The Transformation of Traditional Leadership: A Case Study of the Simdlangentsha Traditional Council and its Relationship with Local Government

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SUMMARY

The Simdlangentsha Traditional Council is one of the traditional communities that did not enjoy the publicity afforded other communities in the province of KwaZulu-Natal, despite the Simdlangentsha community's interesting Zulu history and the socio-cultural changes that took place within this community since the democratic elections of 1994.The present study focuses on the specific traditional council and the changes that occurred in it since 1994. Due to the council's relationship with local government the mentioned changes relate to political, economic and social contexts.

This study, therefore, proposes reasons for these ongoing changes in Simdlangentsha traditional community. The aim is to understand the impact the new dispensation had on the role and functioning of traditional leaders in relation to the elected municipal officials with the aim of providing services to the community.

The aim of this study is to highlight the socio-cultural, socio-political and socio-economic changes in the role of Simdlangentsha Tribal Authority since the general elections of 1994. This study investigates the role of traditional leaders in this traditional community. This role pertains to traditions, customs, dispute resolutions, safety and security in the community, development of communities, reporting of endemic diseases in community areas as well as other community-based activities and other community programmes. It further explores the relationship between traditional leaders and the elected municipal structures within traditional communities. The impact of the interaction of the two institutions on service delivery is also analysed.

Semi-structured interviews were used to collect information from the community. Interview schedule and focus groups played an important part in providing information about the changes community members are experiencing currently. These changes concern service delivery, the role of traditional leaders and of municipalities, the relationship between traditional leaders and the municipalities and the impact it has on the daily life of community members of Simdlangentsha

traditional community in general. This study revealed the following about the Simdlangentsha Traditional Council since the 1994 democratic elections:

a. The study discovered a paradigm shift regarding the type of leadership in this traditional community, for example succession of traditional leaders no longer occurs on the basis of heredity.

b. During the study the researcher found that the introduction of both South African Constitutions (interim and final) and other items of legislation regulating traditional institutions in South Africa have influenced the functions and general operations of traditional leaders of the Simdlangentsha Traditional Council considerably. Special mention should be made of the Traditional Leadership and Governance Framework Act 41 of 2003 that has reformed and transformed the traditional leadership institution in the Republic of South Africa comprehensively.

c. The study found that, although the *Amakhosi* of Simdlangentsha are all located and found in the province of KwaZulu-Natal, they are not all Zulus by birth. The study revealed that the Dlamini and Mavuso traditional leaders originated from Swaziland. These two clans have never been seen as clans that had their origins in the Louwsburg (eNgoje) area.

d. One of the findings in this study is that the Simdlangentsha Traditional Council experiences problematic relationships with the municipalities. This is because the functioning of municipal officials is based on the new legislation that has been introduced since 1994. It became clear during the study that the relationship between the municipal officials and the traditional leaders was not without its difficulties.

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KEY TERMS

Clan/tribe – refers to a certain group of people under the leadership of one traditional leader or *inkosi*, or who carry the same surname. Maseko or Ndlovu are examples of such clan names.

Constituency – refers to an area that falls under the jurisdiction of a specific *inkosi* or a municipality.

Constitution – denotes the South African Constitution.

District – municipal district proclaimed in accordance with the Demarcation Act.

Dumbe – a Zulu name for Paulpietersburg in northern Kwazulu-Natal. Dumbe is a name of a mountain where the Zulu queen, Mkabayi ka Jama, was once sent by king Mpande to be the custodian of the northern Kwazulu-Natal Zulus.

House – in the present study it refers to the House of Traditional Leaders.

Ibambabukhosi – a regent or acting traditional leader.

Inkosi – a senior traditional leader. The term is used mainly in traditional Nguni tribes or clans. It is found mostly in KwaZulu-Natal, Eastern Cape or Mpumalanga. Non-Nguni provinces use the terms *kgosi, hosi* or *morena.*

Isilo – refers to the monarchy of the province of KwaZulu-Natal.

Iziphakanyiswa – denotes someone who holds office in terms of customary electoral procedure or someone who was appointed, as opposed to chiefs of a hereditery royal blood-line.

Local government – refers to a municipality/traditional leadership (e.g. *Amakhosi* or *izinduna*).

Pongola – the name of a small town that is situated in an area with abundant sugar cane plantations. The town was named after the Pongola River that flows close by.

Simdlangentsha – a group of traditional chiefs from Pongola and eDumbe.

Traditional community – all residents living in an area of a traditional territory who observe traditional values and customs.

Traditional leader – the head of a traditional authority.

Zululand District – the amalgamation of the eDumbe, uLundi, Nongoma and Abaqulusi municipalities.

Zululand – geographical area between uThukela and Pongola Rivers.

TRANSLATIONS

Age-regiment – ibutho

Council – isigungu

Death of a king or traditional leader – ukukhothama

Head of ward – induna

Hut – ixhiba

Institution of traditional leaders – ubukhosi

King – ingonyama

Nation/tribe – isizwe

Praise singer – imbongi

Royal household/residence – isigodlo

To reconcile – ukukhumelana umlotha

Traditional leader – inkosi

Ward – isigceme

Headman – induna

LIST OF ABBREVIATIONS

ANC	:	African National Congress
ASGISA	:	Accelerated and Shared Growth Initiative
CCG	:	Community care givers
CDW	:	Community development worker
CONTRALESA:		Congress of Traditional Leaders in South Africa
COSATU	:	Congress of South African Trade Union
COGTA	:	Department of Cooperative Governance and Traditional Affairs
DLGTA	:	Department of Local Government and Traditional Affairs
DRC	:	Dutch Reformed Church
DTI	:	Department of Trade and Indusrty
FEDSAW	:	Federation of South African Women
GEAR	:	Growth, Employment and Redistribution
GNU	:	Government of National Unity
HDI	:	Historical Disadvantaged Individuals
IFSS	:	Integrated Food Security Strategy
IPAP	:	Industrial Policy Action Plan
ISRDS	:	Integrated Sustainability rural Development Strategy
MDB	:	Municpal Demarcation Board
NDP	:	National Development Plan
NDR	:	National Democratic Revolution
NGP	:	New Growth Plan
OSS	:	Operation Sukuma Sakhe
PAC	:	Pan Africanist Congress
RDF	:	Rural Development Framework
RDS	:	Rural Development Strategy
RDP	:	Reconstruction and Development Programme
PTO	:	Permission to occupy
SACP	:	South African Communist Party
SANCO	:	South African National Civic Association
TAC	:	Traditional Administration Centres
WHO	:	World Health Organisation

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CHAPTER 1: INTRODUCTION

1.1 ORIENTATION

This is a study conducted on the transformation of traditional leadership in the Simdlangentsha Traditional Council in light of its relationship with local government (Zululand District Municipality and eDumbe and Pongola Local Municipalities) since 1994. The issue of traditional leadership and the role of traditional leaders in national and local government has been a subject for discussion in various South African organisations and institutions (Oommen, 2000:1). Since the 1994 general elections, socio-political change has brought about a number of changes in the role of traditional leadership, and particularly the Simdlangentsha Traditional Council. The researcher interviewed the Msibi Traditional Council of the Msibi clan, which is of the Simdlangentsha Traditional Council and has observed a paradigm shift regarding the value system and the authority of traditional leaders comprising the angentsha Traditional Council. The present study aims to analyse the mentioned socio-political transformation of the Simdlangentsha Traditional Council's traditional leadership in its political, economic and social contexts, choosing as setting its relationship with local government.

Firstly, the focus is on the **political context,** on-going friction and confusion reigns between the local government (Zululand District Municipality and eDumbe and Pongola Local Municipalities) and the traditional leadership of Simdlangentsha with regard to the role of traditional leadership since 1994. After 1994, local governance was moved to civil society as opposed to traditional leadership. It seems that the notion of plurality in nation building, such as ethnic proto-nationalisms (Roodt & Liebenberg 1994:19) impacted the role of the *Amakhosi* in areas such as Pongola, Paulpietersburg and a small section of Magudu.

Traditional leadership has a distinctive role in the current democratic and modernised community. In some communities in South Africa, including some parts of the Simdlangentsha Traditional Council, local councillors' visits are infrequent, or do not occur at all (Keulder, 1998:47). This trend has not yet changed significantly within traditional communities. Oommen (2000:3) maintains that traditional

institutions can still contribute to the present type of community in terms of various social structures. In light of this, Oommen (2000:3) argues that traditional institutions can still fulfil the following functions: maintain peace, act as a symbol of unity, preserve customs and culture, allocate land to community members, represent communities to resolve disputes and faction fights, conduct mediation, and promote the identity of communities. This indicates that the existence and the importance of traditional leadership should not be underestimated.

Before 1994, traditional authorities were established according to the Black Authorities Act 68 of 1951. Section 2(a)(i)(ii) of the Act stated clearly that the State President had the responsibility to:

- "Establish a black tribal authority over a specific black tribe; and
- Establish a community authority over a black community or two or more black tribes or communities jointly, or one or more tribes and one or more such communities jointly".

Since 1994, conflicts arose between the African National Congress (ANC)-led government and the traditional leadership due to the democratic principles the new government wished to uphold that promotes equality in all strata of the community. For example, traditional leadership was not comfortable with women fulfilling leadership roles; therefore women were marginalised by the patriarchy in traditional communities. The turning point in the friction between these institutions (government and traditional leadership) was dealt with effectively by the introduction of the Traditional Leadership and Governance Framework Act 41 of 2003. This is an example of the increasing conflict that exists between traditional leadership and the current democratic government. These perceptions were instrumental in the researcher selecting this particular topic.

With regard to the **economic context,** the land reform initiatives of the government can be used as an example. Seeing that these reforms were implemented within local governments, it presented specific challenges to the current traditional leadership. These challenges relates to the powers of community trusts and

community property associations in traditional communities. Land reform as defined by government does not only entail transfer of social services to the community where South African citizens receive government benefits. It should also be viewed as an autonomy-fostering service delivery for the communities (Land Reform Policy Discussion Document, 2012:3). The main purpose of this policy document is to address the context, the historical evolution or transformation, the post-1994 policies and accompanying weaknesses in their implementation (Land Reform Policy Discussion Document, 2012:3). Land reform as a tool to establish good relations among stakeholders as well as agricultural change, rests on the agrarian structure of the society, consisting of rural South Africa and the former homelands (Land Reform Policy Discussion Document, 2012:4).

The Land Reform Policy Discussion Document 2012, firstly explores the state of affairs in rural areas where the traditional authority dominates. Secondly, the focus is on former homelands as hubs of traditional leaders in the country. Since 1994, the position and roles of traditional authorities and land tenure in communal areas (CAs) have been problematic and not clearly defined. Former homelands' traditional leaders associated themselves with the new dispensation by aligning them with the ruling party (ANC). Their aim was using their influence within the ANC to boycott possible transfer of power to municipalities. This uncertainty was settled partially when Government introduced the Traditional Leadership and Governance Framework Act 41 of 2004. The working relations between traditional authority and municipalities are still a challenge in South Africa post 2004.

In 2004 the government introduced the Communal Land Rights Act with the purpose of providing legal security by transferring communal land, including sections of KwaZulu-Natal Ingonyama, to communities and further assist communities in the democratic administration of land (Nicolson, 2012). This legislation seemingly undermines the power and roles of traditional authorities in communities. This is because once the land is transferred legally to the management of the community it would be a legal duty of a traditional authority to challenge the authority of the community. Such a challenge may result in legal battles seeing that it would imply that the municipality concerned is involved in developing the area without seeking authority from the traditional authority.

The resolution of the 52th Elective National Conference of the ANC held in December 2007 on agrarian change, land reform and rural development, confirmed that the ANC became aware of the sensitivity of the land question and the concerns of many sectors in various communities countrywide on this question (Green Paper on Land Reform, 2011:3). This resolution indicated that the ruling party was concerned about the relative slow pace of land reform despite the introduction of concerned legislation such as the Communal Property Associations Act 28 of 1996, Land Administration Act 2 of 1995, the Restitution of Land Rights Act 22 of 1994, and the Communal Land Rights Act 11 of 2004. This legislation has exerted an impact on the role and functions of traditional leaders in traditional communities. For example, the Communal Property Associations Act 28 of 1996 provides for the formation of Communal Property Associations (CPAs) with its own constitution outside the traditional leadership framework of operation. These CPAs are legally registered institutions that hold management powers over the land they occupy (Communal Association Act 28 of 1996, s 5(1)). It will be important for the present study to explore comprehensively the outcome of the mentioned land reform within communities in relation to local government's interventions to understand the transformation of traditional leadership in relation to the democratic dispensation.

Regarding the **social context** positive or constructive traditional practices seem to face disintegration. Over the years these practices formed building blocks for the Zulu nation representing values of respect, discipline and pride. This observation was instrumental in the researcher's choice of the study field, namely the particular traditional community (Simdlangentsha Magistrate Office. District Register, 1972:2).
The South African government's policies post 1994, which were built on democratic principles, are viewed by a number of traditional leaders as a threat to their institutions. This is because, for instance, such policies recognised the role that women may play in institutions of traditional leadership. This issue is presented in Section 3A (2) (a) of the Traditional Leadership and Governance Framework Act 41 of 2004. This Act recognises both kingship and queenship in all traditional communities throughout the country. Zulu traditional leaders have found it difficult to recognise women in leadership roles, especially in the position of *inkosi* or *induna.* This reluctance of traditional leaders to associate women with leadership roles is evident, for example, in an article published in the *City Press* of 29 April 2012.

Pauline Sithole approached the Schoemansdal tribal authorities requesting a stand to build her house. She was informed by two traditional leaders that she was not permitted to use her name for the plot; instead it had to be reserved for her husband who had to enter his name in the stand registration (Joubert, 2012:10).

In the past four decades (from the middle 1970s and early 1980s), the following facts came to the fore: traditional leaders used to organise traditional functions aimed at educating communities on Zulu prowess and disciplines, Zulu traditions, customs and dances, and historical Zulu events (Thomas, 1988:149). Some of the Zulu traditional dances used to be led by traditional leaders including *ingoma*. The word *ingoma* includes different types of dances performed by various troupes. *IsiKhuze* is an example of *ingoma* (Thomas, 1988:150). Traditional dances are important indicators of how traditions transformed. Currently, the phasing out is observed of these contributions of the *amakhosi* (traditional leaders) that were practiced before the 1994 democratic elections in South Africa.

The remaining traditional leadership institutions in the Simdlangentsha Traditional Council are the following: the *inkosi, Izinduna* and the leaders of various male age groups. These traditional institutions used to provide moral values, cultural education, safety and security to the community and leadership. The institutions were also responsible for the organisation of traditional dances or cultural functions, employed to unite their subjects within a specific tribal community. Furthermore, traditional leadership played an important role in governance and held high-level authority in local government in general (Khunou, 2009:1). This means that traditional leadership was respected in traditional communities and traditional leaders provided leadership to their subjects. Currently this situation is changing due to the introduction of the democratic ideology at local level in areas overlapping with the authority of traditional leaders.

Within the social context, boundary disputes are also an issue between traditional authorities and municipalities. According to the Draft White Paper on Traditional Leadership and Governance, 2002, municipal boundaries are to be demarcated by an independent authority, which in this case is the Municipal Demarcation Board (MDB). In contrast, traditional boundaries normally originate from forefathers of the

particular residing tribe. In KwaZulu-Natal, for example, the only province where faction fights still take place, most of these fights are based on boundary disputes that have historical roots. There is a strong contestation among role-players that the dispute between traditional leaders and civil society (civics) carries a political dimension. Most civil society members reside in urban areas and tend to neglect rural areas, which are governed mostly by traditional leaders (Oommen, 2000:12) Therefore a struggle for power seems inevitable between the two institutions (Oommen, 2000:12).

From the facts above it is clear that traditional authorities such as the Simdlangentsha Traditional Council are exposed to transformational processes, particularly in its relationship with democratic elected local governments. The aim of the present study was to analyse this transformation, taking as point of departure its relationship with local government. A study of the Simdlangentsha Traditional Council provided information that facilitates understanding on the transformational effect that the relationship between the traditional leadership and local government had on traditional authority. From this vantage point the study identified and evaluated areas of dispute between traditional leadership and the local government as well as the influence of these disputes on traditional authority. A descriptive analysis, therefore, provided information leading towards recommendations on improving or amending certain sections of existing legislation, policies and/or practices. Such amendments might potentially lessen disputes on authority between traditional leaders and local governments.

1.2 PROBLEM STATEMENT

In view of the orientation above it is clear that the problem on which the present study focused was as follows: The new democratic elected local governments since 1994 altered the authority of traditional leadership and the outcome of this development is that its domain of authority is no longer unambiguous. The Simdlangentsha traditional authority has, therefore, undergone transformation since 1994. These changes included adaptions to the authority of traditional leaders in the community, governance in local community and interaction of traditional leaders with civil institutions or with municipal structures. To analyse this state of affairs it was

necessary to study the socio-historical background, socio-political status, socio-cultural status and traditional leadership's participation in local government within the new dispensation. The transformation of traditional leaders and traditional leadership institutions (*Amakhosi, Izinduna,* and *Izinduna Zezinsizwa*) formed the central part of the problem statement. This study thus focused on the socio-political transformation since 1994 of the Simdlangentsha Traditional Council, with special reference to its position within the Zululand District Municipality and eDumbe and Pongola Local Municipalities.

1.3 RESEARCH QUESTIONS

The main question which this study aimed to answer is how traditional leadership in the Simdlangentsha Traditional Council was transformed within its relationship with the democratic elected local authorities of Zululand District Municipality, eDumbe and Pongola Local Municipalities since 1994, and how the resulting authority disputes could possibly be lessened. The main question was subdivided into the following sub-questions:

a. What is the available academic literature on the theories, principles and paradigms for the transformation of traditional leaders and traditional leadership roles and which analytical framework will be applicable to analyse traditional leadership in a post-1994 environment?

b. What is the statutory and regulatory framework that informs traditional leaders in its relationship with local government?

c. What was the historical authoritative position of the Simdlangentsha Traditional Council before 1994?

d. What is the significance of transformation in the political, economic and social functioning of traditional leadership in the Simdlangentsha Traditional Council in relation to Zululand District Municipality, eDumbe Local Municipality and the Pongola Local Municipality?

e. In what respect did the authority of traditional leaders of the Simdlangentsha Traditional Council changed since 1994 in view of its relationship with

democratically elected local governments; what recommendations can be made to sections of existing legislation, policies and/or practices that can provide clarity on authority disputes between traditional leaders and local governments?

1.4 THE GOALS OF THE STUDY

The primary goal of the present study was to analyse the transformation of the traditional leadership in the Simdlangentsha Traditional Council as a result of its altered relationship with the democratic elected local authorities of Zululand District Municipality, eDumbe and Pongola Local Municipalities since 1994. From the information recommendations are to be drawn on strategies to relieve authority disputes resulting from this transformation.

The primary goal of the study was to be achieved by means of the following secondary goals:

a. Determine the theories, principles and paradigms of the transformation of traditional leaders and traditional leadership roles, on the basis of an academic literature review, and suggest an analytical framework to investigate of the transformation of traditional leadership.

b. Discuss the legislation regarding traditional leadership in South Africa;

c. Explain the historical authoritative position of the Simdlangentsha Traditional Council before 1994.

d. Analyse empirically the political, economic and social areas of transformation that traditional leaders of the Simdlangentsha Traditional Council underwent since 1994.

e. Explain and analyse the changes in authority of traditional leadership of the Simdlangentsha Traditional Council since 1994 in view of its relationship with democratically elected local governments; thereafter make recommendations on sections of existing legislation, policies and/or practices that potentially might lessen authority disputes between traditional leaders and local governments.

1.5 LEADING THEORETICAL ARGUMENTS

The leading theoretical arguments to launch the study are expounded below.

1.5.1 Introduction

Democratisation of the political system since 1994 had wide-ranging effects on the functioning of traditional leaders countrywide. The Simdlangentsha Traditional Council was affected by this transformation in all facets of its structure. Numerous causes can be identified for these changes in the nature of traditional leadership institutions. Various factors contributed to this change, especially modernisation and democratisation. These factors helped shape the current position of traditional leaders in Southern African states, including the Republic of South Africa. The present study thus focuses on the impact that the democratisation of South African society had on the position of traditional leaders, and especially with regard to their relationship with local government.

1.5.1.1 Democracy

It is interesting to note that traditional leaders in South Africa have drawn widespread attention among academics, democratic advocates, civil society and interest groups since the 1994 democratic elections. Critics and sceptics of the existence of traditional institutions post 1994 are engaged in a continuous heated debate on the role of traditional leaders. It is generally accepted that traditional leaders have held different powers during the pre-colonial, colonial and post-colonial phases in many African states, including South Africa (Sithole, 2009:41-42).

The extended and continuing role of traditional leaders in African society is evident. This is based on the fact that traditional leaders have functioned well into the 21st century. These structures continue to form part of local governance in the new democracy of South Africa, which propagates the principles of freedom and the enjoyment of equal rights. According to Sithole (2009:41) traditional leadership is considered as one of the institutions of governance in the new dispensation. This is based on the fact that pre-1994 laws or legislation continue to function or apply,

including the Black Administration Act 38 of 1927. There also still exist tribal courts, tribal clerks and tribal cleaners.

Another important question dominating current discussions among academics, advocates, traditional leaders and civil society groups is whether traditional leaders should be considered as democratic, and indeed should be incorporated into the new dispensation's system of governance (Sithole, 2009:41). Such incorporation takes place through public hearings held by the National Assembly. In 2012, the national legislature conducted public hearings on the Traditional Court Bill of 2011. The hearings indicated conflicting interests between the institutional authority of traditional leadership and adherents of democratic principles.

1.5.1.2 Transformation

The democratic process in South Africa resulted in the transformation of traditional leadership. As focus of this research, it is important to describe the meaning of this concept. Transformation is defined by The Oxford English Dictionary (1978) as "1. The action of changing in form, shape or appearance … 2. A complete change in character, condition, etc. …" For the purpose of the present study, transformation is viewed as a result of action leading to a change in the nature of the traditional council.

Mr. Nelson Mandela stated in his speech after his release on 11 February 1990: "We need a fundamental restructuring of our political and economic system to address the inequalities of apartheid and create a genuine democratic South Africa." This is transformational language. An attempt to provide a more specific definition of transformation proves difficult. In this regard Duvenhage's definition of transformation is viewed as helpful for this study. He defines transformation as a rapid, progressive, comprehensive and fundamental change of society (stemming from an unacceptable political past), occurring in the form of central planning (political, economic and social engineering) accentuating the managing of the change in general, and conflict management in particular (Duvenhage, 2004:84). When discussing transformation it would, therefore, be important to focus on the political, economic and social dimensions of this phenomenon. It is important to note that this definition of transformation highlights the following aspects:

- fundamental, rapid, progressive and far-reaching change;
- fundamental implications;
- high degree of planning;
- conflict-orientated movement (Duvenhage, 2004:84).

The present study therefore viewed the transformation of traditional leadership in the Simdlangentsha Traditional Council within its political, economic and social contexts, and specifically with regard to the agency behind the changes and how profound these changes are as such.

1.5.2 Leading theoretical framework

The leading theoretical framework for this study is the new political dispensation in South Africa, which is transformative in nature. Legislation within this dispensation wishes to uphold the following values: "(a) Human dignity, the achievement of equality and the advancement of human rights and freedoms. (b) Non-racialism and non-sexism. (c) Supremacy of the constitution and the rule of law. (d) Universal adult suffrage, a national common voters role, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness" (Constitution, 1996).

Within such a dispensation traditional authorities are considered an historic anomaly. Thus it is understandable that the traditional structures will be subjected to transformative measures. One of the most important measures was to establish so-called "wall-to-wall" democratic elected local governments. On the other hand, the ruling political party also viewed traditional authorities as important due to their own powerbase and therefore still empowered these authorities. This scenario lead to authority disputes between traditional leaders and local government.

In light of the above, the point of departure of the present study was that traditional authority is not clearly definable in the present dispensation. Hence such a case study would help clarify the transformational effect of the new dispensation within its political, economic and social contexts. The analytical framework for this study, therefore, focused on these contexts. Table 1 below presents criteria by which the

contexts were analysed within the relationship of traditional authorities and local government.

Table 1: Analytical criteria

Context	Criteria
Political	1. effect of a constitutional democracy; 2. thrust towards nation-building; 3. developmental role played by local government; 4. political values, structures and functions of traditional authorities vis-à-vis local government; and 5. service-delivery issues between traditional authorities and municipalities.
Economic	1. Government's development and growth plans; 2. poverty alleviation; 3. job creation; 4. social security; 5. land reform and agrarian transformation; and 6. food security;
Social	1. boundary disputes; 2. gender issues; 3. generational relations; and 4. family life.

The present research analysed the transformational effect of democratic local government on traditional leadership, in view of the above-mentioned contexts and criteria.

1.6 RESEARCH METHODOLOGY

1.6.1 Research design

The research's focus is on analysing the transformation of the traditional leaders in the Simdlangentsha Traditional Council in relation to local government since 1994

(Zululand District Municipality and eDumbe and Pongola Local Municipalities). This study is not deductive and therefore no hypotheses were developed or tested. The focus was on a detailed description and analysis, in terms of a case-study design, of the dynamics in the changed socio-political landscape found in the traditional leadership institution. The study concentrated on answering the question how the role of the traditional leaders in the Simdlangentsha Traditional Council on socio-political level changed since 1994. In other words, this is a descriptive study from which the results were drawn to make recommendations on the operational engagement of the traditional council with local governments.

The study provided further information and knowledge on how the 1994 democratic elections affected the functioning and authority of traditional leaders in the Simdlangentsha Traditional Council and in South Africa, and how this authority could be managed at best. Various procedures were used in collecting data for the study and, by a method of triangulation, comprehensive information was collected to analyse the transformation and put forward workable/applicable recommendations. Below the demarcations for the study are presented, and explained which procedures and techniques were used for data collection.

1.6.2 Demarcation of the field of study

The nature and the population of the Simdlangentsha Traditional Council demand that the study should be limited to the population as expounded below.

1.6.2.1 Traditional leaders:

- All traditional leaders falling under the Simdlangentsha Traditional Council were studied. This implies that there was no need for sampling because the number (eight) of legitimate traditional leaders *(amakhosi*) was manageable in the area. Traditional leaders of the Simdlangentsha Traditional Council resort under the Zululand District Municipality.
- Traditional institutions are the areas of focus for this study. Basic traditional Zulu institutions include the *inkosi, izinduna,* or leaders of various male groups, depending on the type of tribes that constitute the community.

1.6.2.2 Local government leaders:

- Local government officials were interviewed.

1.6.2.3 Government officials:

- Director/Executive Member of the Traditional House Support;
- Director/Executive Member of the Demarcation Board; and
- Director/Executive Member of the Dispute Resolution Board: Traditional Leadership.

1.6.2.4 Community members:

- South African Civic Organisation (SANCO) leaders; and
- Ordinary community members.

1.6.3 Research procedures

The researcher used two research procedures, namely a literature study and a qualitative survey (interviews and focus groups held with identified subjects).

1.6.3.1 Literature study

a. Primary sources

Minutes, correspondence, letters, contracts and agreements were the primary literature sources of information on the traditional leaders in the Simdlangentsha Traditional Council.

b. Secondary sources

The secondary sources for the research comprised books, journals, newspapers, policies and articles dealing with the relationship between traditional leadership and local government. These sources were studied, and particularly those related to the traditional leaders in the Simdlangentsha Traditional Council.

1.6.3.2 Interviews and focus groups

Six focus groups were used for the study. Three focus groups were taken from eDumbe local municipality whilst the remaining three was formed in Pongola local

municipality. Interviews with various stakeholders such as community members, SANCO and local government officials were held. Each focus group was made up of members of different ages ranging from 20s to 50s but not over 60 years. Important sources of information for this study were the *amakhosi* or *izinduna.* This group can involve the *inkosi* alone or *inkosi* and his *indlunkulu*.

1.6.4 Data collection

The collection of data was done by means of semi-structured interview schedules. Sources of information range from individuals or institutions to traditional organisations, which form part of the leadership and civil structures. Eight traditional leadership institutions constituting the entire Simdlangentsha Traditional Council were studied. All of the traditional leaders within the Council were interviewed. In addition, the following people were also interviewed: 10 local government officials (Research and Disputes Resolution Section) of the Zululand District Municipality, 10 of the eDumbe Local Municipality and 10 of the Pongola Local Municipality. Members of the South African National Civic Organisation (SANCO) and ordinary community members (including youth and senior members), were interviewed by means of focus groups.

The schedule for the semi-structured interview design was as follows:

Part 1 of the interview schedule dealt with individual or personal details. It also accommodated the organisational profile of the traditional councils.

Part 2 of the interview schedule focused on the historical background of the institution (traditional leadership) of the Simdlangentsha Traditional Council.

Part 3 was the fundamental section of the interview schedule, seeing that it focused on the following aspects:

a. Regarding the **political** context questions were posed about the transformational impact of local government's developmental role, the effect of constitutional democracy, nation-building, the changes to the

political values, structures and functions of the traditional leadership in relation to the local government (e.g. service-delivery supplying issues) and the influence of agrarian transformation.

b. Regarding the **economic** context questions were asked on the government's development and growth plans, land reform, poverty alleviation, social security, job creation and food security.

c. Concerning the **social** context questions focused on traditional values and practises versus global/modern values and practices, gender issues, generational relations, family life and boundary disputes.

These questions also revealed differences in the functioning and roles between various traditional authorities.

The nature of the study required a qualitative research approach.

1.6.5 Data analysis

The collected data from the various sources were analysed and categorised in order to reach a reliable conclusion at the end of the present study. The collection and analysis of the data were structured in such a way as to ensure the trustworthiness of the data.

1.7 ETHICAL COMPLIANCE

Research projects are required to comply with certain standards of conduct in various communities in which such projects take place. Most research projects encounter the following four constraints, namely: scientific, administrative, ethical and political (Babbie, 2007:61). It was relevant to define the concept of ethics to discern the importance of ethical compliance within the research in general. Ethics implies a principle of conformity to the standards of conduct of a specific profession. It concerns morality, which distinguishes right from wrong (Babbie, 2007:61).

It is important for any researcher to ensure that the rights of the respondents/participants are respected. For the present study, communities were made up of several cultures due to the diverse backgrounds of community members who resided in a certain area. During the research and in light of responses provided by community members it was imperative for the researcher to ensure that the way of life of the research subjects were respected and protected. According to Babbie (2007:62-67) there are important aspects that a researcher needs to consider when collecting data in communities. These aspects are explicated below.

1.7.1 Voluntary participation

The researcher informed the selected candidates that participation in the research would be voluntary. Thus, respondents were free to decline participation if they wished to do so. This matter of voluntarism needed to be explained clearly to community members in a traditional Zulu community. Members of such a community are normally sceptical of such exercises, especially applied by a stranger, a non-Zulu or non-African. Age, residential area and clan-name play an important part in obtaining reliable data in a Zulu traditional community such as the Simdlangentsha Traditional Council.

Therefore, it was important to note that the researcher did not find it difficult to access information in this community because he was acquainted with the access-point offices that can be contacted for the purpose of collecting data.

1.7.2 No harm to the participants

The selected target group (traditional leaders) demanded high respect from within and outside the communities. The researcher was in a favourable position to deal respectfully and with ethical consideration towards this group, seeing that he was born and bred in the same traditional community. The same holds for the researcher's relationship with the local government leaders and community members who were interviewed.

Ethics were considered when handling the questions and processing the answers. The interviews were also handled in an applicable ethical way. For example, questions that seemed to be embarrassing for the participants included those on personal income and dependence on government grants. The researcher undertook to ensure that such questions are treated with caution and care during the interviews.

1.7.3 Confidentiality

The process of data collection entailed a semi-structured interview schedule that allowed participants to elaborate to a certain extent during the engagement. The case may be that the research subject does provide personal information or data that could compromise a participant's standing in the community. It should be noted that KwaZulu-Natal has not yet completely overcome the political violence of the 1980s and 1990s, which claimed many lives even in traditional communities. The researcher was duty-bound to maintain and honour the confidentiality of the information obtained from the research participants. The guarantee of confidentiality during the engagement granted the interviewees more freedom to provide further information as required by the researcher.

1.7.4 Deception

Deception implies an act of providing false information. Such action is unethical in nature. In the labour fraternity such an act is classified as misconduct, which could lead to dismissal. However, social researchers are not always in the position to avoid this type of behaviour when gathering information. Deception may include providing a false name to the research subjects and giving the wrong reasons for the research purpose. In such an instance, a researcher should provide strong reasons, backed by scientific grounds, for resorting to such actions. However, in the main, the researcher was obliged to avoid misrepresentation when obtaining information from community members (Struwing & Stead 2001:69).

1.8 CONTRIBUTION OF THE STUDY

The contribution of the study was to provide a proper descriptive analysis of the transformation the Simdlangentsha Traditional Council underwent as a result of its relationship with the democratic elected local authorities of Zululand District Municipality, eDumbe and Pongola Local Municipalities since 1994. From the findings recommendations were proposed how authority disputes resulting from such issues could possibly be relieved. The contribution entails the following:

a. Developing an analytical framework by applying the identified theories, principles and paradigms to the transformation of traditional leaders and traditional leadership roles, done on the basis of an academic literature review.

b. Identify the relevant statutory framework in view of the legislation on traditional leadership in South Africa as well as contextualise of the Simdlangentsha Traditional Council's position of authority by means of a historical review.

c. Empirically study the political, economic and social areas of transformation impacting on traditional leaders of the Simdlangentsha Traditional Council since 1994.

d. Make recommendations on amending sections of existing legislation, policies and/or practices that potentially might relieve disputes on authority between the traditional leaders and local governments.

1.9 DIVISION OF CHAPTERS

Each chapter in the following section deals with a specific theme of the study.

Chapter 1: Introduction

This chapter gives an overview of the study, defines the problem and outlines the objectives of the study. Thereafter it explains in detail the methodology employed to collect the data, and explicate the research design used for the study.

Chapter 2: Transformation and traditional leadership

This chapter presents the theories, principles and paradigms regarding the transformation of traditional leaders and traditional leadership roles, and suggest an analytical framework to investigate this transformation.

Chapter 3: Statutory and regulatory framework regarding traditional leadership in South Africa

The traditional authority system is regarded as one of the most fundamental institutions in South Africa; therefore the South African Constitution recognises traditional leadership. This chapter explores the statutory and regulatory items that regulate the existence and functioning of traditional leadership in South Africa. These items are evaluated in terms of their transformational influence on traditional authorities.

Chapter 4: Historical background of the Simdlangentsha Traditional Council

Chapter 4 provides a critical focus on the historical background of the various traditional leaders forming the Simdlangentsha Traditional Council. This background will include geographical locations of the traditional leaders and their clan names. The clans examined are the Mavuso, Ntshangase, Ndlangamandla, Mthethwa, Dlamini, Sibiya, Simelane and Msibi. This background will provide a benchmark against which to compare the recent functioning of the traditional leaders.

Chapter 5: Research methodology

The chapter provides information on the research methodology used in the study. This includes the description of the research methodology and research methods. This chapter goes further to describe the data collection techniques and deal with ethical issues related to the involvement of community members in carrying out tasks contributing the entire research work.

Chapter 6: Political transformation of the Simdlangentsha Traditional Council

Chapter 6 discusses the influence political transformations in South Africa since 1994 exerted on the traditional leadership in the Simdlangentsha Traditional Council, especially with regard to its relationship with local government. Topics that were analysed entail: the transformational impact of local government's developmental

role, the effect of constitutional democracy, nation-building, the changes to the political values, structures and functions of the traditional leadership in relation to the local government (service-delivery supplying issues) as well as the influence of transformation in the agrarian sector.

Chapter 7: Economic transformation of the Simdlangentsha Traditional Council

The chapter examines the economic transformational policies of the government and its impact on the traditional leadership in the Simdlangentsha Traditional Council and its relationship with local government. Matters that were dealt with are the government's development and growth plans, land reform, poverty alleviation, social security, job creation and food security.

Chapter 8: Social transformation

Chapter 8 discusses the social context of transformation and its impact on the traditional leadership in the Simdlangentsha Traditional Council and its relationship with local government. In this regard, the themes discussed include: traditional values and practises versus global/modern values and practices, gender issues, generational relations, family life, and boundary disputes.

Chapter 9: The relationship between traditional leadership and local government

This chapter examines the relationship between traditional leadership and local government focusing on:

- Legislative framework informing the relationship between traditional leadership and local government.
- Possible sources of conflicts between traditional leadership and the elected municipal councillors.
- The necessity of joint ventures between traditional leadership and local government.
- Forging sound relationships between traditional leadership and local government at local level.

- General views of the community on the Simdlangentsha Traditional Council's relationships with:
    - the Zululand District Municipality;
    - the eDumbe local municipality; and
    - Pongola local municipality.

Chapter 10: Conclusion and recommendations

Chapter 10 provides the conclusions of the study. These conclusions focus on a number of issues raised in the discussion, and furthermore employ subtopics to conclude in detail the discussions of the present study. Thereafter the chapter summarises the gist of the study and the methodology used in collecting data that were converted into useful information. The conclusion is can be summarised through topics such as:

- powers and functions of traditional leaders;
- the transformative impact of the relationship between the municipality, Trusts and community's property associations and the traditional leaders in the Simdlangentsha Traditional Council;
- recommendations on leadership, policies and practices that can help improve the functioning of traditional authorities in its relationship with local government;
- limitations of the study; and
- prospects of future study on this topic.

CHAPTER 2: TRANSFORMATION AND TRADITIONAL LEADERSHIP

2.1 INTRODUCTION

This chapter addresses and explores the meaning of the concepts of democracy, transformation and traditional leadership. Democracy and transformation will be discussed first, secondly democracy and traditional leadership, and thirdly, transformation and traditional leadership. The chapter will conclude with proposing a theoretical framework that will largely guide the rest of the study.

Transformation and traditional leadership will mainly be confined to the South African context. However, it must be noted that it would be impossible to provide comprehensive definitions of transformation and traditional leadership without also considering scholarly work from outside South Africa. The involvement of traditional leadership in post-colonial (transformed) governments such as Nigeria, Mozambique and Namibia is a practical case to justify that traditional leadership is a domestic concept in many post-colonised African states (Mbondenyi & Ojienda, 1994:11).

2.2 Democracy and transformation in South Africa

Democratisation of the political system since 1994 has had wide-ranging effects on the functioning of traditional leaders countrywide. South African communities, organisations and institutions have been part of this transformation in the various facets of their structures. Several causes can be identified for these changes in the nature of traditional leadership institutions. Various factors contributed to this change, especially modernisation and democratisation. These processes played an important role in shaping the current position of traditional leaders in Southern African states, including the Republic of South Africa. The present study focuses especially on the role that the democratisation of South Africa, especially with regard to local government, played on the position of traditional leaders.

2.2.1 Democracy

The word democracy derives from, among others, old French (*democratie*), Latin (*democratia*) and Greek (*democratia/demos*), meaning “common people” (Universal Dictionary, 1987:415). The focus of this study is mainly on the Greek meaning of democracy. People commonly understand the meaning of democracy to be as portrayed by the slogan “government of the people by the people and for the people”. This is not always true. The same notion of “government of the people, by the people and for the people” has been used in various countries to defend their political traditions. This includes the Union of Soviet Socialist Republics (USSR) and Uganda under Idi Amin (Keulder, 2010:8).

Koelble (2005:29) defines democracy as follows: ”Democracy is the study of institutions and rules, of participation and contestation for office, of contested elections and the system that enables nation-states to hold fair and free elections.” However, some views in society present a strong argument that democracy entails more than the concept of elections, institutions and rules as defined in this section. Others argue that democracy is related to the role of civil society and the ability of that particular society to “converse, to communicate, to reform social structures and habits” (Koelble, 2005:20)

The question about democracy remains: How can one differentiate between a democratic system of governance and a non-democratic environment? In line with the definition above of democracy, it becomes difficult to rely on the demonstration of democracy for instance by specific countries. Common understanding is that democracy is the governance by many as opposed to the rule by one or a few individuals in a particular country or state and further accompanied by regular elections (Keulder, 2010:9). However, this is does not substantiate a clear definition of democracy because even communist countries were ruled by many and conducted regular elections. Keulder (1994:13) argues that: “… there should be necessary correspondence between the acts of government and the equally weighted express wishes of citizens with respect to those acts.”

Responsive rule or democracy, as May puts it, provides a definition of democracy as an aspect that requires certain characteristics and features, which will meet the requirements of democracy (May, 2006:1-14). Requirements such as freedoms of speech, association, movement and worship are cited as of elements of democracy. According to May, democracy further requires the participation of citizens in the running of public affairs. The right to vote, the right to participate in running for public office and the right to be a legal part of the polity or government are some of the characteristics of responsive rule or democracy. Despite the above-mentioned list of features of democracy, for an environment to be called a democratic environment it should also display social rights, for example, the right to adequate education and health care facilities (May, 2006:1-14). Dahl (1971:3) holds that the combination of the stipulated rights provides an ideal democracy in the true sense.

However, it is clear that to establish democracy, steps should be taken towards removing the non-democratic order that exist in society. The process by which the existing political order is changed is called transition to democracy (Keulder, 2010:9). Lintz and Stepan (1991:15) argue that: “It is only after such a transition and subsequent consolidation that democracy becomes behaviourally, attitudinally and constitutionally the only game in town”.

The question can be posed: Why democracy? What makes democracy special? Why not another type of regime? (Keulder, 2010:9). Huntington (1997:13) provides a moral argument in favour of choosing democracy: “Man’s capacity for justice makes democracy possible, but man’s inclination to injustice makes democracy necessary.” Winston Churchill made an important statement about democracy as quoted by Diamond (1998:36): “Many forms of government have been tried and will be tried in this world of sin and woe. No one pretends that democracy is perfect and all-wise. Indeed, it has been said that democracy is the worst form of government, except all those forms that have tried from time to time.”

Concurring with Churchill’s statement about democracy, Keulder states that even though democracy could be regarded as a good form of government in providing political goods compared to other forms of government, which include elections, freedom, majority rule and cooperation, it is not so good in providing improvements

such as economic growth, efficiency in administration and social order and stability (Keulder, 2010:9). It may be necessary to complement democracy with other forms of government for best efficiency. Thus, there is a continuous debate on democracy and traditional leadership in South Africa. The main difficulty of the relationship between traditional leadership and local government in the post-1994 period is the influence of democratic legislation and policies on the functioning of traditional leadership in rural communities and whether it benefits these communities and South Africa.

Democracy in South Africa is constitutionally determined. The Constitution describes and prescribes the democratic processes in South Africa, also with regard to traditional leadership. Democracy as cornerstone of this country refers to rule by the people of South Africa through universal adult suffrage and respect for human dignity. It therefore impacts on institutions that do not fully share this point of departure.

2.2.2 Transformation

The democratic process in South Africa resulted in the transformation of traditional leadership. Seeing that this is the research focus of the present study, it is important to describe the meaning of this concept. As indicated in chapter 1, transformation is defined by The Oxford English Dictionary (1978) as "1. The action of changing in form, shape or appearance … 2. A complete change in character, condition, etc. …" For the purpose of this study, transformation is therefore viewed as an action with a change in the nature of the traditional council as a result. In his speech after his release on 11 February 1990 Nelson Mandela stated: "... We need a fundamental restructuring of our political and economic system to address the inequalities of apartheid and create a genuine democratic South Africa."

An attempt to provide a more specific definition of transformation is difficult. As indicated in chapter 1, Duvenhage's definition of transformation is used in the present study. He defines transformation as a rapid, progressive, comprehensive and fundamental change of society (stemming from an unacceptable political past) in the form of central planning (political, economic and social engineering) accentuating

the managing of the change in general and conflict management in particular (Duvenhage, 2004:84). When focusing on transformation it would therefore be important to pay attention to its political, economic and social dimensions. It is important to note that this definition of transformation highlights the following aspects of this process:

- fundamental, rapid, progressive and far-reaching change;
- fundamental implications;
- high degree of planning; and
- conflict oriented (Duvenhage, 2004:84).

Transformation may also involve the element of revolution. A recent Cuban document defines revolution as follows: “Revolution means a sense of our moment in history, it means changing all that ought to be changed; it is full equality and freedom; it is being treated and treating others like human beings; it is emancipation of ourselves by ourselves, and through our own efforts; it is defying powerful and ruling forces inside and outside of the social and national spheres; defending values that are believed in at the cost of any sacrifice; it is modesty, selflessness, altruism, solidarity and heroism; it is the profound conviction that there is no force in the world capable of crushing the strength of truth and ideas. Revolution is unity, it is independence, it is fighting for our dreams for justice for Cuba and for the world, it is the foundation of our patriotism, our socialism and our internationalism” (Cuba document, 2007). This could be viewed as a radical and cumbersome definition of the concept “revolution”. However, this definition captures many characteristics of transformation which traditional leadership has undergone over a period of time since pre-colonial, colonial and apartheid periods in South Africa to date.

Both revolution and transformation focus on the abolishment of the existing state of affairs and the installment of a totally new dispensation. The main difference is that revolution aims to do this in a violent, unplanned way and transformation wishes to do so in a peaceful, planned way. The 1994 political change in South African can be considered a transformation with lesser revolutionary aspects. This is based on the fact that although the South African transition is viewed as a smooth one, it also

consisted of violent unrests, violent protests and radical labour transformation. The whole process of change has been characterised by fundamental change, violent change, and progressive change (Duvenhage, 2004:84).

It is useful to differentiate between change and transformation as a specific type of change. Transformation is a comprehensive form of change and must be distinguished from limited forms of change. The democratic elections of 1994 were what Venter terms a paradigmatic and profound change because it was not confined to a limited political change but was a change overhauling the doing of things (Venter, 2000:2). Transformation is therefore different from change in general. According to Venter, change refers to what happens to the physical appearance of things. In other words, change is something that can be seen happening. He further defines general change as simpler and less complex than transformation. Change is time-bound just like a project and it takes place outside a person rather than inside. Finally, he argues that in most cases change is rooted in policies. On the other hand, transformation is not a once-off incident; it is a process which takes time. Transformation requires experience from the participants and the drivers of transformation require training or reorientation of the programme of implementing transformation (Venter, 2000:6).

In view of the definitions of the two concepts, namely change and transformation, it can be concluded that the institution of traditional leadership had undergone a process of transformation over the years. Nthai regards traditional leadership as an old and ancient institution in Africa before colonisation of Africa by the West (Nthai, 2005:1-3). For centuries African peoples experienced traditional leadership and nothing else until the annexation of Africa by Western countries. Disorganisation of the traditional leadership institution is attributed to subsequent imperialism and colonialism. In South Africa the situation was worse because colonialism was formally endorsed by the apartheid system of governance (Nthai, 2005:1-3). In South Africa, traditional leadership was transformed in different phases. The institution (traditional leadership) started moving from a pre-colonial period to a colonial era and for South Africa the institution was forced to move from the apartheid system of government to finally being part of the democratic dispensation.

The concept of transformation was defined comprehensively and implemented practically by the ANC government after 1994. The ANC committed itself to the National Democratic Revolution (NDR) as a vehicle for change in South Africa. It would therefore be difficult for a South African writer or an academic to ignore or disregard the ANC when dealing with the form of change, namely transformation and revolution (Jeffery, 2012:2). According to the ANC, the fundamental goal of the NDR is to liberate African people in particular and black people in general, which include Africans, Coloureds and Indians, from both political and economic bondage. This will be achieved by informing the machinery of state, using a cadre policy to give the ANC control over all centres of power, redistributing wealth and income and de-racialising the South African society through a consistent programme of affirmative action (Jeffery, 2012:2). Furthermore, the ANC defines transformation as a complete change with regard to style, policies, outlook, behaviour, attitudes and inequality (Jeffery, 2012:2).

Traditional leadership is an ancient institution, which existed in the pre-colonial and colonial period, during apartheid and which still exists post-1994. It did not escape the winds of change brought about by the NDR. There is practical evidence of transformation of traditional leaders in South Africa. The following quotation from Khunou (2009:3) acknowledges some elements of transformation in traditional leadership: “One of the remarkable features of the transformation of traditional leadership in South Africa is that gender equality has been progressively advanced.” The inclusion of women in traditional government structures adds democratic value and credibility to the institution of traditional leadership, which for many years remained essentially male-dominated. The doctrine of transformative constitutionalism is currently (2015) well established in South Africa.

Transformation is not a novel concept in South African politics. Progressive and liberation movements such as the ANC employed this concept as early as 1912 when it was formulated by chiefs, among others (ANC, 1994:2). Semantics may be different but implementation meant change in the form of transformation. The NDR as a tool for driving change and fighting anti-colonialism is contained in many ANC strategic documents. Building a National Democratic Society: Strategy and Tactics

and the balance of forces 2010 provides the following initiatives for change in the five decades since 1912:

a. The African Claim of 1943 and the 1949 Programme of Action

These two documents define full political rights as the central objective of the ANC within the context of international anti-colonial and anti-imperialist struggles. This paved the way for the emergence of the ANC as a mass movement, a non-racial and non-sexist movement and a leader of the broader forces for liberation.

b. The Women's Charter 1954

This is a document of the Federation of South African Women (FEDSAW). It acknowledges the triple oppression of women and thus the role of women in the struggle, and informed subsequent approaches to building a non-sexist South Africa.

c. The Freedom Charter 1955

This document built on the foundation laid by the African Claims of 1943 and the Women's Charter of 1954. It was adopted on 26 June 1955 at a Congress of the People in Kliptown and defines the vision of the type of South Africa to be built: united and non-racial, incorporating first generation (universal franchise, equality, democracy, and women's rights), human rights and second generation rights (socio-economic rights).

The above-mentioned aspects informed the post-apartheid transformation which also impacted on the Simdlangentsha Traditional Council in terms of the transformation of its economic, political and social contexts.

2.3 TRADITIONAL LEADERSHIP IN A DEMOCRATIC SOUTH AFRICA

The historical background of traditional leaders in South Africa lays a sound foundation for the understanding of the role and functions of this institution in a democratic South Africa.

Traditional leaders were in existence in the pre-colonial period. African societies followed their system of governance. For instance, societies were ruled by kings and

supported by chiefs and traditional councillors. This bureaucratic structure formed a clear political structure with military, spiritual and cultural functions and the councillors were regarded as custodians of the values of society (Ashton, 1967:213). Traditional leaders were responsible for the welfare of their people by providing security, sustenance agriculture, resolving disputes among community members and keeping order.

In a certain sense, African societies practised a type of democracy in their governance by holding general assemblies, which were attended by adult men for decision-making purposes. The Basotho people called these assemblies *kgotla/pitso* while the Nguni group referred to them as *izimbizo* (Ashton, 1967:213). This public platform was created for participatory democracy on the part of the community, who were given an opportunity to have a say in decision-making on important matters affecting them. However, Rugege (2003:172) states: “It is important to note that even in pre-colonial times not all traditional leaders were benevolent, generous and caring towards their people. Some were autocratic and oppressive.” According to Rugege, if people were dissatisfied with the leadership of their leader, they left that particular leader and joined another leader.

During the colonial and apartheid periods traditional leaders transformed into traditional authorities. The institution went through colonial rule and continued under the apartheid system of government. During this time, traditional leaders played the role of being agents of the state and became machinery used by government to control the then so-called natives. They also organised their subjects for the labour market. Men were taken from traditional communities to work in mines far away from their home base. This was organised by traditional leaders under instruction of the state. Both colonial and apartheid periods shifted the traditional role of this institution, which was based on hereditary leadership (Ntsebenza, 1999:16).

The role of traditional leadership in South Africa started to be problematic immediately after the 1994 democratic elections. Comprehensive engagements of stakeholders with government were intensified, especially after the passing of the Municipal Structures Act in 2000. The problem arose when municipal legislation encompassed the entire South African surface and put it under elected councillors,

thereby providing municipalities with the authority to manage all areas under their jurisdiction. Traditional leaders feared that their functions would overlap with those of municipalities; hence, they would lose their influence in traditional communities (Rugege, 2003:171).

The on-going debate about whether the traditional leadership institutions can be hybridised with democracy rests on two critical points of arguments. The first point of contestation is the impact of colonialism and apartheid on the disorganisation of the traditional structure of traditional institutions. The second and the most important one concerns the constitutionality of the traditional institution in view of the patriarchal character or nature of this institution. The fact that colonialism and the apartheid government changed the legal nature, structure, function and jurisdiction of the traditional leadership institution is not a debatable issue. Originally, traditional leadership governance was based on consensual leadership and this was central to traditional communities.

The focus of transformation programmes in post-1994 seems to be marginalising traditional leadership institutions. The exclusion of traditional leaders from transformative initiatives was politically based. The target of the 1994 democratic elections was to prioritise the Western form of democracy that would eventually enable a capitalist growth path with its corollary and use private property and the economic commodity. This approach led the political agenda to focus on the urban community rather than rural comprehensive social groupings and the individual rather than the communal society. The argument presented here is that it was difficult to deal with rural politicians because of its conservative traditional structures (Alcock & Hornby, 2004:7). By implication, this would mean that traditional leadership institutions should be part of transformative programmes in all traditional structures and systems of operations.

2.3.1 Relevance of traditional leadership in a democratic South Africa

Questions about the relevance of traditional leaders in the new dispensation are still subjects for debate in academic institutions and among other interest groups. Any view on traditional leadership in a democratic South Africa should be taken in the

context of cultural pluralism and globalisation because the transformation of traditional leadership over the years was influenced by various factors, including culture and global changes (Meer & Campell, 2007:7). The change of traditional leadership in South Africa is influenced more by Western democratic principles, which are based on Western cultural principles. On the other hand African culture still exists in the way traditional leaders rule their traditional communities.

In the process of examining the relevance and the importance of traditional institutions in a democratised South Africa it is necessary to examine the influence of internal politics in view of the South African transformation that occurred within the context of a global community. Internally traditional leadership had its own influence in determining the nature of democracy in South Africa. This implies that the South African form of democracy entails the combination of African values of governance and international standards of governance (Meer & Campell, 2007:7). Furthermore, the governance of traditional leaders in South Africa was influenced by the colonial and apartheid system of governance in past decades. In the words of Holomisa and Semge when referring to the entire South Africa: “The advent of colonialism in Africa destroyed the social fabric and the political system of the continent’s nation. Customs and traditions that were the basis and source of law were either nullified as being centre *bonos mores* or distorted in their interpretation to the extent that they were regarded as reactionary and in contravention of human rights” (Meer & Campell, 2007:8).

The value system of governance in South Africa is based on the colonial and apartheid values established during their regimes’ years of rule. Traditional structures which were based on traditional values and hereditary leadership were detrimentally changed by colonial and apartheid governments. Furthermore, the political values and aspirations of the post-1994 system of governance disregarded ethnic traditional structures. This kind of discrepancy creates a platform for conflict between traditional structures and the democratic South Africa. The argument is that there is a need for incorporating the traditional leadership in the new South Africa within a system of governance that is based on democratic principles.

The fact that the majority of traditional leaders are organised on ethnic lines in former independent and self-governing states, implies that the post-1994 government has the task of ensuring that the traditional leadership system of rule is fully incorporated into the democratic values and system of governance. The incorporation of traditional leadership in the new democratic South Africa would be an achievement in reconciling two different paradigmatic communities in one system of government. According to Brynard and Musitha (2011:113) the purpose of the integration of traditional authorities and the democratic elected local government is to promote co-operative and inclusive government in rural communities and contemporary local government systems.

In other arenas of debate, the relevance of traditional leaders in a democratic government such as South Africa is still an issue that needs to be explored. It is argued that the authority of traditional leaders is based on principles that contradict democratic principles. This is well illustrated by the article of Ntsebenza when highlighting the contradictory area between traditional and democratic principles. Ntsebenza (2004:16) states: “While the initial collaboration of traditional leaders and headmen was around local government, it is quite clear that the main issue that brings traditional authority together is their opposition to the notion of introducing new democratic structures. They would be happy to be the only primary structure in rural areas and insist on perceiving the concentration functions they enjoyed under apartheid, in particular land administration. Not only are they opposed to the idea of separation of powers, they are also opposed to any attempt to introduce alternative structures that would compete with them, for example, in the case of local government, the traditional authorities reject the introduction of municipalities in the areas. They argue that they should play a central role in rural development and by implication, they reject the democratic principles upon which post-1994 development local government is based.”

