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# The role of traditional leaders in post-apartheid local governance in South Africa: a case study of the Bapong 2 community, North West Province, South Africa

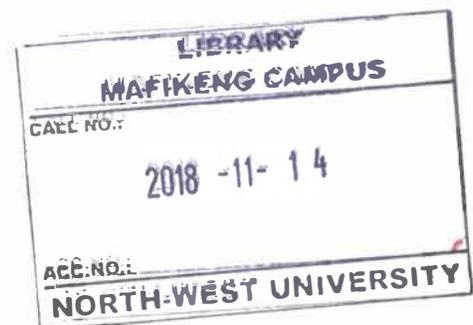


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Dissertation submitted in fulfilment of the requirements for the degree *Master of Indigenous Knowledge Systems* at the  
North-West University

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## **DECLARATION BY CANDIDATE**

I, MOTHUSIOTSILE EDWIN MADITSI, declare that the dissertation entitled “The role of traditional leaders in post-apartheid local governance in South Africa: a case study of the Bapong 2 Community, North West Province, hereby submitted in fulfilment of the requirements for the degree of Master of Indigenous Knowledge Systems at the North-West University, is my own work and has not previously been submitted for assessment to another university or for another qualification. I further declare that all the sources or materials used in the dissertation have been dully acknowledged and I accept full responsibility for any defects contained herein.

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- Above all, I thank the Almighty God, for guiding me throughout this journey.

This study would not have been possible without the contribution of the National Research Foundation (NRF) and the North-West University Master's Bursary.

## **DEDICATION**

This study is dedicated to all those who passed on during this journey. They include: Xolani Koki and Lekkie Mathikge.

## ABSTRACT

This study explores the role played by traditional leaders in post-apartheid local governance of South Africa. Due to South Africa's history, and the power that the apartheid regime instilled on traditional leaders, the country has a unique situation. This study is based on the premise that the customary system of traditional leaders is facing extinction and is not fully acknowledged by government. The overall aim of the study was to analyse the role of traditional leaders, understand and analyse the legislative framework surrounding the institution of traditional leadership at large.

The researcher contends that traditional leaders are one of Africa's long-standing heritage and that their system of governance is important to many rural communities around Africa as a whole and South Africa in particular. This is because there is a huge link between indigenous knowledge systems (IKS) and governance. IKS is crucial in terms of decision-making in rural communities, thus indigenous knowledge (IK) plays a significant role in justifying and legitimising the role of traditional leaders in local governance, especially in rural communities.

A study on traditional leaders is not new and to many, it is a sensitive one. A mixed methodological approach was used in conducting the study. In-depth interviews and the "*lekgotla*" method were used to collect data from respondents and participants. Secondary data was also obtained from books, journals and government documents and analysed to make sense of the data.

The study revealed that many people, especially those still residing in rural communities, have confidence in traditional leaders and still view their institution as relevant even in modern times. To many rural communities, these leaders are a source of support and development since they are exposed to the way of life of such communities and know what needs to be developed.

This study, if accessed, is expected to raise debates around the country as to how traditional leaders contribute in the country's economic and social development. Furthermore, issues of how traditional leaders could be fully incorporated in formal governance of local areas around South Africa are also highlighted in the study.

The study focused on the Bapong 2 Community of the North West Province. This community is mainly rural and has been led by traditional leaders from time immemorial.

**Keywords**

Indigenous knowledge; Indigenous knowledge systems; Tradition; Traditional leaders; Governance; Government; Constitution; Apartheid; Colonialism

## **LIST OF ABBREVIATIONS AND ACRONYMS**

ANC	: African National Congress
CA	: Constitutional Assembly
CONTRALESA	: Congress of Traditional Leaders of South Africa
DCATA	: Department of Culture, Arts and Traditional Affairs
DTA	: Department of Traditional Affairs
FGD	: Focus Group Discussion
IFP	: Inkatha Freedom Party
IK	: Indigenous Knowledge
IKS	: Indigenous Knowledge Systems
LED	: Local Economic Development
MEC	: Member of Executive Council
MKLM	: Moses Kotane Local Municipality
NGO	: Non Governmental Organisation
NWP	: North West Province
RDP	: Reconstruction and Development Programme
SDT	: Self Determination Theory
SES	: Socio-Economic Status
SPSS	: Statistical Package for the Social Sciences
SALGA	: South African Local Government Association
TCB	: Traditional Courts Bill

TLGFA : Traditional Leadership and Government Framework Act

UDF : United Democratic Front

## Table of contents

Solemn declaration by student and supervisor .....	i.
Acknowledgements.....	ii
Dedication.....	iii
Abstract.....	iv
List of abbreviations and acronyms .....	vi
CHAPTER ONE: INTRODUCTION.....	1
1.1 Background to the study.....	1
1.2 Problem statement and substantiation.....	4
1.2.1 The non-functional role of traditional leaders in the current local government system.	4
1.2.2. The negative impact of legislation and policies and their impact on traditional leaders	5
1.2.4. The undefined relationship between traditional leaders and local governance system.	5
1.3 Aim and objectives of the study.....	6
1.3.1 Aim of the study .....	6
1.3.2 Specific objectives of the study .....	6
1.4 Research questions .....	6
1.5 Relevance and significance of the study.....	6
1.6 Organisation of the study .....	7
1.7 Summary of chapter .....	7
CHAPTER TWO: LITERATURE REVIEW.....	8
2.1. Introduction .....	8
2.2. Definition of concepts .....	9
2.2.1. Tradition .....	9
2.2.2. Traditional leadership .....	9
2.2.3. Traditional leader.....	10
2.2.4. Apartheid .....	10
2.2.5. Governance.....	11
2.2.6. Democracy.....	12
2.2.7. Constitutionalism.....	12
2.2.8. Local government .....	13

2.3 Conceptual framework .....	13
2.4 Theoretical framework.....	14
2.5 Review of Literature.....	16
2.5.1 Academic authors.....	16
2.5.2 Statutory sources (Apartheid policies/legislation) .....	24
2.5.2.1 The Native Land Act 27 of 1913 .....	24
2.5.2.2 The Black Administration Act 38 of 1927 .....	25
2.5.2.3 The Bantu Authorities Act 68 of 1951 .....	25
2.5.2.4 The Bantu Self-government Act 3 of 1959 .....	26
2.5.2.5 The Bantu Homelands Citizens Act 26 of 1970.....	26
2.5.2.6 Bophuthatswana Traditional Authorities Act 23 of 1978 .....	26
2.6 Political activists (CONTRALESA) .....	27
2.7 Epistemological grounding.....	28
2.8 Summary of reviewed literature.....	28
2.9 Summary of chapter .....	29
CHAPTER THREE: RESEARCH METHODOLOGY .....	30
3.1 Introduction.....	30
3.2 Research design.....	30
3.3 Study area (particulars of location) and unit of analysis.....	31
3.4 Target population.....	32
3.5 Sampling procedure/strategies .....	32
3.6 Primary data collection procedures and instruments.....	33
3.7 Secondary sources of data .....	33
3.8 Data analysis and interpretation .....	34
3.9 Research methodology for the specific objectives.....	34
3.10 Ethical considerations .....	35
3.11 Validity and trustworthiness.....	35
3.12 Summary of chapter .....	36
CHAPTER FOUR: TRANSITION OF TRADITIONAL LEADERS FROM THE PRE- COLONIAL ERA TO THE NEW DEMOCRATIC SOUTH AFRICA .....	37

4.1 Introduction .....	37
4.2 Traditional leaders during the pre-colonial era in South Africa .....	37
4.3 Traditional leaders during the colonial era in South Africa .....	39
4.4 Traditional leaders in post-apartheid South Africa .....	41
4.4.1 Defining a traditional leader .....	42
4.4.2 Current roles of traditional leaders as a customary system .....	43
4.4.3 Responsibility and role of traditional leaders in local governance of rural communities .....	44
4.4.4 Perceptions of community members regarding traditional leaders as a customary system .....	46
4.4.5 The need for traditional leaders in contemporary times .....	46
4.4.6 Possibility of shared governance between local municipalities and traditional leaders	48
4.4.7 Do traditional leaders still have a meaningful role to play in local governance?.....	59
4.5 Summary of chapter .....	51
CHAPTER FIVE: THE IMPACT OF EXISTING LEGISLATION ON TRADITIONAL LEADERS .....	52
5.1 Introduction .....	52
5.2 The South African Constitution of 1996 .....	52
5.3 National House of Traditional Leaders Act 22 of 1999 .....	55
5.4 Municipal Structures Act 117 of 1998 .....	57
5.5 Traditional Leadership Governance and Framework (TLGF) Act 41 of 2003 .....	58
5.5.1 The purpose of the Act .....	59
5.6 The North West Traditional Leadership and Governance Act 2 of 2005 .....	60
5.7 The National House of Traditional Leaders Act 10 of 1997 .....	62
5.8 Summary of chapter .....	63
CHAPTER SIX: CHALLENGES AND PROSPECTS OF TRADITIONAL LEADERS IN LOCAL GOVERNANCE.....	64
6.1 Introduction .....	64
6.2 Shared governance for effective service delivery .....	65
6.3 Challenges faced by traditional leaders.....	67
6.4 Prospects of traditional leaders .....	69

6.5 Do legislation and policies undermine the position of Traditional Leader in society in any way? .....	70
6.6 Integration of traditional leaders into formal existing government structures .....	73
6.7 Summary of chapter .....	74
CHAPTER SEVEN: DISCUSSION, CONCLUSION AND RECOMMENDATIONS.....	76
7.1 Introduction .....	76
7.2 Discussion .....	76
7.2.1 Summary of chapters.....	76
7.2.2 Summary of findings.....	78
7.2.3 Limitations of the study .....	79
7.3 Conclusion.....	80
7.4 Recommendations .....	81
REFERENCES .....	84
ANNEXURE 1/BAPONG 2 PERMISSION LETTER .....	91
ANNEXURE 2/CONSENT FORM.....	92
ANNEXURE 3/IN-DEPTH INTERVIEW GUIDE 1.....	93
ANNEXTURE 4/IN-DEPTH INTERVIEW GUIDE 2.....	96
ANNEXURE 5/NORTH-WEST UNIVERSITY ETHICAL CLEARANCE CERTIFICATE.....	99
ANNEXTURE 6/EDITORS LETTER.....	100



## CHAPTER ONE

### INTRODUCTION

#### 1.1 Background to the study

For many centuries, the institution of traditional leadership was and is still a big part of the lives of many Africans in the sense that it is a form of governance found in traditional societies across the world. It is established by virtue of ancestry, and the person who occupies the throne, leads the ethnic community. Traditional leaders were and are still appointed in accordance with the customs and traditions of a particular area and are responsible for performing the cultural, customary and traditional functions of a chief (Weber, 2007:5).

The origin of traditional leadership could be traced to previous years, even before colonisation, and such leadership worked and still works for a lot of indigenous African communities. Up to today, traditional leaders are of great importance in South Africa, as a country, especially since most South Africans still live under customary law systems (Cele, 2011:5). Furthermore, as in other parts of Africa, colonialism and apartheid resulted in South Africa's traditional leaders being co-opted by the colonial powers to govern rural areas. From the 1950's, under the apartheid government, development of legislative and administrative structures in the Bantustans saw traditional leaders being used in cynical ways, which implicated chiefs deeply in the apartheid government (Cele, 2011:5).

As an institution, traditional leadership represents the early form of societal organisation and good governance, and embodies the preservation of culture, customs, traditions and values. However, the introduction of colonialism, and especially the apartheid era, legalised and institutionalised racial discrimination. As a result, the apartheid government created Bantustans based on the language and culture of a particular ethnic group, for example, Bophuthatswana was established as a cultural state under the leadership of Chief Lucas Mangope (Khunou, 2009:1).

Traditional leadership changed when the colonial administrators and rulers introduced tribal authorities, thus resulting in traditional leaders becoming agents of the colonial government. Even though traditional leaders such as *Sekhukhune, Dingane, Hintsa and Bambatha* resisted and

rejected colonialism and apartheid, most traditional leaders cooperated with the system. Colonial and apartheid structures ensured that the traditional leaders increasingly turned to government rather than their subjects for support (Donker and Murray, 1997:10).

A number of legislative measures to change the pre-colonial structures, the roles and powers of traditional leaders were successfully enacted by the colonial government. For example, the Black Administrative Act 38 of 1927 was enacted to give limited powers and roles to traditional leaders. This was achieved by making the Governor-General the overall controller of all traditional leaders of South Africa (Donker and Murray, 1997:11).

The Governor-General appointed chiefs, gave them powers and could fire them at his own will. For an example, traditional leaders were limited to only carrying out administrative tasks and advising the then formal government on the needs of the community. This meant that if the Governor-General was not satisfied with a traditional leader from a certain area, he could fire the traditional leader and hire another one who fulfilled the orders of the then apartheid government.

The undermining of traditional leaders by the apartheid regime and social rifts, led to the formation of the Congress of Traditional Leaders of South Africa (CONTRALESA). In 1975, Chief Buthelezi, a very prominent chief in Kwazulu, established the Inkatha National Cultural Liberation Movement. The establishment of the group was due to oppression the apartheid regime was enforcing upon traditional leaders (CONTRALESA, 2011).

According to its Constitution, the purpose of CONTRALESA was to:

- *Unite all traditional leaders in the country;*
- *Fight for the eradication of Bantustans system;*
- *School traditional leaders about the aims of the South African Liberation struggle and their role in it;*
- *Win back the land of our forefathers and share it among those who work in it in order to banish famine and hunger; and*
- *Fight for a unitary non-racial and democratic South Africa (Van Kessel and Oomen, 1997: 38).*

After the 1994 general elections, as an indication that the government was committed to accommodating the institution of traditional leadership and secure a role for traditional leaders in the affairs of their communities, the National Department of Traditional Affairs (DTA) was established. To legitimise the Department of Traditional Affairs, legislation was enacted to strengthen the system. The Council of Traditional Leaders Act of 1997, the House of Traditional Leaders, both provincial and national, and the Traditional Courts Bill, 2017, were enacted. Furthermore, the 1996 Constitution of South Africa (Chapter 12) acknowledges the institution of traditional leadership and its place in the democratic government.

A clear understanding of indigenous knowledge is important when dealing with traditional leaders and their role in governing local communities. According to Warren (1991:1), indigenous knowledge (IK) is one that is unique to any given society or culture. It is the basis for local level decision-making in any given area and within many disciplines of everyday life, such as agriculture. For the purposes of this study, Indigenous Knowledge Systems (IKS) is critical for enhancing the general understanding and application of IK in local governance by traditional leaders across Africa, generally, and within the Bapong 2 community of South Africa, in particular.

The above statement is vital to research undertaken nowadays, to the extent that traditional leaders are those who reside fully with people in local communities and understand what needs to be developed in order to advance their communities. Throughout the years, since the transition to democracy, several indigenous local communities have been plagued with a number of problems in areas of social and economic development in their respective areas. It could be argued that this is largely due to the unequal power relations and lack of involvement of traditional leaders. This, therefore, makes this study even more relevant in research carried out in contemporary times.

This study seeks to examine the operation of the institution of traditional leaders during pre-colonial, colonial post-colonial eras. A topic on traditional leadership in Africa, such as the current one, is not new, and to some writers, the topic is a very sensitive one, given the complexity of political, gender, human rights and age-related issues (Iya, 2013:3). Traditional leaders are recognised as such and have been characterised in many ways. These rulers occupy high political and social positions of leadership as acknowledged by their communities and enjoy

tremendous prestige, power, rights and privileges. Such leaders represent their communities in their relationship with outside groups (i.e. government departments and NGOs), thus making them the right people to govern rural communities and make sure that development is achieved (Iya, 2013:5). The brief historical background provided above, has an influence on this study as it provides an opportunity to review the current role and status of traditional leaders.

According to Iya (2013:3), acknowledging the role of Indigenous Knowledge Systems (IKS) is critical as it is a factor for socio-political and economic development of any society, especially in Africa, in general and South Africa, in particular. Thus, the link between IKS and traditional leadership could be better understood and appreciated by the fact that IK is the basis for decision-making processes and actions of local communities, whether from indigenous processes of governance or indigenous laws relating to issues of governance.

The Bapong 2 Community still adheres to the customary system of traditional leadership. They still consider this customary structure as relevant in contemporary times as they believe traditional leaders are the most relevant people to govern local communities.

Bapong 2 Community was selected for this study because it has been under the leadership of traditional leaders from time immemorial. The development in the area is a result of the working relationship between the traditional leader and various government departments. This, therefore, makes the Community relevant for this study.

## **1.2 Problem statement and substantiation**

Among the many problematic issues in the topic for discussion, the following are most current and critical:

### **1.2.1 The non-functional role of traditional leaders in the current local government system**

After the 1994 democratic elections in South Africa, traditional leaders have continued to be side-lined and marginalised by government officials. Government officials consider the customary law system as undemocratic and inferior in contemporary times. In the case of South Africa, traditional leadership, as a form of governance, has not received the much needed recognition and attention, apart from being acknowledged in the Constitution. This marginalisation of traditional leaders is due to the fact that the institution is considered as a patriarchal system. Such lack of meaningful practice and participation of traditional leaders in

local governance, naturally results in insufficient development of local indigenous communities of South Africa. Such lack of meaningful practice of traditional leaders in local governance does not only negatively affect people from a local level, but spreads nationally in the current democratic dispensation (Cele, 2011:10).

### **1.2.2. The negative impact of current policies, legislation and their impact on traditional leaders**

Since the introduction of democracy in 1994, a number of policies and legislation have been enacted by contemporary leaders of the country. Many policies and legislation, from local, provincial and national levels, have been developed and implemented by the formal government, and most of these legislation and policies do not really recognise and consider the participation of traditional leaders in the governance of local areas. While there are a few policies and legislation that acknowledge and protect the participation of traditional leaders in governance, several instruments overshadow their importance and participation in key patterns that affect their day-to-day administration of their communities (Logan, 2008:3). An example is the Local Government Municipal Structures Act 117 of 1998 which provides for the MEC to be the one to identify traditional leaders who may participate in proceedings of the municipal council. Such policy undermines the role of traditional leaders in governance. The question that arises is why does the Act not provide for traditional leaders, collectively, to be the ones to identify their representatives in the council? Thus the need for study in order to assess current policies and legislation and their impact on traditional leaders.

### **1.2.3 The undefined relationship between traditional leaders and the local governance system**

The relationship between traditional leaders and the local governance system is still to be clearly defined. Traditional leaders are only given minimum responsibilities towards the development of their own communities and their participation in key decision-making processes is still very limited. For an example, people do not know and understand the role of traditional leaders in post-apartheid South Africa, and do not know whether to consider them as an advisory body to local government structures or if they are good only for traditional ceremonies and activities. Such unclear relationship is problematic, especially for service delivery in local rural communities. Within local communities, it is well-known that in order for development to take

place, all negotiations and strategies need to be discussed and approved by the traditional leader, if not, then one would experience a yield in development, whether socially or economically.

### **1.3 Aim and objectives of the study**

#### **1.3.1 Aim of the study**

The aim of this study was to explore the status and role of traditional leaders in modern, democratic and constitutional South Africa.

#### **1.3.2 Objectives of the study**

The specific objectives of the study were to:

- Investigate the transition of traditional leaders as a customary system from the pre-colonial era to the new democratic local governance structure in South Africa;
- Assess the impact of existing policies, legislation, and practices that clarify the role of traditional leaders in local governance; and
- Examine the challenges and prospects encountered by the institution of traditional leaders in local governance today.

### **1.4 Research questions**

The research questions asked in the study were as follows:

- What are the challenges and prospects of traditional leaders in local governance?
- How do policies and legislation at national, provincial and local government impact on the role of traditional leaders in the governance of local communities?
- How is the relationship between traditional leaders and local government defined and practised in South Africa? and
- What should be the role of traditional leaders in the new democratic South Africa?

### **1.5 Relevance and significance of the study to the modern debate**

It is argued in this study that the shared governance model between traditional leaders and government officials could result in socio-economic development of rural communities. This study is relevant to current debates on the role of traditional leaders in governance since effective service delivery development model requires the participation of traditional leaders (Tlhoale, 2012, 7). Since 1994, the primary focus of government has been rural development and to date,

not much has been achieved. The former policies and legislation on traditional leaders were inadequate to ensure development in rural communities under traditional leaders. This study, therefore, focuses on current debates on how traditional leaders could assist in fostering development in various rural communities.

