he does something wrong or not, and whether you like him or not, he will remain in leadership position (interview, male respondent, 10/07/2003).

There is an opposing view to this which argues that although elected office bearers seem to represent people who elected them, they are not always representative. Sometimes these elected representatives push their personal agendas and do not take a mandate from the people they are supposed to represent. It was also argued that elections reflect a form of short-term representation. The chieftaincy is a long-term representative of the people. Councillors are just there for a few years, but traditional leaders have been there and will always be there (interview, female respondent, 18/06/2003).

However, it was also highlighted that democracy is not there to remove tradition. It has been argued that culture is not static and changes within dynamic environments. Therefore, having a democratically elected person does not necessarily mean that it will be better than the traditional representative. The argument can also be extended by the fact that most of the elected representatives come from political parties. Chief Zondi of Inadi clan argued that “the elected representative is not for people but rather for organizations” (15/07/2003). Political parties put forward the names of people who will stand on their behalf to represent them in various areas of local government. The representation in local government is more politically structured.

There is a general agreement amongst respondents that a hybrid of both tradition and democracy can help in the development of rural areas in South Africa, under the control of traditional leaders. There are two opposing views on the main driving force of development in rural areas. On the one hand there is a belief that democracy will allow people on the ground to drive their development projects. On the other hand people believe that rural areas have been governed in a traditional way for a long

time and therefore development should follow the same path. There is, however, a consensus that a combination of both tradition and democracy will help rural areas develop. This is because a popular belief that one cannot do without the other in rural areas. The respect traditional leaders command in rural areas needs to be blended with democratic principles of people-centered strategies to ensure sustainability of development in rural areas (interview, Mr. Khuzwayo: KZN Director of Traditional Affairs & Local Government, 06/06/2003).

Traditional leaders have demanded that government clarifies their role in local government but they have failed to provide the nature of roles they want to play. Mr. Khuzwayo of KZN Department of Traditional Affairs believes that traditional leaders need to define the role they want to play. But the constitution has been clear that traditional leaders will serve as ex-officio members of the municipalities under which their areas fall (interview, 06/06/2003).

As far as traditional leaders' actual demands are concerned, there were contesting views amongst respondents. A portion of respondents believed that traditional leaders wanted to be given a more active role in development. They want their positions and places to be protected under the legislation. Traditional leaders want to be allocated a budget so that they can deliver services to their communities. However, the big question surrounds the issue of capacity. Traditional leaders do not have the capacity to manage any budget. Neither do they have infrastructure, human resources and any other related components which are necessary to facilitate development projects.

Others, like Mr Khuzwayo of the KZN Department of Traditional Affairs, believe that the whole issue is related to their demands to be self-governing. Traditional leaders are seen as wanting to be self governing (*Ozibuse*) and to do what they want at any time. While they are self-governing, they also want to be paid by government. The demands of traditional leaders can be traced to their fear that they have lost their status and dignity. Some, like councillor Cele of Impendle, are of the view that traditional leaders lost their dignity by getting involved in politics.

5.6 Government Legislation

The institution of traditional leadership is considered legitimate because it is culturally grounded in the day-to-day lives of rural communities. Today the system of law applicable in South Africa is supported by legal postulates that reflect different values inherited from different cultures. There is already a vehicle to bring chiefs into local government and this is evident by the fact that section 81 of the Municipal Structures Act 1998, provides for their participation in local authorities, but without a right to vote (Business Day, 16/07/2001;4).

In all communities interviewed and focus group discussions, intervention by government through legislation drafted by people, for example, white academics, who have no insight into traditional values and customs, is resented. "African researchers who understand African societies will need to do proper research on the institution of traditional leadership and make submissions to government for proper policy to be developed relating to the institution" (focus group, 13/09/2003) The general feeling of the communities was that the traditional leaders should be consulted in any process of law making. The Constitution of South Africa makes provisions for integrating the institution of traditional leadership in the structures of the democratic government so as to ensure that it is protected by law in the democratic order.

While respondents like Lindokuhle Phakathi (16/06/2003) do not see anything wrong with the government policies pertaining to traditional leadership, the incumbents are of the view that government is using various laws to undermine their position in the society. In particular, the demarcation process has affected their dignity by incorporating traditional areas into broader municipal areas. This was done despite their clear opposition to the whole process.

When asked about the possible solution to the current debate on traditional leaders, respondents have contrasting views on this issue. On the one hand, some respondents believed that there should be an agreement between traditional leadership and local government on service delivery. Here the two institutions will have to complement each other in the provision of services and development opportunities. This will also mean that traditional leaders will have to take their 20 % representation

in local government and contribute to service delivery in a very constructive manner. This means that traditional leaders will need to act in partnership with municipalities to contribute to, and create cooperative and supportive relationships in service delivery. They will have to mobilise rural people to participate in rural local governance (Ntsebenza, 2004).

On the other hand, there is a view that local government should leave traditional areas as they have been - controlled and governed by traditional leaders (*Ozibuse*). There is a fear that the government intends to eliminate traditional leaders. As such, one solution is for government to assure traditional leaders that the chieftaincy will always be there. But this view goes beyond the government assurance to traditional leaders. Some believe that traditional leaders should be given what they need: that of being left alone as they have been - remain Zulu and be self-governing – *Ozibuse* (interview, Chief Zuma, 23/08/2003). The key question is how traditional leaders can be given functions which are constitutionally assigned to local government without giving them access to necessary skills, resources and knowledge to perform those functions.

Concerning the participation of traditional leaders in the affairs of the country at large, Chapter 11, Section 183 and 184 of the Constitution of South Africa, 1993, provides for the creation of Provincial Houses of Traditional Leaders, and the Council of Traditional Authorities which will operate at national level. The Council and Provincial Houses should play an advisory role in government. The Provincial House should advise and make proposals to provincial government on matters relating to traditional leadership, indigenous law, tradition and custom. The Council of Traditional Leaders should do the same at national level.

The intention of such arrangements is to ensure that the Provincial House of Traditional Leaders and the Council of Traditional leaders are given constitutional authority to create a channel through which matters concerning their customs and traditions could be dealt with. The White Paper on Traditional Leadership and Institutions proposed that elected local government forms a partnership with traditional leaders in developing traditional areas: “Provincial legislation will have to be developed to provide for mechanisms that will ensure that traditional authorities work with

municipalities in a structured manner. These mechanisms must comply with the Constitution, which recognises municipalities as the legislative government at a local level” (Draft White paper on Traditional Leadership and Governance, 2002:16).

Local government policies, be they on demarcation, functions of municipalities or delegation of powers, have largely chosen to ignore any clear discussion about the role of traditional leadership. In many rural areas traditional leaders play significant roles within their community. This does not only apply to cultural symbolic rituals, but also to enabling development initiatives in their areas. Some traditional leaders, for example, Chief Zondi of Mpumuza (interview, 24/07/2003), have argued that they contribute to development by establishing, for example, trust funds to build schools. It will be recalled that traditional leaders are still respected by their communities. Therefore, to ignore these contributions or potential contributions to development seem to indicate a weakness in the local government legislation. This can also explain why tensions may arise between traditional leaders and local government councillors in rural areas under control of traditional leaders.