Traditional councils believe that the initiative by government to democratise the institution of traditional leadership is not in line with the ideals of traditional leadership. This line of thinking by traditional leaders is in support of the perception that they are irrelevant in the democratised South Africa. The differences between traditional leadership and the democratic principle do not revolve around hereditary

leadership or ambition of political dominance in the community as normally perceived, but the most important area of contradiction centres on traditional structures, which are not democratic in nature.

In other African states, such as Ghana for instance, traditional leadership politics are characterised by participation and the involvement of citizens, which complements democratic values of governance. The incorporation of traditional leaders into the new dispensation in South Africa is still a challenge. In KwaZulu-Natal, for example, traditional leadership is based on a hierarchy of authority and politics which are controlled centrally. Citizens in rural communities are not involved in the decision-making process and are not part of the political decision process. Reasons such as these make it difficult to establish joint governance between traditional leaders and the elected counsellors (Meer & Compell, 2007:10).

2.3.2 Why traditional authorities continue to exist in the post-colonial period

The debate on the nature and continued existence of traditional leadership is a common topic in post-colonial Southern African states such as Mozambique, Namibia, Zimbabwe and South Africa. Zimbabwe and Mozambique used different routes to attain liberation, but this does not rule out the survival of traditional institutions in those countries. The chiefs and kings are still intact and recognised by their governments. This is despite the general perception that these institutions supported (or collaborated with) the governments during colonial rule. The purpose of the above section was to examine various possible factors that could be instrumental in contributing to the resilience of traditional authorities and their role in a democratic environment.

As pointed out in the discussion above, traditional authorities existed during pre-colonial and colonial rule and still feature in post-colonial governance. During colonialist governments exploited traditional leaders through their system of indirect rule. Certain colonialists retained traditional structures, but introduced policy frameworks that traditional leaders had to comply with. For example, the French governor Colonel Louis de Trertinian argued that traditional leaders or tribal systems of the Sudan should be retained so that French commandants could be relieved from

day-to-day social responsibilities after the French military conquest in 1896 (Ntsebenza, 2005:17). These included judicial, legislative, executive, and administrative duties.

This may be one of the factors that contributed to the resilience of traditional leaders or authorities in many countries. In most colonial governments traditional institutions were used in tactics of indirect rule. It was the case in countries such as Namibia, Zimbabwe and South Africa. Traditional leaders allegedly allowed themselves to be divided by colonialists and finally became, as it were, agents of the reigning colonial government by implementing colonial programmes in their communities. It is not easy to understand the survival of traditional leadership institutions in the post-colonial states without understanding the political dynamics of the states concerned. For example, traditional leadership survived in Namibia and Zimbabwe and enjoy the full support of their governments. This also applies to the South African political arena. For instance, the ANC disregarded the chieftainship during the liberation struggle, but engaged traditional leaders in political negotiations of the 1990s (Ntsebenza, 2005:19). Traditional leaders are currently recognised in all three spheres of government (local, provincial and national). This kind of representation is also to be found in many African states.

The survival of traditional leadership in many countries continues to hold a challenge. Questions centre on the source of authority for this institution. Traditional leaders have massive powers in communities. Some of these powers emanate from the responsibilities they have in traditional communities. Even at present (2105) traditional leaders view themselves as cultural, political, military and spiritual pioneers for the subjects they lead (Rugege, 171:2003). Regardless of their contribution to colonial governments in various African states, they continue to exist in many African states (Ntsebenza, 2005:22).

There is a strong contestation that traditional leaders derive their authority from the responsibility of allocating land to their subjects (Ntsebenza, 2005:23). This theory might be proven true when considering African's attachment to land and cattle. This should not be surprising, especially with regard to the Nguni group (Zulus, Swazis and the Ndebele). However, there are other sources of power that traditional leaders

can derive from the communities they are leading. It is clear that this issue will be a subject of on-going discussion in academic platforms until common ground is reached on the source of power and authority of traditional institutions.

Constitutionalism provides open and public participation in decision-making processes. The Constitution further clarifies the separation of powers, namely executive, judiciary and legislative (Bennet, 1995:14). African local government differs from the modern type of governance. Practices of the two institutions have nothing that can be regarded as a common point (Bennet, 1995:14). Traditional leaders were not elected; they were put into power through hereditary lineages from their forefathers. Bennett (1995:14) argues that traditional leadership is a dangerous form of government because power is centred in one person and furthermore acts against democratic values by following a patriarchal system, which is totally outside of democratic parameters. For example, fathers of families were required to look after their families by governing their territory and people and to judge on disputes affecting their subjects (Bennett, 1995:14).

Hinz (1995:5) refers to two Ovambo kingdoms to illustrate the nature of traditional leaders in a traditional community. He describes Ovambo kings as “autocratic rulers with rights over life and death of their subjects”. Authors such as Vedder, Loeb and Hahn coined the concept of sacred kingship in illustrating the the Ovambo kingdoms (Hinz 1995:5). They were seen as the symbol of life by the people. Increasing fertility, providing rain, and creating a link between the living and the dead were tasks expected from the king. He was revered as divine. Rules were used to confirm the rule of an Ovambo king over his or her clan. In most cases kingship was taken over by the king’s younger brother or the son of the king’s elder sister. Violent power struggles were not completely absent when the king died but the common methodology of resolving succession conflicts or disputes was a meetings between chief councillors of the traditional community (Hinz, 1995:5).

It is evident from the discussion above that traditional leadership differs from leadership in Western democracies. The question of kingship in a democratic environment is not a considered option because it is viewed as an autocratic style of leadership. Nevertheless, traditional leaders are South African citizens and they are

also entitled to enjoy the basic forms of freedom, including practising their culture and customs. After 1994 the South African government faced the challenge of creating a nation that would accommodate all South Africans without discriminating against any colour, cultural background or creed. Traditional leadership was required to be part of the Constitution of the Republic. The first challenge that faced government with regard to traditional leaders in a democratic South Africa was the election characteristics of democracy. It must be remembered that traditional leaders do not rule for a specific period. They remain in their positions for life and positions of leadership are not determined by election. The second challenge with regard to traditional leadership is the question of gender discrimination in their succession for leadership (Bennett, 1995:17).

Traditional leadership has its own way of leading traditional communities. Bennett (1995:17) summarises the executive powers of traditional leadership as follows: “In keeping with their positions as head of the nation, African rulers have plenary executive powers. They represent their people in all relations with outsiders and they provide a direct link to the shadow of the founding fathers. They are entitled to choose the best land for their homesteads and fields, and they order their subjects to work these lands. They may levy taxes, demand tribute from the harvest or the hunt, and demand labour for public works. Rulers also control the use of land within their domains: they allot residential and arable sites to individuals, and if the occasion arises, they may expropriate the site owner’s rights.”

In view of the above it becomes clear that, after the introduction of the Constitution and other pieces of legislation on traditional leadership, the functioning of the institution changed. The functioning of traditional leadership in a democratic government such as South Africa is regulated by norms of equality, fairness and accountability. In the past traditional leadership relied mostly on customary law, which allowed traditional leaders to operate within the brackets of the law. However, customary law failed to bring to book the wrong-doings of traditional leaders in the true sense. Even before the Interim Constitution traditional leadership was subjected to common law standards of administration. The influence of legislation on the functioning of traditional leaders is guided by the principle of the Constitution of Republic. For instance, even when customary law gives direction in terms of

authority relating to traditional leaders, they were now bound by Chapter 3 of the Interim Constitution. This implied that traditional leaders would be controlled by constitutional law. Section 24 of the Interim Constitution provided that any person was entitled to demand:

- "lawful administrative action where his or her rights are affected
- procedurally fair administrative action where rights or legitimate expectations are affected
- public or written reasons for administrative action and
- Action that is justifiable in relation to the reasons given" (Bennett, 1995:18).

The restrictions of traditional leadership by law did not end with the Interim Constitution, it continued in the final Constitution of 1996. Chapter 2 of the current Constitution stipulates a number of rights that individuals and institutions are bound to comply with. Traditional leaders are no exception to this requirement.

It is interesting to note that traditional leaders in South Africa have drawn widespread attention from academics, democratic advocates, civil society and interest groups since the 1994 democratic elections. Critics of and scepticism about the existence of traditional institutions post-1994 continue a heated debate on the role of traditional leaders. They generally accept that traditional leaders existed with different powers during the pre-colonial, colonial and post-colonial phases in many African states, including South Africa (Sithole, 2009:41-42).

Traditional leadership survived during the apartheid era because they were co-opted by the government and granted powers to govern rural areas. In the early 1950s the apartheid government enhanced its programme of manipulating traditional leaders by developing legislative and administrative structures in traditional communities (Cele 2011:5). In contrast the South African Constitution recognises three powers, i.e. legislative, executive and judiciary powers, which do not fit traditional leaders perfectly (d'Engelbrecht-Kolff *et al.*, 1995:1).

The long and continuing role of traditional leaders in African society is clear. This is based on the fact that traditional leaders have continued to function into the 21st

century. They still form part of local governance in the new democracy of South Africa, which propagates the principles of freedom and the enjoyment of equal rights. According to Sithole (2009:41), traditional leadership is one of the institutions of governance in the new dispensation. This is based on the fact that post-1994 laws or legislation do still function or still apply, including the Black Administration Act 68 of 1951. There are still tribal courts, tribal clerks and tribal cleaners (general workers).

Another important question dominating current discussions among academics, advocates, traditional leaders and civil society groups is whether traditional leaders are democratic or not, and whether or not they should be incorporated into the new dispensation's system of governance (Sithole, 2009:41). In 2012 the national legislature conducted public hearings on the Traditional Court Bill, which indicated that conflict exists between the institutional authority of traditional leadership and democratic principles. A question arises: Where did the authority of traditional leaders come from before the democratic dispensation in many African states? Hinz *et al.* (1995:4) point out that traditional leaders base their authority on customary law and holiness; their authority comes from ancestors and remains unchanged to this day.

The fact is that traditional leadership still exists in the new dispensation in South Africa. South Africa had a task to accommodate a traditional leadership system of governance. This was not the initial viewpoint of the ANC-led government because there was a strong belief that traditional leaders were influenced by both colonial and apartheid policies in the country. It was difficult for the ANC to decide whether to incorporate traditional leadership or not in the South African constitutional system of government (Tshehla, 2005:15). In dealing with this question of incorporating traditional leadership in the South African system of government, parliament passed the Traditional Leadership and Governance Framework Act (No. 41 of 2003). Although this legislation was passed nine years after the first democratic elections, it provided guidelines for the incorporation of traditional leaders into the new dispensation (Tshehla, 2005:16). The decision of enacting legislation regarding traditional leadership was a final endorsement of the existence of traditional leadership in South African constitutionalism. This Act will be discussed further in chapter 3 of the present study.

A contrasting view is presented by Jara when he argues that although traditional leaders continue to exist in this democratic dispensation they still pose a challenge to the constitutional democracy in South Africa (Jara, 2012:2). He states further that the Constitution recognises three spheres of government (national, provincial and local) and not traditional leadership. The enactment of the Traditional Leadership and Governance Framework Act (No. 41 of 2003), the Communal Land Act (No. 11 of 2004) and the Traditional Courts Bill of 2013 granted such authority to traditional leaders that some raised the idea of traditional leaders as a fourth level (fourth tier government) of governance by the South African government. The introduction of this legislation furthered the interpretation and understanding of customary law. For instance, the rights of people living under traditional leadership are violated by this system of governance. Women in particular are not considered as suitable for leadership positions (Jara, 2012:2).

Traditional leadership continues to exist in the democratic environment. The recognition of traditional leaders by the current democratic government is aimed at uniting traditional leadership and the democratic dispensation. However, the above discussion indicates that even though items of legislation are in place there is still a long way to go for full participation of traditional leadership in democratic governance. The question of the source of power and the authority of traditional leaders will continue be a challenge for government.

In the past land administration was the main source of power for traditional leaders. Their subjects depended on them for land access in traditional communities. After the introduction of the “wall-to- wall” type of municipality, this task shifted from traditional leadership to councillors or the municipality. This implies that traditional leaders have diminished powers over their followers. However, this does not mean that government is failing to harmonise the working relationship between municipalities and traditional leadership, but that comprehensive engagement of traditional leadership and workshops designed for the purpose of democratic governance became a priority for the national government. Provincial governments have a task of ensuring that these workshops are fully implemented at local level.

2.4 SCHOOLS OF THOUGHT

The debate on the role of traditional leaders and the continuation of such leadership in a democratic South Africa since 1994 will keep on reverberating in many social circles and academic institutions. Socio-political changes pose a challenge to the functioning of traditional leaders in the country (Keulder, 1998:1). The debates are focused on local government, which requires more attention, seeing that it is closer to grassroots level. Traditional leaders have remained heads in their community, taking part in governance from pre-colonial up to post-colonial times, and continue to participate in the present democratic dispensation. Research conducted in various countries, including Mozambique, reveals that attempts were made to marginalise traditional leaders because in many countries they were perceived as collaborators during colonial rule. These attempts at stigmatising (association of traditional leaders with colonists in undemocratic governance) were not successful, seeing that traditional institutions continue to exist in post-colonial countries such as Zimbabwe and Mozambique (Ntsebenza, 2005:16).

This debate continues even in a democratised South Africa. The nature of government requires transformation in various sectors of the country, including traditional authorities (the chief, traditional and tribal authorities), customary law and the male-dominated homestead. This should include the transformation of customs and African culture (Keulder, 1998:2). Various schools of thoughts or approaches present different viewpoints on the existence and functioning of traditional leaders (and leadership).

The understanding of traditional leadership in the South African context is of paramount importance here. Sithole provides the following definition of traditional leadership: “Traditional leadership is an indigenous or local form of governance based on a localised cultural logic that prioritises social relationships and resolutions of social problems on a case-by-case. Traditional leadership is a multi-level system that involves *ubukhosi* at the top, multiple levels of advisors, law enforcement agents systematically disaggregated to focus on a social and spatial map” (Sithole, 2009:16). This comprehensive definition does not end or prevent debates on the existence and functioning of traditional leadership in post-colonial states such as

South Africa, Zimbabwe and Namibia. The next section will present debates from various schools of thoughts. Each school of thought provides its own views about traditional leadership (Keulder, 1998:1-5).

2.4.1 Views on the existence of the traditional leadership institution

Certain schools of thought seek to explain the separation and the difference in which scholars study traditional leadership as an institution partaking in the democratic political system of governance (Sithole, 2008:4). It is relevant for the present study to examine the views of four schools of thought, namely modernists, traditionalists, democratic pragmatism and organic democracy. These approaches provide information that could help identify differences between the traditionalists and the modernists. The question is why this distinction would be helpful. The transformation taking place in the traditional leadership institution since 1994 has shown a remarkable paradigm shift in the direction of modernisation. Modernisation implies changes in society such as urbanization, industrialisation and higher levels of literacy. It further impacts on family structure, authority patterns and marriages in the community (Schaefer & Lamm, 1992:382-387). Changes of this nature have had serious implications for the role and functions of traditional leadership institutions in post-1994.

Ntsebenza explains the ambiguity in the process: "... the recognition of a democracy and the rights of traditional leaders, born to the throne in the South African Constitution is an ambiguity. Furthermore it was not clear how the African National Congress (ANC), which fought for a democracy, could embrace the institution of traditional leadership, which had a notorious record under Apartheid. The debate on the future role of traditional leaders in a democratic South Africa led to the emergence of two main schools of thought, namely the modernists and traditionalists" (Ntsebenza, 2006:256-258). Schools of thought on traditional leadership in South Africa are discussed below.

2.4.1.1 The modernistic (feminist and liberal) viewpoint

According to Kleulder (2010, 9), modernist changes are driven by feminist and liberalist ideologies. Feminism can be defined as a struggle to defend and expand the rights of women (Giddens, 1995:182). Feminists advocate the right of women to

enjoy equality with men in all spheres of life (Giddens, 1993:742). These advocates are intensely concerned about gender equality, even in rural areas. Liberalism implies a doctrine that favours the freedom of individuals to express themselves in the manner which they choose (Universal Dictionary, 1987).

Traditional leaders are mostly to be found in rural areas where limited liberal values are internalised. Modernistic scholars argue that traditional leadership is driven by the dominance of men (patriarchy). Their argument is not only based on the need for transformation of the patriarchal ideology, but further calls for the transformation of customary law and traditions. Traditional leaders are currently perceived as acting incongruous with government's legislative frameworks. Section 9(1) of the South African Constitution Act (No. 108 of 1996) states that everyone is equal before the law and has the right to equal protection and benefit of the law. Any gender inequality is prohibited in this new dispensation. Section 6(1) of the Employment Equity Act (No. 55 of 1998) prohibits any form of discrimination, including gender inequality. It is therefore important to note that, in light of these legal prescriptions, traditional leaders continually need to transform their structures and social practices.
By nature, the concept of modernisation entails a transformative process. From the outset it focuses on the difference between modern society and traditional society, which are two different worlds. Modernisation involves a change from tradition to modernity. This means a radical and total change in the patterns of human life (Huntington, 2013:288).

Traditional leadership was undergoing a process of modernisation even before the 1994 democratic elections. Modernists (social scientists, political researchers, sociologists and academics) are advocates of democratic processes and are mostly found in towns and cities among the elected public officials. It is assumed that they represent the will of the people in their constituencies (Keulder, 1998:3). There is no doubt that a political struggle is taking place between traditional leaders and civic organisations. The argument put forth by civics is that traditional leadership is feudalist in character; it must therefore be abolished in the respective communities (Keulder, 1998:3).

Another argument concerning traditional leaders is that they “deracialised” in the postcolonial era, but did not “detribalise” and democratise themselves and their institutions. Consequently they do not comply with democratic policies regarding all traditional practices. As was pointed out previously, such perceptions about these institutions subject them to being stigmatised as collaborators of the colonial governments. This is how these institutions are mostly viewed and described in many post-colonial African states (Ntsebenza, 2005:19).

2.4.1.2 Traditionalists

The traditionalist group of believers hold that the traditional institution provides very important leadership. This is because its establishment is community-based as opposed to the elected local government that is normally based in towns and cities. They argue that this institution (traditional leadership) is the most effective local government; it supports political stability and provides policy implementation, which is crucial to rural development. It also makes the implementation of developmental programmes much easier (Keulder, 1998:3).

Traditionalists also argue that traditional leaders fulfil an important role in communities by addressing various issues of social service such as maintaining peace, land administration responsibilities, general development and administrative functions, keeping of records, conflict resolution, maintaining of public order within *isigodi,* allocating land and preserving customs, tradition and culture (Sikhakhane & Xaba, 2008:62-63). They also assist in allocating land to their followers, as well as resolving disputes and faction fights among their subjects. Through traditional leaders people are able to access business rights and promote the identity of their communities (Keulder, 1998:3). According to this school of thought it is therefore counter-productive to ignore and disregard traditional leadership, seeing that approximately 18 million South Africans are under the care of traditional leadership. This makes for about 40% of the total South African population.

There is a contestation that modern democratic South Africa has not yet convened a national congress with the purpose of discussing the role, powers and functions of traditional leaders in the new dispensation. Since 1994 the issue of traditional leadership has been addressed on an ad hoc basis. Infighting continues to haunt the

traditional leadership institution (Skhakhane & Xaba, 2008:xxvi). Skhakhane and Xaba maintain that traditional leaders are the product of a nomadic life. They were plagued by violence, power struggle and betrayal on their way from central Africa to the south of the continent; as a result they lost their original succession history.

Furthermore, the Zulu revolution led by Shaka, a traditional leader, disorganised the traditional leadership institution because many tribes and clans were absorbed into the Zulu ethnic group. The *Mfecane* (the "turmoil, time of troubles") affected a fifth of every African state in Southern Africa. The Zulu invasion or raids started off a chain reaction of violence, which eventually broke up the structure of chiefdoms and confederations of other tribes and clans. This Zulu nationalism started in 1816 immediately after the death of Senzangakhona, the father of Shaka. This had a major impact on the current status and identity of traditional leaders in South Africa and beyond South African borders (Wilson, 1975:72-73). However, Shaka's reign of terror, colonialism, apartheid and post-colonial periods did not succeed in nullifying traditional leadership in Southern Africa.

The formation of the Congress of Traditional Leaders in South Africa (CONTRALESA) on 20 September 1987 initiated the preparation of a traditional institution for a new dispensation (Holomisa, 2011:4). CONTRALESA was reacting to the decision taken by the National Party to impose independence on the KwaNdebele homeland in 1985-86. As a traditional organisation CONTRALESA still holds that traditional leaders have a role to play in the democratised South Africa. It stipulated guidelines for government to ensure that it would be committed to traditional leadership in the post-apartheid government. This includes but is not limited to:

a. The development of mechanisms to promote mutual respect and cooperation between Traditional Councils and local government.

b. Ensuring that the Municipal Boundaries Demarcation Board demarcates municipal and ward boundaries in a manner that does not unnecessarily divide Traditional Council land and communities.

c. Acceptance of the fact that democratic South Africa needs the institution's leadership attributes as the governance embarks on a programme that seeks to improve the lives of the toiling rural masses.

d. The provision of Traditional Councils with the requisite human and material resources so as to make them viable centres of service delivery by all relevant local governments.

e. The meaningful transformation and democratisation of Traditional Councils into representative local governance structures of rural communities, which include the aged, the disabled, the youth and women.

f. Acceptance of the fact that, as custodians of the people's cultures, customs and traditions, traditional leaders are instrumental in the promotion of the tenets of Ubuntu, as we seek to build a caring society in the face of the rise in acts of immortality, criminality and the devastation of incurable diseases such as HIV/Aids.

g. Ensuring the speedy passing of a law by Parliament to give legal recognition to the African Courts of Traditional Leadership, in an inexpensive, transparent and efficient manner in accordance with indigenous norms and standards (Holomisa, 2011: XXVIII-XXIX).

In view of the above "wish list" of CONTRALESA, it becomes clear that traditional leaders, especially those who are members of CONTRALESA, are keen to be part of democracy in South Africa and to further support government and its initiatives in running the country.

South Africa is one of the post-colonial African states where the existence of traditional leaders in a democratic environment has been debated extensively. This is not only based on democratic elements and principles, but also focused on traditional leadership and human rights (Sithole, 2008:4). According to this school of thought (democratic pragmatism), democracy and human rights are fundamental to the well-being of a person. This raises the question of aligning the traditional leaders to the Constitution of the Republic of South Africa in terms of human rights and the governance of traditional leadership.

Scholars' debate about traditional leadership has been centred on the compatibility of this institution with democratic governance in the current situation in South Africa (Sithole, 2008:4). Sithole is of the opinion that the main legislation that sparked heated debate on the functioning of traditional leadership are two Acts, namely the Traditional Leadership and Governance Framework Act 41 of 2003 and The Communal Land Rights Act (No. 11 of 2005). For example, the latter Act provides exceptions with regard to land use and ownership with the purpose of accommodating traditional authorities. This Act gives rights to traditional leadership to distribute communal land and determine how the land can be used by the community. The former Act provides traditional leaders with a role in land administration, health, administration of justice, economic development and arts and culture (Koelble, 2005:8).

Adherents of democratic pragmatism maintain that traditional leadership is undemocratic and has no system of accountability. Traditional leaders are further accused of dictating to their subjects without an opportunity for election processes. This school of thought further charges that traditional leaders discriminate against women because of the partriachic system in traditional communities, which deprives women of their constitutional rights of equality. Followers of democratic pragmatism "have created an image of traditional leaders as people who were given power by an illegitimate government, who have orchestrated political strategies to keep that power and who have been successful in coercing the docile rural masses and government into doing this despite the conceptual anomaly that they are within modern forms of governance. For this reason those of this school who even engage in any thinking at all around integration of traditional leadership with the State institutions, do so with ambivalent feelings and a sense of compromise" (Sithole, 2008:10).

Even though the belief of democratic pragmatism can be considered, the resurgence of traditional leaders cannot be undermined in the new democratic environment in South Africa. This fact was displayed when the first Chief Minister of one of the Bantustans, the Transkei, Kaizer Matanzima, passed away in 2003. Despite his role in promoting the apartheid regime before 1994, the democratic government of the ANC granted him a provincial government funeral. This was an indication the

traditional leadership is still acknowledged and revered in the democratised South Africa (Koelble, 2005:6). Sithole (2008:5) argues that a close analysis of traditional leadership with regard to compatibility with democracy shows the following:

- "Traditional leadership as a system that allows for inheritance of leadership is incompatible with democracy;
- Traditional leadership should be becoming extinct, but it continues to thrive both because the institutional local governance changes in rural areas are lagging behind and because government is mistakenly supporting this system despite the fact that it contradicts democracy;
- An infiltration of the democratic values and economic models propounded by the global discourse will help the local establishment of democracy that will eventually displace the undemocratic forms of governance such as traditional leadership;
- Despite the cultural relativism of those who support traditional leadership the objective and rational principles of democracy demand that the State ensures access to democracy as a commodity to which all humans are entitled."

2.4.1.3 Organic democracy

The adherents of democratic pragmatism propagate the notion that traditional leadership can fit and work together with the elected system of governance at local level. On the other hand, organic democracy does not view traditional leadership as a threat or contradictory to democracy. Proponents of organic democracy are of the opinion that traditional leadership is a system of governance that has a role to play in communities. The reason is that traditional leaders are closer to the people they serve and community members can easily understand and follow their leadership (Sithole, 2008:10). Organic democracy fills gaps that are not catered for by the elected system of governance. This school of thought holds the following about traditional leadership in local governance:

- "Despite the abuse of power and the manipulation of traditional leaders by apartheid, traditional leadership as a form of governance predates and has

persisted over the governance practice based on State democracy in Africa. There never was a time since European colonialism where traditional leadership disappeared and therefore as a system of governance it was not invented by apartheid. It has been abused and manipulated and the extent to which it was abused needs careful analysis.

- While the human universalism that democratic pragmatism propounds via reification of individual human rights is undisputed, organic democracy proponents believe that traditional leadership offers unique attributes of leadership that fulfil specific social and governance needs of the people as communities. Communities operate in different ways; the generic institutional packages of the Western form of democracy to which those who need must help themselves, are not the only form of democracy that people may wish to have. Certain studies show (see Hughes, 1969, discussed briefly below) that people value different qualities in leadership and governance (if those terms could be conflated to mean the same thing, in the first instance), and co-existence of these options is relevant in the current historical epoch. More studies need to be done in this regard.
- The location of traditional leadership within communities both physically and culturally serves a specific purpose that people must be entitled to. This is over and above the often paternalistically expressed view on the inadequacies of local government in many rural communities - a gap that traditional leaders are seen to supplement.
- Western democracy is often caught up in how it is elected and what institutions extend it. It is informed with principles which must play themselves out in order for justice to all to be accessible and visible. Traditional leaders should perhaps be seen as an alternative form of democracy that places less emphasis on how governance comes into being, but more emphasis on the rationalisation of justice based on cultural-moral principles, and expressed human feelings, all of which will be under vigorous negotiation on a case-by-case social issue basis. Traditional leadership is therefore a facilitory democracy more focused on issues than ridified processes" (Sithole, 2008:10).

There are, however, common grounds for the four approaches mentioned regarding traditional leaders. These commonalities will be investigated subsequently.

Generally speaking, the arguments presented by the four above-mentioned schools of thought do not always diverge. As has been indicated, there are major differences but also common ground between them in their view of the existence and functioning of traditional institutions. It has been evident at some points of the debate that the viewpoints coming from the post-independent period still do not reflect acceptance of these institutions. The reason is that liberation movements in many African states believe that traditional leaders supported the colonial governments in Africa. In light of this belief they are still viewed as betrayers of the struggle for liberation and the right of Africans to their indigenous land.

Nevertheless, both modernists and traditionalists agree that traditional institutions should undergo a metamorphosis in their socio-political status. However, they disagree on the nature and area of the suggested changes. Another area of convergence of the two approaches is on the question of gender in traditional leadership. Some traditionalists agree that women should form part of traditional leadership in rural areas. The commonalities between these schools of thought are based on the view that, in order to comply with requirements of the new democratic South Africa and its constitutional imperatives, the institution of traditional leadership, its composition, functions and legal support will have to change (Khunou, 2009:47). This would mean that traditional leaders should adapt to the on-going changes in socio-political and socio-economic environments of communities (Keulder, 1998:6).
Feminists, in turn, argue further that the Constitution commits everyone in this land to the building of a non-sexist society (Keulder, 1998:6). Changes proposed by traditionalists on the recognition of women in traditional structures take a different track. Traditionalists suggest that such change should take place within a certain framework that will be agreed upon by all stakeholders, including traditional leadership regardless of the stipulations of the Constitution. However, feminists disagree on this form of change, since they emphasise full compliance with the Constitution. The question of gender equality, particularly the role of women in a traditional leadership system, is still a constitutional conflict (Keulder, 1998:6; Cele, 2011:3).

The analysis of the feminist contribution in this debate reveals a focused call for the general representation of women in all traditional structures across the board without considering other factors. Feminists suggest that all local government structures should accommodate women, regardless of requisite skills, service-delivery focus, decentralisation of policy and other important issues associated with local government. This notion is disputed by traditionalists who base their argument on the fact that it is not a question of gender redistribution in rural areas or traditional community, but that the concern should focus on the role of traditional leaders in providing services to the people in their communities. They argue that traditional leaders are at the heart of rural governance, political stability and they contribute to policy implementation, hence, traditional leadership and democratic governance complement each other (Keulder, 1998:1-3).

Modernists and traditionalists therefore disagree on the content of democracy. The modernists, in particular those who are liberals, advocate free and fair competition for public office, regular expression of interests through voting, and open and transparent decision-making by elected representatives of the masses (Keulder, 1998:10). One might argue in support of this idea when keeping in mind the present structure of traditional leadership in South Africa. Men still dominate traditional institutions and this can also be traced back to African customs and traditions on the continent regarding cultural practices.

The question of combining democracy and traditional leadership is remaining a challenge in South Africa. Before 1994 traditional leaders had powers in their traditional communities commissioned by the Bantu Authorities Act 68 of 1951. Chiefs, as they were called, acted as communication channels between government and the local community. The *induna* used to play an important role in conveying information and the concerns of the community to government. This kind of operation was in fact a system used by the Nationalist government to control traditional communities through chiefs or *amakhosi* (Kurahashi, 2007:16).

In 1994, South Africa experienced democracy for the first time after colonialism and the apartheid system of governance. The ANC had to deal with a number of challenges, including the democratisation of the traditional leadership institution,

which had been part of the colonial and apartheid governments for a long period. Initially, the ANC's aim was to disregard the traditional leadership in rural areas because of the accusations that these leaders have acted as agents of the former government (Kurahashi, 2007:16). The ANC intended to mobilise rural areas and prepare it with the purpose of disseminating democracy without recognising traditional leadership institutions. However, this was not successful because the government needed funds to deal with, among other aspects, the HIV/Aids pandemic, which was very high in rural areas, compared to urban communities.

The government did not receive assistance from within the global political economy to fund public education or to provide medical or social services needed to deal with HIV/Aids. The ANC realised that it further lacked political control of the rural community system, therefore, they were not in a position to disregard and undermine the traditional leadership institution in the new democracy. Kurahashi argues that although traditional leaders are non-elected administrators they can play a role in supporting the democratic governance in rural communities (Kurahashi, 2007:16).
Democracy is characterised by election processes, community participation and gender sensitivity. According to Ntsebenza (2004:71), the building blocks of democracy such as downward accountability and the distribution of powers and resources play an important role in democratic decentralisation, which is hardly found in rural areas. Ntsebenza takes the argument further by citing the land issue in traditional communities (Ntsebenza, 2004:71). He argues that during apartheid land administration and management were given to traditional leaders and this apartheid practice continues to take place even in the post-apartheid era.

The question of the hybridisation form of local government is not an easy task for both government and traditional leadership. Ntsebenza (2004) maintains that the main problem in democratic change and decentralisation in post-1994 in South Africa is that the government did not transfer clear powers, functions and roles to traditional leadership. The question of democratic decentralisation and hereditary leadership, which is the core of leadership in traditional leaders, has not yet been answered by both government at especially local level, and the traditional leadership institution.

However, modernists themselves are not fully democratised in the way they function in communities or societies. Traditionalists argue that Western democracy does not present the only expression of freedom in a society. Adherents believe that traditional local government is actually more accessible to people and better understood by members of the community. It affords followers of traditional institutions direct access to their leaders (Keulder, 1998:11). This argument is based on the fact that traditional leaders are locally based; they reside among the people whom they lead. Cele (2011:8) captures this notion well: "For the institution of traditional leaders and its procedures of governance is not only a simpler form of government, but also more accessible, better understood, subjects have more direct access to their leaders because they live in the same village and because any individual can approach the leader and ask him or her participatory one. It is more accessible because it is closer to the subjects than any other say to call a meeting … decision-making is based on consensus, which creates greater harmony and unity; it is transparent and participatory because most people may attend tribal meetings and express their views, directly not through representatives; and lastly, harmony and unity prevail because the interests of the tribal unit, rather than an individual or group of individuals, are pursued and expressed."

This form of accessible governance does leave several challenges. Another argument presented by the modernists is that the male dominated type of leadership closes doors for women and youth in decision-making processes. Women and the youth are not recognised when decisions are taken traditionally. Cele (2011:8) argues that in the Botswana traditional system of leadership the *kgotla* democracy is a group of senior men taken from the community tribesmen. It is said that these men are not acceptable to community members and they are believed to demand consensus coercively and aggressively in the decision-making process instead of creating a democratic environment for discussions. Critics further contend that traditional leaders continue to be anti-democratic in character because of their patriarchal approach to leadership and this style of leadership is not friendly to the development of democracy and social justice (Cele 2011:8).

Again, similarities can be pointed out between democratic pragmatism and organic democracy. For instance, both schools of thought agree that traditional leaders

should undergo a process of transformation. However, organic democracy challenges the notion that traditional leaders are totally undemocratic in nature (Sithole, 2008:12). It becomes clear that the four schools of thought have some points of convergence and points of divergence in explanation. Sithole (2008:13) is convinced that after the analysis of democratic pragmatism and organic democracy, traditional leadership could be approached as follows:

- "Cultural relativism is not mutually exclusive of individual human rights and relativism must not be interpreted to mean disabling of people's ability to rationalise and change culture continuously and with reference to specific circumstances. This has always been the case with traditional leadership and customs.

- Culture and customs, which is what traditional leadership roles are often aligned with, must not be blanketley assumed to be hindrance to universal democratisation, without differentiation. The interconnectedness of culture and customs must not be trivialised as something that can be changed by mere proclamation of legislation. For example while the argument against gender imbalances to succession are legitimate, it is not possible to legislate against the whole patrilineal kinship and marriage system that is practised widely in rural and urban areas in order for identity-tracking to allow for women to be legitimate heirs to traditional leadership. Such punitive tendencies will regulate government towards not been taken seriously by people. A cumulative or progressive and negotiated approach is therefore seen as best."

The question of traditional leadership and women as approached by Sithole in the discussion above continues to divide rural South African communities. It is a given fact that traditional leaders are sceptical about women in leadership positions and this has been evident in instances where a traditional leader has died without a male heir. Family members insist that the late leader's position cannot be taken by the wife. Khwashu (2015:4) reports a shocking incident involving traditional leadership and women, as follows: "Wearing pants or walking with a male friend in public during the initiation school period in six Limpopo villages could bring trouble to women and

their families." This is clearly an extremely discriminatory statement, unconstitutional and incompatible with basic democratic values.

This incident took place in Ga-Mamaila villages in Sekgosese outside Modjadjieskloof in Limpopo. Residents of these villages reported that *izinduna* (headmen) had announced a few weeks previously that no women would be allowed to wear pants during the boys' initiation period. The order further oppressed women by forbidding them to walk with their male friends in public. Community members were told by the tribal court if a member of the above communities was found in such a situation (wearing pants) she and her friend would be charged a fine of R500. When the Ga-Mamaila Tribal Council was interviewed they denied that such instructions had been issued to communities. However, Peter Mamaila, the spokesperson for the Tribal Council, confirmed that such an announcement had been made. He further stressed that banning pants for women was not a new thing in their tradition. According to him, such a ban was a sign of respect for the boys in the initiation schools. This recent incident in Limpopo is one of several incidents of discrimination meted out to women in traditional communities in South Africa.

The discussion can be concluded by pointing out that these debates will probably continue in various organisations or institutions. These include academic institutions, community-based organisations, traditional organisations, political groupings, etc. In South Africa, such debates are sparked off by the Constitution's contents. This content challenges certain viewpoints, but also allows or accommodates various views and, most importantly, upholds the right of everyone to freedom of expression.

2.5 TRANSFORMATION AND TRADITIONAL LEADERSHIP

2.5.1 Introduction

Traditional leadership in Africa as a whole reaches far back in history. African tribes and clans were governed by traditional leaders before the colonisation of Africa by Westerners. Goodenough (2000:4) argues that Africans were able to maintain their cultures and values through traditional leaders. In various parts of Africa, including South Africa, tribal authorities were in existence as far back as before 1830 when

king Shaka of the Zulus started his reign of terror and caused an exodus of many tribes towards the north of Southern Africa. Areas under traditional leadership were identified by separate clusters of homesteads. Men used to mobilise on a local basis under a specific leader (Duminy, 1989:59). After the 1994 national democratic elections in South Africa traditional leadership changed drastically.

The decision taken by South Africans to introduce a multi-party democracy drew the attention of politicians, academics and writers to traditional authorities. Khunou maintains that history and the roles of traditional authorities had to be defined in the new South Africa (Khunou, 2009:19). Issues of debate revolved around the recognition of hereditary or traditional leadership alongside democratic principles introduced in 1994. The question of gender, for example, is one of the issues, which forms the debate about combining traditional leadership and democratic principles.

Khunou argues that recognising and accommodating traditional leadership in the new dispensation compromised the project of transformation. This is based on the fact that traditional leaders are hereditary while democratic leaders are chosen through an election system following democratic principles. However, the national government introduced the Department of Traditional Affairs in April 2010. This initiative taken by the legislature is based on Chapter 11 of the Constitution, which recognises the institution, status and roles of traditional leadership and this should be done in accordance with customary law. Transformation of traditional leadership continues to be a centre of change in local government and rural development. Legislation and policies aimed at regulating traditional positions and structures in traditional communities have been introduced. This will be described fully in the next chapter.

2.5.2 Traditional leadership positions and structures

Traditional communities are governed by traditional structures usually formed by members from the same community under the leadership of a traditional leader. It is important to note that traditional leadership and its structures are largely similar throughout African states. It is much easier to identify these structures by their

hereditary chain of composition. There is a finely drawn distinction between social and political structures of traditional institutions.

From 1872, during the reign of King Cetshwayo, the son of King Mpande, the Zulu kingdom was divided into two broad systems, namely the social system and the power of the state (Guy, 1994:22). The social system was based on production while the power of the state was based on the military. This saw the emphasis on the homestead-head (the male) or *ikhanda*, including the *inkosi, amakhosi, izinduna, izikhulu* and *ibandla*. These traditional structures have in due course been transformed into *isilo* (king), *inkosi* (chief), *induna* (headman) and *ibandla* (traditional council) (Guy, 1994:22-27). This implies that traditional leaders are less military orientated because leadership is no longer based on military power. Instead, it is based on hereditary succession only. Section 16 of the KwaZulu-Natal Traditional Leadership and Governance Act (No. 5 of 2005) recognises *isilo, amakhosi* and *izinduna* and determines the following:

a. The role and duties of the *isilo* are:

- "To promote the Constitution and the law;
- To promote national and provincial unity;
- To meet once a year with other South African traditional leaders;
- To perform such ceremonial duties as required by the provincial government, including the opening of the provincial legislature;
- To support and develop communities that are recognised as traditional communities and to officiate at the traditional installation ceremony of all *Amakhosi* in addition to other customary responsibilities:
    i. Conferring honours and distinctions;
    ii. Meeting foreign dignitaries;
    iii. Representing the Province culturally and socially both within the Republic of South Africa and abroad; and
    iv. Addressing sessions or meetings of provincial intergovernmental bodies or structures" (Section 18 of KwaZulu-Natal Traditional Leadership and Governance Act (No. 5 of 2005).

b. Role and duties of *inkosi*:

- Uphold the Constitution and the law and ensure that the members of his or her traditional community have the rights enshrined in the Constitution including the rights to freedom of political activity and uphold national and provincial unity.
- Promote democracy, provincial unity and uphold national and provincial legislation.
- Carry out customary functions not inconsistent with national and provincial legislation and consistent with an open and democratic society; and
- Preserve and foster knowledge and understanding of Zulu culture, history and tradition"

Furthermore, the Act requires each *inkosi* to:

- "Convene and report to meetings of his or her traditional council at least every two months.
- Convene and report to a meeting of his or her traditional community at a meeting called every three months.
- Attend consultative meetings of the Provincial House of Traditional Leaders when such meetings are called.
- Participate in municipal councils if identified to do so in terms of section 81 of the Local Government: Municipal Structures Act, 1998 (No. 117 of 1998);
- Carry out any functions prescribed for *Amakhosi* by the responsible Member of the Executive Council.
- Maintain law and order and report to the responsible Member of the Executive Council without delay any matter or concern, including any condition of unrest or dissatisfaction.
- Ensure the protection of life, persons and property and safety of travellers within his or her area of jurisdiction, and report forthwith to the relevant department in the provincial Government or municipality or any other relevant authority.
- Prevent cruelty to animals.

- When so required by law, impound any livestock depastured illegally or found straying within or introduced unlawfully or under suspicious circumstances into his or her area and report the matter to a competent authority.
- Generally seek to promote the interest of his or her traditional community and of the region and to actively support and initiate measures for the advancement of the community (Section 20 of the KwaZulu-Natal Traditional Leadership and Governance Act (No. 5 of 2005)"

c. *Izinduna* may carry out the customary functions of representatives of and assist the *inkosi*.

Both Acts provided above recognise the following traditional structures:

- "traditional communities;
- traditional councils;
- local house of traditional leaders;
- provincial house of traditional leaders; and
- national house of traditional leaders".

Alcock and Hornby (2004:12) state that the *induna* has the responsibility of being:

- "Eyes and ears of the *inkosi* on the ground;
- Conveyers of information back and forth from people to *inkosi*;
- Responsible people for land and land needs on behalf of the *inkosi*;
- The first official to be approached when people want land allocation or want to vary land use for instance, business purposes;
- The first person to deal with disputes over boundaries or rights and
- The lowest level land administrator in tribal institutions."

Section 19 of the Traditional Leadership and Governance Framework Act (No. 41 of 2003) states that functions of traditional leaders should be in line with customary law and customs of the traditional community and this should be executed under the guidance of legislation. Section 20 of the Act provides principles that may be used by

national or provincial government when allocating roles and functions to traditional leaders. These include but are not limited to:

a. “Arts and culture;
b. Land administration;
c. Agriculture;
d. Health;
e. Welfare;
f. The administration of justice;
g. Safety and security;
h. The registration of births, deaths and customary marriages;
i. Economic development;
j. Environment;
k. Tourism;
l. Disaster management;
m. The management of natural resources;
n. The dissemination of information relating to government policies and programmes and
o. Education.”

The debates and comments on the role of traditional leaders in other African states indicate that traditional institutions are not only the subject of discussion in South Africa, but also in other African states. Traditional structures and the role of traditional leaders have undergone a process of metamorphosis over a period of time. The next section explores the nature of transformation of traditional leaders in traditional communities.

2.5.3 Land reform

After the 1994 democratic elections the national government had to build a democracy created through democratic elections and the nation which had been divided for a long period. It was also a task of government to begin the process of lessening the harsh legacies of a century of segregation and apartheid and consolidate the new democracy (May, 2006:1-14) interviews held with Nelson Mandela and Syen Peek respectively).

The interim Constitution provided state organs or institutions to be utilised for the reconstruction and development of the country. This includes the Truth and Reconciliation Commission (TRC), which was established in terms of the Promotion of National Unity and Reconciliation Act 34 of 1995. The main objective of this Act was to ensure that South Africans would be reconciled after a history of racial segregation, and thereby transforming South African societies (Ntsebenza, 2004:197). The rationale behind the establishment of the TRC was the perception and understanding that the country had been torn apart by racially-based division, sufferings, injustices and class strata.

Most inequalities before 1994 and post-1994 were reflected in the right to land and the right to land ownership, especially to rural communities. Therefore this sub-section of the present study discusses the impact of land on various factors that affected Black South Africans in particular with regard to land administration. It is important to note that after the 1994 elections it was very difficult for the government not to prioritise the land issue. Comparatively speaking, South Africa is the post-colonial African state most affected with regard to land confiscated through colonial and apartheid policies. Zambia was a British colony for many years but only 3% of the land surface was occupied by white colonists or settlers. Malawian and Namibian settlers were successful in occupying 5% and 43% of the surface land respectively. Zimbabwe is one of the African states which suffered the consequences of landlessness of the indigenous people. Colonists managed to access 50% of the Zimbabwean land surface (Ntsebenza, 2004:197).

In South Africa the picture is different since 90% of the land was taken from indigenous people. This massive land invasion and land seizure subjected millions of African communities to landlessness and created a new form of nomadic life, a structured and controlled one. Another pillar of displacement of people from their land of origin, which also contributed to land reform after 1994, was the cheap labour created by both the colonial and apartheid systems of governance. This section of the present study raises issues of land that affected the programme of transformation since the 1994 democratic election. The discussion is against the background that the majority of indigenous people, especially traditional leaders and

rural populations, were dispossessed of land during the apartheid government (Ntsebenza, 2004:197).

It seems that aspects such as land reform, land tenure and land registration are mainly associated with elderly men in offices dealing with complex maps and title deeds. The process of dealing with land ownership requires proper administration and governance. It should be done under the directive of clear policies and procedures that would be followed in executing the task of this nature under the emblem of good governance. The concept of good governance in the public sector was confirmed in the case of *Tshishongo v Minister of Justice and Constitutional Development* as an aspect that is characterised by anti-corruption measures, open and democratic decision-making, unbiased allocation of funding, measures to combat nepotism and strict financial control and financial management in general (Pienaar, 2009:2).

Land reform entails the strategy of altering the land tenure system with the purpose of changing ownership and occupation rights. The main aim of land reform is to change the distribution of income among citizens, improve social status and transform political structures in communities (Letsoalo, 1987:11). Letsoalo further argues that land reform initiatives are determined by the land tenure system, economic objectives and ideological considerations. In many countries the change of land ownership and land rights are initiated by the state. This implies that the state introduces new policies for this purpose (Letsoalo, 1987:11). Kenya is a practical example of land reform initiated and implemented by the British government during the colonisation process. The British government transformed the traditional African tenure system, resulting in Africans being alienated from their land, and further created reserves for the indigenous people. The system allowed the colonial government to identify areas as suitable for farming by white people (Europeans). The identified land was then alienated from the indigenous people who occupied it and they were forcefully removed from the area. The result of this practice was that the indigenous people of Kenya were removed from their ancestral land and strategically grouped in reserves (Letsoalo, 1987:5).

In view of the above it clear that the condition in Kenia can be related to the South African situation. South Africa is one of the colonial African states similar to Kenya since it was also colonised by the British government. The creation of Bantustans or self-governing territories is an apt example of reserves created for African people. It is important to indicate that Bantustans were mainly occupied by traditional communities and were arranged in accordance with ethnic groups. The impact of this system of land tenure impacted on land administration before and after the 1994 democratic dispensation.

As a result, land reform is considered one of the programmes required to drive transformation, especially in redressing the legacy of the past in South Africa. Letsoalo (1987:12) views the goal of land reform as follows: “The primary motive of land reform is generally the sharing of resources, primarily land. Redistribution is the key word in land reform – redistribution of the fruits of the economy which prior to land reform benefit only a small, prosperous minority; redistribution of land ownership rights to those who actually work the land – hence the slogan for land reform in many countries is land to the tiller.”

Letsoalo (1987:12) argues further that the second reason for land reform is to increase production. He maintains that before land reform people did not bother themselves with mass production; they used to leave their fields untilled for years. Land reform reduces the inequalities in the distribution of land. It becomes evident that land reform as a programme of addressing the tenure system and the socio-economic status of the community becomes an important project to engage in for redressing purposes.

Land administration in traditional or rural areas including the Bantustans was classified by the former government as surveyed land, unregistered state land and trust land. The main foundation of this system of land administration can be found in the introduction of the Land Act of 1913 and the Natives Land Act of 1936. The Natives Land Act provided for a permission to occupy (PTO) for rural population. PTO did not protect occupants because they were subjected to forced removal without compensation. Rural residents were forced to leave their place of birth if the

government wanted the area for development projects. Traditional leaders were tasked to allocate land to their subjects under the Bantu Authorities Act of 1959.

Presently (2015) the permission to occupy land is still a challenge because the system of land administration still affects a huge rural population as financial institutions do not finance such areas (Ntsebenza, 1999:4). Ntsebenza summarises the process as follows: “Prior to the introduction of democracy in South Africa in 1994, especially during the apartheid period, local government and land administration were concentrated or fused in tribal authorities. These structures, which were made up of chiefs, headmen and counsellors and the tribal secretary, were imposed on resisting rural inhabitants and were an extended arm of the central state. They were, not surprisingly, undemocratic, unaccountable, autocratic, and in many instances, feared.”

Land reform in South Africa should not be seen as a general transformation agenda, but as the projection of service delivery to communities who need land for socio-economic reasons. Service delivery through land reform should play a major role improving the socio-economic conditions of the poor through access and use of land (Land Reform Policy Discussion Document, 2012). Land reform is informed by the government’s plan, called the Comprehensive Rural Development Programme (CRDP). This programme is underpinned by the following aims:

a. Deracialisation of the rural economy for shared and sustainable growth.
b. Democratisation and equitable land allocation and use across gender, race and class (Comprehensive Rural Development Programme, 2009:3).

Before embarking on other details of land reform, it is important to examine the concept of land tenure.

Land in Africa plays an important role among rural people. In the African context, including South Africa, land tenure entails a number of socially related matters. Land tenure is important to rural Black Africans because it is related to poverty, lease, inheritance, accessibility, race, social class and land use (Comprehensive Rural Development Programme, 2009:3). This importance of land tenure for rural people

and the rural economy lies in the fact that this tenure determines access to land use for production in an agrarian economy. In addition, it influences the macro-economy and the distribution of income among citizens in a particular country. The Comprehensive Rural Development Programme captures this motive well: “It is not a coincidence that rights to land have played a prominent part in social, political and economic upheavals in countries with large peasant societies. Peasants rarely have anything other than land and labour to sustain them. Without capital with limited mobility and few alternative opportunities for making a livelihood, they are tied to the land; threats to their position vis-a-vis the land are threats to their securities” (Comprehensive Rural Development Programme (2009:3).

Land reform follows a three-legs approach, consisting of the following (Pienaar, 2009; Land Reform Policy Discussion Document, 2012:6-8):

a. “Tenure reform

The programme is mainly focused on the improvement of the security offered by existing informal land tenure practices in rural areas. As a result of apartheid land measures, many people in rural areas had only temporary permit-based permission to occupy land without secure land tenure rights.

The tenure security of labour tenants and farm labourers was improved by the Land Reform (Labour Tenants Act 3 of 1996) and the Prevention of Illegal Eviction from and Unlawful Occupation of Land (Act 19 of 1998). These Acts are not discussed in detail because the success rate of implementing the protective measures for labour tenants and unlawful occupiers against unjust evictions is fairly high. Labour tenants can also claim registered rights to farmland they are occupying or the court may order the landowner to supply the labour tenants with alternative land. The Extension of Security of Tenure Act (No. 62 of 1997) provides for the protection of all lawful occupiers (including labour tenants) outside urban areas. This Act is used mostly where persons occupy land in terms of an employment contract. It provides for protection after the contract has been terminated and includes protection for the relatives of the employee. This Act is also applied successfully in most instances where land tenure is insecure.

The focus of tenure reform is to address the land administration in communal land of the former homelands and coloured reserves. The communal land in the former homelands amount to approximately 17 million hectares, including the Ingonyama Trust in KwaZulu-Natal as well as self-governing territories of KwaZulu, Gazankulu, Lebowa, Qwaqwa, KwaNdebele, KaNgwane and independent states (Transkei, Ciskei, Venda and Bophuthatswana). The second objective is to strengthen the security of tenure of farm dwellers living on commercial farms" (Pienaar, 2009:5).

b. Restitution

The focus area of this leg of land reform aims at addressing the unfairly dispossession of land from right owners before 1994. The Restitution of Land Rights Act 22 of 1994 was introduced with the purpose of investigating and managing all land claims and prepare them for settlements.

c. Redistribution

Redistribution was put in place for the purpose of addressing the divide between 87% of the land dominated by white commercial farmers and 13% in the former homelands by way of diversifying the ownership structure of farming land" (Comprehensive Rural Development Programme (2012:6-8).

With regard to tenure reform the national government addressed the land security for rural residents and farm labourers. The introduction of tenure reform helped rural residents gain security over the land they were living in. Before this system of security came into being rural residents had no security of the land they occupied. In order for the government to cover the various categories of rural citizens, additional pieces of legislation were introduced. The Labour Tenants Act 3 of 1996 was put in place for the protection of farm workers in rural areas. The Extension of Security of Tenure Act (No. 62 of 1997) was introduced for the purpose of protecting all rural residents, including farm labourers. This was not enough for the rural residents because most of them were victims of evictions from farms by their employers. The Prevention of Illegal Eviction from and Unlawful Occupation of Land Act (No. 19 of 1998) had to be introduced to protect both land-owners and tenants in rural areas.

Restitution is the process of restoring possession or property to the rightful owner. Before the 1994 dispensation, rural communities were dispossessed of their land by

the previous regimes, which led to thousands of homeless people. Forced removals were lawful and conducted by government once a court of law had given effect to it. It was therefore important for the new regime to restore the ownership of those rural communities affected by this practice in the past.

Redistribution formed part of land reform after 1994. It implies the strategy to distribute again for the purpose of accommodating all categories of citizens living in the country. This is an extension of the content of the famous Freedom Charter which states that the land belongs to all who live in it. The main focus of redistribution was to ensure that the marginalised and disadvantaged block of communities were also catered for in the use of land. Equity was a priority of this initiative.

The land reform process mentioned above elicits increasing debate on land administration in South Africa in relation to rural communities. It is important to state that there is a huge percentage of South Africans who live under traditional leadership. Traditional leaders were co-opted by the apartheid government to rule rural areas, including land administration (Cele 2011:5). Before 1994 the governance of traditional leadership was not under scrutiny because they operated under many influences such as colonialism and the apartheid government. After 1994 the system of local governance changed; operations within this sphere of governance had to be constitutionally approved. Previously land administration such as land allocation and land alienation were done by traditional leaders. Although land administration is decentralised to provinces in the new dispensation it falls within the national government's competence.

2.5.4 Post-1994 local government and traditional leaders in a democratised South Africa

Transformation of social institutions was not a novel concept to Africa. In the mid-1980s countries world-wide had already began experimenting with decentralisation of governance. African countries that experimented with decentralisation of services to the local level of communities included Ghana, Nigeria, Tanzania and Zambia (Conyers, 1983:97-109). When South Africa achieved its liberation in 1994, these

countries were ahead in terms of implementing decentralisation (Crook & Manor, 2000:5). However, the understanding of decentralisation as a vehicle for the implementation of the transformation agenda was questioned (Rondineli, 1983:581). Globally, policy frameworks for providing public goods and services were recognised as tools for decentralisation of governance (Rondinelli *et al.*, 1989:59). The issue is that decentralisation is not a master key in a transformed environment and cannot be entirely accommodated in localised governance. For instance, during the colonial and apartheid government's powers were decentralised to traditional leaders to govern their rural areas but rural development remained limited.