### **1.6 Organisation of the study**

- Chapter one provides the introduction and background of the study.
- Chapter two focuses on the literature review.
- Chapter three is the research methodology.
- Chapter four focuses on the role of traditional leaders in the current local government system.
- Chapter five examines the impact of existing legislation on the role of traditional leaders in local governance.
- Chapter six focuses on the challenges and prospects of traditional leaders in local governance for rural development.
- Chapter seven focuses on the discussion, conclusion and recommendations.

### **1.7 Summary of chapter**

This chapter has provided the introduction and background of the study. The problem statement, aim and objectives, research questions and the organisation of the study were also provided. The next chapter is the literature review.

## CHAPTER TWO

### LITERATURE REVIEW

#### 2.1 Introduction

This chapter provides a review of literature on previous scholarly articles and research conducted on traditional leaders and their role in local governance. The literature review provides the interdisciplinary background for the study as the role of traditional leaders in local governance is the culmination of rural local communities, the environment, and the evolution of society's culture, religion, politics, economy and history. Articles and texts that attest to the evidence of highly evolved societies in Africa, in general, and South Africa, in particular, are examined in order to provide a historical overview of the birth and evolution of traditional leaders in local governance and their role in post-apartheid South Africa.

Bless, Higson-Smith and Kagee (2006) outline the following points as to why literature review should be done:

- Sharpen and deepen the theoretical framework of the research;
- Familiarise the researcher with the latest developments in the area of research as well as related areas;
- Identify gaps in knowledge as well as weaknesses in previous studies;
- Discover connections, contradictions or other relations;
- Identify variables that must be considered; and
- Study previous definitions in previous studies as well as characteristics.

For the purpose of this study, a good literature review analyses what has been done by other scholars and also establishes gaps within previous studies. The gaps established could, therefore, be used by the current researcher to fill and discuss issues pertaining to such gaps in the study. The purpose of a literature review is for the researcher to familiarise him/herself with what has been researched by other scholars, which is the "known" or the ontology of the study, in order to provide and bring about new information on the topic, "the unknown".

#### 2.2 Definition of concepts

The concepts or terms below are used in this study to mean the following:

### **2.2.1 Tradition**

A tradition is a belief or behaviour passed down within a group or society with symbolic meaning or special significance with origins in the past. Tradition can persist and evolve for thousands of years. The word tradition is derived from the Latin word “*tradere*” which literally means to hand over, to give for safekeeping (Green, 1997:1).

Martin and Scott (1994:16) define the concept of tradition in a political and religious perspective and maintain it is a discourse to establish the legitimacy of a particular set of values. They point out that in the United States, during the twentieth and twenty-first centuries, the concept of tradition has been used to argue for the centrality and legitimacy of conservative religious values. The definition that is most applicable to this study is the one by Green (1997:3) who considers the term as a belief or behaviour passed down within a society with symbolic meaning and significance with the original past. This is because traditional leaders are identified through the tradition of each and every society.

### **2.2.2 Traditional leadership**

Traditional authority (also referred to as traditional dominance) is a form of leadership in which the authority of an organisation or ruling regime is largely tied to tradition or custom. The main reason for the given state of affairs is that “it has always been that way”

([http://en.wikipedia.org/wiki/traditional authority](http://en.wikipedia.org/wiki/traditional_authority). retrieved 03-October-2016). Another explanation of the term is the institution of political authority and widely accepted rules of political legitimacy established centuries before the institutionalisation of democracy was initiated. It is within this context that the question on the future role of traditional leadership is consolidated. It is an institution that represents the pre-colonial prevailing indigenous form of local government throughout Southern Africa. Originally, the institution provided societal, political, economic, cultural and religious functions for local communities (Molero, Cuadrado and Morales, 2007: 114).

This study applies the traditional leadership concept of Molero *et al* (2007). The authors consider the institution of traditional leadership and its leaders as a pre-colonial system that functions under the customary system and investigate its relevance in post-apartheid South Africa.

### **2.2.3 Traditional leader**

According to Myers (2005:115), a traditional leader is the head of a tribal society or chiefdom. In the case of indigenous tribal societies, existing within larger colonial and post-colonial states, tribal chiefs may represent their tribe or ethnicity in the form of self-governance. The term traditional leader is rather distinct from chiefs at lower levels such as village headman or clan chief, as the notion of “tribal” rather requires an ethno-cultural identity.

Dusing (2002:16), however, defines the term as foremost influential political actors in contemporary Southern African states. A traditional leader is someone who fulfills, either by formal acceptance or legal recognition and institutional integration, political functions in local government and administration, jurisdiction, land allocation above party-political mobilisation.

On the other hand, Keulder (1995:126) defines a traditional leader as an individual, who by virtue of ancestry, occupies clearly defined leadership positions in an area and/or who has been appointed to such position in accordance with the customs and traditions of the area and thus, has traditional authority over the people of the area.

The three definitions of this term apply directly to this study as they provide an understanding of who is a traditional leader is and his or her role in contemporary local governance in South Africa. Within the context of this study, traditional leaders occupy leadership positions and are influential political actors, especially in the governance of rural communities.

### **2.2.4 Apartheid**

Apartheid is an Afrikaans word which means the state of being apart. It was a system of racial segregation in South Africa, enforced through legislation by the government of the National Party under which the rights, associations and movements of the majority (black inhabitants) were curtailed and Afrikaner minority rule maintained. Apartheid was developed after World War II by the Afrikaner-dominated National Party (Dictionary.com, 2014).

Krantz (2008:12) defines apartheid as the legitimisation, codifying and enforcing the long-standing segregation and domination of blacks by the Nationalist Party after 1948. The term is used to refer laws enacted to regulate the relocation of blacks, often forcibly, into segregated isolated townships. The main aim was to limit and control the number of blacks in white urban areas to the minimum required for labour. The study also investigates the role of traditional

leaders in local governance in South Africa post-apartheid, thus making the term relevant to be understood. During the apartheid era, traditional leaders were forced to turn against their people and made to work for their colonial masters, thus impacting on their role in the governance of rural communities in post-apartheid South Africa.

### **2.2.5 Governance**

Bevir and Mark (2013:1) state that all processes of governing, whether undertaken by a government, market or network, whether over a family, ethnic community, formal or informal organisation or territory, and whether through laws, norms, power or language, is governance. They further argue that governance relates to processes and decisions that seek to define actions, grant power and verify performance.

Vitasek *et al.* (2011:1) define governance as the way the rules, norms and actions are structured, sustained, regulated and held accountable. The degree of formality depends on the internal rules of a given organisation and, externally, with its business partners. As such, governance may take many forms, driven by many different motivations and with many different results. For instance, a government may operate as a democracy where citizens vote on who should govern.

Fukuyama (2013:213), however, considers governance as government's ability to make and enforce rules and to deliver services, regardless of whether that government is democratic or not. Governance, according to Obeng-Odoom (2013), refers to the co-ordination, regulation or steering of affairs between actors, in specific sectors (e.g. environment) or in a city such as in urban governance. According to the literature, there are three aspects of governance as follows: governance is broader than government; governance as a set of rules and processes; and governance as an analytical framework.

Traditional leaders always govern with the consent of the people. The above definitions explanations of “governance” apply directly to what traditional leaders did in the past and what they still do nowadays. Their governance is based on the cultural norms and rules of their ethnic community, and are also accountable to their people.

### **2.2.6 Democracy**

Barak (2006) defines democracy as a form of government in which all eligible citizens are meant to participate equally, either directly or through elected representatives. Barak (2006) further points out that democracy contrasts with forms of government where power is either held by an individual, as in an absolute monarchy or where power is held by a small number of individuals, as in an oligarchy.

Tilly (2007) describes democracy as a constitutional approach that concentrates on the laws enacted by a regime concerning political activity. A close look at history reveals differences among oligarchies, monarchies, republics, and a number of other systems (by contrasting their legal arrangements). Tilly (2007) further notes that within democracies, a distinction could be made between constitutional monarchies, presidential systems, and parliament-centered arrangements, as well as variations such as federal versus unitary structures. For large historical comparisons, constitutional criteria have many advantages, especially the relative visibility of constitutional forms. The term democracy is very important in this study as the research seeks to explore the role of traditional leaders in post-apartheid South Africa. Issues of post-apartheid South Africa cannot be discussed without looking at the kind of democracy practised in the country and how its impact on traditional leadership.

### **2.2.7 Constitutionalism**

Fehrenbacher (1989) defines constitutionalism as a complex set of ideas, attitudes, and patterns of behaviour that elaborate the principle that the authority of government derives from and is limited by a body of fundamental law. Waldron (2010) considers constitutionalism as follows: *“Whenever we speak with propriety and exactness, that assemblage of laws, institutions and customs, derived from certain fixed principles of reason, directed to certain fixed objects of public good that compose the general system, according to which the community has agreed to be governed. . . . We call this a good government, when . . . the whole administration of public affairs is wisely pursued, and with a strict conformity to the principles and objects of the Constitution”*. The term is relevant in the study as it seeks to understand how the Constitution has impacted on the role of traditional leaders in governance. Waldron (2010) refers to the system with which the community had agreed upon, but in the case of traditional leaders in

South Africa, the system of governance is not that of the community but of political parties, thus making the term worth exploring in the study.

### **2.2.8 Local government**

Local government is a form of public administration, which in most contexts, exists as the lowest tier of administration within a given state. The term is used in contrast with offices at state level, which are referred to as the central, national or federal government (where appropriate), and also to supranational government, which deals with governing institutions between states (Local Government Act 20, 1997). Traditional leaders operate at local government level as they are the ones who try to foster development in rural communities. Therefore, the term is directly applicable to the study as underpins the role assigned to traditional leaders by local government departments to foster the development of rural communities.

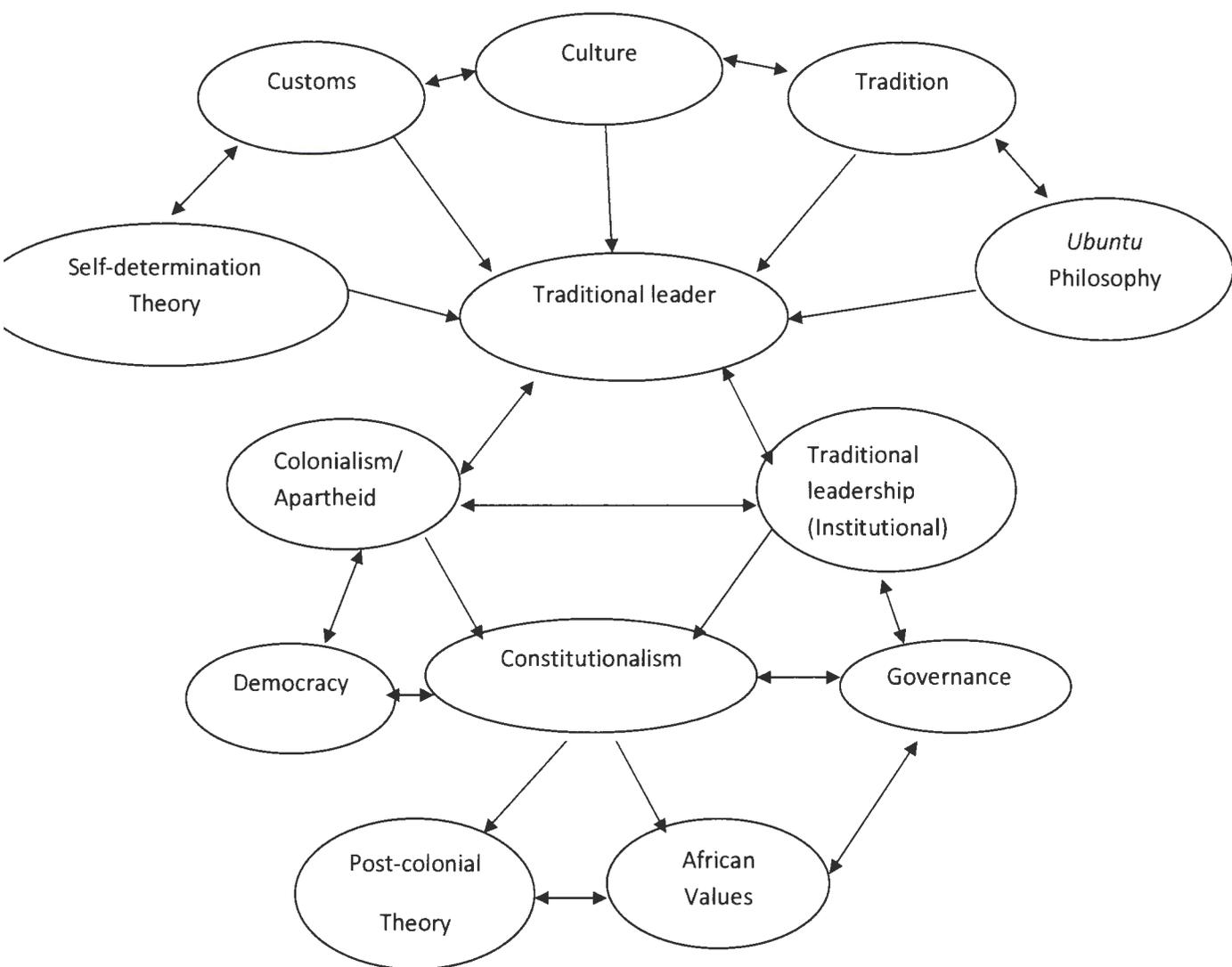
### **2.3 Conceptual framework**

A conceptual framework is an analytical tool with several variations and contexts. It is used to make conceptual distinctions and organise ideas. Strong conceptual frameworks capture something real and do this in a manner that is easy to remember and apply (Ravitch and Riggan, 2012: 1). A traditional leader is a community head appointed using the customs of an ethnic community. The customs of appointing such leaders become a norm and, therefore, turns into a tradition. Culture is always the driving force of traditional leaders as they have to foster socio-economic and socio-cultural development. The self-determination theory and *Ubuntu*, plays a big role for traditional leaders and the community that they lead. These theories illustrate that the people are able to make their own choices as to who should lead them and also to drive and shape their way of life. The inception of colonialism, or as in the context of South Africa, the apartheid system used traditional leaders in cynical ways. They were made agents of the ruling party, thus resulting in the institutionalisation of traditional leaders into tribal authorities.

When South Africa achieved its independence and became a democratic country, the government, through the Constitution, assigned traditional leaders with a role to play in governance (African values that have always been the driving force where recognised). Contemporarily, traditional leaders and communities are applying the post-colonial theory whereby they tell their own stories and provide the evidence as formerly colonised people.

The organogram below sums up the conceptual framework of the study.

**Figure 1: Conceptual framework**



**2.4 Theoretical framework**

The post-colonial and *Ubuntu* theories were employed in this study. According to Childs and Williams (1997:1), the post-colonial theory is a literary theory or critical approach that deals with literature produced in formerly colonised countries or countries that are colonies of other countries. It deals with literature written by citizens of colonising countries that take colonies or their people as its subject matter. Post-colonial theory examines the ways in which writers from

colonised countries attempt to articulate and even celebrate their cultural identities and reclaim them from the colonisers.

Post-colonial theory is relevant to this study as it underpins serious issues regarding the participation of traditional leaders in local governance in post-apartheid South Africa. The postcolonial theory also tackles issues of culture and politics and their impact on issues prevalent during the colonial era, which makes it even more relevant given the history of the institution of traditional leaders, from the pre-colonial period until recently.

This study deals with an issue that is very close to the hearts of people, especially those residing in rural communities that are still under the customary judicial systems. Post-colonial theory, therefore, provides a platform for this study as it deals with issues that affect people in post-apartheid South Africa, thus justifying why post-colonial theory was selected in this study. The post-colonial theory was considered appropriate for this study, however, the researcher also considered the *Ubuntu* theory to be important in the study as it addresses issues of rural indigenous communities. *Ubuntu* is a philosophy that promotes the common good of society and includes humanness as an essential element of human growth. In African culture, the community always comes first. The individual is born out of and into the community, therefore, will always be part of the community. Interdependence, *communalism*, sensitivity towards others and caring for others are all aspects of *Ubuntu* as a philosophy of life (Le Roux, 2000:43).

The community and belonging to a community is part of the essence of traditional African life. The philosophy of life and the philosophy of education, thus, go together, since philosophy of life helps identify the goals and purposes that a particular society holds dear, while the philosophy of education assists in developing one to be able to achieve the goals and purposes that a particular society holds dear.

The term “Ubuntu” is a traditional African concept that originates from the Bantu languages of Southern Africa. It could be described as a way of connecting with others living in a global community where your actions affect all of humanity (The *Ubuntu* Manual, 2016:7). *Ubuntu* fits perfectly well in this study since that everything that happens within a community happens with the consent of the community, together with the traditional leader. This philosophy compliments

the post-colonial theory and, together, the researcher was able to pinpoint serious issues with regard to the role of traditional leaders in post-apartheid local governance in South Africa. The Ubuntu theory gives effect to the self-determination theory (SDT). This is a theoretical approach to human motivation and personality that uses traditional empirical methods while employing an organismic metatheory that highlights the importance of humans' evolved inner resources for personal development and behavioural self-regulation (Ryan and Deci, 2000:1).

The theory provides that humans, because of their self-motivation and personality integration, have growth tendencies that drive their innate psychological needs as well as conditions to foster positive processes (Ryan *et al*, 2009:1). SDT is essential for facilitating optimal functions for growth and integration, as well as for constructive social development and personal well-being (Ryan and Deci, 200:2).

This theory is relevant to the current study because it underpins how ethnic communities were able to determine what they needed and how this was going to be of use to them. Ethnic communities were self-motivated and driven. Most of these communities are still self-driven under the leadership of traditional leaders and councillors. This theory goes hand in hand with the *Ubuntu* and the post-colonial theories and when the three are combined, they advocate for a true indigenous community that still values the leadership of traditional leaders driven by culture.

## **2.5 Literature review**

The section below focuses on important and recent sources and their required review for purposes of contextualising the research within the study of IKS (ontology and epistemology of IKS).

### **2.5.1 Academic authors**

Firstly, Khunou (2009:2-3) in his study entitled "*Traditional leadership and independent Bantustans of South Africa: some milestones of transformative constitutionalism beyond Apartheid*", argues as follows: that during the pre-colonial era, traditional leaders and traditional authorities were important institutions which gave effect to traditional life and played an essential role in the day-to-day administration of their areas and the lives of traditional people;

that there was an important relationship between the traditional leader and traditional community; and that the normal functioning of the traditional community was the responsibility of the traditional authority. The traditional authority (traditional leaders and headmen) was the government of their respective indigenous communities, which means a traditional leader was accountable to his subjects.

Khunou (2009:3) further argues that there is much evidence to demonstrate that during the pre-colonial period, a significant proportion of the Southern African population was organised into political groupings with centralised authority vested in hereditary leaders known in Setswana as “*Kgos*”; that traditional leaders were the indirect rule, or rule by association was established to manage the Africans under administrative rule rather than to enfranchise them; and that during the pre-colonial period, the institution of traditional leadership operated and functioned according to applicable customs, traditions and customary laws and that customary law was regarded by members of the traditional community as binding on both a traditional leader and the people alike.

The importance of Khunou’s contribution is that it shows the trends of traditional leadership. The shortcomings of his study, however, is that, it does not address the significant roles of traditional leaders in the day-to-day administration of rural communities in post-apartheid South Africa. His study further lacks discussion on the impact and role of the institution of traditional leadership in particular areas of the country, specifically the Bapong 2 community. Khunou’s study generalises the role of traditional leaders.

This study examines the attitude of the Bapong 2 Community’s on the current role of traditional leaders in governing local people and the importance of traditional leaders in the new democratic South Africa. The views and opinions of community members within the Bapong 2 in terms of their perception of traditional leadership and their roles in society were obtained.

Secondly, in his article entitled “*Discussion paper on the role of traditional leaders in a democratic South Africa*”, Cele (2011:5-6) argues that the apartheid system turned traditional leaders into government employees, civil servants who could be hired and fired, paid and, if necessary, influenced by governments. This meant that traditional leaders became puppets of the apartheid system. Chiefs were expected to deliver services but had no real source of income and



as a result, used some of the most vicious laws of apartheid to support their enterprise. Traditional leaders (known as chiefs back then) also administered the pass book system and ran the labour bureau, where permits were renewed, and received a registration fee for their efforts. However, not all traditional leaders agreed with the colonial powers.

