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Topic

**AN INVESTIGATION INTO THE
IMPLEMENTATION OF THE NEW
MUNICIPAL SYSTEM IN THE TRADITIONAL
AUTHORITY AREAS OF TSHWANE
METROPOLITAN MUNICIPALITY: THE
CASE OF AMANDEBELE-A-LEBELO**

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Abstract

The study investigated the implementation of the new municipal system in traditional authority area of Tshwane Metropolitan Municipality with special reference to the Amandebele-a-Lebelo Traditional Authority. The study found that the National Government has provided sufficient framework within which the two institutions can coexist in Traditional Authority areas however there was lack of understanding and implementation of Act No. 117, 1998 of the Local Government Municipal Structures Act. Part 6, Clause (3) which states *“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 the authority the opportunity to express a view on that matter”*.

It is suggested that the Tshwane Metropolitan Council must educate its councilors on the interpretation and implications of Part 6, Clause (3) of the Local Government Municipal Structures Act No.117, 1998 and it must implement these in as far as affording speaking rights to the Kgosi on matters affecting his community. Furthermore, the fact that the South African Government is taking too long to come out with a legislation addressing the status and role of Traditional Leaders creates more anxiety and confusion in Traditional Authority areas. Also in terms of the recent Demarcation, Amandebele-a-Lebelo Traditional Authority falls under Tshwane Metro (Gauteng Province) whilst they account to the House of Traditional Leaders falling under the North West Province. This Legislation therefore will also give light to the resolution of this demarcation problem.

It is clear from the findings that the communities are of the view that had it not been for the Traditional Institutions, the norms and values of the indigenous African communities would have disappeared with colonialism and Apartheid. The role of this institution is welcome and appreciated so long as it does not undermine the democratic transformation process in the country. Traditional institutions must be encouraged to assist in mobilizing local communities to support transformation in the context of the New Municipal System.



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CHAPTER ONE

INTRODUCTION

1.1 Background

The Municipal Systems in South Africa prior to 2000 local government elections were a clear reflection and result of the impact of the apartheid system on community lives. Apartheid, however, was not the beginning of geographic institutional and social separation at the local level. Segregation was already a policy by the time apartheid was introduced in 1948. However, the Group Areas Act was the one legislation that instituted residential segregation and compulsory removal of black people to areas which were specifically designed for them, Soweto for example (White Paper on Local Government: March 1998).

Through this strict pass system permanent presence of Africans in urban areas was restricted and a viable municipal revenue base for white areas was reserved by separating townships from industrial development. This is eloquently said by Wilson and Ramphela (1989) that in South Africa the inequalities of colour-caste are reinforced by those of geographic administration, particularly amongst Africans. Indicators such as income per head or infant mortality rate all indicate that poverty varies widely according to certain geographic categories. South Africa can be divided into three parts being the metropolitan areas of the major cities; the platteland comprising towns and the white-owned commercial farms together with the smaller dorps or villages of the country; and the reserves such as Homelands and Bantustans originally set aside in terms of the 1913 Natives Land Act for occupation by Africans (Wilson and Ramphela, 1989:23).

Furthermore, land was allocated in 1936 to make a total, scattered in hundreds of fragments across the country of 13.7% as a whole. It is these reserves, the residue of nearly three centuries of conquest by white invaders, that form part of the black states which are the centerpiece of the government policy with regard to Africans. There was supposed to be some kind of local government in these black areas.

Local Government in black areas was implemented through “Own Management structures for black residence and at local level were created through Bantustans and Traditional Leaders were given powers over land allocation and development matters in areas with communally owned land (White Paper on Local Government: 1998). Proclamation number 110 of 1957 recognised custom of the South African “Bantu” to regard the chief or headman as the head of the tribal community unit. This shall be discussed further in the literature review.

Some small rural townships were given their own administrators but with limited powers. The Bantu Affairs Administration Act of 1971 was also introduced and through it Administration Boards were appointed which removed responsibility for townships from white municipalities. None of the above structures had resources for viable development of communities because they were far from industrial activities, which generated revenue.

Historically most local government revenue in urban South Africa was self-generated, mainly through property taxes and the delivery of services to the residents and business. This suited the white municipalities, which had small populations to serve and large concentration of economic resources.

In order to reverse this imbalance the 1994 newly elected government made local government development one of its major priorities. They argued that local government had a critical role to play in rebuilding local communities and environments as a basis for a democratic, integrated, prosperous and truly non-racial society.

In terms of the new Constitution, local government is a sphere of government in its own right and no longer a function of national and provincial government. Local government has a distinctive role in building democracy and promoting sound economic development. The Constitution of the Republic of South Africa (1996) mandates local government to: -

- Provide democratic and accountable government for local communities
- Ensure the provision of services to communities in a sustainable manner
- Promote social and economic development
- Promote a safe and healthy environment
- Encourage the involvement of communities and community organizations in the matters of local government.

The new systems have replaced municipal systems, which existed prior to 2000 local government elections. These included the Metropolitan Councils with Metropolitan Local Councils. According to the White Paper on Local Government these were not helpful at all as mechanisms for redistribution of wealth as postulated in the RDP document of 1994.

All metropolitan councils were responsible for redistribution across metropolitan areas. In all cases some redistribution occurred between high income and low-income consumers of services and through the allocation of RSC levies to underdeveloped parts of the metropolitan area. These mechanisms for intra-metropolitan redistribution were found not to be optimal, did not facilitate targeted redistribution and had resulted in significant tensions (White Paper on Local Government: March 1998).

There were also District Councils whose powers and functions were determined by provincial proclamations, which differed from province to province thus lacking consistency. There were also Transitional Local Councils found in most urban areas ranging from major cities to small rural towns with very different economic and social realities. Finally there were Rural Councils, which relied on District Councils for administrative, technical and financial support.

The limited powers and resources of rural municipalities, and their consequent inability to serve local communities have diminished their credibility in some way which then poses a threat to the future development of local government in these areas.

After 2000 local government elections the Metropolitan government was introduced to replace the above-discussed structures, which were found to be ineffective in the redistribution of services to all communities. The Constitution establishes the following categories of municipalities.

- Category A: A municipality that has exclusive municipal executive and legislative authority in each area
- Category B: A municipality that shares municipal executive and legislative authority in its area with Category C municipality within whose area it falls
- Category C: A municipality that has municipal executive and legislative authority in an area that include more than one municipality.

Collectively the role of the new Municipalities is as follows:

- City – wide range spatial integration and socially inclusive development
- Promotion of equity, social justice and economic prosperity
- Promotion of local democracy
- Promotion of affordable and efficient services
- Integrated development planning
- Infrastructure development
- Provision of Technical assistance to municipalities
- Direct service provision at local level

In summary the above functions are geared towards ensuring a flexible system of government in non-metropolitan areas to accommodate the diversity in settlement types and administrative capacities. District governments are to provide the consistency across the country, and have variable relationships with local municipalities based on the circumstances in each locality.

This then brings us that to the question of the role of the traditional leaders in the current democracy. The Local Government Municipal Systems Act (2000) stipulates that the key functions of local government include the identification of the needs of the community, categorize the needs in order of priority and be responsive to the needs of the local community by providing services. This function was the responsibility of the Traditional Authority in some rural areas and there is bound to be overlap of responsibility between the local councilors and the local tribal authority. This leads to tension if the terms of reference for each entity are not clearly outlined. There should be no ambiguity on the roles and responsibility of each entity.



The current South African Constitution recognizes the institution, role and status of traditional leadership according to customary law, but subjects it to the Constitution. Chapter 12 of the Constitution specifically provides for the recognition of the institution of traditional leadership. However, the Constitution falls short of providing for their specific role and function. The same Constitution provides for the establishment of municipalities in all areas of South Africa including traditional authority areas. It further states that local government is to be democratic and accountable to local communities, to ensure the sustainable provision of services to communities, to promote social and economic development and to encourage the involvement of communities in matter of local government (Republic of South Africa Constitution: 1996)

Whilst Chapter 7 of the Constitution of the Republic of South Africa provides for the establishment of elected local government councilors throughout the country, Chapter 12 of the same Constitution recognize traditional authorities and states that national legislation may provide for a role for Traditional Leaders as a institution at local levels on matters affecting local communities.

It is clear that the Constitution provides for two institutions at local level that operate within the same functional and jurisdictional areas. Past laws assigned powers and functions to traditional leadership institutions that are similar to those exercised by municipalities in terms of the Constitution. This is a very sensitive issue especially in rural Provinces like the North West Province where Traditional Authority is entrenched in rural communities. Let us investigate some of the roles of Traditional Authorities in these areas: -

- Acting as head of the traditional authority, and as such exercising limited legislative powers and certain executive and administrative powers
- Presiding over customary law courts and maintaining law and order
- Consulting with traditional communities through imbizo/lekgotla
- Assisting members of the community in their dealings with the state
- Convening meetings to consult with communities on needs and priorities and providing information

These are but a few of the critical roles of Traditional Authorities at local level and clearly there is a serious overlap between their functions and the functions of the newly elected local government councilors. It was therefore very critical for the Government to take everybody including Traditional Authorities on board when discussing the implementation of the new municipal system. This investigation is about finding out whether there was sufficient consultation between the government and traditional authorities in the implementation of the new municipal system within traditional authority areas of South Africa and Tshwane Metro in particular.