This background provides the understanding that the decentralisation in developing countries did not throughout contribute positively to the improvement of the supply of goods and services to local communities (Manor, 1999:5). Traditional leaders are therefore required to follow democratic principles and also to understand that powers are decentralised to their local communities. The challenge facing traditional leaders is compliance with the Constitution when executing their duties. Land reform as one of the tools of transformation poses a challenge for traditional leaders with regard to involving women in traditional processes, including land administration (Beal, 2005:4). South Africa adopted a non-sexist Constitution and created different strategies with the purpose of advocating and advancing gender equality in various community and organisational structures (Beal, 2005:4).

The question should be posed: How does land reform affect the system of traditional leaders in the new dispensation? In order to provide a justifiable answer, two arguments must be explored. The first focus should be on the system of traditional leadership. This highlights the nature of traditional leadership in relation to land ownership as well as the system of traditional leadership's governance in relation to the Constitution. Secondly the focus should be on the contribution of traditional leaders to rural development programmes. A fair discussion of the above-mentioned critical points will help answer some aspects of the raised question on land reform and traditional leadership in South African local government (Beal, 2004:4).

2.5.5 Conflicting land management systems between traditional leaders and local municipalities

The question of land and land administration in South Africa is very old. This is well put by Terreblanche in Kersten, Van Zyl and Vick (1992:13): “One of the outstanding features of South African history since 1652 (and before this date) is the ongoing conflict and group plundering. Each of the different groups – i.e. the well-defined ethnic, colour and language groups – constantly tried to improve its own socio-economic position by plundering the land and property of other groups.” This quotation underlines the issue of land ownership and land administration in the history of South Africa. Group conflicts mentioned here reach back as far as the first stage of colonisation and are still experienced in the post-1994 democratic government.

There is no doubt that traditional leaders participated in the governance of the new dispensation. Legislation such as the Restitution of Communal Land Act (No. 48 of 2003) and the Rights and Traditional Leadership and Governance Framework Act (No. 41 of 2003) are practical examples of indigenous law in a Western type of governance. Debates on the role of traditional leadership in a democratic environment will continue to dominate academic and political institutions. Traditional leaders argue that they are the only form of indigenous African leadership based on a hereditary type of governance. Basically, the objective of the above-mentioned two laws was to ensure that all people in the country enjoy the benefits of the 1994 democracy, including traditional leadership (Alcock & Hornby, 2004:1).

The conflict in land management systems between traditional leaders and municipalities intensified when the national government introduced wall-to-wall municipalities countrywide. Wall-to-wall municipality means that the local government covers all land. This implies that the Municipal Demarcation Board (MDB) determines the boundaries between municipalities. The result of the post-1994 democratic dispensation was that it created an elected local government with a provision to extend the jurisdictions of local government to all areas of South Africa, including those areas under traditional leaders (Rugege, 2003:283). This type of land administration is driven by a democratic system of governance since it is based on

the electoral system and the demarcation of land takes place through the Demarcation Board. The traditional land management system differs starkly from the way that local municipalities administer land.

The introduction of the Constitution had implications for the functioning of traditional leaders in the Republic. In section 15(1) the Constitution provides that there should be an establishment of elected municipalities. Section 15 (1) of the Constitution states that municipalities are required:

a. “to promote democratic and accountable government for local communities
b. to ensure the provision of services to the communities in a sustainable manner
c. to promote social and economic development
d. to promote a safe and healthy environment and
e. to encourage the involvement of communities and community organisations in matters of local government.”

Land administration in traditional communities has been studied by Alcock and Hornby (2004:14-21). They developed four criteria (access to land, land use, land alienation and/or transfer of land and rules and disputes) to study land administration in traditional communities. There are minor differences between tribes regarding land administration but in general processes are very similar. In the pre-colonial period land was commonly administered and owned by local chiefs (Faboyende, 2013:97). It must furthermore be noted that this land administration takes place in local government because traditional leaders are located in local municipalities after the introduction of wall-to-wall municipalities. The four criteria were summarised by Alcock and Hornby (2004:14-21) as follows:

2.5.6 Land access-procedures, criteria and costs for tribal members, outsiders and group allocations

From the start the traditional system of land administration discriminates against community members by using discriminatory tactics such as tribal members or

outsiders. This is the first deviation from the democratic Constitution of the Republic of South Africa (Alcock & Hornby, 2004:14-21).

2.5.6.1 Tribal members or insiders

When tribal members or insiders wish to have land allocated to them for various purposes, such as residential or to move to another *isigodi*, they normally approach the *induna* with the request after having identified the land. It is the task of the *induna* to verify the availability of the land and further determine the boundaries of the identified land in relation to neighbours. The process is not finalised before the notification of the *inkosi* about the availability and the boundaries of the land. The *induna* points out the boundaries of the land in front of the members of the tribe. In other tribes the *induna* points out the boundaries in the presence of the *isigodi*, traditional councillors and immediate neighbours (*ibandla*).

The purpose of having people around when pointing out boundaries is to provide evidence when land disputes arise between neighbours. In other tribes during the procedure of dealing with land administration, people are required to obtain a letter from the *induna* of *isigodi* (ward/valley) they are leaving, which will be presented to the *induna* of the area they are going to. In general, the movement of tribe members is free of charge. However, some tribes charge a R60 *khonza* fee *(*money paid by a person who wants land for residence or agriculture. The money is paid to the *inkosi)*. This is only applicable to insiders or tribal members (Alcock & Hornby, 2004:14-21).

2.5.6.2 Outsiders or non-tribal members

As indicated previously on the traditional system of land administration is discriminatory in the sense that non-tribal members are treated differently. The normal practice is that an outsider approaches someone he or she knows, or approaches the *induna* directly with the purpose of assisting him or her in identifying land in the chosen area. An outsider is required to provide a letter of reference from his or her tribe if the area where he or she is coming from is a tribal community. The purpose of the letter is to establish whether the person is not fleeing from criminal activities or unacceptable behaviour. The letter thus motivates why the person decided to leave his or her place and settle in another tribe. The procedure varies for tribe to tribe. In some tribes the *induna* calls a meeting of the *isigodi* with the purpose

of introducing the new community member. This is done by reading the letter of reference to the public. If the meeting of the *isigodi* agrees that the person may be accepted as a member of the community, the *induna* has the responsibility of presenting the person to the *inkosi.* They *(ibandla*) state that demarcations should not be too close because they do not want to create a township. In most cases the *ibandla* (*isigodi*) played a more important role in accepting an outsider than the *inkosi.*

Once the site has been identified and the *inkosi* or *isigodi* has approved the newcomer, the newcomer is required to pay a *khonza* fee of R15. In most cases the site is also allocated a garden or piece of land for planting purposes. The *khonza* fee is paid to the tribal authority structure. The R15 is a fixed price, but it varies from time to time. The *inkosi* uses this money to pay employees working for the tribal office. The *khonza* fee paid by the newcomer goes with duties assigned to the new member of the tribe. The new member to the tribe is told that he or she must obey the rules of the tribe to avoid conflict between people in the community. Rules are not always similar among traditional leaders but burying rules and the attendance of meetings (that usually take place on 27 December) commissioned by the tribal authority is common to many tribes. It is important for the newcomer to know this date because he or she is not expected to arrange any functions on this date (Alcock & Hornby, 2004:14-21).

2.5.6.3 Women

Most traditional leaders allocate land to married people. Subdivisions of land can be allocated to unmarried women with the consent of the family and the presence of the *induna.* New sites are strictly allocated to married people or women. This rule also applies to unmarried men. Traditional communities are reluctant to allocate land to unmarried people. This happens in almost all tribal communities. The present study also found that most tribes agree that sites may only be allocated to an unmarried woman if her relative is a father, brother or uncle. The main concern is that if a woman is allocated a site, it raises the question on who the head of the family would be since only men are recognised as heads.

Other tribes treat men as women if the former are not married (unmarried men are not respected as men). Thus it raises questions if a man is not married. Widows are usually allocated a site if they are accompanied by a brother of the deceased husband. Some traditional leaders have already started allocating land to unmarried women because they realise that in present times marriage is a rare occurrence. One tribe indicated that to allow a single or unmarried woman to have a site or land will cause men to quarrel and fight. The situation improves for women who have sons because there is a belief that the sons will give the woman *isithunzi* or dignity in the community (Alcock & Hornby, 2004:14).

2.5.6.4 Group allocation

The allocation of land to a group is common in traditional communities. Group allocation is done for various reasons such as gardening or other agricultural projects. The allocation procedure is the same as with individuals. The *induna* becomes a central figure because the group must approach the *induna* first, who will in turn assist the group in securing land. It is the task of the *induna* to confirm the boundaries. During the interviews conducted by Alcock and Hornby (2004:25) one interviewee stated that group allocations are popular in traditional areas and further alluded that if there is a government grant for the allocated group, community members demand that the amount be declared (Alcock & Hornby, 2004:25).

2.5.6.5 Land use

Traditional communities use land for various reasons including tourism, tuck shops, grazing, commercial enterprises, schools, clinics and creation of townships. When requesting land for commercial purposes, the interested group would approach the *induna* and the *induna* will help the person or group identify the land. Observations indicate that traditional leaders do not have experience in commercial ventures. Requests for land for commercial purposes require more formal processes as compared to residential request applications. Applications require that letters should be written to the *inkosi* and his council, which may then be referred to the traditional authority and the Department of Agriculture. Developments such as tourism require tribal approval or a resolution taken at the level of a community meeting. A levy is paid for using the land for commercial purposes.

With regard to land use for public purposes, the general consensus is that no *inkosi* would refuse to allocate land for use that eventually benefits the community at large. This includes the building of schools, clinics and public libraries. However, this does not mean that the *inkosi* is ignored or disregarded, he or she must be consulted if the government wishes to use land under the jurisdiction of a particular traditional leader. What is interesting is that traditional leaders are aware of the fact that, once the area is declared a township or town, the area will fall away from traditional leadership governance. This is based on the fact that rules and regulations applicable to people who require land in traditional communities do not apply in towns.

The land allocations for commonage and management of natural resources available in the commonage are different from the land allocations discussed above. The grazing land is free for all members of the traditional community. The use of the commonage has some restrictions. One such a restriction is that the use depends on the affordability of a person to have or own livestock. This implies that the commonage is open for livestock owners, who utilise the land for grazing purposes. Areas assigned for grazing cannot be used for other purposes such as residential settlements or burying sites. Community members have their own grazing time. The commonage is usually not fenced and restrictions apply for community members to graze their livestock in wards within the tribal community. The *isigodi* or community members are owners of the land and they may use any type of resources available in the commonage. This freedom is not always accessible to outsiders, who are required to obtain permission from the *induna* if they want to use natural resources or the commonage (Alcock & Hornby, 2004:15).

Management of other resources such as firewood and thatching grass differs from one traditional community to another. Members of the tribe are free to cut grass for thatching purposes in any area in the traditional community. In the past people were allowed to cut grass within the borders of their community. In some instances women are required to cut grass from grazing land of the *inkosi* before cutting for themselves and this normally takes place in June. Some changes have taken place with regard to the use of land in traditional communities. The question of cutting time is no longer rigid because people cut grass earlier than the set date, for the purpose of selling it. Firewood is always accessible and available for the tribe. Outsiders are expected to

secure permission from the *induna*. The *inkosi* emphasises that outsiders should not cut green grass in the community. With regard to plants such as palm, used to produce alcohol, an application is required before this natural vegetation can be utilised.

The use of arable land is not the same as grazing land. Livestock, for example, graze on land that is not properly demarcated in accordance with households. Arable land is allocated according to households with specific boundaries for families. Sometimes fields for planting are allocated to a group, who decides what to plant. However, planting and harvesting times are decided by the community at community level. This is extremely important because it allows cattle and other livestock to graze after harvest. Traditional police are assigned to pound cattle that graze before the allocated time or in violation of the agreements allowing livestock to graze. These collective agreements are often disputed. In some instances conflicts arise and people threatened the traditional police, which has led to the situation where rural people avoid becoming the police in traditional communities (Alcock & Hornby, 2004:15).

2.5.6.6 Alienation of land

Land alienation can be defined as a process whereby land ownership moves from one person to another or moves from one person to the *inkosi* or community. In most cases the alienation results from among other reasons, eviction, land abandonment, inheritance, sale and privatisation of land. Most traditional communities apply eviction for misdemeanours or misdeed. This is not ethnic based. But this practice has changed over time. People who are pointed out for witchcraft for instance have their houses burnt and youths have been identified as spearheading the process. The Limpopo province is a good example of this type of practice in South Africa.

Eviction of this nature is presently regulated by the Extension of Security of Tenure Act (No. 62 of 1997), which is accepted by most tribal councils because they view it as a way of stopping evictions in traditional communities. However, people who are not behaving well in the community are harshly disciplined by community members. Serious criminals are taken to the police for prosecution in a court of law. The regulation of eviction on traditional land may have reduced the harassment of people

by others. However, it has also reduced the authority of the *inkosi* and increased kangaroo courts or mob justice in traditional communities. The power and authority of the *inkosi* to banish people who are trouble-makers prevented mob justice, which is currently taking place in some communities in South Africa.

The issue of the alienation of abandoned land is different from Western practices, as is the method of acquiring or occupying land. By law in South Africa abandoned items are those that are lost or discarded by the previous owners and thus ownership is renounced. In these instances ownership can be acquired by appropriation (Van der Walt & Pienaar, 2011:102). According to Van der Walt and Pienaar (2011:102) there are conditions of acquiring abandoned items, which include:

- physical control;
- the intention of the owner; and
- the fact that the property does not belong to anyone.

These conditions are not applicable to the traditional method of acquiring ownership. In the case of abandoned land, a person scouting for land will go and look up the person who abandoned or vacated the land because people vacate land without informing the traditional authority about their intention. This is also caused by the fact that there is no time-frame that determines when the land can be declared as abandoned or ownership being given up and the land therefore is available for re-allocation. However, this practice does not always hold true for all traditional leaders. Some traditional leaders set four years as a cut-off date. If a person does not return after this period, the land will be declared abandoned and ready for re-allocation. The *Induna* will take care of the abandoned home or land until someone indicates that she or he has interest in the land. Relocation is always governed by the tribal authority. People to whom the land has been re-allocated are allowed to build on the same spot as the previous owner. This depends on whether the graves of the family of the previous owner in relation to his or her ancestors or the previous occupants of the land.

In the case of arable land traditional leaders have clear guidelines. If land is not used by the owner for a period of three consecutive years, the land is taken and made available for those who need it for agricultural purposes. Inheritance is treated as a family matter and is left to the family to deal with. If conflict arises in the family over the household or land, the matter is normally referred to the traditional council or tribal authority for resolution. The tribal authority will use available guidelines and customary law, which regulate property distribution after the death of a household head. If the male head of the family dies, the widow takes over the responsibility. Initially, this responsibility usually was transferred to the son but there has been a paradigm shift because sons abandon homes and leave their parents behind. This implies that the widow has authority to sell the property of her husband and no longer the son. However, the widow consults her son but the decision lies with her. This may cause confusion on the status of the heir and the mother. The elder son retains the status of being an heir even if his mother is still alive (Alcock & Hornby, 2004:16).

The majority of traditional leaders do not agree with the idea of privatisation of land. The argument put forward is that, if land is advertised with the intention of selling it for different purposes, only the rich would manage to buy the land. In turn, this would mean that the rich will have land and the poor will suffer due to a lack of land ownership. The option for the poor would be to step forward by borrowing money which they eventually fail to pay back. There is a strong feeling amongst traditional communities that land belongs to the nation, hence, it cannot be sold or privatised. In turn, selling off land would eventually result in the *inkosi* being without land and this would mark the end of his authority as a traditional leader of that tribe. Traditional leaders believe that land has no price, because they regard it as a nation's asset and no one can sell it to community members because they are owners of the land. The introduction of Western practices in land administration is known to traditional leaders but they want it to be customised to fit the traditional system of land administration. For instance, most traditional leaders are aware of title deeds but they prefer a communal deed instead of an individual one.

2.5.6.7 Rules, demarcation, boundaries and disputes

Tribal rules, demarcations and procedures for dispute resolutions are normally not written down. However, some tribes have begun recording proceedings of meetings for referral purposes. Meetings that include the *inkosi,* the *induna* and traditional councillors are recorded and kept for future use. The argument is that land-related matters are part of their history. It is a historical account of that tribal community. Changes to rules are communicated to the tribal community by the *induna* and councillors after convening meetings.

Traditional leaders acknowledge that certain changes are initiated by government and these changes are communicated to traditional leaders and councillors through the Department of Traditional Affairs and Local Government. Boundaries are known to community members. Some of these boundaries have been altered by commercial farmers. Disputes and misunderstanding over boundaries are referred to the *induna* who, in turn, calls the neighbours with the purpose of resolving the conflict between the two or more tribal members. There should be a witness to justify the allocation of land to the disputers. If the parties are not satisfied with the decision taken by the tribal meeting, the case is elevated to the *inkosi* to assist in resolving the problem. In some instances disputes involve the *induna,* in which case the first reference is the chief *induna* (Alcock & Hornby, 2004:18).

In view of the above discussion it is clear that two systems of land administration operate in one community. One system operates in accordance with the Constitution and the other is rooted in traditions and customary laws. In order to resolve the perceived conflicts between traditional leaders and municipal councillors, it would be important to discern the systems of land administration of the two institutions and areas of conflict regarding land administration. The working relationship between municipal councillors and traditional leaders is affected by various factors. The most important areas of conflict between the institutions in relation to land administration include:

- gender equity in land administration;
- the use of land;
- land access;

- differential treatment of South African citizens;
- group land allocation; and
- boundaries (Alcock & Hornby, 2004:18).

2.6 ANALYTICAL FRAMEWORK FOR THE TRANSFORMATION OF TRADITIONAL LEADERSHIP

In this section an analytical framework for the transformation of traditional leadership is proposed. This framework has three contexts, namely the political, economic and social aspects. In this study this framework is used as an analytical tool to establish the transformation that traditional leadership endured. In the sections each of these contexts are introduced.

2.6.1 Transformation with regard to the political context of traditional leadership

Traditional leadership institutions in Africa as a continent form part of the building blocks of the African community, which sustain the social, political and cultural make-up of traditional communities. African kingdoms such as the Zulu, Ashanti and the greater Zimbabwe existed before the colonisation of Africa. These kingdoms followed their own political administration. Political values were based on cultural practices. Archaeological research conducted in Mapumgubwe and Thulumela confirm that Africans had organised political institutions in traditional communities (ECASA, 2007:3).

In the Akoko tribe in Nigeria, for instance, the monarchy was a traditional political system strengthened by society. Traditional rulers were regarded as divine in Yorubaland (Olaoba, 2009:1-4). Indigenous political institutions in Akokoland were based on the principles of good leadership. Kings commanded high respect from the community. The monarch was regarded as a great personification of power by the communities but they remained as independent sub-group units (Obayeni, 1983:77). Traditional councils were responsible for decision-making and the word of the council was accepted as final. These councils were made up of kings, chiefs and elders. Issues discussed at the meetings included internal strife, communal wars,

maintenance of law and order, preservation of customs, appointments, military, security management and discipline of errant chiefs (Fajana, 1966:232-238). By the year 1900, British rule had already gained political ground in the Akoko tribe, ranging from chieftaincy affairs to social and political affairs. This resulted in the end of the monarch political system in the Akoko tribe in Nigeria (Faboyede, 2013:101).

The traditional political values and systems in Africa underwent far-reaching changes when the British government established its empire in Africa. Political values changed from African culture to colonial culture. The 19th century is the most important period in the transformation of traditional leadership towards colonial aspirations and practices. These replaced the political landscape and the traditional practices that were based on elders and traditional leaders (chiefs) in traditional communities (Marshall, 1996:349). The traditional leadership institution or chieftaincy was destroyed by colonisation. Before colonisation traditional leaders were central figures of their tribes; they ruled and consulted their followers in local governance. They controlled land for their followers. Powers of controlling land ended in the 19th century when colonial rules and regulations were introduced in Africa.

In South Africa traditional authorities or “tribal authorities”, as they were called by the apartheid government, used to run local government and the affairs of their communities including dispute resolutions and the creation of economic opportunities for traditional communities (Newton & Benians, 1936:47). Before colonisation of Africa by the West traditional leaders were not only responsible for political organisation but also for social affairs that affected their followers in the community. They played a central social role on behalf of the community they led and they facilitated public participation, which is also found in contemporary communities (Meer & Campell). Traditional practices are still with us, even in the present elected governments. Traditional communities still respect traditional authorities (Eberlee, 2003:2-3).

Traditional leadership and the contemporary state are located at the local level of governance, which makes It important for the two institutions to work in harmony to provide services to the community (ECASA, 2007:v). Because of the continuous change in the nature of governance in Africa, particularly in South Africa, the state

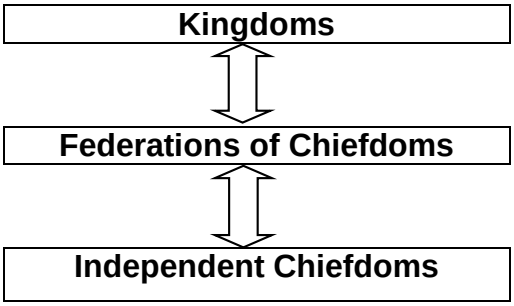
and the position of traditional leadership in South Africa continued to grow and close the gap with the Western style of governance (Ray, Van Nieuwaal & Van Roueveroy, 1991:1). However, democratic processes are entirely new to traditional leaders in Africa, including those in South Africa. Participation by citizens in the decision-making process is as old as human beings in African communities. Community meetings were held with the purpose of taking important decisions even before the advent of the colonial government or Western administration (Brynard & Musitha, 2011:133-134).

The responsibilities of traditional leaders continue to exist in the new democratised South Africa. For example, traditional leaders are required to settle disputes in their communities. This is done in accordance with South African customary law through traditional courts or customary courts (Tshehla, 2005:19). These traditional courts deal with all forms of disputes or cases provided they are not serious. Serious cases, according to traditional leaders interviewed, include rape, murder and assault with the intent to do grievous bodily harm (GBH). Traditional courts are given the responsibility to deal with marriage disputes except child maintenance, which is referred to magistrate courts (Tshehla, 2005:19).

However, political processes of traditional leaders still raise concerns in various matters related to interactions of traditional community members. The issue of land administration in traditional communities is still a subject of debate. Land and gender in traditional political values is one of the most contested human rights issues (Huggins & Clover, 2005:102). Farm labour, for example, is performed mainly by women but they are restricted in accessing land. Women access land through male partners or relatives. Widows, for instance, have indirect access to land after the death of their husbands. Both customary and statutory laws agree on the access of land by widows in traditional communities (i.e. that women access land through male partners) (Huggins & Clover, 2005:102). It is therefore important to note that the traditional leadership political system will have to undergo a journey of transformation towards the achievement of a democratic value system in the democratised environment of the South African government.

This section presents an overview of the political context of traditional leadership. In Southern Africa traditional leadership or indigenous governance was structured into

three levels of authority in traditional states (Hammond-Tooke, 1974:248). In order to understand traditional polity (form of government) and political practices and arrangement of indigenous communities in the pre-colonial period, discussion of the following leadership structure becomes important. The grades of polity, as they are called by Hammond-Tooke, are arranged in ascending order (from the lower to the highest level).



The independent chiefdoms were a fundamental element within traditional polity of Africans in the early 18th century. Such chiefdoms were political developments believed to have been brought to the southern part of the African continent by Africans in their southward movement (Hammond-Tooke, 1974:248). The indications of the arrows in the structure denote that leadership did not only emanate from one level of leadership. Independent chiefdom was a category of government in which dissatisfied chiefs or survivors re-arranged and re-grouped with the purpose of dealing with their own political affairs. They mobilised and expanded their leadership around small groups of people, mostly refugees from other tribes. The expansion of chiefdom advanced to large tribes, which eventually formed political units or federations. The difference between tribe federations and kingdoms was determined by the central power held by the rulers of the traditional communities.

The so-called Bantu states in the 19th century started as independent chiefs whose rulers subjugated and subdued other chiefs through domination (Hammond-Tooke, 1974:249). After the state was established, it transformed to a super state, which finally formed a nation. The Zulu nation under the leadership of Shaka, the South Sotho under Moshesh and the Swazi under the control of Mswati provide true examples of traditional districts under traditional leadership. The kingdoms were called districts under a specific ruler or king. Kingdoms or districts depended on

power of command of that particular ruler, therefore the difference between the federation and the kingdom was rooted in the ruler's power and dominance of the territory. Independent chiefdoms, federations and kingdoms were components of the so-called Bantu state before colonisation. Governance was basically based on the three spheres of leadership in indigenous leadership.

It is difficult to draw a distinction between governance and politics because indigenous leadership had its own political arrangements and practices during their time. The discussion above of grades or levels of authority is a foundation of political themes and processes in the pre-colonial period (Hammond-Tooke, 1974:251). Political arrangements of traditional leaders are also historically set. They had clear political structures in traditional communities and these structures were politically organised with specific portfolios to perform in the community.

Reddy et al (2007:34) argue that the Tswana ethnic group had a dynamic and complex polity structure as early as 1803. This period marks the political organisation of the Tswana before the arrival of British missionaries who started the process of transforming the way of life in Botswana. The authors further maintain that the Tswana polity underwent transformational processes after they were influenced by the missionaries. It is important to note that despite the influence of missionaries on the way of life in Botswana, they indicated very little changes in local organisation, tribal assemblies for the discussion of public affairs, the grouping of adults into age-sets and practising of magic (Schapera, 1970:6).

The focus of the present research is more on the Southern African political scene and dynamics of traditional leadership in the pre-colonial period. In the southern part of the African continent there were two political approaches. One approach was followed by the Sotho group and the other was by Nguni, Venda and Lobedu authorities. It should be noted that economic monopoly is an ingrained practice. Traditional leaders exercised central authority to control economic power in their communities and they used this central power to allocate economic benefits to their favoured subjects (Hammond-Tooke, 1974:251). Land was politically managed through Tribal Estates, controlled and managed from the central town of the tribes.

The above-mentioned way to divide the land was common among Sotho people. Other African rulers' people were distributed into blocks of territory. This form of allocation of land to people was mainly practised by the Bhaca and Lobedu. The rulers of tribal estates yielded more power and used it to manipulate governance processes in tribal estates. The concept of tribal estate was used as a governing board made up of rulers or kings. Land was divided into three types of territory. There was a residential area separated from the arable land, which was in turn separated from hunting and grazing land. The headmen were second in charge after the kings or chiefs or rulers. They controlled wards within the towns as well as arable and grazing land of a tribal community in a specific territory (Hammond-Tooke, 1974:253). This arrangement is similar to the current functioning of municipalities.

The portfolio of a headman in the pre-colonial period can be equated to a current municipal councillor. A municipal councillor is given a specific ward to deal with its affairs in relation to services. This councillor is also responsible for the rural area that resorts under him or her and some of these areas are tribal communities or managed by chiefs or traditional leaders. This fusion of responsibility between traditional leaders and presently municipal councillors justifies the notion that a form of local government existed before colonisation of Africa by various Western countries.

Historically, the nature of traditional leaders in Africa makes it difficult to associate them with democratic principles. Traditional political values in most African states are based on colonial government. For instance, political values of traditional leadership institutions were reshaped by the British indirect rule system. According to this system traditional chiefs and kings ruled their traditional communities on behalf of the British colonial government office without the political power being transferred to the chiefs and the kings (Gilfford & Louis, 1982:48). This practice was in the form of an alliance between traditional leaders and the British government. The purpose of indirect rule was to simplify the administration of the huge African populations and further transfer British power to the traditional African leaders (Marshall, 1996:102). The implementation of this strategy (indirect rule) depended mainly on the type of colony the British government was dealing with at the time. It also depended on the traditional leaders who were given tasks to perform. Tasks included collecting tax,

recruitment of rural workers and control of tribal unrest (faction fights) in traditional communities (Shillington, 1995:355).

Political value systems and practices of traditional leaders in South Africa underwent various stages of metamorphosis, including the post-1994 period where they were required to embrace democratic principles in their governance. In South Africa the apartheid government contributed to the values of traditional communities. Some of these traditional leaders served in a homeland system, which was based on ethnicity (Tshehla, 2005:14-15). The apartheid government had an influence on the political chemistry of traditional leadership in South Africa. It would require comprehensive programmes to assist in changing the mind-set of traditional leadership institutions.
Post-1994 brought more changes in South African politics and these changes affected societal institutions, including traditional leadership. The concept of modern constitutionalism is the most important element of democracy in a democratic government. South African society consequently began operate in accordance with the Constitution. This notion is fundamentally based on the fact that the Constitution is the supreme law of the country and it binds all organs of state (section 2 of the Constitution).

From the above it can be concluded with regard to the political context, that certain matters related to the transformation of traditional leadership ought to be investigated. These include: the effect of a constitutional democracy, thrust towards nation-building, the developmental role played by local government, political values, structures and functions of traditional authorities vis-à-vis local government and service-delivery issues between traditional authorities and municipalities (local government).

The ANC Constitutional Guidelines of 1996 through its legal and constitutional committee developed guidelines that would assist in writing the Constitution of the Republic of South Africa. These guidelines were based on democratic principles. The document stated that traditional leadership, which recognises hereditary leadership, should be in line with the constitution and its Bill of Rights. This statement implied that the inequalities found in traditional leadership such as the

disparity between men and women would be abolished based on the fact that the Constitution was founded on democratic principles (Nthai, 2005:5).

The issue of traditional leaders started to be problematic during the initial stage of drafting the Constitution. The main debacle was to find a common line between traditional leadership and democratic principles and the principles of equality, representation and constitutionality. Debates continued until the drafting of the Interim Constitution in 1993, hence, the Interim Constitution recognised traditional leaders at national and provincial government levels. The Interim Constitution showed more bias towards traditional leaders in comparison to the 1996 final Constitution (Meer & Campell, 2007:3).

After the 1994 democratic elections a number of community-based organisations had to change and ensure that they align themselves with the constitution of the country. Traditional leadership as an institution operating at a local level was required to adopt democratic principles of the new constitution founded on the basis of equality and freedom. Their political values and practices therefore had to change to meet the requirements of the democratic Constitution.

2.6.2 Transformation with regard to the economic context of traditional leadership

The first part of this sub-section explores economic development as viewed by the ANC. The discussion will further investigate government development initiatives and the role of traditional leadership in poverty alleviation. The following will be the main criteria for a review of the economic context:

a. Government's development and growth plans;
b. poverty alleviation;
c. job creation;
d. social security;
e. food security; and
f. Land reform.

The ANC illustrates economic transformation as follows: “The pathway of economic transformation necessitates an energised, coherent and effective approach by all South Africans together in partnership in order to free our people of poverty and unemployment. We will therefore need a major up-scaling of our efforts towards economic emancipation, consistent with our founding led to a structured shift in the domestic political landscape, we have a clear opportunity to consolidate and put economic emancipation at the centre of development” (ANC Economic Transformation Policy Document, 2012:3).

From the quotation above, it is clear that the ANC has realised that freedom without a viable economy is of no value. Post-1994 a number of changes occurred in the South African economy. The ANC’s economic transformation through the Freedom Charter, *Ready to Govern* (This is the ANC Dission Document developed before the 1994 democratic elections) and initially through the Reconstruction and Development Programme (RDP) was defined as a plan used to address socio-economic problems facing the country. This included, but was not limited to:

- “Violence;
- Lack of housing;
- Lack of jobs;
- Inadequate education and health care;
- Lacking of democracy; and
- A failing economy” (ANC Economic Transformation Policy Document, 2012:3).

It is evident that these issues are inter-connected; they cannot be separated in practice. The definition of the RDP can further be defined as a tool to mobilise all resources to finally get rid of legacies of the past and build a democratic, non-racial and non-sexist South Africa. The RDP was implemented through five sub-programmes, namely:

- “Meeting basic needs;
- Building our human resources;
- Building the economy;
- Democratising the state and security; and

- Implementing the entire RDP in communities" (ANC Economic Transformation Policy Document, 2012:3).

The traditional leadership institution did not escape economic transformation after 1994. For instance, the RDP requires institutions to be mobilised with the purpose of achieving a viable economy in South African communities. The objective of the ruling party is to build an economy in which the state, private capital, co-operatives and other forms of social ownership complement each other in an integrated way to eliminate poverty and to foster economic growth. The ANC's Polokwane resolutions emphasise that the creation of employment is the main criterion for economic policy. In order to achieve this, a change in economic opportunities through agrarian reform, support for small and micro-enterprise, support for co-ops, expanded skills development and more equal access to education are required. Government has introduced five key programmes aimed at developing the country (RDP: A Policy Framework, 1994:1-13).The programmes above can be further explained as follows:

a. Meeting basic needs:
    - jobs;
    - land;
    - housing;
    - water;
    - electricity;
    - telephones;
    - transport;
    - environment;
    - food;
    - health care; and
    - Social security and welfare.

b. Developing human resources:
    - education and training;
    - literacy;
    - further education and skills;
    - arts and culture;

- sports and recreation; and
- youth development.

c. Democratising the state and society:
   - industry, trade and commerce;
   - mining and minerals;
   - agriculture, fisheries and forestry;
   - tourism;
   - upgrading infrastructure;
   - reform of the financial sector; and
   - labour and worker rights.

d. Building the economy.

e. Implementing the RDP (RDP:: A Policy Framework, 1994:1-13)

Economic transformation can be defined broad; it involves a wide spectrum of issues, which affects individuals and organisations and institutions. The traditional leadership institution has been part of this transformation since 1994. Traditional leaders continue to participate in transformation programmes brought about by government in their traditional communities. After the 1994 democratic elections (in the period from 1994 to 1996) the first initiative of economic transformation was the Reconstruction and Development Programme (RDP). This document was a guiding principle of the Government of National Unity (GNU) under the leadership of Nelson Mandela. The RDP was housed in the President's Office under the authority of Jay Naidoo, the then General-Secretary of COSATU (Webster & Adler, 1998:1-3).

The assessment of the RDP showed that this programme did not achieve what was expected. For example, the programme was expected to change the socio-economic status of the poor or the historically disadvantaged individuals. However, this does not mean that there were no positive fruits obtained from this programme. The RDP assisted government in establishing an extensive social welfare system and a social security system that accommodate all South African citizens regardless of colour or cultural background (Widgley, 2001:267-269). On realising that the RDP was beginning to become redundant, the government needed to come up with an

alternative for the purpose of transforming standards for the South African population. A contributing factor to the failure of the RDP government was that they did not have the capacity to implement the programme. The available staff did not have the necessary skills. The programme was broadly formulated, which made it difficult to implement (Meer, 2000:2).

In 1996 the South African currency lost value. This was the first time that the ANC-led government experienced a financial depression of this nature. Government had no choice but to consider a strategy that would assist them in dealing with the weaker currency. The government developed a neo-liberal economic strategy, namely the Growth, Employment and Redistribution (GEAR) strategy. The strategy was developed by 15 policy-makers (officials from the Development Bank of Southern Africa, the South African Reserve Bank, academics, state departments and representatives from the World Bank). In contrast to the RDP, GEAR did not consult with COSATU and the SACP, therefore its implementation was not successful. This was based on the fact that there was disagreement between the ANC and the alliance partners about GEAR as an economic development strategy (Kotze, 2000:12, Bond, 2000:82, 118).

Another area of interest regarding economic transformation in the new dispensation is initiatives of local economic development introduced by government since 1994. Local economic development is one of the tools used to deal with both job creation and poverty alleviation. National government develops policies aimed at supporting municipalities in local economic development (LED). Government also provides financial support and research for the purpose of improving LED at local level. Municipalities on their part are required to incorporate LED into their Integrated Development Plans (IDPs). According to government, LED provides strategies that must focus on disadvantaged people, marginalised communities, geographical regions, black economic empowerment enterprises, SMMEs and must promote local ownership and community involvement, including local leadership (Government Programmes and Policies, 2015).

Traditional leadership institutions have made a remarkable change in economic development. In an interview by Busi Mkhize with a traditional leader (*inkosi*) of the

Mkhwanazi clan near Richards Bay on the uKhozi radio programme, *ezanamuhla* on 19 February 2014, the *inkosi* mentioned that they worked together with industries operating in his traditional community. He explained that they did not want to pay a once-off sum of money but instead they received royalties from industries, including mining. The *inkosi* further stated that the purpose of partnership between the tribal authority and the business sector was to improve the economy in the area. He also indicated that they use royalties to provide bursaries to the youth in order to further their studies at the Richards Bay campus of the University of Zululand, which has been in existence for more than two years. The community collectively agrees that the presence of the university in this traditional community has changed the lives of people in the area.

In view of the above, it can be concluded that with regard to the economic context, matters such as the government's development and growth plans, poverty alleviation, job creation, social security, land reform, agrarian transformation, access to land, land use, alienation of land/transfer of land and food security ought to be investigated with regard to the transformation of traditional leadership (Visser, 2004:7).

2.6.2.1 Government's growth and development plans, National Development Plan and job creation

It is difficult to separate the above-mentioned concepts (poverty alleviation, job creation, social security, land reform, agrarian transformation, access to land, land use, alienation of land/transfer of land and food security) in practice. This is based on the fact that all of these aspects are aimed at transforming the socio-economic status of all South Africans regardless of colour or cultural background. The government's growth and development plans are defined too broad because they include economic growth (which involves mining, agriculture, forestry and technology), health (pharmacies, medicine products, imports and exports) and infrastructure (roads, industries and factories, stadiums). On the other hand, the National Development Plan (NDP) is the blueprint for future economy and socio-economic development in the country. This is the product of the ANC after wide consultation with stakeholders, including the Department of Trade and Industry (DTI), Industrial

Policy Action Plan (IPAP) and the Economic Development Ministry's New Growth Path (NGP) (Zeranda, 2013:1).

Job creation and poverty alleviation depend on the successes of the economic growth and development plans initiated by government since 1994. Discussion of these concepts will consequently be interwoven so that the links between them are visible.

In 2004 the South African government was tasked to minimise poverty and unemployment by half in 2014 (Accelerated and Shared Growth Initiative (ASGISA). It appeared as if the government managed to achieve its goal because the economic growth went up by 3% from 1994-2004 (Zeranda, 2013:4). This was a remarkable growth compared to the economic growth before 1994. Although economic growth is not directly linked to poverty alleviation it contributes indirectly to changing the socio-economic status of communities. The increase continued because by 2005 it already reached 5% (Zeranda, 2013:4). The growth of the economy does not always lead to the reduction of unemployment and poverty alleviation. However, in some instances it creates an environment conducive for economic development.

The most important government initiative aimed at improving the standard of living in South Africa is the National Development Plan (NDP), which is the most comprehensive government document that provides information on the development of the country in all aspects. The plan focuses on the rural economy where traditional leaders are mostly concentrated, social protection, regional world affairs, community safety and other areas of development. The strategic direction of the NDP provides a long-term vision for the country and aims at ensuring that South Africans attain a good standard of living. The plan maintains that a decent standard of living can be achieved through the elimination of poverty in communities (Zeranda, 2013:4). In relation to poverty alleviation, the plan has the following objectives:

- Reducing the number of people who live in households with an income below R 419 a month.
- A reduction in income inequality from 0.69 to 0.8 by 2030.

- Employment to be raised from 13 to 24 million in 2030.
- Yearly per capita income to be increased from R50 000 to R120 000.

This economic transformation initiated by government aims at changing the socio-economic status of all South Africans including traditional communities.

There is no doubt that since the 1994 democratic elections job opportunities and the employment rate have increased. This is based on the fact that the Gross Domestic Product (GDP) for South Africa averaged at 3.05% from 1994 until 2015 (South Africa GDP Annual Growth Rate, 2015:1). Effective economic policies and positive domestic sentiments including international engagements have assisted South Africa to grow economically and decrease the rate of unemployment at almost all levels in communities (ASGISA). However, statistics indicate that although the contribution of ASGISA can be celebrated, unemployment increased from 3.67 million in 1994 to 8.33 million in 2014. In percentage this can be expressed as from 32% to 36% (Kane-Berman, 2014:5). Government is currently targeting the reduction of unemployment to 15%. This requires strategic economic management and leadership on the part of government and creating programmes that would assist in achieving the target in question. This government initiative is spread through the three spheres of government and involves traditional leaders in rural areas (ASGISA).

2.6.2.2 Poverty alleviation

Traditional Leadership cannot be ruled out in the creation of sustainable livelihoods and contribution to poverty alleviation in traditional communities since the 1994 democratic government.

Poverty in rural areas is not a new phenomenon in South Africa but it has existed from colonialism to the apartheid era within the South African context (Tlhoaele, 2012:109). Tlhoaele expresses it more clearly as follows: “Rural poverty and underdevelopment are strongly linked to the policies of the colonial and apartheid governance, which alienated black people from their land, first by forcing them to

work and live on the farms as tenants and then (under apartheid) relocated them forcefully to the Bantustans, subsequently referred to as homelands."

Rural development and poverty alleviation were two of the first initiatives taken by the government after the 1994 democratic elections. The concept "Putting Rural People in Charge" coined by the new democratic government is a practical display of government taking charge of economic transformation in the new dispensation (The Rural Development Strategy, 1996:4). The development of the Rural Development Strategy was triggered by the results of an analysis by the democratic government, which indicated that rural people and women are the most vulnerable sections of the community with regard to poverty in the country. However, the analysis provided a way forward for government by noting that rural areas are commonly characterised by:

- "A high level of poverty, especially among those in women headed households
- Agricultural dualism, both in land use and support services
- Spatial chaos and stark contrasts between the former home lands and the areas around in terms of settlement patterns, land ownership and use, transport and other infrastructure
- Historical restrictions on entrepreneurial development and poor support
- New local government structures introduced in 1996 had no history or experience of planning, democracy or service."

Due to a thorough understanding of the characteristics of rural communities, the democratic government was convinced that rural people could be productive within their own traditional communities, provided proper local government structures were in place (The Rural Development Strategy, 1996:3). The main objective of the Rural Development Strategy was to set out mechanisms and methods by which rural communities and their elected representatives on rural district councils and local councils could take charge of the development initiatives in their own areas. All initiatives of the strategy were forwarded to the Reconstruction and Development Programme (RDP) for implementation purposes.

Although the details of the implementation of the strategy may be beyond the scope of the present study, there is however a need to examine the implementation plans because seeing that these plans capture the role of all community structures, including traditional leaders or rural communities in rural development and local economic development. The strategy was tailor-made for local structures (district councils and local councils). Government planned that the district municipalities would obtain funds in different ways and also source money from local taxes and services revenue funds from provinces. The poorest districts would receive a bigger share of support from the provincial government. The implementation process of the Rural Development Strategy can be summarised as follows:

District Councils

Local Councils

Appointment of Community Development Facilitators (Community Development workers)

Local Councils engaging community structures (civil society organisations, local business people, farmers, traditional leadership) all working on a coordinating committee with local government officials

The coordinating committee has a responsibility of conducting needs analysis and identifying threats and opportunities in the community for infrastructure and local economic development purposes

The final phase is to engage district councils, provincial and national governments for technical assistance, funding and initiating suitable projects for the local area (implementation stage).

When Mr. Thabo Mbeki was elected President he did not initiate new programmes in rural development but continued with the initiatives contained in the Rural Development Strategy by taking the strategy further. In order to ensure that the aspirations and plans of the Rural Development Strategy would be implemented, a new policy initiative was introduced. President Mbeki introduced the Integrated Sustainable Rural Development Strategy (ISRDS). This is illustrated in the ISRDS (2000: cover page) when it states: “The Government is now in a position to implement a rural development programme for integrated development of rural areas. This will bring together all government departments and all spheres of government including traditional leaders.”

The main purpose of the ISRDS is to realise a vision that will “attain socially cohesive and stable rural communities with viable institutions, sustainable economies and universal access to social amenities, able to attract and retain skilled and knowledgeable people, who will be equipped to contribute to growth and development” (ISRDS, 2000: vi). The focus of the strategy was 2010 and it was developed and designed for all rural communities in the country.

The strategy was basically designed to bring awareness to rural people that they have opportunities available to them and can contribute to the economic development of the country. The strategy stipulates that there will be no additional funds for the implementation of the strategy. Instead, funds allocated for rural development will be utilised in such a way that all three spheres of government function efficiently (ISRDS, 2000:vi). The focus of the strategy in terms of impacting the lives of people on the ground is coined as follows in the ISRDS (2000:1): “The strategy focuses government reforms on coordinating existing department initiatives and programmes and building partnerships for change. It addresses both mechanisms and institutional arrangements in this regard” (ISRDS, 2000:1).

In 1999 the government became aware that the rural areas in South Africa were the most affected by poverty in the country compared to urban areas. This is evident in Thabo Mbeki’s remark: “The rural areas represent the worst concentration of poverty. No progress can be made towards a life of dignity for our people as a whole unless we ensure the development of these areas.” This statement was an indication

that government had moved from the Rural Development Strategy to the stage of dealing with rural poverty by employing relevant initiatives in rural communities, particularly in the former homelands. This was based on a government analysis which revealed that about 70% of South Africa's poor people lived in rural communities and the analysis further provided information that about 70% of rural residents in South Africa were impoverished. Government concluded that rural communities' incomes were minimal because economy in these areas was not enough to support rural residents, the reasons being that they spent more on basic community services such as education, health, food, water, shelter, energy, transport and communication services (ISDRS, 2000:7).

Some of the features identified by Government in rural communities are summarised in the ISRDS as follows:

- high level of poverty;
- poor local economies with a weak manufacturing base, underdeveloped infrastructure and a limited tax base and limited opportunities for employment;
- high cost of basic social services;
- poor access to natural resources that support substance; and
- low levels of skills development.

The outcome of the government analysis indicated it was important to design this strategy to improve the lives of rural residents in the country. The background given in the ISRDS provides a fertile foundation for understanding why traditional communities are still lagging behind in development compared to urban communities.

The two rural development strategies were reviewed by government in 2012. The main objective of the review process was to enhance improvement of the standard of living of rural residents. In order to facilitate rural development, government introduced a new policy document, namely the Rural Development Framework (RDF). The creation of this framework was intended to:

- “Deliver a consistent approach and ambition to rural development, ensuring that we address both global development priorities whilst providing flexibility to address locally relevant issues;
- Align field activities with business and societal priorities, by identifying and setting priorities to create shared value at a market level based upon identified gaps;
- A credible process with partners, that can measure and communicate progress and activities” (RDF, 2012:1).

The scope of this study does not cover the details of the framework. However, the researcher found it imperative to briefly outline the focus areas of the framework so that one clearly understands the basis of rural communities and their economies, which mostly affect communities led by traditional leaders. The RDF (2012:2) identifies eight performance areas that, if well implemented, could improve rural economy in rural and traditional communities. These performance areas are expounded below.

a. Farm net income

This area of performance focuses on the promotion of farming and making farming an attractive business in rural communities. It further aims at creating a mind-set among rural residents that farm products could be used for business purposes and to improve local economic development. However, farm net income does not only imply crop rotation for economic development, it also concerns equity in farm wages and establishing the minimum wages of government employees. The ideal situation would be that levels of farm wage exceed those of living wages. The government is aware that achieving such an ambition may take time to materialise.

b. Farmers’ knowledge and skills

Farm competency (knowledge, skills and attitudes) is a key human element in developing the economy in rural areas through productivity, cost control, trading and converting the farm system. It is therefore believed that if government could invest in knowledge and skills for farms and the rural community in general, the standard of living in rural communities may improve.

c. Labour standards

It is believed that it is not enough to focus only on farmers in the development of rural areas. Farm workers are emphasised because the majority of them originate from other areas and it is difficult to identify them in traditional support programmes. The strategy aims at profiling these workers so that they are known to both government and other development agencies or community-based organisations. Initiatives of this nature will assist in comparing minimum and living wages with the aim of exceeding the living wage.

d. Women's empowerment

Women empowerment is a critical area in rural development because especially women endure poverty.

2.6.2.3 Job creation

Job creation plays an important role in addressing poverty alleviation. The interlink between job creation and poverty alleviation has been emphasised above. However, there are job opportunities created in traditional communities by traditional leadership and its subjects with minimal assistance from government or local municipalities. This section therefore aims at identifying initiatives of traditional communities

2.6.2.4 Food security

Food security is a constitutional right in South Africa. Section 27(1) (b) of the South African Constitution states that everyone has the right to sufficient food and water. Food security may be defined in many ways but the South African government defines it as follows:

"

a. "Food security is the right to have access and control over the physical, social and economic means to acquire sufficient, safe and nutritious food at all times to meet dietary food intake requirements for a healthy life by all South Africans.
b. Food security is about the availability, accessibility and the utilisation of available resources such as land and infrastructure.

c. This definition of food security complies with the World Health Organisation (WHO), which recommends an adequate daily energy intake by different population groups with different nutritional needs" (Mohlabi, 2012:4).

The discussion of food security will follow this definition in dealing with intervention programmes initiated by government to reduce hunger in poor communities.

Before the formal introduction of the Constitution in post-1994 South Africa, the ANC identified food security as one of the highest priorities in the country. The RDP was the first programme which identified food security as an urgent policy objective and was instrumental in the reprioritisation of food security conditions for historically disadvantaged individuals (HDIs). The policy on food security increased spending in the three spheres of government as a result of increasing social programmes. New programmes were introduced such as the child support grant, free health services for children between 0-6 years and pregnant and lactating women, pension funds for the elderly, job creation in water and community public works.

On the other hand, the provincial governments had an obligation to introduce food garden initiatives such as *Kgora* and *Xoshindlala* (do away with hunger), land reform, infrastructure grants for smallholder farmers and the supply of tractors (The Integrated Food Security Strategy for South Africa). The government was compelled to launch this initiative because hunger normally incurs extensive economic costs, which eventually results in the loss of economic growth resulting in loss of productivity, a high incidence rate of diseases among people and an increase in the degree of vulnerability among children (Rivera & Qamar, 2003:3).

The international community addresses hunger by allowing local communities to focus on broad-based initiatives other than agriculture in rural areas (Rivera & Qamar, 2003:3). In the South African context agriculture is a basic source of income for the rural community, which is mainly dominated by traditional leaders. Land and agriculture are inseparable; hence, land reform becomes an issue in the discussion of food security whether in rural or urban areas.

By the year 2000 the national government was concerned about the ineffective programmes initiated and implemented by departments in addressing food security. These programmes, namely *Kgora* and *Xoshindlala* were implemented in all spheres of government but were not producing positive outcomes. As a result the Cabinet took a decision to develop a national strategy for food security. The strategy aimed at integrating all food security programmes in the Republic into a single strategy, namely the Integrated Food Security Strategy (IFSS).

The first strategy was not inclusive of all food security programmes in the country. The reason is that South Africa is currently faced with a number of food security related challenges. The strategy document identified certain clear challenges. The first challenge is to ensure that the country's population has enough food for the present and in future. It must be noted that the government does not only have an obligation, it is also the government's task to ensure that food is healthy and nutritious. The second challenge is to create a match between the income of the majority population and the prices of food in the market. Thirdly, the aim is to empower citizens to make optimal choices for nutritious and safe food. This applies to the entire South Africa, including traditional communities. South African citizens (communities) are heterogeneous in nature in terms of geographical location, socio-economic status, racial and otherwise. Fourthly, the IFSS has to ensure that there will be enough food security safety nets and food emergency management systems in place so that they can be used during a state of emergency to provide food. The last challenge is to have adequate information for the purpose of analysis, communication, monitoring and evaluation. This will assist in reporting on the effectiveness and progress of food security programmes (Integrated Food Security Strategy for South Africa, 2002).

The main focus (vision) of the IFSS is to give South Africans universal physical, socio-economic access to sufficient, safe and nutritious food at all times with the purpose of meeting their dietary and food preferences. World organisations such as the Food and Agricultural Organisation of the United Nations capture the very same definition of food security.

The IFSS was initiated with the purpose of eradicating hunger, malnutrition and food insecurity beyond 2015. The stipulation of a timeframe was for management purposes and was difficult to implement because it did not include all food security in the Republic. The fact is that the strategy was designed to continue to be a guiding principle in dealing with shortage of food in the Republic. The strategy is driven by the following strategic objectives:

a. "Increase household food production and trading
b. Improve income generation and job creation opportunities
c. Improve nutrition and food safety
d. Increase safety nets and food emergency management systems
e. Improve analysis and information management system
f. Provide capacity building
g. Hold stakeholder dialogue" (The Integrated Food Security Strategy for South Africa, 2002:6).

This approach is developmental in nature. It requires a strategic alliance with other stakeholders. This includes the public sector, private sector, traditional communities and civil society. Traditional leaders are part of this government's economic initiative because it is applicable to all communities in the country. Local government is not part of this initiative because it is driven mostly by provincial and national government.

2.6.2.5 Social security

Social security is not new to most communities around the globe. South Africa has been part of social security even in the pre-colonial period. Welfare needs for individuals were there before colonialism. Social welfare needs were met by African society and communalism, cooperation and support social groups of the community. This kind of social security was disorganised and disoriented by the introduction of colonial laws (Patel, 1992:34-35).

From 1652 onwards, poor relief programmes were driven and led by religious groupings. The Dutch Reformed Church (DRC) under the Dutch East India Company (DEIC) was a pioneer of poor relief programmes. Projects to raise money for the

poor started to surface at the Cape of Good Hope. The shape of poor relief programmes changed after the occupation of the Cape Colony by the British government in 1806. Poor relief programmes became better organised because they became social welfare organisations. By 1814 an institution for orphans was put in place. The social welfare organisations continued to transform into more organised institutions (Potgieter, 1970:10-18). Transformation of these organisations reshaped and redirected poor relief programmes to focus on the care of children, the physically handicapped and relief for indigents (Kruger, 1992:110-123, 157, 160-162).

The social welfare system was based on race and aimed at protecting certain sections of the community (Patel, 1992:34-35; Visser, 2004:1). Nevertheless, the main objective of social security was alleviating poverty through social grants. Poverty alleviation was addressed by means of relief programmes for the poor; these programmes continued until the 1920s. Thereafter the then government introduced old-age pensions and occupational insurance for retirement, which replaced the traditional poor relief programmes. The retirement insurance was an agreement between the employer and the employee in terms of contributions (Van der Berg, 2002:15-17, 23). It is important to note that the agreement between the employer and the employee with regard to occupational insurance was not part of social security involving the state since there was no contribution from the coffers of the state.

Social security has advanced a long way since colonisation in South Africa. The process of transformation of the social security system continued until the 1920s. This system differentiated racially and thus catered less for African, Indian and Coloured people. On the other hand, poverty was rife in the white community, which eventually led to the Dutch Reformed Church seeking an American sponsor (Carnegie Corporation of New York) to fund white indigents. The 1932 report of the Carnegie Commission of Enquiry contributed to the establishment of the Department of Social Welfare in 1937. The creation of this department was an indication that the state would be fully involved in the affairs of social security (Visser, 2004:3).

The post-World War II public made attempts to create a comprehensive social security that would include all population groups but it was rejected by the South

African government on the grounds that it would be too costly. However, government continued to create further legislation related to social security. The social security system was used by the then government to support mainly the white community. This was evident when state benefits were announced during election campaigns. The Industrial Conciliation Amendment Act (No. 28 of 1956) made provision for job reservation for certain sections of the South African community (Patel, 1992:42-43; Doxey, 1961:139, 143). This was important as strategy of poverty alleviation among whites.

A major change in social security in South Africa occurred in 1955 when different social groupings met in Kliptown in Johannesburg. This meeting, the Congress of the People, was a combination of the African National Congress, the South African Indian Congress, the South African Congress of the Democrats and the South African Coloured People's Organisation who gathered with the purpose of endorsing the Freedom Charter. All races were represented in the meeting. The Freedom Charter contained ingredients of a social security system in South Africa, including unemployment benefits, health insurance, social old-age pensions, disability grants and child and family grants (Karis & Gerhart, 1977:184, 205-206). This was the origin of the idea to introduce social grants in South Africa.

After the 1955 Congress of the People meeting, the government of the day started the process of including people of other races in social assistance programmes. As from the 1960s the budget for social assistance began to grow and the expenditure on social assistance increased drastically. The purpose of this change was to eliminate racial barriers in social assistance by including Africans, Coloureds and Indians (Kruger, 1992:178-179). The emergence of non-racial industrial unions was instrumental in the transformation of the social system in South Africa (Adler & Weber, 2001: 5, 60).