Since the colonial powers were already in control of traditional leaders, the Native Administrative Act later known as the Black Administration Act of 1927 was then enacted. Such an Act meant that the Governor-General of South Africa could banish a native or tribe from one area to another wherever and whenever he deemed to do so. The main reason behind the Act was to establish a strong system of national native administration to contain political pressures that were likely to result from the legislative measures necessary for the implementation of territorial segregation (Black Administration Act of 1927).

In Khunou's (2011:127) study entitled "*A legal history of traditional leadership in South Africa, Botswana and Lesotho*", it is revealed that traditional authority was an institution functioning according to the traditions and customary laws of a particular traditional community. It is within this context that a traditional authority was vested with the powers to enforce obedience of traditional values and customs of a traditional community. A traditional leader was the one who passed laws, judged with the consent of his traditional council and took action through the consent of members of the traditional community.

Furthermore, the above authors have argued that during the pre-colonial era, traditional leaders served as political, military, spiritual and cultural leaders and were regarded as custodians of the values of society. They (traditional leaders) looked after the welfare of their people by providing them with land for their subsistence needs through agriculture, and for grazing. They also provided for the poor and orphans. Traditional leaders were responsible for the defence of their people against external aggression and keeping order within communities. They resolved disputes with emphasis on reconciliation and thus, ensured harmony among neighbours (Cele, 2011: 6; Khunou, 2011: 128).

However, the contributions of Cele (2011) and Khunou (2011) do not specifically address the challenges faced by traditional leaders when the colonial rulers imposed their laws on them.

Some of the challenges faced by traditional leaders were as follows: they were controlled by the government and had to be obliged by colonial rulers, if not, they would be disposed; and traditional leaders were forced to promote the pass book laws enacted by the apartheid government as they had to go back to their community in order to force the laws that were enacted by the colonial powers. This study, therefore, examines such challenges and evaluate the different types of challenges faced by traditional leaders in contemporary times. This study, therefore, examines what Community of Bapong 2 has been able to establish with regard to specific challenges faced by traditional leaders in terms of governing local people. The purpose of the study was, therefore, to show that when local people have faith in their traditional leaders and know their specific challenges in terms of governance, they can be better able to assist in moving the community forward.

A study conducted by Rugege (2003:172) entitled “*Traditional leadership and its future role in local governance*”, provides an interesting perspective in the development of traditional leadership during the pre-colonial period, colonialism and post-colonialism in Africa. Rugege argues that during the pre-colonial period, traditional leaders inspired unity in people. Pre-colonial African societies are reputed to have had a kind of participatory democracy through assemblies of adult men known among other terms as “*pitso, kgotla or imbizo*”, whereby, the community would participate in decision-making on important matters affecting the community. On the whole, it could be said that during the greater part of pre-colonial Africa, traditional leaders ruled largely with the consent of their people. Rugege (2003: 174) is also of the opinion that with the arrival of colonists and the start of colonialism/apartheid in South Africa, the institution of traditional leaders changed. Various laws were enacted to deprive traditional leaders and communities of their land. Laws made by the colonial powers impacted on the system of pre-colonial customary law, communal land tenure system and the institution of traditional leadership itself. During this period, South Africa was divided into four provinces as follows: Cape Colony; Natal; Transvaal; and Orange Free State. Each province enacted various legislation that influenced how the institution of traditional leadership operated.

Rugege further opines that traditional leaders were then made agents of the colonial masters and their roles weakened. Traditional leaders were no longer accountable to their people but to the colonial or apartheid government. Traditional institutions were then transformed into agencies

(tribal authorities) in order to better serve colonial/apartheid interests. Many traditional leaders, thus began to oppress their people, and they could not do anything since such traditional leaders were protected by the colonial state (Rugege, 2003).

Rugege's contribution lacks clear a discussion on the relationship between traditional leaders and the community and how such relationship went sour due to colonialism. Communities began to see traditional leaders as unfaithful to them and, thus serving the colonial government. This study reveals the gap in the relationship between the traditional community and the traditional leader. The gap in the relationship is a challenge towards the institution of traditional leadership in most traditional societies.

In a study entitled "*Traditional leaders in modern Africa: can democracy and the Chief Co-exist?*", Logan (2008:1) argues that the debate between the "traditionalists" and "modernists" in Africa has been waged for decades and that it has intensified in the last two decades as efforts at democratisation and decentralisation have brought competing claims to power and legitimacy to the fore, especially at the local level. Logan (2008:5) maintains that the modernists institutional forms of liberal democracy, are universally valid, and that Africans aspire to democratic systems of rule that look much the same as those in the west. Africans view traditional political systems as relics of the past that may actually impede democratic development, and which must, therefore, be overcome. On the other hand, Logan believes traditional institutions have proved both malleable and adaptable, and that even if they have changed significantly, they still draw on their historical roots in unique and valuable ways. Traditionalists consider "tradition" as being contested as a source to strengthen the community and policy and also to overcome failures of the Western liberal democratisation and its model in Africa, generally (Logan, 2008:5).

Logan (2008:3) further conducted a study on the Context: "Traditional" Chiefs in Modern Africa" and observed that there is an ongoing debate on whether this structure of traditional leadership is complex and multifaceted in modern African democracies. She was more concerned about the question of whether traditional systems are pro or anti-democratic. This burning issue is mostly aligned to the discussion of Rugege (2003) as Logan (2008) further, in answering the above question, stated as follows:

*Those typically characterised as “traditionalists,” cite the accessible and highly participatory nature of many traditional systems. For example, in many pre-colonial African societies, community-wide gatherings known variously as pitso (Lesotho), kgotla (Botswana), shir (Somalia), baraza (Kenya), and by many other names, offered an opportunity for a wide array of community members to voice their opinions on community affairs and participate in consensus-based decision-making. Traditionalists also note that although heredity often served as the basis for assigning leadership posts, many systems had means for “de-stooling”, or otherwise, displacing leaders that did not meet with the community’s approval.”*

However, Logan (2008) fails to provide a clear discussion about South Africa as she did with other African states. She fails to discuss how the so-called modernists, western liberal democracies (formal government structures) and traditionalists are finding a way forward in working together to improve the lives of people, specifically in rural areas. Discussions with both municipal structures and traditional leaders were conducted in order to pinpoint and understand the level of co-operation between the two in local governance and to specifically understand the role of traditional leaders in local governance.

In a dissertation entitled “*The role of traditional leaders in rural local government: a case of Vulindlela and Impendle traditional areas*”, Mthandeni (2004:4) addresses the role of traditional leaders in local government in the Vulindlela and Impendle areas, in Pietermaritzburg, with the aim of presenting a historical overview of the role of traditional leaders and analyse the role played by traditional leaders in development. His study also examined whether the tension between traditional leaders and municipal councillors hinder development towards the masses in Vulindlela and Impendle areas.

Mthandeni further examined the powers and functions of traditional leaders and found that an incorrect impression has been created that the democratic government of South African has reduced the powers of traditional leaders. He further states that it is almost impossible to deal with the full range of functions that are still performed by traditional leaders in South Africa. This is precisely because traditional leaders continued to perform administrative functions as

they did under colonial and apartheid South Africa. Traditional leaders served as a link between the government and the people, performed ceremonial and religious functions, and chaired tribal courts (Mthandeni, 2004).

Mthandeni (2004:7) argues that the primary function of traditional leaders is to regulate and control relationships and social behaviour within a traditional community. This implies that they are in essence, people-oriented and not service-oriented as local government structures. Mthandeni does not discuss the fact that the administrative functions assigned by the colonial and apartheid government was to micro-manage traditional leaders and limit them only to the areas that they were administering. Their functions were stipulated and directed by the apartheid government, which is an indication that they did not really have a serious or vital role to play, especially in developing their communities. The current study, therefore investigates the powers and functions of traditional leaders in contemporary times in order to see if they are assigned a vital role in society and also to check if there are relevant legislation to protect the roles of traditional leaders in local governance.

In his dissertation entitled "*The role of traditional leadership in governance and rural development: a case study of the Mgwelana Traditional Authority*", Khanyisa (2010:16) provides both the cultural and economic significance needed to fully understand indigenous leadership in Africa. Khanyisa takes his argument back to the pre-colonial era by maintaining that just like the rest of Africa, governance in South Africa during pre-colonial times was led by Kings and Chiefs referred to as "traditional leaders" or "traditional leadership". According to the author, it is evident that before colonial rule, traditional leaders had added authority and power and permeated almost all spheres of the lives of their subjects and that traditional leaders had control over political functions, in which safety and security were their responsibility.

Khanyisa (2010:18) as cited in Ntsebeza (2001), argues that the political functions included the overall protection of inhabitants as well as relations with people from the outside. Traditional leaders also had control over the economy; performed economic functions such as allocation and distribution of land, and also became custodians of the land. Traditional leaders facilitated economic, environmental and developmental matters, including the powers to collect tax.

Khanyisa (2010:20) notes that South Africa, just like many African countries, was colonised by the British. The British found South Africans living under customary governance and as a result, the British knew that they could rule indigenous populations since they were foreign. The British thus, saw traditional leadership as a critical link between themselves and the people. They also saw traditional leadership as an instrument for legitimising their cause. After the 1994 democratic elections, the Constitution of South Africa, as well as other legislative measures were taken in order to give traditional leaders a more recognisable role. Khanyisa's study, however, lacks a clear discussion on whether the policies established really gave serious recognition and powers to the institution of traditional leaders, especially at local governance level. This study, therefore, evaluates and criticises policies and legislation with regard to traditional leaders, from national to local levels.

In a study entitled "*The role of traditional leadership in service delivery*", Day (2015:2) argues that traditional leaders were not involved in service delivery during the colonial and apartheid era. She further argues that knowledge on the history of traditional leadership in South Africa could have some form of assistance if one tries to understand and comprehend the positions and roles currently adopted by traditional leaders. Throughout history, traditional leaders have held the position as a type of governor whose all-encompassing authority extends over all and sundry from judicial functions to social welfare.

Day (2015:3) further argues that during the colonial era, traditional leaders were incorporated into the administration of the colonial government. The very fact that the colonial administration remunerated chiefs on the basis of their position as a traditional leader, as well as the manner in which the colonial government not only restricted and defined the roles and duties, points to the fact that for all intense purposes, appeared to be employees of the colonial government.

During the period from 1994 to 2003, Day (2015:3) argues that there was escalating uncertainty that surrounded the institution of traditional leadership in service delivery. After the 1994 elections and the birth of democracy, the establishment of South Africa's new government and the passing of the Traditional Leadership and Governance Framework Act in 2003 was given a

great deal of attention, focusing on issues and questions surrounding the roles and responsibilities of traditional leader. Yet, there was a wide-scale of deliberations, which achieved very little in terms of clarifying the roles of traditional leaders when it came to the delivery of services in tribal areas. Day (2015:4) states that as of 2001, there were an estimated 800 ruling chiefs as well as 1000 headsmen in South Africa. At the time, 40% of South Africa's population fell under the authority of these traditional leaders, moreover, a large proportion of these South Africans were living in rural areas.

Day's study is very informative on the status of traditional leaders and is very informative about the institution. Her study focuses essentially on legislation during the colonial/apartheid era and also on some legislation during the democratic dispensation. However, her study fails to critique and question policies implemented to direct traditional leaders and also to analyse if these policies advanced or hindered the role of traditional leaders in post-apartheid South Africa. This study, therefore, critically analyses some policies and legislation put in place to address issues surrounding traditional leaders.

## **2.5.2 Statutory sources (Apartheid policies/legislation)**

This section focuses on policies/legislation enacted by the apartheid government of South Africa in order to minimise the role and powers of traditional leaders. It is important to study such policies/legislation in order to understand how the colonial masters enforced traditional leaders to act against their people and work for the colonists.

### **2.5.2.1 The Native Land Act 27 of 1913**

The first major piece of segregative legislation was the Native Land Act of 1913, passed by the Union Parliament in 1913. The Act decreed that only certain areas of the country could be owned by natives (that is, black people). This Act formed an important part of the system of segregative apartheid (Native Land Act no 27 of 1913). The Act had a profound negative effect on the African population across the country. It also laid down the foundation for other negative

legislation, which further entrenched dispossession of African people from their land and later segregation of blacks, coloured and Indian people. The Act defined a “native” as “any person, male or female, who is a member of an aboriginal race or tribe of Africa; and shall further include any company or other body of persons, corporate or unincorporated, if the person who had a controlling interest therein are natives”. Evidently, this negatively affected the status of millions of Africans since that time (Klug, 2000).

Klug (2000) further notes that the most catastrophic provision of the legislation for Africans was the prohibition from buying or hiring land in South Africa. In essence, Africans, despite being more in terms of numbers, were confined to ownership of 7% of South Africa’s land. This was increased to 13.5% by the Native and Land Trust Act, which was passed in 1936. Section 1 (a) of the Native Land Act stated that “a native shall not enter into any agreement or transaction for the purchase, hiring, or other acquisition from a person other than a native of any such land or of any right thereto, interest therein, or servitude there over”.

#### **2.5.2.2 The Black Administration Act 38 of 1927**

This legislation was established to give the Governor-General, the power to appoint and dethrone traditional leaders as deemed necessary, thus making the Governor-General the supreme traditional leader of the land. The Governor-General of South Africa could "banish a 'native' or 'tribe' from one area to another whenever he deemed necessary. This Act set up a separate legal system for the administration of African law and made the proclaimed black areas, subject to a separate political regime from the remainder of the country, ultimately subject only to rule by proclamation, and not parliament. The central imperative behind the Act was to establish a strong enough system of national 'native administration' to contain political pressures that were likely to result from the legislative measures necessary for the implementation of territorial segregation (Black Administration Act 38 of 1927).

#### **2.5.2.3 The Bantu Authorities Act 68 of 1951**

The Bantu Authorities Act of 1951 provided for the establishment of black homelands and regional authorities, with the aim of creating greater self-government in the homelands. It

abolished the Native Representative Council. The aim of the legislation was to give authority to Traditional Tribal Leaders within their traditional tribal homelands in South Africa. The legislation also created a legal basis for Self Determination of the various ethnic and linguistic tribes into traditional homeland reserve areas and established tribal, regional and territorial authorities (Bantu Authorities Act 68 of 1951).

#### **2.5.2.4 The Bantu Self-Government Act 3 of 1959**

This legislation was enacted in order to classify black people into eight ethnic groups. Each group had a Commissioner-General tasked to develop a homeland for each group, where they would be allowed to govern themselves independently without white intervention. The Bantu Self-Government Act of 1959 was a piece of South African apartheid legislation that allowed for the transformation of traditional tribal lands into fully fledged independent states (Bantustans) which would allow self-determination for the numerous tribal groups. It also resulted in the abolition of parliamentary representation for Blacks, an Act furthered in 1970 with the passage of the Black Homeland Citizenship Act (Bantu Self-Government Act 3 of 1959).

#### **2.5.2.5 The Bantu Homelands Citizens Act 26 of 1970**

This legislation compelled all black people to become citizens of the homeland that responded to their ethnic group, regardless of whether they had lived there or not. This removed their South African citizenship (Bantu Homelands Citizens Act 26 of 1970). There were also province-specific pieces of legislation such as the Chiefs Courts Act, 1983 (Act 6 of 1983), which was implemented in areas that fell under the Eastern Cape Province, the Bophuthatswana Traditional Authorities Act, 1978 (Act 23 of 1978), the KwaZulu Act on the Code of Law, 1985 (Act 16 of 1985) and the Lebowa Royal Allowance Act, 1990 (Act 8 of 1990), among others.

#### **2.5.2.6 Bophuthatswana Traditional Authorities Act 23 of 1978**

The above Act was put into law after the Bophuthatswana Bantustan became independent in 1972. The purpose of the Bophuthatswana Traditional Authorities Act of 1978 was to regulate the institution of traditional leadership. The Act prescribed the powers, functions and roles of

traditional authorities. In terms of this Act, traditional leaders were also made ex-officio members of the Bophuthatswana Parliament (Khunou, 2009:92). As members of Parliament, they were paid salaries or stipends. In this regard, the Bophuthatswana government almost placed all traditional leaders at the centre of the political bureaucratic arena. It was through this legislative measure that the independence and authority of traditional leaders were eroded and curtailed in Bophuthatswana. Traditional leaders who were not willing to toe the line, were deposed and replaced by appointed traditional leaders (Khunou, 2009:93).

## **2.6 Political Activists (CONTRALESA)**

The Congress of Traditional Leaders of South Africa (CONTRALESA) is a South African non-governmental pressure group that was formed in 1987 by some traditional leaders of the homeland of KwaNdebele, with the support of the United Democratic Front (UDF) and the African National Congress (ANC). CONTRALESA assisted in the formation of the anti-apartheid front in the homelands, and continues to advocate greater rights for traditional leaders in the country post-apartheid (CONTRALESA, 2011).

It also participates in both national and provincial gatherings of traditional leaders to garner support for legislation from non-CONTRALESA members. CONTRALESA has also disagreed with many recent pieces of legislation which seek to provide more rights to women, but that in the process, tend to undermine traditional chiefs and leaders. Since 2008, when the Traditional Courts Bill (TCB) was tabled, much criticism had been levelled against the ANC by CONTRALESA for the stance it took in matters pertaining to traditional justice. CONTRALESA considers the Bill as a threat to the authority and power of chiefs and seeks a reform to the Bill as it lacks respect for traditional societies. They also see the Bill as deeply flawed and incorrect on many aspects of traditional justice, such as the representation of women within it (CONTRALESA, 2011).

Hweshe (2010) argues that while certain groups have enjoyed much benefits from the strong power of CONTRALESA, others have been ignored. For example, the Zulu Kingdom has had a very strong voice in political matters pertaining to the role of traditional leadership. The Khoi-San, on the other hand, have struggled to find a voice and have constantly been met with

disregard for their wants and needs by the national government. In 2010, the Khoi-San decided to take legal action against the government for historic wrongs done to them and ongoing discrimination which they consider as “cultural genocide and discrimination against the Khoi-San Nation”.

## **2.7 Epistemological grounding**

According to Guba and Lincoln (1998:201), epistemology refers to the nature of the relationship between the knower or would-be knower and what can be known. Furthermore, Crotty (1998:8) posits that epistemology is about “how we know what we know”. Based on the above, this study is underpinned by an indigenous epistemology paradigm. A transformative paradigm was adopted in the study as it is one of the paradigms that is relevant to understanding and studying indigenous knowledge systems. The transformative paradigm includes a person’s worldview and implicit value assumptions. These assumptions are that knowledge is not neutral and is influenced by human interests. Knowledge reflects the power and social relationships within society, and the purpose of knowledge construction is to aid people to improve society (Sweetman, Badiee and Creswell, 2010:442).

The transformative paradigm was adopted in this study because it examines historical realism. The reality of traditional leaders is shaped by the social, political and cultural values and the aim of these values is to destroy myths surrounding traditional leaders. This study is also grounded in the transformative paradigm since it is driven by indigenous knowledge systems that are mostly spearheaded by traditional leaders in various rural communities. The study adopted an inductive approach considering the fact that it moved from specific issues to the more general ones (Thomas, 2003: 1). Creswell and Clark (2007:28) maintain an inductive researcher works from the bottom-up while using participants’ information and views to develop themes and generate broader theories that interlink the themes established.

## **2.8 Summary of the reviewed literature**

This present study has identified and reviewed current literature and debates on traditional leaders and their roles in contemporary times. Authors such as Cele (2011) and Khunou (2011) conducted studies on the colonial period when traditional leaders were made agents of the apartheid regime. They argue that not all traditional leaders were in agreement as some denied

working with the colonial government. A lot of challenges emerged since most people saw traditional leaders as not being loyal to them but rather to the colonial masters.

From the literature review and the necessary legislation and policies, the challenges faced by traditional leaders in contemporary times, and the prospects of traditional leadership in the local governance sector were examined. The policies reviewed assisted the researcher in evaluating and criticising current legislation and to understand the extent of democratic governance to accommodate traditional leaders in post-apartheid local governance in South Africa.

## **2.9 Summary of chapter**

The purpose of this chapter was to review previous studies undertaken on the topic of traditional leadership. Relevant apartheid legislation and studies by different scholars were reviewed in order to equip the researcher with trends and steps undertaken so far to preserve and promote the institution of traditional leaders. The review revealed a number of gaps and it was established that most studies conducted earlier, were not undertaken in the North West Province, especially within the Bapong 2 Community. The literature review also provided guidelines in terms of assistance towards closing the gaps identified in the literature. The next chapter is the research methodology used in conducting the study.