5.7 Traditional Leaders and Gender Issues

The issue of the inclusion of women in local government and in all other structures of government, traditional leadership included, has been raised not only in South Africa but also around the world. Women want to have a say in local government and how services such as refuse removal, water, sanitation and electricity are provided (Natal Witness, 17 September 1994). Women do not only want to be consulted, but also to be part of decision-making organs of all spheres of government. This is so precisely because when local government does not function properly, and when adequate services and houses are not provided, it is women who bear the pain.

Not only is traditional authority excluded from the electoral process, it is also fundamentally patriarchal and discriminatory against women who form an integral part of the rural population. Customary law is biased against women in its regulation of gender power relations. As such, in African customary law succession to status and property is premised on the idea of perpetuating the

family name. When a woman gets married, she acquires membership of her husband's family and is incapacitated from carrying forward her own family name (Mokgolo, 1994). This disqualifies women, by virtue of their gender, from inheritance and accession to traditional leadership.

The institution of traditional leadership remains essentially male dominated. Changes in customary law and the composition of traditional authorities have taken place. Progressive traditional leaders and their institutions have expressed the need to make the institution more gender sensitive. However, from the interviews it was evident that there are no women chiefs in our society, and Chief Zuma is only acting chief (Interview, women respondent, 18/06/2003). Even during the proceedings of traditional cases, women are not taken as persons who can represent people. Although the hereditary nature of traditional leadership is widely accepted, its exclusively male character is targeted as a feature that needs to change.

The institution of traditional leadership is considered commonly to exclude women from decision-making positions and to limit their participation at traditional gatherings. It, however, needs to be noted that inequality has more to do with rituals of power that reinforce subservience rather than being treated differently, particularly where women themselves claim to have chosen the role they perform.

Notwithstanding the prejudice against them, women have been very instrumental in the governing of traditional councils. Goodenough (2002, p131) quoted former radio broadcaster Dr. Thokozani Nene (interview, 8/10/2001) to suggest that traditional leadership does depend on gender:

“...because, gentlemen, let us be honest, in most cases we discuss issues and then consult our wives, then they give us advice as to how we should have approached the issues. In the following meeting, you find guys very constructive. All the ideas come from their wives”.

In some cases men stand up and talk in meetings not as individuals, but on behalf of their wives as they have caucused before coming to the meeting.

Leadership in the institution of traditional leadership is hereditary down the dominant male line. It has been mentioned early in this chapter that it is only *uNdlunkulu* who gives birth to a boy that can become a chief after his father. If *uNdlunkulu* does not give birth to a baby boy, a daughter cannot become a chief. The conclusion that can be made here is that women cannot become chiefs but they can act on somebody's behalf. The latter (acting) is a more recent development. After his demise, the brother of the late chief (*uKhothamile*) takes control of the chieftaincy. "My husband (the late Chief Zuma) was not from the supreme house of Chief Mconjwane, but since the supreme wife of the chief (*uNdlunkulu*) did not give birth to a boy, the late chief (*uKhothamile*) has to be taken from the small house and be traditionally co-opted to the supreme house to become a chief" (interview, Chief Zuma, 23/08/2003). This shows how patriarchal the Zuma clan was against women since there were girls from the supreme house of late chief Mconjwane, who were born by *uNdlunkulu*, but could not become chiefs because of their gender. Succession within the institution of traditional leadership is a critical issue, especially whether daughters of traditional leaders should succeed their father. This is a highly contested issue amongst traditionalists since it is not clear as to what would happen to the family name if the daughter who had been appointed as a traditional leader gets married.

Noting the above, Zungu (1996) argues that the patriarchal system was not universal in the institution of traditional leadership. However, she believes that if traditional leadership is left as it is, the existing patriarchal system will be entrenched. Within the Zulu kingdom, Princess Mkabayi kaJama (King Shaka's aunt) ran the Zulu state for some time. In the 1990s, women have been appointed to positions of traditional leadership and played a prominent part in tribal development committees (Zungu, 1996).

Number of women have been appointed to be traditional leaders and some *izinduna*, women have been very important and instrumental in the running of the tribal councils. Most secretaries to traditional leaders, who are paid by government, are women. Such positions are very important since the traditional secretary is an important point of contact for traditional leaders, *izinduna* and the communities. "Not even one of the traditional secretaries in Vulindlela and Impendle is a male"

(interview, Mr. Mbatha - Rural Development facilitator: KZN Department of Local Government and Traditional Affairs, 23/08/2003). He emphasised that in the areas that they were working, most of the people they worked and communicated with were women. The only instance they communicated with male workers in the traditional authorities was when they addressed issues relating to security within the traditional authority.

The question whether the institution of traditional leadership does not recognise women has been argued by Chief Phathekile Holomisa who is the President of the Congress of Traditional Leaders of South Africa (CONTRALESA). According to Holomisa (Natal Witness, 06/11/2004: 03) “in a summit held in December 2002 under the auspices of the CONTRALESA and Women for Change, the Southern African Development Community Council of Traditional Leaders was formed. Each state is represented on the executive committee by traditional leaders, one of whom must be a woman”. This shows how women are recognised by the institution of traditional leadership.

One of the remarkable changes that have taken place in the institution of traditional leaders is the position of women. Women can now raise issues within the institution of traditional leadership without any fear of being undermined or their suggestions being disregarded. Even commoners are now recognized in the institution of traditional leadership (Mr. Khuzwayo, Director of KZN Department of Traditional Affairs and Local Government, 06/06/2003).

The willingness and ability of traditional leadership to transform itself to fit in with the changes in the socio-cultural and political environment should not be underestimated. “It cannot be accepted that traditional leaders are by definition opposed to promoting gender equality and respect for human rights” (interview, chief Zondi, 15/07/2003). This point was emphasized by chief Zuma of Nxamalala in Impendle (23/08/2003) when she highlighted that while she is acting as Inkosi on behalf of her son, she was respected and valued by her male colleagues (traditional leaders) and that she was treated as an equal. Even her male *izinduna* (headmen) accorded her the same respect as the late chief and other traditional leaders. This emphasizes the point that gender imbalances of traditional leadership should be redressed by the inclusion of women at all levels of traditional

authority, including the level of *izinduna* and traditional councilors.

5.8 Traditional Leaders and Party Politics

The institution of traditional leadership has had a strong relationship with political parties. The influence and importance of traditional leaders in mobilising rural communities cannot be underestimated. Political parties realise the importance of aligning themselves with traditional leaders in order to win the rural constituencies. Most traditional leaders in KwaZulu-Natal are known for their support of the Inkatha Freedom Party (IFP). While some members of the African National Congress (ANC) were at times of the view that there was no place for traditional leaders in the post-apartheid South Africa, this has somehow largely changed since the ANC appeared to recognise traditional leaders while at the same time trying to make them ineffective as a political tool of the IFP (Goodenough, 2002).