Remarkable changes were noticed during the time of Prime Minister PW Botha. The apartheid government was faced with massive protests challenging the racial system of governance. In the late 1980s racial gaps in terms of spending on social assistance narrowed remarkably. For instance, in 1990, the expenditure for whites was 23%, for Coloureds and Indians 24% and for Africans 52% of the total social

security package (Kruger, 1992:178-179). This was an indication of a move away from the racial social assistance system in South Africa to a non-racial form of social welfare provisions (Terreblanche, 2003:27-28).

Before the 1994 democratic elections there was no policy document in place with regard to a non-racial social system. South Africa needed a democratic policy that would address the race-based social security system of the past. Just before the elections in April 1994, the Congress of South African Trade Unions (COSATU) presented its RDP policy document with the purpose of addressing the social security system in a democratic South Africa (Baskin, 1994:1). This intervention by COSATU was important and crucial for the elections of the ANC (Buhlungu, 1994:7-22). COSATU aimed to create a system of government that was linked to a labour-based development programme (Terreblanche, 2003:89).

The introduction of the RDP by COSATU earmarked a true non-racial social security system in South Africa since it articulated the provision of the (later) Constitution that all citizens are entitled to social security. This indicated the establishment of a social security system that catered for the aged, children in need, disabled children, foster parents and other types of social grants under the present social security system (Harsch, 2001:9). These programmes were designed for people unable to meet their basic social needs (Marais, 2001:190). Programmes such as free health care for pregnant women and small children were established and the government provided free meals to 3.5-5 million children (Heymans, 1995:57. The contribution by COSATU led to a democratic approach to social security that would include all South African citizens regardless of colour or religious background. This is evident in supermarkets and certain larger shops that are overcrowded with recipients queuing for their government grants on a monthly basis. These include the old-age grant, foster parent grant, child grant, disabled social grant, et cetera.

Traditional leaders became part of the transformation in traditional communities with regard to tourism development in the country. Section 5.6 of the White paper on The Development of Tourism in South Africa of 1996 presents a clear picture of the involvement of traditional leadership in poverty alleviation through tourism in rural areas. Traditional communities own cultural environments and unique archaeological

sites; they present different cultural ritual activities that attract tourists. This becomes an economic advantage for the local community. Section 6.6 of the Paper states that traditional leadership is involved in identifying potential tourism resources that could pull a huge number of tourists into their communities.

Social security in South Africa is implemented through social security safety nets and cash transfers to recipients. The World Bank's Social Protection sector defines social security safety nets (social assistance) as "non-contributory transfer programmes (usually) targeted to the poor or those vulnerable to poverty and shocks" (Pauw & Mncube, 2007:3). These initiatives are different from contributory programmes, which are linked to a person's contribution and the contribution of the employer or insurance. Private pension schemes, retirement plans and private unemployment insurance schemes are good examples of contributory programmes providing social security safety nets (Pauw & Mncube, 2007:3).

Destitute people or families do not only rely on formal programmes for survival, they also have their own ways of dealing with hunger in their home. Informal social security safety nets include inter-household transfers and arrangements organised at community level for food provision to needy people in communities. The South African government prefers cash to in-kind safety nets. This type of social security is far less expensive compared to in-kind, which requires more work. For instance, if it is decided to offer food and goods to the poor, storage for the goods and fridge must be organised to keep the food in good condition. According to Pauw & Mncube (2007:3) cash transfers are less costly than a public works programme, which requires equipment, increased workforce and supervision of the personnel on a daily basis. These authors maintain that cash transfers are common in developing countries such as South Africa. A social security programme is driven by national government and not by local government.

Primarily social security as a government initiative to address poverty in the country has thus far contributed in poor communities countrywide. Kane-Berman (2015:8) explains the situation: "Social grants have helped reduce the proportion of the African population living in poverty from 49% in 1996 to 42% in 2012. However, the number of Africans living in poverty has risen from 15,99 million to 17.45 million. So

although the middle class has grown the number of African households in poverty has grown too. One third of children between the ages of 15 and 19 live in households in which no one is employed." (Statistics South Africa: National and Provincial Labour Market-Youth, 2014"). Although poverty indicates an increase, in this instance the role of social security through social grants cannot be underestimated in improving the lives of the poor.

2.6.3 Transformation with regard to the social context of traditional leadership

Social structure is the way in which a community or society is organised into predictable relationships or interactions. On the one hand, culture determines the elements that make up society. On the other hand, social structure constrains the ways and processes in which these elements are organised in societies or communities (Schaefer & Lamm, 1992:131).

All comprehensive social groupings exist because of language, values, norms and lore that develop within a culture. Traditions and customs are important ingredients and building blocks of culture. As a social system, culture provides a sound foundation for any human community. Giddens (1995:29) regards culture as the ways of life to which members of a society or a group within a society adhere. He maintains further that culture includes the manner in which people of a specific group dress code, their marriage customs and family customs in general, patterns of work, religious ceremonies and their leisure pursuits. This definition of culture by Giddens is broad in the sense that it also includes goods people create. These material goods acquire a meaning for community members and they can use them in their daily life.
Social norms (forming a system) are established standards of behaviour maintained in a society (Schaefer *et al.*, 1992:76). The main focus of this section is the transformation of traditional institutions over a period of time, especially as a result of the democratic changes that have taken place in South Africa since 1994. Areas of discussion will therefore be on social structures, traditional structures, social norms, and the role of traditional leaders in South Africa since 1994. These are areas of interest with regard to the functioning of such an institution.

Social transformation cannot be argued without debating generations and family life of that particular community or society. Families are the foundation of generations in communities. A discussion on generations in South Africa is more understandable if it is discussed in the context of political transformation that has taken place since 1994 until today. The 1994 democratic elections created a new generation away from the apartheid system. The 1994 elections won by the ANC changed the system of governance in the country and further influenced social change in society.

Further democratic elections were held in 1999; 2004; 2009 and 2014. This created a different generation and a gap between the generation before 1994 and the generation since 1994 (Anon, 2015:1). The introduction of democratic legislation and policies since 1994 had an impact on the way in which family members interact with one another. The Bill of Rights in the Constitution played a major role in the transformation of families and generations in South Africa. It is therefore important to discuss how generational relations and family life were viewed after 1994.

In this sub-section the last context of the theoretical framework with regard to transformation is explored, namely the social context. It is evident from certain sources that before the rise of Shaka in the 1820s people were grouped in small-scale political units, small population groupings and organised in sizeable political structures (Duminy & Guest, 1989:57). The rise of Shaka brought about a dramatic change in the organisation of traditional communities, which began to organise themselves into military units in order to defend themselves from attacks by neighbouring tribes. In view of the above it becomes clear that changes in the social structures of traditional communities were accompanied by a number of social dynamics (Duminy & Guest, 1989:57). These included the socio-political and socio-cultural transformation of traditional institutions in the country. The introduction of legislative frameworks in the functioning of traditional leaders is an indication that this institution is no longer the same as it used to be in the 19th century. It would be of great value to examine the transformation of traditional structures over a period of time from the 19th century up to the new dispensation in South Africa.

It can be accepted that traditional structures in the 19th century were strictly hereditary, except the *izinduna* (headmen). Headmen in traditional leadership were

appointed by the *inkosi* and his council. This practice of appointing headmen continued in the new dispensation after 1994. It happened in isolated instances that the headman was part of the *inkosi's* family but it was not a common practice. This means that traditional leadership was based on hereditary succession and kings or chiefs were therefore respected leaders in their community. For example, chiefdoms were important institutions. They were responsible for a number of activities, including managerial functions, and commanded ritual authority with regard to their communities. Chiefs were in charge of the political organisation in their communities (Duminy & Guest, 1989:58).

Traditional leadership was affected by the introduction of democratic legislative mandates and policies such as the South African Constitution Act (No. 108 of 1996) and a number of other Acts, including KwaZulu-Natal's Traditional Leadership and Governance Act (No. 5 of 2005). Traditional structures were from then on required to comply with the government's prescripts to ensure that they did not fall outside the parameters of the law. For example, traditional councils are obliged to include women in its composition (KwaZulu-Natal Traditional Leadership and Governance Act (No. 5 of 2005)). This is in conflict with the practices and customs of the 19th century or the make-up of traditional structures before 1994.

The colonial period was tainted with extreme manipulation of traditional institutions by colonial governments. The previous regimes disregarded some hereditary leadership if it was not to their benefit. The present government's main interests seemingly lie with creating equality in all community sectors within the country. It is a given fact that social change or social transformation of a specific group of people in a particular community is inevitable (Giddens, 1995:17). There is a belief that traditional leaders in pre-colonial times were accountable to the communities they served and had to respect the structures within those communities.

The introduction of the new dispensation aimed at transforming the institution of traditional leadership completely because these leaders are expected to comply with the values and principles of the 1996 Constitution (Khunou, 2009:3). For instance, the Constitution states that people are equal regardless of gender or sex. According to the Constitution, a woman may become a traditional leader if the situation dictates

so in her community. In contrast, the traditional and African customs do not allow a woman to be a leader in traditional communities. There are, however, a few exceptions. In Ladysmith in KwaZulu-Natal, the traditional community of Driefontein is currently led by a woman after the passing on of *inkosi* Khumalo. The process of transformation in traditional leadership institutions has advanced since the 1994 democratic elections.

Other areas of interest in social transformation are changes in generational relations and family life in our communities. Exploration of both concepts before discussing other areas of change in 1994 will be helpful in understanding the foundation of transformation in a society. It is difficult to separate generational relations from family life because they are interwoven in practice. It is advantegeous to discuss generational relations in this part of the chapter as it links the pre- and the post-1994 periods of governance. Makiwane (2008:1) expresses the matter of generational relations more comprehensively when she speaks of: “The changing patterns of intergenerational relations in South Africa” (Makiwane, 2008:1)

Makiwane studied generational relations until he managed to coin a simple definition, which could be easily understood by many. He defines intergeneration, as he calls generational relations, as a “… contract that has existed between generation from time immemorial. This contract is usually in a form reciprocal solidarity. Secondly, manifests itself when one generation uses its vantage position of being outside a particular generation to be of assistance to a generation in need” (Makiwane, 2008:1). Murphy (2012:21) defines intergenerational relations as the interaction found between the younger and the older in communities.

It is given fact that the interaction of the younger and the older has changed. This dates back to before the dawn of democracy in 1994. Change in politics, economy and culture had a negative impact in disorganising the solidarity relations between generations in communities. The current situation indicates that South Africa is experiencing a disjuncture between generations, meaning that generations are disconnected (Makiwane, 2008:1). Generational disjuncture in South Africa can be traced back as early as the 19th century when diamonds and gold were discovered in various areas in the country. This study focuses on two areas of discussion: Firstly,

the role played by physical distance in shaping and reshaping generational relations in South Africa. Secondly, the influence did social distance have in moulding the interaction between generations in South African communities? (Makiwane, 2008:1). The researcher is fully aware that there are other factors that have a bearing on generational relations that are not covered by the present study.

2.6.3.1 Physical distance in shaping and reshaping generational relations

As indicated in discussion the above, generational relations were affected by various factors, including the economy. The discovery of minerals in Kimberley and Johannesburg in particular created a vacuum in rural areas because males left their homes in search of greener pastures, which left families with one adult, a woman looking after the children. Physical co-residence between children and their fathers deteriorates when most of the time the father is away from home. In cases of this nature the relations between the father and children is weaker compared to the child who stays with both parents. This has implications on the project of nation-building in South Africa because generational relations and families are major building blocks in this endeavour. Nation-building as social process also focuses on the transformation of underdeveloped communities, poor and divided comprehensive social groupings into a community that has equal opportunities of progress (Makiwane, 2008:1).

2.6.3.2 Social distance in influencing generational relations in communities

Social distance is defined as a degree of understanding and intimacy characterising personal and social relationships among people. In most cases the concept of social distance refers to different types of groups in a particular society, such as gender, ethnicity and race. The focus of the study in this case is to describe the results in African communities in South Africa after the problem of social distance emerged. This issue impacted generational relations in South Africa before 1994. It became more prominent after 1994 because parents who are products of the apartheid system of governance are expected to raise children growing up in a liberated environment. For instance, parents of these children attended school in townships and rural areas but currently are expected to guide a model C child (the common name of multiracial schools in South Africa). Discrepancies of this nature impact on generational relations between the old and the young in both traditional and urban communities (Makiwane, 2008:2). It has been indicated that generational relations

are part of family units. The following sub-section focuses on families in the context of democracy.

The transformation of traditional leaders did not start after 1994. Family life and the nature of families had been undergoing a series of transformations even before 1994. Despite the effort by the current government to address family matters, the history of the country continues to affect the socio-economic status of communities, particularly African communities. The political establishment and business sector created an environment in which parents work far away from their homes and subject family members to the care of extended families because of the migrant labour system (Green Paper on Families, 2011:1). Another important factor in the quality of family life is the industrialisation in the 19th century after the discovery of diamonds and gold. This economic transformation had a direct bearing on African communities by taking male members of the families away from their homes and created female-headed households.

In contrast, post-colonial traditional leaders *(amakhosi*) act as state policy agents (Goodenough 2000:8). Traditional structures are currently structured according to legislative frameworks designed by the government. However, it is interesting to note that there seems to be friction between the KwaZulu-Natal government and KwaZulu-Natal traditionalists – including a portion of the *amakhosi* as custodians of customs and traditions of the Zulu nation – about virginity testing. The government argues that this traditional practice violates children's rights as mentioned in the Bill of Rights, Chapter 2 of the Constitution. Ncube (2014:15) argues that virginity testing is still as relevant as it was 30 years ago when it was revived by King Zwelithini Zulu. According to him, this tradition was used to groom girls and he argues that it does not imply the violation of girls' rights and does not play a role in spreading HIV/Aids.

The 1994 democratic elections introduced transformational changes to South Africa. Some of these changes included municipal boundaries in wall-to-wall municipalities. To implement the changes, in 1998 the Municipal Demarcation Board (MDB) was assigned to identify local government boundaries in the Republic (Nxumalo & Whital, 2013: 325-341), which involved both municipalities and traditional leaders. The approach adopted by the MDB divided traditional communities and rural villages and

would alter the traditional social boundaries. The main aim of the restructuring of municipal boundaries was to redress legacies of the past by the redistribution of the economy and closing the social gaps or distance between South African citizens.

Land disputes in African communities were caused mainly by the Land Act (No. 27 of 1913). This Act authorised the removal of traditional communities from their land and resettling them in new areas. Traditional leaders were affected because they were disorganised and separated from their relatives (COGTA, 2013:3). COGTA in the Mpumalanga provincial government, addressed the traditional community of Ogenyaneni during the inauguration (16 March 2013) of the Yende traditional leader, Mr.Themba Yende. COGTA stressed that most traditional leadership disputes were caused by boundaries, successions and divisions among traditional leaders' families. He further stated that his government tasked the Provincial Committee on Disputes and Claims to investigate, among other matters:

- whether a claim on traditional leadership was established in accordance with customary laws and customs;
- disputes resulting from the determination of traditional authority's boundaries due to merging or division or division of tribes;
- gender-related disputes relating to traditional leadership positions arising after 1927.

According to Skhosana, 169 cases were received by the committee, 29 were finalised and recommendations were made to the Premier (Skhosana, 2013:3). It is evident from this background that disputes among traditional leaders occur countrywide in areas where the Bantustan system of government was in place. It is important to classify the boundary disputes into two categories: disputes between traditional leaders themselves and disputes between traditional leaders and the elected municipal councillors through the MDB. For further understanding of the disputes, one case will be used to illustrate the nature of the dispute caused by the Municipal Demarcation Board.

Case: Municipal Boundary demarcation in South Africa: Processes and Effects on Governance in Traditional Rural Areas (Nxumalo & Wittal, 2013).

Background: The Ndengeza traditional community is situated in the Limpopo province. They originated from the Tsonga. In the 1930s they were removed from their land between the Middle Letaba and Klein Letaba Rivers. The land was taken up by a commercial farmer, the Banks family, and named Crystalfontein. This family was supported by government to utilise the land for commercial reasons. During the 1960s the Klein Letaba River ran dry and Crystalfontein was abandoned. The Ndenga traditional community wanted to go back to their ancestral land but the government prevented them from returning. However, after the new dispensation in South Africa, transformation was implemented through legislation. The Constitution provides for the restitution of land, driven through programmes of land reform. In 1998 the Ndenga traditional authority lodged a claim for the land of their origin. The claim was supported by the Restitution and Land Claims Commission (RLCC). The purpose of the claim was to own a portion of Crystalfontein. The response from Government on the claims was delayed until the new municipal demarcation system was implemented.

2.6.3.3 Causes of disputes

After the implementation of the municipal demarcation system in 2000, the land under claim was split into two local municipalities, namely the great Giyani Municipality in the south and the Makhado Municipality at the north. Results of the demarcation raised concern on the side of the Ndengeza traditional leaders. They argued that they were not consulted about the split of the community into two municipalities. The Ndengeza could physically occupy the land under contestation but this would have caused conflict between themselves and the municipalities. The Ndengeza Traditional Authority insisted that the land had to be re-demarcated and consequently lodged a grievance with the MDB. The municipalities eventually agreed that the land would be re-demarcated between them. Traditional leaders and the MDB agreed that the process of demarcation between the Greater Giyani and Makhado would be reconsidered. During the proceedings, however, Makhado rejected the proposal made by the MDB and the traditional leaders, and stated that if

the process of demarcation was repeated, Makhado municipality would lose voters. They were therefore not prepared to start the process for the second time.

One official from the Makhado municipality argued that there was no need for the re-establishment of the boundaries between the Makhado and Greater Giyani municipalities because public participation had taken place. In dealing with the proposal of the re-establishment it was also not properly communicated to the Ndengeza community. The community received the proposed boundaries from the MDB after a year while the two municipalities received the proposal for the demarcation from the MDB a year before the Ndengeza community. The Ndengeza continued demanding that their interest was on the Klein Letaba River. The proposed boundaries by the MDB would split the Makhado community into two municipalities, which would further fuel grievances on the boundaries proposed.

The whole process of demarcation of the two municipalities was facilitated by a researcher who provided advice to both the MDB and the two municipalities. It was agreed that the initial process had to be declared null and void. The two municipalities were requested to deal with this matter. It was further agreed that public participation would be enhanced. The MDB realised that there would be no peace if the community proposal was not considered. The MDB and the municipalities agreed that the re-establishment of the boundaries would be in line with the proposal tabled by the community (Nxumalo & Whital, 2013:327-329).

In view of the above-mentioned dispute over land it can be concluded that a strained relationship existed between traditional leaders and the elected councillors. This is a result of the way the municipality and MDB handled the implementation of projects in the community. The community indicated that they were not consulted about new boundaries drawn by the municipality and the MDB. The main cause of the conflict between the traditional leaders and the Greater Giyani and Makhado municipalities was the lack of consultation.

Van der Merwe and Muller (2013:3) consider public space, democratic activism and social change as crucial in dealing with the community on a daily basis. The authors further define the public as a concept linked to citizens of a particular country or

province. The connotation is that a community has the right to be informed about what is happening in their area. In the case of the Greater Giyani, the Makhado municipality and the MDB consultation was poor. Because the dispute in question was politically based, public space for the community was not provided. Public space is defined as a form of public participation in political affairs (Van der Merwe & Muller, 2013:3).

Furthermore, it is evident that one of the reasons for the strenuous relationship between traditional leaders and the elected municipal councillors is lack of communication. Section 17 of the Municipal Systems Act (No. 32 of 2000) provides guidelines that must be followed in mobilising the community for participation in community programmes. These include:

- The process of receiving, processing and consideration of petitions;
- Procedures for notifying the public of issues being considered by the council and a process that allows for public comment;
- Procedures for public meetings and hearings by councillors and municipal officials;
- Regular sharing of information on the state of affairs of the municipality through consultation with the community organisation and traditional leaders (Section 17 of the Municipal Systems Act 32 of 2000). The MDB did not follow what is stipulated here to avoid disputes between them and traditional leaders.

It is also evident that the relationship between traditional leaders and local councillors holds potential conflict with regard to boundaries and the methods followed when creating boundaries in traditional communities. The interests of the two institutions are different. The discussion above illustrates the practical aspect of the differences about the demarcation of land in Makhado. The Makhado municipality is concerned about a shift in votes, which will affect the political balance of the area. On the other hand, traditional leaders do not understand the political agenda and are adamant to be part of the political discussion on drawing the

boundaries of the area. This further illustrates different political values between traditional leaders and the agents of the new dispensation in South Africa.

Another area of dispute in this presentation is the question of consultation of traditional leaders by the MDB when drawing boundaries. Traditional leaders in this instance raised concern that they were not consulted by the MDB when they decided on the boundaries of the traditional area. Consultation becomes one of the causes of disputes between traditional leaders and councillors. It is therefore important for both the traditional leadership and the municipality to identify areas of conflict in order for both parties to deal with their differences harmoniously.

It may be argued that the identification of areas of conflict may help harmonising the working relationship between traditional leaders and municipal councillors. South Africa comprises a large number of diverse ethnic groups who are attached to values and customs of traditional leadership and they feel that they are not represented by the system of democracy in South Africa (Cele, 2011:6).

Cele (2011:6) proposes areas of cooperation for the purpose of harmonising the relations between traditional leaders and municipal councillors. He argues that cooperation in the following areas at a local level may eliminate friction:

- Participation of traditional leaders in the national and/or provincial legislative process through the national or provincial house of traditional leaders (whether in the national or in the provincial legislature).
- Participation in executive intergovernmental structures such as intergovernmental forums and various MINMECS (Committee for Ministers and Members of the Executive Council).
- Participation through the houses of traditional leaders in the budgetary and financial resource allocation process (across the spheres of government).
- Capacity development for traditional leaders in order for them to participate meaningfully in these structures.
- At a municipal level, traditional leaders must work with ward councillors, especially by participating in structures such as ward committees, IDP forums,

Community Police Forums, school governing bodies and the local participatory structures, which will allow them an opportunity to influence processes.

In addition:

- Traditional leaders must have voting powers in municipal councils in all municipalities.
- There is a lack of effective day to day communication between traditional leaders and councillors, which needs to be improved.
- There should be joint representation of both municipal councillors and traditional authorities in statutory land boards in the entire country.

In the whole, the system of land administration of traditional leaders must be incorporated into the municipal system of land administration so that it becomes constitutionally recognised (Cele, 2011:6).

2.6.3.4 Other causes of disputes between traditional leaders and Government

Another area of dispute between these institutions comprises what the Land Divided Conference (The Conference was hosted by the University of the Western Cape) referred to as Layers of Authority, Boundaries of Decision-Making (Weeks, 2013:1-10). The conference examined a number of issues that hold potential for disputes between traditional leaders and the current democratic environment. The theme of the conference was based on two discussion topics:

a. Distribution of power to resolve disputes as central to the governance of customary rural areas in South Africa.
b. Effect of extremely imposed territorial jurisdictional boundaries and centralised traditional authority.

The main purpose of the conference was to analyse the relation of the Traditional Leadership and Governance Framework Act (No. 41 of 2003) to resolving disputes between government in the democratic environment and traditional leadership. The debate started off by examining the causes of disputes between traditional leaders

and elected councillors. The discussion captured the following causes for disputes: they are based on struggles for political power and competition for resources; also a struggle for property and the constitution of authority, which help them access resources; and the process and methodology used to negotiate land rights normally determine who acquires land and who is able to retain land in face of competition.

The conference argued that the framework adopted oppressive historical approaches to the questions of land because it has negative implications for ordinary rural people's right to land, natural resources and land administration. The conference noted that history has a strong impact on the functioning of traditional leaders in the country. Historically, traditional authorities were constituted on the version of tribal authority and that suited government policies. The separate development, or apartheid, policy was implemented with the purpose of marginalising customary communities, imposing territorial boundaries on smaller sections of land and over focusing on macro-community levels. The system also centralised power in men and disregarded women in the decision-making process.

Furthermore, it was argued that disputes may still continue between the local leadership and traditional leaders at a local level. This is based on the fact that the determination of boundaries by the MDB was still imposed even after 1994. Councillors do not want the patriarchal domination of traditional leaders in community affairs. For instance, traditional courts are mainly presided over by men, purposely ignoring women in decision-making processes. It becomes evident that in order to minimise tensions between traditional leaders and the elected councillors, the above aspects should be addressed.

However, traditionalists and proponents of Zulu values, customs, norms and lore are convinced that they are very efficient in maintaining their original well-being. The Reeds Dance of 10 September 2011 was attended by the President, Mr. J.G. Zuma and the District Mayor of Zululand District Municipality, the Zulu King, Mr. Z Zulu, Zanele Magwaza and other high-profile personalities. Speaker after speaker emphasised that the Reeds Dance is important in Zulu tradition. Zulu traditionalists believe that the Reeds Dance fosters self-esteem, strengthens the community, provides a strong cultural identity and finally contributes to nation-building. The

Reeds Dance was initiated by Shaka during his era of rulership in Zululand. The ceremony is about young girls presenting reeds to the King to demonstrate their virginity. The content of this culture has been modified to cater for other programmes of nation-building, including an awareness campaign against HIV/Aids. Another element that indicates that the Reeds Dance ceremony has transformed remarkably since its inception is the attendance of foreign nationals and different races.

To conclude, it may be argued that change over time brings about a change of customs, traditions, values, norms and the culture within traditional communities. This boils down to the change of social systems due to the structural change of traditional institutions. Governments emerge and are replaced, but the policies of these governments have an impact on traditional institutions. Nevertheless, traditional structures still exist and will continue to function under the auspices and direction of democratic principles.

However, the nature of such an institution in a democratic environment has changed considerably. The implementation of policies regulating traditional institutions has brought about remarkable changes in the functioning of traditional leaders. For example, circumcision used to be organised and performed under the leadership of traditional leaders but this African cultural practice is currently directed and monitored by government. Even the revival of this tradition in the Zulu nation by the Zulu king, King Zwelithini Zulu, in 2009 was to a certain extent led and carried out with the collaboration of traditional leaders and government officials. This collaboration was confirmed when His Majesty King Zwelithini kaBhekuzulu officially opened the KwaZulu-Natal medical circumcision centre of excellence on 16 May 2013. The main purpose of reviving this culture was clearly articulated by His Majesty the King that circumcision reduces chances of being affected by HIV/Aids by approximately 60%. Collaboration of this nature provides evidence of the transformation of traditional leadership since 1994 (KZN Department of Health, 2013:1).

The process of transformation in South Africa has affected all spheres of government and the various levels of societies including traditional communities. For example, before 1994 there was no democratic Constitution with a Bill of Rights. Legislation such as the Child Justice Act (No. 75 of 2008) and the Children's Act (No. 38 of

2005) were not part of the system of governance. Transformation of South African communities is prevailing in traditional communities. This is evident in the management of boundary disputes under traditional leadership governance. Land disputes are currently handled by municipalities. There is a section in the Department of Cooperative Governance and Traditional Affairs that deals with traditional leadership disputes in various conflicts. Although this section was made for succession disputes it also addresses land related disputes. Wall-to-wall municipalities transformed the involvement of traditional leadership in land administration because municipalities manage all areas under their jurisdiction.

2.7 PROPOSED ANALYTICAL FRAMEWORK TO ANALYSE THE TRANSFORMATION OF TRADITIONAL LEADERSHIP

In view of the discussion of the last three sections and the conclusions drawn from the information, an analytical framework is proposed for the subsequent analysis of the transformation of traditional leadership. This framework is outlined in Table 2 below.

Table 2: Analytical criteria and transformation of traditional leadership

Context	Criteria	Conclusion
Political	1. Effect of a constitutional democracy	Influence of the Constitution and legislation on the functioning of traditional leadership.
	2. Thrust towards nation-building	The role played by traditional leaders in nation-building.
	3. Developmental role played by local government	Improving the standard of living of traditional communities by local government/local municipalities.
	4. Political values, structures and functions of traditional authorities vis-à-vis local government	The nature of politics practised by traditional leaders in leading their subjects.

	5. Service delivery issues between traditional authorities and municipalities	Conflicts arise from service delivery issues. Power struggle in providing services to the community.
Economic	1. Government's development and growth plans	Government initiatives to eradicate poverty and improve the standard of living in traditional communities.
	2. Poverty alleviation	Reduction of poverty in communities by introducing initiatives of assisting community members to access community support programmes.
	3. Job creation	Initiatives aimed at creating job opportunities for the unemployed in traditional communities.
	4. Social security	Reduction in the level of poverty through social grants provided by government.
	5. Land reform and agrarian transformation	Redress land ownership and assist people to have ownership and access land.
	6. Food security	Government initiative to ensure that South Africans have enough food on a daily basis.
Social	1. Boundary disputes	Boundary disputes are divided into two: disputes between traditional leaders and municipalities and disputes between traditional leaders.
	2. Gender issues	The attitudes of men and women towards each other and the power associated with gender

		disparity.
	3. Generational relations	Relations between youth and adults.
	4. Family life	Relations and interactions between family members of one homestead or close-by homesteads.

In the present study the transformational effect of democratic local government on traditional leadership will, therefore, be analysed in view of these contexts and related criteria.

Chapter 3 focuses on the legislative framework that gives effects to the functioning of the traditional leadership before the new dispensation and post-1994 democratic environment of South Africa.

CHAPTER 3: LEGISLATIVE AND POLICY FRAMEWORKS IN A DEMOCRATIC SOUTH AFRICA

3.1 INTRODUCTION

The research focus was on an analysis of the transformation traditional leadership underwent in its relationship with democratic elected local authorities. In view of this focus it is important to explain the legislative and policy frameworks applicable to traditional leadership – to demonstrate further the analytical framework employed by the study.

3.2 LEGISLATIVE AND POLICY FRAMEWORKS

Even prior to the 1994 democratic elections the function of traditional leadership was legislated in South Africa. The Black Administration Act 9 of 1927 as amended was one of the items of legislation implemented to manage and control the functioning of traditional leaders in the Republic of South Africa. The Black Administration Act was initially called the Native Administration Act 38 of 1927. This Act was renamed the Bantu Administration Act in 1927, Black Authorities Act 68 of 1951, Self-Governing Territories Constitution Act of 1971, Native Affairs Act of 1920, Native Urban Areas Act of 1923, Group Areas Act of 1950 and Native Trust and Land Act of 1936. It is evident how the Native Administration Act 38 of 1927 transformed over the years. The very same Act was amended repeatedly to fit specific situations. These pieces of legislation operated effectively until the introduction of renewed legislation based on the new dispensation. The discussion of legislation in this chapter includes laws, policies and discussion papers dating back to 1913.

It is important to include a discussion on the Land Act of 1913. This Act laid a foundation for the introduction of homeland system, which eventually strengthened racial segregation in South Africa. The Act affected the indigenous establishment of traditional communities and the governance of traditional leadership by reserving 87% of South African land for the white community, leaving the African community with only 13%. This change in policy direction had a significant impact on the role traditional leadership played within their communities (Zille 2013:1).

In the new dispensation, Government has introduced a series of laws and policies for the purpose of regulating traditional leadership throughout the country. It would be of great value to study these laws and policies that focus on the structure of traditional leadership institutions as well as on the function or role they fulfil in their communities, especially in their relationship to local authorities. Furthermore, it is important to include laws regulating land since traditional leaders are mainly located in rural areas and their power and authority are fundamentally centred on land ownership and administration. Therefore, this chapter elaborates on laws or policies that govern the role of traditional leaders and land administration within the rural areas.

3.2.1 Land Act (Act No. 27 of 1913), Land Reform and Transformation of Traditional Leadership in South Africa

The question of land is not an issue that surfaced only in 1994 or post 1994. This issue dates back to 1913 when the union government introduced the Land Act of 1913. The Act was launched as the Natives Act, the Bantu Land Act and the Black Land Act of 1913. It was finally called the Land Act of 1913 (Act 27 of 1913). The Land Act was the first major piece of segregation legislation passed by the Union Parliament and remained a driving force of Apartheid until the new dispensation of the 1990s. The Act stipulated that only 13% of the South African land surface is allocated for the natives. The outcome of the Act was the creation of a system of tenure that deprived the majority of South Africa's inhabitants of the right to own land. This situation had a major socio-economic effect on Black South Africans, who used land as a source of income. The Land Act was opposed by John Dube who used his newspaper as forum to agitate prostesting against the introduction of the Act on 19 June 1913 (Appeal to the British Public about The Native Land Act, 1913).

The main contents of the Natives Land Act is summarised in section 1(a)(b) and read as follows:

a. "A native shall not enter into any agreement/or transaction for the purchase, hire or other acquisition from a person other than a native of any such land or of any right thereto, interest therein, or servitude.

b. From and after the commencement of this Act, no person other than the native shall purchase, hire or in any other matter whatever acquire any land in a scheduled native area or enter into any agreement or transaction for the purchase, hire or other acquisition, direct or indirect, of any such land or of any right thereto or interest therein or servitude there over, except with the approval of the Governor-General."

The commencement of the Land Act on 19 June 1913 caused dissent in South African communities that were debated on decades later. Various social groupings, then called the Congress of the People, assembled in Kliptown on 26 June 1955. The comparison of the Land Act and Freedom Charter in this chapter only centre on the land issue, excluding other matters stipulated in the Freedom Charter. The purpose of the meeting was to address a number of issues, including the ownership of land in South Africa. The Freedom Charter was adopted at the same meeting. According to the Freedom Charter, the following conditions should be upheld:

a. "The land shall be shared among those who work it;
b. Restrictions of land ownership on a racial basis shall be ended, and all the land re-divided amongst those who work it to banish famine and land hunger;
c. The state shall help the peasants with implements, seeds, tractors and dams to save the soil and assist the tillers;
d. Freedom of movement shall be guaranteed to all who work on the land;
e. All shall have a right to occupy land wherever they choose" (Freedom Charter, 155:3).

The objectives of the Land Act and the Freedom Charter differ. The Land Act divided land according to race and stipulated a number of restrictions on the ownership of land. In contrast, the Freedom Charter propagates the sharing of land among all people who live in it regardless of colour or otherwise. The Freedom Charter is one of the main sources of the Constitution of 1996, hence it can be expected that land reform would be a significant aspect of the present Constitution. The impact of the Land Act had a negative outcome on the side of rural areas, particularly in its effect on traditional leaders. Traditional communities used land for both human settlement

and economic purposes. The allocation of 13% of land to Black South Africans included the formation of independent and self-governing states. For example, Transkei, Ciskei, Lebowa, KwaZulu, Venda and KwaNdebele form part of the independent and self-governing states in South Africa based on the Land Act and related legislation promulgated thereafter.

The Land Act (Act 27 of 1913) affected traditional leadership in many ways. The establishment of Transkei as a first independent state in South Africa created confusion in traditional communities seeing that traditional leaders did not understand the concept of independence. These leaders had different views on accepting such an offer from the then national government. Other forms of traditional leadership were also affected by industrialisation since the same Act was applied to relocate traditional leaders from their original areas, for various reasons. For example the Bakgatla-ba-Kgafela traditional authority area, which is composed of 32 villages under Nyalala Pilane, was one of the first groups in the relocation. In early 1990s this tribal authority had to sign deals with mining companies that intended digging up the minerals in the area (Mnwana, 2014:4). Even at present, traditional leaders are currently concentrated in the former homelands created by the Self-Governing Territories Constitution Act of 1971 originated from the Land Act of 1913. The Freedom Charter, on the other hand, states that the land shall be shared by all people who live in it.

It is evident from the discussion above that the question of land in South Africa is not a new debate. The introduction of the Land Act (Act No. 27 of 1913) was the arguably the most important policy to initiate changes in land administration in the country, including the areas of traditional leadership. The operation of the Act (Land Act) was implemented “without hassles or hurdles” in African communities. John Dube, the former President of the ANC, created a platform aimed at resisting and arresting the operation of this legislation. This was done through his newspaper (*Ilanaga lase Natali*). The aim of the discussion was to make people aware that the Land Act was considered untoward for the African communities because it propagated poverty and segregation between South African citizens.

The debate on land was also taken over by the Congress of the People in 1955 when they gathered in Kliptown in Soweto to draw up the famous Freedom Charter. As mentioned previously, the Freedom Charter holds that land must be shared among those who live in it. This means that each citizen in the country must have a share of the land and given an opportunity to live and use that property as he or she wishes to do.

3.2.2 Ready to Govern: ANC guidelines for a democratic South Africa of 1992

The transformation leading to the democratic elected government in South Africa began in 1992 when the ruling party (ANC) formulated an important document, namely, “Ready to Govern” in 1992. This document spelt out the structure of government and also identified areas of transformation that needed the attention of the democratic government, which was about to be introduced. The policy guidelines taken from “Ready to govern” can be regarded as a point of departure on a long journey of transformation formally started by the Interim Constitution in 1993. It is important to highlight the main objectives of this document seeing that they focused on areas of transformation leading towards the envisaged democratic government. Due to the scope of this study, only sections relevant to the transformation of traditional leadership since 1994 will be examined closer.

3.2.2.1 Section 1 (A): The ANC’s vision for the future

The first section outlines the objectives of the policy guidelines as follows:

a. “Strive for the achievement of the right of all South Africans, as a whole, to political and economic self-determination in a united South Africa.
b. Overcome the legacy of inequality and injustices created by colonialism and apartheid, in a swift, progressive and principled way.
c. Develop a sustainable economy and state infrastructure that will progressively improve the quality of life of all South Africa.
d. Encourage the flourishing of the feeling that South Africa belongs to all who live in it, promote common loyalty to and pride in the country, and create a universal sense of freedom and security within its borders”.

The first objective of the policy guidelines in “Ready to Govern” summarises the whole content by stating the envisaged democratic government should exist for the right of all South Africans regardless of colour, religion, race, cultural background or sexual orientation. Furthermore, the guidelines are in line with Freedom Charter when referring to ownership of South Africa as a place of living. This is identified by the fourth objective which states that South Africa belongs to all who live in it.

These are the most salient points of departure for a series of transformation processes to follow the process towards the democratic dispensation. The mentioned objectives are important for all citizens of the Republic including organisations and institutions (i.e. traditional leadership, traditional courts, civil courts, etc.).

3.2.2.2 Section 2 (A): Transformation policies

The section on transformation policies relates directly to the scope of the research study, seeing that these policies identify the contexts which the ANC targeted for transformation. Clear direction was required for the ruling party to achieve a democratic South Africa. The ANC had the quick insight that, in order to create a better life for all, political, economic and social contexts should be the theatre of transformation. Traditional leadership did not escape this process as far as political, economic and social transformation is concerned, since the 1994 democratic elections.

In light of its transformation policies, the ANC concluded that the development of policies for the country would be focusing on transformation in three spheres:

- political transformation;
- economic transformation; and
- social transformation

3.2.2.3 Section 3 (B): Structure of government

The ANC concluded that the development of policies for the country rests (depends) on the government institutions such as the Legislature, Executive and Judiciary. It is significant to note that the current spheres or layers of government were initiated before the Interim Constitution. The proposal by the ANC in 1992 was endorsed in 1996 when the final Constitution was presented and implemented. The spirit of these policy guidelines can be stated as follows:

South Africa shall be a unitary state in which there shall be government at local, regional and national levels. The Bill of Rights and principles of non-racialism, non-sexism and democratic accountability shall apply at all three levels of government.

Focusing on the above-mentioned section of the policy guidelines it becomes evident that the traditional leadership could not compromise or undermine the Bill of Rights, seeing that it was to be implemented in all levels of government, including at local level where the traditional leadership is located in rural areas.

3.2.2.4 Section 5 (B): Property rights

When the ANC was about to take over from the previous regime, they were fully aware of the fact property rights for the majority of South Africans were negated and ignored by those who were in power then. The “Ready to Govern” guidelines stipulate the need for a democratic system that would provide justice and fairness in securing property rights for all South Africans. The guidelines highlight salient points relating to property rights in the new dispensation:

a. Property rights impose obligations and the exercise of these rights should not be in conflict with the public interest.
b. The seizing of property shall only be permissible according to law and in the public interests, which shall include the advancement of the objectives of the Constitution.
c. Any such taking shall be subject to just compensation, which shall be determined by establishing an equitable balance between the public interest and the interest of those affected, and will not be based solely on the market value of the property concerned.

3.2.2.5 Section 5 (B) Social, educational, health, welfare and home and family rights

The ANC implemented the Bill of Rights to ensure that all South African citizens enjoy equal rights to basic education, health and welfare services in all communities, provided the inhabitants meet the stipulated requirements. This policy provided an opportunity to develop legislation that would help ensure that all members of the communities concerned are able to access these basic services.

Before 1994, pensions were paid according to a group's population background. Therefore, receivers of pension were not paid equally; payments were arranged according to race and gender. The ANC committed them in this document. They envisaged that democratic government should be constitutionally committed to a situation where every home has electricity, clean water and access to waste disposal. It was stated that South Africans will be free to establish families and this will be done on a voluntary and equal basis. The policy also emphasised that family-related matters will be regulated through legislation.

3.2.2.6 Section 1 (R): Youth policy

The question of generational relations was addressed as early as 1992 by the governing party. The ANC realised that South Africa has a large youth population in various areas in the country, the emphasis, however was placed on the marginalised youth.

It was understood that youth has an important role to play in the process of transformation, hence, the mobilisation of youth was considered for the purpose of speeding up the achievement of a democratic, non-racial and non-sexist South Africa. In order to ensure that programmes focused on developing the youth in the country, the ANC drew up a youth policy that would regulate youth programmes to channel the contribution of the youth. The objectives of the youth policy entailed:

a. Address problems faced by youth who have been directly marginalised by apartheid, including young exiles and political prisoners, with particular emphasis on the immediate issues of education, unemployment and violence.

b. Promote the development of all South Africa's youth and implement policies that prevent the recurrence of the marginalisation of young people in the future.
c. Focus programmes on the socio-economic development of the youth.
d. Develop guiding principles for all governmental and non-governmental organisations (NGOs) consistent with the above-mentioned values in the South African society.
e. Set in place an autonomous, broad and representative youth structure to coordinate and develop youth activities.
f. Encourage a spirit of understanding and respect between the young and old, parents and children.

3.2.2.7 Section 3 (R) The rights of youth

The writers of these guidelines were fully aware that the youth before 1994 was marginalised by the previous regime. The decision was ensure that the rights of young people in all spheres of the communities are adhered to, particularly in the following areas:

a. The right to be represented in relevant decision-making structures of the state and other structures at various levels.
b. The right to education and to seek answers.
c. Protection against the violence, crime and abuse.
d. The right to health.
e. The right to recreation and leisure.
f. The right to recreation, a stable family life and good care.
g. The right to develop to their full potential.
h. The promotion of youth employment.
i. The full social integration of young disabled persons.
j. The right to work within a safe and healthy environment.
k. The right to live in peace and friendship.
l. Freedom of belief, cultural expression and language.
m. Recognition of the rights of children as enshrined in the United Nations Convention on Children's Rights.

When reading the “Ready to Govern” guidelines of the ANC, it becomes clear that all the present government’s transformation legislation and policies are rooted in this document. The most important tool of transformation, the Reconstruction and Development Programme (RDP) derived from this policy guidelines. These policies also provide the foundation of the land reform policies and property rights legislation implemented after 1994. Chapter 2 of the Constitution, the Bill of Rights, was informed by these guidelines in 1992 even before the proclamation of the Interim Constitution of 1993. One can conclude that social, economic and infrastructure legislation and policies that are currently used were initiated by this document.

3.2.3 The South African Interim Constitution (Act No. 200 of 1993)

It is important to note that the recognition of traditional institutions in South Africa was a topic on the political agenda even in the Interim Constitution as far back as 1993. This topic is important to understand the background of traditional leadership during the transition period and it further provides more insight in traditional leadership and democracy.

It was mentioned previously that postcolonial states are sceptical of traditional leadership institutions. The reason is that governments of post-colonial states still believe that traditional leaders collaborated with colonists during the period of colonial rule. Namibia, Zimbabwe and South Africa are typical examples of postcolonial states that harbour suspicion against traditional leaders’ participation in the pre-democratic dispensation. However, the same governments of these states also exert themselves to work for recognition and the establishment of these institutions in their countries. The Interim Constitution of 1993 continued with the recognition of traditional authorities even in the final Constitution. For example, the House of Traditional Leaders was initially mentioned in the Interim Constitution. The collaboration of traditional leadership and local municipalities was initiated in the Interim Constitution and continued in the final Constitution. Chapter 11 of the interim Constitution is dedicated to traditional authorities. The content of this chapter in the interim Constitution is summarised subsequently.

3.2.3.1 Section 181: Recognition of traditional authorities and indigenous law

This section holds the following:

a. “A traditional authority that observes a system of indigenous law and is recognised by the law immediately before the commencement of this Constitution shall continue as such an authority. It shall also continue to exercise and perform the powers and functions vested in it in accordance with the applicable laws and customs. This is, however, subject to any amendment by a competent authority to repeal such laws and customs.
b. Indigenous law shall be subject to regulation by law.”

3.2.3.2 Section 182: Traditional authorities and local government

This section maintains that the traditional leader of a community observing a system of indigenous law and residing on land within the area of jurisdiction of an elected local government, shall *ex officio* be entitled to be a member of that local government. Therefore, such a leader shall be eligible for election to any office of such a local government.

3.2.3.3 Section 183: Provincial House of Traditional Leaders

3.2.3.3.1 “a. It is stated that the legislature of each province where there are traditional authorities and their communities shall establish a House of Traditional Leaders. It will consist of representatives elected or nominated by such authorities in the province.

b. Furthermore, it provides a provision for the drafting of legislation that is in line with the Constitution for the following purposes:
    - the establishment of the provincial House of Traditional Leaders;
    - the election or nomination of representatives;
    - powers and functions of the House of Traditional Leaders; and
    - the provision to introduce the House of Traditional Leaders to the provincial legislature not later than six months after the first premier of the province concerned takes office.

c. Traditional authorities shall be consulted before the draft legislation is introduced to the provincial legislature".

3.2.3.3.2 a. "The House of Traditional Leaders shall be entitled to advise and make proposals to the provincial legislature or government. These will concern matters relating to traditional authorities, indigenous law or the traditions and customs of traditional communities within the province.

b. The Interim Constitution stipulates that any provincial bill pertaining to traditional authorities, indigenous law or such traditions and customs, or any other matters having a bearing thereon, shall be referred by the Speaker of the provincial legislature to the House of Traditional Leaders for its comments before the bill is passed by the provincial legislature".

3.2.3.4 Section 184: Council of Traditional Leaders

According to the Interim Constitution, a Council of Traditional Leaders should be established. It should consist of a chairperson and 19 representatives elected by traditional authorities. This section in the Constitution outlines the powers and functions of the Council.

The discussion above on the interim Constitution (Act No. 200 of 1993) confirms the existence and the recognition of traditional institutions in postcolonial states such as South Africa.

The Interim Constitution provides a provision for traditional leadership in the democratic dispensation. According to the Interim Constitution, traditional leadership should be part of the elected local government in areas in which traditional leaders are custodians of land administration. The motion behind this statement in accordance with the Freedom Charter was to foster a mutual relationship between the indigenous type of leadership and the elected form of governance. There is no doubt that the paradigm shift introduced by the Interim Constitution transformed the traditional way of governance into the democratic form of governance. Traditional leadership was based on traditional councils or *lekgotlas* for decision-making purposes, whilst the current structure of local governance follows the modern process of making decisions.

3.2.4 The South African Constitution (Act No. 108 of 1996)

As indicated previously, traditional leadership continue to exist in many post-colonial governments in Africa, despite the perception that they collaborated with the colonial regimes of the past. The Constitution opposes form of discrimination, including gender-based discrimination. The current Constitution recognises the existence of traditional leadership and indigenous law of traditional communities, which it outlines further in Chapter 12. This indicates that the Constitution does continue to recognise the House of Traditional Leaders, which was first proposed in the Interim Constitution.

It is important in this sub-section to identify areas of similarities and differences between the Interim Constitution and the final Constitution of 1996, with regard to the status of traditional leadership in rural areas. Both Constitutions recognise traditional leadership as an indigenous structure operating at a local level in a community set-up. This is evident from section 181 of the Interim Constitution and section 211 of the final Constitution. However, the two Constitutions differ on the status of traditional leadership in a local government. For instance, the Interim Constitution states that a traditional leader serving in a particular local government is eligible for any position of that local government. This is not mentioned in the final Constitution that a serving member can participate by being elected to a portfolio of the local government.

3.2.4.1 Section 211(1) (2) (3)

A section of the Constitution, the supreme law of the country, specifically deals with the recognition of traditional leaders. This section holds that the institution, its status and role, are recognised as stipulated by the Constitution section 211(3). It further points out that traditional courts are recognised but must only apply customary law.

3.2.4.2 Section 212(1)

This section relays the provision on the role of traditional leadership at local community level. In this section national legislation may provide a role for traditional leadership at local level. Constitutionally this role is conditional – it depends whether national legislation provide for this role.

3.2.4.3 Section 212(2)

In Section 212(2), the Constitution emphasises that traditional leadership as institution works within customary law; it further states that:

a. national or provincial legislation may provide for the establishment of a House of Traditional Leaders; and
b. National legislation may establish a council of traditional leadership.

From the explication above it is evident that traditional leadership in the country is fully recognised by law. Bekker *et al.* (2002:142) confirm that the following courts are entitled to apply indigenous law, in other words traditional leaders are recognised by the following judicial institutions:

- the Constitutional Court;
- the High Court;
- the Magistrate's Court;
- courts of traditional leaders; and
- Small Claims Court.

3.2.4.4 Case Law (constitutional decision or ruling)

The decision of the *Shilubana v Nwamitwa of 4 December 2008* is used to illustrate the following aspects of customary law.

3.2.4.5 The definition of customary law

Customary law within the South African context is defined as a body of law by which millions of South Africans regulate their lives in a multicultural society. This law existed long before the adoption of the Constitution, which among other things, harmonises the different cultural practices that exist in the country.

3.2.4.6 The definition of traditional authority/leadership

In this case, traditional authority/leadership is defined as an aggregate institution that includes the position of the traditional leaders or king, the deputy, the royal family, secret advisory body, the headmen of a small village and the traditional council.

3.2.4.7 Relations between customary law and the Constitution

The status and the role of traditional leadership are recognised by the Constitution; therefore observance of customary law by traditional authorities must be in accordance with the applicable legislation and customs, including amendments or repeal of that legislation and those customs.

The purpose of this case is to illustrate a decision or verdict over the working relationship between practices of traditional leadership based on customs, and the Constitution that is underpinned by democratic elements. The above-mentioned case was finalised by the Constitutional Court. It was the appointment of a traditional leader following traditions and customs. According to customs a traditional leader cannot be a female heir, and the royal family and the traditional council have no authority to appoint a traditional leader, seeing that such a leader is born not appointed. Both the High Court and the Supreme Court of Appeal decided in favour of the male heir (Nwamitwa) relying on the authority and hereditary leadership as a guiding principle. Shilubana appealed to the Constitutional Court and the Constitutional Court overturned the decision of both courts citing the following reasons:

a. The courts overemphasised the fact that the Hosi is not appointed but born.

b. Nwamitwa had no vested right to the chieftainship of the Valoyi community, he had only an expectation to be a chief not a right;

c. Furthermore, the court supported its decision by the case of (*Shilubana v Nwamitwa (CCT 03/07) 2008).* As a result, the process of determining the content of a particular customary law norm must be one informed by several factors. Firstly, it will be necessary to consider the traditions of the community concerned. Customary law is a body of rules and norms that has developed over the centuries. An enquiry into the position under customary law will, therefore, invariably need to consider the past practice of the community. Further, such a consideration also focuses the enquiry on customary law in its own setting rather than in terms of the common-law paradigm. This is in line with the approval set out in *Bhe* (case law based on the court case of *Bhe and others v Magistrate, Khayelish and others),* with

> Bhe the applicant in the mentioned case. Equally, as noted on the Richtersveld courts of 10 October 2003 that investigators embarking on this leg of the enquiry should be cautious to present historical records, because of the distortion tendency of older authorities to view customary law through legal conceptions foreign to it. The Richtersveld-case is called Restitution of Land Rights Act 22 of 1994: according to which the Richtersveld community was entitled to a restitution of land due to a customary law interest in this land.

The Court upheld the following decision: “It is important to respect the right of the communities that observe systems of customary law to develop their law. This is the second factor that courts must consider. The right of communities under section 211(2) includes the right of traditional authorities to amend and repeal their own customs. As has been repeatedly emphasised by this and other courts, customary law is by its nature a constantly evolving system. Under pre-democratic colonial and apartheid regimes, this development was frustrated and customary law stagnated. This stagnation should not continue, and the free development by communities of their own law to meet the needs of a rapidly changing society must be respected and facilitated.

“It follows that the practice of a particular community is relevant when determining the content of a customary law norm. As the court decided in the Richtersveld case, the content of customary law must be determined by referring both to history and the usage of the community concerned. ‘Living’ customary law is not always easy to establish and it may sometimes not be possible to determine a new position with clarity. However, where there is a dispute over the law of a community, parties should strive to place evidence of the present practice of that community before the course and courts have a duty to examine the law in the context of a community and to acknowledge developments if they have occurred” (*The case of Bhe and Others v Magistrate, Khayelitsha and Others (CCT49/03) 2004).*

The Constitutional Court evidently applied the Constitution together with customary law in making its decision.

The above-mentioned law case indicates a relationship between customary law that is followed by traditional leaders, and constitutional requirements. The decision of the court based the arguments on both customary law and the democratic Constitution. The argument provides information that traditional leadership and local municipality can work together without compromising customary laws and democratic values.

3.2.5 The White Paper on Local Government: 9 March 1998

The purpose of this White Paper was to spell out the framework and programme in terms of which the existing Local Government system was to be radically transformed. This policy document is one of Government's prescripts that regulate traditional leadership. Furthermore, the White Paper addresses the relationship between traditional leadership and local government. The Paper stipulates that traditional leaders are required to perform the following duties in their communities:

- Act as head of the traditional authority.
- Preside over customary law courts and maintain law and order.
- Consult with their traditional community by means of an *imbizo/lekgotla.*
- Assist members of the community in their dealings with the state.
- Act as spokespersons for their communities.
- Make recommendations on land allocation and the settling of land disputes.
- Lobby for support from Government and other agencies in developing their communities.

These duties may cause conflict with the daily operations of municipal councillors based on the introduction of wall-to-wall municipalities, which include the territories of the traditional leaders such as land allocation and coordination of community development projects. Therefore, it is noted that some of the functions of traditional leaders are overlapping with the functions of municipality. Law and order is basically the task of police, army and municipal police. These institutions use different methods to fight crime. On the other hand, traditional leaders have their own strategies to fight crime, which is not similar to that of the police. The operation of these institutions in communities affects the relationships between them. Traditional

police sometimes use traditional methods of fighting crime in communities, whilst the state organs are conscious of observing the Constitution. Municipal police operate at a local level where the traditional leadership police also operate (Tshehla, 2005:15-18).

3.2.6 A Discussion Document towards a White Paper on Traditional Leadership and Institutions: 11 April 2000

The main purpose of the discussion document leading towards a White Paper on Traditional Leadership and Institutions was to engage the South African population in a debate on the traditional leadership institution (Goodenough, 2002:46). The Provincial and Local Government Minister, then Sydney Mufumadi, called for the production and publication of this document in order to gather comments and input from the population (White Paper, 2000:3). The Minister argued that the discussion document did not focus on the existence of such institutions but rather on how those institutions could function and promote constitutional democracy in their communities. The document covers, but is not limited to, these matters:

- "the appointment or recognition of traditional leaders;
- the removal of leaders from office;
- the role of women in traditional leadership;
- the status of youth or minors in traditional communities;
- party political affiliation;
- remuneration of traditional leaders;
- co-operative governance;
- the role and function of statutory bodies representing traditional leaders;
- traditional communities and trans-provincial issues;
- traditional communities, national borders and trans-national issues" (White Paper, 2000:3).