## CHAPTER THREE

### RESEARCH METHODOLOGY

#### 3.1 Introduction

The previous chapter provided the literature review of the study. This chapter presents the study design and the different methods used in collecting data. This is necessary in order to effectively respond to the research questions asked in the study.

#### 3.2 Research design

Research methodology is a systematic way to solve a research problem. It is a science that involves studying how research is to be conducted. Essentially, the procedures by which researchers go about their work of describing, explaining and predicting phenomena are referred to as research methodology. It is also defined as the study methods by which knowledge is obtained and gained. The aim of the methodology is to give the study a plan (Kothari 2004:8). Generally, research methodology consists of two approaches: qualitative and quantitative research methods.

In this study, a qualitative research approach and minor supportive component of the quantitative method were used. The study focused more on the qualitative method compared to the quantitative approach. The quantitative method was used to compliment and enrich the qualitative argument. The qualitative approach was chosen in order to have a deeper understanding of issues surrounding traditional leaders and not to omit or limit information provided by participants. A case study and narrative approaches were employed in this study. A narrative approach binds a sequence of events together, usually from just one or two individuals to form a cohesive story. In-depth interviews were conducted, documents consulted and emerging themes identified. In other words, how does an individual story illustrate the larger life influences that created it (Creswell, 2009:33).

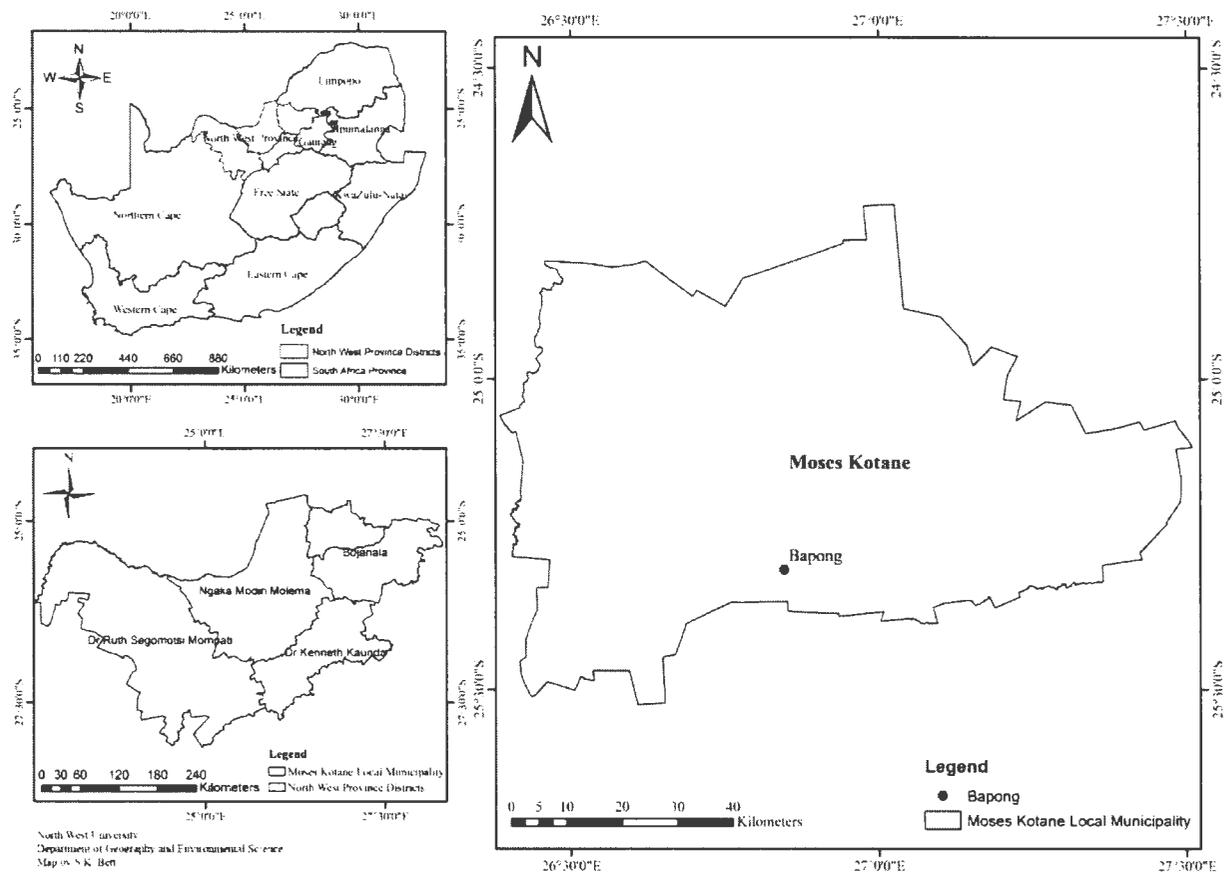
Sauro (2015:1) states that quantitative researchers can relate to the value of the case study, especially when explaining an organisation, entity, company, or event. He further states that a

case study brings about a deep understanding through multiple types of data sources that can be explanatory, exploratory, or describing an event.

### 3.3 Study area (particulars of location) and unit of analysis

According to Bless, Higson-Smith and Kagee (2006:72), a unit of analysis is the second important factor that a researcher must consider when planning an appropriate research design. Bless *et al.* (2006:71) define unit of analysis as the person or object from whom the researcher collects data from. Data from the unit can only describe the unit, but when combined with similar data collected from a group of similar units, the data provides an accurate picture of the group to which that unit belongs.

**Figure 2: Geographical location of the North West Province and the exact location of the study area: Bapong 2 Community**



The study was conducted in the North West Province (NWP), South Africa. The Province has many rural communities that are still under the customary system of traditional leaders. The

people of Bapong 2 are found in Bojanala District, Moses Kotane Local Municipality (MKLM) of the North West Province. The Bapong 2 Community has a formal traditional structure which consists of a traditional leader and his headsmen, who hail from the community. The Community of Bapong 2 is also known for its long-standing history of traditional leadership as a form of governance to the local people and no other meaningful study on the issue has been undertaken in the area before. Bapong 2 was one of the villages that formed part of the Bophuthatswana Bantustan under Kgosi Lucas Mangope, thus the relevance of the Community for this study. Bapong 2 is 71 km away from Rustenburg town, with an estimated population of about 3459 and 1086 households (52, 33 percent females and 47, 67 males) (Census, 2011).

### **3.4 Target population**

According to Vonk (2016:1), a target population is a group of people to whom the researcher wants the research results to apply. The study population consists of people who meet the operational definition of the target population, from whom empirical data is collected.

The focus of this study was on traditional leaders and their role in local governance. The target population consisted of traditional leaders, traditional councillors and community elders while the sample consisted of members of the traditional council and other members involved in issues of traditional leadership and local governance.

### **3.5 Sampling procedure/strategies**

Bless, Higson-Smith and Kagee (2006: 97) define sampling as the scientific foundations of everyday practice. It is a technical accounting device to rationalise the collection of information, to choose in an appropriate way to a restricted set of objects, persons, events and so forth, from which the actual information will be drawn. Purposive sampling was used in this study. Considering the sensitive nature of the study, it thus, required participants who were knowledgeable and had a good understanding of the issues under discussion since not everyone within the Community could fully discuss or provide explanations on governance and traditional leadership. Purposeful sampling is a technique widely used in qualitative research for the identification and selection of information-rich cases for the most effective use of limited resources (Patton 2002). This involves identifying and selecting individuals or groups of individuals who are especially knowledgeable about or experienced with the phenomenon of

interest. One (1) traditional leader and eight (8) traditional councillors (headsmen) were interviewed while Two (2) representatives from the Department of Culture, Arts and Traditional Affairs (CATA) were also interviewed. Community members and elders who could provide valuable information on the issue under investigation were identified and interviewed. A total of twenty (20) community members were interviewed in the study.

### **3.6 Primary data collection procedures and instruments**

Primary data collection consists of observations or collecting information directly through first-hand experience. It is data that is raw and collected from the area of study, thus adding new knowledge to what has been written on a particular topic (Brink *et al.*, 2012:147). Primary data collection is a good source of getting information from participants, by so doing, one avoids repetition of what has already been written on the subject matter. Primary data collection also enables researchers to obtain interesting and new viewpoints from participants. An in-depth interview guide (Annexure 3), structured interviews, the “*lekgotla*” method and participant observation were used to collect data for the study. Bless *et al.* (2006:116) define in-depth interviews as “a qualitative method of analysis, which proceeds as a confidential and secure conversation between an interviewer and a respondent. Through a thorough composed interview guide, which is approved by the client, the interviewer ensures that the conversation encompasses the topics that are crucial to ask for the sake of the purpose and the issue of the survey”.

In depth interviews were considered appropriate for the study as they enable the researcher to gain insights into individual evaluations on the role of traditional leaders in the new and democratic South Africa. One of the advantages of in-depth interviews is that there is time for participants to develop and give reasons for their individualistic point of views, without being influenced by the opinions of other participants (Sauro, 2015:2).

### **3.7 Secondary sources of data**

Secondary data is data collected by someone other than the user. Common sources of secondary data for the social sciences include censuses, organisational records and data collected through qualitative methodologies. Secondary data could be obtained from books, journals and articles (Schutt, 2006:136). Primary and secondary data were used in this study.

### **3.8 Data analysis and interpretation**

Data analysis is a process of inspecting, cleaning, transforming, and modelling data with the goal of discovering useful information, suggesting conclusions and supporting decision-making. Data analysis has multiple facets and approaches, encompassing diverse techniques under a variety of names, in different businesses, science and social science domains (Ader and Mellenbergh, 2008:123).

Thematic analysis was used in this study. As the researcher was busy transcribing and translating the data obtained, a trend of emerging themes was observed, thus justifying the use of this technique in the study. Thematic analysis is one of the most common forms of analysis in qualitative research (Greg, 2012:11). Virginia and Clarke (2006:83) point out that thematic analysis emphasises pinpointing, examining and recording patterns (or "themes") within data. Themes are patterns across data sets that are important to the description of a phenomenon and are associated to a specific research question. The themes become the categories for analysis.

Document analysis was used to analyse secondary data, which consisted mostly of legislative frameworks. Documentary analysis (document analysis) is a type of qualitative research analysis in which documents are reviewed by the analyst to assess an appraisal theme. Dissecting documents involves coding content into subjects such as how focus group or interview transcripts are investigated. Since the study was mainly qualitative in nature, the selected methods were more relevant for the study (Wesley, 2010:64).

The Statistical Package for the Social Sciences (SPSS) was used to analyse the quantitative data obtained in the study. The quantitative data was coded and captured directly into the SPSS software. The captured data was used to create graphs to compliment the qualitative data.

### **3.9 Research methodology for the specific objectives**

The specific objectives of the study were presented in Chapter 1 (para. 1.3.2) of the study. The different objectives of the study required different methodologies and instruments for data collection. Thus, different methodologies were used for each of the specific objectives as discussed in subsequent chapters (4, 5 and 6).

### **3.10 Ethical considerations**

Ethical considerations are ethics that have to be taken into account in a research in order to comply with what has been said, that the researcher conducts him/herself to obey to ethical standards and competence (Creswell, 2009:132). In terms of this study, the researcher complied with the University's ethics policy by filling in an ethical clearance form to acknowledge the steps to be taken during the collection of data and to assure the University that no harm towards participants will occur. The researcher was also privileged to go through ethical clearance. The researcher used the names of participants with their consent. A consent form (Annexure 1) was presented to participants explaining the purpose of the study, which was later signed by them. Participants were asked first, if they were comfortable with their names being recorded and they gave their consent to the researcher to do so. The researcher ensured that no harm, whatsoever, was caused to any participant, whether emotionally or mentally and that all participants were not deceived or forced to participate in the study. The researcher also privileged other forms of intellectual property and, where necessary, cited other sources. The researcher obeyed all protocol and relevant traditional laws of the Bapong 2 Community. The attire and self-conduct during data collection within Bapong 2 Community as emphasised by the traditional council was also adhered to.

### **3.11 Validity and trustworthiness**

Shenton (2004:63) argues that many critics are reluctant to accept the trustworthiness of qualitative research and frameworks for ensuring rigour in the form of work that has been in existence for many years. Guba's constructs in particular, as outlined by Shenton, have won considerable favour in this area. Guba's constructs of trustworthiness and validity correspond to the criteria employed by the positivist investigators. The constructs are as follows:

- a) Credibility (in preference to internal validity);
- b) Transferability (in preference to external validity/generalisability);
- c) Dependability (in preference to reliability); and
- d) Confirmability (in preference to objectivity) (Shenton, 2004:64).

Triangulation was applied in this study to ensure the validity and trustworthiness of data collected. In the social sciences, triangulation is often used to indicate that two (or more) methods are used in a study in order to check the results of one and the same subject (Paulette, 2008:892). Triangulation is a powerful technique that facilitates validation of data through cross verification from two or more sources. In particular, it refers to the application and combination of several research methods in the study of the same phenomenon (Bogdan and Biklen, 2006: 23). In-depth interviews were conducted with three different groups of people, namely, traditional councillors, community elders and a traditional leader. The same questions were asked to all interviewees in order to determine the trustworthiness of the data and to validate it.

### **3.12 Summary of chapter**

This chapter has presented the research design and the methodology used in conducting the study. The study area, sampling frame and data analysis were also discussed. The next three chapters (4-6) focus on the three objectives of the study, beginning with Chapter 4 which examines the transition of traditional leaders as a customary system.

## CHAPTER FOUR

### TRANSITION OF TRADITIONAL LEADERS FROM THE PRE-COLONIAL ERA TO THE NEW DEMOCRATIC SOUTH AFRICA

#### 4.1 Introduction

The previous chapter presented the research design and methodology used in conducting this study. This chapter examines the transition of traditional leaders as a customary system from the pre-colonial period, during the colonial era and provides an overview of the role of traditional leaders in local governance in the new and democratic South Africa. For the pre-colonial and the colonial periods, secondary sources (mainly books, journals and articles written by scholarly authors) were used. In order to establish the role of traditional leaders in post-colonial new South Africa, data obtained from participants in Bapong 2 was used in order to have a broad understanding of the institution of traditional leaders, not only from books and journals, but also through the experiences and observation of people residing in local areas under the customary system.

In order to achieve this objective (on the transition of traditional leaders), in-depth interviews (Annexure 3) were conducted with one (1) traditional leader and eight (8) members of the tribal council in order to get their understanding of the term (traditional leader) and establish the extent of their democratic nature. The in-depth interviews were guided by section B of the in-depth interview guide (Annexure 3) and were scheduled to take between 30 minutes and one hour per session. A “*lekgotla*” method was also applied in order to have a discussion with all participants. The “*lekgotla*” consisted of nine (9) members, a traditional leader, together with four (4) council members and four (4) community elders (members of the community).

#### 4.2 Traditional leaders during the pre-colonial era in South Africa

Traditional leaders have been an integral part of the lives of Africans for centuries. The literature reveals information on the emergence of traditional leaders and the institution of traditional leadership and how these institutions have transformed over the years. Throughout the history of

Africa, traditional leaders have been the basis of local governance, especially in peripheral rural areas of Africa. Traditional leaders have served through wars, slavery, famine, freedom struggles, economic and political restructurings and also during pre-colonial and colonial eras (Tlhoale, 2012: 18).

Before colonialism was introduced to Africans, in general and South Africa in particular, social organisations were characterised by patriarchal systems of tribal regimes. During these pre-colonial periods, the roles of traditional leaders were to serve as political, military, spiritual and cultural leaders. They were responsible for looking out for the interest of the people and the community at large. The welfare of the entire community depended on traditional leaders, especially on issues such as land acquisition and agriculture, in order to sustain the livelihood of communities (Rugege, 2003:172).

Spiegel and Boonzaier (1988: 49) argue that during the pre-colonial period, the power of communities was centralised and vested in hereditary rulers known then as “chiefs”. This meant that the chief was the highest authority in the territory. The chief had various functions in collaboration with the local tribal council that represented the community. Traditional leaders ruled over members of their ethnic communities, known back then as “tribes” and these traditional leaders ruled with the principles of African democracy and accountability (Spiegel and Boonzaier, 1988:49). This meant that the traditional leader was viewed by the community as both the father and son to that particular family. The leadership role that he acquired was a bonding factor because he was responsible for a common goal. According to the community he served, a traditional leader was an authority in all aspects (Davidson, 1992: 59).

Furthermore, Davison (1992, 64) and Tlhoale (2012: 20), in their studies, identify the three important principles which stressed and underpinned the functions and existence of traditional leaders during the pre-colonial era as follows:

*The unity of purpose acknowledging the supremacy of the “golden stool”;*

*The unifying force depended on participation which must be publicly seen as working;  
and*

*The principle of systematic distrust of power with systems that had built-in mechanisms to prevent the abuse of power.*

### **4.3 Traditional leaders during the colonial era in South Africa**

The arrival of Jan van Riebeeck in the 1652 marked the initial stage of colonialism in South Africa. Although history records Riebeeck as an explorer, he initially opened the foot gates to colonialism and apartheid in South Africa. During the coming and implementation of colonialism in South Africa, the local people had no form of formal governance; rather, they vested all the power and authority in their traditional leaders from one community to the other (Tlhoale, 2012: 20). This, however, changed when the colonists conquered the people of Africa, in general and South Africa, in particular. The people lived in small tribal formations under the authority of a traditional leader, however, this system changed when the colonisers landed on the shores of what was later known as the Cape Colony (Roodt, Rusch and Tandy, 1993: 19).

Before the colonial period, traditional authorities were accountable to their communities. However, this system was abolished under colonial and apartheid rule (Palmary, 2004:12). The start of apartheid in South Africa saw the power of traditional leaders significantly reduced by the colonial masters. This meant that they were no longer accountable to the communities, but rather, to the colonists (Khan and Lootvoet, 2001:3). Since they had no significant power, their only task was to allocate and distribute land, and in most cases, the tribal land was lost. The responsibility of these traditional leaders was minimised to a point whereby, they no longer had authority to or the capacity to address the developmental issues of their respective areas (Khan and Lootvoet, 2001: 3).

The colonialists, therefore, co-opted traditional leaders to govern rural areas. The legislative and administrative structures in Bantustans saw traditional leaders being used in cynical ways from the 1950's, which deeply implicated traditional leaders even more in the apartheid government. This meant that traditional leaders turned to their colonial masters or governments rather than to their people for support. The apartheid system turned traditional leaders into civil servants, which meant that they could be fired and hired and paid by the colonial government (Cele, 2011: 5-6).

African traditional government was systematically weakened and the bond and relationship between traditional leaders and the people went sour. The colonial masters made sure that the Africans were subjugated and conquered in order to manipulate them (Maubane, 2007: 4). The aspect of divide and rule was a major campaign, which was basically aimed at disrupting and destroying the African people and their way of life. The colonial masters made it a point that they turned the people against their traditional leaders and traditional leaders against their people, by making them agents of the colonial government, as long as they served the interest of their colonisers (Seiler, 2000: 10).

A very good example is the case of what happened in the homelands (Bantustans) whereby, traditional leaders adopted and promoted the aims and objectives of colonisers. This resulted in the loss of leadership roles by traditional leaders (Spiegel and Boonzaier, 1988: 49). These aims and objectives of the colonizers were pushed or forced down to the indigenous population through legislative measures and policies. These policies reflected only the aims of the colonisers since that was the only way they could control traditional leaders and the people living in rural areas.

Roodt *et al.* (1993: 19) gives an overview of the Black Administration Act 38 of 1927, and according to section two (2) of the Act, “the Governor-General was made supreme chief of all traditional leaders in the Union of South Africa”. Not only through this Act were the colonial masters able to control the indigenous population but also, the colonial government implemented more legislation and policies which changed the pre-colonial structures of people in rural communities and the roles and powers of traditional leaders in general.

It is clear from the discussion above that the colonial era disorganised and conquered traditional leaders. The implementation of many legislative measures that basically disposed traditional leaders of their roles, power and authority in their rural communities, eroded the foundation by which the institution of traditional leadership at large was established and built upon (Ntsebeza, 2003: 69).

Khunou (2009:94) notes that Bophuthatswana, as one of the Bantustans during the colonial era, became a self-governing homeland in 1972. After achieving this milestone, Bophuthatswana also gained its nominal independence on 6<sup>th</sup> December 1977. Khunou further maintains the gaining of

its independence was achieved through the enactment of the status of the Bophuthatswana Act 89 of 1977. However, the Act did not directly stipulate or outline and define the roles, functions and powers of traditional leaders.