Because of the sensitivity and overlap of the role and functions of the local councilors and tribal authority it is necessary to investigate what consultation processes took place in the build up to the implementation of the New Municipal System. According to the Ministry for Provincial Affairs and Constitutional Development they embarked on a policy process that gave effect to the new vision of local government. An intensive 18-month period of consultation with the various stakeholders including traditional leaders took place, which culminated in the White Paper on Local government. They say the White Paper development process has been inclusive, interactive and transparent. Workshops at local level were held which resulted in the Green Paper on local government, which was released for public comment in October 1997. The third phase consisting of Portfolio Committee hearings, a local government summit, public submissions and sectoral consultative conferences resulted in the White Paper on Local Government (A Draft Discussion Document towards a White Paper on Traditional Leadership and Institutions: April 2000).

The relationship between the local government councilors and the Traditional Authorities was envisaged to be one of cooperation and complementing one another. A co-operative model for rural governance was envisaged and it was proposed that in accordance with the Constitution, there be an elected local government in all these areas falling under traditional authorities. Traditional Leadership should play a role closest to the people and their role should therefore be defined principally in relation to category B municipalities. Their roles will include attending and participating in meetings of the Councils and advising the Councils on the needs and interests of their communities.

It was then left to the Provincial Governments and legislatures to determine additional functions of traditional leadership within the national framework provided by this model of cooperative rural governance.

Up until today the issue of role and powers of Traditional Leaders has not been resolved which therefore imply that the implementation of the new municipal system is met with continuous obstacles.

In the meeting of the Coalition of Traditional Leaders held on 28 May 2001 they resolved to and re-iterate their standpoint of not participating in local municipalities until such time that Chapters 7 and 12 of the Constitution have been amended so as to give traditional authorities the constitutional framework to participate in such municipalities.

The implementation of the new municipal systems within the Traditional Authority Areas is deeply affected by this impasse. Communities are confused and development projects are brought to a halt until this fundamental difference is resolved. To add more confusion to the situation Ward Committees have been established within these communities and the role of the tribal authority is fast diminishing and replaced by these Ward Committees.

Good Governance and the New Municipal System in South Africa

Trairatvorakul (1999) states that governance can be summarized as the traditions and institutions by which authority in a country is exercised for the common good. These include the process by which those in authority are selected, monitored and replaced; the capacity of the government to effectively manage its resources and implement sound policies and the respect of citizens and the state for the institutions that govern economic and social interaction among them. Municipal budgets are a critical tool for governance and re-focusing the resources and capacity of the municipality behind developmental goals. To this end, budgets must be developed in relation to the policies and programmes put forward in municipal Integrated Development Plans (White Paper on Local Government, March 1998: 124).

The White Paper on Local Government clearly stipulates that community participation in the development of the Integrated Development Plans and municipal budget is essential. Participation provides an opportunity for community groups to present their needs and concerns (people-centred development).

It enables them to be involved in the process of prioritization, and to understand and accept the trade-offs, which need to be made between competing demands for scarce resources (transparency and accountability). It is very important to realize that in Traditional Authority areas this whole question of community participation was done through the Chief and the Traditional Council. The overlap of functions of the Chief and the Tribal Council on the one hand and the Councilors and Ward Committees on the other developed and it is the purpose of this study to investigate how government is resolving the conflicts between the two institutions without compromising any of the two.

Through various utterances by Government Ministers and officials the principles of good governance are enforced. These principles include fairness, openness, transparency and accountability. In order to hold the public entities accountable for their roles there should be clear standard of duties, mechanisms to monitor their performance and liability for non-performance. White Paper on Local Government (1998) also sees performance management as a critical to ensure that plans are being implemented, that they are having the desired developmental impact, and that resources are being used efficiently. Municipalities are instructed to set their own measures of performance, or Key Performance Indicators and these should cover both efficiency measures and human development indices.

The principles of good governance must be protected and supported by the political and traditional leadership and they must ensure that these principles shall be embraced even if it means via the enforcement of the law. Without this commitment by the leadership then good governance is as good as written in the paper.

This is supported by the International Monetary Fund's Managing Director (1997) who stated that "good governance is important for countries at all stages of development. . . . Our approach is to concentrate on those aspects of good governance that are most closely related to our surveillance over macroeconomic policies—namely, the transparency of government accounts, the effectiveness of public resource management, the stability and transparency of the economic and regulatory environment for private sector activity"

The New Partnership for Africa's Development emphasizes that African leaders at all levels must embrace the following principles: -

- preserve the peace, national unity and the indivisibility of the Republic;
- secure the well-being of the people of the Republic;
- provide effective, transparent, accountable and coherent government for the Republic as a whole;
- be loyal to the Constitution, the Republic and its people;
- respect the constitutional status, institutions, powers and functions of government in the other spheres;
- not assume any power or functions except those conferred on them in terms of the constitution;
- exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere and co-operate with one another in mutual trust and good faith.

1.2 Statement of the Problem

The study was motivated by the following questions:

- What led the South African government to establish the new municipal system?
- What structures constitute the new municipal system?
- What are roles and functions of the municipalities?
- What is the role of traditional leaders in the current democratic structures?
- What are attitudes of traditional leaders towards the current democratic structures in the study area?
- What consultation took place in the buildup to the implementation of the new municipal system?
- What is the relationship between the new local government councilors and the traditional authorities?
- What is the impact of the establishment of Ward Committees on the relationship between the communities and the tribal authority ?

1.3 Rationale of the Study

“Local Government is the sphere of government that interacts closest to the communities, is responsible for the services and infrastructure so essential to the people’s well being and is tasked with ensuring growth and development of communities in a manner that enhances community participation and accountability” (White Paper on Local Government: March 1998). Clearly the South African Government acknowledges the centrality of local government as a service provider to its local communities.

The problem is that previously tribal authorities used to be the ones who take community needs and complaints to government. They had a specific and unambiguous role of identifying the needs of the community and presenting these to the provincial or national government. Clearly the need for this role in the current democracy is questionable, as government has been brought nearer to the people via municipalities. Because of the overlap of roles and functions between Ward Committees (which represent government within communities) and Traditional Authorities, development projects in some of the areas within traditional authority areas have been negatively affected. Projects initiated by government have sometimes been halted because the traditional authority felt it was not consulted.

It was therefore very important to investigate the consultation processes that took place between government and the traditional authorities so that there is cooperation between the two entities and development is not halted because of the impasse between the two legitimate entities.

Again because of the establishment of Ward Committees in local areas, the roles and functions of traditional leaders are diminishing as people take part in these Ward Committees and do not need traditional authority representation in these meetings. Traditional Authorities have been reduced to allocating graves for burial and resolving small family disputes. But real interaction with government is done through Ward Committee and Ward Councilors.

Traditional authorities are threatened by this move and would do anything possible to instill their authority hence the delay in the improvement of the quality of lives of the people in some of these areas.

Clearly there is an impasse between the government and traditional leaders and this is outlined in a press statement issued by the Coalition of Traditional Leaders of South Africa dated 28 May 2001 where they say they “ record their dissatisfaction with the manner in which the Ministry of Local Government has continuously sought to sideline and ignore Traditional Leadership in addressing the issue of the roles, powers and functions of Traditional Leaders in Local Government”.

The statement continues to say that the Coalition of Traditional Leaders of South Africa is of the firm belief that the delay in resolving the impasse will have a bearing on delivery of services and infrastructure in rural areas.

1.4 Aim of the Study

The aim of the study was to investigate the implementation of the new municipal system in traditional authority area of Tshwane Metropolitan Municipality: A case study of Amandebele-a-Lebelo Traditional Authority.

1.5 Objectives of the Study

The study examined the following specific aspects:

- The factors that led the South African Government to establish the new municipal system
- The structures that constitute the new municipal system
- The roles and functions of these municipalities in the study area
- The role of traditional leaders in the current democratic structures
- The attitudes of traditional leaders towards the current democratic structures in the study area
- The consultation process that took place in the build up to the implementation of the new municipal system
- The relationship between the local government councilors and traditional authorities
- The impact of the establishment of Ward Committees on the relationship between the communities and the tribal authority

1.6 Literature Review and Theoretical Perspective

It was important to review related literature regarding this research problem. Literature review provided the researcher an opportunity to study the different theories related to the research problem to deepen theoretical framework. The researcher also familiarized herself with the recent developments in the debate around the New Municipal System and its impact on the Traditional Authority Areas in general and Tshwane Metropolitan Municipality in particular. This process helped the researcher to realize that little research work has previously been done on the topic. Literature review also helped the researcher to identify the different variables that must come into play if one had to do justice to the topic. As the researcher proceeded with literature review one thing became clear that this whole study is about change, and the researcher thought it necessary to discuss, briefly different perspectives on Social Change.