The Conference on Traditional Leadership was held in August 2000 in Midrand, Gauteng province. During this conference the stakeholders, including the

government, received 67 group submissions. The contents of the submissions ranged from issues such as:

- “criteria for being a king or queen;
- the role of headmen;
- the development of a policy for landless chiefs;
- the participation of traditional leaders in rural local government;
- co-operative governance;
- participation of women in traditional leadership structures;
- the equity clause in the Bill of Rights;
- Legitimacy of some traditional leaders” (White Paper, 2000:3).

The document received different responses. Most government officials regarded it as a tool to get traditional leadership in order (Goodenough, 2002:48). This was a comprehensive proposal on the regulation of traditional leaders. However, the traditional leaders disputed this discussion document, calling it an insult to the institution. Section 3 of the Discussion Document towards a White Paper on Traditional Leadership and Institutions of 2000 stipulates the content of the vision statement of the White Paper as follows:

- “Provide for an institution which responds and adapt to change
- Provide for and institution, which is in harmony with the Constitution and the Bill of Rights
- Provide for an institution, which strives to enhance tradition, culture and cultural values
- Provide for an institution, which respects the spirit of community
- Provide for an institution, which strives to achieve unity and peace amongst people
- Provide for an institution , which promotes and facilitates a strong relationship between the institutions and the different spheres of government in particular-local government sphere

- Provide for an institution, which can mobilise rural people to participate in rural local governance so as to achieve RDP goals and Local Economic Development initiatives
- Provide for an institution, which, which can ensure efficient, effective and fair dispute resolution system through customary law courts for traditional communities
- Provide for an institution which acts in partnership with municipalities to contribute to and create co-operative and supportive relationships in service delivery, secure and safe rural areas" (Discussion Document towards a White Paper on Traditional Leadership and Institutions, 2000:6).

The vision statement of the White Paper is comprehensive in such a way that it captures the critical areas that could help harmonise the relationships between traditional leadership and local government. For instance, the vision implies that there should be an institution able to mobilise the traditional community to participate in the local governance. This is an ideal situation that Government wishes to see and experience at a local level. The vision further states that the ideal institution should have the capacity to promote a strong relationship between traditional leadership and local government at a local level of the traditional communities.

There are many transformative initiatives presented in the White Paper that could make traditional leadership regard the White Paper as an insult to their institution. The observance of the Constitution and the Bill of Rights is not fully accepted in traditional communities since it challenges the question of gender and the process of establishing leadership in rural communities. Another area of contestation between traditional leadership and local government is land administration, which leaders have to share with local municipalities countrywide. Traditional leadership view these types of initiatives by Government as attempts to seize power from traditional leaders in rural areas.

The final stipulation of the vision statement of the White Paper is more specific about what is envisaged in the relationship between traditional leadership and local government. The relationship is captured well when the vision states that traditional

leadership should form a partnership with municipalities (local, district, provincial and national) on all levels with the purpose of service delivery in traditional communities. The vision statement further encourages cooperation between the two institutions at a local level enabling these authorities to work together in ensuring that rural communities and secure and safe.

3.2.7 Communal Property Associations Act 28 of 1996

Land reform in South Africa is not merely another project of social transfer benefits to citizens, but should rather be viewed as a form of service delivery. Land reform lies in the centre of service delivery and community development. South Africa has a mainly rural set-up and large provinces such as KwaZulu-Natal and Eastern Cape are under traditional leadership. Land policies affect traditional communities directly or indirectly. National government introduced land claims with the purpose of enhancing service delivery in land ownership. The Act was introduced to enable communities to establish juristic persons to be known as communal property associations, in order to acquire, hold and manage property on a basis agreed to by members of a community in terms of a written constitution and to provide connected matters. Some of these communities are found in traditional areas led by a traditional leader. The introduction of the Communal Property Association (CPA) directly affects the role of traditional leaders, seeing that the association has a legitimate constitution to manage the community, which in turn weakens the authority of traditional leaders.

3.2.8 Extension of Security of Tenure Act 62 of 1997

After 1994, a number of legislations concerning rural people were initiated and implemented by Government. Rural communities are usually divided into two sections. This entails is a community of traditional leaders under traditional leadership and the community that mostly consists of farm workers. The jurisdiction of a traditional leadership applies beyond the boundary set between the commercial farming areas and traditional leadership communities.

The Extension of Security of Tenure Act has multifaceted purposes, however, the section relevant to the scope of the present study is the right of the occupier and the owner of the land. The second part of the Act's purpose is to deal with the illegal evictions that affected rural communities for a long period until the implementation of this Act in South Africa.

3.2.8.1 Section 5: the rights and duties of the occupier and the owner

The Act enforces the Bill of Rights with regard to the rights of both the occupier and the owner of the land. The Act holds that the occupier and the owner have a right to:

- human dignity;
- freedom and security of the person;
- privacy;
- freedom of religion, belief and opinion and of expression;
- freedom of association; and
- freedom of movement.

The Act further regulates and controls the illegal evictions that have been affecting the traditional community for decades until the introduction of this Act in 1997. Before the enactment of the Act rural communities were victims of evictions by land owners or commercial farmers and some were left in the road together with their belongings by land owners. This was also affecting traditional leaders since those communities were under their authority. Some of traditional leaders were also evicted together with their subjects. The Act was, therefore, implemented for the purpose of protecting the vulnerable occupiers against evictions.

3.2.8.2 Section 8 (1)(4): Termination of Rights of Residence and Evictions

At least after 1994 the incidence of evictions was reduced by the conditions stipulated in the Act. The Act provides that:

"The right to residence of an occupier who has resided on the land in question or any other land belonging to the owner for 10 years and –

a. has reached the age of 60, or
b. is an employee or former employee of the owner or person in charge, and due to ill health, injury or disability, is unable to supply labour to the owner or person in charge, may not be terminated unless the occupier has committed a breach considered in section 10 of the Act. Section 10 of the Act deals with the order of eviction, which may be given to an occupier for certain reasons warranting the owner to resort to eviction".

3.2.9 The Municipal Demarcation Act (Act No. 27 of 1998)

The Municipal Demarcation Act is crucial to regulate the functioning of the traditional leaders in the country. The fact that the Act is in place dealing with municipal boundaries, indicates that traditional leadership is required to comply with the directives of the law as stipulated by the Constitution. This area is open to potential disputes between traditional leaders and Government.

An example of such a dispute was presented in the media, uKhozi Radio, in the *Ezanamuhla* programme (a Zulu SABC radio station). This occurred in 2014 when a case was reported of ethnicity and tribalism in which *Inkosi* Dlamini of eNhlangwini claimed that his forefathers were kings, not chiefs. The area, to which *Inkosi* Dlamini was referring, is situated in the heart of KwaZulu-Natal. The boundary starts immediately south of Durban along the South Coast including the uMzimkhulu area. According to *Inkosi* Dlamini, his forefathers came from Swaziland, and are Swazis by birth. This leaves a number of questions unanswered:

- Why is there a kingdom of the Swazis in Zululand?
- Why did Dlamini lay a claim on the uMzimkhulu area, although this section of land from the Eastern Cape has then just recently been incorporated into Kwazulu-Natal?
- Why is the area claimed by Dlamini inhabited mainly by Amapondo (the Pondos) who share their origin with AmaXhosa?

The argument in this case is based on the effect of Demarcation Board Act, which at times results in boundary disputes. For instance, in this case of Nhlangwini, municipal boundaries did not take into account traditional boundaries claimed by *inkosi* Dlamini. Dlamini argued that his family came from a royal family of Swaziland, hence, he should be considered to be from royal blood. He claimed that his area of kingship starts from uMzimkhulu and all traditional leaders under the area belongs to the Dlamini kingship. However, the Demarcation Board did not consider such a boundary in terms of kingship. Only one king is recognised by the KwaZulu-Natal government, and he is not Dlamini, but King Goodwill Zwelithini of the Zulu.

From this background it is clear that the Municipal Demarcation Act (discussed above) is crucial to the study of the Simdlangentsha Tribal Authority. The Act was issued before the introduction of the democratic local government elections held in December 2000. The objective of the Act was to transform the apartheid boundaries and bring about unified structures that would be inclusive. It is reported that the implementation of this Act reduced the number of municipalities from 843 to 284. These boundaries reach across rural areas and tribal land (Goodenough, 2002:40). The application of this Act by the Municipal Demarcation Board produced the following spread of traditional leaders throughout the country:

- 277 traditional authorities in the KwaZulu-Natal province;
- 189 in Limpopo;
- 186 in Eastern Cape province;
- 62 in North-West province;
- 47 in Mpumalanga province; and
- 12 in the Free State province (Goodenough, 2002:40).

Traditional authorities cover approximately 6% of all African surface areas.

3.2.10 Local Government: Municipal Structures Act (Act No. 117 of 1998)

This Act defines the structure of local government and provides for the establishment of municipalities and its categories. In addition, it includes issues relating to powers

and functions. The functions of the district and the local municipality are separated. The question is: Where does the traditional institution fit in a specific municipality? Section 81 of the Act holds that traditional authorities traditionally should observe a system of customary law in the area of the municipality. The Act states the following with regard to traditional leadership:

a. Community members may participate through their leaders in the proceedings of the Council of that municipality.
b. They are allowed to attend and participate in any meeting of the Council.
c. Traditional leaders have no voting rights, but must be consulted about matters relating to traditional affairs.
d. A traditional leader without a traditional authority cannot participate since only such authority (formed by traditional leaders) represents the institution.
e. According to this Act, traditional structures are entails the following: local structures, district structures and provincial structures.

Structures pose the problem that they do not have absolute authority and power in influencing the Municipal Council in decision-making processes. Municipal processes are about numbers through the voting system to reach decisions. On the other hand, the Act stipulates that traditional leaders have no voting powers and further holds that the municipality may provide reasons for not considering a proposal forwarded by traditional leaders to the Council. Traditionally, decisions are reached through consensus. The Act may, therefore, not be much help to harmonise the relationship between traditional leaders and municipal councillors. However the Act at least gives traditional leaders the right to participate in deliberations of local government.

3.2.11 Local Government: Municipal Systems Act (Act No. 32 of 2000)

The content of local government legislation can pose a challenge to traditional leaders who have to function as a component of such a government. This Act is centred mainly on the functioning and role of municipalities. It further deals with powers given to municipalities to provide services to the local community. The Act does not mention traditional leaders per se; rather, it refers to the local community. This might create some friction in the working relationship between municipalities

and traditional leaders because it is untenable to view traditional leaders as ordinary local community members.

To sum up: This Act distances itself from traditional institutions. Seeing that local communities referred to by the Act are not traditional institutions, the focus is on a general traditional grouping or a segment of the rural population. The fact is, statements of this nature in an Act call for a review of the policy in question so that gaps in that policy can be identified and rectified. Traditional leaders do form part of the local community, but the Act does not specifically refer to this institution.

3.2.12 Traditional Leadership and Governance Framework Act (Act No. 41 of 2003)

The Traditional Leadership and Governance Framework Act is the first comprehensive legislation aimed at transforming traditional leadership in South Africa after the 1994 democratic elections. The approach and the instruments used in in the process of transformation in rural communities are illustrated in the objectives of the Act. The purpose of the Act is to regulate the institution of traditional leadership in relation to local government as one area of operation and further regulate their working relations on a daily basis. The Act has the following objectives: the recognition of traditional communities, establishment and recognition of traditional councils, the provision of a statutory framework for leadership positions within the institution of traditional leadership, specific functions and roles of traditional leaders, dispute resolution and the establishment of the Commission on Traditional Leadership Disputes and Claims, as well as to provide the code of conduct.

It is important to note that this Act forms a foundation for transforming traditional leadership and incorporating the institution into democracy after 1994. It provides for a Commission on Traditional Leadership Disputes and Claims in South Africa – a provision for the first time in the democratic dispensation. The enactment of this Act led to the establishment of Nhlapo Commission on Traditional Leadership Disputes and Claims in January 2011: “The purpose of the establishment of the Commission on Traditional Leadership and Claims was to restore the dignity and integrity of the

traditional leaders and traditional communities and the entire institution of Traditional leadership in South Africa" (Department of Traditional Affairs, 2011).

After the 1994 elections national government and provincial governments were required to:

a. "Promote partnerships between municipalities and traditional councils through legislation or other legal measures.
b. Any partnership between a municipality and a traditional council should be based on the principles of mutual respect (and recognition of the status), and be guided by the principles of cooperative governance.
c. A traditional council may enter into a service delivery agreement with a municipality (Tshehla, 2005:16)".

The Act was put in place to address the working relationship between traditional leaders and elected councillors and other government agencies. Section 20 (a-n) recognise the following responsibilities for traditional leaders, requiring of them to work with various government sectors in the administration of:

- justice;
- arts and culture;
- welfare;
- the registration of births;
- deaths and customary marriages;
- economic development;
- management of natural resources; and
- dissemination of information relating to government policies and programmes.

Traditional leaders should have sound relations with government stakeholders even when carrying out their own responsibilities. The Act mentions the administration of justice, which indicates that traditional leaders need a good working relationship with role-players such as the police, magistrates, prosecutors and judges.

The role of the traditional leadership is to provide security for their traditional community. This portfolio is the competency of South African Police Service. In some areas the municipal police or metro police provide safety and security for the community. It is thus important for traditional leadership to collaborate with these institutions to fight crime effectively in their communities**.**

3.2.13 Communal Land Rights Act 11 of 2004

Some of the reasons for introducing this Act include the need to transfer land to communities, including the Ingonyama Trust land, as well as to introduce democratic processes in the management of land, et cetera. This approach caused a number of problems for the traditional leadership. Land under the Ingonyama Trust is populated by traditional leaders and the Zulu King is the custodian of the trust. On the other hand, Government follows the wall-to-wall approach in developing communities. Traditional land, particularly in KwaZulu-Natal, falls under the Ingonyama Trust. The Act stipulates a provision to secure the land tenure system for rural communities and transfer land, including the Ngonyama Trust land, to communities.

3.2.14 The KwaZulu and Iziphakanyiswa Act (Act No. 9 of 1990)

The Amakhosi and Iziphakanyiswa Act was passed by the former KwaZulu government in 1990. This Act was implemented during the so-called Bantustan government, before the new political dispensation in the country. The Act was incorporated in the KwaZulu-Natal province when the interim Constitution came into being on 27 April 1994. The content of the Act deals with the *amakhos*i and *iziphakanyiswa* under the self-governing territory of KwaZulu. The Act contains a number of issues relating to these traditional leaders. It also has the following subdivisions:

- tribal and community organisation;
- appointment and conditions of service;
- dismissal and deposition of the *amakhosi;*
- retirement;
- remuneration; and

- suspension of *amakhosi or iziphakanyiswa.*

Some of the provisions of this Act do not differ from the provisions of post-1994 democratic legislation on traditional Leadership. This includes the Kwazulu-Natal Traditional Leadership and Governance (Act No. 5 of 2005) and the Traditional Leadership and Governance Framework (Act No. 41 of 2003).

3.2.15 Kwazulu-Natal Ingonyama Trust Act (Act No. 3 of 1994)

The Kwazulu-Natal Ingonyama Trust Act is controversial legislation passed in 1994 before the first democratic elections in South Africa. This Act is controversial because the former KwaZulu government passed this legislation with the purpose of securing specified land throughout the province of KwaZulu-Natal. The Act controls land specified by the Act, which is otherwise governed mainly by Zulu indigenous law. The jurisdiction of this Act (as Amended Act 9 of 1997) does not cover the following areas:

- townships;
- business areas;
- state-owned areas;
- privately owned property.

The Act transferred land that belonged to traditional leaders to a body termed the Ingonyama Trust in the province. The introduction of this legislation caused several difficulties with regard to land ownership in traditional communities. The content of the Act implies that traditional leaders do not enjoy powers and the rights of the land in which they reside with their own subjects. The power of traditional leaders to allocate land to their followers was not only weakened by the Municipal Demarcation Act, but was in fact denied by this Act.

The power of this Act continues to reap benefits from mines that are situated in traditional communities. This means that the Ingonyama Trust controlled the royalties of a particular traditional community, on behalf of the traditional leaders. This type of arrangement caused more confusion on the role of traditional

institutions, particularly in KwaZulu-Natal. According to the wall-to-wall municipalities, the floor surface of each land belongs to the municipality, not to the Ingonyama Trust. In terms of development, the local municipality thus are expected to drive local development.

3.2.16 Kwazulu-Natal Traditional Leadership and Governance (Act No. 5 of 2005)

There is an Act that plays an important role in outlining the traditional structures operating in communities where municipal councillors are operating. This is the Kwazulu-Natal Traditional Leadership and Governance Act. The purpose of this Act is to provide for the following practices:

- recognition of traditional communities;
- establishment and recognition of traditional councils;
- recognition of traditional leaders;
- role and function of traditional leaders.

It should be emphasised that this is the most relevant Act about the institution of traditional leadership because it addresses domestic issues of the province . The Act recognises the following traditional structures: *Isilo; Amakhosi; Izinduna.*

Isilo is recognised as a king or monarch. This leader is appointed in terms of customary law. It is said that *isilo* is appointed through the following process:

a. The royal family identifies the person who qualifies for the position.
b. If the portfolio is that of an *Isilo,* the name is forwarded to the Premier and the MEC.
c. The Premier would then advise the President.
d. It is the Premier's duty to inform the Provincial and National House of Traditional Leaders. The recognition of *inkosi* is similar but the name does not need to be forwarded nationally as in the case of *isilo*. The family of the *inkosi* is the one that provides the name for the identified candidates.

Section 8(1) of the Act provides for the functions of the traditional councils, which entails:

a. “To administer the affairs of the traditional community in accordance with customs and tradition

b. to assist, support and guide traditional leaders in the performance of their functions

c. To work together with municipalities in the identification of community needs

d. To facilitate the involvement of the traditional community in the development or amendment of the integrated development plan of a municipality in whose areas that community resides

e. To recommend, after consultation with the relevant Local House and the Provincial House of Traditional Leaders, appropriate interventions to government that will contribute to development and service delivery within the area of jurisdiction of the traditional council

f. To participate in the development of policy and legislation at local level

g. To participate in the development programmes of municipalities and of the provincial and national spheres of government

h. To promote the ideals of co-operative governance, integrated development planning, sustainable development and service delivery

i. To promote indigenous knowledge systems for sustainable development and disaster management

j. To alert any relevant municipality to any hazard or calamity that threatens the area of jurisdiction of the traditional council in question, or the well-being of people living in such area of jurisdiction, and to contribute to disaster management in general

k. To share information and co-operate with other traditional councils

l. To perform the functions conferred by customary law, customs and statutory law consistent with the Constitution

m. To uphold the values of the traditional community

n. To reject and prescribe such practices as the sowing of divisions based on tribalism

o. To promote peace and stability amongst members of traditional communities and to promote social cohesion within the traditional community” (section 8 (1) of KwaZulu-Natal Traditional Leadership and Governance Act 5 of 2005).

3.2.17 National Language Policy Framework of 2003

Language policy is one of the most important forms of legislation government initiated in the post-1994 dispensation. Minister Ben Ngubane depicts the importance of a language as follows: “A person’s language is in many ways a ‘second’ skin, a natural possession of every normal human being, which we use to express our hopes and ideals, articulate our thoughts and values, explore our experience and customs and construct our society and the laws that it” (National Language Policy Framework, 2003:3).

The National Language Policy Framework takes into account the constitutional provisions on multilingualism and is further concerned with government goals for economic, socio-political and education growth (National Language Policy Framework, 2003:10). The aims of this post-1994 policy are:

- “Facilitate the equitable use of the 11 languages
- Facilitate equitable access to government services, knowledge and information
- Ensure redress for the previously marginalised official languages
- Initiate and sustain a vibrant discourse of multilingualism with all language communities
- Encourage the learning of other official languages to promote national unity and linguistic and cultural diversity
- Promote good language management for official public service administration to meet client expectations and needs” (National Language Policy Framework, 2003:10).

The policy plays a crucial role in building unity among communities of diverse ethnic groups. The Bantustans, for instance, were arranged in accordance with ethnicity and similar cultural backgrounds, such as the Zulus in KwaZulu, and the Xhosas in Transkei or Ciskei. This arrangement deepened the polarisation of traditional leadership in line with their ethnic backgrounds seeing that these leaders are concentrated in the former homelands.

The introduction of the National Language Policy Framework also brought about change in the recognition of languages in South Africa. There are approximately 25 languages spoken in South Africa. The post-1994 transformation, however, recognised only 11 official languages countrywide. This includes the Nguni language group (isiZulu, isiXhosa, isiNdebele and isiSwati) and the Sotho language group (seSotho, sePedi, and seTswana), and finally the Tshivenda, Xitsonga, Afrikaans and English (National Language Policy Framework of 2003:5).

There is no doubt that the transformed language policy played a major role in facilitating nation building amongst traditional communities since 1994. Languages such as Tshivenda, Xitsonga, isiNdebele and isiSwati were more marginalised compared to other languages before 1994. These areas are mostly under traditional leadership governance. Traditional leadership is considered part of service delivery providers for their subjects, hence, knowledge of many languages regardless of ethnic origin help traditional communities to communicate easily with its members. Government meetings and projects targeting traditional leaders drawn from the various areas in the country, promote multilingualism amongst traditional leaders and contribute to unity across racial and ethnic lines.

3.3 CONCLUSION

Chapter 3 dealt with the applicable legislative and policy framework for the transformation of traditional leadership in its relationship with democratic elected local authorities. The chapter furthermore explored the legislative and policy relationship between traditional leaders and councillors. Further information was provided on the introduction of legislation in traditional leadership institutions and the direct impact of the legislation on the functioning of traditional leaders in their local communities. The discussion also revealed that traditional local governance has existed even before colonisation. Kings, chiefs, headmen and traditional councils were important structures in traditional communities. Regulation of traditional institution meant that this institution will be accountable to government through communities.

The wall-to-wall form of municipality initiated by Government does not omit areas led by traditional leaders, but rather encompasses all communities regardless of the particular area's historical background. Working relationships between municipality and traditional leadership became an important factor since 1994 because both institutions were required and expected to provide service delivery to communities. Joint operations between traditional leaders and councillors are commissioned by a number of legislations introduced since 1994. The dilemma lies in the relationship between the local ward councillors and the traditional leaders in South Africa. This difficulty is based on the fact that, prior to 1994, traditional leaders performed most of the local government functions such as service delivery (Palmary, 2004).

The discussion above placed the working relationship between traditional leaders and councillors at the centre of the chapter. Any discussion on the two institutions should be aimed at providing possible solutions for harmonising the relationship between traditional leaders and councillors.

Table 3 below gives an indication of how the legislative and policy frameworks discussed in this chapter are related to the theoretical framework used for analytical purposes in the present study.

Table 3: Analytical criteria and legislative and policy frameworks

Context	Criteria	Statutory framework
Political	1. Effect of a constitutional democracy	Municipal Structures Act
	2. Thrust towards nation-building	National Language Policy Framework of 2003 "Ready to govern: ANC guidelines for a democratic South Africa of 1992"
	3. Developmental role played by local government	The Municipal Demarcation Act, Traditional Leadership and Governance

		Framework Act 41 of 2003
	4. Political values, structures and functions of traditional authorities vis-à-vis local government	South African Interim Constitution (with regard to Indigenous law), Constitution of South Africa, Kwazulu-Natal Traditional Leadership and Governance Act
	5. Service-delivery issues between traditional authorities and municipalities	South African Interim Constitution (traditional leader entitled to be *ex officio* member of local government), Constitution of South Africa, White Paper on Local Government, Discussion Document towards a White Paper on Traditional Leadership and Institutions (with regard to co-operative governance), The Municipal Demarcation Act, Municipal Structures Act, Municipal Systems Act, Traditional Leadership and Governance Framework Act
Economic	1. Government's development and growth plans	Comprehensive Rural Development (CRDP)
	2. Poverty alleviation	Land Act of 1913, CRDP
	3. Job creation	National Development Plan (NDP)
	4. Social security	Land Act of 1913

	5. Land reform	Land Act of 1913, Freedom Charter, Restitution Land Act 22 of 1994, Communal Property Associations Act 28 of 1996, Kwazulu-Natal Ingonyama Trust Act
	6. Agrarian transformation	Freedom Charter, Restitution Land Act 22 of 1994
	7. Access to land	Freedom Charter, Restitution Land Act 22 of 1994, White Paper on Local Government
	8. Land use	Freedom Charter, Restitution Land Act 22 of 1994, White Paper on Local Government, Communal Land Rights Act
	9. Alienation of land/transfer of land	Freedom Charter, Restitution Land Act 22 of 1994, Extension of Security of Tenure Act 62 of 1997, Communal Property Associations Act 28 of 1996, Kwazulu-Natal Ingonyama Trust Act
	10. Food security	Food Security Policy for South Africa, 1997 The Integrated Food Security Strategy in South Africa of 2002
Social	1. Boundary disputes	Municipal Demarcation Board Act, White Paper on

		Local Government
	2. Gender issues	Constitution of South Africa, CRDP, Discussion Document towards a White Paper on Traditional Leadership and Institutions
	3. Generational relations	Ready to govern: ANC guidelines for a democratic South Africa of 1992

CHAPTER 4: HISTORICAL BACKGROUND OF THE SIMDLANGENTSHA TRADITIONAL COUNCIL

4.1 INTRODUCTION

The historical background of the area called Simdlangentsha is based on the dominion of eight recognised traditional leaders. All traditional leaders under the Simdlangentsha Traditional Council are found within two local municipalities, namely eDumbe and Pongola. The background information on the present study focuses on the Ntshangase, Mavuso, Sibiya, Simelane, Mthethwa, Ndlngamandla, Dlamini and Msibi clans. During the research excursion it was found that there are other traditional leaders in the eDumbe municipality who are known locally but are not recognised by the KwaZulu-Natal Department of Cooperative Governance and Traditional Affairs. This includes the following leaders: Sibisi of Bivane, Nkosi of Luneburg and Ntombela of Nkonkothe. The information of these traditional leaders falls outside the scope of this research since they were not part of Simdlangentsha Traditional Council when this name was formed. Simdlangentsha is the shortened name for: Simelane, Dlamin, Mavuso, Mthethwa, Msibi, Ndlangamandla, Ntshangase and Sibiya.

4.2 HISTORICAL BACKGROUND

The research discovered that the existence of the Simdlangentsha Tribal Authority dates back as far as the 1960s. In 1963 the establishment of the Simdlangentsha Tribal Authority was already documented. This fact is based on the Amendment of Bantu Authorities Act of 1963. A Definition of the area of the Dhlamini tribe and the establishment of the Dhlamini Tribal Authority in the Paulpietersburg and Piet Retief Districts is written in paragraph (a) of sub-section (1) of section (5) of the Native Administration Act (Act No. 38 of 1927). This indicates that the Simdlangentsha Tribal Authority formed part of the former Eastern Transvaal, seeing that Piet Retief is located in the Mpumalanga province (formerly part of the Eastern Transvaal). This information was valuable to the researcher by providing further information on the historical background of the Simdlangentsha Tribal Authority in general.

From a logical point of view it made sense first to establish the number of traditional leaders who constitute the Simdlangentsha Tribal Authority before interpreting and explicating the collected data. It is important to provide and in-depth investigation of the historical background of this traditional community. This will be done by comparing different items of information collected from interviews conducted by the Department of Arts and Culture as well as by the researcher.

4.2.1 Composition of the Simdlangentsha Traditional Council

The history of each traditional leader has been sourced from the notes compiled by the Native Commissioner of Northern Areas and the information has been accessed at the Pongola Magistrate. Originally the information was compiled in 1937. The present study focused on the traditional leaders under Simdlangentsha traditional community. Background is provided on those traditional leaders who have ties with the Simdlangentsha area. The history of the Simdlangentsha area and its traditional leaders was narrated by Mr. H. Nxumalo in an interview at his home in the Pongola outskirts on 26 December 2009. The interview held with Mr. Nxumalo provided secondary information to the information collected from the Pongola Magistrate Court Register.

The Simdlangentsha Tribal Authority, which is currently known as the Simdlangentsha Traditional Council, is not a recent traditional community. Simdlangentsha was established in the early 1960s with six traditional leaders originating from various tribes or clans and historical backgrounds. Simdlangentsha was at first a less populated traditional community. The present population of this community stands at approximately 85 000 (KwaZulu-Natal Department of Cooperative Governance and Traditional Affairs, 2012 Census). Information about the historical background of Simdlangentsha reveals that the tribal authority began functioning with the following six *amakhos*i (traditional leaders): Ntshangase, Simelane, Ndlangamandla, Msibi, Sibiya and Mavuso.

These are the original members of the Simdlangentsha Tribal Authority, as reported by a senior community member, Mr. B.H. Nxumalo (2009). According to this historian, a local person and former government employee of Traditional Affairs of

the phased out KwaZulu government, in 1964 two traditional leaders were added to the Simdlangentsha Tribal Authority, namely Dlamini and Mthethwa. These two were part of the current eDumbe Local Municipality. The first six traditional leaders fall under the current Pongola Municipality, but all the *amakhos*i of the Simdlangentsha Tribal Authority resort under one current district municipality of Zululand, which is the largest district municipality in KwaZulu-Natal. It contains five local municipalities (Nongoma, Ulundi, Abaqulusi, Pongola and eDumbe).

As indicated previously, the clans have an extended history. It will, therefore, be proper for this study to cover the genealogy of the clans in the Simdlangentsha traditional community dating back to before 1963. The information on the history of Simdlangentsha Traditional leaders was sourced from the written interviews conducted by the Department of Arts and Culture. For the Ntshangase tribe the interview was conducted on 13 August 2008. The information was sourced from Ulundi Archives and is kept in hard copies.

4.2.1.1 Ntshangase genealogy

The KwaZulu-Natal Department of Arts and Culture (2008:1-27) in an interview held with the Ntshangase clan found that Mqutsheli Ntshangase, the son of Sithambi Ntshangase, and son of Masipula Ntshangase, was one of a number of Zulu *indunas* sent by the King Mpande Zulu to occupy a whole range of territories north of the Pongola River to act as a buffer between the Zulu and the Swazi nations. This came after Indlovukazi of the Swazis sent a team of *izinduna* from Swaziland requesting protection from King Mpande. Mswati II died and the Swazi was without a king. Therefore, other tribes, including that of Buthelezi, continued to attack the Swazis. It is said that the Swazi were not people of war, therefore, they decided to hide in caves as protection against the Zulu invasion.

After the initiative of uLaZwide of Swaziland, Mpande sent Sithambi and his regiment called Khandampevu. The preparation for Sithambi to cross the Pongola River to be a leader of both the Zulus and Swazis began in 1867 but he only arrived in 1870. However, Ntabakayikhonjwa, his brother, crossed the Pongola River before him after being advised by his family members. Masiphula Ntshangase. Ntabakayikhonjwa did not protect the Swazis; instead, he fled with the Swazis when they were attacked by

Zulus and other neighbours. He was pursued by his own people until he reached Mankayane in Swaziland. Even at present there is a place in Swaziland called Mankayane of Mgazini.

The other traditional leaders of Simdlangentsha control small tribes compared to the Ntshangase tribe. It was a practice in the Zulu kingdom to send minor tribes to the territory of Ntshangase. King Mpande placed these minor traditional leaders under the rule of Ntshangase because he (Ntshangase) came from the Zulu royal family. In 1937, the heads of the small tribes were the following: (1) Manyombele Ntshangase, (2) Tshayinja Mtungwa, (3) Mtshekebezi/Mtshebheni Dhlamini, and (4) Mpumulwane Simelane. All these tribes resorted under Masipula Ntshangase in the northern territory. This area falls under the Piet Retief District. The Ntshangase area includes the following farms under the Release Area (the area released by Government for the eight traditional leaders of the Simdlangentsha Traditional Council): Zwartkloof, Kranskloof, Rhebefontein, Spekboom, Beginsel, Umkhwakhweni, Landsend, Aapieshoek, Hrownsnek, Rosendal, Whitecliff and the following farms outside the Release Area: Gellel, Leeukraal, Nyawo's Heuwel, Lebombospoort and farms currently under Pongola Irrigation Settlement. The family tree of the Ntshangase can be illustrated as follows:

Ndaba

🡻

Mamba Ntshangase

🡻

Masephula Ntshangase

🡻

Sthambi Ntshangase

🡻

Qhumsheni/Mqumtsheli Ntshangase

🡻

Mkhoma Ntshangase

🡻

Zulu Ntshangase

🡻

Landokhwakhe Ntshangase (the present traditional leader)

The Ntshangase clan can be traced back to the reign of King Mpande around the 1840s when the clan had already been living in Zululand. According to a different version they were sent to the north to protect the entire Zululand from enemies. However, the practice of deploying people to the north (as Mpande did) is not a recent tactic. It will be remembered that the very same king sent his aunt Mkabayi ka Jama to eDumbe (i.e. Paulpietersburg) with the purpose of having someone there to look after the concerns of the northern Zulus. It is thus evident that the Ntshangase clan was the pioneers and vanguards of all the traditional leaders of the Simdlangentsha Tribal Authority.

The above-mentioned facts also dispute the notion held by some community members in their area – including the late Mr. Nxumalo interviewed by the researcher in 2009 – that Ntshangase came to Simdlangentsha Traditional Council to usurp the power of the original people in the area. The interview conducted by the Department of Arts and Culture (2008), indicated that there were Swazis in caves when Sithambi arrived in Pongola. This includes Mavuso, Malinga and Motha surnames. Ntshangase came to Pongola because of a request from the *indlovukazi* of Swaziland.

4.2.1.2 Simelane

According to the KwaZulu-Natal Department of Arts and Culture (2009:1-22) the present chief of this tribal authority is Magutshwa; his name was taken from the clan ancestor, Magutshwa. The Simelanes originated from the Orange Free State many years ago. In the Free State, they resided between two mountains (Masilo and Masilonyane). According to the interview conducted by the Department of Arts and Culture (2008), Simelane is one of the sons of Ndlovu. Ndlovu had five sons (Simelane, Maseko, Khubonye, Dlomo and Mthimkhulu). Ndlovu was the son of Hadebe, who is regarded as the origin of the family tree of the five surnames. Hadebe was a Hlubi by birth, not a Zulu or a Swazi. This implies that the above-mentioned five clans are originally Hlubis not Zulus or Swazis as they are usually called in most areas. Ndlovu had two wives. The senior wife had three children (Lokothwayo, Mphembe and Simelane) and the junior wife had two sons (Khubonye and Maseko). It was reported that Simelane did not respect his half-father Maseko and there was a family quarrel, which led Simelane to leave his family.

Simelane and his followers moved down to Zululand (Mazibuko, 2014:2). History does not relate about his brothers' movement from the Orange Free State. After Simelane's arrival in Zululand, he settled between the towns Dundee and Utrecht. During his stay in Zululand, he resided in various places, including eNkaleni and eMdidimbi. Eventually he resettled in eNgoje, approximately 65 km from Vryheid. Simelane had a son called Majoli. Majoli had a son, Mfajoli and Mfajoli had a son Ngwane who also had a son named Luthuli and Luthuli fathered Magutshwa. Magutshwa was a hero in KwaZulu but he annoyed king Shaka because he was too proud of himself and treated himself as a king. Thus Shaka attempted to attack Magutshwa but the latter fled to Swaziland. Magutshwa was skilled in witchcraft especially in warfare *umuti* (traditional medicine). As a result, Shaka failed to subjugate Magutshwa.

Mazibuko (2014:2) explains that Shaka had natural tricks and was cunning. He allegedly used to have a severed human finger and used this piece of anatomy to point at his enemies. By mere pointing in the direction of his enemies, the enemies allegedly became confused and eventually failed to conquer him. There were three homesteads for the Simelane tribe in Swaziland, namely Bhozolo/Bhozongo, Magutshwa and Ndlambiba. Magutshwa was popular when Shaka was the king Zulus but began to conduct himself as a king. Shaka saw that Magutshwa wanted to be a king among the Zulus, and attacked Magutshwa. The attack was not successful because Magutshwa fled to Swaziland and hid in caves in that region (Nxumalo & Njoko:2)

During the time of Dingane, Shaka's successor, the Zulus remembered that the Simelanes (Magutshwa) ran away from Shaka and hid in Swaziland. Dingane tasked three *izinduna* (Buthelezi, Zondo and Sibiya) from uMgungundlovu to Swaziland. They speared Magutshwa to death, then kidnapped his children and brought them to KwaZulu. Magutshwa was buried at Pongola (Nxumalo & Njoko, 2009:1-8).
After the Simelanes were subjugated by Dingane, Mdlambiba organised the other Simelanes in Swaziland, urging them to return to KwaZulu and requested a place to stay from Dingane. Furthermore, Mdlambiba indicated that a Zulu *impi* took Simelanes' children. They headed to uMgungundlovu. At their arrival, Mpande commanded them to take their children and return to their ancestor's place, eNgoje

KwaNungu, and present the cattle to them. They used the river, Ncemane, for water and for their livestock. This river ends in Pongola. Mdlambiba died and the leadership of the clan was taken over by Ntengwane/Ncengwana. The names Ntengwane and Ncengwane identify the same person. Only the pronouncing of the name differs because different areas used these two names for him respectively. During the time of Mpande in KwaZulu, the Simelane tribe and Ntshangase were requested to move beyond the Pongolo River. According to Mpande, the Simelanes were to be given the area from the bridge KwaBhushulu in the Pongola River, to uMkhwakhwa, stretching until the grave of *inkosi* of the Simelanes, Magutshwa. He further ordered the Ntshangase to take the northern part of uMkhwakha, whilst the Simelanes govern the southern part of uMkhwakha. The Bhozongo group did not return to KwaZulu; they remained in Swaziland.

Mpumulana, from the Simelanes, was introduced to Ntshangase and officially appointed as chief of the Simelanes. The Simelanes' specific area in Simdlangentsha is KwaShoba/Thongwane. According to the Simelane's history Mpumlana was mentally retarded but had three wives, namely KaBiyela, KaNtshangase and KaZulu. The movement of the Simelanes from the Free State to Zululand and further into Swaziland implies that this tribe is one of the largest Ngunis in South Africa. It is, therefore, not possible for the researcher to summarise their history fully in this study. The present chief is Magutshwa, who is a son of *indlunkulu* uKaZulu. The genealogy of the Simelanes can be summarised as follows:

Simelane

⬇

Lokothwayo Simelane

⬇

Mphembe Simelane

⬇

Ngwane Simelane

⬇

Majoli Simelane

⬇

Mlotsha Simelane

↓

Magawozi Simelane

↓

Luthuli Simelane

↓

Magutshwa Simelane

↓

Mdlambibi (son of Magawozi)

↓

Ntengwane/Ncengwane (son of Magutshwa)

↓

Magedama Simelane (son of Mdlambibi)

↓

Nyumbane (son of Ntengwane)

↓

Mthimkhulu (son of Magedama)

↓

Mpumulwano (son of Nyumbane)

↓

Mnengwa (son of Mthimkhulu)

↓

Bhekinkosi (son of Mpumulwano)

↓

Mpizonke (son of Mnengwa)

↓

Magutshwa Simelane (present *inkosi*)

For the Simelane tribe, the interview was conducted by the Department of Arts and Culture of KwaZulu-Natal on 22 May 2009.

4.2.1.3 Ndlangamandla

The interviews held by the KwaZulu-Natal Department of Arts and Culture (2008: 1-29) indicate that Ndlangamandla, or Nkosi as they sometimes refer to themselves, originally hailed from Ngoje (Louwsburg). They settled in that area, known as

Abanguni, before the Zulu Revolution under the Shaka Empire in 1815-1820s. Zulu nationalism affected numerous Nguni peoples in Southern Africa and Shaka successfully conquered and incorporated many tribes or clans into the Zulu kingdom. The Ndlangamandlas also form part of those tribes who were forcefully incorporated into the Zulus. During the time of incorporation into the Zulu nation, they were called Nkosi not Ndlanagamandla as they are referred to at present. The *amaNtungwa* is a collective name denoting multiple Nguni tribes or clans. For example, the Zwanes, Simelanes and Khumalos also originated from *amaNtungwa.* But the Ndlangamandla tribe originated from the Khumalo amaNtungwa. Simelanes were also located in Ngoje and also referred to themselves as amaNtungwa.

It is important to understand the different clan names of the Ndlangamandla tribe. The clan is divided into various groups. The first group is the Ndlovu (amaNdlovu) group and amaNyanda. There were numerous traditional leaders of the Ndlangamandlas dating back before they were disorganised by the rise of Shaka of the Zulus. The most remarkable leader of the Nkosi tribe, after Ndlovu, is Langa, who expanded the Nkosi tribe after he fathered many children from different mothers. Mothers of his children came from Mdlalose who are known as Nyandas and Phondwana.

The name emaNyandeni came from the Mdlalose surname because of the clan name of uNdlunkulu of Langa. This includes the Ndlangamandla who are referred to as emaPhondweni from Phondwna. Other clans that are offshoots of this tribe includes Fakazi and Banakile. Ntonga was a son of Langa and was the leader of the Nkosis in Ngoje. The AmaNdlovu comprises a generation of Langa. Mlothswa is of the heroes in the Ndlangamandla clan. He led the Phondwana family. According to the history of the Ndlangamandla, the Whites arrived when Mlotshwa was leader of the Nkosis (Ndlangamandlas). Some reports claim that he was at the north of the Mkhuze River, but the Nkosis settled at Ngoje. Ngoje was well-suited to them because it had caves that provided hiding places. Before the rise of Shaka of the Zulus there were a series of *impis* among the tribes; therefore, the Nkosis used to hide in caves for protection against those ensuing battles or faction fights.

The movement or departure of the Nkosis from Ngoje began during the battle between Shaka and Nwandwe. The Nkosis were still at Ngoje whilst the Ndwandwes resided in Nongoma. It was a common practice that marriages between traditional leaders (*amakhosi)* were encouraged by different tribes. Some of the reasons for encouraging intermarriages between tribes or clans were to maintain peace among the tribes. The Ndlangamandla had a child from Ntonga who was married to Ngwane of Swaziland. It is approximately 10 km to travel from the Ndlangamandla to Ngwane Central in Swaziland. The Nkosi also had a child (Ndela) married to the Ndwandwe in Nongoma. There was a practice among the Ngunis that, if the parents or tribes of a child foresees that a particular one would be a leader in the community, that child was to be taken from his home to go and stay at his mother's home. The child of Ndela was, therefore, sent to the uncles in kwaNdlangamndla to grooming him there away from the Ndwandwe tribe.

The Ndlangamandla under Qhodisa was part of Shaka's regiments when they fought Zwide. Shaka became powerful and Zwide fled Zululand and moved to kwaSoshangene but his child remained at kwaNdlangamandla (Nkosi) at Ngoje. It happened that some of the Nkosis informed Shaka that the Ndlangamandla kept Zwide's child. The information was gleaned when people were drinking African beer in Mthethwa at Sikhhwami. Shaka decided to send an old man to go to Ndlangamandla and remain there for a brief period. The purpose was to confirm the information that the Ndlangamandla kept Zwidwe's child in their community. In the past people used to stay with families to which they are unrelated. They thus continued their stay in the family without questions about their coming and when they would be leaving. The spy sent by Shaka to Ndlangamandla eventually found out that, the child's father indeed was Zwide. This old man was certain that the child is from Zwide because he heard an old lady thanking the child with Zwide's clan names. One grandmother said to the child *wena Zwide kaLanga*, which are clan names of the Ndwandwe.

After confirming that the child was from Zwide, the old man disappeared and returned to KwaZulu where he reported to Shaka that the Nkosis had Zwidwe's child. It is said that Shaka was shocked and asked why the Nkosis kept Zwide's child. He did not believe the news because he knew that Ndlangamandla helped him to fight

Zwide who was not easily subjugated by the Zulus. Shaka then attacked the Ndlangamandla and eventually they submitted to the Zulu king. However, the Ndlangamandla were not actually incorporated into the Zulus by this war. It was done due to their own decision to from part of the Zulu nation led by Shaka. Thus, it is important to note that, when the Ndlangamandla was attacked by Shaka, they already were part of the Zulus. In other words, the attack by Shaka was not to incorporate the Ndlangamandla into the Zulu nation. It was rather a case of Shaka venting his anger that the Ndlangamandla kept Zwide's child with them whilst Zwide was his enemy (Nxumalo & Dlungwane, 2008:8).

After this attack by Shaka, the Ndlandmandla decided to instruct Magwegana (one of the Ndlangamandla sons) to flee with those who were left after the attack by Shaka; however, Mlotshwa remained in the South of Ngoje. The Fakazi clan was part of Ngoje seeing that Ngoje is a large clan that accommodated many people. The amaNyanda under the leadership of Magwegana moved towards the direction of Piet Retief (across the present-day N2 driveway), fleeing the anger of Shaka. They moved towards the north of the present day N2 driveway until they reached a place called uMthombo *wezimpangele* where they eventually settled.

This area resorted under Swaziland because the boundaries were not drawn during those days. All the areas before the Pongola River fell under Swaziland to the South of Piet Retief. Some of those of Swazi origin claim that Swaziland reaches as far as Ermelo, including Springs in Gauteng. On the other hand, the Zulu king also claims that his land includes part of the former Transvaal. The Ndlangamandla had a sound relationship with the Swazi king because Lilose from the Ndlangamandla was married to the Swazi king, Ngwane. Zililose (Lilose) was the daughter of Ntonga but her grandfather was Mgidla. In Swaziland they used to call her by the name ulaMgidla. Only names were known in the past. Surnames developed over time and most of these were taken from names of people. Even the son of Lilose in Swaziland was named Mgidla. Mgidla became a leader of a tribe or clan in Swaziland called the Mgidla. They occupied areas such as iTshelejuba. Later years those areas became KwaZulu territory.

The life of the Magwegana tribe in Swaziland was not difficult due to their benevolent relationship with the king of Swaziland. The Ndlangamandla spread to various areas in Swaziland. This includes Tshingila, Sidokodo, Matambi and Manyandeni. This Ndlangamandla group led by Magwegana became part of Swaziland. After the death of Shaka, the king of Zulus, the sons of king Ngwane of the Swazis quarrelled and fought against Mgidla, Zililose's child. The Ndlangamandla or amaNdlovu decided to assist Mgidla in driving back his brothers in Swaziland. The amaNdlovu were Ngunis and Zulu Ngunis, and were skilled fighters. Their attack left Swaziland devastated. The Ndlangamandla realised that they have caused problems in Swaziland and should return to Zululand, seeing that king Shaka no longer ruled, and was already deceased.

Because of the family quarrel in Swaziland, a team of men constituted by the clans Sidubelo, Thekwane and uMsuthu Mgidla all from the kingdom of Swaziland went to Mpande in KwaZulu requesting to be part of KwaZulu. Magwegana returned to kwaNodwengu in Ulundi under Mpande. They were given *umntwana* uHamu who had already received Ngoje, including areas across the Pongola River. The area became known as KwaZulu after Mpande assigned Hamu to take care of the area.

The Ndlandamandla found the Mavuso clan or tribe in the area. They were in the area before the Ndlandamandla, and the Mavuso were also traditional leaders in Swaziland. Mavuso and Dlamini are decedents of Ngwane, the Swazi king. Magwegana moved to the area across the Pongola River with some *izinduna* (headmen) of Ngenetsheni. Two headmen were sent to this area from Ngenetsheni to prepare for Magwegana, seeing that he was *inkosi.* Magubane and Nondabula were instructed to go and prepare for the coming of Magwegana as a leader of the Ndlangamandla across the Pongola River. The Mavuso became part of the Zulus after agreeing to be part of the Zulu nation but the Dlamini remained with their Swazi kingship even here in Zululand. In short, the place of the Ndlangamandla is Ngoje. This observation is supported by the placing of the graves of the Nkosis, which are at Ngenetsheni. This includes the graves of Langa, Ntonga, Mgidla and Kgodisa/Hodisa.

It happened that areas such as Ngoje and Simdlangentsha were taken over by farmers. The former government intervened by assigning an expert, Mr.Van Vaal (Van Waal) to ascertain how many people crossed the Pongola River to settle in Simdlandtsha. The government showed particular interest in the Zulu speaking people. Van Vaal was tasked to record all the citizens of the area (Nxumalo & Dlungwane, 2008:10). It was reported that Van Vaal was leading a commission tasked to conduct interviews in the area, but no date was given for the interviews. Data-collection tools included questions such as: Who are you? Where do you come from?

After the arrival of the farmers in Ngoje, children of Langa were also *amakhosi* at different areas at Ngoje. The farming system affected them. Ndlandamandla leaders such as Fakazi, Gama, and Phondwayo can recount the suffering caused by the farming system at Ngoje. White farmers found Ngoje agreeable, due to its ever-green climate. Across the Pongola River, Langa's children revived their traditional leadership or *ubukhosi* according to their family tree at Ngoje. After a certain period, the government issued an instruction that all *amakhosi* should come forward to be known. One of the reasons the government provided was that the collection of data from the *amakhosi* will help conducting censuses.

Zwelifayo was suspicious of this call. He pointed out that the Zulus and the Whites were fighting in Sandlwana, and queried the call for the *amakhosi* to present them. Victimisation of traditional leadership continued to create difficulties for traditional leaders in areas on the near side of the Pongola River. The findings of the interviews suggested that the number of *amakhosi* in the area would have to be reduced to prevent them from fighting amongst themselves or against the government. This took place approximately 1882 because the *inkosi* Jasema Ndlovini reported fighting the Whites in Sandlwana for two years. The government reported that the reduction of the *amakhosi* by demoting them from the status of being *amakhosi* in the area would start with those traditional leaders who show resistance. The Ndlangamandla leader allegedly was the first traditional leader to be targeted.

It is not possible to provide the full history of Ndlangamandla in this research document. This Nguni group dates back before the rise of Zulu Nationalism under the leadership of King Shaka. They have resided at Ngoje until they were attacked

and disorganised by Shaka. The information above about the Ndlangamandla does not pretend to be a complete history of the Nkosis. The fact that they were there before Shaka, Dingane and Mpande, implies that they have an extended history among the African Nguni. However, it is possible to list the succession of the Ndlangamandla's traditional leaders before king Shaka with the following diagram. Names in the diagram are not always arranged according to dates of birth of *amakhosi,* instead, they are at least arranged in accordance with time they led the clan. This outline is largely based on data obtained from the Department of Arts and Culture, in KwaZulu-Natal, during an interview about the Ndlandamandla of Simdlangentsha on 31 August 2008.

Khwababa Ndlangamandla

⬇

Ndlovu Ndlangamandla

⬇

Mawandla Ndlangamandla

⬇

Langa Ndlangamandla

⬇

Mgidla Ndlangamandla

⬇

Ntonga Ndlangamandla

⬇

Hodisa Ndlangamandla

⬇

Magwegana Ndlangamandla

⬇

Zwelifayo Ndlangamandla

⬇

Nqabeni Ndlangamandla

⬇

Mkhunjini Ndlangamandla

⬇

The present *inksi* (TG Ndlangamandla)

4.2.1.4 Msibi

Archives in Ulundi under the KwaZulu-Natal Department of Arts and Culture (2008: p. 1-10) indicates that the Msibi clan originated from Mozambique. Msibi was a famous traditional healer. He left Mozambique and headed to Buthonga, from where he went to Thongaland to ply his skills as a traditional leader. He was accepted in Buthonga by an *induna* named Yingili who was under the king of Swaziland, Somhlola. The Msibi tribe is sometimes called amaZingili because they came from Buthonga and moved to Swaziland.

King Somhlola persuaded Msibi to come to Swaziland because he heard that Mbisi was a highly efficient traditional healer in Tongaland. His (Somhlola's) children were affected by mysterious diseases. Some of the children were already dead as well as a number of his followers. He learned from Msibi through spies and sent a group of *izinduna* to Buthonga with the purpose of bringing Msibi to Swaziland. Msibi was tested by the King whether he was efficient in traditional medicine. Msibi proved to Somhlola his skills. This was also proven when Msibi assisted a person who was suffering from a stroke. The healing of this patient convinced Smhlola that Msibi was a good traditional healer.

After the incidents in Swaziland, Msibi returned to Buthonga because it was the only place he was more familiar with except Swaziland. It is told that he was not married in Buthonga. Diseases continued to trouble Swaziland under the leadership of Somhlola. As a result, Somhlola decided to send his people to Buthonga in order to bring Msibi back to Swaziland. The mission was successful because Msibi ended up in Swaziland. He eventually took Somhlola's daughter as his first wife. This first wife bore him a son by the name of Ndlondlo. Msibi had 21 wives in total but Ndlondlo became his heir because he was from the royal family of Swaziland. Msibi participated in the rule over Swaziland because he acted as an advisor to Somhlola, king of the Swazis. Msibi continued with his work as a traditional healer in Swaziland. The spread of the Msibi clan started when Mswati I, the son of Somhlola, died in Swaziland. It was a tradition in Swaziland that, if the king dies, someone should be killed and be buried with the *inkosi.* Sivesamadodza, one of the Msibis was identified as a person who would accompany Mswati I. The former was, therefore, killed and buried with Mswati I. After the death of Mswati I, Mswati II took the throne of *inkosi*

over Swaziland. No information is provided about the duration of his leadership in Swaziland but he also began to fall ill. Thus rumours surfaced that Gasa of the Msibis would be killed and buried with Mswati II. When Gasa heard that he was no longer safe, he fled Swaziland and settled in Mahamba near Piet Retief. This could be regarded as a first incident that caused the Msibisi to leave Swaziland. Mahamba is the area between Piet Retief and Pongola. It should be noted that during those days people were moving in groups. Gasa was, therefore, not alone. He was accompanied by his brother, Mnyama, and men from other clans. They became the family of eMasibini at Mahamba. Gasa fell ill and the Msibi clan was eventually split because they did not have a leader.

This lack of control for the Msibi clan was also perpetuated by interference of the Boers in the leadership of the Msibis the area. Mahamba is not in Swaziland, therefore, the control of the land was under the White people of South Africa. The Msibis took different directions in Sikhwahlane ("South Africa" as it was used to be named in Swaziland). They moved to town areas such as Piet Retief, Witbank, Newcastle, Mpangeni, Mtubatuba, Pietermaritzburg and Hamersdale. By 1910 some of members of the clan were in Bergville where they bought land with the purpose of settling. However, after they have bought the land, they claimed to be *amakhosi* of Bergville. They did not succeed because the Hlongwanes refused to allow them to take over *ubukhosi* of the Ngwanes (Hlongwanes).

The latest traditional leadership of the Msibis was built by Mfundeni, the son of Nsipho. Nsipho, the father of Mfundeni, went to Hlobane for employment. He met a lady, with the surname of Xulu, in Hlobane. She was a local lady from the place of Hlobane. Nsipo fathered Mfundeni. Mfundeni did not know Nsipho, his father, because Nsipho went back to Pongola or Swaziland whilst he was young. The History of the Msibis states that Nsipho died and was buried in Pongola or Swaziland. Mfundeni grew up in Hlobane and was affectionately known as a Swazi young man. Mfundeni, similar to his father, had a child by a girl with a Shabangu's surname. The girl's pregnancy led to the departure of Mfundeni in Hlobane. The community of Hlobane told him to leave Hlobane because of the incident. He fled and cross the Pongola River and then settled around the hills called Siqina under Mthethwa *induna*, Manzezulu. By this time he was not yet married.

When Mfundeni was about to marry, the war between the Ngenetsheni and uSuthu erupted. It should be remembered that Ngenetsheni and Hamu were assigned by King Mpande to lead the northern part of Zululand as Mkabayi was commissioned to take care of aBaqulusi. Mpande remained with Cetshwayo and Zibhebhu was also assigned to an area. Mfundeni was sent by Hamu requesting of Mthethwa to come and help fight the uSuthu but Mthethwa refused. Mfundeni finally convinced Mthethwa to go and assist Hamu against the uSuthu. Mfundeni decided to take his ibutho called Mgulatshani and went to the caves of Ngoje where the Hamus were hiding for safety.