After the enactment of the Self-Governing Territories Constitution Act 21 of 1971, traditional leaders were given direct recognition in the legislative assembly. Bophuthatswana consisted of tribal land, thus giving traditional leaders the authority to administer these areas. Chief Lucas Mangope was the president of Bophuthatswana until 1994, and during his term as president, he emphasised the ethnic origin of the Batswana nation (Khunou, 2009:94).

In order for the institution of traditional leadership to be regulated in Bophuthatswana, the Bophuthatswana Traditional Authorities Act was introduced. The Act prescribed the roles, powers and functions of traditional authorities. Through this Act, traditional leaders were also made ex-officio members of the Bophuthatswana Parliament (section 27 of Bophuthatswana Traditional Authorities Act 23 of 1978). Even though traditional leaders were recognised through legislative measures on a large-scale in the Bophuthatswana area, many argue that the Bophuthatswana Traditional Authorities Act was basically a replica of the Black Administration Act as the Bophuthatswana Act stipulated that the Bophuthatswana President had the power to depose and appoint a traditional leader (Khunou, 2009:95).

A very good example as argued by Khunou is the case of the Bafokeng traditional leader, Chief Lebone, who defied chief Mangope and refused to hoist the Bophuthatswana flag at the Bafokeng Tribal Offices (Khunou, 2009:95). Kgosi Lebone also instructed the Bafokeng to relinquish their Bophuthatswana citizenship.

#### **4.4 Traditional leaders in post-apartheid South Africa**

The convening of the Conference for a Democratic South Africa (CODESA) on 25<sup>th</sup> December 1991 pinpointed the entrance of South Africa towards the last mile, which was aimed at extending political rights to all citizens of the country. On 17 March 1992, a White's only referendum voted in favour of continuation on the negotiations path. The progress was increased by convergence of opinions from two major parties, namely, the African National Congress (ANC) and the De Klerk government (Currie and de Waal, 2001:59).

CODESA was divided into five working groups for the purpose of substantive negotiations. The groups were established to negotiate and present arguments to the plenary sessions of CODESA. The terms of reference included the following: the reincorporation of the Transkei, Bophuthatswana, Venda and Ciskei (TBVC) Bantustans; creation of a transitional government to lead the country to democracy; a set of constitutional principles for drafting and adopting a new Constitution; and the creation of a climate for political activity (Currie and de Waal, 2001:59-60).

South Africa's transition ground to a halt in mid-1992 after nearly two and a half years of slow progress. On 22 December 1993, the tricameral Parliament adopted the Interim Constitution after months of negotiations at the World Trade Centre (Currie and de Waal, 2001:61).

After the transition into democracy in 1994, a great deal of effort was paid to issues surrounding traditional leaders and their role in the new democratic South Africa. The roles performed before and those they were supposed to perform in the new South Africa, became a big discussion. The role of CONTRALESA was, at this point, critical for establishing the role of traditional authorities in both the 1993 Interim and the Final 1996 Constitution of the country (Oomen, 1996: 65).

The 1996 Constitution encapsulated one of the constitutional principles that were the bedrock of the final Constitution. The constitutional principle provides that the institution, status and role of traditional leadership, according to indigenous law, shall be recognised and protected in the Constitution. It also provides that indigenous law, such as common law, shall be recognised and applied by the courts. For this subtopic, in-depth interviews were conducted in the Bapong 2 community in order to get their understanding of the role of traditional leaders in post-apartheid South Africa and also to understand their definition of terms such as "traditional leader" from the community's perspective.

#### **4.4.1 Defining a traditional leader**

Given the transition of traditional leaders as a customary system, the purpose of this section is to examine the role of traditional leaders in post-apartheid South Africa. The aim is to point out the community's understanding of traditional leaders as a customary system from the experiences of

local people. Participants were asked to define the term traditional leader as well as their understanding of the term. According to various tribal councillors interviewed, the term is understood to mean the following:

*Kgosi ke moeteledipele wa morafe mongwe le mongwe o o santseng o setse morago setso le meetlo wa yone morago. Kgosi ke motho yo o tsayang ditshwetso mo motseng, a lebile gore go diragala eng ebile ga go diragale eng. Ke motho yo o dirisanang mmogo le morafe mo tsamaisong le kgodiso ya morafe. O lebelela gore a ditirelo di fitlhelela morafe otlhe. Ga a tseye matlhakore gonne ke moeteledipele wa batho botlhe, eseng fela wa batho ba ba rileng jaaka re bona puso e dira.*

Through the use of the *Lekgotla* method, as provided for in section B of Annexure 2, participants indicated that a traditional leader is someone who leads a community that still follows its customs. He/she is a person who takes decisions in his/her community regarding what happens and what does not happen. He/she also works together with the community in order to advance and move the community forward. He/she makes sure that services are delivered to the community. A traditional leader is someone who does not take sides but rather, looks at issues independently since he is a leader of all the people and not just some people as the formal government does (*Lekgotla* method with the tribal councillors and community elders of Bapong 2, 21 September 2016).

#### **4.4.2 Current roles of traditional leaders as a customary system**

Traditional leaders play a vital role in rural communities of South Africa. However, they are still marginalised and are seen as undemocratic by other schools of thought. Nevertheless, traditional leaders are important in advancing local communities and making sure that services are delivered to the people. What they do is mainly to look out for the interests of their respective communities and ensure that their communities are safe at all times (Rre Masina, Bapong 2 tribal councillor, 23 September 2016).

Traditional leaders also resolve local problems within the communities, mainly through their own indigenous approaches and mechanisms such as traditional courts, facilitated by them and tribal councillors. Peace and order is what they maintain and also empower their communities,

especially through their long-standing histories and their ways of preserving culture and tradition. They are seen as “presidents or Chief Executive Officers (CEOs) of their communities because they know about whatever happens in their communities and they try by all means to make sure the wellbeing of their communities is a priority (Rre Makgale and Rre Tawana, Bapong 2 tribal councillors, 23 September 2016).

Through the use of traditional courts and the customary law system, traditional leaders are able to prosecute offenders within their communities without the use of formal western means of prosecution. For example, the prosecution of thieves and people who commit adultery. Overall, traditional leaders guide the community. One respondent stated as follows:

*Tiro ya dikgosi ke go thusa morafe ka ditlhokego tsa one. Ba itsise morafe ka se se tla diragalang kgotsa se se tla dirwang go tokafatsa matshelo a bona, ekatswa ele mo tsa temothuong, tsa maphelo, tsa setso le tse dingwe fela tse di ka tswang di ama morafe. Tiro yabone ke go tokafatsa maphelo a baagi kgotsa morafe o ba o eteletseng pele.*

**The above paragraph, translated into English, will mean the following:**

The role of traditional leaders is to help the community with what they need. They let the community know about what they might do or what they will do to improve the livelihood of the people, be it agriculture, health, culture and other disciplines that might be of concern to the community. Their role is to improve the lives or livelihoods of people living within the communities they lead.

#### **4.4.3 Responsibility and role of traditional leaders in local governance of rural communities**

Participants revealed that the responsibility of the traditional leader goes hand in hand with the role they play as a customary system. Considering the complex nature of the role of traditional leaders within their respective communities, one is bound to notice the huge responsibility they have within such areas. In a *lekgotla* with the community as provided for in section B of Annexure 1, the following points were outlined by the participants:

- They make sure that communal land is available to local people who engage in agriculture;
- They lobby government for development of their area;
- They ensure that the traditional community participate in key decision-making of development in their community;
- They are accountable and transparent to the people they lead;
- They monitor and in other instances, drive projects that are aimed at developing their communities; and
- They remain the true leaders who lead with the consent of the people they lead.

The above duties are seen and deemed as being the most crucial responsibilities that traditional leaders in any local area have towards their communities in general. These aspects are the key drivers of development in rural areas and following them, the community is bound to survive and develop.

Johannes Mogaki, a community member maintained as follows:

*Kgosi e tlisa ditlhabologo mo motseng mme gape se se golo ke gore bogosi bo a tsalelwa. Batho botlhe ba ba buang gore bogosi bo tshwanetse go refosanwa ga ba tlhaloganye gore motho yo o palamang setilo sa bogosi, o abe a na le madi a segosi mo go ena. Gase mang le mang yo e ka nnang kgosi ya morafe. Batho ka bontsi ba itumelela go nna le kgosi ka gone kgosi ke yone e kgonang go bua le ba mafapha a puso gore ba tlise ditlhabologo mo motseng. Sekai se se siameng ke sa metse e tshwana le Bakgatla-ba Kgafela kwa Moruleng mo tlase ga puso ya Kgosi Nnyalala Pilane gammogo le motse wa Phokeng kwa ga Kgosi Leruo. Metse e mebedi e, e bontsha maikemisetso le bontle jo dikgosi di bo dirang.*

**The paragraph above, translated into English, means the following:**

A traditional leader brings development in the community, and traditional leaders are born, not elected. For one to be a traditional leader, he/she should have royal blood. Not everyone can be a traditional leader. A lot of people are satisfied with traditional leaders because they speak with government authorities to bring development in their communities. An example is that of Bakgatla-ba-Kgafela, under the leadership of

traditional leader, Nnyalala Pilane and the Bafokeng Community, under the leadership of Kgosi Leruo. These communities are in peripheral rural areas but through their traditional leaders, they continue to develop. This is because the traditional leader and the community, together with other necessary stakeholders, are driving the economy of their own communities and prioritise on the wellbeing of their people.

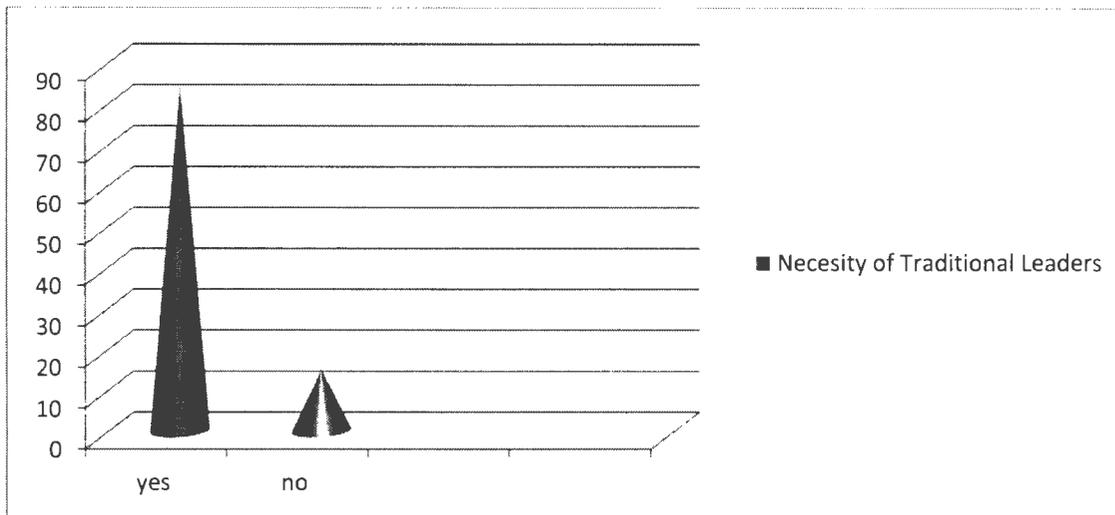
#### **4.4.4 Perceptions of community members regarding traditional leaders as a customary system**

Since the transition of the country to democracy, a lot has changed in the governance department. More especially, the local governance of rural areas has been plagued with many challenges. The area of governance has had dire consequences, especially since the introduction of the so-called “modern” and “sophisticated” model of making use of government councillors. Through the *lekgotla* method as provided for in the study, it was revealed that people in rural areas encounter problems as to how to view traditional leaders. They do not know whether to view them as the ultimate true leaders of the communities or whether they are just an advisory body to the formally-elected councillors and local government departments.

Participants indicated that after South Africa’s independence in 1994, the formal government has done very little in giving recognition to traditional leaders and their institution in general. Only a few steps have been taken by the former government and now they continue to marginalise traditional leaders. One participant revealed that the House of Traditional leaders is an indication that traditional leaders are needed in the country, however, he argued that more needs to be done and there is need for the implementation of policies by government to give traditional leaders the role that they deserve in the local governance system.

#### **4.4.5 The need for traditional leaders in contemporary times**

One of the items on the in-depth interview guide sought to understand if traditional leaders were necessary in contemporary times. The bar graph below shows the responses from participants.



**Figure 4.1: The need for traditional leaders in contemporary times**

85% of the participants indicated that traditional leaders are still necessary in contemporary times while 15% maintained they see no need to still have traditional leaders in contemporary times. They believe the modern governance system is better. The 85% who were in favour of traditions leaders indicated that without traditional leaders, communities would lose control and would be dysfunctional. They also believe crime will increase as there will be no one who closely leads the community.

One participant maintained traditional leaders are well-known and better understood by the people. Their governance is far less complicated than the formal governance from political parties since political parties are always pushing their own agendas compared to looking after the needs of the people. Another participant indicated that since traditional leaders are born leaders, their sense of responsibility towards their community is high.

Another participant, through the in-depth interview, stated that traditional leaders promote and protect culture and heritage and are also seen as a system of governance that has served people in rural areas for a long period of time. This, therefore, makes them important and cannot be distorted due to modernity and the so-called social civilisation. The participant argued that traditional leaders look after the needs of the people and always put the needs of their community first. Traditional leaders negotiate with government on behalf of the community, for services.

Another participant added that since they are accountable and transparent with their people, they do not use the finances of the community for their own benefit. They are not corrupt compared to formal government officials because they put the needs of their communities first. However, the 15% who indicated that traditional leaders are not necessary, justified their responses by stating that municipalities should take over the entire governance of rural communities. They argued that in order for communities to advance in terms of service delivery, the formal government (municipalities) should entirely take over rural communities and do away with traditional leaders and their institution.

#### 4.4.6 Possibility of shared governance between local municipalities and traditional leaders

Participants were asked if shared governance between local municipalities and traditional leaders was possible. The pie chart below shows the responses in terms of percentages, followed by the justification of the percentage distribution through the responses provided by participants.

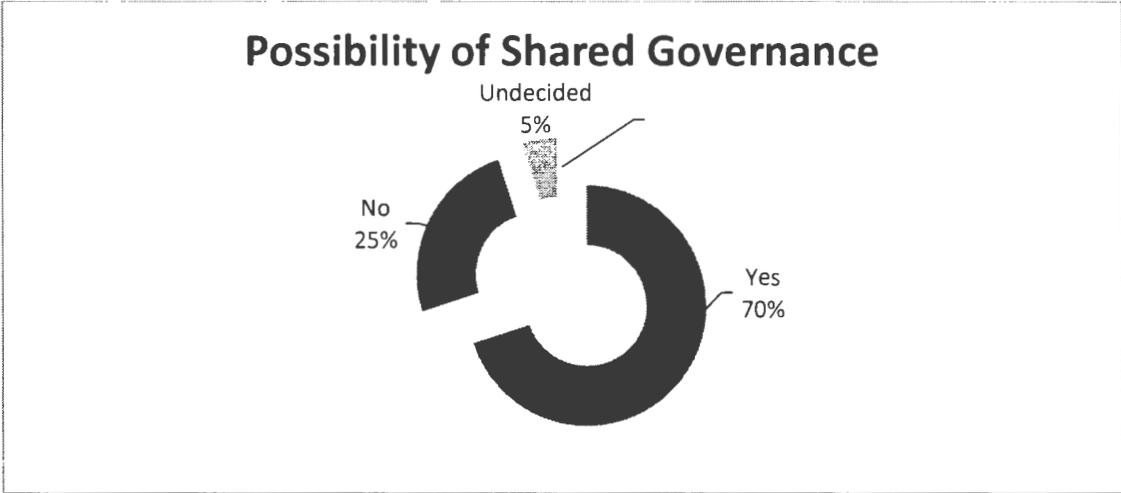


Figure 4.2: Shared governance between local municipalities and traditional leaders

The pie chart above shows the percentages of responses by participants on whether traditional leaders and local municipalities can work together and share the governance responsibilities of rural communities. 70% of participants indicated that it is possible, 25% argued that it was not possible, while 5% were undecided on whether it was possible.

In a *Lekgotla* sitting with participants, it was revealed that traditional leaders reside with the people in rural communities, which makes them to better understand what needs to be developed within their communities compared to municipal employees who do not really reside with the people. They further argued that traditional leaders could be the people driving the initiative of development from the bottom. If they know better what needs to be developed, they would better inform municipalities about what is of greatest importance to be developed in their areas.

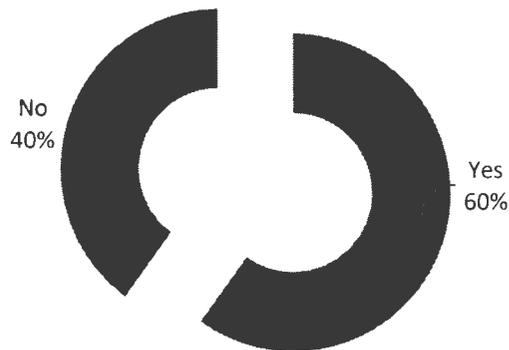
Traditional leaders should not work as advisors but work hand in hand with municipalities. Since they have community gatherings such as the *Lekgotla* and *Pitso*, they are better able to communicate with people residing in their communities and discuss issues that really affect them. 25% of participants argued that this initiative was not possible considering the fact that traditional leaders are mostly old people who are not up-to-date with modern technologies, which will make the working relationship with municipalities impossible.

Participants further revealed that traditional leaders are good only for traditional ceremonies of communities and do not really understand issues of modern development around the country as a whole. They argued that they should only drive the arts and culture initiatives of rural communities.

#### **4.4.7 Do traditional leaders still have a meaningful role to play in local governance?**

The above question was asked to all participants during the in-depth interviews and they were expected to provide a 'yes' or 'no' answer. This proved to be a challenging question to many participants who really did not know how best to justify their response. The graph bellow shows the responses of participants followed by their own justification of why they responded to the question in the manner that they did.

## Do Traditional Leaders have a Meaningful Role to Play in Local Governance?



**Figure 4.3: Role of traditional leaders in local governance**

60% of the participants answered 'yes' to the question, while 40% said no. Participants who agreed that traditional leaders have a meaningful role to play in local governance, justified their response by indicating that traditional leaders are constantly communicating with local governance authorities. They further argued that traditional leaders are always assisting with basic needs, especially with the youth, thus the reason why they are constantly involving the youth in projects (in order to develop them). One participant argued in favour of traditional leaders, and stated that traditional leaders always assist local municipality authorities with duties that are developmental for communities. They are seen as coordinators between the village and local government authorities.

Another participant stated that traditional leaders usually call meetings with both villagers and local government authorities (local municipality) to discuss issues of development with the people. Majority of participants maintained if traditional leaders had no meaningful role to play, then a lot of services would not have reached the people (services such as clean water and health care facilities for the people). The 40% who were against the notion that traditional leaders have a meaningful role, argued that they do not believe that traditional leaders were even involved in local governance in the first place. They further indicated that services required by the

community were never delivered, thus did not see any meaningful role of traditional leaders in local governance.

#### **4.5 Summary of chapter**

This chapter has examined the transition of traditional leaders from pre-colonial to post-colonial South Africa. The findings revealed different arguments as observed in books, journals and studies by previous researches on the topic under investigation. The facts, opinions and perceptions of people living under the customary system of traditional leaders in post-colonial South Africa also provided clarity on the issue. The research questions were raised during the in-depth interviews (annexure 1) in order to get a better understanding of the role of traditional leaders in contemporary times. The following chapter focuses on the analysis of legislation and policies associated with local governance and traditional leaders.

## **CHAPTER FIVE**

### **THE IMPACT OF EXISTING LEGISLATION ON TRADITIONAL LEADERS**

#### **5.1 Introduction**

The previous chapter examined the transition of traditional leaders as a customary system from pre-colonial to post-colonial South Africa. This chapter assesses existing legislation implemented by the current government in order to get a clear understanding of what has been done to include and promote the participation of traditional leaders in local governance in South Africa. Secondary sources were used in order to obtain relevant information on the study issue under discussion. Content analysis was used to analyse and make sense of the secondary data accessed. This method was employed because the second objective of the study consisted of reviewing policies and legislation, thus justifying the need to review books and journals. Since a lot of people living in rural communities are not knowledgeable about the policies, legislation and practices on the participation of traditional leaders in local governance, the researcher's voice was used to analyse legislative frameworks.