When asked about the involvement of traditional leaders in politics, respondents had different views on this topic. One view is that there is nothing wrong about traditional leaders being involved in politics, but once they became politicians, traditional leaders should suspend their status and appoint someone else to act on their behalf. As contained in the Bill of Rights, everybody has a right of association and traditional leaders can participate in politics (Constitution of South Africa, 1996). However, there is also a view that traditional leaders should be above politics and should represent everyone. This perspective argues that chiefs should be neutral as members of their community might belong to different political parties. If they were involved in politics, they lost their objectivity (Levin & Mkhabela, 1997). It was feared that a traditional leader who was involved in politics cannot make impartial decisions for the whole community. Furthermore, the active participation by traditional leaders in politics has made it difficult to draw a distinction between traditional leaders and the political party they belong into, since they perform these roles simultaneously. The active participation of traditional leaders in party politics results in some traditional leaders perpetrating violence by taking a particular party political line. This compromises the role of traditional leaders of being arbitrators in matters of conflict and maintainers of law and order and peace.

Another view is that those traditional leaders who are involved in politics are very progressive and are providing necessary leadership in their communities. This is because “for any development to take place there should be a political mind behind it” (Interview, male respondent, 16/06/2003). Development is a political issue and politicians are better positioned to provide their constituencies with resources for projects. Traditional leaders who are involved in politics are putting themselves in a good position, as they will understand government’s aim of service delivery. When traditional leaders stand for political office, it is where their recognition can be tested. A chief was more likely to be elected if his people still recognized him as a leader. The opposite will happen if the people no longer recognize him.

It was clear from the study that the current debate on traditional leadership hinders development in rural areas. While government can provide services, as part of its obligation, some traditional communities reject direct state interaction because it is seen as being driven by political agendas to eliminate traditional leaders’ positions in society. One respondent (interview, 16/06/2003) emphasized the point that the current debate affects delivery of services in rural areas by highlighting that Permit To Occupy (PTOs) are the only means of ownership of land and people do not have total ownership of the land. The ownership of land is one main factor which can determine the success of development projects. If traditional leaders decline to provide the PTO for the development site, development initiatives then proves to be fruitless. Even government subsidies cannot be used since permanent structures with total ownership are not applicable and people cannot sell property in rural areas.

5.9 Conclusion

It has been found that the institution of chieftaincy has considerable popular support in the rural areas. Chiefs are men of great importance in their communities. They are also executive leaders of their people and are perceived as symbols of tribal unity and guardians of the community and customs and culture. Dealing with the history and origins of the institution of traditional leaders has

been very crucial in identifying areas of tension between the democratic and hereditary institutions of governance in rural South Africa. The research has revealed that while the institution of traditional leadership is deeply rooted in the history of culture of African people, it has been heavily influenced and manipulated by colonial and apartheid governments. The extent of the effects of these forces is complicated in a manner that it is not even easy to draw clear conclusions on their legitimacy. This can be emphasized by the existence of two types of traditional leaders, viz real traditional leaders (*amakhosi oselwa*) as well as appointed traditional leaders (*iziphakanyiswa*). It is in this regard that there are a number of traditional leaders today who do not own or have any land they control.

One of the reasons for retaining the institution of traditional leadership is because it safeguards African value systems. Traditional leaders have played an all encompassing function in rural areas. The system of traditional leadership is firmly respected and cherished by rural communities. It has been clear that communities identify with the institution. Having a democratically elected leadership does not necessarily mean that traditional institutions should be abandoned. Democracy is about a government which is based on the will of the people, according to the wishes of the people and in the interest of the people. It was evident that although the hereditary nature of traditional leadership is widely accepted, its exclusively male character has to change.

It has been evident that while the legislation and policy have generated clear procedures and guidelines for local government functioning, the law has remained vague when it comes to the role of traditional leaders. It is also evident from the study that traditional leaders continue to exert considerable influence over areas and people under their jurisdiction. However, they are not sure about how to relate this to a political framework that remains obscure about their role.

CHAPTER SIX

EVALUATION AND CONCLUSION

6.1 Introduction

The winds of change that have swept across the African continent and, more particularly, the Southern African region have demanded that the public sector change its leadership and management style. Local government, affecting the quality of every citizen's life through service delivery, is at the cutting-edge of this change. South Africa and its neighbors are undergoing a process of fundamental political, economic and social restructuring. The decisive strategic and even paradigmatic shift in the governance of these countries has impacted very strongly on local government management and development in the region (Reddy, 1996).

Ever since the multiparty negotiations that preceded the enactment of the Interim Constitution in South Africa, much controversy has surrounded the institution of traditional leadership. In particular, there has been much disagreement as to what role chiefs should play in the new democratic dispensation (Pieterse, 1999). As mentioned above, in order for the institution of traditional leadership to be accorded a place of pride in the system of governance, and in order to harmonise it with the evolving democratic order, it is necessary that it be revived in the light of the new order. If this transformation process is to be successful, then there is a need to bridge constitutional and democratic values with the broad principles of traditionalism. The difficult question is to how to do this in a country like South Africa where traditional leadership has been drawn into party politics and has also been shaped and co-opted by colonial and apartheid governments, and traditional leaders are also paid government servants.

Discussion and debate about the role and future of traditional leaders in the 1990s is perhaps an indication of the strength and virility of the institution. Throughout the African subcontinent the

institutions of traditional leaders has managed to survive the quest for modernity and state control imposed on it by colonial and apartheid rulers (de Villiers, 1997).

This chapter provides an evaluation of the study. Recommendations pertaining to the role of traditional leaders in local government are also presented. A conclusion is made on the key findings of the study.

6.2 History of Chieftaincy

The history of traditional leaders is deeply rooted in the traditions and values of the African society. The study revealed that traditional leadership is a ceremonial position occupied by the individual, usually a boy born by *uNdlunkulu* who comes from the royal family and whose *ilobolo* is paid by the community. However, not every son of *uNdlunkulu* succeed his father to be chief, but only those that are “first born” even if there are older sisters, as long as they are the first baby boy of *uNdlunkulu*. This is in line with the first perspective of the invention of tradition which argues that chieftaincy existed, in most cases in Africa, prior to the arrival of the European rulers and missionaries (Rouveroy VAN Nieuwaal and van Dijk, 1999).

Traditional leaders’ authority is entrenched by birthright (*Sunday Tribune*, 20 October 2001:4). This means that in a true African context (of course this has now been heavily influenced by other factors including colonisation) only people born to *uNdlunkulu* could be chief. These are the original traditional leaders (*amakhosi oselwa*). The arrival of colonial rule had all sorts of ramifications in terms of internal divisions, alliances, bureaucratic arrangements, and above all, co-option of chiefs into a system of indirect rule (Rouveroy van Nieuwaal and van Dijk, 1999). Colonialism favoured the codification of one line of power in local society, which was then fortified against rival or more fluid forms of power brokering, ultimately creating an artificial tradition of hereditary power which seemed to resonate deeply with locally held cultural perceptions.