The uSuthu followed Hamu until he settled at eTshelejuba. Hamu and Mfundeni went as far as Transvaal, and on their way attacked small tribes, until they reached the river called iNgwempisi towards Ermelo. Hamu sent Mfundeni to return to Zululand to gather information about the war of the uSuthu. Mfundeni reported that the uSuthu returned to their place. Both Hamu and Mfundeni Msibi moved down until Volktrust where they met Boers and asked them to go to Ngenetsheni and assess the situation. The Boers were quick to oblige because they were scouting for land. They reported that there was no more war in Ngenetsheni. Hamu thanked the Boers by giving them Vryheid and thanked Mfundeni Msibi by giving him the land across Pongola River, seeing that Manzezulu Mthethwa was already dead. This is how Mfundeni obtained the land of the Msibis in 1883. It is important to note that it is not possible for this research project to document all the information about the Msibi tribe. This information has been summarised in such a way to outline the highlights of this tribe. The family tree can be presented as follows:

Msibi

Ndlondlo Msibi

Mabuya Msibi

Ngonyama Msibi

Sizwesamadoda Msibi

↓

Ndlabayeni Msibi

↓

Nomaliba Msibi

↓

Gasa & Mnyama Msibi (Brothers)

↓

Buthi, Majubane & Nsipho (Sons of Gasa)

↓

Nsipho Msibi

↓

Mfundeni Msibi

↓

Mahagana & Nguboziyeweni Msibi (Sons of Mfundeni)

↓

Mlonyeni Msibi (Son of Nguboziyeweni)

↓

Ntethe, Ndiyane, Gadlamaxosha & Muziwetsha Msibi (Sons of Mlonyeni)

↓

Mdwane/Sihawu/Kufakwezwe Msibi

↓

Muziwetsha Msibi

↓

Mcombololo Msibi

↓

Mthinteni Msibi

↓

The present *inkosi* (Ms Msibi)

4.2.1.5 Sibiya

The comprehensive background of the Sibiya clan is given by Mazibuko (2014:2). According to Mazibuko the Sibiya clan came from a KwaZulu family, the royal family of the present Zulu kingdom. The Sibiyas descended directly from Ndaba. Ndaba had a son named Gumede, who had two sons, uZingelwayo and Zembethe. Both

sons were born at kwaNobamba, Ndaba's homestead. Ndaba's home was called kwaMpokoloshe. They were known as people of various talents. For instance, Zembethe was skilled in hunting.

The sons decided to leave their father's home (Mpokoloshe) but went different routes. Zembethe moved to the hills of Phathe where he continued to ply his hunting skills. On the other hand, Zingelwayo moved to the top of the Mthonjaneni hill. Zingelwayo farmed with large herds of cattle. It is reported that Zingelwayo's cattle were so many that some of them were accommodated in the kraal. His homestead was said to be surrounded by cattle. Community members used to say that Zingelwayo's home is fenced by cattle. Community members stated: *Ake nibuke oZingelwayo bafuye kanjani babiya ngezinkomo abafokazana bebiya ngamahlahla* ("Look at Zingelwayo had many cattle surrounding his home whilst ordinary citizens fenced their homes with wood"). The name of Sibiya originated from Zingelwayo because of cattle. On the other hand, the Zimbethe side called themselves as Gazu, who was the heir of Zembethe. As time went by, they agreed that they will use Sibiya as their surname or clan name.

The relationship between the Sibiyas and the Zulu family was severed when the Zulu Mkabyi and Mama proposed Mthaniya Sibiya for their father, Ndaba. Mthaniya was a daughter of Zingelwayo, who gave birth to Senzangakhona Zulu. The ties between Sibiya and the Zulu have a long history. Another daughter of Zingelwayo was married to *inkosi* uSenzangakhona. Senzangakhona had two sons, Magwaza and Nongqozo, from Zingelwayo's daughter. Magwaza was killed in the battle of Ncome ("Blood River") on 16 December 1838.

Sotobe was one of the Sibiya family who was close to King Shaka. Shaka sent Sotobe to King George, in England to learn more about foreign intelligence. Sotobe returned with a white boy who learnt everything about the Sibiya clan and eventually earned a Zulu name, Khathi. Sotobe was given land by king Dingane in Mgungundlovu. He was tasked to look for perpetrators in king Dingane's kingdom.

The Sibiya clan as traditional leaders have their own area in Khiphunyawo, Pongola. Khiphunyawo was the area given to them by king Shaka/Mpande. The purpose of

having the Sibiyas in Khiphunyawo was to prevent the Swazis from entering the Zulu-kingdom area. Shaka honoured this clan because of Nogwaza Sibiya who fought in the battle of Ncome. Nogwaza was a hero, and was praised as Nogwaza kaNgobe kaMheqwa waseNgwazini. Sikhobobo kaMabhabhakazana is one of the Sibiya's soldiers who fought in Bhambatha kaMakhwatha Zondi.

The area under the jurisdiction of the Sibiya clan includes Khiphunyawo, Vimbeshini, Ntumbane, Madakeni and other settlements closer to the traditional community. All these settlements resort under the Simdlangentsha Tribal Authority. Mavuso and Ndlangamandla were under the control of the Sibiya clan but rebelled against Sibiya's government. Nogwaza Sibiya crossed the Pongola River to Simdlangentsha. It is, therefore, important to note that not all traditional leaders of the Sibiyas formed part of the Simdlangentsha Traditional Council. Some of them were traditional leaders before their arrival in the Simdlangentsha Traditional Council. Nogwaza passed on his throne to Bhekayiphi, who was supposed to be succeeded by Edward, but the latter died before he was crowned as traditional leader. His son Thamsanqa became leader in his place. The Sibiya's family tree can be presented as follows:

Ndaba

⬇

Gumede

⬇

Zingelwayo, Zembethe

⬇

Mheqwa, Gazu

⬇

Ngobe, Mpangalala

⬇

Nogwaza, Sotobe

⬇

Mtshekula, Mdladla

⬇

Bhekayiphi, Mgxebe & Manyelela

⬇

Makhosini, Yotho, Magqulu & Bhulungwe

⬇

Gafundana, Mpisi, Thamsanqa, Kenneth

⬇

Mandondo & Mankayiya

⬇

Ntshosho

⬇

Mhlazana

4.2.1.6 Mavuso

According to Njoko from the Department of Arts and Culture, the Mavuso refused to take part in the department's project of interviewing all the members of the Simdlangentsha Traditional Council. However, the researcher was able to interview Mr. Nxumalo about the Mavuso traditional leadership in 2009.

Mgayi Mavuso, the leader of the Mavuso clan was driven from Swaziland, moved to South Africa and settled in eNgoje. This happened in approximately the 1830s, seeing that Shaka died in 1828 and after him Dingane and Mpande ruled the Zulu kingdom. Mgayi and his followers went to King Mpande seeking land for settlement. Mpande directed them to Nogwaza Sibiya, the grandfather of Bhekayiphi. They became part of the Hamu Zulu clan. Thereafter they moved to the Simdlangentsha Tribal Authority (Traditional Council) and spread across Kornet, Hofstel and the section of Klipval farms under the Simdlangentsha. The whole area of the Mavuso clan is called iNkundla.

It is not clear what became of this clan in Swaziland. The interview with Mr. Nxumalo indicated that there was a conflict or family quarrel among the clan members, which eventually caused their migration to South Africa (Nxulamo, 2009). In contrast, the Pongola Magistrate's notes report that this clan (the Mavuso) was driven from Swaziland by the Swazi (Ncotshane Magistrate's document, 1972:2).

4.2.1.7 Dlamini (uNdlunkulu, kaSibiya)

The information sourced from the KwaZulu-Natal Department of Arts and Culture (2008:1-12) indicated that the Dlamini clan is one of the Swaziland offshoots. They came from Swaziland through the Mahamba border gate and located in the former Transvaal province, near Piet Retief town (Umlando weSizwe sakwa Dlamini, 2008:1). The Dlaminis came to South Africa under the leadership of Sidubelo. According to the history of this tribe, Sidubelo came with Mlokothwa, who was then still young. They settled at eDumbe under the Zulu king, Mpande kaSenzangakhona Zulu.

The cause of the Dlaminis' departure from Swaziland is reported to be the misconduct Sidubelo committed within his family in Swaziland. It must be noted that even the history of this tribe gathered by the Department of Arts and Culture does not reveal the exact type of misconduct that was committed. After his departure, Sidubelo slept at the house of his brother, Malambule, and told him that he is leaving Swaziland due to the misconduct. This news was not received well by Malambule, because once the family became aware of the fact that Sidubelo slept over, he, as brother, will also face trouble. As a result, Malambule also left his homestead in Wahlane (Sikhwahlane/South Africa) and headed to KwaZulu. The place in which the Dlaminis was located in Swaziland is Makayeyana (Mankayane). Although Mlokothwa was young, Sidubelo was accompanied by his brothers, Mgidla and Thekwane and other tribes such as Kunene, Khalishwayo and Mvula. Sidubelo Dlamini headed to the Mkhabela Mountain whilst Mvula moved to Pongola and to the south of Bhomela. Sidubelo continued on until he reached Sibamba.

When they arrived in KwaZulu, they finally settled in Paulpietersburg and named their homestead eBhadeni. According to Dlamini's history, Mpande was adamant that, because they originated from the Swazi Kingdom, they should be given a large area in KwaZulu. Mpande told Ntombela, his *induna* that the Dlamini's should be given the territory from Mkhuze across Bivane and across the Pongola River towards Piet Retief. King Mpande indicated to Ntombela that Sidubelo should settle across Bivane and Ntombela occupy his position before Bivane near the Ngenetsheni place.

Sidubelo Dlamini then settled and named the place Mandlenkosi. The Shabangu and the Kunene's settled at Dumbe. *Inkosi* Sidubelo Dlamini built another homestead

called Bhadeni. This place is closer to KwaKhangelamankengane because Mpande wanted Sidubelo to prevent his people (Swazis) from taking the Zulu nation's place. Sidubelo and his son Mlokothwa did not remain long in the royal family of the Dlaminis since they died young. Before their death they express the wish to return to Swaziland. Therefore, when they died they were not buried in KwaZulu but were taken back to Swaziland where they originally came from.

The Zulus recognised people because of their heroism in battles and wars. The Dlaminis were famous and well-known under the reign of their leader, Ndidane. Ndida gave them royal blood because of his role in the war of Buholongo. When Mandlakazi and Ngenetsheni fought against the Suthu, it became clear that Mandlakazi had employed a strong traditional medicine in wars. According to Dlamini's history, the Mandlakazi used to slaughter cows and pretended that they were busy with a *braai* whilst doctoring the meat with traditional medicine. When attacked, they pretended to flee, to allow the Suthu group to eat the meat. The traditional medicine in the meat affected the Suthu, because soldiers led by Ngenetsheni and Zibhebhu failed to fight after eating the Manadlakazi's meat. It is reported that soldiers used to be weak, moved sideways and even failed to hold their spears, which eventually caused them to be brutally killed by Mandlakazi's regiments.

King Mpande ordered that Ndida should be called in to assist in the war against Mandlakazi. When Ndida heard of the invitation he warned the Suthu group that they should stop fighting Mandlakazi since he wanted to go to Swaziland to fetch traditional medicine. When Ndidane returned, he came with strong *intelezi,* which was used by the uSuthu to neutralise the Mandlakazi's traditional medicine or *intelezi* for wars. Ndidane (one of the Dlamini clan's traditional leaders) was not crowned as *inkosi;* his son Magubulundu was born and took the throne instead.

From the history of the Dlaminis it becomes clear that there were no wars between the Zulus and the Swazis, except for the incident where the Mthethwas took offence when King Mpande gave the Dlaminis a place in KwaZulu. The Mthethwas were not willing to be subjugated under the Dlaminis in Dumbe (Paulpietersburg). The Mthethwas, therefore, settled along Bivane River as far as eMuzweni. As time went by, Lushosha Xaba was appointed as *induna* to govern the affairs of the Mthethwa

tribe, but they did not have a territory. Lushosha Xaba died and his place on the side of the Mthethwas was taken by Lubhudukazi. Mthethwa and Magubulundu held a discussion at the place called eNtumaneni. Mthethwa wanted an area to settle in for his people. The Muzweni came from the meeting between the Dlaminis and Mthethwas when the Dlaminis said during the meeting that *muzweni nina bakwaDlamini* uMthethwa *uyakhuluma* ("The Dlaminis must listen because the Mthethwas are speaking").

In 1964, the name *iziqinti* was abolished and the Mthethwas were given territory from Bellement Bivane along Landspruit and Longskloof. This is the summarised history of the Dlamini tribe in the Simdlangentsha Traditional Council. It should be emphasised that this tribe has a longer history than the summary above presents. Their family tree from Swaziland can be outlined as follows:

Sidubelo Dlamini

⬇

Mlokothwa Dlamini

⬇

Ndidane Dlamini

⬇

Magubulundu Dlamini

⬇

Matilongwana Dlamini

⬇

Mbongeni Dlamini

⬇

KaSibiya Dlamini

4.2.1.8 Mthethwa, kaMtshali

According to the KwaZulu-Natal Department of Arts and Culture (2009:1-18), the Mthethwa clan, or tribe as they were initially called, originated from Thongaland. According to the history of this clan, the Mthethwas are Thongas. They moved from Thongaland to eMpangeni. Their forefathers are buried in eMpangeni. The Mthethwa Nguni continue to move on, until they found themselves in eBaqulisini. The

expedition of the Mthethwas began after the death of their leader, Dingiswayo in 1818. According to their family tree, Dingiswayo came from the junior house of the Mthethwas. The Baqulusi family comprise the senior house of the tribe. All the Mthethwas of ABaqulusi originate from the Khungwayo family. Khungwayo was the most senior person, even older than Jobe of the Mthethwa. But several generations of the Mthethwa came from the Khalomnyama. Khalomnyama is regarded as an original leader of the Mthethwa. The area of eBaqulisini was obtained in 1823 after the death of Dingiswayo in 1818.

Dingiswayo was a famous leader amongst the Ngunis in the South of Limpompo. It is reported that he was related to the Zulu king, Senzangakhona, as cousins. Dingiswayo held a traditional function at his homestead in kwaMthethwa and invited his cousin, Senzangakhona, to be part of the function. He told him to bring three swords, with the third one short. The main objective of this invitation was to introduce Senzangakhona to his child, Shaka, who was in kwaMthethwa since his birth. The function continued and was attended by Senzangakhona. Dingiswayo did introduce Senzangakhona to his son, Shaka, in the traditional function.

However, this is just mentioned for interest, since the focus of the research is not directed on the Senzangakhona historical background, but to the Mthethwa Nguni. Nxumalo and Dlungwane (2008:3) explain that Dingiswayo was a suitor of a beautiful lady in the area of Zwide. Zwide invited Dingiswayo to his area with the intention that (Zwide) will provide Dingiswayo with a chance to meet the lady and propose to her. Surprisingly, when Dingiswayo arrived in Zwide's place he was told to leave his *ihawu* (shield) and *umkhonto* (assegai) outside the house. The instruction was: *Shiya umkhonto wakho emnyango ungangeni nawo endlini* ("Leave your assegai at the door do not come with it in the house"). Thus of Zwide's plot succeeded: when Dingiswayo arrived at Zwide's place, he was attacked and killed.

Afterwards it became clear that the invitation Dingiswayo received from Zwide was a plot to assassinate him. In response, Shaka retaliated by attacking the Ndwandwes (Zwide's tribe) and conquered them, and as a result a number of them fled the area. The Khumalo clan, who were part of Zwide, also fled but returned as the Mabaso

because they were afraid to call themselves Khumalo, seeing that it was widely known that the Khumalos were part of the Ndwandwes.

After the death of Shaka, Mkabayi was assigned by Mpande to take care of the Zulus in the north of Zululand. She complained that Mpande sent her far away from home and she was just by herself without anybody: *ngiqulusile* meaning, “I am in the open space.” (This area is around Vryheid, therefore the northern part of KwaZulu-Natal currently is named ebaQulisini.) In her journey to northern Zululand she passed many important homesteads, including the traditional leader of Zwane’s tribe, Ncwanketsha, Ntanjana Mbatha. She finally settled at Mdlazini in Mthethwa’s family. At all the families mentioned Mkabayi were not received very well, except at Ntanjana Mthethwa. She spent a long time with the Mthethwas. According to the history the Mthethwas provided to the Department of Arts and Culture in KwaZulu-Natal, the Mthethwas came to this area after being instructed by Shaka that they had accompany Mkabayi to the north of Zululand because Mkabayi told Shaka that she had found a place in that area that was without an *inkosi.* However, Msimang (1982:184-185) differs from this account, by maintaining that Mkabayi was sent by Mpande not Shaka, seeing that Shaka was killed by Dingane, Mbopha kaSithayi Hlabisa, and Mkabayi was part of the plot. Mpande attacked Dingane after killing Shaka in a leadership struggle. After his defeat by Mpande Dingane flee from Zululand to Swaziland. The Swazis killed him, which was the end of Dingane in the Zulu kingdom (Interview with the late *inkosi* Msibi, in 2009 confirmed that Shaka was already dead when Mkabayi was sent to the northern part of Zululand, in eDumbe).

The actual reason for sending Mkabayi to the north was a fear on the part of Mpande that Mkabayi would organise a plot to assassinate him seeing that Mkabayyi plotted the killing of Shaka. Furthermore, Mpande assumed that Mkabayi would want to avenge Dingane because the latter was close to her (Mkabayi). Mthunzana Xaba and Masuku were assigned by Shaka to accompany Swamu Mthethwa and to assist Mkabayi in the north.

KaMtshali is chief of this clan. She is the wife of Phuzetsheni Mthethwa. The Mthethwas of the Simdlangentsha Traditional Council originated from the area called eGodini, which is situated between Vryheid and Paulpietersburg. According to the

history of this Tribal Authority, the Mthethwas were removed forcefully under the laws of the former government. Some of them were moved by commercial farmers to Ophuzane, a settlement closer to Paulpietersburg. Hasman was elected to act as chief in Muzeni (Muzzeni). Hasman is the father of David Mthethwa. Phuzetsheni Mthethwa took over from Hasman who had been chief of the Mthethwa clan before Phuzetsheni. It is important to note that the *ubukhos*i of this clan crossed the border of KwaZulu-Natal to the Mpumalanga province. The late David Mthethwa was an *inkosi* of an area named eMadabukela in the Mpumalanga province.

The researcher found it difficult to analyse the written history of the Mthethwas of Simdlangentsha, unlike the case with the other traditional leaders – the Msibisi, Simelenes, et cetra. Regarding these traditional leaders, the line of history is clear until their settlement in the Simdlangentsha Traditional area. The analysis of the document recorded by the Department of Arts and Culture of KwaZulu-Natal, provides limited information that is linked directly to the Mthethwa Nguni. The document is filled with general Zulu history, and not specifically focused on the Mthethwas of Simdlangentsha Traditional Council. However, the family tree of this traditional community can be traced back to the reign of King Shaka. This is one of the most powerful and largest Nguni groups in Zululand. Unfortunately its history in the Simdlangentsha Traditional Council is not as clear compared to other Nguni groups in the same area. Nevertheless, the following diagram provides information on to their leaders since the 19th century until the present.

Khalomnyama Mthemthwa

🡻

Khungunwayo Mthethwa

🡻

Jobe Mthethwa

🡻

Dingiswayo Mthethwa

🡻

Fokothi, Mbengwana, Dukuzane, Zwakonke and Mjidi Mthethwa

(sons of Dingiswayo)

🡻

Siwangu Mthethwa

Dukuzane Mthethwa

Mjeje Mthethwa

Mthakathi Mthethwa

Mnyayiza Mthethwa

Mandlakayise Mthethwa

Phuzetsheni Godfrey Mthethwa (present *inkosi* of the Mthethwas of abaQulusi)

4.2.2 Structure of the Simdlangentsha Traditional Council

The traditional structure of the above-mentioned community does not differ much from other traditional structures in the province or in some other parts of the country. Information on the structure of the traditional leadership of the Simdlangentsha was provided mainly by *amakhosi*, *izinduna* and government officials. One government official (Mr. M.H. Ntombela) remarked that the concept “tribal authority” is no longer used. Instead, “traditional council” is the most appropriate term for this purpose. The Traditional Council of Simdlangentsha is made up of 30 members, including the chairperson (Chief Msibi). The components of the council include:

- *amakhosi;*
- *izinduna;*
- elected counsellors; and
- non-elected members.

The information was provided by the chairperson of the authority, *inkosi* Msibi in 2009. This type of traditional structure resembles the traditional structures reflected in a number of government legislation and policies (Msibi, 2009). Mr.Nxumalo summarises the structure of the authority by pointing out that the structure entails the

combination of all traditional institutions within the tribal authority itself (Nxumalo, 2009).

4.3 GEOGRAPHICAL AREA OF THE SIMDLANGENTSHA TRADITIONAL COUNCIL

The geographical borders of the above-mentioned traditional authority are complex and not easy to understand, even by members of the community. This is due to the demarcation methods applied in the past. For example, former borders cut off most locations, townships or villages from central government or “white areas” as it was described by community members (interview with the Msibi Traditional Council, 2009). These areas were incorporated into the former Bantustans. This inclusion was based on specific criteria. Certain areas were not incorporated into homelands because they were regarded as commercially viable. The Msibi traditional council was requested to provide additional information on the geographical area of the Simdlangentsha Tribal Authority during the interview of historical background of Simdlangentsha Traditional Council.

According to Msibi, in 2009 this traditional authority included part of the former Eastern Transvaal, Pongola, eDumbe (Paulpietersburg), Abaqulusi, Mondlo and Magudu. However, this account is contradicted by information given by Mr. Nxumalo (2009). During the establishment of the tribal authorities he was already employed by the Department. It should be noted, however, that the Department was referred to by the following name: Local Government and Traditional Affairs. During the former KwaZulu government, Traditional Affairs were part of the Chief Ministry. According to Mr. Nxumalo (2009), the Abaqulusi municipality is not part of the Simdlangentsha Tribal Authority. He states that Simdlangentsha traditional community is made up of two municipalities, Pongola and eDumbe.

One is tempted to give credence to Mr.Nxumalo’s version, seeing that his information is also backed by evidence from a municipal map (Appendix E) of the Simdlangentsha Traditional Council and the Pongola Magistrate District Register. The specific map (Appendix E) does not include the Dlamini and Mthethwa traditional leaders. This is credible because Mr.Nxumalo mentioned in his account of

the historical background of Simdlangentsha Traditional Council that the authority was first established by six traditional leaders, which excluded Dlamini and Mthethwa (Nxumalo, 2009). Dlamini and Mthethwa became part of the authority after the geographical map of that authority had already been drawn. This was the question of redefining the boundary of Simdlangentsha Traditional Council (Ncotshane Magistrate document, 1972:2). The researcher managed to acquire a complete map (Appendix E) of the Simdlangentsha Traditional Council, which included all the names of the documented *amakhosi* (KwaZulu-Natal Department of Cooperative Governance and Traditional Affairs, 2014).

4.4 INTEGRATION AND CONSOLIDATION OF DATA ON THE HISTORICAL BACKGROUND OF THE SIMDLANGENTSHA TRADITIONAL COUNCIL

The information above on the historical background and geographical location (i.e. a map) of the traditional communities of different traditional leaders makes it clear that these territories are adjacent.

The interviewees gave different versions on the number of traditional leaders of the Simdlangentsha Tribal Authority. Initially, *inkosi* uMsibi mentioned eight traditional leaders. This number matched Mr.Nxumalo's version (Nxumalo, 2009). *Inkosi* Msibi added five traditional leaders to the eight, namely Simelane, Msibi, Ndlangamandla, Sibiya, Mavuso, Dlamini, Mthethwa and Ntshangase. In his (Msibi's) version he added the following *amakhosi:* Gumbi, Dlamini, Sibisi, Buthelezi and Ntshangese (another Ntshangase). This brings the number of *amakhosi* to thirteen.

Mr.Nxumalo, from his side, claimed that there were six traditional leaders of the Simandlangentsha, namely Simelane, Msibi, Ndlangamandla, Sibiya, Mavuso and Ntshangase (Nxumalo, 2009). According to Mr.Nxumalo, the Simandlangetsha Tribal Authority only consisted of six *amakhos*i until the Authority incorporated two traditional leaders from eDumbe (Paulpietersburg), namely Dlamini and Mthethwa, which eventually brought the total to eight traditional leaders. Mr.Nxumalo did not have Dlamini and Mthethwa in the first group, as was the case with *Inkosi* uMsibi. *Inkosi* Gumbi does not feature in Mr.Nxumalo's group because he insisted that Gumbi did not fall under the Simdlangentsha Tribal Authority.

With regard to the geographical area of Simdlangentsha, almost all the interviewees agreed on the extent of the area, except *inkosi* uMsibi and Mr.Ndlela who incorporated *inkosi* Gumbi of Magudu. The researcher is convinced that the information on the geographical area of Simdlangentsha is reliable because of a map (Appendix E) with supporting evidence. It will be noticed that some of the areas on the map fall outside of the province of KwaZulu-Natal. According to the old boundaries of provinces, Simdlangentsha Traditional Community extended into Mpumalanga Province, and namely the Piet Retief Local Municipality. This extension of the Simdlangentsha District was confirmed by Mr.Nxumalo, *inkos*i Msibi, Mr.Ntombela and Mr.Zulu (Nxumalo, 2009; Misibi, 2009; Ntombela, 2009 Zulu, 2009).

The attached scanned maps (Appendix D and E) provide the relevant information, especially on the areas in question in the present study (eDumbe KZN261 and uPongola KZN262). The second map indicates some important areas with links to the history of the Simdlangentsha Tribal Authority and Zululand history.

- Dumbe (KZN 261);
- Phongola (KZN 262);
- Ntshangase Tribal Authority;
- Sibiya Tribal Authority;
- Simelane Tribal Authority;
- Mavuso Tribal Authority;
- Ndlangamandla Tribal Authority;
- Dlamini Tribal Authority;
- Mthethwa Tribal Authority; and
- Msibi Tribal Authority.

4.5 THE DISTRICT MUNICIPALITY CONSTITUTING THE SIMDLANGENTSHA TRADITIONAL COUNCIL

The Simdlangentsha Traditional Council comprises two local municipalities, as mentioned previously. The researcher noted with caution the conflicting responses given by interviewees who were from the geographical area of the Simdlangentsha

community. Nevertheless, this tribal authority is formed by eDumbe and Pongola municipalities, and both form part of the Zululand District Municipality. This information is illustrated by the map (Appendix D) of the two Local Municipalities in Zululand District Municipality. It is important not to be misled by the location of the Abaqulusi, Nongoma and Ulundi municipalities, which form part of the Zululand District Municipality. These three municipalities (Nongoma, Ulundi and Abaqulusi) are not part of the Simdlangentsha Traditional Council.

The map *(Appendix D)* displays Nongoma, Ulundi and Abaqulusi but they are not part of Simdlangentsha Traditional Council.

4.6 CONCLUSION

The information provided by the interviews the Department of Arts and Culture in KwaZulu-Natal conducted revealed that out of the eight traditional leaders of Simdlangentsha, three came from Ngoje (Louwsburg) and moved to Simdlangentsha Traditional Council. It also became clear that six of the eight were independent of the Zulu kingdom, and not related. Only two clans (Ntshangase and Sibiya) can be linked to the Zulus. For example, the Dlaminis and the Mavusos originally came from Swaziland, unlike the Ndlanagamandla's, who originally came from Ngoje and moved to Swaziland. A number of the latter clan also returned to South Africa and settled in the Simdlangentsha traditional area. It was noted that two of these tribes namely, Msibi and the Mthethwas, find their historical background in Mozambique and Buthonga. The Msibi clan, according to their recorded history, originated from Mozambique, moved to Buthonga and eventually settled in Swaziland before moving to Ngoje and finally settling in the Simdlangentsha Traditional Council.

The information about the Mthethwa reveals that although they are Thongas, they have a close connection to the Zulu kingdom. The closeness of the two tribes dated back to the time when Shaka took over power in the 19th century. Shaka was raised by Dingiswayo of the Mthethwas until he took over the rulership of the Zulus. The Ntshangase and Sibiya clans are, therefore, extensions of the Zulu kingdom. The researcher has learnt that most of the traditional leaders to some extent have links to the Zulus. In some cases the links are based on their skills and participation in

Shaka's wars, which resulted in a massive movement of peoples from the southern regions to the northern areas of Southern Africa. This historical evidence should not lead to the assumption that all Ngunis are Zulus. Nguni tribes were independent of the Zulu tribe especially before Shaka's rule. It is clear from the discussion above that traditional leaders of the tribes had their own territories and leaders. They had their own customs and traditions independent of the Zulu traditions. It can be concluded that the Traditional Council comprises the following traditional leaders:

a. Dlamini
b. Mavuso
c. Msibi
d. Mthethwa
e. Ndlangamandla
f. Ntshangase
g. Sibiya
h. Simelane

CHAPTER 5: RESEARCH METHODOLOGY

5.1 INTRODUCTION

Before considering the definition of research methodology, it is important to explore the concept of research briefly, for clarity. It is common practice in communities and societies to hear members say they visit a library to research, only to find that their purpose to consult the library is writing an assignment. For example, a grade six learner states that: “My teacher sent us to library to research and I learnt a lot at the library including information about black holes” (Leady & Ormrod, 2010:1). Thus one needs to distinguish true research from a mere information gathering process. Leady and Ormrod (2010:2) defines research as follows: “Research is a systematic process of collecting, analysing, and interpreting information (data) in order to increase our understanding of a phenomenon about which we are interested or concerned.” Rugg and Petre (2007:31) define research as an exercise of finding something new; to discover new knowledge. These definitions lead to a further exploration of the concept of research, in particular research methodology.

The research methodology followed in the present study was chosen to help understand the transformation of the traditional leaders in the Simdlangentsha Traditional Council in relation to local government since 1994 (Zululand District Municipality and eDumbe and Pongola Local Municipalities).

Before elaborating on the science of information, it is of value to define research and research methodology. Various definitions of research have been provided in literature. Struwing and Stead 2001:3; Rugg and Petre, 2007:31 all point out that research differs from ordinary information gathering in terms of three aspects, which will be expounded below.

5.1.1 Research is based on the open system of thought

The statement in the heading is based on the fact that researchers continually are testing, criticising and reviewing information that they collect from respondents/participants. Furthermore, when researchers are engaged in an

exercise to extend knowledge through research, the outcome of the research becomes clear (Struwing & Stead, 2001:3; Rugg & Petre, 2007:31).

5.1.2 Researchers examine data critically

It is important to note that a researcher is different from a layman in the sense that the former examines the data and further scrutinises the sources of the data. Take for example, a general statement such as: “Traditional leaders are not transformed.” From a layman’s point of view the answer to this question can be a mere *yes* or *no.* However, from a researcher’s point of view the question will be: What substantiates the claim that traditional leaders are not transformed? These types of questions will be followed by scientific methods that aim to build critically on the evidence required for the statement (Struwing & Stead, 2001:3; Rugg & Petre. 2007:31).

5.1.3 Researchers generalise and/or specify limits on their generalisations

Research projects may conclude with generalisations. Such generalisations should be based on scientific methods. Suppose a researcher has been assigned to provide information on the political alignment or affiliation of the Zululand district population. This can only be done by properly sampling the Zululand district population since it is not possible to deal with the entire population of the district in a single study. A specified portion of the district’s population will be useful provided their spread represents the entire population of the district.

In this sense, the present study has limitations. The aim is not to generalise data but provide an in-depth description of the transformation of the traditional leaders in the Simdlangentsha Traditional Council in relation to local government – in this case the Zululand District Municipality, eDumbe and Pongola Local Municipalities. However, even in this case study the researcher was unable to involve all relevant role-players, including two traditional leaders (Nkosi and Sibisi) who were not part of the Simdlangentsha Traditional Council in the 1970s. Therefore, a sample is used of the community leaders and population, which limits the possible generalisation of the findings (Struwing & Stead, 2001:3; Rugg & Petre, 2007:31).

Research is about scientific knowledge, which, in turn, is collected through scientific methods and methodologies. Scientific knowledge is different from non-scientific knowledge. Scientific knowledge is not accepted on the ground of the authority of individuals or an institution, traditions, opinion of peers, traditions and accidental observations. This form of knowledge is based on the methods and methodology used in collecting and analysing information (Welman & Kruger, 2003:3). Scientific knowledge is, therefore, based on systematic observations, control and replication, and proper analysis (Welman & Kruger, 2003:6). This includes gathering information from libraries, archives, individuals and other forms of media. It requires the application of various methods, techniques and methodologies, which are scientifically suitable for the study in question. Suffice to say, scientific knowledge is only obtained by using scientific methods and methodologies.

Welman and Kruger (2003: 2) argue that research is an exercise that involves the application of different methods and techniques aimed at creating scientifically obtained knowledge by employing objective techniques and procedures. This presents another angle, which differentiates between research method and research methodology. Research methods entail approaches to collect information in the research project, whereas research methodology focuses much wider and includes research methods and research techniques (Kruger & Welman, 2003:2).

5.2 RESEARCH METHODOLOGY

The concept of methodology has been defined in the previous sub-section. The present study employed a qualitative research methodology, and, therefore, is not deductive. As a case study, a detailed description and analysis is presented of the dynamics in the changed socio-political landscape found in traditional leadership. The study focused on the question how the role of the traditional leaders in the Simdlangentsha Traditional Council on socio-political level changed since 1994. The study, therefore, provides information and knowledge on the manner in which the 1994 democratic elections affected the functioning and authority of traditional leaders in the Simdlangentsha Traditional Council.

Research projects typically utilise two main approaches: qualitative and quantitative. The use of these approaches depends on the type of research. A qualitative approach is more appropriate if the researcher plans to study a phenomenon from a closer perspective. On the other hand, a quantitative approach is most viable if the researcher is undertaking a large research study, aims to test theory and generalise it to a larger public. The quantitative approach uses surveys. It must be noted that each research approach has its own benefits (Rhodes, 2013:2).

Certain features separate the two research approaches. The qualitative approach is appropriate in describing a phenomenon in depth and normally involves fewer participants. In addition, this approach requires more time and resources to ensure that the objectives are achieved. The nature of qualitative approach does not provide room for generalisation of the results to the entire population. This is based on the limited number of participants to the research. However, findings obtained from a qualitative approach often lay the foundation for comprehensive research projects. In contrast, quantitative approaches deal with large groupings of participants and it is used to identify the characteristics or relationships among groups or units of study (Rhodes, 2013:3).

The qualitative research methodology was an appropriate choice for the present study. The reason is that there are a limited number of traditional leaders and all of them could be interviewed. However, the traditional area is vast and, therefore, the data collection had to be conducted in a qualitative way by means of focus groups, and the results of the interviews and focus groups were analysed to make findings.

5.3 RESEARCH PROCEDURES

This section focuses on the procedures, construction of an interview schedule as well as techniques to collect information for the research. Information for the present study was collected by means of primary sources (minutes, correspondence, letters, contracts and agreements), secondary sources (books, journals, newspapers, policies and articles), as well as interaction though interviews and focus groups.

It is important to note that information on the historical background of this Traditional Council (TC) was obtained through literature and face-to-face interviews conducted by the researcher during fieldwork. Pongola magistrate court provided notes with letters dated 24 February 1937 and 24 November 1972. The first letter was written on 24 February 1937 by the Chief Native Commissioner, Northern Natal. The 1937 letter requested a list of Chiefs that could be recognised in Northern Natal. This letter plays an important role in giving authority to the historical background of the Simdlangentsha Traditional Council.

The history of Simdlangentsha Traditional Council was further sourced from written interviews conducted by the Department of Arts and Culture in KwaZulu-Natal for the various clans:

- 22 May 2009 – Simelane;
- 13 August 2008 – Ntshangase;
- 31 May 2008 – Ndlangamandla;
- 22 August 2008 – Dlamini;
- 17 November 2008 – Msibi; and
- 28 March 2009 – Mthethwa.

According to the archivist in Ulundi, Mr. LJ Njoko, the Sibiya and Mavuso clans refused to be interviewed by the Department of Arts and Culture team when they were requested to provide information about their historical background in the Simdlangentsha Traditional Council and beyond.

The researcher conducted interviews with individuals from the Ncotshana (Location of Pongola) magistrate's court on the history of the Simdlangentsha Tribal Authority. According to the staff complement of nine, who were interviewed, the name Simdlangentsha was officially written down in 1972. This is confirmed in the Simdlangentsha Magistrate Office (as it is presently called), District Register. The name, Simdlangentsha, appears in the Amendment of Bantu authorities Act 68 of 1952) through Government Notice No. 1600 of 18th October 1963. On 11 September 1964, an Amendment of Bantu Authorities Act was issued to establish the Dhlamini

(old spelling for Dlamini) Tribal Authority and the incorporation of this authority into the Simdlangentsha Tribal Authority. The Dhlamini Tribal Authority was defined by Government Notice 1378. It was reported in the District Register that this Amendment included the incorporation of the Mthethwa Tribal Authority, which was defined by Government Notice 1386. It is understood that this information was destroyed by the community on 10 July 2014 during community protests in Ncotshana Township, in Pongola. The researcher, however, had access to this information before the documents were destroyed.

The above-mentioned incorporation of the Dhlamini Tribal Authority into the Simdlangentsha Tribal Authority was confirmed by a letter written by Magistrate NJ Badenhorst. The letter was in Afrikaans and concerned the area of Ntshangase in the Simdlangentsha District. The letter is dated 14 November 1972 (Simdlangentsha Magistrate Office, District Register). The information accessed from the District Register, indicates that NJ Badenhorst directed the letter to *Owerheidsake* on the registration of the Ntshangase clan within the Simdlangentsha District (Simdlangentsha-KwaZulu). However, the name Simdlangentsha should not be confused with the existence of *amakhosi* in the area before the name became official. It is important to remember that the *amakhosi* in this area (Simdlangentsha) existed much earlier than the 1920s. (This information was also destroyed by the community during protests on 10 July 2014 when the court was burnt down.) This argument is backed by chief Msibi (see the following sections), who argued that their clan existed even during Shaka's reign of power.

The researcher found a letter in the District Register dated 24 February 1937. The letter was written by the Chief Native Commissioner: Northern Areas, in Pretoria. It was directed to The Native Commissioner in Piet Retief. The title of the letter was "Recognition of Chiefs". The Chief Native Commissioner requested a list of chiefs who, in the opinion of the Native Commissioner, Piet Retief, should receive recognition. The Chief Native Commissioner mentioned in the letter that such recognition would be in accordance with the Native Administration Act (Act No. 38 of 1927). The letter deals with the recognition of chiefs in the Simdlangentsha tribal community who resort under Piet Retief town. The Simdlangetsha area is at the border of Mpumalanga and KwaZulu-Natal provinces. The feedback (24 February

1972) on the above-mentioned letter provided a brief history of each chief who resort under the Simdlangentsha traditional community and chiefs falling outside the Simdlangentsha area (Nxumalo, 2009).

In most items of the data accessed from the District Register, the area (Simdlangentsha) appears under the Piet Retief District, which resorted under the former Eastern Transvaal, not the former Natal. The researcher was fortunate to secure high-profile individuals such as a Dutch Reformed Church priest, an elderly of Simelane Traditional Council, and the first wife of *inkosi* Dlamini Traditional Council. These individuals were interviewed on 25 December 2013, 29 December 2013 and 27 January 2014 respectively, and had cognisance of the beginning of this traditional council. They were born in the same area and some of them resided in Simdlangentsha for more than 70 years.

Views from ordinary community members were also secured during interviews. Both groups, who were interviewed on the historical background of Simdlangentsha and the appearance under Piet Retief, agreed that Simdlangentsha started featuring in government correspondences from the early 1970s. The older interviewees stressed that Pongola formed part of the former Eastern Transvaal until the mid-1970s. However, the District Register disputes the fact that Simdlangentsha officially appeared in government documents only from the 1970s onwards.

The interview and focus group schedules (Appendix B and C) were constructed in such a way that it captured the historical background of the Simdlangentsha Traditional Council and the political, economic and social practices of the population of the area. The interview schedule was developed to assess information on the transformation of traditional leaders as developed in the theoretical model of the present study. The schedule, therefore, focused on the political, economic and social contexts of the transformation of traditional leaders as it relates to local government. This interview schedule was tested in a pilot study on 23 and 24 July 2014 with participants similar to the eventual interviewees. The focus groups from both municipalities (Pongola and eDumbe) were conducted on 13 August 2014 for Pongola, and 27 August 2014 for eDumbe municipality. Thereafter interviews were conducted with identified individuals and focus groups. The collected data from the

various interviews held on 14, 20, 22, and 30 August 2014, were translated (the interviews were conducted in Zulu) and analysed. The analysis implied the categorisation of the data to establish types and trends that can be used to reach informed results.

5.4 PARTICIPANTS IN THE STUDY

Simdlangentsha traditional community includes one district municipality namely the Zululand District Municipality, and two local municipalities, namely eDumbe and Pongola. The information for the research was sourced through the following participants: traditional leaders and the assistance of the officials of the Department of Cooperative Governance and Traditional Affairs (COGTA), civic organisations, Pongola Magistrate Court, Community Police forums in both local municipalities (eDumbe and Pongola). The groupings that were included in the study and interviewed are expounded below.

5.4.1 Traditional leadership

One Tribal Authority (Traditional Council) that resorts under the Simdlangentsha Traditional Council was a representative of all the Traditional Councils. In this case, the Dlamini Traditional Council was interviewed. This is based on the fact that all traditional councils of the eight traditional leaders are performing similar tasks. This implies that there was no sampling of traditional leaders, seeing that there are only eight legitimate traditional institutions.

5.4.2 eDumbe and Pongola Local Municipalities officials

One participant from the eDumbe Local Municipality and one from Pongola Local Municipalities were interviewed.

5.4.3 Government officials

Interviews with government officials were conducted as follows:

- Director/Executive Member of the Traditional House Support – one interview;
- Director/Executive Member of the Demarcation Board – one interview; and
- Director/Executive Member of the Dispute Resolution Board: Traditional Leadership – one interview.

5.4.4 Community members

Six focus groups were held with community members taken from the two local municipalities: South African Civic Organisation (SANCO) leaders – 2 members.

The analysis of Simdlangentsha Traditional Council required the participation of organisations and individuals taken from the same community to gather information about the council. Participants were taken from the two municipalities. The study used six focus groups for community members of the municipalities. Three focus groups were taken from the Pongola local municipality. The remaining three were taken from eDumbe local municipality. Members of the group were identified in a meeting of the Community Police Forum held on monthly basis. The Community Police Forum (CPF) consists of community-based organisations linked to police stations countrywide. Its existence and functioning is commissioned by South African Police Act 68 of 1995. CPF functions as one of the crime fighting agencies in South Africa. According to the Act each police station is required to establish a structure of a Community Police Forum at the station. This responsibility falls under the station commander of that particular police station. It is formed by community members regardless of age, colour or creed.

Both local municipalities have police stations; Pongola municipality has two stations (Pongola and Magudu). In addition, Pongola has a satellite police station in Msibi traditional or tribal authority. The Dumbe municipality has only one police station situated in Paulpietersburg town. CPFs are required to hold monthly meetings at the station or community hall. The six focus groups were selected at CPF meetings of the two police stations (Pongola and Paulpietersburg). This was done on different dates as identified above.

Each focus group had between 5 to12 members. The first three focus groups were identified in Pongola's local municipality, whilst the other three focus groups were identified in Paulpietersburg local municipality. Members in the meeting were requested to count from 1 to 12 starting from the first person at the front to the last person in the hall. Once a number of 12 was reached, the counting restarted from one. However, at the end it was found that not all groups would have 12 members. Members were rearranged in such a way that each focus group comprised a sizeable number of community members. Both Pongola and Paulpietersburg Community Police Forums hold their meetings at the police stations. In order to establish a representative of the population of Pongola local municipality, focus group interviewees were taken from three areas, namely, Ncotshana, Magudu and Godlwayo traditional community. All of these areas resort under Pongola local municipality. In the case of Paulpietersburg, the three groups were identified in one meeting because most CPF meetings are held at the police station. However, people from various communities travel to town to attend the meeting.

At the beginning of the interviewing process, participants were not free to talk openly with others. One participant remarked that he prefers to be divided according to *izigceme* (wards) but his proposal was rejected by the group. Political background had an impact at the initial stage of the engagement. It is important for the researcher to highlight certain challenges faced during the interviews;

5.4.4.1 Gender issues

Most focus groups could not freely express their views on gender disparities. Women were reluctant at the beginning of the interview sessions but participated as the discussion began to flow during the meeting. Their male counterparts who led the discussion treated the women on the same level as the children. They based this treatment on their view of the role that women and children fulfil at home, the way traditional community meetings are conducted and that participation in decisions in community programmes is handled. The males finally agreed that the roles of men, women and children changed since 1994, and that this is an improvement. However some participants were still of the opinion that Government had spoilt both women and children by giving them even more rights than men.

5.4.4.2 Political questions

At the beginning of the discussions this topic found no participation until the researcher elaborated. Even after the explanation by the researcher participation took time. One focus-group member remarked that political engagements in the area are difficult for them because Simdlangentsha Traditional Council consist of members of various political parties such as the African National Congress (ANC), Inkatha Freedom Party (IFP) and National Freedom Party (NFP). However, those present eventually participated in the discussion. The main issue was their mutual distrust since they belong to different political parties. They did, however, agree that political affiliations or alignments are less of a problem compared to pre-1994. The researcher found political tolerance among members of different political parties in the Simdlangentsha Traditional Council.

5.4.4.3 Boundary disputes

Boundary disputes were identified by most members of the focus groups as causes of conflict in the community. The researcher enquired about the types of disputes that normally cause misunderstandings among community members. This was a difficult question to deal with since one member of focus group 3 pointed out that prior boundary disputes resulted in the killings of people from different traditional councils of Simdlangentsha traditional community.

After being persuaded by the researcher, the participants did comment on common boundary disputes in the area. The discussion covered the following types of disputes: between two people or between families on cultivating fields, on land boundaries between two *amakhosi* (traditional leaders) or between traditional leaders and local municipalities. However, they indicated that even though there are boundary disputes, the degree of conflict in the community is no longer the same as before 1994. Some told the researcher that the interventions by government departments played an important role to resolve matters relating to boundary disputes. Succession disputes were minimal in the Simdlangentsha Traditional Council. This was evident during the interviews, seeing that there was no comment on succession disputes.

5.4.4.4 Poverty alleviation

The meaning of poverty alleviation was explained to all participants in the research project. Seeing that they found the conceptualisation difficult, the researcher provided examples to help them understand poverty alleviation. The involvement of traditional leaders in poverty was denied by most focus groups, including SANCO interviewees. The matter surfaced in the meetings that projects contributing to poverty alleviation are introduced by the Zululand District Municipality and Provincial Department of Cooperative Governance and Traditional Affairs, and not by the local municipalities. Water is supplied to communities by the Zululand District Municipality. This was important for the community since they use water for gardens and marketing of vegetables for profit. These examples of responses indicate that the participants eventually did grasp the concept of poverty alleviation.

5.4.4.5 Economic transformation

Participants found it difficult to understand the meaning of economic transformation. It was, therefore, explained to them by means of examples. Many members of the focus groups struggled to provide information about the role of traditional leaders in economic transformation. The Dlamini Traditional Council mentioned that traditional leaders used to assist poor families in communities by giving them cattle and by help tilling their land to help them plant. However, Mrs Dlamini, the acting traditional leader of the Dlamini Traditional Council, was of the opinion that this assistance does no longer take place. The Zululand District Municipality was mentioned as a contributor to economic transformation by providing chickens to community members so that they could farm with them and sell them to the community. These examples demonstrate that participants could conceptualise basic criteria for economic transformation.

5.4.4.6 Developmental state

The idea of a developmental state was also a difficult for the participants to comprehend. They found it hard to relate this concept to their daily lives and compare it with the pre-1994 period. However, during the process of the interviews, the youth took a lead by introducing into the discussions community development workers (CDWs and community care givers (CCGs)) who work in traditional communities of the eight traditional councils of Simdlangentsha.

These are examples of the difficulty in operationalising the concepts of the theoretical framework in the process of collecting information.

5.5 ETHICAL COMPLIANCE

Research projects are required to comply with ethical standards. For the present study an ethical application was submitted to the Ethical Committee of the Faculty of Arts at the North-West University. In this submission the methodology of the study was explained and motivated. This submission was approved and the ethical clearance number NWU-00048-13-S7 was supplied to the study.

As the case is with biological research, social research projects are also required to meet ethical standards. When human beings are the focus of investigation or research, caution in terms of ethical implications should be taken into account (Leedy & Ormrod, 2010:101). Welman and Kruger (2002:171) argue that a researcher under no circumstances may ignore ethical considerations in a research project. According to them, ethical considerations come into play during three stages of the research project: firstly, when the participants are recruited by the researcher; secondly, during intervention or measurement and lastly in the release of the results.

This study required compliance with the principles of voluntary participation, no harm to participants, informed consent, confidentiality and no deception – the researcher did adhere to all of these principles as explicated below.

Voluntary participation: Beside the consent form (Appendix A) provided during the engagement of the participants, it was clearly explained to them that participation in the study is voluntary in the sense that anyone can withdraw openly from the research at any time during the course of the project. This had an effect on the research since most participants chose not to be audiotaped during engagements, or threatened that they would withdraw. Due to this response the researcher modified his research design of tape-recording the responses, to taking written notes.

No harm to participants: The researcher and his team were cautious about any form of harm to participants. This included harm on an emotional, physical, or psychological level. The general rule is that the risk involved in the study should not exceed the risks in which participants are subjected on a daily basis (Welman & Kruger, 2002:171). In this regard, the team took more than 45 minutes to explain the requirements of the study and provided information that kept participants at ease throughout the study. The matter of being subjected to physical harm was not applicable since the interaction took place inside the hall with proper security provided.

Informed consent: When the researcher utilises other sources of information created by people (e.g. articles, journals, books and newspapers) the consent of the owner is not required except referencing the source. However, when human subjects are recruited to the study, it should be participation by consent. The briefing session before the actual interviews and focus groups helped allowing the individuals to decide on participation. Agreement forms (Appendix A) were distributed to the candidates and were collected by the research team immediately after being signed.

Confidentiality (right to privacy): Whatever exercises the researcher are engaged in with human participants, the right to privacy should be honoured. From the preliminary planning to the interaction between the participants and the research team, the participants' right to privacy was considered. For example, members of the focus groups in the eDumbe Local Municipality were not told that similar responses were received in the focus groups of the Pongola Local Municipality. Names of those who participated were not revealed to either group.

No deception: Deception includes providing a false name to the research subjects and providing the wrong considerations for the research purpose. In such a situation, a researcher should provide strong motivations, backed by scientific grounds for the decision to resort to such actions. However, in the present research, there was no need to hide information from participants. Names for the team were announced in the hall and the purpose of the research was defined clearly to participants.

5.6 CONCLUSION

The choice for a qualitative methodology in handling the research was appropriate because the area of research was defined and manageably defined. The interview schedule was designed in such a way that it accommodated the objective of the research, namely historical background of the traditional leaders, as well as the political, economic and political contexts. The interview schedule also included a section assessing the interrelationships between the three municipalities (Zululand District Municipality, eDumbe and Pongola Local Municipalities) and the Simdlangentsha Traditional Council.

Participants in the research project were identified strategically. For instance, Pongola Local Municipality is made up of three major areas (Magudu, Godlwayo and Ncotshane) and all three these areas were represented in the research. Participants were evenly identified. There was no compromise with regard to gender, age or political affiliations. Participants were not asked to indicate their political alignment. The environment where the information was collected was friendly and conducive for an individual to respond freely without fear. Questions were designed in such a way that no personal queries required of the participant to reveal her or his private profile.

Finally, the researcher had been careful about ethical considerations from the beginning of the study until its completion. The above-mentioned ethical principles were adhered to throughout the process of engaging the participants.

CHAPTER 6: TRANSFORMATION WITH REGARD TO POLITICAL CONTEXT

6.1 INTRODUCTION

The focus of this study, and therefore the chapter, is on the transformation of the traditional leadership in the Simdlangentsha Traditional Council as a result of its relationship with the democratically elected local authorities of Zululand District Municipality, eDumbe and Pongola Local Municipalities since 1994. This chapter reports on the results from analysing the data received from the interviews and focus groups, with specific reference to the political context of transformation. According to the theoretical framework it was indicated that in the mentioned context the focus would be on the following aspects: the constitutional democracy's transformative effect on traditional leadership, the thrust towards nation-building, the developmental role of local government, the political values, the structures and functions of traditional authorities vis-à-vis local government, and the service- delivery issues between traditional authorities and municipalities. In addition, this chapter indicates which contributors the participants viewed as applicable political entities involved in the process and what their role entailed.

6.2 POLITICAL ENTITIES

The Simdlangentsha Traditional Council has its own political practices as is the case with all traditional or modern communities. It is a given fact that this traditional community is well recorded by government, seeing that officials in the Department of Cooperative Governance and Traditional Affairs provided more information on a number of issues attributed to this traditional community. The first part of the questionnaire dealt with information on political entities. During the interview session all participants seemed to agree that the Simdlangentsha Traditional Council is made up of two local municipalities (eDumbe and Pongola).

The interviews also focused on historical background of the traditional council. Focus group 1 in eDumbe Local Municipality provided the following information about the history of the Simdlangentsha Traditional Council:

The area called Simdlangentsha includes eDumbe and Pongola Local Municipalities under the Zululand District Municipality. This response was similar in most of the focus groups interviewed by the researcher. Key participant 2 interviewed in government offices in Pietermaritzburg, did not mention eDumbe as an area that forms part of Simdlangentsha Traditional Council. However, the participant was very specific by providing names of areas or *izigceme* that do resort under Simdlangentsha in the Pongola area. These areas are Manyandeni, eSinqeni, iSivule, KwaShoba, Phondwane, Magudu, Kwandeva and Khandova. Traditional leaders mentioned by the government official were attached to the areas they rule or control. Sibiya (ntumbane), Mavuso (KwaNkundla), Ndlangamandla (Manyandeni), Msibi (ESinqeni), Simelane (KwaShoba), Ntshangase (ISivule), Ndlangamandla (Phondwane), Ntshangase (Magudu) and Gumbi (Khandova).

This information differed from that of the focus groups interviewed on the number of traditional leaders and the areas that fall under the Simdlangentsha Traditional Council. Focus groups 1, 4, 5 and 6 identified eight traditional leaders in the Simdlangentsha Traditional Council. One government official stated there are nine traditional leaders. One of the traditional councils and SANCO interviewed on 5 August 2014 confirmed that the Simdlangentsha Traditional Council includes only two local municipalities and it comprises eight traditional leaders, namely, Dlamini, Ntshangase, Sibiya, Mavuso, Mthethwa, Ndlangamandla, Simelane and Mthethwa. The two traditional leaders, Ntshangase and Gumbi, do not resort under this traditional community. This fact was corroborated by the Dlamini Traditional Council during interviews on 5 August 2014. With regard to names of areas falling under each traditional leader, this fact was also confirmed with the mentioned traditional council.

However, it is necessary to point out that boundaries of some of these areas are not clear, and in some instances there are potential future disputes looming. It therefore provides a basis to conclude that Gumbi (Khandova) and Ntshangase (part of Magudu) do not traditionally resort under the Simdlangentsha Traditional Council. The Ntshangase in Phondwane area fall under the Simdlangentsha traditional community. There are traditional leaders who carry the Ntshangase surname. Ntshangase of Phondwane forms part of the Simdlangentsha Traditional Council

traditional leaders (Mavuso, Ndlangamandla, Mthethwa, Msibi, Sibiya, Dlamini and Simelane). Ntshangase of Magudu lies between Nongoma and Pongola municipalities; thus historically Ntshangase of Magudu is not included in the historical background of the Simdlangentsha Traditional Council.

6.3 POLITICAL TRANSFORMATION

The following sub-section focuses on the different aspects of the political context as indicated by the general theoretical framework.

6.3.1 Democracy and nation-building

According to SANCO, before 1994 democracy did not exist in the mentioned traditional community. The concept of democracy began surfacing after the 1994 democratic elections in Simdlangentsha Traditional Council. The introduction of democracy in this traditional community was viewed by traditional leaders as an attempt by Government to take power from them, whereas civil society viewed democracy as a liberating tool from socio-polito-economic oppression. On the other side of the coin, SANCO held that nation building was the responsibility of everyone in the community, even before democracy. However, the emphasis was placed stronger on traditional leaders as their main responsibility was to ensure that people are united in their communities.