Sociological Ideas on Social Change



At the crux of this study is social change. The Traditional Authority of Amandebele-a-Lebelo is grappling with social change that is brought about by the introduction of the New Municipal System in 2000. The community of Amandebele-a-Lebelo is grappling with the change from being administered and accountable to the Traditional Authority to being actively involved in deciding their future through the Ward Committees. It is therefore important to talk briefly about change – Social Change.

Comte and Spencer in Webster (1990) believed that societies transform from one stage to the other through the process of differentiation like in living organisms. The simple, unicellular organism develops, first of all, and over a very long period gives rise to a more complex structure. They argue that the human race undergoes the same process of evolution. Initially, people lived in simple small societies but as the population and the areas of these societies expanded over time their structures became more and more complex.

Whilst Spencer proceeds to argue that the fact that societies must adapt to a constantly changing environment is an extremely important stimulus for change (Mitchel, 1979).

Durkeim on the other hand believed that through structural differentiation, industrialization brings about the change from simple society with little division of labour to a modern society with a highly differentiated division of labour and organic solidarity. He distinguishes between traditional and modern societies. It is clear that many of the ideas reflected in the Modernization Theory are implicitly and explicitly of an evolutionary nature and based on a dichotomous view of society.

Structural functionalists such as Comte, Spencer and Durkheim all agree that society should be understood as a system. It should be understood as an entity with distinguishable and interconnected elements. Social structures must be created by society in order to provide for functional prerequisites such as food and shelter. They identify the family, education, economic systems and political stability as social structures, which must be created, and be able to work together in order to maintain cohesiveness and social stability amongst members of society (Haralambos, 1989).

Structural Functionalists agree that for society to stabilize, order must prevail. They all express particular importance to morals, norms, values and beliefs shared by the people in society. They argue that for society to have order there must be value consensus (Webster, 1990)

Modernization Theorists, on the other hand, usually describe social change as a movement from one stage to another. This movement represents progress. It is in this context that Modernization Theorists usually distinguish between traditional and modern societies as two distinct types. They argue that social development occurs when traditional societies change into modern societies.

They see modernization as a total transformation of a traditional or a pre-modern society into the types of technology and associated social organization that characterize the advanced, economically prosperous and politically stable notions of the Western World (Webster, 1990).

Modernization Theorists are of the view that modern societies like those in the West are successful because they are better adapted to their environments and function more effectively than traditional societies.

These theorists give greatest priority to the role played by the values, norms and beliefs of people in determining the sort of society, traditions or modern, that they create. They argue that value changes are most important condition social change. Values systems of superstitions, kinship followed in traditional societies must be replaced by forward looking, innovative and entrepreneurial tendencies of the West hence Cultural Infusion.

It is the Researcher's view that the current process of consultation between the government and the traditional leaders does not indicate any attempt by the South African government to replace value systems of the traditional societies, rather they intend embracing these value systems and seeing how best these can be utilized to contribute positively to the development of the rural communities.

The Role of Traditional Institutions In Modern Africa

Ajayi (2000:44) argues that the problem of what to do with the traditional rulers is only symbolic of the problem of reconciling the traditional institutions that have been inherited from the past with a large number of centralized and non-centralized communities into the institutions of the Nigerian state that they have imported from abroad.

This is clearly not only applicable to Nigeria but is a reflection of serious problems faced by most African countries unable to define the status, role and functions of the traditional institution in their countries.

The Modernization Theory also purports that the process of modernization by diffusion should encourage development of a number of features in the Third World, including urbanization based on nuclear family households, educational growth for literacy and training, *the replacement of patterns of authority based on traditional loyalties (for example, local chiefdoms) with a rational system of law coupled with representative national government (Webster, 1990:54).*

Webster (1990:55) and Gusfield argue that there is wealth of evidence to indicate that economic growth and the advent of modernity does not necessarily mean abandonment of so-called traditional patterns of action, values or beliefs. For example, the traditional religion of Islam has been reinforced by the diffusion of modern technology, particularly transport, that makes the visit to the shrine of Mecca a much more practicable proposition for many more people than had been true in the past.

It looks at though that most African countries recognize the importance of the role of Traditional Authority. The introduction of democratic practices in traditional authority areas does not necessarily mean getting rid of the traditional way of doing things. There is recognition that both government and the traditional institution have a role to play in society. It is a system that is entrenched in our society and respected, especially by the elderly. The traditional institution may be slowly dying but it will take years and in the meantime it must be respected.

Murphee (1976) points out that the reason why some African countries have a difficulty of placing the traditional institution correctly within society is that some Third World countries want to modernize their countries with values that are euro centric. They want to inherit “modernity” in its entirety and disregard the local cultural values that can enhance “modernization” in their areas. The two entities, government democratic practices and traditional systems are not mutually exclusive and in fact fusion of the two can produce good results such as development that is taking place in Muslim countries.

In South Africa the co-existence of the two entities is recognized and respected by politicians and this is clearly outlined in Act No. 117, 1998 of the Local Government Municipal Structures Act. Part 6, Clause (3) of this Act which 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 the authority the opportunity to express a view on that matter”*.

It is the view of the Minister Sydney Mufamadi that some form of partnership must be established between local government councilors and traditional leaders. The relevance of the institution of traditional leadership depends to a large extent on how the institution serves its communities – customarily, culturally and developmentally. While traditional communities support democracy and are increasingly conducting their lives in accordance with democratic principles such as equality of treatment, right of participation and choice, they simultaneously support traditional leadership. Hence the two systems, in so far as they relate to governance, need to be synergised within the framework of co-operative governance (Discussion Document Towards the White Paper on Traditional Leadership, March 2000)

Olson (1995) states that in Aguaruna, Peru, two different types of leadership exist. The traditional leader who had the respect of the community and the leader who spoke Spanish and had the respect of the outside world. He outlines the role of the Aguaruna traditional leadership as follows: -

- It serves as a liaison between the community and the outside agencies;
- It knows and understand what the community needs area;
- It guides the community into realistic expectations;
- It organizes the community;
- It builds community consensus;
- It researches community resources and
- It organizes and oversees the daily work involved in carrying out a particular project.

Osion (1995) continue to state that traditional leadership holds a key to development for its people and it faces a tremendous challenge. It is their responsibility to help their people understand the pressure felt in the struggle to assimilate things from the dominant culture into the traditional culture and to enter into the national economy. As outsiders, we can introduce new things and help in the change process, but the consequences of decisions made and actions taken do not affect us in the same way as they do the people in traditional communities themselves. Traditional leadership deserves great respect and all of the help they can be given to enable them to be successful in their communities.

Clearly much more intensive research need to go into this study because at the present moment few writers have focused on this area of work. African writers can provide guidance in this regard and inform future policy decisions. At the present moment there is limited research in this area.

Implications of good governance for NEPAD

One of the critical factors that the researcher thought it necessary to look into carefully was that of good governance. It is very easy and simple to talk about local government but what is critical, is to investigate and probe further on the whole question of good governance. For instance, is the local government in South Africa transparent, open and accountable to the people? This was discussed in the introduction but it is necessary to look beyond South Africa because as Africa we are talking about the New Partnership for Africa's Development (NEPAD) and South Africa in particular is spearheading this wonderful initiative meant to take the African continent to a bright destiny full of growth, no wars and improved quality of life. It is therefore necessary to investigate NEPAD and how the little good done by the authorities in government will contribute towards the success of the wonderful initiative.

The Organisation of African Unity Summit held in Lusaka, Zambia on 11 July 2001 endorsed the New Partnership for Africa's Development as a pledge by African leaders, based on a common vision and a firm and shared conviction, that they have a pressing duty to eradicate poverty and to place their countries, both individually and collectively, on a path of sustainable growth and development, and at the same time to participate actively in the world economy and body politic (Uneca Conference, Oct 2001: 3). NEPAD is a determination by Africans to extricate themselves and the Continent from the malaise of underdevelopment and exclusion in a globalising world.

In Africa, 340 million people, or half the population, live on less than US \$1 per day. The mortality rate of children under 5 years of age is 140 per 1000 and life expectancy at birth is only 54 years. Only 58 % of Africa's population has access to safe water. The illiteracy rate of people over 15 is 41%. There are only 18 mainline telephones per 1000 people in Africa, compared with 146 for the world as a whole and 567 for high-income countries (Frank, 1984).