The group-based concepts, rather than the individual or broader social constellation, are the main basis of political and socioeconomic activity in Africa. For Chazan, Mortimer, Ravenhill and Rothchild (1988) the group-based concepts of African social structures have their roots in traditional forms of social organization. He believes that colonial administrations in most parts of the continent viewed coherent groups as desirable precisely because they facilitated control (Chazan, Mortimer, Ravenhill and Rothchild, 1988). Therefore, the existing social structures were encouraged and were simultaneously incorporated into the colonial structures.

While the origins of the chieftaincy seem deeply rooted in the history of traditional leadership, the study revealed that there is an element within the institution which is as a result of the manipulation of chieftaincy by colonial and apartheid governments. There are traditional leaders who were appointed by government. When the European settlers reached the shores of Africa, they encountered a multiplicity of rulers and institutions with which they had to come to terms. Chazan, Mortimer, Ravenhill and Rothchild (1988) believes that indigenous African structures and practices were frequently co-opted, manipulated, distorted, or at times even dismantled. Traditional structures, though often greatly altered or transformed, remain in most parts of the African continent.

Colonial governments used the system of promoting commoners to the ranks of chief as a form of patronage. This was supported by the enactment of the Black Administration Act (Act 38 of 1927), KwaZulu Amakhosi and Iziphakanyiswa Act (Act 9 of 1990) and other related laws. Through these Acts colonial and apartheid governments were given powers to recognize or appoint any person to be a traditional leader. Traditional leaders themselves also acquired the power to appoint a large number of councillors whom they manipulated (Mokgoro, 1994). This is in line with the second perspective in the invention of tradition in which colonial rulers did not hesitate to impose an African form of traditional rule. Here colonial administrators randomly selected individuals to serve as channels of communication with locals, and gradually started calling them chiefs (Rouveroy van Nieuwaal and van Dijk, 1999). In this instance tradition was truly a colonial and modernist invention. A classic example of this can be found in Zashuke clan in Hlanganani Regional Authority, where traditional leaders of Implele belong, as highlighted in chapter two. It is, however, imperative to always bear in

mind when discussing the issue of traditional institutions that they are typically African and have evolved through time in Africa. The institution of traditional leadership is not an institution that has been imposed on African societies by foreign elements, although it was manipulated by colonialism and other forces.

6.3 Overview of the Role of Traditional Leaders

The study revealed that traditional leaders have played an important developmental, administrative and political role in rural areas. The underlying premise of these roles is that they represent the ethnic units and are the closest authorities to the people. Historically, a traditional leader constituted an embodiment of all leadership functions of his community. They also have a judicial role where they act as interpreters of customary laws and practices. As is the case in the Vulindlela and Impendle areas, where there are traditional leaders, you will always find respect.

The study looked at various African experiences of roles and functions of traditional leaders. As an integral part of local government administration in any African country, the institution of traditional leadership has by far been the best representation of grassroots government in rural communities. An important element in African political behaviour has been the institutional checks on the power of traditional leaders. The underlying premise for the roles of traditional leaders is that they represent ethnic units and are the closest authorities to rural people. As a symbolic representative of the group's collective identity, the traditional leader is expected to preserve the group's heritage and ensure its transmission from generation to generation (Bekker, 1993).

The useful lessons from other African countries shows that traditional leaders are difficult to ignore in development and ignoring them puts development initiatives at risk. The majority of African countries have adopted a pragmatic approach to traditional institutions by recognizing their existence. An important element in development has been the personality and initiatives of individuals in a particular area, whether that person is a traditional leader or a councillor. These individuals are able to spearhead development through their connections with centers of influence

and power in various hierarchies from which they are able to access resources.

The study showed that traditional leadership authority has been hereditary and passed from generation to generation. However, it has been clear that the institution of traditional leadership has been shaped and influenced by many external forces. This is evident in the fact that when Natal became a British colony after annexation in 1843 tribal groups were confined to segregated communally owned reserves under the trusteeship of government, indirectly ruled by means of traditional tribal administrative machinery (Vosloo, 1974). The passing of the Bantu Authorities Act in 1951 and the Bantu Self-Governing Act in 1959 created independent states in line with the separate development theses. It is this kind of laws that extended the role of traditional leaders since they provided for the creation of Tribal Regional and Territorial Authorities which formed the centre of 'national states' which were given independence in the form of homelands and self-governing states (Amtaika, 1996).

Traditional leaders will need to perform governing functions arising from the hereditary system of succession while working with political councillors. It is imperative to also note that traditional leaders operate in a traditional environment where customs set standards of behaviour. But their operational environments will always influence the performance and execution of their functions. Tshikwatamba (1996) believes that traditional leaders should be exposed as much as possible to the effects of different environments. Traditional leaders need to be aware of local circumstances both socially, politically, economically and otherwise in order to play a more informed role.

While traditional leaders can contribute much, it is essential that they are not regarded as responsible for providing local government services. In the past, where they were often given this responsibility without the resources to implement them, their authority was undermined. Traditional leaders had to ensure enforcement of all laws, order, institutions or requirements of government relating to the administration within their area. Traditional leaders also have a very important role of mobilizing their communities for development. This is due to the fact that they are respected leaders in their communities. Land allocation is of crucial importance to traditional leaders precisely because it has

remained one of the few de facto powers and source of influence available to them.

While working with political councillors, traditional leaders will be expected to share the expertise on the allocation, distribution and administration of communal land with local politicians. This will result in a dependent partnership relationship between the traditional leaders and elected councillors.

6.4 Traditional Leaders and Development

Traditional authorities are social leaders rather than operating actual government institutions. Their primary function is to regulate and control relationships and social behavior within a traditional community. Traditional leaders have been the only representatives at local level in many rural areas in South Africa. As a result social cohesion, stability and development in rural areas have largely depended on these leaders.

Traditional leaders have an important role to play in development and the provision of services at local level. During the colonial and apartheid eras, traditional leaders have effectively performed many of the functions normally carried out by local government in areas such as schooling, basic healthcare, land-use and allocation. They have been very useful in assuring the mobilization of local resources and articulation of local needs and priorities.

This is in line with the traditionalist approach which is one school of thought that has emerged out of the debate on traditional leadership discussed in chapter two. This approach believes that the institution of traditional leaders is at heart of rural governance, political stability, successful policy implementation, and hence, rural development. This approach emphasizes that the institution of chieftaincy in Southern Africa is an integral part of the rural African community (Botha, 1994).

The study showed that traditional leaders have neither the expertise nor the administrative infrastructure or capacity to contribute to the implementation of development programmes. It, however, revealed that it was imperative that traditional leaders be consulted and be involved, from

the planning stage, in the implementation of any development programme in their areas of jurisdiction. This means that traditional leaders should be involved in the compilation of the Integrated Development Plans of municipalities that serve them. While traditional leaders do not have any expertise in terms of delivering services, they are, however, respected by their communities and are very influential leaders on local issues. Through consultation, negotiation and discussion, a balance must be found between the traditional socio-economic role of traditional leaders, the needs of their communities, the objectives of government, the changing political environment with its demands for democratization and the aspiration and perceptions of traditional leaders themselves (Keulder, 1998).