Focus groups 4 and 5 supported the idea presented by SANCO that, before 1994, democracy was not unknown in this traditional community (Simdlangentsha). They argued that the concept of *izimbizo* mainly practised by traditional leaders was not democratic in nature in 1994 because it was for the benefit of the traditional leader or *inkosi,* not the community. Community members were forced to pay fines, which were channelled to the coffers of the traditional leader. Focus groups 1, 2, 3 and 5 continued to emphasise the fact that democracy was not part of the community's vocabulary before 1994. They argued that traditional leaders dictated to their subjects because their word was considered final, even though *izimbizos* were convened. Participants from Pongola and eDumbe local municipalities argued that nation-building before 1994 was not an issue in the Simdlangentsha Traditional

Council. Their argument was based on the fact that *izimbizo* were concentrated on the laws that would eventually find community members guilty in order to pay fines that were due to the traditional leader, not to the community.

In contrast, the participants of the traditional council differed from the opinion of above-mentioned focus groups and of SANCO. During the interview held on 5 August 2014 with the Dlamini Traditional council, the *undlunkulu* (kaSibiya) contended that democracy is not new in the traditional leadership of Simdlangentsha Traditional Council. She argued that democracy was put in action through the *izimbizo* convened by *inkosi* through *izinduna* (headmen). The council indicated that the very same *izimbizos* were used to resolve conflicts, which eventually reduced incidents of faction fights and promoted unity in the community. The council added that nation-building was important for traditional communities because it helped maintaining social cohesion among the communities.

The council is not in agreement with most focus groups regarding the topic of democracy before or after 1994 democratic elections. In their view 1994 added more value to the functioning of democracy among traditional leaders of the Simdlangentsha traditional community. The council for instance, acknowledged that the post-1994 era recognised women in traditional leadership. The council pointed out an example by referring to Dlamini's traditional leader who is a woman. She has held the position for a long time in place of her son who was still too young to occupy it. The researcher was informed by the council that the *uNdlunkulu* (kaSibiya) is about to leave the position of being a traditional leader for the Dlaminis and passed the position on to her son since he already has come of age to occupy the position.

Each question in the questionnaire required a response about the contribution of local government to any changes after the 1994 democratic elections. All participants in different focus groups, including the traditional council and SANCO, maintained that the local government did not contribute to changes post- 1994. The traditional council stated that the local government through its councillors is not even informing traditional leaders of meetings they hold in Simdlangentsha Traditional Council. This was confirmed by focus groups 1, 2, 3 and 4, who also seemed uncertain about the role the municipality plays in the community.

6.3.2 Developmental state

This was one of the questions that the participants did not grasp fully, even after the concept was explained to them. Nevertheless, all groups, including the traditional council, responded to the question. SANCO and government officials showed better understanding of the concept of a developmental state since in their responses they mentioned social, economic and political transformation. The traditional council agreed that traditional leaders are fully aware of development in their community but agreed that their understanding did not include the nature of the state before the 1994 elections.

The Traditional Council argued that the traditional leadership provided economic development in their communities with the purpose of assisting those who were struggling to support themselves. The tradition of *ilima* (inviting people to one's homestead to help the family plant crops, build a house etc.) as well as the rotation of cattle and crops was used to transform the economy for the traditional community. The Simdlangentsha Traditional Council used to till and plant different types of crops. There were vast herds of cattle seeing that livestock were seen as a viable economic tool in the community.

Respondents from the focus groups (1-6), government officials and SANCO representatives had similar responses on developmental state and developmental role the state should fulfil in this regard. According the participants, the traditional leadership were ignorant about the concept of the developmental state before 1994. They argued that this is an example of the new concepts introduced by democracy post 1994. According to SANCO the traditional leaders were not concerned about the development of the community. They were allegedly only focusing on their own interests and not those of the community.

There was a general consensus among participants that the era post-1994 saw changes regarding the role of the state in developing communities, including traditional communities. Even the traditional council concurred that programmes of development in the Simdlangentsha traditional community began to increase after the 1994 democratic elections. However, most participants did not mention

contributions by local municipalities. Instead they pointed out the provincial government (Department of Cooperative Governance, Department of Transport and Department of Public Works).

The researcher observed during the interviews that more youth participated in the groups compared to older people. The youth spoke about community development workers (CDWs) and community care givers (CCGs) deployed by the Department of Health and the Department of Social Development to work in the communities. The youth further posed questions about the roles and functions of these community-based workers. Some of the functions included identifying the most destitute families in the community and report them to the government programme called Operation Sukukma Sakhe (OSS). OSS is the government initiative in which different government departments combine for the purpose of coordinating service delivery. The researcher noticed that the high rate of participation by youth especially in community work is because most of the CDWs and CCGs are young and are fully committed to their work. It was explained during the interviews that both CDWs and CCGs receive stipends from the government through the Department of Health and Social Development.

6.3.3 Political values

Political values were explained as active involvement in politics, the participants' strong community sense and group solidarity as well as the importance of personal connections and consensus building. A key participant in the traditional council argued that traditional leadership had its own political value system that differs from the post-1994 political values. He pointed out that traditional political values in Simdlangentsha were based on hereditary leadership and the traditional structure. This structure implied that political matters were addressed traditionally.

In the interview held with SANCO it was confirmed that political values and practices were resolved through an *izimbizo* convened and held under the leadership of the traditional leader of the traditional community concerned. The current political values do differ from the practices of the period before 1994, but most participants agreed that there are still similarities with the current situation. One member remarked in

focus group 1 that the existence of Tribal Authority court (traditional court) in the new dispensation is an indication that the new government does still support traditional political practices.

These slight political changes in the Simdlangentsha Traditional Council did not come about by the intervention of local municipalities. However, the municipal officials argued that most changes in the functioning of traditional leaders in the country, including the Simdlangentsha Traditional Council, are made possible by the municipalities through the Department of Cooperative Governance and Traditional Affairs.

6.3.4 Political structures

Political structures were defined as a hierarchy in the political leadership for the traditional community of the Simdlangentsha Traditional Council. Focus groups 1 and 2 viewed political structures as mainly comprising men elected from family members. Traditional leaders (chiefs) used to act as heads of traditional political structures. Participants emphasised that in most cases the elder son of the *inkosi* is normally appointed as heir to succeed his father. This was found as a common trend among all the traditional leaders of the Simdlangentsha Traditional Council. When examining their historical background in chapter 4, common practices were identified between the Zulus and the Swazis regarding the succession of traditional leaders following hereditary leadership. This could be illustrated by the Mavuso clan, which originated from Swaziland, and the Ntshangase tribe, which are rooted in Zululand. Both clans followed the same method in appointing their traditional leaders (Umlando Wesizwe sakwaNtshangase, 2008:1).

Focus group 6 identified the Zulu king to qualify as head and chiefs as components of the political structure of the traditional community of Simdlangentsha. Government officials and SANCO briefly outlined the political structures of the Simdlangentsha Traditional Council as follows: the lower layer of the political structure comprised the *izinduna* (headmen). Headmen were responsible for general community matters. Once an issue is reported to the headmen, it would be elevated to the *inkosi* or traditional leader of that particular clan. Headmen were also responsible for

allocating land to community members. The second component of the structure was the *iphoyisa* (policemen) who were responsible for the orderly proceeding of meetings in traditional courts and communicating announcements to the community. Another building block of the traditional political structure of the Simdlangentsha Traditional Council before 1994 was the councillors. They were required to oversee *izigceme* (areas). The king functioned on the highest political level in handling political matters for the Simdlangentsha traditional community.

According to the participants, the above-mentioned political structure (*inzinduna, iphoyisa, inkosi* and the king) continued to exist even in after the 1994 democratic elections. However, they acknowledged that the functioning of the traditional structure is no longer the same as before the 1994 changes, in seeing that the political structure post 1994 was attributed to national and provincial governments and not to local municipalities or councillors. For instance, after 1994, the issue of a tribal *phoyisa* (traditional police attached to traditional leadership) was not emphasised as it was before 1994. The main cause of the changes according to them was the introduction of new laws by the current national and provincial governments.

6.3.5 Political functions

Government officials and SANCO argued that political functions of the traditional structure were not clear other than that they were “bullying” communities. Focus group 6 confirmed that traditional leaders had no clear political mandate from their communities. In contrast, the traditional council had a different view on the functions of traditional leaders before 1994. The participants contended that traditional leaders were responsible for a number of tasks related to politics before 1994. These tasks included the following: maintenance of law and order, allocation of land for grazing or building homes, and dispute resolutions among community members.

Interviews held with eDumbe and Pongola local municipalities confirmed that traditional leaders convened *izimbizos,* charged community members fines and resolved conflicts in the community. Focus group 6 added that traditional leaders resolved conflicts, including boundary disputes, and dealt with cases through

traditional or tribal courts. From the responses and observations in the various focus groups, it was clear that the traditional leadership provided similar functions before the 1994 transformations were introduced. The following functions were common in traditional communities before 1994: resolving conflicts, allocating land to community members, employing traditional courts, convening *izimbizos* and the maintaining law and order.

Municipalities agreed that, although political functions of traditional leaders did not change much since 1994, traditional leaders are no longer effectively involved in performing these functions. They argued that local municipalities are more involved in providing information to communities, including the traditional comprehensive social groupings. Focus group 6 acknowledged the change brought about by the post-1994 system of governance. Interviews held with focus groups 1 and 2 confirmed the development that the role of traditional leaders in political functions is no longer effective and that this change was brought about by the introduction of democratic local government after 1994.

The common trends identified in the discussions above are that traditional leaders fulfilled their own political functions before 1994. This implies that there was a particular political system in the Simdlangentsha Traditional Council, which dictated their political functions. An analysis of the information provided by participants indicates that traditional leadership is to some extend less effective in performing similar tasks in the post-1994 period. Wall-to-wall type of municipalities changed the way that traditional leadership operated in the past.

However, this cannot be interpreted as the non-existence of traditional leadership in communities. Traditional leaders are still playing an important role in the communities they lead. Traditional courts are recognised fully by the government. For example, one participant indicated during the interview that the Department of Social Development at times requires a letter from the *inkosi* to establish whether the individual is from the area or not when applying for a social grant for children. However, there is no doubt that the Simdlangentsha Traditional Council to some extend did transform after the introduction of the new system of governance in 1994.

6.3.6 Service delivery

The concept of service delivery was explained as services provided by government or government departments to communities in South Africa. Focus groups 1 and 2 openly stated that, before 1994, traditional leaders had no idea what service delivery entails. They only provided land to their subjects without understanding the concept of delivering services. This tendency of traditional leaders providing land to communities before 1994 was also supported by focus group 6. This group argued that, even after the 1994 democratic elections, traditional leadership continued to negotiate with government authorities for land. However, this practice is no longer easy because of wall-to-wall municipalities. Service delivery was not known in the Simdlangentsha Traditional Council before 1994. Traditional leaders provided only land to communities, and focused mainly on their families instead of the population in the larger community.

Interviews held with government officials and SANCO revealed that there were no existing services that could be regarded as service delivery, seeing that there was no clean water, tarred roads, sanitation facilities and mobile clinics before 1994. They argued further that, after 1994, service delivery became a responsibility of local municipalities and not traditional leaders. For example, when community members complain about government services they direct their anger to the municipality not to traditional leaders. Municipal officials confirmed that service delivery in the Simdlangentsha traditional community is rendered by municipalities. They mentioned that the municipality awarded R 60 000 per ward for service-delivery purposes.

During the interviews with the traditional council on 5 October 2014, the participants painted a different picture about service delivery in the traditional community before 1994. The council argued that traditional leaders provided services to people in their communities. Allocation of land and dipping of cattle were solely provided by traditional leaders. They regarded these services as crucial because they were also addressing stock theft, animal diseases and other livestock problems on behalf of the community. However, the Traditional Council acknowledged that these services were taken over by councillors after 1994. This includes the reporting of deaths in the community, where the reporting before 1994 was done by traditional leaders.

Deaths are currently reported to councillors. This implies that the traditional council acknowledged the paradigm shift that took place in providing services to the community after 1994. However, they refused to accept that these changes were brought about by the local municipality. Instead, the Traditional Council commended the provincial government through the Department of Cooperative Governance and Traditional Affairs for these services. According to their understanding, councillors are under pressure from the provincial government to provide services to the community, hence the services are not rendered by the local government councillors themselves.

Focus groups 4 and 5 stated that the level of service delivery in traditional communities changed after 1994. After 1994 service delivery was taken over by councillors. These councillors announced development programmes for the community. This did not take place before 1994. Services to the community improved after 1994, seeing that the government introduced war rooms. This system of governance or forum is attended by all sectors of government with the purpose of discussing different types of problems affecting the community, including crime. It is each department's responsibility to refer the task to the relevant department for implementation. These operations did not take place before 1994. However, the participants did not concur that local government contributed to the change; instead, they commended the provincial government of KwaZulu-Natal for the development programmes and projects in the area.

6.3.7 The current political relationship between traditional leadership and the authority of Zululand District Municipality

The main purpose of the question was explained to the participants, namely to ascertain the working relationship between traditional leaders of the Simdlangentsha Traditional Council and the district municipality of Zululand.

Interviewees from two community members of the local municipalities (eDumbe and Pongola) both agreed that the relationship between the Simdlangentsha traditional leaders is sound because all the traditional councils or tribal courts falling under Simdlangenstha are represented in the Zululand District Municipality by *inkosi*

Ntshangase. Ntshangase represents the Msibi, Mavuso, Simelane, Ndlangamandla, Mthethwa, Sibiya and Dlamini clans. According to the local municipal officials (eDumbe and Pongola) the relationship between the Zululand District Municipality and the traditional leadership of the Simdlangentsha Traditional Council is sound because all the Traditional Authorities are represented in the district's executive committee (EXCO). Government officials and SANCO agreed with municipal officials that the relationship between the Zululand District Municipality and the traditional leadership of Simdlangentsha traditional community has been excellent since 1994. However, they were reluctant to refer back to relationships before 1994. Their argument was based on the fact that the current form of municipal demarcation did not exist at that time. It was only established after 1994.

However, the status of the relationship between the traditional leaders of the Simdlangentsha Traditional Council and the Zululand District Municipality was not presented only without issues. Interviews with the Dlamini Traditional Council brought to light a different viewpoint. The council indicated that the working relationship between them and the Zululand District Municipality is not as sound. They mentioned that the district does not consult traditional leaders on community development programmes. Decisions on projects are taken at district level and implemented without engagement of the traditional structure. Although focus groups 3 and 6 failed to provide reasons why they believed that the relationship between the Zululand District Municipality and traditional leaders of Simdlangentsha Traditional Council currently is not good, they emphasised that the traditional leadership is not working together with the district.

6.3.8 The current working relationship between traditional leadership and authority of eDumbe and Pongola local municipalities

It was explained to the participants that the purpose of the question was to ascertain the working relationship between traditional leaders of the Simdlangentsha Traditional Council and eDumbe and Pongola local municipalities.

The general feeling of almost all the participants regarding the relationship between the traditional leaders and the two local municipalities was that traditional authorities

are not cooperating well with councillors at community level. This is based on the traditional authorities' lack of involvement in community programmes such as road projects, local economic initiatives, and the Expanded Public Works Programme. The reason is that councillors do not inform traditional leaders of these projects. However, government officials and SANCO sketched a different picture of the working relationship between traditional leaders and local municipalities. They based their argument on the fact that councillors are consulting traditional authorities on community-based programmes such as poultry, local road constructions and community gardening.

6.4 CONCLUSION

The chapter reported on the data that was received from the interviews and focus groups on the political context of transformation with regard to the Simdlangentsha Traditional Leaders. The chapter started off by indicating that although most participants agreed on the applicable political entities in the community but there was an exception with regard to the relationships between the political parties operating in the area. The repondents did not agree that political parties work harmoniously in the community.

The analysis of political transformation within the Simdlangentsha traditional community was done by using the following criteria: democracy and nation-building, developmental state, political values, political structures, political functions, service delivery to the community, relationship between traditional leadership and Zululand District Municipality, relationship between traditional leadership and eDumbe Local Municipalities and between traditional leadership and Pongola local municipalities.

From the data it is evident that the community of Simdlangentsha did not remain the same since 1994. The political values followed before 1994 have changed comprehensively in the post-1994 period. Most participants during interviews confirmed that the community of Simdlangentsha had undergone a metamorphosis regarding traditional structures responsibilities. These include local governance of the community, service delivery to communities, political functions performed by traditional structures in the community and the relationship between traditional

structures and government as well as local municipal councillors. For instance, the post-1994 system of governance introduced the Department of Cooperative Governance and Traditional Affairs, which is dedicated to the affairs of traditional leadership in the country.

Responses by participants during the interaction indicated that the relationship between traditional leaders and local municipal authorities is functional. The main impediment identified in this relationship is that the municipalities do not necessarily consult the traditional leaders on matters of local development. The community members were also of the view that the traditional leaders failed them in the past.

It is clear regarding the political context, that the provincial and national government played the most important transformative role. However, the local government is currently the sphere in which democracy is established locally. This level of government is important in providing political and developmental functions.

The results on the political context is summarised in Table 4 below.

Table 4: Results of the transformative criteria related to political context

Context	Criteria	Summary of results
Political	1. Constitutional democracy and nation-building	Traditional leaders viewed the *izimbizo* before 1994 as democratic, but the community members differed. They viewed the traditional leaders as ruling supreme before 1994. Thereafter democracy became the dominating ideology. Women are, therefore, also allowed to be traditional leaders. The participants do not view local government as playing a role in democratisation.
	2. Developmental role played by local government	Participants viewed development as not important to traditional leaders before

		1994. After 1994 there were many development project initiated by the provincial and national government (through CDWs and CCGs) and less by the local governments.
	3. Political values	Traditional leaders have their own political value system, namely hereditary leadership and the traditional structure. It is the view of community members that this did not change much but that the traditional leadership system is currently regulated by national government. Local government does not play a role.
	4. Political structures	The components of the traditional structures were mainly the same before and after 1994, namely the king, traditional leaders, headmen and traditional police. After 1994, the traditional police played a lesser role than prior to 1994. It is also clear to community members that at present the traditional leaders receive their authority from provincial and national government. Local government does not play a significant role is the structuring of traditional leaders.
	5. Political functions	The political functions of traditional leaders before and after 1994 entailed the resolving of conflicts, allocation of land, managing of traditional courts, convening of *izimbizos* and maintaining law and order. This was not necessarily viewed positively by community

		members. Local government is of the opinion that they currently fulfil a more important role in distributing information and that lessens the influence of traditional leaders. Where traditional authorities can still play a role it is due to provincial and national legislation affording them the scope.
	6. Service-delivery issues between traditional authorities and municipalities	Traditional leaders viewed their service delivery before 1994 as allocation of land, addressing stock theft, dealing with animal diseases and other livestock problems. Currently, the general view is that service delivery is the responsibility of local government under the supervision of the provincial and national government.

CHAPTER 7: TRANSFORMATION WITH REGARD TO ECONOMIC CONTEXT

7.1 INTRODUCTION

This chapter focuses on the transformation of the Simdlangentsha traditional leaders with regard to the economic context. Economic development plays an important role in all communities. It provides members of the community food security, and further sustains the well-being of the entire community. Economic development also helps to reduce crime in communities. As indicated in the theoretical framework, the criteria used to analyse the economic context were as follows: development, poverty alleviation, job creation, social security, land reform and food security.

It is important to note that participants showed limited knowledge and provides less information regarding economic transformation in general. The nature of the Simdlangentsha Traditional Council and the level of community members' education might have contributed to this limited information on the topic. Moreover, Simdlangentsha is a rural area and is not exposed sufficiently to modern technology in order to disseminate information by means such as television, DSTV, and other forms of information and communication technology (ICT). The area also had its own procedures of food production and improving the economic status of the community before 1994.

7.2 ECONOMIC TRANSFORMATION

The following paragraphs report on the information given by interviewees and focus group members on the criteria for the economic context.

7.2.1 Development

The concept of development was defined in the context of community development, focusing on programmes assisting people to support themselves in terms of food and social needs. This includes projects that are implemented or being implemented to facilitate economic transformation in the Simdlangentsha Traditional Council.

Interviewees from the eDumbe and Pongola local municipalities, government officials and SANCO as well focus groups 4, 5 and 6, collectively agreed that traditional leaders of Simdlangentsha Traditional Council had no notion of development in the community before 1994. These participants based their argument on the fact that traditional leaders in the Simdlangentsha traditional community focused on the development of their families and not the community at large.

However, the interview held with one of the traditional councils gave a different picture from the version above. They argued that traditional leadership played an important role in the economic development of the communities before the new dispensation of 1994. Traditional leaders used to advise their communities to practise crop rotation for food. Cattle were processed to enhance economic development. For example, community members who were struggling with food security were given cattle to produce milk and feed their families. If families had no bulls for their cows, bulls were taken from other families to assist the former families. The traditional council emphasised that the economy in the traditional community of Simdlangentsha was based on trading rather than selling. A difference noticed by the traditional council after 1994 was the alleged laziness of people in the Simdlangentsha Traditional Council. They argued that people currently have the tendency to turn to the government for assistance. Hand-outs are regularly distributed by national and provincial governments.

Focus groups 1 and 3 supported this view of the traditional council by claiming that traditional leaders did contribute significantly in developing their communities before 1994. Traditional leaders also played a major role after 1994, because they collaborated with government departments in developing communities. The participants pointed out that these changes of collaboration with Government were not initiated by the local municipalities (eDumbe and Pongola), instead, they identified the national and provincial local governments as initiators.

7.2.2 Poverty alleviation

Poverty alleviation was explained to participants as socio-economic programmes designed to reduce or eradicate the scarcity of social and economic needs.

Interviewees were asked to compare the role of traditional leaders in poverty alleviation before and after 1994 in the Simdlangentsha Traditional Council.

Information obtained from the participants (government officials and SANCO, traditional council, focus groups 1 & 2) indicated that traditional leadership was involved in alleviating poverty in the traditional community of the Council. Traditional leaders allocated land to community members so that they could cultivate and plant crops for food and health nutrition. Agricultural products were also cultivated to improve the socio-economic status of communities, by creating commerce with other community members. Livestock was one of the programmes traditional leaders used to assist families who could not afford to support themselves. The difference between 1994 and the current period is that people in the Simdlangentsha Traditional Council are pictured as unwilling to work because of an unhealthy dependence on government parcels or social assistance provided by government institutions. Poverty alleviation programmes in the area are driven by national and provincial governments, not local municipalities of eDumbe and Pongola.

However, some participants indicated that traditional leaders did not seem concerned with poverty alleviation in their communities (focus groups 3, 4, 5 & 6). Interviews with municipal officials of the two local municipalities indicated that the traditional leadership had no idea of programmes aimed at alleviating poverty in their communities before 1994. According to these officials, such programmes were introduced after 1994 by the new government through the Reconstruction and Development Programme (RDP). This concept was not known before 1994. The main cause of this change is the collaboration between traditional leadership, councillors and government departments.

7.2.3 Job creation

Job creation was defined to the interviewes as programmes designed to address the shortage of job opportunities in the Simdlangentsha Traditional Council. The underlying objective of job-creation programmes is to reduce unemployment in the communities.

From the participants' responses it became clear that the creation of work opportunities is not a new practice in traditional communities, including Simdlangentsha. For instance, women and young girls used to organise themselves for hand work and sold their produce to urban areas. This production was sustainable, seeing that each season had its own type of work, which eventually secured employment for traditional communities. Men produced woodwork for use and selling purposes. This was sustainable because people had areas in which they worked on a daily basis (cf. traditional council, focus groups 1, 2 & 6). This does not imply that changes did not occur after 1994. Responses confirmed that the 1994 democratic elections had the impact of introducing organised programmes aimed at creating job creation. Partnerships improved between traditional leaders and Government in creating jobs for the Simdlangentsha traditional community after 1994.

The participants did not question the fact that there were changes after 1994. This was supported by focus groups 4 and 5, who informed the researcher that *inkosi* Ndlangamandla had initiated the building of a shopping mall in the area for the first time in the Simdlangentsha Traditional Council. The purpose of the mall, according to Ndlangamandla, was to create job opportunities for his subjects and furthermore address the matter of poverty in his traditional community.

During the interaction with the participants it became clear that municipalities did not contribute to the improvement of the standard of living in the community by introducing job-creation opportunities. It should be noted that, even after 1994, traditional leaders also did not contribute to job creation; they continued to rely on government programmes under the Rural Development Programme. For example, on 8 November 2014, President GJ Zuma handed over rural development projects in Msinga. This included an irrigation scheme and livestock-selling infrastructure. This was done in collaboration with the *amakhosi* of the area, seeing that the development took place in their areas.

7.2.4 Social security

Social security in the South African context refers to programmes that help maintain basic living conditions. This includes old-age grants, child grants and disabled grants provided by government. Social grants do not only imply financial security, but also could include vouchers, food parcels, et cetera. Participants were requested to provide information on traditional leaders' role played in providing social security for the traditional communities in the Simdlangentsha Traditional Council before 1994.

Participants interviewed on the matter of social security in traditional communities of this Council pointed out that traditional leaders did not run programmes of social security for their subjects. According to the interviewees, Government introduced social security only after 1994. However, others claim that there was a form of social security before 1994 called *pontinadi* (cf. Government officials and SANCO). It was assumed that the word derived from English but the participant was unable to explain the meaning of *pontinadi* in isiZulu and even in English.

Focus groups 1, 2, 3, 4, 5, 6 as well as the Traditional Council confirmed that changes in the status of social security were introduced after the 1994 democratic elections. However they refused to acknowledge that local municipalities contributed to the changes, instead, they attributed it to national and provincial governments. The main cause of the changes is the introduction of government programmes of social security, which involves various forms of social support.

7.2.5 Land reform

Land reform was explained as land administration (the optimal usage of land for transformative and development purpose) in the Simdlangentsha Traditional Council. It also entailed and traditional leaders' role in the management of land before 1994 in South Africa.

Focus groups 1 and 2 indicated that land was extremely important to traditional leaders even before 1994 in the Council. Land administration was done by *izinduna* under the leadership of *inkosi.* For example, new residents were allocated land by

the *izinduna* and not the *inkosi*. However the *inkosi* was kept up to date concerning the land in his area of leadership. Government officials and SANCO took the discussion further by stating that the seriousness of the land issue among the traditional leadership of Simdlangentsha could be illustrated by the incident of *inkosi* Ndlangamandla. They recounted a confrontation between Ndlangamandla and white farmers in his traditional community; Ndlangamandla was injured by the farmers. The cause for the violence was attributed to land disputes.

The participants were asked to provide details on the changes in the Simdlangentsha Traditional Council since 1994, by focusing on land administration in traditional communities of the eight traditional leaders. They started off by stating that land administration is based on three needs, residence, grazing, and crop cultivation.

7.2.6 Allocation of land to local community and outsiders for residencial purposes

The participants indicated that the first step in acquiring land under the Simdlangentsha Traditional Council is to approach an *induna.* This happens in the territory of all traditional leaders in the area. After the *induna* has been approached, he will inform the *inkosi* about the request. Both local and outsiders are expected to follow this process.

Three members from different focus groups remarked that, for outsiders it may take time to allocate land, seeing that the *inkosi* may require more background on the person from an *induna* or other community members. The process is smoother if the outsider has relatives in the community since they can inform the *induna* and *inkosi* with regard to the profile of the new person in the area. Furthermore, the interviewees indicated that it is important for the *induna* and *inkosi* to assess the outsider because it may happen that he or she was forced out by his or her traditional authority due to various reasons such as witchcraft and criminal activities. The participants explain that the *inkosi* will then instruct the *induna* to allocate the person a section of land after he has been advised by *induna* about the availability of available space in the community.

a. Grazing land

It was clear during the engagement of the focus groups and municipal officials that grazing land make out the most important area in the Simdlangentsha traditional community since the community has closer attachment to cattle. The collected information reveals that the decision of allocating grazing land is taken in a community meeting. The decision is unanimous that the specific area will be allocated for the grazing of livestock and the building of structures will be prohibited on that land.

b. Crop plantation

The rule and procedure followed in the allocation of grazing land applies to crop plantation in the community. Participants pointed out that the tilling of land is not common due to the area's hilly and rocky nature. Although the soil is fertile for planting almost all types of crops, the topography of the area does not allow crop plantation. The area in *inkosi* Msibi's territory is more suitable, seeing that it is not as mountainous.

7.2.7 The influence of legislation since 1994

It was the general opinion of almost all the interviewees that traditional leaders were in control of the land before 1994. Land was used to provide space to build homes for community members and further utilised for grazing, as discussed in above. However, new laws (no law specified by the participants) were introduced by government to regulate land reform in the Republic of South Africa, including territories in the traditional communities. These laws had an influence on land administration in the traditional community.

The introduction of the wall-to-wall principle for local government reduced traditional leaders' authority regarding land management. Their role as traditional authority in land administration for their subjects diminished significantly with regard to their involvement in community structures such as building of schools, clinics, or community halls. Local government was assigned more power to identify areas for the building the planned infrastructure. However, traditional leaders of Simdlangentsha are still in charge of land administration in their own communities

regarding the allocation of land to their subjects. It is important to note that the authority they enjoyed in land administration before 1994 is currently reduced. This is based on the fact that the post-1994 transformations introduced the wall-to-wall type of local municipalities country wide.

7.2.8 Food security

Food security was explained to participants as programmes or initiatives aimed at ensuring that food is available for the citizens of the Republic of South Africa. It was elaborated further that food security takes care that food is available in future for South African communities.

The general feeling among the participants was that traditional leaders did not have programmes to ensure that food is available for their subjects; instead, they focused the food security on their families. On the other hand, SANCO as well as government officials and representatives of the Dlamini Traditional Council indicated that traditional leaders used to provide cattle to poor people in order to feed their families. The difference that participants could observe in the post-1994 period is that Government has taken the responsibility for food security completely away from the traditional leaders and turned it into government programmes. This implies that traditional leaders are no longer effective in providing food for their communities. Even the traditional leadership's practice of providing cows to the poor has been taken over by the government through the Department of Agriculture and Environmental Affairs.

It was evident from the interviews that local municipalities did not contribute to the changes that are currently in place, instead, provincial and national governments were identified as agents of change in providing food for communities, including that of the Simdlangentsha Traditional Council.

7.3 ECONOMIC COOPERATION BETWEEN TRADITIONAL LEADERS AND LOCAL GOVERNMENT

During the interviews it became clear that the majority of participants did not have information on the economic relationship between traditional leadership and Zululand District Municipality. Government officials and SANCO, focus groups 3, 4, 5, and the Dlamini Traditional Council all collectively asserted that the economic relationship between the traditional leadership and Zululand District Municipality is not good. The reason provided is the lack of joint economic programmes implemented by both traditional leadership and district municipality in communities of the Council. On the other hand, this notion was put in different perspective by focus groups 1, 2 as well as the eDumbe and Pongola local municipalities. Focus groups 1, 2 and 6 argued that that there are sound economic relationships between the traditional leadership and the district municipality. The reason they provided is that traditional leaders discuss financial constraints with district authorities. This refers to specific financial crises such as financial support for burial purposes.

The two local municipalities (eDumbe & Pongola) supported the notion that the economic relationship between traditional leadership and the district municipality is good. They argued that the traditional leadership of the Council has a representative (Mr. Ntshangase) in the Zululand District Municipality. He (Mr. Ntshangase) participates in all the discussions that concern the administration and functioning of the Simdlangentsha Traditional Council. This includes discussions on economic development, projects and initiatives.

Nevertheless, in the main participants viewed the economic relationship between traditional leadership and district municipality as deficient. Moreover, responses indicated that the economic relationship between traditional leaders and the eDumbe and Pongola local municipalities is detrimental to the economic development of the Simdlangentsha Traditional Council. The majority of the focus groups from both local municipalities explained that economic programmes and projects are introduced by national and provincial governments. They mentioned the example of the Expanded Public Works Programme, which is the initiative of national government, not local government. The Zululand District Municipality was mentioned instead and it was

emphasised that economic projects are initiated and implemented in communities from the District Mayor's office.

The question of traditional leadership's representation in the local municipalities of eDumbe and Pongola was followed-up by the researcher on the 16 October 2015 through telephonic interviews with the following role-players: an ANC councillor (Mr. Mavuso) from eDumbe municipality and the Mayor of Pongola (Mr. Hadebe). According to Mr. Mavuso traditional leadership is represented by *inkosi* Dlamini and *inkosi* Mthethwa in the eDumbe local municipality. However, Mr. Mavuso stated that they are hardly seen involved in the activities of the council. The Mayor of Pongola, Mr. Hadebe, agreed that traditional leadership is fully represented in the Pongola local municipality. They are represented by four traditional leaders (Simelane, Gumbi, Ntshangase and Buthelezi). The three traditional leaders (Ntshangase, Gumbi and Buthelezi) fall outside of Simdlangentsha Traditional Council but they form part of Pongola's local municipality. (It should be noted that this is not the Ntshangase of Simdlangentsha. As was explained in chapter 4, there are two Ntshangase clans under the Pongola local municipality.) According to Mr. Hadebe the traditional leaders in local municipalities is represented by Cooperative Governance and Traditional Affairs (COGTA) in KwaZulu-Natal's provincial government. Councillors have no information on the selection criteria which COGTA applied. Hadebe supported Mavuso by confirming that traditional leaders are hardly seen in the proceedings of Council meetings in Pongola's local municipality.

7.4 CONCLUSION

In the economic context the role of traditional leadership after 1994 did transform to some extend. Whereas traditional leaders were responsible for livestock management and land administration before 1994, the situation changed. Currently the provincial and national government provide programmes aimed at development, poverty alleviation, job creation, social security, food security and land reform. Development is driven mainly by the higher levels of government but is implemented at local government level. The role of traditional leadership is currently viewed as limited as far as their contributions to the economic context is concerned. The results of the analyses can be summarised in Table 5 below.

Table 5: Results on the transformative criteria related to economic context

Context	Criteria	Summary of results
Economic	1. Government's growth and development plan	The developmental role of traditional leaders before 1994 concerned provision of livestock. After 1994 development was initiated by national and provincial governments. Traditional leaders and local government collaborated with Government on this development. Views existed that the grants programme of government made the rural people dependant and not self-efficient.
	2. Poverty alleviation	Before 1994 traditional leaders alleviated poverty by means of land allocation, agricultural produce and livestock management. After 1994 poverty alleviation was a focus of national and provincial governments in which traditional leaders and local government collaborated.
	3. Job creation	Before 1994 jobs in the traditional areas was informal in nature. After 1994 government mainly initiated programmes that created new jobs. Traditional leaders and local government played a limited role in this process. Government created employment through its Expanded Public Works Programme that allows local people to participate in road works, care for the sick through the Department of Health, and the Volunteer

		Social Crime Prevention programme through the Department of Community Safety and Liaison.
	4. Social security	There was social security in the traditional areas before 1994. The improvement of social security after 1994 was attributed to national and provincial governments with the traditional and local government playing a very limited role.
	5. Food security	Before 1994 traditional leaders provided food security by managing livestock. After 1994 Government programmes (especially provincial and national government) provided food security.
	6. Land reform	Before 1994 land was administered by traditional leaders as the custodians of land access. After 1994 the issue of land ownership shifted from traditional leaders to local municipalities.
	7. General relationship	Traditional leaders do participate in the decision-making on economic development in the district municipality. However, there is less coordination at the local municipality level.

CHAPTER 8: TRANSFORMATION WITH REGARD TO SOCIAL CONTEXT

8.1 INTRODUCTION

Social transformation was explained in terms of the following factors: changes in the management of boundary disputes by both traditional leaders and local municipal officials, gender issues in communities, generational relationships and family life in the Simdlangentsha Traditional Council. Land disputes are prone to conflicts in traditional communities. Conflicts are common among traditional leaders themselves and between municipalities and traditional leaders in both local municipalities including the Zululand District Municipality. In most cases boundary disputes sprout from development projects where the local municipality would aim to develop the area in terms of wards, which are not in line with traditional boundaries in the communities of the Simdlangentsha Traditional Council.

8.2 BOUNDARY DISPUTES

Disputes are conflicts between two families/institutions or more regarding issues such as demarcation lines between two homesteads or more. It is important to state that the boundaries existed before colonial government. These demarcations were used to separate different tribes or clans. The participants indicated during the data-collection process that a number of the boundaries are historical, whilst others were drawn by the government to divide clans according to the latter's own agenda. Various disputes are at present raging in the Simdlangentsha Traditional Council. The following disputes are common in rural areas:

- land disputes between traditional leaders;
- land disputes between community members;
- disputes between traditional leadership and local government sprouting from projects of community development; and
- boundary disputes between traditional leadership and local government.

8.2.1 Resolution of boundary disputes before 1994

Information collected from different participants from both municipalities indicated that traditional leaders of Simdlangentsha used similar methods to deal with land administration, including land disputes. Focus groups 1 and 2, for instance, indicated that the *isilo* was responsible for resolving disputes in communities. This should not be misinterpreted that only the king was responsible to settle disputes. The king had his own lieutenants and elders who were acting throughout as advisers of the king on various issues. Key participants in focus group 1 emphasised that the community assembly or *izimbizo* played an important role in resolving land disputes in the Simdlangentsha Traditional Council.

Another dimension in handling boundary disputes is the impact made by government in traditional communities. Interviewees presented a situation in which black posts were erected by Government to indicate land boundaries, instead of the large rocks. This created discord about borders among the parties involved. These black posts had numbers on, which were known to government officials. Focus group 3 indicated that certain traditional leaders in the Simdlangentsha Traditional Council used to consider the large rocks as boundaries between traditional leaders. These landmarks are embedded in the soil and cannot be removed by an individual. The traditional leaders used plant such large rocks in a specific area to signal the furthest boundaries of a traditional leader's jurisdiction. When a land dispute arises, a community meeting was convened to discuss the dispute. The *inkosi* or *isilo* guided the meeting until a solution is reached.

The disagreement centred on the black posts and the rocks. Others argued that the black posts are easily removed by community members. Another group argued that the rocks did not clearly marcate the boundaries between the territories of the Simdlangentsha Traditional leaders because since the boundaries are not straight. Therefore they need to identify the large rocks that were not easily removed or shifted.

The debate about black posts and large rocks caused to the researcher to return to Councillor Mavuso for further clarification on the matter. According to Mr. Mavuso,

rocks are no longer used for demarcation of traditional leadership boundaries. He indicated that the rocks were used before 1994, whereas currently only black posts are used. He pointed out that the Department of Cooperative Governance and Traditional Affairs (COGTA) has maps indicating the boundaries, which are marked by the numbered black posts. He also stressed that the rationale for traditional leaders concern people not land. According to him all traditional land surface belongs to the Ingonyama Trust. He cited one example in eDumbe where inhabits of a certain farm, which historically belong to *inkosi* Dlamini, but the land belongs to the state. Traditional leadership of the Simdlangentsha Traditional Council since 1994 depends on COGTA to marcate boundaries, seeing that rocks are no longer used anymore.

8.2.2 Boundary disputes since 1994

It was clear from the interviews that approaches changed after 1994, especially after the elections of local government and the introduction of wall-to-wall municipalities in the Republic of South Africa. Participants indicated that municipal councillors played a role in resolving boundary disputes. However, this should not be taken as if powers of traditional leaders in land administration were taken over totally by local municipalities in the Simdlangentsha Traditional Council. This is attested to by the fact that even at present traditional leaders are still allocating land to newcomers or local community members wishing to access land for various reasons. Such a practice is still an option to all traditional leaders of the Simdlangentsha Traditional Council. Although developments post-1994 did influence land administration in the Simdlangentsha Traditional Council, traditional leaders do still control the land in terms of allocation. The paradigm shift after 1994 was caused by the intervention of municipal authorities in the traditional community and the implementation of Municipal Demarcation Board Act, as a participant remarked from the eDumbe local municipality.

8.2.3 Boundary disputes in progress

Municipal officials, for instance, stated that there are boundary disputes between traditional leadership and Zululand District Municipality, as well as between traditional leadership and the Pongola local municipality. A dispute between Dlamini

and Mthethwa was mentioned, however, it was also asserted that COGTA managed boundary disputes between these traditional leaders.

Focus group 3 argued that, although boundary disputes or issues of land administration are normally resolved traditionally in Simdlangentsha, they feel strongly that the involvement of COGTA in the process of dispute resolution is important. The involvement of the municipality was mentioned in cases when a dispute erupts between traditional leaders or community members. Focus groups 1 and 2, and the municipal officials viewed the matter differently. They explained that two approaches can be followed in dealing with this matter: firstly, if there are disputes based on boundaries between traditional leaders, COGTA should lead the dispute- resolution process. Secondly, if disputes arise between traditional leaders and the district or local municipality, an assembly was proposed comprising traditional leaders, representatives of the municipality and community members.

It was clear during the collection of the data that most traditional leaders desired peace and stability with regard to boundary disputes, hence, they were committed to interact with the municipalities. However, participants emphasised that peace on this matter should be reached through the justice system. More than 90% of the participants collectively agreed that the following measures were necessary: public education on boundaries and consultation of all stakeholders in dealing with boundary disputes.

A number of the interviewees indicated that, when a dispute arises between traditional leaders and the municipality, the municipality should purchase the land under dispute from traditional leaders. They furthermore proposed that the municipality should issue title deeds for traditional leaders and their subjects in order for them to have legitimate ownership of the land. Nevertheless, methods of dealing with disputes sprouting from land disputes were resolved in a similar manner as before 1994. According to the interviewees of both municipalities the method of dealing with disputes before 1994 was common in all traditional leaders based in the Simdlangentsha Traditional Council.

It has been evident from the discussion above that boundary disputes in traditional communities do not entail new conflict. The only difference that can be noted is the operation of two institutions (traditional leadership and local government) in local governance. Responses indicated that municipalities should purchase land from traditional leaders. On the other hand, municipalities argue that the whole land surface belongs to municipalities after the introduction of the wall-to-wall system of local government. It is clear that traditional leadership and municipalities differ starkly, thus this is one of the transformation areas that still needs attention.

8.3 GENDER ISSUES

Gender issues were explained to participants as matters relating to interaction between males and females in their families, communities and work environment in the Simdlangentsha Traditional Council.

8.3.1 Gender disparity between men and women

The question of gender disparity was well understood by participants. They clearly indicated that the issue of gender disparity in the Simdlangentsha Traditional Council is a matter of the past. This statement was supported by practical examples according to which gender was no longer considered an issue in communities. Equal job opportunities even in traditional courts are provided without considering gender as a selection criterium. However, focus group 6 and municipal officials hinted at a few instances where one could still see and identify elements of gender disparity in daily practice.

8.3.2 Traditional leadership's view on gender issues before 1994

Before 1994 the issue of gender disparity in the Simdlangentsha Traditional Council was practiced digilently. Focus groups 1, 2, 3, and 6, the Dlamini Traditional Council and municipal officials agreed that the difference between men and women before 1994 was deeply ingrained. The decision-making process was a task given to men, not to women. Women were required to respect decisions taken by men. Traditional courts were officiated by men, not women. In most cases women were not allowed to attend the proceedings of traditional courts. Government officials and SANCO

however, indicated that, in some instances, the gender disparity was based on gender roles stemming from the culture. For example, culture prescribed that specific tasks meant to be performed by men not women such as the slaughtering of a cow when a family conducted a traditional ritual.

8.3.3 Current view of traditional leadership on gender issues

The traditional leadership of Simdlangentsha Traditional Council underwent a remarkable paradigm shift after 1994 with regard to gender disparity. The view of traditional leadership is totally different if compared to pre-1994 thought on the matter. Women are currently treated equally by traditional leaders and the community. Women are currently allowed as members of the traditional council and work in traditional courts, which was not the case before 1994.

a. The main cause for traditional leadership's shift from their traditional views is the implementation of the Constitution and other legislation regulating traditional leadership and municipalities in communities. One key participant indicated that traditional leaders are forced by the Constitution of the Republic to transform and be in line with the current dispensation in South African society.

b. Most of the interviewees agreed that the government (provincial, district level and local) contributed to the current situation. Projects such as the launching of a chicken farming enterprise and gardening cooperatives were highlighted as examples. Community-based projects initiated and implemented by Government in its different spheres provided necessary information for transformation. This includes road constructions through the Expanded Public Works Programme (EPWP), with its targets countrywide and thus includes rural areas. This was based on public education designed for traditional leadership in the province of KwaZulu-Natal, which also benefitted the Simdlangentsha Traditional Council.

c. Participants pointed out that the involvement of women in projects of this nature came after 1994. Focus groups 2, 3 from Pongola municipality, and focus group 1 from the eDumbe municipality emphasised that road works

were the exclusive function of men in their area before 1994. They added that they used to see men working along the road in the former Eastern Transvaal while travelling from the former Natal province to Johannesburg. The participants attributed the change in gender-role functions to the 1994 transformation because, even in the Simdlangentsha Traditional Council, women did not take part in road works. Respondents indicated that, chicken farm enterprises are driven by Government and most of these economic development initiatives focused on traditional communities. It further prioritises women as pioneers of chicken farming.

8.4 GENERATION RELATIONS

8.4.1 Generational relationship between youth and adult since 1994

Before discussing the responses from community members, it is important to consider wise words from Mr. Nelson Mandela in his speeches during the National Youth Day after the 1994 democratic elections (Mandela 1995:1): “On behalf of government, I wish to say once more, that no one receives attention of our government more than the youth. You are our future. In your hands is the key to make South Africa a great country, to make our society a prosperous and caring nation. We call all traditional leaders in KwaZulu-Natal to join with us in these efforts. We appeal to them to take active part in the rural development projects being implemented.”

This quotation from the first African President in the new dispensation stresses the importance of youth since 1994. He was addressing a community of Ezakheni in Ladysmith, KwaZulu-Natal, on 16 June 1995, immediately after the elections in 1994. His speech was based on the violence that was rife in that period, particularly in KwaZulu-Natal and eGoli (Gauteng province). He viewed it as important to direct his address to the youth since the image of youth was already changed at that stage. However, he did not leave out traditional leaders who formed part of the communities that were affected by violence in the province of KwaZulu-Natal. Although his address focused on the youth, he also invited traditional leaders to participate in the development of local communities by supporting projects designed by Government

for rural development purposes. The declaring of June 16 by the government as a National Youth Day indicates that the status and the relations between youth and traditional leadership (adults) dramatically changed since 1994.

The 1994 dispensation brought about changes in the relationship between adults and youth in the Simdlangentsha Traditional Council. Focus group 1 and 2 stated that the post-1994 era helped close the gap between adults and youth in traditional communities. The reason was that after 1994 adults and youth were able to gather in the same meeting and discuss matters affecting the community. Focus group 6 argued further that adults currently convene meetings that include the youth, which indicates a sound relationship between the generations. On the other hand, there was a different view among government officials and SANCO. They expressed the opinion that the youth no longer show respect for adults. They laid the accusation that the youth is not respectful and are often incontrollable within the community. However, the general view was that the relations between adults and youth in the Simdlangentsha Traditional Council improved due to the involvement of the youth in decision-making.

8.4.2 Traditional view on generational relations before 1994

The general feeling among participants was that the relationship between adults and the youth before 1994 was acceptable because adults clearly played their role, in contrast to current circumstances. Adults were respected by the youth and recognised for their guidance and leadership in the Simdlangentsha Traditional Council. The youth also understood their role in the community. Focus group 3 stated that the daily interaction between adults and the youth was harmonious. For example, according to custom an adult was always the first person to speak and the child followed. Participants from focus group 3 further emphasised that adults were respected by all the youth in the community and each child belonged to the entire community.

8.4.3 Current view of traditional leadership on gender relations

Municipal officials stated that traditional leadership views generational relations between adults and youth as unhealthy because they (traditional leaders) mentioned being afraid of the youth under the Simdlangentsha Traditional Council. It was evident during the interaction between the researcher and the inrterviewees that traditional leaders have begun to understand the rights children have under the present government. However, they still refuse to accommodate this notion because, when they discussed the rights of children, they criticised government for allowing women and children to “take power” and authority from men.

On the other hand, according to the participants the relationships between children and women remained healthy in comparison with those of the youth to men or traditional leaders. Nevertheless, traditional leaders continue to encourage the youth to respect adults as the case is in the Simdlangentsha traditional communities. There is no doubt that there are changes in generational relations since 1994. Most of the changes were brought about by government’s intervention in the functioning of traditional leadership in the country. This impacted on the relationship between adults and youth in the Simdlangentsha Traditional Council. The transformation initatives in this case were mainly from provincial and national governments through youth programmes. One participant stated the opinion that some of the changes were caused by the curriculum the children learnt at school.

8.5 FAMILY LIFE

8.5.1 Family organisation since the 1994 democratic elections

Major changes surfaced in family life since 1994. Interaction between the head of the family (the father) has changed dramatically; the same applies to the interaction between children and adults (parents). Women were not considered in decision-making but after 1994 this practise changed. Women are currently allowed to participate in traditional courts and even to be traditional leaders. The current *amakhosi* of Msibi and Dlamini traditional councils are led by women. The women have a say even in decision-making in family settings. Most participants emphasised

that respect for parents was a thing of the past in the Simdlangentsha Traditional Council since 1994.

8.5.2 The view of traditional leadership on family life before 1994

There was a general consensus among the participants that family life before the new dispensation was different from is experienced currently in communities. Men were regarded as the head of the family. The father was respected by all members of the family. Decisions on critical issues in the family were taken by the head (man) of the family. Men were recognised as sources of security and protection for the family. The males provided solutions in dispute resolutions in the family.

According to focus groups 1 and 2, family issues were resolved by a series of family meetings until the solution to the problem was found. This tradition is no longer maintained in the Simdlangentsha Traditional Council. One participant cautioned that the situation should not be generalised. He motivates his statement by pointing out that elements of change and movement away from the traditional way of life already began before 1994. The only difference after 1994 was that government entrenched transformation in this regard through legislation and policies.

The focus groups mentioned the interactions of members within the family. The information collected from five out of six focus groups regarding communication amongst family members indicates that the father remained an important figure in the family. The line of communication used to start from the mother and progress to the father. A child was not allowed to go straight to the father. According to the participants this practice last for a long time until the child is deemed old enough to get married.

On the other hand, participants pointed out that, even after getting married, especially male children remain attached to their fathers for advice on various matters such as family rituals, customs, clan practices and family disputes. Even though this practice did not apply as much to female children, the daughters were also attached to their family home even after marriage. In most cases they were attached to their mothers. The participants emphasised that, if a female child

encountered a serious problem in her marriage, her elder brothers used to become involved before the mother informs the father with a view to resolving the problem. The mother remained a starting point of communication for children within the family structure, before information was related to the father.

The focus groups stated that a family in Zulu culture is defined broadly. This includes uncles, nephews, in-laws and cousins. Interviewees indicated that the above-mentioned line of communication is not always honoured by some members of the family, especially if that member of the extended family is an adult. At times there are issues that require the attention of the head of the family not the mother. In these cases, the family member would ask the mother access to the father without revealing to her the content of the discussion. Two members from focus groups 1 and 4 remarked that certain of these practices are still occurring in the Simdlangentsha Traditional Council. In contrast to the description above of the traditional family before 1994, such a family was indeed viewed differently after 1994. However, on the whole the family unit remained an important institution in communities, a reality which is not confined to a specific ethnic group or race but is common in all races and nations.

Nevertheless, the question arises on the nature and identity of the family as societal unit. A Draft Policy on Framework for Families provides a simple definition of a family. A family is a potential agent for political, cultural and social changes. Furthermore, a family is responsible for the care and development of children (Department of Social Development, 2001:1). The White Paper on Families extends the definition of a family by focusing on family life. The White Paper presented by the Department of Social Development to the Social Development Portfolio Committee on September 2013 defines family life as follows: Family life is “a societal group that is related by blood (kinship), adoption, foster care or the ties of marriage (civil), customary or religious, civil (union) or cohabitation with connection that extends beyond a particular physical residence”.

The presentation to the Portfolio Committee for Social Development classifies families into a number of types in communities and societies. The most common families identified by the White Paper on Families include the following:

- cohabitation;
- single parent families;
- female-headed households;
- skip-generation households;
- child/youth-headed households;
- same-sex relationships and marriages;
- polygamous marriages; and
- migrant families.

National government, in turn, considers family life as an institution that plays an important role with regard to nation-building in communities. Government urges families to play an important and central role in the national development of the country and to contribute in building a better South Africa. The government holds that family life and the strengthening of family units can play a crucial role in building South Africa as one nation (Green Paper on Families, 2011:1).

It is evident that the description of a family by traditional communities is different from that of the post-1994 period of governance. The first remarkable difference is that the family unit became a legislated institution. After 1994 families were categorised into different types, which were not posed before 1994. For example, same-sex relationships and marriages did not form part of traditional communities. These differences between traditional families and families in a democratic South Africa are indicators of transformation since the 1994 democratic elections and the effect of new legislation and policies that Government introduced post 1994.

However, the transformation of traditional leaders did not begin only after 1994 and the new dispensation. Family life and the nature of families have been undergoing a series of transformations even before 1994. Despite the efforts by the current government of addressing family matters in the country, the history of the country continues to affect the socio-economic status of communities, particularly African communities and the family as an institution.

8.5.3 The role of the local government

Participants indicated that local government in particular did not play a role in the current change of family life in the Simdlangentsha Traditional Council. National government played an important part in shaping the way family members interact in the new dispensation since 1994. The question of constitutionalism had a significant impact in changing the behaviour of individuals and extended family units in the country; Simdlangentsha was not an exception to this social change. One interviewee remarked that freedom, human rights and education from various programmes that government implemented since 1994, impacted the style of life of this traditional community (Simdlangentsha).

It can therefore be assumed that family life in the Simdlangentsha Traditional Council is no longer the same as before 1994. The family as institution in traditional communities underwent various processes of transformation under the democratic environment of the current government. One participant remarked that issues of birthdays amongst family members was not deemed important traditionally, whereas nowadays parents and children interact on special days such as birthdays, Father's Day, Mother's Days or Women's Day. These are clear indications of transformation bearing fruit in the traditional family setup.

8.6 CONCLUSION

From the interviews it was evident that political parties contributed to the transformation of family life and families in South Africa. Government programmes and organisations such as the ANC Youth League, Women's League and other leagues from other political parties helped shape family life and the way siblings within families interact. Educational programmes also had an influence on the transformation of family units. The Constitution and related legislation emphasised equal treatment regardless of gender, race or cultural background.

It can therefore be inferred that family life and the nature of families before and after 1994 have altered structurally. Gender distinctions and the disparity between men and women played a major role before 1994. This changed after 1994 and is evident

in current gender and generational relationships and family life in general. It also became clear that local government did not play a significant role in this process. Local government is, however, involved in boundary disputes and its role compared to that of traditional leaders has not been resolved fully. The results can be summarised in Table 6 below.

Table 6: Results on the transformative criteria related to social context

Context	Criteria	Summary of results
Social	1. Boundary disputes	Currently local government plays an important role in boundary disputes. There are differences in view between traditional leaders and local government on the agent responsible for land disputes. COGTA is also involved in the settling of boundary disputes.
	2. Gender issues	A major shift took place regarding the recognition of women in traditional structures and the community since 1994. This process was influenced by the Constitution and gender-related legislation. Local government did contribute to the process through projects and educational programmes.
	3. Generational relationships	The submissive role of youth changed after 1994 due to the Constitution, local, provincial and national programmes, schools and the media. The youth is currently more involved in decision-making and pose a challenge to the authority of traditional leaders.
	4. Family life	Family life is exposed to various influences. Changes in family life already

		occurred before 1994. Thereafter specific factors maintained changes: particularly programmes of national government, the emphasis on human rights and Western cultural influences. Local government did not play a significant role in this process.