The President of the Republic of South Africa, Mr. Thabo Mbeki in his speech on the New Partnership for Africa's Development and African Unity (Oct 2001) states that NEPAD is a calling for the reversal of this abnormal situation by changing the relationship that underpins it. Africans are appealing neither for the further entrenchment of dependency through Aid nor for marginal concessions. Africa moves from the premise that resources such as capital, technology and human skills that are required to launch war on poverty and underdevelopment exist in abundance and what is required is for Africa to mobilize these resources and to use them properly, also what is required is a bold and imaginative, visionary leadership that is genuinely committed to a sustained human development effort and poverty eradication (Mbeki, 31 Oct 2001). One can summarise this by saying, Africa wants to determine its own destiny and the rest of the world to complement its effort.

Africa can only achieve this though, by ensuring that there is good governance in all the African states. Democratic regimes must be committed to the protection of human rights, people-centred development must be encouraged and in fact entrenched, African people must begin to stand up and demonstrate their refusal to accept poor economic and political leadership.

There are positive indications that these actions are taking place in various African countries but these gains must be consolidated, widened throughout Africa and must be further expedited evenly and adequately throughout the Continent.

NEPAD can only succeed if good governance is entrenched in all spheres of government, especially, local government because that is the sphere of government that is the closest to the people, central and play a critical role in ensuring people-centred development. South Africa in particular is moving towards the right direction by the creation of the Ward Committees (Local Government Municipal Structures Act, 2000) because this way, the communities themselves have an opportunity to drive their destination, they decide which projects are critical to them, who should represent their interest and have an opportunity to vote and elect their representatives.

This is one way of ensuring accountability by politicians, hence the importance of holding free and fair elections by all regimes to renew their mandates and not impose decision to the general public.

Uneca Conference Documents (Oct 2001) outlines the following as joint responsibility for all African leaders to pursue the NEPAD initiative :-

- strengthening mechanisms for conflict prevention, management and resolution at the Regional and Continental levels, and to ensure that these mechanisms are used to restore and maintain peace;
- promoting and protecting democracy and human rights in their respective countries and regions, by developing clear standards of accountability, transparency and participatory governance at the national and sub-national levels;
- restoring and maintaining macroeconomic stability, especially by developing appropriate standards and targets for fiscal and monetary policies, and introducing appropriate institutional frameworks to achieve these standards;
- instituting transparent legal and regulatory frameworks for financial markets and auditing of private companies and the public sector;
- revitalizing and extend the provision of education, technical training and health services, with high priority given to tackling HIV/AIDS, malaria and other communicable diseases;
- promoting the role of women in social and economic development by reinforcing their capacity in the domains of education and training; by the development of revenue-generation activities through facilitating access to credit; and by assuring their participation in the political and economic life of African countries;
- building the capacity of states in Africa to set and enforce the legal framework, as well as maintaining law and order;

- promoting the development of infrastructure, agriculture and its diversification into agro-industries and manufacturing to serve both domestic and export markets

Clearly most of the above responsibilities are a direct challenge to local governance. People – oriented development can only be achieved via the participation of local community structures at local government level. Bottom-up approach is critical in ensuring that policy decisions are based on vigorous debates and inputs from the local level, that is, the people on the ground. It is therefore critical for all governments to ensure accountability, transparency and openness to the public. Peace, security, democracy, protection of human rights, sound economic management and good and clean political governance are conditions for sustainable development.

It is very encouraging to note that most African leaders appreciate that conditions for sustainable development can only be created if they work together and hold each other accountable in ensuring that they promote peace and stability, democracy, sound economic management and people-centred development and this can only be achieved through good governance especially at the local government level.

The New Municipal System is one of the vehicles used by the South African Government to ensure people-centred development. Active participation of members of the public in decision-making is encouraged and facilitated through Ward Committees and local community structures.

The Municipal Structures Act of 2000 stipulates that Municipalities must ensure public participation in the development of its budget. Each Municipality is expected to form Stakeholders Forums comprising members of the public who must take part in policy formulation and implementation.

1.7 Hypotheses

This study was based on the following hypotheses:

- In establishing the New Municipal System, new the democratic government of South Africa has been influenced by: the extreme concentration of taxable economic resources in formerly white areas; huge backlogs in service infrastructure in historically disadvantaged areas; and the creation of viable municipal institutions for dense rural settlements close to the borders of former homeland areas which have large populations with minimal access to services and little or no economic base.
- The new functions of the traditional leaders in the current democratic system and structures tend to be making recommendations of land allocation and settling of land disputes; lobbying government and other agencies for the development of their areas; ensuring that the traditional community participates in decisions on issues affecting their lives in the community; advise government on Succession Disputes and being custodians and protectors of the community's customs and traditions;

1.8 Significance of the Study

This study was done almost a year after the introduction of the new municipal system being December 2000. Both the government and traditional leaders themselves have had over a year to see the new system unfold and this might have provided new ideas and change of heart in other aspects of this impasse.

This study therefore comes at a right time where people interviewed were not talking about an envisaged system that they do not know how it unfolded and operates. They were in a better position to take informed decisions based on what transpired in the previous trial-error year.

Through the interviews with the traditional authority of Amandebele-a-Lebelo one was in a position to listen to their views on how they see their role in the current democracy. The questions posed assisted the members of traditional authority to address head-on the current impasse, as to how their role differs from that of local councilors or ward committees. They will understand this aspect of democracy as a reality and may begin to find a way of accepting its presence in traditional authority areas.

On the other hand, through the responses or input of the traditional authority of Amandebele-a-Lebelo the government may formulate a policy that is suitable for both the traditional leadership in the area and local councilors. This outcome could be a solution to the problem at national level.

The study also strengthened the understanding of the Tshwane Metropolitan Municipality on traditional authority issues and such understanding will assist them in their efforts to improve relations with Chief Kekana of the Amandebele-a-Lebelo traditional authority. At the present moment the Chief sits in Council meetings but has no voting status.

This interaction between the researcher, the Tshwane Metropolitan Council and the Traditional Authority may influence national policy on the definition of roles, functions and status of traditional authorities in the current democracy.

It was very important to talk to the general public of the Amandebele-a-Lebelo community. The views of the public might also influence policy in some way. It is my view that views of the public carry more weight than those of government and the traditional authority because their well being is an issue.

The study also benefited the community to know government policy and reasoning around the issue of traditional authorities and local government. The interaction was informative for both sides, as the researcher was sharing with them the various issues and debates from documents discussing the whole issue of traditional leadership and its role.

My hope is that through this study the process aimed at engaging the community of Amandebele-a-Lebelo in a dialogue regarding the institution of traditional leadership in their area has already begun. The government, traditional authority and the community at large must and have, in a way, contributed in designing a policy that will affirm, define and clarify the role of traditional authorities in the current democracy.

Although this study is based on one area being Amandebele-a-Lebelo Traditional Authority its significance might have impact on national policy.

1.9 Methodology

The study followed the descriptive research approach using the Amandebele-a-Lebelo community of the Tshwane Metropolitan Municipality as a case study. The case study is a way of organizing social data and looking at the object to be studied as a whole (Bless and Higson-Smith, 1995). Through a case study the researcher will be able to make a follow up in future on further developments after the study. For example, the researcher can be able in five years or so to go back to Amandebele-a-Lebelo community and assess whether the co-existence of the traditional authority and the local councilors is bearing good fruits.

This case study was to assist the researcher to examine in a much deeper way the roots of traditional authority and to describe how particular issues were dealt with prior to the implementation of the New Municipal System. Through the case study the researcher was able to determine the attitude of the general public towards the traditional authority or the attitude of the general public towards the New Municipal System.

1.9.1 Subjects

The following constituted the sources of information for the study: -

- A Purposive Sample of key persons which included:
 - a) the MEC for Traditional Affairs, in the North West Province as a representative of the North West Provincial Government currently hosting the House of Traditional Leaders.
 - b) the Chief Whip in the Tshwane Metropolitan Municipality Council
 - c) the Chief of the Amandebele-a-Lebelo Tribe or his nominee
 - d) A convenient sample of five local Councilors.

Because this is a sensitive issue in the community most Councilors did not want to pronounce their standpoint openly until national government has given direction. They felt that as councilors they represent all and sundry and did not want to be seen to be against or for traditional authority.

- A stratified random sample of the third of the community in the area. It was stratified on the basis of gender in order to provide men and women equal representation in the sample.

1.9.2 Methods of Data Collection

- a) Structured and Semi-Structured interviews were conducted with the key persons mentioned in the above section.
- b) A questionnaire with both closed and open-ended questions was used for the Stratified Random Sample of community members. Open-ended questions provided respondents with an opportunity to elaborate on their responses and the closed ended questions assisted in the gathering of the quantitative information.

1.10 Data Analysis

Field data was both qualitative and quantitative. Descriptive Statistics was used to analyse the demographic information on the respondents, that is, quantitative. Attitudes and opinions of the respondents were analysed through contents analysis.