It is worth mentioning that traditional leaders control more than 15 million hectares of land, and their areas are most underdeveloped, with little or no basic services like water, sources of energy and food, and have high population densities. The very notion of development in South Africa is intended for these areas which are controlled by traditional leaders. It is essential that development projects are initiated in consultation with traditional leaders from the onset, during the planning phases, before the actual implementation. Through this process a balance would need to be found between the traditional socio-economic role of traditional leaders, the needs of their communities, the changing political milieu with its demands for democratization and the aspirations and perceptions of chiefs themselves (Botha, 1994). It is therefore important to realize that the institution of traditional leadership forms part of the existing social institutions and has an impact on the lives and activities of the rural people.

Most of the traditional leaders have a capacity to influence their communities to behave in a particular manner. Working with traditional leaders will offer local government an opportunity to utilize the experiences of traditional leaders in executing development projects in rural areas. Local government councils and traditional leaders need to agree on their respective roles. While this would not have the benefit of full cooperation, the pursuit of complementary roles would permit development to proceed in certain rural areas. There is a need for local government to establish a working relationship with traditional leaders and civil society at large. This would result in local

government playing a leading role in driving development and would rely on traditional leaders for community involvement and proper implementation of projects. This would be a learning process where local government learns from traditional leaders and communities and vice versa. Furthermore, this would facilitate a high degree of flexibility in implementation rather than the imposition of a pre-planned framework. The study has shown that neither chiefs nor the state are going to disappear in the near future, but they do need to be transformed.

There is a need for the transformation of the institution of traditional leadership to meet the requirement of a modern, non-sexist and non-racial democracy in line with the modernist approach. This approach believes that chieftaincy needs to be transformed into an intermediary, administrative institution. This administrative chieftaincy should be transformed into what is called 'civil chieftaincy' which would be more just, responsive and responsible (Ray & Rouveroy, 1996). However, it is this kind of administrative chieftaincy that was used by colonial and apartheid governments who sought to import a more homogenous pattern of chieftaincy by using chiefs as part of the process of building the new colonial state (von Trotha, 1996). These are the kinds of things we need to guard against when we deal with the transformation of traditional leadership. To this end, eight principles have been suggested by the modernist approach in the evaluation of transforming chieftaincy.

First, the modernist approach argues that the state has to recognize *de facto* legal pluralism and to institutionalize the chiefs as an independent component of the legal system. While acknowledging that this may perpetuate the injustice of the local order, this approach suggests that local autonomy is preferred. The second principle is that of local autonomy. It is believed that local problems must be solved locally. The legal pluralism of state and local systems of dispute resolution must be recognized as leading to healthy legal competition that urbanization will not undermine. This is the third principle. Traditional leaders need not only be guardians of tradition but they must also be active agents of the present and future by promoting the well being of the community. Von Trotha (1996) believes that this is what can validate traditional leadership where they will have to deal with the requirements of modern economic, administrative and political challenges and tasks. This forms

the fourth and fifth principles of agency and competence, respectively (Ray & Rouveroy, 1996).

The sixth principle calls for chieftaincy to become a civil chieftaincy. Here the chieftaincy needs to become a forum where issues can be debated and resolved and local interests can be articulated. The chieftaincy will also serve as defender of local interests in discussions with other spheres of government. The seventh principle calls for the integration of the chieftaincy into constitutional structures of government. The last principle calls for the mechanisms which need to be developed to ensure that traditional leaders and other spheres of government are subject to the democratic practices of checks and balances. This will restrain the abuse of power by both the formal structures of local government and traditional leaders (Ray & Rouveroy, 1996).

The active participation of traditional leaders in local governance will facilitate development thereby ensuring poverty relief and improving the quality of life of rural people. Many poor families in rural areas have benefited from *uzibambele*, the government poverty alleviation project where poor women without husbands are coming together forming groups to maintain rural roads. Traditional leaders, being close to the people, are able to identify the poorest of the poor who need to benefit from such projects. This has been emphasized by the active participation of women the in Vulindlela and Implendle areas in the *ozibambele*.

The importance of traditional leadership in rural areas can also be emphasized by the fact that traditional leadership in their areas goes beyond the functions stipulated in Section 84 and 85 of the Structures Act of 1998, in helping their communities. Traditional leaders are able to deal with crime effectively in rural areas without the resources that the law enforcement agencies in urban areas have at their disposal. As such, it is generally accepted that the level of crime has always been low in rural areas. While traditional leaders have been very important in rural areas, it is worth noting that they have never been local government equivalents in the sense of being responsible for planning and delivery of infrastructure and services.

Despite political interference by some political parties on the institution of traditional leadership and

whatever demands they make, the South African legislation, the Constitution in particular, states clearly the role of traditional leaders. The Constitution is clear that the role of traditional leaders in the democratic dispensation would neither be that of local government nor that of service delivery. It, however, mentioned clearly that it would be limited to assisting in making decisions on the implementation of development projects in rural areas. This resulted in a situation of mutual dependence between traditional leaders and government. While traditional leaders depend on government to obtain economic and/or political favors to satisfy their subjects, government depends on traditional leaders for the implementation of its policies, as well as the flow of specific information about the local community over which the traditional leaders exert authority.

6.5 Relationship between Traditional Leaders and Councilors

Modernization has been a very slow process which has also affected the institution of traditional leadership. There has been a need for the institution of traditional leadership to undergo the changes that are directed by the prevailing circumstances. Masemola (1990:1) argues that “changes in human government from chiefs to kings, presidents and to mainly elective parliaments have been a slow process brought about by economic change”. The study has shown that traditional leadership in Africa has become what can be called syncretic leadership. Rouveroy van Nieuwaal (1999:22) argue that “syncretic leadership stimulates some form of neo-traditionalism”. This neo-traditionalism has its origin in the need of both the rural population and the government to dispose of a go-between. The requirement of syncretism is the ability of traditional leadership to constantly adapt to a changing environment. The ability of African traditional leadership to adapt in different political systems is important for the continued existence of this type of leadership. The syncretic nature of African traditional leadership allows the leadership to gain access to economic resources and socio-political and legal means, and also enables the leadership to mobilise a wide variety of resources and power instruments that may be in the interest of the people they represent. It is, therefore, widely acknowledged that in order to keep pace with a changing environment, institutions in Africa need to achieve an internal shift in mindset to keep pace with the transformation process (Rouveroy van Nieuwaal and van Dijk, 1999:22).