#### **5.2 The South African Constitution of 1996**

Before the final Constitution of the country, there was an Interim Constitution of 1993 which was mandatory to deliver the Final Constitution of the Republic of South Africa. After the 1994 general elections, South Africa was governed by the Interim Constitution and this Constitution required the Constitutional Assembly (CA) to draft and approve a permanent Constitution. After the new Constitution was drafted and certified by the Constitutional Court, the former president of the country, Nelson Mandela, signed it into law. The Constitution came into force on 3<sup>rd</sup> February 1997 (Tlhoale, 2012: 59).

It is argued that the 1993 Interim Constitution paid more attention to the role and functions of traditional leaders compared to the 1996 Constitution. The Interim Constitution was considered to be more awarding to traditional leaders as it provided them with more powers as it retained some of the old pieces of legislation. Chapter 11 of the 1993 Interim Constitution (section 181)

on the recognition of traditional leaders and indigenous law stipulated that a traditional authority who observed the a system of indigenous law and recognised by law immediately before the commencement of the Constitution, shall continue as such an authority, and perform the powers and functions vested in it (the 1993 Interim Constitution).

Section 182 further stipulated that a traditional leader of a community observing a system of indigenous law and residing on land within the area of jurisdiction of an elected local government, shall ex-officio, be entitled to be a member of that local government, and shall be eligible to be elected to any office of such local government (the 1993 Interim Constitution).

However, Chapter 12 of the 1996 Constitution devotes only two sections on traditional leaders (sections 211 and 212). These sections provide very little insight into the future of traditional leaders.

The 1996 Constitution (section 211) stipulates as follows:

- That the institution, status and role of traditional leadership, according to customary law, are recognised, subject to the Constitution;
- That a traditional authority that observes a system of customary law may function subject to any applicable legislation and customs, which includes amendments to, or repeal of, that legislation or those customs; and
- That the courts must apply customary law when that law is applicable, subject to the Constitution and any legislation that specifically deals with customary law.

Section 212 of the Constitution on the role of traditional leaders also outlines the following:

- 1) National legislation may provide for a role for traditional leadership as an institution at local level on matters affecting local communities; and
- 2) To deal with matters relating to traditional leadership, the role of traditional leaders, customary law and customs of communities observing a system of customary law-
  - a) National or provincial legislation may provide for the establishment of houses of traditional leaders; and
  - b) National legislation may establish a council of traditional leaders.

After the Constitution came into effect, a lot of traditional leaders saw it as not being content with them. The above outline of the 1996 Constitution of the Republic of South Africa clearly fails to give a clear understanding and discussion on how traditional leaders fit into the governance of local areas and how they are going to participate in decision-making at local level. The Constitution falls short of outlining and discussing the wishes and aspirations of traditional leaders nationwide. This shortfall is not only viewed and noticed by traditional leaders only, but also by scholars who take interest in studying traditional leaders and their institution in post-apartheid South Africa.

Nkosi Holomisa, a prominent traditional leader and stalwart of CONTRALESA, in his memorandum to Dr NR Mandela on matters of concern to traditional leaders (6 May 1998), argued as follows:

CONTRALESAs sees the government as not taking these structures with the seriousness they deserve. We see the Council and Houses as organs of state whose functions and responsibilities are of a full time nature. Yet, they are not given budgets of their own. They are made appendages of the Department of Constitutional Development and of one or other of the provincial governments (Holomisa, 2011: 152).

A close reading of Chapter 12 of the Constitution reveals that there is no sense of commitment which binds the government to any action whatsoever. It could, therefore, be concluded that the commitment is not clear except for section 211 on matters of the courts. If the government was committed to ensuring a place for traditional leaders, it could have, at least, stipulated what the government was ready and willing to do for traditional leaders, subject to the Constitution, what the laws permit and what resources can afford.

As indicated earlier, it is not only traditional leaders who are concerned about the role of the custodians of tradition, scholars also believe that Chapter 12 of the Constitution has gone far in addressing the roles and powers of traditional leaders. The Constitution, in sections addressing issues of local governance, also fails to indicate the roles of traditional leaders at that level, forgetting that local municipalities and local governance takes place in territories governed by traditional leaders themselves. In the same memorandum to Dr NR Mandela, Nkosi Holomisa stated as follows:

There is currently a stalemate between traditional authorities and rural local councils. We have been, and still are, advocating for the recognition and transformation of traditional



authorities into democratic rural local councils. This can be achieved by having the majority of members democratically and directly elected by members of the community. The hereditary members, i.e. chief and headmen would remain ex-officio members with full powers and privileges like everyone else (Holomisa, 2011: 51).

Craythorn (2003: 110) observes that the aim of Chapter 12 of the Constitution is to prevent traditional leaders from inflicting traditional punishment and in the context of land, the aim was to greatly weaken the power of traditional leaders. Tlhoale (2012:60) also supports Craythorn by arguing that the 1996 Constitution of the Republic of South Africa fell far short of the expectations of traditional leaders. He maintains this is due to the two sections that are devoted to matters of traditional leadership compared to Chapter 11 of the Interim 1993 Constitution, which contained four sections specifically for traditional leadership (Sections 181-184) He further states that the two Sections of the 1996 Constitution give very little insight into the future of traditional leadership (Tlhoale, 2012: 60).

### **5.3 National House of Traditional Leaders Act 22 of 1999**

Following the implementation of the 1996 Constitution, another step taken by the government was to establish the National House of Traditional Leaders, which was subsequently followed by a legislation known today as the National House of Traditional Leaders Act. This Act was implemented after numerous letters and addresses were made by Nkosi Phatekile Holomisa on a number of events and formal gatherings. One of the papers presented by Nkosi Phatekile Holomisa was on accommodating the role of traditional leadership in the new dispensation and one of the burning issues was addressed as follows:

Traditional authorities, in reality, constitute a form of local government. Both in terms of indigenous law and legislation, these authorities perform functions at local government with regard to development. The construction of roads, schools, clinics and other similar social amenities falls within the area of competence of traditional authorities (Holomisa, 2011: 120).

According to Section 11(1) of the Act, the powers and functions of the House are to:

- Cooperate with provincial houses of traditional leaders, to promote the role of traditional leadership within a democratic constitutional dispensation;
- Nation building;

- Peace, stability and cohesiveness of communities;
- The preservation of the moral fibre and regeneration of society;
- The preservation of the culture and traditions of communities;
- Socio-economic development and service delivery;
- The social well-being and welfare of communities; and
- The transformation and adaptation of customary law and custom so as to comply with the provisions of the Bill of Rights in the Constitution, in particular by:
  - Preventing unfair discrimination;
  - Promoting equality;
  - Seeking to progressively advance gender representation in the succession to traditional leadership positions; and
- Enhancing co-operation between the House and the various provincial houses with a view to addressing matters of common interest.

The Act, however, fails to give specific roles of traditional leaders, especially when one looks at the issue of local governance. Traditional leaders are viewed by a lot of people residing in rural areas as being legitimate leaders who are best suited to govern the communities, however, legislation and policies do not provide an active role for traditional leaders to participate in local governance.

The above Act stipulates that the function of traditional leaders is to promote socio-economic development and service delivery. This, thus, raises the issue of the type of resources which they are supposed to use to promote and carry out such function. Local municipalities, together with the provincial and nation government, do not allocate resources that are solemnly driven and controlled by traditional leaders. All the resources, especially financial, are controlled by government departments, who in the long run, fail to work hand in hand with traditional leaders for the development of local areas.

Nkosi Phatekile Holomisa in his book entitled "*A double edged-sword*", published a memorandum that he wrote to the former president of South Africa, Dr Nelson Mandela.

whereby, he argued that the National House of Traditional Leaders should control its own finances and resources allocated to them. The overall aim was for traditional leaders to control assets and resources allocated to them in order to enhance the delivery of services to rural communities (Holomisa, 2011).

#### **5.4 Municipal Structures Act 117 of 1998**

The implementation of this Act was another means of the government to show their commitment to traditional leaders and their institution at large. The Act was enacted in order for traditional leaders to participate in the local governance of rural communities. Section 81(1) of the Act stipulates that traditional authorities that observe a system of customary law in the area of a municipality may participate through their leaders, identified in terms of subsection (2), in the proceedings of the council of that municipality, and those traditional leaders must be allowed to attend and participate in any meeting of the council.

Section 81(2) (a) and (b) further stipulates that: the Member of the Executive Council (MEC) for local government in a province, in accordance with Schedule 6 and by notice in the Provincial Gazette, must identify traditional leaders, who in terms of subsection (1) may participate in the proceedings of a municipal council. The number of traditional leaders who may participate in the proceedings of a municipal council may not exceed 10 percent of the total number of councillors in that council, but if the council has fewer than 10 councillors, only one traditional leader may participate. Section 81(3) states that before a municipal council takes a decision on any matter directly affecting the area of a traditional authority, the council must give the leader of that authority, the opportunity to express a view on that matter.

As found in the principles of this Act, traditional leaders must be given an opportunity to participate in municipal councils. This means that the role to be played by traditional leaders must be clarified so that they are able to make input on any service delivery enhancement processes of the municipality. As indicated in clause 3, any council, before taking any decision affecting traditional communities, must consult with the traditional leader concerned to get the feelings and views of communities that will be affected by the decision to be taken.

However, the Act stipulates that the MEC for local government is the person responsible for identifying traditional leaders who can participate in the proceedings of a municipal council. This, therefore, marginalising other traditional leaders, whom in many cases may not be very close to the MEC. Corruption in the formal government in South Africa is on the rise and that is also one of the issues that makes other traditional leaders find themselves in the margins of government and local governance, in particular.

Another oversight of the Act is that only ten percent in the municipal council is reserved for traditional leaders. This really hampers the role and participation of traditional leaders in local governance of South Africa in general. The percentage is too low for traditional leaders. How are they going to voice out their arguments and opinions concerning the governance of rural communities when they will constantly be overshadowed by the municipal councillors? It is evident that municipal councillors constantly side with the government on all issues affecting local areas and only a few might support the views of traditional leaders.

### **5.5 Traditional Leadership Governance and Framework (TLGF) Act 41 of 2003**

The enactment of this Act is in line with section 212(1) of the Constitution, which stipulates that “national legislation may provide for a role for traditional leadership as an institution at local level on matters affecting the community”. The aim of the Act is to harmonise the institution of traditional leadership with the new Constitutional democracy. The objective of the Act is not merely to democratise traditional institutions but rather, to constitutionalise them.

The preamble of the TLGF Act 41 of 2003 is very frank and its motives are bluntly formulated. It aims to shape traditional leadership in accordance with the Constitution. The Act also intends to reconcile customary law and practices, together with the human rights and democratic imperatives (Preamble of the TLGFA 41 of 2003).

In terms of the Traditional Leadership Governance and Framework Act 43 of 2003, the objectives are to:

- Set out a national framework and norms and standards that will define the place and role of traditional leadership within the new system of democratic governance;

- Transform the institution in line with constitutional imperatives; and
- Restore the integrity and legitimacy of the institution of traditional leadership in line with customary law and practices.

### **5.5.1 The purpose of the Act**

The TLGFA complies with Section 211 of the South African Constitution, whereby, it emphasises recognition of the status and role that the institution of traditional leadership plays.

The Act aims to:

Provide for the recognition of traditional communities around the country who still observe their customary judicial systems. Provision for the recognition of traditional leaders is also addressed by the Act as well as the establishment of traditional councils in communities living under customary systems. Provision for statutory framework for leadership positions within the institution of traditional leadership is among the objectives set out by the Act. The legislation also provides for statutory frameworks that also address issues concerning the removal of traditional leaders from office.

The legislation also provides and advocates for houses of traditional leaders to be established and also stipulates the functions and roles played by traditional leaders. Dispute resolution mechanisms and the establishment of commissions on leadership disputes and claims are also provided for by the Act. The Act also provides for matters connected to the institution of traditional leadership at large, including the provision for the amendments to the remuneration of public office bearers Act of 1998.

Given the summary of the objectives and the purpose of this Act, one can clearly notice that the legislation does not really allocate a proper role for traditional leaders. The burning concern is that the new law overlooks the powers of traditional leaders to rule and govern, but limits them to perform and become ceremonial leaders who are only good for performing and administering ceremonies in communities. It is noticeable that the powers to govern and rule remains with the government, and that is also enshrined in the country's Constitution, which is viewed as the supreme law among all the laws of the land. It is, therefore, impossible for traditional leaders to assume their rightful positions because they have not been assigned the real power and authority

to govern, since they are not democratically elected and in no way, constitutionally constituted as government (Tlhoale, 2012:69).

## **5.6 The North West Traditional Leadership and Governance Act 2 of 2005**

This is a legislation that sets out, establishes and reinforces the roles and functions of traditional leaders. This Act also provides for the establishment of provincial houses of traditional leaders. The Bapong 2 Community is within the North West province, so it is important to analyse the provincial legislation that seeks to protect and promote the institution of traditional leadership and its intangible but relevant importance. This provincial Act is also in line with the objectives of other five (5) provincial Acts from other provinces, namely; the Free State Leadership and Governance Act 2 of 2005; the Eastern Cape Traditional Leadership and Governance Act 4 of 2005; the Mpumalanga Traditional Leadership and Governance Act 3 of 2005; the Kwazulu-Natal Traditional Leadership and Governance Act 2 of 2005; and the Limpopo Traditional Leadership and Institutions Act 6 of 2005.

The objectives of these Acts reveal more similarities than differences, which strengthen the vision of traditional leaders in politics. The five (5) provincial Houses of Traditional Leaders, including the North West Provincial House of Traditional Leaders, desire the following:

- Provide for the recognition and withdrawal or removal of traditional communities;
- Provide for the establishment and recognition of traditional councils;
- Provide for the recognition of traditional leaders; and
- Provide for a code of conduct for traditional leaders which is apparently a deviation from the standing position of traditional leaders being subjected to the Code of Conduct of municipal councillors.

In contrast to the other provincial legislation, the recognition of the traditional community remains conditional and depends on the adherence to customary law and the leadership of the group. This is because firstly, the premier has 12 months to decide upon the application and secondly, must withdraw the recognition if the traditional community no longer meets the initial condition. The Act allows the withdrawal of the recognition by the Premier (North West Traditional Leadership and Governance Act 2 of 2005).

Section 9 of the Act lists in parts, similar functions of traditional councils as the TLGFA 41 of 2003. However, the traditional community, through the traditional council, can engage in development programmes and for these purposes, the executive branch of the provincial government oversees and capacitates the traditional council.

Analysing specifically the North West legislation with regard to traditional leaders and their institution, the traditional council does the following:

- Administers the affairs of the traditional community;
- Promotes the interests, advancement and well-being of the traditional community; and
- Administers the finances of the traditional community as provided for by the Act.

Furthermore, the Act stipulates the roles and functions of the *Kgosi/Kgosigadi* as follows:

- Administering the affairs of the traditional community;
- Maintaining peace, conciliation and mediating disputes in the traditional community;
- Reporting to the authorities, all violent or natural deaths of any persons in the community;
- Reporting the outbreak of any contagious or infectious disease or epidemic;
- Reporting any allegations of witchcraft or divination;
- Reporting the commission of any offences beyond his/her powers to resolve;
- Announcing the provision of any new law or policy to the community and *motsana*;
- Convening and attending traditional council meetings which are held once every calendar month;
- Taking note of any problems, grievances or matters from the community at meetings and attempting to resolve them;
- Convening and attending meetings of the traditional community convened and attended by community members and taking place at least, once every six months;
- Seeking to promote the interests of the community; and
- Taking the necessary steps to promote the well-being and advancement of the traditional community.

This piece of legislation in the North West Province outlines the roles of traditional leaders in their respective local communities. However, these roles are really not in line with the governance of these communities. There is no mention of how they effectively participate in local governance of the rural areas that they lead. There is no real link that is provided to connect the formal local government agents/representatives and traditional leaders. No discussion of how the two systems interrelate and how they can work together in ensuring that governance is good and services are delivered to rural communities.

This legislation, in a way, makes traditional leaders agents of formal government structures. For example, the Act stipulates that traditional leaders should report the outbreak of any contagious diseases or epidemic and also to report acts of witchcraft and divinations. These statements tend to make them agents of the formal government and in a way, make them look incompetent to address serious matters within their respective communities.

### **5.7 The National House of Traditional Leaders Act 10 of 1997**

The Act was established through the provision of the 1996 Constitution that traditional leaders be recognised as a customary system. The objectives of the Act were mainly to promote the role of traditional leaders within a democratic constitutional dispensation. Unity and understanding among traditional leaders was also one of the aims of the Act as well as to enhance co-operation between the traditional council and various houses with the view to addressing common matters of interest.

The functions of the National House include the following:

- It may advise national government and make recommendations regarding;
- Matters relating to traditional leadership;
- The role of traditional leaders;
- Customary law; and
- The customs of communities observing a system of customary law.

- It may investigate and disseminate information on the above-mentioned matters.
- At the request of the President, it has to advise him or her on any matter referred to it.
- It has to submit an annual report to Parliament (Du Plessis and Scheepers, 2000: 79).

## **5.8 Summary of chapter**

The purpose of this chapter was to analyse how current legislation and policies, including government practices, affect traditional leaders and their role in local governance. The role of traditional leaders at national, provincial and local levels has become a burning issue to a lot of communities and academics nationwide. The government still tries to make their role clear and understandable through legislation and policies, especially the TLGFA of 2003, however, there is still a lot of work and duties to be performed by government in ensuring a relevant place for traditional leaders in post-apartheid local governance in South Africa. The big overlap between traditional leaders, local government councillors and municipal agents has to be addressed in order to secure a proper role for traditional leaders in local governance. A lot of legislation should be revised and amended in order to make them more favourable and relevant to traditional leaders and their institutions. There are a lot of challenges faced by traditional leaders. Nevertheless, there are also some prospects that are a result of these traditional leaders. The next chapter examines the challenges and prospects faced by the institution of traditional leaders in local governance today.

## CHAPTER SIX

### CHALLENGES AND PROSPECTS OF TRADITIONAL LEADERS IN LOCAL GOVERNANCE

#### 6.1 Introduction

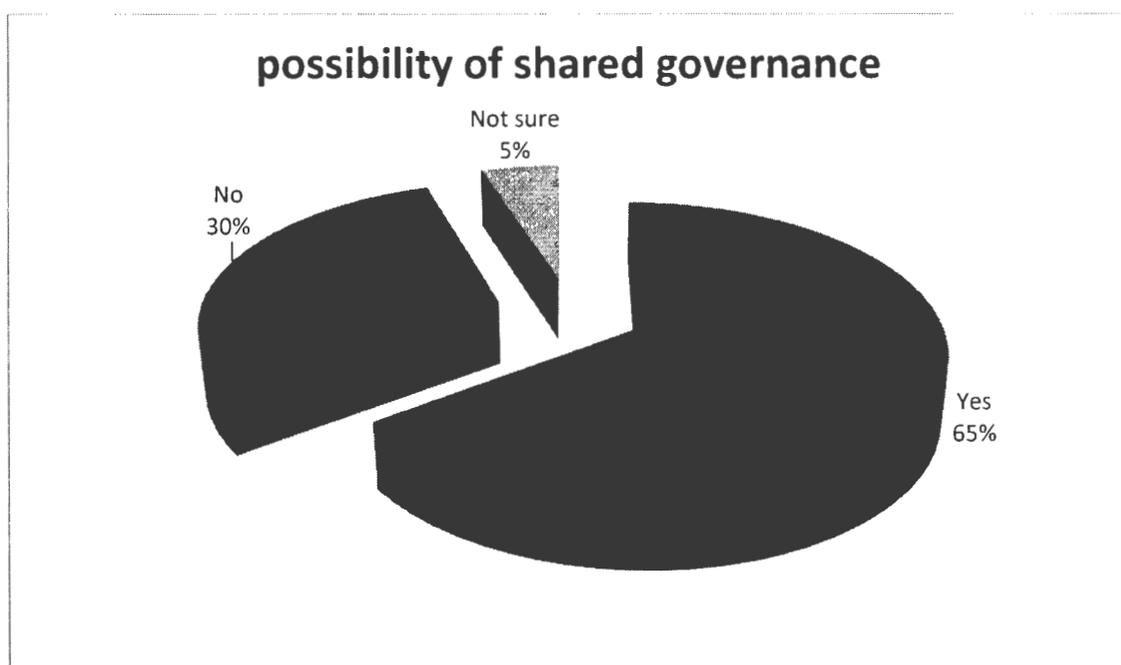
The previous chapter examined the legislative frameworks on traditional leaders since the transition into democracy. This chapter examines the challenges and prospects faced by traditional leaders in local governance in order to achieve rural development. After the transition to democracy in 1994, there has been a lot of tension and confusion on how to view traditional leaders and their institution. A lot of contradiction has, therefore, evolved in rural areas. This contradiction, confusion and tension brought about many challenges to traditional leaders and affected local municipalities.