1.11 Limitations of the Study

- Because this is a sensitive issue, only a handful of local Councilors were willing to participate in the study because they did not want to be seen to be in favour of one system over another.
- Out of a 100 questionnaires that were distributed only 51 responses were received by the researcher.
- There is a high illiteracy rate in the community and the questionnaire was written in English. If it was written in Se-Tswana more responses would have been received.

1.12 Ethical Considerations

- Researcher ensured confidentiality of information;
- Culture and Values of the community of Amandebele-a-Lebelo was respected, for example, the Researcher formally introduced herself to the Chief and presented the research project to him. The Chief gave his blessings and the study went ahead without problems.
- Questions asked by the Researcher were sensitive to the norms, values and culture of the community.
- Respondents were informed that participation in the study was voluntary.
- The Researcher undertook to provide both Amandebele-a-Lebelo Traditional Authority and the Tshwane Metropolitan Municipality with copies of the Research Report for their perusal. This ensures that the Researcher misrepresented none of their views.

Organization of the Final Report

- Chapter One is the introduction to the research process. It includes the background, aims, objective and methodology of the study.
- Chapter Two provides a background to the establishment of the new municipal system in South Africa including its functions, advantages and limitations in promoting good local governance and service delivery.
- Chapter Three discusses the background to traditional authority and its role in the new municipal system in South Africa.
- Chapter Four are the conclusions and recommendations from the study

CHAPTER TWO

BACKGROUND TO THE NEW MUNICIPAL SYTSTEM

In order to understand the nature and functions of the New Municipal System in South Africa and its impact on traditional authority areas, one needs to understand their background prior and after the 1994 democratic elections in South Africa. It is on the basis of this consideration that this section examines the background to the New Municipal System in South Africa.

2.1 Background to the New Municipal System

Prior to 2000 local government elections Municipal Systems were a clear reflection and result of the impact of apartheid in community lives. This is eloquently said by Wilson and Ramphele (1989) that in South Africa the inequalities of colour-caste are reinforced by those of geographic administration, particularly amongst Africans. Indicators such as income per head or infant mortality rates all indicate that poverty varies widely according to certain geographic categories. South Africa can be divided into three parts: the metropolitan areas of the major cities; the platteland comprising towns and the white-owned commercial farms together with the smaller villages of the country; and the reserves such as Homelands and Bantustants originally set aside in terms of the 1913 Natives Land Act for occupation by Africans (Wilson and Ramphele, 1989:23).

It was these reserves, the residue of nearly three centuries of conquest by white invaders that formed part of the black states, which were the centerpiece of the government policy with regard to Africans. There was supposed to be some kind of local government in these black areas. Local Government in black areas was implemented through "Own Management Structures" for black residents at local level.

Bantustans and Traditional Leaders were given powers over land allocation and development matters in areas with communally owned land (White Paper on Local Government: 1998). Proclamation number 110 of 1957 recognized custom of the South African “Bantu” to regard the chief or headman as the head of the tribal community unit.

Some small rural townships were given their own administrators but with limited powers. The Bantu Affairs Administration Act of 1971 was also introduced and through it Administration Boards were appointed which removed responsibility for townships from white municipalities. However, none of the above structures had resources for viable development of communities because they were far from industrial activities, which generated revenue. Historically most local government revenue in urban South Africa was self-generated, mainly through property taxes and the delivery of services to the residents and business. This suited the white municipalities, which had small populations to serve large concentration of economic resources.

In order to reverse this imbalance the 1994 newly elected government made local government development one of its major priorities. They argued that local government had a critical role to play in rebuilding local communities and environments as a basis for a democratic, integrated, prosperous and truly non-racial society.

In terms of the new Constitution, local government is a sphere of government in its own right and no longer a function of national and provincial government. Local government has a distinctive role in building democracy and promoting sound economic development. The Constitution of the Republic of South Africa (1996) mandates local government to: -

- Provide democratic and accountable government for local communities
- Ensure the provision of services to communities in a sustainable manner
- Promote social and economic development
- Promote a safe and healthy environment
- Encourage the involvement of communities and community organizations in the matters of local government.

The new systems have replaced municipal systems, which existed prior to 2000 local government elections. These included the Metropolitan Councils with Metropolitan Local Councils. According to the White Paper of Local Government these were not helpful at all as mechanisms for redistribution of wealth as postulated in the Reconstruction and Development Programme (RDP) document of 1994.

All metropolitan councils were responsible for redistribution across metropolitan areas. In all cases some redistribution occurred between high income and low-income consumers of services and through the allocation of Regional Services Council (RSC) levies to underdeveloped parts of the metropolitan area. These mechanisms for intra-metropolitan redistribution were found not to be optimal, did not facilitate targeted redistribution and had resulted in significant tensions (White Paper on Local Government, March 1998).

There were also District Councils whose powers and functions were determined by provincial proclamations, which differed from province to province thus lacking consistency. There were also Transitional Local Councils found in most urban areas ranging from major cities to small rural towns with very different economic and social realities. Finally there were Rural Councils, which relied on District Councils for administrative, technical and financial support. The limited powers and resources of rural municipalities, and their consequent inability to serve local communities have diminished their credibility in some way which then poses a threat to the future development of local government in these areas. After 2000 local government elections the Metropolitan government was introduced to replace the above-discussed structures, which were found to be ineffective in the redistribution of services to all communities.

The Constitution establishes the following categories of municipalities.

- Category A: A municipality that has exclusive municipal executive and legislative authority in each area
- Category B: A municipality that shares municipal executive and legislative authority in its area with Category C municipality within whose area it falls
- Category C: A municipality that has municipal executive and legislative authority in an area that include more than one municipality.

2.2 Functions and Challenges of the New Municipal System

Collectively the roles of the new Municipalities are as follows:

- City – wide range spatial integration and socially inclusive development
- Promotion of equity, social justice and economic prosperity
- Promotion of local democracy
- Promotion of affordable and efficient services
- Integrated development planning
- Infrastructure development
- Provision of Technical assistance to municipalities
- Direct service provision at local level

In summary the above functions are geared towards ensuring a flexible system of government in non-metropolitan areas to accommodate the diversity in settlement types and administrative capacities. District governments are to provide the consistency across the country, and have variable relationships with local municipalities based on the circumstances in each locality.

The Local Government Municipal Systems Act, 2000 stipulates the following as the duties of the municipal administrations. It states that the municipality's administration is governed by the democratic values and principles embodied in Section 195 of the Constitution.

The Administration of the municipality must: -

- be responsive to the needs of the local community
- facilitate a culture of public service and accountability amongst staff
- take measures to prevent corruption
- establish clear relationships, and facilitate co-operation and communication between it and the local community
- give members of the local community full and accurate information about the level and standard of municipal services they are entitled to receive and
- inform the local community how the municipality is managed, of the costs involved and the persons in charge.



Clearly the above functions indicate that local government is a necessary vehicle to ensure bottom-up approaches to service delivery and governance in particular, however there are challenges of managing viable and environmentally sustainable urban and rural systems. The following are some of the additional challenges faced by South African Municipalities as outlined in the White Paper on Local Government (1998).

- Skewed settlement patterns which are functionally inefficient and costly;
- Extreme concentrations of taxable economic resources in formerly white areas, demanding redistribution between and within local areas;
- Huge backlogs in service infrastructure in historically underdeveloped areas, requiring municipal expenditure far in excess of the revenue currently available within the local government system;

- Creating viable municipal institutions for dense rural settlements close to the borders of former homeland areas, which have large populations with minimal access to services, and little or no economic base;
- Great spatial separations and disparities between towns and townships and urban sprawl;
- Creating municipal institutions which recognize the linkages between urban and rural settlements;
- Entrenched modes of decision making, administration and delivery inherited from municipalities geared for the implementation of urban and rural apartheid;
- Inability to leverage private sector resources for development due to a breakdown between capital markets and municipalities;
- Substantial variations in capacity with some municipalities having little or no pre-existing institutional foundation to build on;
- The need to rebuild relations between municipalities and the local communities they serve.

All the above challenges faced by municipalities as they grapple with this New Municipal System.

2.3 Advantages and Limitations of the New Municipal System in Promoting Good Local Governance and Service Delivery

All spheres of government (national, provincial and local) as well as all organs of state including traditional leaders and other traditional institutions established in terms of legislation must act in accordance with the principles of co-operative governance as contained in Chapter 3 of the Constitution of the Republic of South Africa, 1996. These are:

- to preserve the peace, national unity and the indivisibility of the Republic
- to secure the well being of the people of the Republic
- to provide effective, transparent, accountable and coherent government for the Republic as a whole;
- to be loyal to the Constitution, the Republic and its people
- to respect the constitutional status, institutions, powers and functions of government in the other spheres
- to not assume any power or function except those conferred on them in terms of the Constitution
- to exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere
- to co-operate with one another in mutual trust and good faith by fostering friendly relations, assisting and supporting one another, informing one another of, and consulting one another on, matters of common interest, coordinating their actions and legislation with one another, adhering to agreed procedures and avoiding legal proceedings against one another.