The study has also shown that colonial and apartheid governments believed that they could not do without local traditional leadership to govern rural areas. The main intention of colonial and apartheid governments was to use traditional leaders as a barrier to prevent the black working class from entering the political sphere and mounting an effective challenge to the white minority state (Myers, 1990). However, the existence and functioning of traditional leadership in the post-apartheid era without clear constitutional provisions has been a major concern for traditional leaders themselves and academics. Although the constitution made provision for the recognition of traditional authorities, there is no specification of what role they should play at local level. A major issue is the implication of having two types of local government structures running concurrently (Amtaika, 1996). Clearly, traditional leaders are not opposed in principle to strong rural local government structures, but they are concerned about the lack of clarity regarding their future role in these structures.

Constitutionally, traditional leaders are recognized and represented in local government on an ex-officio basis. The opposition of many traditional leaders to the establishment of strong local government systems is based more on feelings of insecurity than on the principled objection to strong, elected government. The envisaged service delivery role of local government includes the functions that the traditional leaders have been performing. These include provision of water, sanitation, and electricity. Traditional leaders have been influential on the lives of many rural people for many years. Traditional leaders in most instances have proved to be still influential on many rural subjects. The study showed that traditional leaders can still deny access to important resources for development, namely land for property development. Access to the communities is very crucial for sustainable development projects.

Although legislation has confirmed their ex-officio status on all councils, it is not clear what will really happen. This is due to the fact that we are almost four years into the local government term but there is no clear participation or indication of the participation of traditional leaders in local government. The study has shown that traditional leaders within the uMgungundlovu District

Municipality have not taken their 20% representation within the council. While the relationship between traditional leaders and local councillor is strained, both institutions are very much aware of the need for co-cooperative governance within the local sphere. This is evident from the fact that most councilors from Vulindlela have introduced themselves to traditional leaders. Traditional leaders have also been part of the briefing session of the uMgungundlovu District Municipality for the preparation of the Integrated Development Plan.

The Draft White Paper on Traditional Leadership and Governance (2002) outlines various policy positions that will pave the way for the drafting of national framework legislation relating to the institution of traditional leadership. It is, therefore, an encouraging sign on the part of government that there is movement towards stabilizing the uncertainty regarding the place and the role of traditional leaders in the present democratic dispensation.

It has been seen in early chapters, the manner in which African countries has dealt with the issue of traditional leaders. Some African countries, Botswana for example, went a step further to strengthen the institution of traditional leadership by recognizing it in the constitution. In Botswana the House of Chiefs was created at independence to be consulted before decisions on certain matters are concluded by Parliament. The importance of this is that traditional leaders are accorded an opportunity to air their views on matters affecting their communities. This also helps to bring some sobriety on such a controversial debate about traditional leadership.

The South African Constitution and the Local Government Municipal Structures Act provides for the integration of traditional leadership into the structures of local government. However, the political differences between the IFP and the ANC about the traditional leadership complicated the whole process. The year 1996 saw the IFP and the ANC resolving their differences so as to pave the way for local government elections to take place in KwaZulu-Natal. There was, however, no proper solution reached concerning the position of traditional leaders, particularly in the structures of democratically elected local government (Amtaika, 1996).

While this placed traditional leaders in an awkward position, one major problem is that traditional leaders themselves have failed to come up with better proposals regarding their plight. One reason that can be highlighted is that it is because some traditional leaders are aligned with the ANC and some with the IFP. Unresolved issues such as who should pay traditional leaders, and the specific role that they will play in local government, have retarded the implementation of development programmes.

6.6 Traditional versus Democratically Elected Leaders

The research revealed that traditional leaders are very important in mobilizing their subjects in development planning and implementation. They, however, do not have sufficient capacity to become service providers themselves. Their role in various community development sectors, for example, in the Rural Road Transport Forum as is the case in Vulindlela and Impendle, have proved to be very fruitful in most instances. The powers and functions of traditional leaders and councillors are mutually dependent. For instance, it is in the general interest of the traditional leader that all residents receive basic services by means of nationally collected revenue. The constitution, however, gives the local municipality the right to receive and disburse an equitable share for the benefit of all citizens of the country. The traditional leaders' role in this regard is not that of service provider, but to ensure that services are provided. Their role is therefore to keep the local councillors checked through a performance management system. In this manner, functions of traditional leaders and local councillors are mutually reinforcing. This is precisely because each party needs the other for the general welfare of residents in their areas (Goodenough, 2002).

The relationship that exists at times between the institutions of traditional leaders can be interpreted in a number of ways. This goes together with the issue of power where actors constantly strive to expand or stabilize their power. Government depends on traditional leaders for the implementation of its policies and the flow of specific information about the local community over which the traditional leaders exert authority. At the same time, traditional leaders have been dependant on government since colonial times for the recognition of its legitimacy as representatives of the people, as well as

for obtaining economic and/or political favours to satisfy their subjects. This situation of mutual dependence is at least as important as the competitive atmosphere between the two actors (Ray & Rouveroy, 1996). The main problem with this situation is that it entails the danger that one of them may use his/her indispensability to consolidate his/her position.

There are other problems associated with the issue of traditional leaders in the democratic South Africa. One of the main criticisms that can be levelled against the recognition of traditional leaders in South Africa's new democratic dispensation is that the institution does not operate in accordance with the principles of democracy. A traditional leader's position is hereditary and not elected (Mokgoro, 1994). The study shows that the transfer of power in traditional leadership appears to be an anachronism, since traditional institutions are structured on hereditary devolution of power (van Rouveroy, 1996). This means that in the institution of traditional leadership, chieftainship passes from father to son. However, not every son of the chief can take the chieftaincy. The only rightful heir is the eldest son of the chief's great wife (*uNdlunkulu*), the women for whom *lobola* cattle have been contributed by the members of the tribe (Schapera, 1966).

The study has shown that while traditional leadership governs according to tradition, it has been very consultative and democratic in the sense that, in each traditional council, there are senior members who are consulted before decisions are taken. This is mostly regarded as a form of African democracy by most rural communities. This is on the basis that the local areas or tribe is not "one person centered". While there are contesting views of the most preferred institution to deliver services, the study revealed that a hybrid of both tradition and democracy can help in the development of rural areas in South Africa. There are two opposing views on the main driving force of development areas. On the one hand there is a belief that democracy will allow people on the ground to drive their development projects. On the other hand people believe rural areas have been governed in a traditional way for a long time and therefore development should follow the same path.

About 97% of respondents have been living in Impendle and Vulindlela areas since they were born. The only kind of leadership or government closest to them has been the institution of traditional

leadership. It has served to solve family disputes, preserve traditional culture, and people have relied on it whenever there was a problem from time immemorial.

It has been argued in chapter two that the institution of traditional leaders is the basis of rural patriarchy (Keulder, 1998). Traditional leaders are generally male and only Africans can become traditional leaders, which is in direct conflict with the idea of a non-sexist and non-racial society. The study shows that while progressive traditional leaders and their institutions have expressed the need to make the institution more gender sensitive, there are no women chiefs in our societies. In instances where *uNdlunkulu* does not give birth to a baby boy, a daughter cannot become a chief. Even if the chief passes away, the wife can only act on the behalf of her son until the son is grown up. The latter (acting) is however a more recent development. After his demise, the brother of the late chief takes control of the chieftaincy.