According to the South African Local Government Association (SALGA, 2012: 2), enquiries have been received regularly on issues of participation of traditional leaders and how they are compensated for their role in municipal councils. SALGA notes that traditional leaders are not members of council and, therefore, have no voting rights. They are in councils just to debate and advise on matters affecting their communities. The statements and legislation made by the government, therefore, confuses a lot of people, even traditional leaders themselves and this confusion brings about a lot of challenges on traditional leaders.

In order to achieve the aim of this chapter, in-depth interviews and the *Lekgotla* method as indicated in Section B (Annexure 4) were used to address this specific objective. Purposive sampling was used to select participants for the study. A total number of 10 community representatives, 8 traditional council members and two municipal employees, including two participants from the Department of Culture, Arts and Traditional Affairs (CATA) were interviewed. Community representatives were visited and interviewed at their homes from 19-23 of September 2016. The *Lekgotla* method was administered to 8 traditional council members on 26<sup>th</sup> September 2016. Participants from CATA were interviewed on 3<sup>rd</sup> October 2016.

## 6.2 Shared governance for effective service delivery

Through in-depth interviews, participants were asked if shared governance between traditional leaders and ward councillors would work in South Africa and whether it would bring about effective service delivery. The graph below shows the responses of participants sampled in the study, followed by a discussion to substantiate their responses.



**Figure 6.1: Shared governance and effective service delivery**

The Figure above shows that 65% of participants believed shared governance was possible and could bring about good service delivery in areas still under the customary system of traditional leaders. They argued that traditional leaders reside in the same communities with their people, which means that they are better positioned to identify what needs to be developed. The argument by participants is supported by du Plessis and Scheepers (1998), who argue that traditional leaders fulfill a variety of functions in society. This is mainly because they are active presiding officers in customary courts, mediate disputes, advise on matters of agriculture and also in family matters. Due to these services rendered by traditional leaders in local areas, it is apparent that traditional leaders are the only existing and highly functional form of local government in rural areas of South Africa.

One of the participants indicated that traditional leaders are more accessible and better understood by the people compared to local government officials. Since traditional leaders are so important, it should be them who are at the forefront of the local government system and be the ones who communicate with the local people. After communicating with the locals, the traditional leader can, therefore, continue to go and discuss matters with municipalities. This is, considered as shared governance. If it works well, service delivery will be achieved.

Keulder (1998) in Logan's (2008) paper entitled "Afrobarometer", touches on the issue similar to the discussion of participants in this study. Using the traditionalists' perspective, Keulder argues that for them, traditional leaders and their institution, together with their system of governance, are not only simpler, but also the most accessible and understood form of governance. It is deemed as more participatory by the people. Since they (traditional leaders) are closer to the people than any form of governance, this makes them more accessible and subject to the fact that they reside in the same village or community as the people. If these traditional leaders are afforded a chance to co-exist and co-participate with the local government system and authorities, then services will definitely be delivered to the people.

30% of participants were against the idea, stating that they do not believe shared governance could result in effective service delivery. One of their major reasons was that traditional leaders are not in touch with modern ways of doing things and that they (traditional leaders) may sabotage development that could benefit mostly the youth. They believe that traditional leaders are not necessary and that the system of local governance should only be politically-led. The remaining 5% were undecided on whether shared governance was possible or not. They were left lingering in between traditional leaders and the modern local governance system.

Bank and Southall (1996: 407) concur with Sklar's (1986) argument by defending shared governance between traditional leaders and local government. He argues that mixed government provides for widespread and important foundation of political rule in Africa in general. According to him, he considers architects of governance as turning back to a new form of ruling that preserved traditional authorities as a fundamental political resource.

For him, mixed government implied cooperative interaction among distinct and relatively autonomous governmental institutions. Rather than viewing traditional leaders and their institution as a contradictory institution to democracy, the leaders and institution could be a solid bedrock which the construction of a new and experimental government, including constitutional democracies could be built upon (Sklaar, 1986: 2).

### **6.3 Challenges faced by traditional leaders**

Traditional leaders face a number of challenges in their day-to-day administration of their respective communities. Some challenges are institutional, governmental while others are local. Scholars in the field of traditional leaders have in the past, discussed some of these challenges, but most of these challenges were from a general and broad perspective. This study, therefore, examines challenges faced by traditional leaders as outlined by traditional leaders themselves and also the people living in rural areas. Through the use of in-depth interviews and the “*lekgotla*” method, the following issues were able to be pinpointed.

Through the application of the “*lekgotla*” method (guided by section B of Annexure 4), the first and foremost challenge, identified and agreed by participants, was the demand for better services by community members. For an example, some community members may want schools and health care facilities to be developed, while others may request and argue for neon and street lights. This is a challenge because a traditional leader cannot be nepotistic and favour a certain group over the other. Participant revealed that when such is the case, the traditional leader meets with the council to discuss what is more important and relevant to the community at the time. After that, the traditional leader calls another meeting (*pitso*) with the community to let them know what the traditional council has decided upon.

The above challenge brings about the second one which is mostly encountered by traditional leaders. In many cases, the traditional leader and the community decide that they need health care facilities compared to neon light, and then, government departments argue that they have no budget for their request. Governmental departments would usually argue that the budget allocated to them, for that year, is for developing roads and cleaning graveyards. This is a challenge because it is the very same traditional leader who has to go back to the community to

inform them of what the government wishes to do. Sometimes, the community does not want to understand as they think that perhaps the traditional leader is the one holding them back.

Since traditional leaders have no voting power in municipal council meetings, these kind of challenges erupt because they cannot voice out exactly what needs to be developed and when. The non-participation of traditional leaders in voting, therefore, hinders their role in the development and governance of their local communities.

Traditional leaders do not have a fixed budget. They depend mostly on government budgets and do not have total control over such budgets. This is a big challenge as it hinders development and service delivery. In order for development to be sustained, there is need for a fixed budget allocated to traditional leaders. Such budget should be controlled by traditional leaders themselves to initiate projects that can have a positive impact in their respective communities and which would hopefully assist in combating and alleviating poverty. It is a known fact that people, especially those in rural areas, live below the poverty line. There are poor services and no active projects aimed at empowering descendants of the community. If traditional leaders are provided with funds, which they are allowed to manage and control, with the consent of the community, several projects could be initiated and developed to sustain development, create jobs and alleviate poverty.

Corruption from and by government officials is another big issue that also proves to be problematic and challenging among traditional leaders in South Africa. There is currently a high rate of corruption in different government departments, and such corruption usually results in services not being delivered in rural communities. Traditional leaders are mostly at the receiving end of such cases as people from the communities tend to believe traditional leaders are the ones who are corrupt and misuse funds allocated to communities.

In the past, there have been a number of cases ( Moruleng and Bapong 1) where people in rural communities would revolt against their own traditional leader, stating and arguing that the traditional leader is misusing funds that should be for the development of communities. A close examination of these cases reveals that the traditional leader is not the one at fault, but rather, government officials tasked and entrusted to administer the funds allocated for the development of such communities.

Poor communication between the community and traditional leaders is another challenge identified within the Community. Poor communication also results in failure to communicate with relevant government departments and stakeholders, who may be relevant for the development of such communities. Participants indicated that communication between the community itself and the traditional leader is poor. That is because some people do not support the current traditional leader and believe he is unable to lead the Community.

There is also poor communication between traditional leaders and government officials, especially ward councillors. There are instances where councillors do not attend meetings (*pitso*) called by traditional leaders. This is because some councillors consider to be more superior and more important than traditional leaders. Participants in this study concur with the views expressed by Mhlanga (2012). In her study conducted in Mnquma local municipality in the Eastern Cape, she found that almost 99% of traditional leaders perceive there is no proper communication and involvement between them (by local government and ward councillors) in developmental programmes.

#### **6.4 Prospects of traditional leaders**

The long-standing history of traditional leaders and their institution illustrates a number of prospects and benefits of traditional leaders within communities. Many local communities have developed as a result of the selfless role played by traditional leaders in such communities. It was thus, necessary to discuss the prospects and benefits of traditional leaders with relevant examples and arguments provided by participants from the Bapong 2 community.

In-depth interviews revealed that traditional leaders are more than what is perceived about them. In an interview with Mme Meisie Mathikge, held on 06<sup>th</sup> September 2016 (a community elder in the Bapong 2 Community), the following was discovered: that traditional leaders lobby for grants from mining companies situated within their communities; get access to grants from bus companies; and network companies that pay to erect their network facilities within the communities. Such grants (received through negotiations by traditional leaders), make things easier for communities as such grants are used to develop the communities. The grants also assist

in building offices for traditional authorities in the community where services, demands and problem-solving strategies are implemented.

Another prospect by traditional leaders is the fact that they are available and reside in the same communities, which makes them know what needs to be developed within their respective communities. Rre Mogaki, an elder in the Bapong 2 community (06<sup>th</sup> September 2017), indicated that through traditional leaders, health care systems and facilities (such as clinics) and educational facilities (such as schools) have been developed. The development of these facilities is a clear indication that traditional leaders are very important in rural communities.

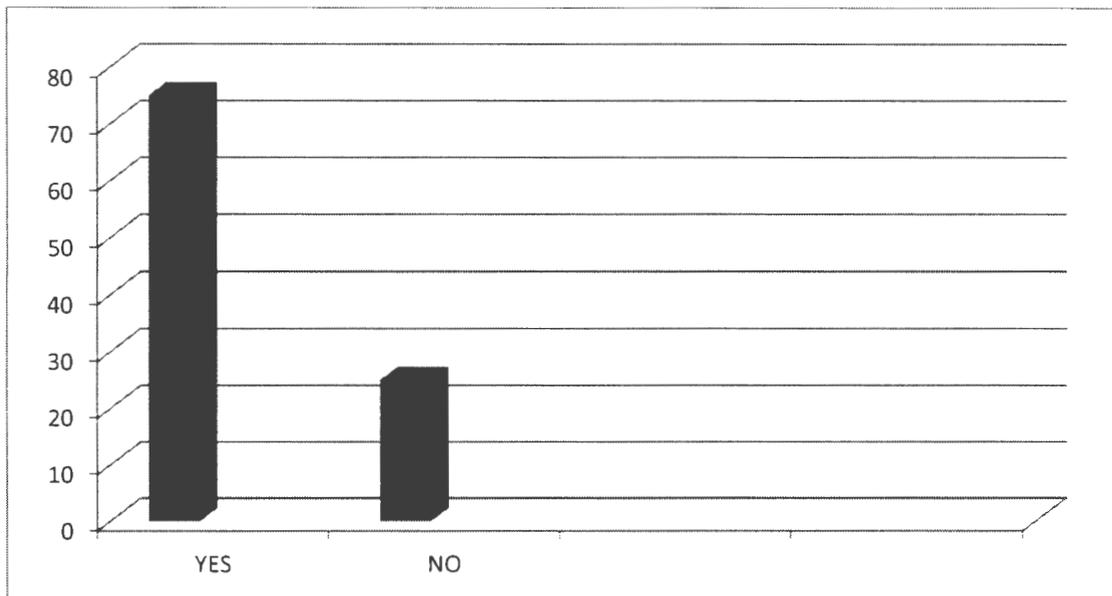
Traditional leaders also have the relevant skills to negotiate bursaries and scholarships for children residing in rural communities. A very good example is the availability of bursaries for children in Phokeng. There is a specific bursary scheme administered by the Bafokeng Community. The bursary is awarded to children from Bafokeng who wish to further their studies. The bursary has been made possible by the traditional leader himself in order to advance opportunities for children from Bafokeng.

Job creation is another prospect that was discussed with participants. Through different developmental projects established by the traditional leader and government departments, several jobs have been created for the local people. This is because usually, the traditional leader advocates for 60% of the labour force to be granted or awarded to people within the community. This is one means of eradicating poverty and also ensures that the people, through these developmental projects, acquire relevant and necessary skills that will continue to assist them to sustain their lives, long after the projects are completed.

#### **6.5 Do legislation and policies undermine the position of traditional leaders in society in any way?**

The study also sought to find out from participants if there are legislation and policies that undermine the role and position of traditional leaders within their communities. A “*lekgotla*” method was used to obtain additional information from participants. Not everyone in the community is aware of legislation and policies, especially those that relate to traditional leadership and their institution in general. In order for the researcher to get relevant responses on

this question, a traditional leader, traditional councillors and purposefully selected community members were grouped to form a “*lekgotla*” and discussions were held with them on the issue.



**Figure 6.2: Views on legislation and policies that undermine the position of traditional leaders in society**

The traditional leader, together with the traditional council of the Bapong 2 Community, were asked if legislation and policies implemented by government undermined traditional leaders and if they also undermined their position in society. 75% of participants said “yes”, some pieces of legislation and policies implemented by the government were demeaning and insulting to traditional leaders, while 25% of participants said “no” and maintained legislation and policies did not undermine traditional leaders and their roles in society.

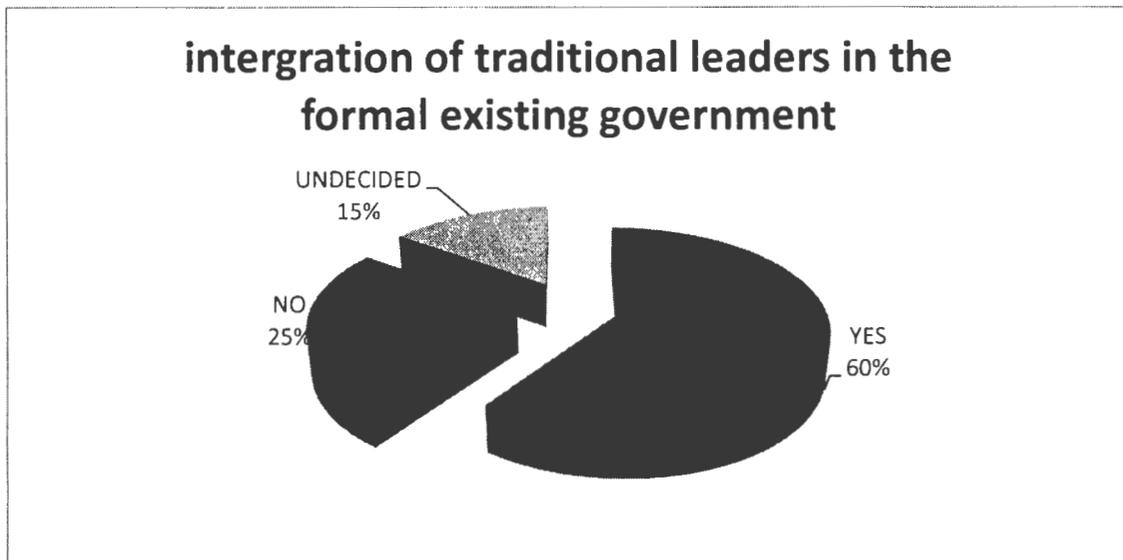
The 75% of participants, who indicated “yes”, argued that the present policies and legislation put into law after the transition to democracy, do not give real power and authority to traditional leaders. They maintained that even though apartheid was very bad for the African people in general, some legislation implemented during the era, gave real power and authority to traditional leaders (to implement and develop their own communities). Participants cited the example of the Black Administration Act to justify their claim.

The Black Administration Act, as reviewed in the literature, was a legislation which set up a separate legal system for the administration of African law and made the proclaimed black areas subject to a separate political regime from the remainder of the country. The central imperative behind the Act was to establish a strong system of national 'native administration' to contain political pressures that were likely to result from the legislative measures necessary for the implementation of territorial segregation (Black Administration Act 38 of 1927).

It is further argued that through these policies and legislation, traditional leaders are considered as primitive and undemocratic, especially by government officials who are politically-minded. The role of traditional leaders, as argued by participants, has been undermined largely by government, through the introduction of ward councillors, who in most cases, do not work hand in hand with traditional leaders in communities. The undermining of traditional leaders by councillors has also led to communities undermining their traditional leaders as well.

The 25% of participants, who argued that policies and legislation do not undermine the role of traditional leaders in society, justified their argument by stating that policies and legislation are needed in order to give law and order in many sectors. They argued that such policies and legislation regulate the role that traditional leaders in local governance. Legislation brings about order in any department and level of governance, an indication of why such legislation is necessary. Legislation and policies are governing principles which ensure that everyone understands his/her place and level of responsibility in any department (*Lekgotla* methods, Bapong 2 Tribal Hall, 07 September 2016).

## 6.6 Integration of traditional leaders into formal existing government structures



**Figure 6.3: Integration of traditional leaders into formal existing structures**

Through in-depth interviews, participants were asked whether the South African government has managed to fully integrate traditional leaders into formal existing government structures. The aim was to establish from national, provincial and local government structures, particularly whether traditional leaders are fully participating in many governmental structures. From the interviews, 60% of participant indicated that traditional leaders are integrated into the formal structure. Participants indicated that traditional leaders belong to the National House of Traditional Leaders as well as the Provincial House of Traditional Leaders. They maintained the establishment of such houses was government’s way of showing how committed they are in accommodating traditional leaders in the new democratic South Africa. The 60% of participants further indicated that even though traditional leaders are not participating in all government structures, however, a lot has been done by the ruling government to enhance their participation and to enlarge their role in government structures, both locally and provincially.

25% of participants interviewed indicated that they have neither realised nor noticed the integration of traditional leaders in government structures. They maintained they only see government officials taking over. The 25% of participants further indicated that if traditional leaders were successfully integrated in formal government structures, then some of the government meetings, especially those aimed at developing local communities, would be held in

various tribal offices that are available in rural communities. This is an indication that traditional leaders are fully integrated and are participating in serious governmental issues that affect their communities.

The 25% of participants argued that they see governmental officials taking over rural communities, since they are politically-driven and their interests are protected by their political powers. They further argued that all governmental departments are out of reach to the local people. If traditional leaders were integrated in government structures, they (traditional leaders) would advocate for more service points of each and every governmental department to be established in rural communities. For example, having a service point for the Department of Social Development, and a service point for the Department of Agriculture, among others where people could go to if they have problems. If that was so, a lot of issues in rural communities would be addressed efficiently and on time. The other 15% of participants were undecided on whether much has been done to integrate traditional leaders in formal governmental structures or not. They indicated that things have remained the same as they were before in many rural communities, an indication of why they do not know which side to follow.

## **6.7 Summary of chapter**

This chapter has examined and established challenges faced by traditional leaders in their rural communities given the different factors in the transition from pre-colonial to post-colonial South Africa and considering what the government of South Africa has done in terms of policies, legislation and practices. Much still needs to be done in order to enhance the participation of traditional leaders in local governance in South Africa. There is a need for local people and traditional leaders as well as government departments to promote the role of traditional leaders in governance. Inclusion of traditional leaders in formal governmental structures will go a long way in assisting them to overcome the different challenges they face on a daily basis, and would be able to do more and achieve a lot in order to develop their communities.

Considering the arguments from the community's perspective, it is evident that traditional leaders should be assigned a more participatory role in government structures, especially in local and provincial structures. If traditional leaders participate together with governmental officials, a

lot of services would be delivered to communities in time. The next chapter focuses on discussion, conclusion and recommendations.



## CHAPTER SEVEN

### DISCUSSION, CONCLUSIONS AND RECOMMENDATIONS

#### 7.1 Introduction

The previous chapter examined challenges and prospects within the sphere of traditional leadership. Traditional leaders have proved to be very important and their role in governance is very important. From pre-colonial to post-apartheid South Africa, traditional leaders have proved to be valuable to many communities, especially those that are still under the customary system.

The purpose of this study was to critically analyse the role of traditional leaders in local governance in order to understand efforts made contemporary formal governance to involve these leaders in formal local governance. In order to achieve this aim, four questions were formulated, namely: What are the challenges and prospects of traditional leaders in local governance?; how do legislation and policies at national, provincial and local government levels impact on traditional leaders?; how is the relationship between traditional leaders and local government?; and what is the role of traditional leaders in the new and democratic South Africa?

The purpose of this chapter is to conclude the study by synthesising the main arguments. This was achieved through examining a systematic presentation of the content of different chapters, including the problem statement, the rationale of the study and critical research questions asked in the study. Moreover, some limitations of the study are addressed and necessary recommendations made in this chapter. Finally, some suggestions for future studies are made.