Clearly the above principles work marvelously for structures whose functions, status and roles are clearly stipulated such as the local government and the provincial government. Although Traditional Institutions are established in terms of legislation up till this day their constitutional status, institutions, powers and functions are not clear.

Some of the advantages of the New Municipal System in promoting good local government and service delivery are as follows;

- Govern on its own initiative the local government affairs of the local community. They are closest to the communities and therefore the principle of people-centered development is driven through the New Municipal System.
- New Municipal System allows municipalities to finance their own affairs by charging fees for services and imposing surcharges on fees, rates on property and other taxes and levies. This empowers municipalities to take improve service delivery as the whole bureaucratic chain from National to Provincial to Local has been shortened and Councils are able to take prompt decisions.
- The New Municipal System forces Local Government to account to the immediate/local community. The Local Government Systems Act, 2000 stipulates that the members of the local community have a right to contribute to the decision-making processes of the municipality. The public also has a right to demand that the proceedings of the municipal council and those of its committees be open to public scrutiny. All this promotes good local government because accountability is ensured.

Basically, the most important advantages that cut across is the fact that public participation in government decisions is encouraged and legislated. This is very critical if we are to realize the principle of people-centered development. Through the New Municipal System the local community is able to make input on decisions that have direct impact on their lives. National and Provincial Government could not adequately ensure this as they are a bit divorced from the local community.

It is my view that it is a bit premature to talk about limitations of the System because it is just over a year old it is only unfolding now. However, a few shortcomings are listed below.

- Shortage of seasoned local government human capacity, with a vision to drive local economic development
- Too much autonomy and limited supervision on spending patterns of these municipalities especially administrative expenditure, for example, purchase of Mayoral residences running into millions of rands.

The establishment of the New Municipal System puts into question the continued existence of Provincial governments. The debate is brewing around the roles Premiers now that we have Executive Mayors running Metropolitan Municipalities and commanding huge budgets. Arguments are that the Provincial Sphere of Government is a waste of resources and its role should be revisited once the Municipal System is in full swing and running like a machine.

CHAPTER THREE

BACKGROUND TO TRADITIONAL AUTHORITIES AND THEIR ROLE IN THE NEW MUNICIPAL SYSTEM

In order to understand the debates around the issues of Traditional Authorities in the New Municipal System it is very important to discuss briefly the roles, status and functions of Traditional Authorities in the Apartheid Era. The Amandebele-a-Lebelo Traditional Authority will be used to illustrate some of the issues related to the position of traditional authorities in the new municipal system.

3.1 Background to Traditional Authority and Its Functions in the Apartheid Era

In the discussion document titled "Towards the White Paper on Traditional Leadership " (March 2000), the Minister in the Department of Provincial and Local Government, Mr. Mufamadi, argued that the history of other African States offers worthy experiences in South Africa's attempt to understand how, subsequent to independence, the institution of traditional leadership could be dealt with.



The introduction of democracy created the need for change in the structures of African society. It is common knowledge that needs of modernization forces change and some of these changes may clash with long held values of the Traditional Rule. Although traditional authorities in most African countries were heavily eroded by colonialism after independence many African countries retained and maintained the institution. Pre-colonial rule traditional leadership was a respected authority in African communities. Traditional leaders were respected, honored and valued by their communities. They were seen as the unifying force in the community. However during the period of colonialism

and apartheid the institution was grossly abused. It was assigned entirely new powers and functions, which served to further perpetuate the interests of colonialists. Proclamation Number 110 of 1957 by Ernest George Jansen, Doctor of Laws, Governor General of the Union of South Africa enlist the duties and functions of Chiefs and headmen. Amongst other duties outlined, the Chief shall:

- maintain law and order in his tribe or community and bring to the attention of the Native Commissioner, immediately he becomes aware thereof, any conditions of unrest or dissatisfaction or any other matter of serious import or concern to the government;
- ensure the enforcement within this area of all laws and all orders, instructions or requirements of the Government relating to the administration and control of the natives in his area.

Clearly the above functions support the argument that during colonial rule the powers and functions of traditional leaders were structured such that they served the interests of the colonialists. It is during this process that the general public lost confidence and respect for traditional authority in their areas because they were seen as an extension of apartheid. Mandela (1995) states that his father, Gadla Henry Mphakanyiswa, was a Chief by both blood and custom and was confirmed as Chief of Mvezo by the king of the Thembu Tribe, but under the British Rule, his selection had to be ratified by the government.

As a government appointed Chief he was eligible for a stipend as well as a portion of fees the government levied on the community.

He argues that although the role of chief was a venerable and esteemed one, it had, even seventy-five years ago, become debased by the control of an unsympathetic white government (Mandela, 1995:4).

3.2 The Role of Traditional Leaders in the current democracy in South Africa : A Debate

There seem to be no movement from the side of the Government and all other relevant stakeholders in outlining the status and role of Traditional Leaders in South Africa. In deciding on the status, role and functions of Traditional Leaders, South Africa can learn from some African states discussed below. In Uganda, upon coming to power in 1986, President Y Museveni restored title to traditional leaders but denied them political power and role. Article 246 of the constitution of Uganda states that *“the institution of traditional leaders or cultural leaders may exist in any area of Uganda in accordance with culture, customs and traditions or wishes and aspirations of the people to whom it applies”* it goes further that

“the allegiance and privileges accorded to a traditional leader by virtue of that office shall not be regarded as a discriminatory practice prohibited under article 21 of this Constitution, but any custom, practice, usage or tradition relating to a traditional leader which detracts from the rights of any person as guaranteed by this Constitution, shall be taken to be prohibited under that article” (Discussion Document Towards the White Paper on Traditional Leadership, March 2000).

It is clear that in Uganda the Traditional Authority has no political power. Its role has been limited to that of advisory on matters of traditional authority.

The Constitution of Ghana for example recognizes the institution of traditional leadership. Traditional leaders have a role to play in issues of development although they are forbidden from active participation in party politics (Discussion Document Towards the White Paper of Traditional Authorities, March 2000).

Ajayi (2000:42) states “we never tire of paying lip service to our traditional cultures and institutions. We humor our traditional rulers and get them to meet during crises or largely ceremonial councils where they wrangle endlessly about protocol, but we cannot fit them meaningfully into the constitution of the Nigerian State”.

Clearly this is the current situation in South Africa and the Coalition of Traditional Leadership has made this observation hence their demand that the government should amend the constitution and outline their roles, powers and functions in Local Government (Press Statement of May 2001 by the Coalition of Traditional Leaders).

Like in South Africa the British co-opted traditional rulers in Nigeria into the colonial administrations as Native Authorities under the indirect rule system. Some scholars argue that the problem of what to do with the traditional rulers is only symbolic of the problem of reconciling the traditional institutions that have been inherited from the past with a large number of centralized and non-centralized communities into the institutions of the Nigerian state that they have imported from abroad.

The merchant Adolf Luderitz, who hoped to gain wealth through the discovery of minerals, initiated German Colonization of Namibia. By establishing protection treaties he was able to galvanise local chiefs to protect the life and property of Germans. German authorities retained control over their nationals while recognizing the jurisdiction of the chief over his people (Ellis, 1984:50).

Despite this destructive role played by Chiefs during colonization, after independence, the Namibian Constitution provides that traditional leadership must pay allegiance to and accept the authority of the modern state. It also provides for the Council of Traditional Leadership whose responsibility it is to advise the president on the control and the president for advice may refer utilization of communal land and on all other such matters as to it.

South Africa has in a way adopted this model because the White Paper on Local Government does provide for the establishment of National and Provincial House of Traditional Leaders. Their roles so far have been similar to the Namibian model.

3.5 Role of Traditional Authorities in the New Municipal System

This then brings us that to the question of the role of the traditional leaders in the current democracy. The Local Government Municipal Systems Act (2000) stipulates that the key functions of local government include the identification of the needs of the community, categorize the needs in order of priority and be responsive to the needs of the local community by providing services.

This function was the responsibility of the Traditional Authority in some rural areas and there is bound to be overlap of responsibility between the local councilors and the local tribal authority. This leads to tension if the terms of reference for each entity are not clearly outlined. There should be no ambiguity on the roles and responsibility of each entity.

The current South African Constitution recognizes the institution, role and status of traditional leadership according to customary law, but subjects it to the Constitution. Chapter 12 of the Constitution specifically provides for the recognition of the institution of traditional leadership. However, the Constitution falls short of providing for their specific role and function. The same constitution provides for the establishment of municipalities in all areas of South Africa including traditional authority areas. It further states that local government is to be democratic and accountable to local communities, to ensure the sustainable provision of services to communities, to promote social and economic development and to encourage the involvement of communities in matters of local government (Republic of South Africa Constitution, 1996)

Whilst Chapter 7 of the Constitution of the Republic of South Africa provides for the establishment of elected local government councilors throughout the country, Chapter 12 of the same Constitution recognize traditional authorities and states that national legislation may provide for a role for Traditional Leaders as an institution at local levels on matters affecting local communities.