In the African continent the issue of African Renaissance is the talk of the day. People have now realised the importance of preserving their cultures and customs and to look for ways of improving their situations. People still believe that traditional leadership is an important element of their culture and therefore, should be preserved. The institution of traditional leaders should be accommodated in the new South Africa. Failure to understand and accommodate traditional culture and practices could precipitate a major crisis and impact on the development processes. The institution of traditional leadership has essential political, social and economic structures and they symbolise and maintain social-political order, which are necessary for rural development.

Whilst acknowledging that under certain conditions, traditional leadership might well have been consultative and representative, in the current South African context they cannot, however, take the place of elected, representative primary local government. It is, however, important to note that this does not necessarily mean that efforts to democratise traditional leadership should be abandoned, but only that such efforts should not be assumed to replace democratic local government.

6.7 Recommendations

- i. Development must be in a bottom-up approach and has the support of the local population. Traditional leaders can mobilize local support and participate in development plans, programmes and projects for development.
- ii. Traditional leaders and authorities should play an active role in rural development by mobilizing traditional support for any development activities under their areas of jurisdictions. Development is more likely to succeed if it gets the blessing and co-operation of traditional leaders.
- iii. Traditional leaders should not be nominated members of the councils. Their participation in the legislative arm of government should be devised along the lines currently envisaged by Section 183 and 184 of the Constitution of South Africa, that is, it should be of an advisory nature.
- iv. Role classification with regards to elected councillors and traditional leaders needs to be finalized in order to avoid wastage through duplication and resultant conflict.
- v. Traditional leaders should continue to exercise limited civil and criminal jurisdiction. They should have unlimited powers of mediation but their judgment should be subject to review by a higher legal authority.
- vi. If the traditional leader assumes a party political role, they should appoint substitutes to handle their traditional role so as to avoid conflict of interest. The involvement of traditional leaders in politics may result in the division of their communities.
- vii. Training should be given to traditional leaders with regard to possible influence of fundamental rights on customary law. Capacity building programmes for traditional leaders to enhance their leadership and management skills are needed.
- viii. The inclusion of women and youth in traditional governance structures should be encouraged in order to lend credibility to the institution of traditional leadership. This would also inject the future traditional structures with an element of representativity and aid the development of successful rural local government.

It is clear from the above discussion that the role of traditional leaders at all levels of government needs to be re-evaluated. Traditional leaders need to be capacitated so that they can participate meaningfully in development processes in South Africa.

6.8 CONCLUSION

From the literature review of African countries and from the research, it has been evident that in instances where traditional leadership was abolished by government, the desired effect was not achieved. South Africa could learn a lesson from the manner in which other African countries have tried to work out a synthesis between tradition and modernity. The South African Constitution has provided that there should be a component of traditional leaders in all tiers of government, national, provincial and local levels. An important element of the role of traditional leaders is the right to discuss, propose, and the opportunity to review legislation that directly affects their tribal communities.

Discussion of the history of traditional leadership indicates clearly that land and the developmental activity it sustains, is central to the authority, responsibilities, and status of traditional leaders. Land is one key aspect in any discussion about the role of traditional leaders in the post-apartheid era. As such, disputes over land and governance result in long delays in planning and implementation of development.

Traditional leadership is an executive structure of the people and as such should be democratically constituted. It should be subjected to the principles of transparency and accountability like any democratic structure. Therefore, the councillors, as democratically elected representatives, should consult with traditional leaders for any development activity, particularly pertaining to land. In this way an umbilical cord of trust between the institution of traditional leadership and councillors will be developed and maintained.

The hereditary nature of traditional leadership which makes the leadership more ascribed than earned, and since there are no performance standards against which traditional leaders can be judged,

means there is no real compulsion currently built into the system to turn this pattern around and ensure that traditional leaders are sufficiently knowledgeable on issues. Given the hereditary nature of traditional leadership, it is important to explore the potential to identify persons who are to be future traditional leaders and target them for appropriate education and training which is necessary for the institution of traditional leadership.

Another problem that can be cited with traditional leadership is that traditional leaders are generally male, succeeding on the basis of male primogeniture, which is in direct conflict with the idea of a non-sexist society. There is a need for the institution of traditional leadership to maintain its long-standing system of hereditary succession while democratizing its methods of operation. Sexist beliefs regarding the participation of women in traditional affairs should be abolished. Currently, women are marginalized and are not allowed to take part in decision-making processes even on issues that affect them. There is not even one female chief in the whole province of KwaZulu-Natal. There are only two acting traditional leaders who are women. This is one step forward since women were previously not allowed to participate in the affairs of the tribe at all, let alone to be acting chiefs.

There are certain aspects of indigenous laws which are in violation of human rights. However, it is important not to condemn all indigenous laws, customs and traditions simply because it has got features which contravene human rights and democracy. The institution of traditional leadership needs to be transformed to move with the times. Many traditional leaders, for example, chief Mlaba of Ximba clan, accept the role they have to play as part of the new order as well as the resulting challenges associated with the process of transformation.

For all the emphasis thus far on the tensions between democracy and traditionalism, it is important to recognize that an indispensable ingredient in a vibrant democratic culture is the right of people to uphold, express and be subject to values and institutions in which they believe. Chieftaincy both expresses and perpetuates such a system or culture which has value and meaning for many people of South Africa. It is important to recognise the fact that every custom and tradition was aimed at promoting the well-being of all the members of the various clans and tribes. South Africa has been

described as a rainbow nation that is characterised by the diversity of its cultures. It could therefore, be a contradiction to this conciliatory philosophy that a rich cultural heritage in the form of traditional leadership can be thrown overboard and substituted by alien practices and beliefs.

While the institution of traditional leadership is characterised by ethnicity, it does not mean that it cannot be incorporated into the structures of democratic government in the post-apartheid era in South Africa. As a concept, ethnicity is not in conflict with democracy. Ethnicity can nurture democracy since it can become a social identity that shapes people's behaviour through the way they interpret the world. The people's culture establishes the arts, beliefs, norms, standards and other practices and institutions which become the characteristics of the people.

Furthermore, there is a need to avoid any temptation which seeks to interpret traditional leadership as a threat to democracy. In the spirit of co-operative governance, traditional leadership must be accepted as those institutions which support democracy. The culture of doing things in terms of traditions and according to democratic principles must be supported. Development at local level must be guided by a cultural ethos in line with the African Renaissance.

What remains unanswered is the question as to what is the most satisfactory solution to the problem facing the institution of traditional leadership in a rapidly modernizing state. The African historical experience and the research have shown the complexity of the issue of traditional leadership. Bearing in mind that the issue of traditional leadership is intertwined with the issues of party politics, the main line of argument here would not entirely satisfy traditional leaders. This is due to the fact that some political parties, the IFP in particular, have been encouraging traditional leaders to resist change. They have been threatening traditional leaders that they will lose their powers if they respond to the new order. This is also evident by the fact that the IFP has been very clear since the demarcation started that traditional leaders should not allow their areas to be incorporated into the new demarcated municipal areas. There were even suggestions that traditional areas will be subjected to rates if they are incorporated to municipalities. As long as politicians continue to interfere with the affairs of traditional leadership, the institution will remain an unresolved problem in South Africa.