#### 7.2 Discussion

##### 7.2.1 Summary of chapters

This study is divided into seven chapters. The chapters are divided according to patterns and themes addressed in the study.

Chapter one introduced the study and provided the context underpinning the role of traditional leaders. In this chapter, the aim and objectives of the study were outlined in order to give a clear

indication of the study and provide a roadmap of the research. The research questions (emerging from the specific objectives of the study) were also outlined to emphasise the problems of traditional leaders and their institution the new and democratic South Africa. Chapter provided the literature review of studies conduct by different authors and scholars on the topic under investigation. This chapter was necessary because through reviewing the literature, the researcher was able to establish and identify gaps in previous studies. These gaps assisted the researcher to address issues that have not been addressed by other researchers. The theoretical and conceptual frameworks that informed the study were also provided in this chapter.

Chapter three provided the research design used in conducting the study. In this chapter, the researcher provided a map of how all the objectives outlined in chapter one were to be archived. This chapter also provided the theory that informed the study as well as the research methods used for the specific objective of the study.

Chapter four examined the transition of traditional leaders as a customary system from pre-colonial to a democratic South Africa. Secondary data from books, journals and articles were used to analyse the role that traditional leaders from pre-colonial to colonial South Africa. With regard to the governance structure in modern day South Africa, the researcher employed the “*lekgotla*” method and in-depth interviews to solicit information from participants. The post-colonial theory was identified as one of the theories that informed the study, thus people had to give their viewpoints on the role of traditional leaders in modern day South Africa.

Current legislation and policies that address the participation of traditional leaders in contemporary times were identified and analysed in Chapter five. This was done thorough secondary data. The aim was to find out if policies and legislation in South Africa recognise traditional leaders and establish if such policies and legislation give any power or authority to traditional leaders in order for them to foster development in rural communities.

In chapter six, challenges faced by traditional leaders in administrating and rendering services that develop local communities were identified and established. Prospects of traditional leaders in the new South Africa were also identified and discussed. This was achieved through in-depth interviews and the “*lekgotla*” method.

Chapter seven provided the conclusion necessary recommendations for further research on the role of traditional leaders in local governance in South Africa, a summary of the research findings as well as limitations of the study.

In the final analysis, the research met its objectives as outlined in chapter one. This was achieved through the participation of traditional leaders and councillors, as well as community participants. The community leadership structure as well as community members in general, were very eager to participate in the study as they believed the study would contribute to the knowledge economy of IKS and governance.

### **7.2.2 Summary of findings**

Data collected and analysed revealed there are many issues that need to be addressed regarding the role of traditional leaders in local governance in South Africa. Participants in the study indicated that there are still areas of conflict between traditional leaders and local government officials. It is still very common to find people who criticise traditional leaders their institution nowadays.

It was also revealed that the role of traditional leaders is limited; however, they are needed by government officials in order to foster development in rural communities. It was also revealed that majority of people residing in rural areas have confidence in traditional leaders and believe that traditional leaders can bring about many developmental projects and programmes within their communities if they were incorporated into local governance structures.

It was further revealed that traditional leaders could make valuable inputs in the identification of developmental areas as they have very intimate knowledge of the needs of their own communities. A joint venture between municipal officials and traditional leaders could prove to have very worthy results in the development of rural communities.

Most traditional leaders and councillors are not appreciated by the government council, resulting in the falling-off of developmental projects. The findings of this study are in agreement with the results obtained by Bokwe (2013) that traditional leaders feel they could do better than elected municipal councillors. This stems from the fact that traditional leaders have been around from time immemorial. Their understanding of the people and their needs and how they have survived

the times of oppression, enable them to talk to their people when times are tough and service delivery is not happening as expected. This could assist municipalities in providing quicker service delivery to the people.

The study also revealed that there are many challenges faced by traditional leaders on a daily basis. The demand for services directly from traditional leaders; non-awareness that traditional leaders do not administer funds provided by government; and non-identification of projects within the community, are some of the many challenges identified by participants. If traditional leaders were elected as project heads of projects within their areas, they would better ensure that services are delivered and completed on time.

Regardless of the challenges, a number of prospects regarding the role of traditional leaders were identified and outlined by participants. Traditional leaders are able to lobby funding for their communities and use such funds to develop their communities. Traditional leaders request and lobby such funds from bus companies and network companies that erect network facilities in their communities, and bus companies for parking their buses in the communal land at night.

The aim of the study was to establish efforts made by formal government to incorporate traditional leaders in local governance departments. Data was collected from the community, traditional leaders and councillors and government officials who provided their views and opinions regarding the issue under investigation. The aim of the study was to address issues and objectives of the study through the experiences of the community and its leaders.

### **7.2.3 Limitations of the study**

Like any other research endeavour, some limitations were identified in the current study as well. Government officials were not keen to participate in the study as they thought the researcher was trying to underestimate their authority. As indicated in the sampling of each objective, the ward councillor was supposed to be interviewed as well, but due to his busy schedule at the time of data collection, the researcher ended up not interviewing him. The other limitation of the study was the response by community members to participate in the study. Given the status of the

institution of traditional leadership in the area identified, most people in the community decided not to participate as they also thought that the study was evaluating their status and opinions with regard to what they had to say about their current traditional leader.

### **7.3 Conclusions**

Traditional leaders and their institution at large, constitute a system that cannot be discarded due to modernity and social urbanisation. Traditional leaders have served local indigenous people for many years, which makes them and the role they play even more relevant in contemporary times. Majority of people residing in rural communities still believe in this system and acknowledge the low level of corruption among traditional leaders if any, thus making them the legitimate officers that can foster development in rural areas.

Rural communities and the poor need development, and traditional leaders are the relevant people who can foster development in such communities. Traditional leaders could be trained, educated and made aware of the needs of rural communities and how they could go about addressing the needs of such communities. Natural resources available and accessible to rural communities should be utilised and indigenous knowledge applied to foster development of rural areas. All these need the guidance of traditional leaders who are familiar with the practices of people residing in rural communities.

Policies, legislation and programmes of governmental departments have a direct bearing on development in general. Most policies and legislation are developed to suit the government compared to traditional leaders themselves. Such policies, in most cases, hinder the developmental process and progress of many rural communities.

It is apparent that different laws that governed the institution of traditional leadership during previous governments gave direct power, authority and functions that were solemnly vested in traditional leaders. However, the constitutional dispensation changed the position of traditional leaders. The post-apartheid legislation and policies provide no specific powers and functions to traditional leaders.

Most of the developments in rural communities are a result of the endeavours of traditional leaders, carried out with the limited budgets obtained or received from the previous governments, since their powers, and functions were spelt out.

Participants acknowledged the existence of local municipalities; however, they strongly believed that these structures are not doing enough to foster development in the community. They maintain development is a co-operational process which means that traditional leaders and relevant government stakeholders should work hand in hand. The co-operation between all stakeholders will make development easier to be achieved.

#### **7.4 Recommendations**

Based on the findings of the study, the following recommendations are advanced:

- There is a need for capacity-building workshops for traditional leaders to equip them with necessary knowledge and skills. Government needs to establish programmes that involve traditional leaders whereby, they would train traditional leaders on the necessary skill to initiate and drive development projects in rural communities;
- There is a need to organise short courses for traditional leaders on their rights and responsibilities as leaders of local communities. Universities should initiate and implement short learning courses aimed at equipping traditional leaders with information and the knowhow in terms of management such as short courses on project management for traditional leaders;
- There is need for revision of policies and legislation on traditional leadership and their role in local governance in order to support traditional leaders and incorporate them in formal government structures. Most policies and legislation enacted after the transition into democracy, only acknowledged traditional leaders and their institution in general but do not afford them real power and authority to lead and effectively participate in governance structures at local and provincial levels;

- There is also a need to traditional leaders on budgeting, finance and project management. If traditional leaders are taught and skilled on issues of budgeting and running of projects, development in rural communities could be achieved;
- There is a need to strengthen the relationship between traditional leaders and government officials in order to ensure proper communication between the two. Communication between traditional leaders and government officials is very poor, however, if the is changed and traditional leaders and government officials become united and communicate on a regular basis, development could be achieved;
- There is need for the allocation of a budget for traditional leaders sin order to establish and implement developmental projects in their respective communities. Traditional leaders should be afforded the opportunity to drive certain projects with the budget directly administered by them.
- There is also a need to revise and amend the Municipal Structures Act 117 of 1998 to specify that traditional leaders themselves, through the use of their Provincial and Local Houses, be the ones who elect leaders who represent them in the municipal council. By so doing, traditional leaders would be able to choose people they know would represent the rights of their communities and of traditional leaders in general;
- Local government should work hand in hand with traditional leaders to foster development and traditional leaders should be consulted before any developments take place in rural communities. By so doing, development would be achieved through collaborative efforts from traditional leaders and local government departments;
- There is need for awareness and sensitisation campaigns in rural communities on the value of IKS; and

- Traditional leaders should be made aware (through short courses and seminars) of the value of IKS in developmental projects within rural communities.

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## **Interviews**

Rre T Masina, Traditional Councillor, Bapong 2 Community

Rre Makgale, Traditional Councillor, Bapong 2 Community

Rre Simelela, Traditional Councillor, Bapong 2 Community

Rre Tawana(Senior), Traditional Councillor, Bapong 2 community

Rre Moilwa, Traditional Councillor, Bapong 2 community

Rre B Tawana (Junior), Secretary, Bapong 2 Tribal Authority

Rre J Mogaki, Community Elder, Bapong 2 Community

Mme M Mathikge, Knowledge Holder, Bapong 2 Community

Mme M Dlamini, Community Elder, Bapong 2 Community

Mme D Mogaki, Community Elder, Bapong 2 Community

Mme Mashinini, Knowledge Holder at the Bapong 2 Community

Mme Motaung, Traditional Councillor, Bapong 2 Community

To: The Traditional Leadership

Bapong 2

08 June 2016

Dear Sir/Madam

**SUBJECT: PERMISSION TO CONDUCT RESEARCH:**

**MR MOTHUSIOTSILE EDWIN MADITSI**

**(STUDENT NO: 21871140)**

This serves to inform you that Mr Maditsi is a registered student for the degree: Master in Indigenous Knowledge Systems, North-West University since 2015. The topic of his dissertation is: The role of traditional leaders in post-apartheid local governance in South Africa: A case study of the Bapong 2 community, North West Province, South Africa. The above-mentioned student has finalised his proposal and planning to conduct field work in your community. As indicated above, the research is for academic purposes so that he can be able to complete the study at the end of 2016 academic year.

It will be our great pleasure if you can give him permission and assist him to conduct research in your community.

Regards

Prof. Phillip F Iya (PhD)  
Professor of African and Comparative Law  
Transnational Legal Consultant & Projects Co-ordinator  
IKS Centre, North-West University(Mafikeng Campus)  
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## ANNEXURE 2: CONSENT FORM



NORTH-WEST UNIVERSITY  
YUNIBESITHI YA BOKONE-BOPHIRIMA  
NOORDWES-UNIVERSITEIT  
MAFIKENG CAMPUS

Indigenous Knowledge System

### CONSENT FORM

**Read this if you agree then you can sign**

I (please print) \_\_\_\_\_ give my consent to take part in this study.

1. I have read the information sheet and understood its contents. I know that I will answer questions about “the role of traditional leaders in post-apartheid local governance in South Africa: A case study of the Bapong 2 community, North West Province, South Africa.

2. I understand that everything I say is between me and the researcher but if there is something very serious, such as harm of somebody or me, then the researcher will have to inform someone. My name or personal information is private and will not be used without my agreement. The information and audiotapes will be kept safe and only the researcher will see the interview information and audiotapes. I can view them at any time.

3. I volunteer freely to be part of this study, without duty or obligation. I understand that I am free to withdraw from this study at any time without notice or penalty. I confirm that I have received a copy of this agreement.

**Participant’s signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Researcher’s name (in print):** \_\_\_\_\_

**Researcher’s signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**ANNEXTURE 3**

**IN-DEPTH INTERVIEW GUIDE FOR OBJECTIVE ONE (1)**

This interview guide is used to generate information on the role of traditional leaders as a customary system in local governance in the new democratic South Africa.

**Date**

Year				month		day	

District municipality.....

Local municipality.....

Name of participant.....

Village .....

Gender of participant .....

**Section A: socioeconomic background of participant**

1. Who is the head of the family? .....

2. Does the head of the family reside here? Yes/no

3. Demographic characteristics of participants

Population group	Marital status	Age	Highest level of education	occupation
1.Black African	1.Single	1.25 years or less	1.Never attended school	1.Student
2.Coloured	2.Divorced	2.26-40	2.Primary level	2.Teacher
3.Indian	3.Married	3.41-55	3.Secondary level	3.Nurse
4.White	4.widowed	4.56-70	level	4.Builder
	5.Separated	5.70 and above		5.Domestic

			4.Tertiary level	worker 6.Other

4. How long have you been residing at this place? (Tick)

(1) Less than a year (2) 1-5 years (3) 6-10 years (4) 11-20 years (5) 20 years and more

5. What are your sources of income?.....

6. Income levels

1	Less than R1000	
2	R1000-R2500	
3	R2500-R5000	
4	R5000-R10000	
5	R10000 and more	

7. Religious affiliation

1	Christian	
2	Traditional	
3	Islam	
4	Hindu	
5	Other '(specify)	

**SECTION B: Research questions**

1. Could shared governance result in effective service delivery? (Yes/No, Elaborate)

2. Given the long-standing history of the institution of Traditional Leadership, what are the challenges faced by traditional leaders?
3. What are the prospects of traditional leaders?
4. Do current legislation and policies undermine the position of traditional leaders in society in any way? (Yes/No, Elaborate)
5. Has the South African Government managed to fully integrate traditional leaders into formal existing government structures? (Yes/No, Elaborate)
6. What could be done to make traditional leaders more responsive to the needs of people in local communities?

**Thank you for your cooperation!!!!!!!**

## ANNEXTURE 4

### IN-DEPTH INTERVIEW GUIDE FOR OBJECTIVE THREE (3)

This interview guide is intended to generate information on the challenges and prospects of traditional leaders in local governance.

**Date**

Year											
					month		day				

District municipality.....

Local municipality.....

Name of participant.....

Gender of participant .....

**Section A: Socioeconomic background of participants**

1. Who is the head of the family? .....
2. Does the head of the family reside here? Yes/no
3. Demographic characteristics of participants

Population group	Marital status	Age	Highest level of education	Occupation
1.Black African	1.Single	1.25 years or less	1.Never attended school	1.Student
2.Coloured	2.Divorced	2.26-40	2.Primary level	2.Teacher
3.Indian	3.Married	3.41-55	3.Secondary level	3.Nurse
4.White	4.Widowed	4.56-70		4.Builder
	5.Separated	5.70 and above		5.Domestic

			4.Tertiary level	worker 6.other

4. What are your sources of income?.....

5. Income levels

1	Less than R1000	
2	R1000-R2500	
3	R2500-R5000	
4	R5000-R10000	
5	R10000 and more	

6. Religious affiliation

1	Christian	
2	Traditional	
3	Islam	
4	Hindu	
5	Other (specify)	

**SECTION B: Research questions**

1. Could shared governance result in effective service delivery? (Yes/No, Elaborate)
2. Given the long-standing history of the institution of Traditional Leadership, what could be the challenges faced by traditional leaders?
3. What are the prospects of traditional leaders?

4. Do current legislation and policies undermine the position of traditional leaders in society in any way? (Yes/No, Elaborate)
5. Has the South African Government managed to fully integrate traditional leaders into formal existing government structures? (Yes/No, Elaborate)
6. What could be done to make traditional leaders more responsive to the needs of people in local communities?

**Thank you for your cooperation!!!!!!!**



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**Institutional Research Ethics Regulatory Committee**

Tel: +27 18 299 4849

Email: [Ethics@nwu.ac.za](mailto:Ethics@nwu.ac.za)



## ETHICS APPROVAL CERTIFICATE OF PROJECT

Based on approval by the **Health Science Ethics Committee (FAST-HSEC)** on **07/02/2017** after being reviewed at the meeting held on **07/02/2017**, the North-West University Institutional Research Ethics Regulatory Committee (NWU-IRERC) hereby **approves** your project as indicated below. This implies that the NWU-IRERC grants its permission that, provided the special conditions specified below are met and pending any other authorisation that may be necessary, the project may be initiated, using the ethics number below.

<b>Project title:</b> The role of traditional leaders in the post-apartheid local government of South Africa: A case study of the Bapong 2 community in the North West Province.	
<b>Project Leader/Supervisor:</b> Prof PF Iya	
<b>Student:</b> ME Maditsi	
<b>Ethics number:</b>	N W U - 0 0 2 8 0 - 1 6 - A 9
<b>Application Type:</b> N/A	
<b>Commencement date:</b> 2017-02-07	<b>Expiry date:</b> 2019-06-30
<b>Risk:</b>	<b>Minimal/ No</b>

### Special conditions of the approval (if applicable):

- Translation of the informed consent document to the languages applicable to the study participants should be submitted to the HSEC (if applicable).
- Any research at governmental or private institutions, permission must still be obtained from relevant authorities and provided to the HSEC. Ethics approval is required BEFORE approval can be obtained from these authorities.

### General conditions:

While this ethics approval is subject to all declarations, undertakings and agreements incorporated and signed in the application form, please note the following:

- The project leader (principle investigator) must report in the prescribed format to the NWU-IRERC via HSEC:
  - annually (or as otherwise requested) on the progress of the project, and upon completion of the project
  - without any delay in case of any adverse event (or any matter that interrupts sound ethical principles) during the course of the project.
  - Annually a number of projects may be randomly selected for an external audit.
- The approval applies strictly to the protocol as stipulated in the application form. Would any changes to the protocol be deemed necessary during the course of the project, the project leader must apply for approval of these changes at the HSEC. Would there be deviated from the project protocol without the necessary approval of such changes, the ethics approval is immediately and automatically forfeited.
- The date of approval indicates the first date that the project may be started. Would the project have to continue after the expiry date, a new application must be made to the NWU-IRERC via HSEC and new approval received before or on the expiry date.
- In the interest of ethical responsibility the NWU-IRERC and HSEC retains the right to:
  - request access to any information or data at any time during the course or after completion of the project;
  - to ask further questions, seek additional information, require further modification or monitor the conduct of your research or the informed consent process.
  - withdraw or postpone approval if:
    - any unethical principles or practices of the project are revealed or suspected,
    - it becomes apparent that any relevant information was withheld from the HSEC or that information has been false or misrepresented,
    - the required annual report and reporting of adverse events was not done timely and accurately,
    - new institutional rules, national legislation or international conventions deem it necessary.
- HSEC can be contacted for further information via [Musanchi.Sichembe@nwu.ac.za](mailto:Musanchi.Sichembe@nwu.ac.za) or 018 289 2319.

The IRERC would like to remain at your service as scientist and researcher, and wishes you well with your project. Please do not hesitate to contact the IRERC or HSEC for any further enquiries or requests for assistance.

Yours sincerely

**Prof LA Du Plessis**  
 Digitally signed by  
 Prof LA Du Plessis  
 Date: 2017.02.23  
 09:32:00 +02'00'

**Prof Linda du Plessis**

Chair NWU Institutional Research Ethics Regulatory Committee (IRERC)

Department of English

Faculty of Humanities



17 November 2017

**TO WHOM IT MAY CONCERN**

**CERTIFICATE OF LANGUAGE EDITING**

I, Paul Nepapleh Nkamta, confirm and certify that I have read through and edited the dissertation entitled: **“The role of traditional leaders in post-apartheid local governance in South Africa: a case study of the Bapong 2 Community, North West Province, South Africa”** by **ME Maditsi**, student number: **21871140**, submitted to the Faculty of Natural and Agricultural Sciences, in fulfilment of requirements for the **Degree of Master of Indigenous Knowledge Systems**, at the North-West University, Mafikeng Campus.

ME Maditsi was supervised by **Prof. PF Iya**, Co-supervisor: **Dr KO Lefenya** of the North-West University.

I hold a PhD in English Language and I am qualified to edit academic work of such nature for cohesion and coherence.

The views and research procedures detailed and expressed in the dissertation remain those of the researcher/s.

Yours sincerely



Paul Nepapleh Nkamta (PhD; MA; PGCE; BA Hons)

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Cell: 0739707514

**MAFIKENG CAMPUS**

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