It is clear that the Constitution provides for two institutions at local level that operate within the same functional and jurisdictional areas. Past laws assigned powers and functions to traditional leadership institutions that are similar to those exercised by municipalities in terms of the current Constitution.

This is a very sensitive issue especially in rural Provinces like the North West Province where Traditional Authority is entrenched in rural communities. Let us investigate some of the roles of Traditional Authorities in these areas: -

- Acting as head of the traditional authority, and as such exercising limited legislative powers and certain executive and administrative powers
- Presiding over customary law courts and maintaining law and order
- Consulting with traditional communities through imbizo/lekgotla
- Assisting members of the community in their dealings with the state
- Convening meetings to consult with communities on needs and priorities and providing information

These are but a few of the critical functions of Traditional Authorities at local level and clearly there is a serious overlap between their functions and the functions of the newly elected local government councilors. It was therefore very critical for the Government to take everybody including Traditional Authorities on board when discussing the implementation of the new municipal system.

This investigation was about finding out whether there was sufficient consultation between the government and traditional authorities in the implementation of the new

municipal system within traditional authority areas of South Africa and Tshwane Metro in particular.

Because of the sensitivity and overlap of the role and functions of the local councilors and tribal authority it was necessary to investigate what consultation processes took place in the build up to the implementation of the New Municipal System.

According to the Ministry for Provincial Affairs and Constitutional Development they embarked on a policy process that gave effect to the new vision of local government. An intensive 18-month period of consultation with the various stakeholders including traditional leaders took place, which culminated in the White Paper on Local government. They say the White Paper development process has been inclusive, interactive and transparent. Workshops at local level were held which resulted in the Green Paper on local government, which was released for public comment in October 1997.

The third phase consisting of Portfolio Committee hearings, a local government summit, public submissions and sectoral consultative conferences resulted in the White Paper on Local Government (A Draft Discussion Document towards a White Paper on Traditional Leadership and Institutions: April 2000).



The relationship between the local government councilors and the Traditional Authorities was envisaged to be one of cooperation and complementing one another. A co-operative model for rural governance was envisaged and it was proposed that in accordance with the Constitution, there be an elected local government in all these areas falling under traditional authorities. Traditional Leadership should play a role closest to the people and their role should therefore be defined principally in relation to category B municipalities. Their roles will include attending and participating in meetings of the Councils and advising the Councils on the needs and interests of their communities.

It was then left to the Provincial Governments and legislatures to determine additional functions of traditional leadership within the national framework provided by this model of cooperative rural governance.

Up until the 28 May 2001 the issue of role and powers of Traditional Leaders has not been resolved which therefore imply that the implementation of the new municipal system is met with continuous obstacles. In the meeting of the Coalition of Traditional Leaders held on 28 May 2001 they resolved to and re-iterate their standpoint of not participating in local municipalities until such time that Chapters 7 and 12 of the Constitution have been amended to as to give traditional authorities the constitutional framework within which to participate in such municipalities.

The implementation of the new municipal system within the Traditional Authority Areas is deeply affected by this impasse. Communities are confused and in some areas development projects are brought to a halt until this fundamental difference is resolved. To add more confusion to the situation Ward Committees have been established within these communities and the role of the tribal authority is fast diminishing and replaced by these Ward Committees.

3.6 The Amandebele-a-Lebelo Traditional Authority and Its Role in the New Municipal System

In order to understand the significance and the research problem the Researcher found it very important to give a brief background of the Amandebele-a-Lebelo Traditional Authority. This assisted in the understanding and appreciation of the community this case study was focusing on.

Ethnological Publication (1944) shows the first Chief of the Amandebele-a-Lebelo was Johannes Karel Kekana born in 1909 and appointed Chief 16 December 1925 It consisted of the various sub-tribes and villages which were disbanded by colonial and apartheid systems and only the tribes who were able to enter contracts of purchasing such farms

remained on such farms, but most of them failed to do so and were forcibly removed and only a small number remained on the farm after agreement with the new owner that they will work for him for some months in payment for their staying on the farm. Members of the Kekana royal family were the most threatened people in the area by white farmers together with the state officials because they resisted to become slaves or to purchase the farm Uitvlugt as they regarded the farm as their own property by birth because they resided there since they broke away from the mother country Moletlane in the year 1779 (History of the Amandebele A Chief Lebelo Kekana).

Apart from continuing their attendance and contribution to the North West House of Traditional Leaders, the Amandebele-a-Lebelo Traditional Authority play no other critical role in the running of the affairs of the community. This is of concern to them and they indicated that they eagerly await clarity from the National Government on their status, role and functions.

Accommodation has been made for Kgosi Kekana to attend all Tshwane Metropolitan Council Meetings but he is not allowed to speak despite the provision of the Act. In South Africa the co-existence of the two entities is recognized and respected by politicians and this is clearly outlined in Act No. 117, 1998 of the Local Government Municipal Structures Act. Part 6, Clause (3) of this Act which 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 the authority the opportunity to express a view on that matter”*. Kgosi Kekana is still to benefit from this provision.

Amandebele-a-Lebelo Traditional Authority are currently dependent on the “loyal” Ward Councillors to brief them on development in their communities. Their role has been reduced to that of spectator rather than that of facilitator, coordinator or doer. Clarity on their role, status and functions is awaited from national government.

CHAPTER FOUR

CONCLUSIONS AND RECOMMENDATIONS

The purpose of this chapter is to outline key and critical findings of the study and present definite recommendations.

4.1 Conclusion

- a) The study found that the National Government has provided sufficient framework within which the two institutions can coexist in Traditional Authority areas however there was lack of understanding and implementation of Act No. 117, 1998 of the Local Government Municipal Structures Act. Part 6, Clause (3) which states *“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 the authority the opportunity to express a view on that matter”*.
- b) There was little or no consultation between the two entities towards the implementation of the New Municipal System. They however agree that the two institutions should work in harmony, as they both believe in democracy, change and development.
- b) The debate around the role of Traditional Leaders in a democratic environment does not only affect South Africa but the Continent as a whole. Africa as a whole seems to be grappling with the realities of the coexistence of the two institutions.
- c) The fact that the South African Government is taking too long to come out with a Legislation addressing the status, role and functions of Traditional Leaders creates more anxiety and confusion and Traditional Authority areas.

- d) In terms of the recent demarcation, Amandebele-a-Lebelo Traditional Authority fall under Tshwane Metro (Gauteng Province) whilst they account to the House of Traditional Leaders falling under the North West Province.
- e) The local government system is a good system as it relieves a lot of pressure from Provincial government and is the closest to the people. The people of Amandebele-a-Lebelo appreciated and were excited about this new system of local government but they indicated that for it to work it must be strengthened to achieve its expectations.
- g) Each Bantustan had its own Legislation governing issues of traditional authority and these have not be integrated and brought in line with the South African Constitution.

4.2 Recommendations

On the basis of the findings the following recommendations are made:

- a) The current process driven by the Department of Provincial and Local Government to rationalize Legislation governing matters of traditional authorities must be finalized as soon as possible. Once this has been completed hopefully there should be further clarity in terms of the status, the role and functions traditional leaders may play at local government level;
- b) The rationalization of the legislation governing matters of traditional leaders must be done in consultation with the traditional leaders, via their structures such as the House of Traditional Leaders.

- c) Once the legislation has been completed, national government must leave different Provinces to interpret and implement it according to immediate culture and norms of the particular province.
- d) The Tshwane Metropolitan Council must educate its councilors on the interpretation and implications of Part 6, Clause (3) of the Local Government Municipal Structures Act No.117, 1998;
- e) The Tshwane Metropolitan Council must implement Part 6, Clause (3) of the Local Government Municipal Structures Act No.117, 1998 in as far as affording speaking rights to the Kgosi on matters affecting his community;
- e) Traditional institutions must be encouraged to assist in mobilizing traditional communities to support transformation in the context of the New Municipal System
- f) More study in this area is necessary and should be encouraged among Social Science scholars to assist Government to take informed policy decisions based on scientific research;

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FACE TO FACE INTERVIEW

INTERVIEWEE: MR J D THIBEDI, MEC FOR TRADITIONAL AFFAIRS
NORTH WEST PROVINCE

TOPIC

**INVESTIGATION OF THE IMPLEMENTATION OF THE NEW MUNICIPAL
SYSTEM IN TRADITIONAL AUTHORITY AREA OF TSHWANE
METROPOLITAN MUNICIPALITY: A CASE OF AMANDEBELE-A-LEBELO**

QUESTIONS

1. WHAT IS YOUR ATTITUDE TOWARDS THE NEW MUNICIPAL SYSTEM
IMPLEMENTED DECEMBER 2000?
2. WHAT, IN YOUR OPINION, IS THE ROLE OF THE TRADITIONAL
LEADERS/INSTITUTION IN THE NEW DEMOCRATIC GOVERNMENT?
3. WHAT ARE YOUR VIEWS ON THE IMPLEMENTATION OF NEW
MUNICIPAL SYSTEM IN THE TRADITIONAL AUTHORITY AREA OF
AMANDEBELE-A-LEBELO IN HAMMANSKRAAL?
4. HOW BEST DO YOU THINK THE RELATIONSHIP BETWEEN THE LOCAL
GOVERNMENT COUNCILLORS AND TRADITIONAL AUTHORITY IN
THE AREA CAN BE MANAGED IN ORDER TO PROMOTE
DEVELOPMENT IN THE COMMUNITY?
5. HOW BEST DO YOU THINK THE CURRENT IMPASSE BETWEEN
GOVERNMENT AND TRADITIONAL LEADERS CAN BE UNBLOCKED?