Chieftaincy in Africa has demonstrated a remarkable durability and resilience during the past century, defying all attempts to abolish it. It therefore, seems to be more realistic to change the political approach to the institution. A traditional leader is viewed as a unifying symbol and such a role, which is deeply entrenched in our societies, should be enhanced rather than shaken. Instead of treating chieftaincy in a discourse which treats it as incompatible with democratization, it is more appropriate to ask how the institution might become part of an institutional development. This development might build on social, cultural and political strength of modern chieftainship and give it direction, making chieftaincy part of the more general efforts to achieve a more just and responsive social, political and cultural order. This can result in an avoidance of dangers of political and administrative despotism which haunt the neo-patrimonial postcolonial state (Trotha, 1996).

Traditional leaders seem to mediate the past and the present by holding themselves out as guardians of tradition and at the same time striving to serve as an agency for a modern system. For the institution of traditional leadership to survive in the new political order it should not only be an intermediary between the past and the present, but should also be agents of the present and the future. Traditional leaders need to legitimize their role by advancing the well-being and betterment of their communities (Rouveroy van Nieuwaal and van Dijk, 1999:22).

The legitimacy and survival of the institution of traditional leaders will in future depend on the services which they provide, and their impact on the lives of those whose interests they claim to represent, and not so much on constitutional provisions. Finally, the development of a national community involves gaining local acceptance of national symbols and authority. The penetration of legitimacy to the smallest local unit is affected by the extent to which national values and goals are viewed as compatible with those of the local area.

While there is general agreement that the institution of traditional leadership needs to be preserved, there is a general feeling that it will need to be transformed to move with the times. It is difficult to understand as to what exactly the institution of traditional leadership needs to change except for its

male character. The institution of traditional leaders is considered commonly to exclude women from decision-making positions and to limit their participation at traditional gatherings. The research has shown that there is willingness on the part of traditional leadership to include women on its structures. Previously the brother of the chief would normally act on his brother's behalf should the chief pass away. We have now seen the late chief's wife acting on her son's behalf rather than the brother of the chief, acting. The acting of the brother of the late chief created problems when the late chief's son, who is the rightful owner of the chieftaincy, has to take over and the acting chief refuses or resists the hand over of the chieftaincy. A sensitive issue which creates a lot of debate is the role of women in traditional institutions and the issue of the succession of daughters of traditional leaders in place of the male line succession. One limiting factor is the issue of what would happen to the family name should the daughter who had been appointed *inkosi* then get married. This is critical since the chieftaincy belongs to the royal family rather than the individual within the family.

Traditional leaders perform several judicial and government functions such as presiding over customary tribunals, allocating land, settling land disputes and regulating law and order. When discussing the issue of land with traditional leaders the comment made is that the control of land is a primary responsibility of traditional leaders. Even in instances where traditional leaders are unable to perform a handful of other roles with which they are concerned, the allocation of land is a central responsibility that most traditional leaders are determined to keep. It is clear that traditional leaders do not regard access to land as just a mere property right, but regard it as a fundamental human right.

Finally, negotiations on the relevant issues should be based on the premise that successful rural local government depends on mutual respect and cooperation between local government and traditional leaders, as well as between provincial government and traditional leaders. Although the traditional leaders' power base and the traditional political and economic balances, and socio-economic character of their people, have changed over years, these leaders and their corresponding authorities have survived to the extent that they are still an essential part of the social fabric in many rural areas.

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Appendix 1

Question for interviews on the role of traditional leaders in rural local government.

Questions for Traditional leaders:

Name of Chief..... TA.....Date.....

1. Wena owakhula silibele, can you please define as to who or what is a traditional leader?

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2. Wena wezulu, can you give me a brief history of your chieftaincy?
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< How was this chieftaincy formed or created ?
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< for how long has your family chieftaincy been existing?
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.....
3. There is a notion that there are traditional leaders who do not have land and some were appointed by the government, what is your view on this?
.....
.....

.....
4. Since its formation and development, what have been the roles/tasks/duties- powers and functions -that chiefs have played in the governance of rural communities?
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5. Who decided that traditional leaders should perform those tasks?
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6. Your Majesty, can you please give me the hierarchical order of traditional leadership with respect to their roles and functions.
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7. During those times, were traditional leaders compensated or paid for their roles/tasks?
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< Who was paying, and how much?
.....
.....

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8. What are the current roles of traditional leaders?
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9. Has there been any changes taken place in the role of traditional leaders in post 1994 elections?

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< What are those changes?

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10. When looking at the current situation in South Africa, where there is transition and development, do you think traditional leaders have any role to play?

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< Can you please give me the nature of that role?

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11. What has been your the role in governing rural society during the local government transitional period–1995 to 1999/2000?

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12. The demarcation process has resulted in the incorporation of traditional areas into municipalities, has your area negatively or positively been affected in any way?

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.....
.....

13. Each and every area in South Africa, including your area, has one or more councilors. Can you please give me the nature of the relationship you have with the councilor/s in this area?

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14. Has there been any agreement on his/her roles and responsibilities in terms of service delivery?

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< Is there any overlap or clash of your roles with that of the councilor?

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< Is there any conflict that arises because of the overlap or clash of your roles?

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15. There is a view that a more representative person in a democratic South Africa is the one who is elected by the people, what is your view on this?
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16. In your opinion how should the rural local government operate? What should be the main driving force in rural development- democracy or tradition?
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17. Traditional leaders have demanded that government clarifies their role in local government, will you give me your views on this issue.
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< What has been traditional leaders' actual demand to government?
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.....

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18. There has been a strong opposition of the local government policies on the side of traditional leaders. Do you think these policies are used in any way to undermine traditional leaders position in the society? Please explain.
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19. What do you think can be done to solve the current debate of the role of traditional leaders in local government?
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.....
20. Please tell me what you know about human rights: how does it apply to your position?
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.....

< What do you understand by gender related issues concerning traditional leaders?
.....
.....

.....
21. What is your view on the modernized traditional leaders who are involved in politics?
.....
.....

22. Do you think the current debate and stance of traditional leaders on the role of traditional leaders in local government hinders development, in any way, to rural South Africa?

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23. Any other comments? Suggestions, etc?

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NDABEZITHA!!! WENA WEZULU!!!

Question for interviews on the role of traditional leaders in rural local government.

Questions for Councillors and community members

Name.....Position.....Date

1. Can you please give me your brief understanding of the history of chieftaincy?

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< How do you think the chieftaincy was formed or created ?

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.....
.....

2. There is a notion that there are traditional leaders who do not have land and some were appointed by the government, what is your view on this?

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21. Any other comments? Suggestions, etc?

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