FACE-TO-FACE INTERVIEW

INTERVIEWEE: CHIEF WHIP
TSHWANE METROPOLITAN MUNICIPALITY

TOPIC

**INVESTIGATION OF THE IMPLEMENTATION OF THE NEW MUNICIPAL
SYSTEM IN TRADITIONAL AUTHORITY AREA OF TSHWANE
METROPOLITAN MUNICIPALITY: A CASE OF AMANDEBELE-A-LEBELO**

QUESTIONS

1. WHAT IS THE ROLE PLAYED BY CHIEF KEKANA IN THE TSHWANE METRO COUNCIL AND OTHER COUNCIL MEETINGS?
2. DO YOU THINK THE ROLE PLAYED BY THE CHIEF STATED ABOVE IS APPROPRIATE?
3. WHAT IS THE ACCOUNTABILITY RELATIONSHIP BETWEEN YOURSELF AND CHIEF KEKANA?
4. ARE THERE ANY LESSONS LEARNT IN THE PAST YEAR THAT COULD ASSIST IN THE UNBLOCKING OF THE CURRENT IMPASSE BETWEEN THE GOVERNMENT AND THE TRADITIONAL INSTITUTION?
5. DID THE NATIONAL GOVERNMENT PROVIDE ANY GUIDELINES OR FRAMEWORK WITHIN WHICH THE RELATIONSHIP BETWEEN THE LOCAL CHIEF AND THE LOCAL GOVERNMENT COUNCILORS SHOULD TAKE PLACE?

FACE TO FACE INTERVIEW

INTERVIEWEE: CHIEF KEKANA
AMANDEBELE-A-LEBELO, HAMMANSKRAAL

TOPIC

INVESTIGATION OF THE IMPLEMENTATION OF THE NEW MUNICIPAL SYSTEM IN TRADITIONAL AUTHORITY AREA OF TSHWANE METROPOLITAN MUNICIPALITY: A CASE OF AMANDEBELE-A-LEBELO

PROPOSED QUESTIONS

1. WHAT IS YOUR ATTITUDE TOWARDS THE NEW MUNICIPAL SYSTEM IMPLEMENTED DECEMBER 2000?
2. WHAT, IN YOUR OPINION, IS THE ROLE OF THE TRADITIONAL LEADERS/INSTITUTION IN THE NEW DEMOCRATIC GOVERNMENT?
3. WHAT ARE YOUR VIEWS ON THE IMPLEMENTATION OF NEW MUNICIPAL SYSTEM IN THE TRADITIONAL AUTHORITY AREA OF AMANDEBELE-A-LEBELO IN HAMMANSKRAAL?
4. HOW BEST DO YOU THINK THE RELATIONSHIP BETWEEN THE LOCAL GOVERNMENT COUNCILLORS AND TRADITIONAL AUTHORITY IN THE AREA CAN BE MANAGED IN ORDER TO PROMOTE DEVELOPMENT IN THE COMMUNITY?
5. ARE THERE ANY LESSONS LEARNT IN THE PAST YEAR OF YOUR PARTICIPATION IN THE TSHWANE METRO COUNCIL THAT COULD ASSIST IN THE UNBLOCKING OF THE CURRENT IMPASSE BETWEEN THE GOVERNMENT AND THE TRADITIONAL INSTITUTION?

FACE TO FACE INTERVIEWS

LOCAL COUNCILLORS

AMANDEBELE-A-LEBELO, HAMMANSKRAAL

TOPIC

INVESTIGATION OF THE IMPLEMENTATION OF THE NEW MUNICIPAL SYSTEM IN TRADITIONAL AUTHORITY AREA OF TSHWANE METROPOLITAN MUNICIPALITY: A CASE OF AMANDEBELE-A-LEBELO

PROPOSED QUESTIONS

1. WHAT IS YOUR ATTITUDE TOWARDS THE NEW MUNICIPAL SYSTEM IMPLEMENTED DECEMBER 2000?
2. WHAT, IN YOUR OPINION, IS THE ROLE OF THE TRADITIONAL LEADERS/INSTITUTION IN THE NEW DEMOCRATIC GOVERNMENT?
3. HOW WOULD YOU DESCRIBE THE CURRENT RELATIONSHIP BETWEEN THE TRADITIONAL AUTHORITY OF AMANDELE-A-LEBELO AND THE LOCAL COUNCILORS?
4. DOES THE ROLE OF THE LOCAL COUNCILORS IN THIS NEW DEMOCRATIC GOVERNANCE DIFFER FROM THE ROLE PLAYED BY TRADITIONAL LEADERS IN THE PRIOR 2000?
5. DO YOU THINK THE CURRENT CO-EXISTENCE OF LOCAL COUNCILLORS AND TRADITIONAL LEADERS IN THE AREA HAVE ENHANCED OR IMPEDED DEVELOPMENT PROGRESS IN THE AREA?
6. WHAT IS YOUR VIEW ON THE REMUNERATION OF BOTH TRADITIONAL LEADERS AND COUNCILORS BY GOVERNMENT?

PLEASE PLACE A CROSS ON THE APPROPRIATE BOX (X)

Section 1

GENDER

Female

Male

AGE (Yrs)

18 – 38

39 - 48

50 +

How long have you
Been staying in the
Area? (Years)

Since birth

1 - 5

5 +

Joint Family Income
Per month

R1000 +

R3000 +

R5000+

Section 2

PLEASE PLACE A CROSS (X) IN APPROPRIATE BOX

1.	Do you think the Traditional Authority of Amandebele-a-Lebelo have a role to play in your community?	YES	NO
2.	Do you think the Local Councillors in your area have a role to play in your community?	YES	NO
3.	Should the Government disband the Traditional Institution in South Africa?	YES	NO
4.	Should Traditional Leaders receive remuneration/salaries from Government for their role as Chiefs or Headmen?	YES	NO
5.	Do you support the New Municipal System implemented in your area in December 2000?	YES	NO
6.	Did the community of Amandebele-a-Lebelo take part in the consultation process towards the implementation of the New Municipal System?	YES	NO
7.	Did you yourself take part in meetings and gatherings discussing the New Municipal System?	YES	NO
8.	Did you vote in the 2000 Local Government Elections?	YES	NO
9.	Is it proper for traditional leaders in your community to attend meetings convened by the Ward Councillors?	YES	NO
10.	Should the Ward Councillors in your community call a community meeting without the permission of the Chief?	YES	NO
11.	Do you think the role of the Chief should be ceremonial?	YES	NO
12.	Do you think the role of the Chief should be political?	YES	NO
13.	Were you or other members of the community ever invited to a meeting convened by the Chief where the implementation of the New Municipal System was discussed?	YES	NO
14.	Do you know what the New Municipal System means?	YES	NO
15.	In your view is the general community of Amandebele-a-Lebelo supportive of the New Municipal System?	YES	NO
16.	Do you think the introduction of local government councillors in your area is the attempt by government to get rid of the traditional leaders?	YES	NO
17.	Do you think local councillors and traditional leaders can work together to meet the needs of your community?	YES	NO
18.	Do you think the role of the Chief and the Traditional Authority in your area is undermined by the introduction of the Ward Committees?	YES	NO
19.	Do you think the role of the Tribal Authority Should be political ?	YES	NO
20.	Do you support the co-existence of Traditional Authority and Ward Councillors ?	YES	NO
21.	Do you think it is waste of money to pay salaries to both Traditional Leader s and Councillors ?	YES	NO
22.	Has your quality of life improved since December 2000 ?	YES	NO
23.	Do you think the problems of the community must be handled by the Kgotla ?	YES	NO
24.	Do you think the Ward Committees must handle the problems of the community?	YES	NO
25.	Did you understand all the questions asked in this questionnaire?	YES	NO