CHAPTER 9: THE RELATIONSHIP BETWEEN TRADITIONAL LEADERSHIP AND LOCAL GOVERNMENT

9.1 INTRODUCTION

The previous chapters focused on the theoretical framework's areas concerning the political, economical and social context. This brief chapter reports on specific questions in the interviews and focus groups on the relationship between traditional leaders and local government. The questions differentiate between responses of the civic society, Zululand District Municipality, eDumbe and Pongola local municipalities and their councillors and officials. Participants had to describe their impressions of the relationships, especially with local municipalities.

9.2 TRADITIONAL LEADERS AND THE ZULULAND DISTRICT MUNICIPALITY

An overall response from the focus groups on the relationship between the Zululand District Municipality and traditional leadership of Simdlangentsha indicated that the majority of community members viewed the relationship between the two institutions as general acceptable. They based this view on the fact that traditional leaders are represented in the district municipality and the representation lasts for a period of five years. This is the same period that councillors serve in the council. The appointment of traditional leadership to the local municipality is the prerogative of COGTA in the province. As indicated previously, the eDumbe local municipality is represented by two traditional leaders (Dlamini and Mthethwa), and the Pongola local municipality by four traditional leaders (Gumbi, Ntshangase, Buthelezi and Simelane).

Participants had different views on the status of the relationship between traditional leadership and district officials. One section of the participants stated that the relationship between traditional leadership and district officials is sound since they work together in community programmes and projects. However, others differed. According to them, the district's municipality officials sell water to the community instead of providing water as a free resource. The Zululand District Municipality is one of the districts in KwaZulu-Natal that struggle to provide water and do it free of

charge. Participants indicated that municipal officials at the district level demand payment from the community. Even though the relationship can be viewed as sound between the traditional leadership and Zululand District Municipality, there are concerns in some quarters of the Simdlangentsha traditional community over the conduct of district officials. Some of these concerns pointed out during the interviews were: problems with water supply, government officials not available when needed, lack of information about community development programmes in their communities and insufficient communication between traditional leadership and government officials, including ward councillors.

9.3 TRADITONAL LEADERS AND EDUMBE AND PONGOLA LOCAL MUNICIPALITIES

In general the participants viewed the relationship between the eDumbe local municipality and traditional leaders as good. However, one participant pointed out that this is not always the case. Especially the relationship between headmen and municipal councillors were indicated as unhealthy. According to the participant, this tension is caused by the nature of the playing field. Both councillors and headmen work directly with communities and they utilise the same working environment to access community members.

In most cases, traditional leaders work with councillors, not municipal officials. Municipal officials are office bound. It was, therefore, not easy for them to determine the nature of the relationship between traditional leaders and officials. However, most participants found it easier to determine the relationship between traditional leadership and provincial government department officials because they meet them during major projects in the community. They pointed out that provincial officials conduct *izimbizos,* which helps the traditional leadership to air their concerns openly in a public meeting. According them, provincial officials hold meetings where stakeholders are officially invited and present their contributions on projects to be implemented. In these cases traditional leadership is invited to be part of a series of meetings from the initial stage of planning. According to participants local officials are not as visible in these meetings as provincial officials.

Two participants mentioned that they spent many years as school children in the eDumbe local municipality. They originally came from the Pongola local municipality, were born there, but were then sent to relatives in Dumbe (Paulpietersburg) to attend school. As a result, they experienced both local municipal environments and could assess the relationship between the traditional leadership and local government. They argued that the relationship between municipal councillors and traditional leadership in the Pongola local municipality is no different from the leadership's relationship with the eDumbe local municipality. The conflict between councillors and headmen has also come to the fore in the Pongola local municipality. The only difference between the two municipalities is the number of traditional leaders in Paulpietersburg (two traditional leaders) over against those in Pongola (eight traditional leaders) that could influence an analysis on the state of affairs of these local municipalities and their interaction.

From of the eight traditional leaders of the Simdlangentsha Traditional Council, six are from the Pongola local municipality. Such imbalances in numbers may affect to some extent how stakeholders interact in matters of interests. However, the general view was that the two local municipalities share a similar form of relationship between the traditional leadership and local government.

Afterwards the researcher held a second discussion with Pongola groups (11 October 2015) and revisited the data collected during the interviews. It was found that, although the focus groups from the two local municipalities share similar experiences on their relationship with municipalities, it became evident that the additional number of traditional leaders in the Pongola municipality assures a better relationship between these leaders and the Pongola municipality. This is based on the fact that focus group 1 and 3 of the Pongola municipality expressed the view that most traditional leaders of the Simdlangentsha Traditional Council are concentrated in Pongola (four traditional leaders, namely, Gumbi, Buthelezi, Ntshangase and Simelane).

In other words, due to their larger representation, they experienced more support from the Pongola municipality in comparison with the situation in the eDumbe municipality (with only two traditional leaders, namely, Dlamini and Mthethwa). The

participants supported this statement my pointing out that Ntshangase from Pongola represents traditional leadership in the Zululand District Municipality. According to them, the larger number of representatives in the Pongola municipality helps to improve the relationship between the institutions. However, a councillor remarked that the traditional leadership is not attending council meetings regularly.

9.4 TRADITIONAL LEADERS AND CIVIC SOCIETY

The relationship between the traditional leadership and civic society is also sound according to the interviewees. They mention that, when they encounter problems in their operation, they are able to approach representatives of the civic society in the community for assistance in various socio-economic matters. One member of the focus groups remarked that it is easy for them to approach civic-society representatives because they are closer to them than the traditional leadership. The reason is that they frequently meet these representatives in political meetings, which is not the case with the traditional leadership. The relationship between civic-society representatives and local government was explained as good depending on who leads the local municipality in terms of political alignments

9.5 FUNCTIONS OF LOCAL GOVERNMENT THAT IMPACT THE FUNCTIONING OF THE SIMDLANGENTSHA TRADITIONAL LEADERSHIP

Local government programmes are based on socio-economic projects. Often the traditional leadership competes with local government to announce to the public when a new project is planned (e.g. road works and gardening). According to the responses the traditional community of the Simdlangentsha Traditional Council indicated conflicts between the traditional leadership and the local government in implementing development programmes. They cited one example of an *inkosi* in a traditional council within Simdlangentsha. Allegedly a network company wanted to improve the quality of the network by installing devices that would provide services to areas under the control of the traditional leadership. The traditional leader rejected the proposed project, seeing that he wanted the device to be installed near his home. According to the participants the *inkosi* adjudicated that the aerial could not be installed in the area unless the installation was done at his home. Such actions

impact negatively on socio-economic initiatives and influence the relationship of the traditional leadership with local government.

9.6 SUGGESTIONS FOR A WORKING RELATIONSHIP BETWEEN TRADITIONAL LEADERSHIP AND LOCAL GOVERNMENT

During the interview sessions it became clear that the participants recommended that any programme initiated by the municipality in the traditional community should be communicated properly to the *amakhosi* in time. They suggested that harmony between the traditional leadership and the local government can be achieved through the implementation of various initiatives. The findings from the interviews suggested the following possible measures:

- **Communication:** Quarterly meetings between municipal officials and traditional leadership should take place. Participants emphasised the municipal officials because they are not familiar with these role-players, unlike the ward councillors whom they often contact their wards.
- **Education:** Educational programmes should be held for *izinduna* on the functioning of local government.
- **Social structure:** The old *izinduna* should be relieved from their duties and allow young people to take positions of *izinduna.* Most participants during the interviews argued that old *izinduna* contributed to the mixed feelings about the nature of the relationship between traditional leadership and local government.

9.7 CONCLUSION

The interviewees indicated that traditional leaders seem to have a satisfactory relationship with the Zululand District Municipality as well as the eDumbe and Pongola local municipalities. Where tension does arise in the relationship it is often between traditional leaders and local officials and councillors. Regarding the officials, the complaints are that they are not readily accessible. And regarding the

councillors, the reason is that they and the traditional leaders work directly with the community. Over against these issues, traditional leaders sometime act selfish.

In view of these impressions the participants' suggestions followed three main trajectories: traditional leaders, local officials, and councillors should meet regularly; the traditional leaders should be educated about local government; and younger people should participate in traditional councils.

CHAPTER 10: CONCLUSION AND RECOMMENDATIONS

10.1 INTRODUCTION

This chapter starts off by presenting the conclusions of the study, after which recommendations are made in view of the research findings. The primary objective of the present study was to analyse the transformation of the traditional leadership in the Simdlangentsha Traditional Council as a result of its relationship with the democratically elected local authorities of the Zululand District Municipality, eDumbe and Pongola Local Municipalities since 1994. In light of the analysis' findings certain recommendations are made on strategies to help manage and curb authority disputes resulting from the impeded relationships. In view of objective, a theoretical framework are suggested, the framework is described, the historical authoritative position of the Simdlangentsha Traditional Council explained and the political, economic and social contexts of transformation analysed with regard to the traditional leaders of the Simdlangentsha Traditional Council since 1994.

10.2 CONCLUSION

Traditional leadership is a deeply instilled institution in South Africa dating back to before the colonial era and continued to survive during the colonial and apartheid periods. This institution still functions strongly in the new democratic dispensation in South Africa since traditional leadership is endorsed by the Constitution. The introduction of various pieces of legislation on traditional leadership since 1994 to date has been a testimony to the recognition of traditional leadership in the ANC-led government. Examples are the Traditional Leadership and Governance Framework Act 41 of 2003, KwaZulu-Natal Traditional Leadership and Governance Act 5 of 2005. These forms of legislation and other related policies enacted by Government since 1994, demonstrate that the traditional leaders remain important in local communities. It was found that traditional authorities need to work together with local governments due to the wall-to-wall type of municipalities and because they are serving overlapping local communities.

The research in the present study revealed different views on the transformation of Simdlangentsha traditional leaders (in this case Mavuso, Ndlangamandla, Dlamini, Ntshangase, Msibi, Simelane, Mthethwa and Sibiya) and its relationship with local government (in this case the Zululand District Municipality and the eDumbe and Pongola local municipalities). It was noted that the traditional leadership moved away from their traditional way to living towards a modernised form of leadership and governance.

To analyse the transformation of traditional leaders with regard to local government the present study suggested a theoretical framework to identify the contexts in which transformation might have taken place. The point of departure of the study was that local government played a significant role in the transformation of traditional leadership. It is clear that this statement should be qualified. The theoretical framework helps to clarify this qualification.

10.2.1 Political context

With regard to the political context the following facts were established:

a. With regard to democracy the traditional leaders viewed their *izimbizo's* pre-1994 as democratic but the community members differed. They viewed the traditional leaders' style of governance as autocratic before then. After 1994 democracy became the dominating ideology, also influencing traditional leaders. Representing this democracy is the domain of local government in the local community.

b. It is clear that the developmental role of local government (through CDWs and CCGs) differ from that of traditional leaders. The developmental role is especially driven by the provincial and national government.

c. The political values of traditional leaders had to change since 1994 because currently they are regulated by national government. Over against the traditional leaders, the local government is the representative function of democratic political values.

d. The traditional structures did not change significantly after 1994, except that from then on they received their authority from the provincial and national government. Local government introduces a new structure that overlaps with traditional structures. The remarkable change in traditional leadership since 1994 is the functioning of this institution. Functions and duties of traditional leaders are influenced and guided by legislation regulating the operations and functions of both local government and traditional leadership.

e. Political functions of traditional leaders are still focused on resolving conflicts, allocating land and managing traditional courts. Seeing that local government also distribute information to the communities, the role of traditional *izimbizo's* became less important and the traditional maintenance of law and order was largely taken over by the police. Local government played an important role in distributing information in the traditional communities.

f. Service delivery under traditional authorities mainly entailed the following: allocation of land, addressing stock theft, dealing with animal diseases and other livestock problems. Structural service delivery is currently the responsibility of local government under the supervision of the provincial and national government.

In the political context it is clear that the authority of traditional leaders post-1994 was not primarily hereditary but was granted by the provincial and national government. This grant presumed human rights, which and this had an influence on traditional leaders' interacting with the community and with local government as the institution that represents the new democratic order locally.

10.2.2 Economic context

With regard to the economic context the following information was reported:

a. The government's development plan after 1994 was initiated by the national and provincial governments. Traditional leaders and local government collaborated with government initiatives on this development.

b. Before 1994 poverty alleviation by traditional leaders was accomplished by means of land allocation, agricultural produce and livestock management. After 1994 poverty alleviation was a focus of national and provincial governments in which traditional leaders and local government collaborated.

c. Before 1994 employment in the traditional areas was informal in nature. After 1994 the government mainly initiated programmes that contributed to job creation. Traditional leaders and local government played a limited role in this initiative. Government created jobs through its Expanded Public Works Programme allowing local people to participate in tasks such as road works or care for the sick.

d. Social security was introduced after 1994 by the national and provincial government with minimal involvement of the traditional and local government in the process.

e. Before 1994 food security was provided by traditional leaders through managing livestock. After 1994 government programmes (esp. from provincial and national government) provided food security.

f. Before 1994 land was administered by traditional leaders. They were the custodians of land access. After 1994 the issue of land ownership shifted from traditional leaders to local municipalities.

g. Traditional leaders do participate in the district municipality and are a party to the decision-making on economic development. However, there is less coordination between traditional leaders and local municipalities on this matter.

It is clear that economic development is mainly an initiative from the provincial and national government. In many cases traditional leaders and local government must collaborate on the delivery point of such development. This can cause potential conflict and tension between the role-player, the traditional leaders and local government.

10.2.3 Social context

With regard to the social context participants had the following feedback:

a. Currently local government plays an important role in settling boundary disputes. There are differences in view between traditional leaders and local government on the agent that is responsible to deal with land disputes. COGTA is also involved in the handling of boundary disputes.

b. A major shift took place regarding the recognition of women in traditional structures and the community since 1994. In this process the Constitution and gender-related legislation had a significant impact. Local government contributed to this transformation by means of community projects and educational programmes.

c. The submissive role of youth in traditional areas has changed after 1994. This is due to the influence of the Constitution, local, provincial and national programmes as well as school curricula and the media. Currently the youth is more involved in decision-making and, therefore, poses a challenge to traditional leaders.

d. Family life is exposed to various influences. It became clear that changes already occurred in family life before 1994. However, thereafter these changes were maintained by particularly programmes of national government, the emphasis on human rights and Western cultural influences.

It is evident that changes in the social context impacted heavily on the role of traditional leaders. Whereas local government is involved in programmes to establish new social values and practises, this is in stark contrast to traditional values and accepted social practises.

In the light of the above it can be concluded that local government does not transform traditional leadership directly. Rather it functions as an agent of the provincial and national governments' political, economic and social agenda. Through these channels Government influences how traditional leaders function. This process does further the transformation of traditional leaders. The involvement of traditional

leadership in government initiatives and traditional leaders' remuneration by the state indicates that the functioning of traditional leadership has transformed since the 1994 democratic dispensation.

10.3 LIMITATIONS OF THE STUDY

The present research cannot in any way be regarded as the final information about traditional leadership in South Africa at large. This is because the present study's research focus is limited and must be applied to broader contexts. It is also not possible to assume that the research provides the final information about the Simdlangentsha traditional leadership as such. This is based on the fact that aspects of information collected on the traditional leadership came from community members who might be influenced by specific socio-political, socio-cultural and socio-economic factors within their community.

10.4 RECOMMENDATIONS

An objective of this study was to make recommendations on sections of existing legislation, policies and/or practices that potentially might lesson disputes with regard to authority between traditional leaders and local governments. This section attempts to contribute to this objective.

10.4.1 Sources of conflict and possible solutions between traditional leadership and the elected municipal councillors

According to Tlhoaele (2012:105) the root cause of conflict between traditional leadership and the elected local government councillors is caused by the historical policy based on decisions before the 1994 dispensation. He argues that two pieces of legislation (Black Administration Act 38 and Black Authorities Act 68) gave traditional leaders certain powers (participating community development, authority on land matters) that are in conflict with the powers of the local government councillors since 1994 (Tlhoaele, 2012:105). This concurs with the empirical results above indicating that the conflict between these parties is largely related to developmental issues and the control of information.

The Department of Provincial Local Government (Presentation by DPLG in the 4th National Annual Local Government Conference) in its search for the contributing factors to the perceived conflict identified various causes, which also suggested the possible solutions. These include the following **strategic operational points of contact** (or SOPs):

- **Co-existence:** The Department of Provincial Local Government found that the co-existence of traditional leadership and local government and the introduction of the wall-to-wall type of municipality do no longer pose serious challenges for both institutions. The argument is that observations indicate that the joint functioning has been welcomed by the parties. One area that could be a possible cause of conflict is the misunderstanding of their roles at community level. Based on these findings by the Department of Provincial Local Government, it can be argued that there is a need for education for both sides that would help clarify roles of the two institutions, especially with regard to service delivery in the communities.

- **Contestations:** Contestations between traditional leadership and councillors cannot be ruled out. It was found that councillors sometimes initiate and implement projects for community development without engaging traditional leadership of that particular area. Traditional leadership does not accept the imposed projects to their subjects and they are fully supported by community members since they (traditional leadership) still command the respect of traditional communities. This would mean that consultations from either side should be a matter of attention by all parties.

- **Cooperation:** It is believed that certain traditional leaders are still attached to the period before the introduction of Traditional Leadership and Governance Framework Act 41 of 2003. Traditional leadership held that local government councillors are contesting their powers and seizing the control the leaders had over rural people in the past. In contrast, observations have shown that most traditional leaders realise that the two institutions can work in harmony at a local level provided their roles are clarified. This role confusion was evident when the researcher was deployed in Nkandla (13-18 July 2015) during the

Public Service Volunteer Week (PSVW) in honour of the late President Nelson Mandela. It was found that the Department of Home Affairs provides different guidance to community members when they apply for IDs or birth certificates. Some applicants were sent to a traditional leader to collect a letter that would confirm that the applicant stays in area, and others were referred to their ward councillors for the same letter. Role confusion continues in the community without being addressed by relevant authorities.

- **Clarification:** The new dispensation came with multiple structures operating at a local level. For example, in both local and district municipalities there are multiple structures that execute and fulfil different functions. These functions include: traditional leadership, local government councillors, community based organisations and community development workers (CDWs). In addition, there are other government volunteers or community workers involved such as community care givers (CCGs) and social crime prevention volunteers. A community with diverse structures require proper structural arrangements in order to minimise confusion of roles. If this precaution is not made, potential for conflicts will be a cause of concern throughout during operations on the ground. Clarification of roles of each institution can be a strategic means to resolve the misunderstanding among community organisations and institutions.

- **Competencies:** Sobahle (2007:173-180) argues that: “with advent of the new wall-to-wall municipal system in the country, traditional communities are now under the governance of municipalities and that of traditional leaders, as opposed to the previous dispensation where the homeland governments were directly responsible for service delivery in traditional communities with traditional leaders playing a direct liaison role and Regional Authorities having a lot of legislated development functions.” This change of allegiance may result in friction between the traditional leadership and local government operations. For instance, traditional leaders are required to provide security in their communities, a competency that is the responsibility of SAPS and municipality at a local level.

- **Conflicts:** Motshega (2007:181-199) argues that the question of territorial and hierarchical arrangements of traditional leadership and local government must be addressed in order to deal effectively with conflicts between traditional leaders and local government. He argues that the destruction of African kingship by the prior colonial and apartheid systems of governance could be a source of conflict when providing services to traditional communities. For example, South African kingships have similarities with the Sudanese state, which is sometimes called Ethiopian states. According to this African structure, confederations or a combination of states or kingdoms exist as one country (i.e. the country is made up of confederations). This is not the case in the modern local government setup. Structural arrangements of the two institutions contribute to the current situation in rural communities.

- **Consultation:** The land issue between traditional leadership and local government is not yet resolved by the two parties. This issue does not affect only traditional leadership and local government but also involves provincial and national spheres of government in the Republic of South Africa. An article recently by Makinan in *City Press* (10 August 2015) indicates that land is one of the leading sources of conflict in rural communities between the two institutions. The article was titled “Don’t touch our land, plead traditional leaders”. This documents the reaction from the National House of Traditional Leaders (NHTL) to the land Expropriation Bill proposed by national government with the purpose of accessing land countrywide for development initiatives.

  The NHTL argues in their submission that traditional leadership does not want government to expropriate communal land under traditional leadership jurisdictions in the country. However, they argue that if the national government continues with the implementation of the Expropriation Bill, they would need to intensify their consultation with Government. They confirm in the submission that if consultation is properly done, they are willing to cooperate with local government councillors and officials during the implementation process. The submission further requests that powers of expropriation should be given to the Minister of Public Works, not to the

> premiers, government departments and municipalities. It seems that the land issue between traditional leadership and the local government or South African government is far from resolved. This is based on the fact that recently the same National House of Traditional Leaders appealed to the Minster of Rural Development and Land Reform, Gugile Nkwinti to suspend or delay the implementation of the Spatial Planning and Land Use Management Act (Makinana, 20015:13).

The exposition above implies that traditional leaders are attached to land administration in traditional communities. They are vigilante about any legislation that threatens to interfere with their power in land administration. However, their reaction to the Gugile Nkwinti shows that their grip on the land is somewhat weakened by government legislation. Their indication that they are willing to cooperate with local government implies that traditional leaders have compromised in dealing with land even in their traditional communities.

10.4.2 The way forward: a joint venture

In the section above, the researcher identified legislative mandates that require partnership and cooperation between traditional leadership and local government in communities including traditional human settlement. Sobahle (2007:173-180) states the matter correctly: “There is no other option but for the two institutions to accept that there is a need to work together more than before. This has become not just a matter of choice and discretion, but it has become a legislative imperative that has to be complied with.”

National government has the responsibility to ensure that services to communities are provided effectively. The achievement of this goal depends on a number of matters that need attention. The South African government realised that local government and traditional leadership institutions are much closer to the people (Motshega, 2007:181-199). Motshega (2007, 181-199) indicates that Government has moved forward in terms of transforming traditional leadership, especially at policy level. However, he classifies the current transformation of traditional leadership as political since it does not address the other areas, namely the cultural,

social and economic needs of communities. It is therefore important for the present study to explore various avenues that would help harmonise the relationship between traditional leadership and local government. This could be possible if the above-mentioned strategic operational points (SOPs, *see:* 10.3.1) are properly addressed by relevant stakeholders. This joint venture can be extended to policy initiatives that would affect the functioning of the two institutions.

10.4.2.1 Produtive working relationships at local level

There is a strong argument that any programme of transformation aimed at reforming traditional leadership should ensure that traditional institutions are accommodated in the democracy. This implies that individuals should partake in the municipal structures with limited changes to their way of life and customs in terms of socio-political practices (Motshega, 2007:181-199).

General observations and practical experiences in rural and urban communities indicate that local government is under pressure to deliver services to communities. The widespread service-delivery protests countrywide provide a testimony of the substandard services rendered to communities. The question of conflicts between traditional leadership and local government may be made the scapegoat for local government's inability to cope and manage the pressure from community members.

Motshega (2007: 181-199) argues that "the key challenge facing South Africa today is to structure the relationship between local government institutions of traditional leadership so as to enhance development and service delivery". It is of paramount importance to ensure that the relationship between these institutions (traditional leadership and local government) is agreeable and that it creates an environment conducive to development and service delivery in communities. In order to achieve this relationship, integration of the following aspects becomes important: traditional leadership and development, culture and development, culture and religion, culture and land administration, development and land tenure systems, as well as women and development (Motshega, 2007:181-199). Traditional leadership is a unique institution, and should be treated as such. The leadership must be incorporated into democracy without having to change their nature. Consideration of their culture, land

administration in relation to their culture will facilitate a productive working relationship. This relationship should include the focus areas explicated below.

10.4.2.2 Traditional leadership and development

Motshega (2007:181-199) points out the strong belief that the relationship should be established in terms of spiritual and material dimensions because these two concepts are building blocks of human development. The argument continues that the spiritual part of a human being is accompanied by the heritage of that particular person, which cannot be divorced from the indigenous system of the individual in an institution. African communities have their own value systems, which include indigenous plants, agriculture, heritage tourism and natural medicines. In contrast, local government is aligned to the Western culture, which sometimes views African culture as superstitious and unwilling to contribute to the social and economic development of the South African communities. This discrepancy in value systems between the traditional leadership and local government makes it difficult for both parties to engage in a meaningful relationship that may result in an effective development programmes that are jointly designed. Motshega (2007) argues that there is no development without the “spiritual and material dimension”. Therefore, a productive working relationship between traditional leadership and local government can be established if both value systems are recognised equally.

10.4.2.3 Culture and land administration

In many instances, African communities link culture to nature. For example, places such as mountains, natural caves and natural vegetation or forests are respected community areas and community members regard it as sacred spots. Furthermore, African communities use places of this nature for rituals, culture and other forms of ceremonies in various traditional functions. The custodians of traditions, customs and culture in most African communities are traditional leadership and *izinyanga* (traditional healers). Sacred places are looked after by traditional leaders and traditional healers. However, local government and community developers have different views on natural vegetation of the land. For example, sacred places are seen as sources and generators of income through tourism (Motshega. 2007:181-199). This is evident in the Drakensburg area in KwaZulu-Natal where the natural landscape is surrounded by high-class hotels. They continue to attract tourists to the

area. In order for the two institutions to work harmoniously at a community level, engagement should consider African culture related to African land administration. It should be accepted that certain areas are not used but reserved for sacred purposes (Motshega, 2007:181-199).

10.4.2.4 Development and land tenure systems

It becomes important for government and private investors to deal with the notion that traditional leaders monopolise land and exclude women in the ownership of land, even if they are members of the same community. This is the perceived definition of the African land tenure system in South Africa. Beliefs of this nature cause government and ordinary South African citizens as well as international communities to stereotype traditional leadership as hard-lined with regard to land ownership and community development since development requires available land. Land ownership is an important element in harmonising relationship between the two institutions since local government's development projects (housing projects) need land to be implemented. Motshega argues that the conflict is caused by local government privatising or selling its land to private owners and then scouts for traditional leadership territories to use for development. This has led to the overcrowding of traditional communities in the former home-land areas. It is, therefore, believed that a productive working relationship between traditional leadership and local government is achievable if the African and the local government land tenure systems are integrated.

10.4.2.5 Improved relationship between local government structures and traditional leadership institutions at local level

It was found in the empirical research the representation of traditional leadership in the council is not effective. The Mayor of Pongola and the councillor in eDumbe local municipalities remarked that traditional leaders are not attending council meetings. As a result, their structure is not represented and their contributions are not heard.

This finding is confirmed by Biyela (2007:200-215) who stresses that there should be a strong relationship between structures of local government (district councils and ward committees) and that of traditional leadership (house of traditional leaders, tribal councils, *isilo, amakhosi* and *izinduna*). It is therefore important to foster a

sound relationship between the two institutions. Biyela argues that the relationship should start between local municipalities and traditional leaders on a local community level because not all municipalities approve such a joint venture to provide services to communities. The relationship, for example, can be improved by engaging traditional leadership in the Integrated Development Plans (IDPs) designed to be implemented in traditional or rural communities. It will be important for government to explore the capacity building of local government and traditional leadership structures with the purpose of emphasising the need to work together.

10.4.2.6 Traditional Administration Centres (TACs) as a joint venture for service delivery in rural areas

The findings indicate that traditional leaders (*inkosi, izinduna*) are not receiving information from councillors regarding community development projects. These leaders do not have updated information in relation to the place in his or her area of jurisdiction. As a result they remain uninformed and thus unable to relate information to their subjects.

a. Traditional administration centres (TACs)

In response to the concerns of traditional leadership, the national government has been searching for collaboration between traditional leadership and local government countrywide. Ndlela (2007:228-247) asserts: “Traditional administration centres (TACs) seeks to ensure that different government departments as well as local government and traditional councils are under one roof to deliver public services to the local populace.” If these TACs were implemented effectively by all stakeholders in the past, the unhealthy relationships between traditional leadership and local government could have been averted.

The idea of the TACs was a viable tool to harmonise the relationship between the two institutions. The reason is that under TACs traditional leaders were exposed to various government departments, and non-governmental (NGOs) organisations were part of this joint venture in providing services to communities. Traditional areas are made up of *izigodi,* which stretch across the municipal boundaries. The TACs were created to accommodate the underlying areas of traditional communities *(izigodi)* under traditional leaderships of different clans. The Simdlangentsha Traditional

Council is one of the communities that participated in TACs for development purposes (Ndlela, 2007:228-247).

The notion of TACs was an “on-point” model to unify traditional leadership and other community-based organisations and institutions including local government. This is based on the *modus operandi* of the TACs in communities. The TACs used to establish working centres where the relevant stakeholders used to meet and discuss matters of community interest. It is an excellent platform as interface of different stakeholders in one unit of contact. Old traditional courts, for example, were utilised for disputes or conflict resolution and other community matters. The relationship between traditional leadership and government in general would have been more amicable if this model of TACs was continued without interference since it involved all spheres of government. The TACs would have facilitated a better understanding of the different functions. The traditional courts were responsible for:

- dispute resolution;
- land administration, permission to occupy;
- allocation of land to people;
- confirmation of marriages; and
- through the compliance with customary law.

It becomes clear that the TACs could play a major role in creating a productive working relationship between traditional leaders and local councillors in communities. The TACs model is strategically important. The reason is that it moves beyond traditional leadership and local government in establishing sound working relations and help form a strategic alliance in service delivery. The implementation includes government departments and NGOs that exist at a local level.

b. Operation Sukuma Sakhe (OSS)

Operation Sukuma Sakhe (OSS) as a viable tool to improve relationships between stakeholders including traditional leadership and local government in local communities can be used as example for such a joint operational structure or interface. The KwaZulu-Natal Department of Human Settlement defines OSS as “a

provincial programme that was founded on the premise of taking government to the people in a coordinated manner. *Sukuma Sakhe* is a Zulu phrase which means stand up and build. The programme has been launched in all 11 districts municipalities and 51 local municipalities under them. It involves coordination amongst sector departments".

The objective of OSS is to improve among other things the standard of living of the poor households through a process of facilitation. Government may not succeed in implementing the necessary initiatives for poverty eradication because of the shortage of required resources in sector departments. Due to this shortage, government resolved to the prioritisation of "elderly with or without dependents, disabled, sick, women, children" (OSS Guidelines, 2011:4).

The OSS initiative uses the so-called "war rooms" as service-delivery mechanism in communities. The war room is defined as "integrated service delivery structure comprised of government, municipality, Community Based Organisations, private business and stakeholders at ward level. Operation Sukuma Sakhe war rooms are composed of officials from various sector departments. The different regions within the department must ensure that they have a representative attending war rooms respectively" (OSS 2011:5). War rooms can play a role in establishing productive relationships between traditional leadership, government officials, local government, ward councillors and other community-based stakeholders, seeing that this concept creates one centre for a meeting of minds, hearts and hands.

It is evident from the discussion above that there is no way that the relationship between the local government structure and the traditional institution can be ignored. This relationship is fundamentally rooted due to their location and operations at a local level where they interface daily. It is therefore important for this study to propose a policy-based initiative that would assist in reconciling the two institutions in order to deliver efficient services to communities in a joint effort. A Discussion Document in the form of a proposal for a Green Paper on the working relationship between traditional leadership and local government is presented.

M.J. Maseko PhD

Operationalising: Discussion Document as proposal for Green Paper – on Working Relationships between Local Government Structures [e.g.ward safety committees] and Traditional Institutions

Table 7: Operational framework for productive working relationships

STRATEGIC OPERATIONAL POINTS SOPs	Interface for productive working relationships (PWR) Focus areas					
		Traditional leadership & development	**Culture & land admin**	**Development & land tenure**	**Relations between government structures & traditional institutions**	**Existing structures OSS TACs & service delivery**
	Co-existence					
	Challenges	Co-existence would imply that traditional leadership provides surface space for development and development is driven by outsiders, hence, the question of land ownership stands between developers and traditional leadership.	The challenge in this regard is culturally based. Traditional leadership has its own way of managing land and there are certain sections of land that are not open to be utilised because of cultural history attached to it. This even includes vegetation. Local government does not consider sacred places reserved for community rituals.	Co-existence here is determined by the status of land ownership and the custodian of development in traditional communities. The land tenure is not the solution yet. There is a lot to be done on land owmership in rural communities	Post-1994 period gave birth to many structures & operations in communities where traditional leadership is dominating. Traditional leadership in some instances has confusing roles, which results in conflict with other community-based organisations.	Both structures were created for a good purpose but traditional leadership is not properly oriented and sensitised by government stakeholders and officials.
	Solutions	Co-existence of the two institutions is possible if the question of land ownership is addressed and the traditional leadership is fully involved in developmental programmes in the areas.	Develop a legal framework on land administration to accommodate the African custom of dealing with land matters. For example *izinduna* play an important role in land administration.	The current Land Tenure Act needs to be reviewed so that it could be acceptable to traditional leadership.	The solution is to develop a manual outlining the roles of the main community structures and conduct workshops so that traditional leaders are clear on what is expected of them.	Revival of TACs and merging it with OSS structures will definitely improve the working relations between traditional leadership and local government including other stakeholders at a local level.

	Contestations					
	Challenges	Contestation between traditional leadership and local government is based on who should lead community development.	The issues are how land is administered and who must allocate land to community members. This is about African culture versus Western practices in land administration.	Property rights are at stake; the current land tenure system does not provide full ownership of land to traditional leadership, hence, local government is not obliged to contact traditional leaders for development programmes in communities. This discrepancy creates a fertile ground for conflict.	The existing challenge is the power struggle between traditional leadership structures (*Isilo*, *izinduna* and Traditional Council) local government structures (Municipal Council and ward committees).	Not all traditional leadership is aware of OSS, even those who are aware do not understand it. OSS is viewed by traditional leaders as an imitative of local government and government departments. TACs were abandoned by Government and some traditional leaders are uninformed about these joint structures.
	Solutions	Operational policy document in the form of a Green Paper outlining the role of each structure in community development projects can contribute in harmonise relationship between traditional leadership and local government.	Involvement of traditional leadership in land administration and consideration of traditional leadership methods by local government.	Guidelines and proper review of the tenure system will improve working relationship between traditional leadership and local government.	A policy-guidelines document identifying specific roles of each structure can assist in understanding their roles without interference between structures.	Creation of awareness of the two service delivery mechanisms by both provincial and local governments and incorporating objectives of TAC into OSS objectives so that all stakeholders are on the same level of understanding.
	Cooperation					
	Challenges	The threat to cooperation between traditional leadership and local government is caused by fused responsibilities of the two institutions with regard to driving development programmes.	Two methods of land administration are in place, which makes it difficult for both structures to work together.	Development requires clear ownership of the land in which the development is implemented. The current tenure system does not allow traditional leadership a say in matters of development because they are not full owners of the land they claim to be theirs.	The lack of clear demarcations between functioning of various structures in communities affects cooperation between these institutions.	OSS and TACs may create polarisation between traditional leadership and government structures since the very same structures may not have same agenda.
	Solutions	Cooperation can be harmonised by the participation of both structures in	Development of a comprehensive document that would	Granting of land ownership to traditional leadership and joint venture in	Each structure requires its constitution that will spell out its formation and	Government should utilise this opportunity to integrate the structures

		initiating development projects and joint service delivery.	incorporate African cultural methods and the Western approach in land administration.	creating development programmes will help improve cooperation between traditional leadership and local government.	regulate its operations.	through workshops that would be conducted in a vernacular of the particular traditional community.
	Clarification					
	Challenges	It is not clear which roles are played by traditional leadership in community development except their responsibilities before 1994. This creates conflict where local government and traditional leaders operate in the same area.	There are no clear guidelines of land administration, which identifies traditional (cultural) land administration.	Confusion on the status of traditional leadership in development and the ownership of the land in which the development is implemented.	The challenge is the undefined responsibilities and legitimate position of traditional leadership and government structures.	Bringing different structures under one roof may be a ground for creating hostile cliques because OSS and TACs are attended by community structures, which may not be in one camp in the community.
	Solutions	Clarification of roles during community development projects can help these structures to work together.	Reconciliation of the municipal form of land administration and the culturally based approach in land administration can be used to improve the relationship between traditional leadership and local government.	Role clarification must formally be negotiated on the implementation of the development and the status of traditional leadership with regard to land ownership.	It is important that jurisdictions of both structures are clearly illustrated so that each structure is clear of what is expected of it.	Clarification during meetings of the purpose of the existence of each structure can contribute to improved service delivery.
	Competencies					
	Challenges	Traditional leadership lack the required skills for development, which impacts negatively on their relationship with local government.	Failure to understand the difference between the African land administration and local government land administration can result in a compromised relationship.	Both structures use the same ground for development and share one target group (community members). Even if traditional leadership may acquire skills and competencies for community development, the question of land ownership will continue to affect the relationship between the two institutions.	The knowledge gap between traditional leadership and government structures leads to unhealthy competition in providing services to communities.	Combining different stakeholders in one forum could be a challenge for working relationship. This is based on the backgrounds of the stakeholders in OSS and TACs. Professionals interact with traditional leaders and other community-

						based organisations, which may not be on the same level as their counterparts.
	Solutions	Tailor-made training programmes are required to improve participation between these structures in community development.	Training on land administration of both African culture and Western land administration will contribute positively to improve the relationship between these institutions.	It is critical that the current tenure system is urgently reviewed so that traditional leadership becomes full landowners.	Government has an obligation of ensuring that both structures have necessary competencies for service delivery. This obligation can be revisited during consultation sessions facilitated by a mediator.	Further engagement of both parties through workshops can contribute positively to current relationship.
	Conflicts					
	Challenges	Who owns the development between traditional leadership and local government is the main source of conflicts, which threatens the relationship.	Conflicts will continue between traditional leadership and local government until the development of an inclusive strategy of land administration.	Land rights do not provide full ownership of the land for traditional leadership. Therefore conflicts over development continue to affect the relationship between traditional leadership and local government.	Conflicts between government structures and traditional structures are a challenge to the working relationship. This is based on the heterogeneous nature of combination	OSS and TACs as platforms could be a potential ground for conflicts between the diverse stakeholders bringing different agendas to the table.
	Solutions	It is important that workshops are staged for traditional leaders – focusing on synergising and introducing traditional leadership to modern community development.	An amended land administration policy that would incorporate cultural methods of land administration.	A negotiated partnership between these institutions is the best option for an improved working relationship.	Continuous orientation on the functioning structures can help harness the relationship.	The very same platform can be a tool for the development of a strong team that could find a joint goal: service delivery.
	Consultation					
	Challenges	Non-consultation of traditional leadership by local government when implementing development programmes is a challenge to local governance.	If consultation of traditional leadership undermines the culture of the traditional community of land administration where the development is planned, the local government will be unable to implement these ventures.	Development takes place on land. This implies that if the land ownership is not cleared, development is negatively affected.	The challenge is that government structures are not consulting traditional structures when implementing development programmes and vice versa.	OSS and TACs meetings are not properly discussed beforehand with local communities with regard to programmes and issues to be to be addressed in thiese meetings.

	Solutions	It is important that traditional leadership is consulted on any community development programmes that fall within their area of jurisdiction.	During the process of consultation, consideration of culture fused with land administration will help harmonise the operations between the two structures.	It is important for local government to resolve land ownership before engaging in community development. This can be done by consulting sessions, *imbizos* with the relevant stakeholders.	Government and traditional structures should consult on any community related projects. This can be done by regular 'bush summits' or *lekgotlas* between representatives of both institutions.	A protocol guide is required to ensure that all participants of these institutions are made aware of specific service-delivery matters in the region that requires joint attention.

Strategic operational points of contact (SOPs)

I, Mafika J Maseko hereby present a framework for the development of a Green Paper on the regulation of the working relationship between traditional leadership and local government. This proposal will be presented to the relevant contact official, Head of Department of Cooperative Governance and Traditional Affairs (COGTA) during a requested consultation on the mentioned working relationship based on the operational framework above (see *Appendix* D) an example of a letter of consultation).

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APPENDIX A

AGREEMENT FORM FOR PARTICIPATION IN FOCUS GROUP

RESEARCH TOPIC: THE TRANSFORMATION OF TRADITIONAL LEADERSHIP SINCE 1994: A CASE STUDY OF THE SIMDLANGENTSHA TRADITIONAL COUNCIL

26 JUNE 2014

Dear Participant

RE: REQUEST FOR YOUR PARTICIPATION IN SIMDLANGENTSHA RESEARCH PROJECT 'THE IMPACT OF POLITICAL, ECONOMIC AND SOCIAL TRANSFORMATION IN SIMDLANGENTSHA TRADITIONAL COUNCIL SINCE 1994"

The researcher, through North West University, Potchefstroom Campus, is conducting a study on: *The impact of political, economic and social transformation in Simdlangentsha Traditional Council since 1994.* The research project is currently conducted in two Local Municipalities (eDumbe and Pongola) in KwaZulu-Natal. The Local Municipalities fall under Zululand District Municipality in the far north of the province of KwaZulu-Natal. The researcher under the guidance of the North-West University would like to request your participation in a focus group discussion. This will be by means of an interview schedule created by the researcher in collaboration with the North-West University. The discussion will be conducted in your most convenient time. The focus group will consist of 5-12 members. The process will be a discussion between the researcher and the focus group. The interview between the researcher and the focus group will be approximately one to one and half hours per session. Please, note that there is no compensation for participating in this research project.

This project has been cleared by the North-West University ethical committee. Its ethical clearance number is NWU-00048-13-S7. Participants in the project will therefore not be harmed by supplying information because the individual participants will not be identified in the report on the results unless it was authorised by the specific participant or participants. Participation in the research project is voluntary hence; one is free not to participate if he or she decides not to be part of the

interview sessions. Participants are not compelled to respond to questions if they feel that such questions are against their will. The researcher will ensure that the constitutional rights or any form of rights are fully protected during the interview sessions.

If you have any question with regard to your participation and your rights in the study, please contact the researcher at P. O. Box 88, Paulpietersburg, 3180. Tel: 033-3419300 or Cell: 0722718953 or email: masekom@comsafety.gov.za. Same contact details can be used for enquiries about the research project.

Yours faithfully

Mr MJ Maseko

PhD candidate in Development and Management

North-West University

I agree to participate in the study project of Simdlangentsha Traditional Council

Name_____Signature:_____

Date:_____

I also give permission that the focus group discussion be tape-recorded

Name_____Signature_____

Date:_____

APPENDIX B

FOCUS GROUP INTERVIEW SCHEDULE

RESEARCH TOPIC: THE TRANSFORMATION OF TRADITIONAL LEADERSHIP SINCE 1994: A CASE STUDY OF SIMDLANGENTSHA TRADITIONAL COUNCIL SINCE 1994.

The main objective of the involvement of the respondents through focus groups interviews is to collect more information on the current status of Simdlangentsha Traditional Council in relation with political, economic and social contexts. The key respondents are identified according to local municipalities (eDumbe and Pongola) district municipality (Zululand District Municipality) and traditional leaders (Ntshangase , Mavuso, Ndlangamandla, Simelane, Sibiya, Dlamini, Msibi and Mthethwa). Municipal officials are identified according to their centres of work (Ulundi and Pietermaritzburg). Questions prepared for the focus group interviews are semi-structured and designed to guide the interaction sessions between the researcher and the members of the focus groups.

PART 1:

Focus group information

i. Name (ward) of the focus group_____
ii. Local Municipality_____
iii. Number of members of the focus group_____

PART 2:

Historical background of traditional institution of Simdlangentsha Traditional Council

Please, respond to the following questions about the historical background of the Simdlangentsha Traditional Council

i. Which area is known as the Simdlangeng]tsha Traditional Council?
ii. Who are the traditional leaders that constitute the Simdlangentsha Traditional Council? Please, give their clan names.

PART 3:

a. Political transformation

Please, give more details on the following questions about political transformation of the Simdlangentsha traditional council with regard to the following aspects:

i. Democracy and nation building
   a. What was the traditional leadership's view on democracy before 1994?
   b. What was the traditional leadership's view on nation building before 1994?
   c. What is the current view of the traditional leadership's view on democracy? (If the view changed ask the following follow on questions:)
      i. What mainly caused this change in view?
      ii. Did local government (in all questions local government refers to Zululand District Municipality, eDumbe and Pongola Local Municipalities) contributed to this change in view?
   d. What is the current view of the traditional leadership's view on nation building? (If the view changed ask the following follow on questions:)
      i. What mainly caused this change in view?
      ii. Did local government contributed to this change in view?

ii. Developmental state
   a. Did traditional leadership's had a view on the developmental role of the state before 1994?
   b. What is the current view of the traditional leadership's view on the developmental role of the state? (If the view is different ask the following follow on questions:)
      i. What mainly caused this change in view?
      ii. Did local government contributed to this change in view?

iii. Political values
   a. What political values were important to traditional leadership before 1994?
   b. What political values are currently important for traditional leadership? (If the values are different ask the following follow on questions:)
      i. What mainly caused this change in values?
      ii. Did local government contributed to this change in values?

iv. Political structures
    a. What political structures determined the role of traditional leadership before 1994?
    b. What political structures determine the role of traditional leadership currently? (If the structures differ ask the following follow on questions:)
        i. What mainly caused this change in structures?
        ii. Did local government contributed to this change in structures?

v. Political functions
    a. What political functions did traditional leadership performed before 1994?
    b. What political functions does traditional leadership perform currently? (If the functions differ ask the following follow on questions:)
        i. What mainly caused this change in functions?
        ii. Did local government contributed to this change in functions?

vi. Service delivery
    a. What local service delivery was traditional leadership responsible for before 1994?
    b. What local service delivery is traditional leadership currently responsible for? (If the service delivery areas differ ask the following follow on questions:)
        i. What mainly caused this change in service delivery areas?
        ii. Did local government contributed to this change in service delivery areas?

vii. How would you describe the current political relationship between traditional leadership and local authority of Zululand District Municipality?

viii. How would you describe the current political relationship between traditional leadership and local authority of eDumbe?

ix. How would you describe the current political relationship between traditional leadership and local authority of Pongola Local Municipalities?

b. Economic transformation

Please, give more details on the following questions about political transformation of the Simdlangentsha traditional council with regard to the following aspects:

i. Development
    a. What developmental role did traditional leadership played before 1994?
    b. What developmental role plays traditional leadership currently? (If the role is different ask the following follow on questions:)
        i. What mainly caused this change in developmental role?
        ii. Did local government contributed to this change in developmental role?

ii. Poverty alleviation
    a. How did traditional leadership contributed to poverty alleviation before 1994?
    b. How does traditional leadership currently contribute to poverty alleviation? (If the contribution is different ask the following follow on questions:)
        i. What mainly caused this change in contribution?
        ii. Did local government contributed to this change?

iii. Job creation
    a. How did traditional leadership contributed to job creation before 1994?
    b. How does traditional leadership currently contribute to job creation? (If the contribution is different ask the following follow on questions:)
        i. What mainly caused this change in contribution?
        ii. Did local government contributed to this change?

iv. Social security
    a. How did traditional leadership contributed to social security before 1994?
    b. How does traditional leadership currently contribute to social security? (If the contribution is different ask the following follow on questions:)
        i. What mainly caused this change in contribution?
        ii. Did local government contributed to this change?

v. Land reform
    a. How did traditional leadership contributed to land reform before 1994?
    b. How does traditional leadership currently contribute to land reform? (If the contribution is different ask the following follow on questions:)
        i. What mainly caused this change in contribution?
        ii. Did local government contributed to this change?

vi. Food security

a. How did traditional leadership contributed to food security before 1994?
b. How does traditional leadership currently contribute to food security? (If the contribution is different ask the following follow on questions:)
    i. What mainly caused this change in contribution?
    ii. Did local government contributed to this change?

x. How would you describe the current economic relationship between traditional leadership and local authority of Zululand District Municipality?

xi. How would you describe the current economic relationship between traditional leadership and local authority of eDumbe?

xii. How would you describe the current economic relationship between traditional leadership and local authority of Pongola Local Municipalities?

c. Social transformation

Please, give more details on the following questions about social transformation of the Simdlangentsha traditional council with regard to the following aspects:

i. Boundary disputes

a. How did traditional leadership deal with boundary disputes before 1994?
b. How does traditional leadership currently deal with boundary disputes? (If it is different ask the following follow on questions:)
    i. What mainly caused this change in how it is dealt with?
    ii. Did local government contributed to this change?
c. Are there currently boundary disputes stemming from the relationship between traditional leadership and any of the Zululand District Municipality, eDumbe and Pongola Local Municipalities? (If so answer the following question:)
    i. How can the boundary dispute between the traditional leaders and local authorities be settled?
    ii. How can the relationship between the traditional leaders and local authorities be improved with regard to boundary disputes?

ii. Gender issues
    a. How would you explain the existence of gender disparities between men and women in the community?
    b. What was traditional leadership's view on gender issues before 1994?
    c. What is currently the view of traditional leadership on gender issues? (If the view is different ask the following follow on questions:)
        iii. What mainly caused this change in view?
        iv. Did local government contributed to this change in view?

iii. Generation relations
    a. How did the relationship between youth and adults in the community changed since 1994?
    b. What was traditional leadership's view on generation relations before 1994?
    c. What is currently the view of traditional leadership on generation relations? (If the view is different ask the following follow on questions:)
        v. What mainly caused this change in view?
        vi. Did local government contributed to this change in view?

iv. Family life
    a. What changes did you notice in the organisation of family life since the 1994 democratic elections?
    b. What was traditional leadership's view on family life before 1994?
    c. What is currently the view of traditional leadership on family life? (If the view is different ask the following follow on questions:)
        vii. What mainly caused this change in view?
        viii. Did local government contributed to this change in view?

PART 4:

General views

Please, give more details on the following questions about the relationship between the Simdlangentsha traditional council and the Zululand District Municipality, eDumbe and Pongola Local Municipalities:

a. How would you describe the current relationship of the Simdlangentsha traditional leadership with the Zululand District Municipality councillors (including the major)?
b. How would you describe the current relationship of the Simdlangentsha traditional leadership with the Zululand District Municipality officials?
c. How would you describe the current relationship of the Simdlangentsha traditional leadership with the eDumbe Local Municipality councillors (including the major)?
d. How would you describe the current relationship of the Simdlangentsha traditional leadership with the eDumbe Local Municipality officials?
e. How would you describe the current relationship of the Simdlangentsha traditional leadership with the Pongola Local Municipality councillors (including the major)?
f. How would you describe the current relationship of the Simdlangentsha traditional leadership with the Pongola Local Municipality officials?
g. How would you describe the current relationship of the Simdlangentsha traditional leadership with civic society?
h. Which functions of local government impact most on the functioning of the Simdlangentsha traditional leadership?
i. How can a good relationship between the Simdlangentsha traditional leadership and the Zululand District Municipality, eDumbe and Pongola Local Municipalities be maintained?

Thank you very much for your cooperation.

APPENDIX C

INTERVIEW SCHEDULE

RESEARCH TOPIC: THE TRANSFORMATION OF TRADITIONAL LEADERSHIP SINCE 1994: A CASE STUDY OF SIMDLANGENTSHA TRADITIONAL COUNCIL SINCE 1994.

The main objective of the involvement of the respondents through interviews is to collect more information on the current status of Simdlangentsha Traditional Council in relation with political, economic and social contexts. The key respondents are identified according to local municipalities (eDumbe and Pongola) district municipality (Zululand District Municipality) and traditional leaders (Ntshangase , Mavuso, Ndlangamandla, Simelane, Sibiya, Dlamini, Msibi and Mthethwa). Municipal officials are identified according to their centres of work (Ulundi and Pietermaritzburg). Questions prepared for the interviews are semi-structured and designed to guide the interaction sessions between the researcher and the members of the interviews.

PART 1:

Interviewee information

iv. Name interviewee _____

v. Position _____

vi. Local Municipality_____

PART 2:

Historical background of traditional institution of Simdlangentsha Traditional Council

Please, respond to the following questions about the historical background of the Simdlangentsha Traditional Council

iii. Which area is known as the Simdlangetsha Traditional Council?

iv. Who are the traditional leaders that constitute the Simdlangentsha Traditional Council? Please, give their clan names.

PART 3:

d. Political transformation

Please, give more details on the following questions about political transformation of the Simdlangentsha traditional council with regard to the following aspects:

xiii. Democracy and nation building

a. What was the traditional leadership's view on democracy before 1994?
b. What was the traditional leadership's view on nation building before 1994?
c. What is the current view of the traditional leadership's view on democracy? (If the view changed ask the following follow on questions:)
    i. What mainly caused this change in view?
    ii. Did local government (in all questions local government refers to Zululand District Municipality, eDumbe and Pongola Local Municipalities) contribute to this change in view?
d. What is the current view of the traditional leadership's view on nation building? (If the view changed ask the following follow on questions:)
    i. What mainly caused this change in view?
    ii. Did local government contributed to this change in view?

xiv. Developmental state

a. Did traditional leadership's had a view on the developmental role of the state before 1994?
b. What is the current view of the traditional leadership's view on the developmental role of the state? (If the view is different ask the following follow on questions:)
    i. What mainly caused this change in view?
    ii. Did local government contributed to this change in view?

xv. Political values

c. What political values were important to traditional leadership before 1994?
d. What political values are currently important for traditional leadership? (If the values are different ask the following follow on questions:)

i. What mainly caused this change in values?
ii. Did local government contributed to this change in values?

xvi. Political structures

c. What political structures determined the role of traditional leadership before 1994?
d. What political structures determine the role of traditional leadership currently? (If the structures differ ask the following follow on questions:)
    i. What mainly caused this change in structures?
    ii. Did local government contributed to this change in structures?

xvii. Political functions

c. What political functions did traditional leadership performed before 1994?
d. What political functions does traditional leadership perform currently? (If the functions differ ask the following follow on questions:)
    i. What mainly caused this change in functions?
    ii. Did local government contributed to this change in functions?

xviii. Service delivery

c. What local service delivery was traditional leadership responsible for before 1994?
d. What local service delivery is traditional leadership currently responsible for? (If the service delivery areas differ ask the following follow on questions:)
    i. What mainly caused this change in service delivery areas?
    ii. Did local government contributed to this change in service delivery areas?

xix. How would you describe the current political relationship between traditional leadership and local authority of Zululand District Municipality?

xx. How would you describe the current political relationship between traditional leadership and local authority of eDumbe?

xxi. How would you describe the current political relationship between traditional leadership and local authority of Pongola Local Municipalities?

e. Economic transformation

Please, give more details on the following questions about political transformation of the Simdlangentsha traditional council with regard to the following aspects:

vii. Development

c. What developmental role did traditional leadership played before 1994?

d. What developmental role plays traditional leadership currently? (If the role is different ask the following follow on questions:)

i. What mainly caused this change in developmental role?

ii. Did local government contributed to this change in developmental role?

viii. Poverty alleviation

c. How did traditional leadership contributed to poverty alleviation before 1994?

d. How does traditional leadership currently contribute to poverty alleviation? (If the contribution is different ask the following follow on questions:)

iii. What mainly caused this change in contribution?

iv. Did local government contributed to this change?

ix. Job creation

c. How did traditional leadership contributed to job creation before 1994?

d. How does traditional leadership currently contribute to job creation? (If the contribution is different ask the following follow on questions:)

iii. What mainly caused this change in contribution?

iv. Did local government contributed to this change?

x. Social security

c. How did traditional leadership contributed to social security before 1994?

d. How does traditional leadership currently contribute to social security? (If the contribution is different ask the following follow on questions:)

iii. What mainly caused this change in contribution?

iv. Did local government contributed to this change?

xi. Land reform

c. How did traditional leadership contributed to land reform before 1994?

d. How does traditional leadership currently contribute to land reform? (If the contribution is different ask the following follow on questions:)
    iii. What mainly caused this change in contribution?
    iv. Did local government contributed to this change?

xii. Food security

c. How did traditional leadership contributed to food security before 1994?
d. How does traditional leadership currently contribute to food security? (If the contribution is different ask the following follow on questions:)
    ix. What mainly caused this change in contribution?
    x. Did local government contributed to this change?

xxii. How would you describe the current economic relationship between traditional leadership and local authority of Zululand District Municipality?

xxiii. How would you describe the current economic relationship between traditional leadership and local authority of eDumbe?

How would you describe the current economic relationship between traditional leadership and local authority of Pongola Local Municipalities?

f. Social transformation

Please, give more details on the following questions about social transformation of the Simdlangentsha traditional council with regard to the following aspects:

v. Boundary disputes

d. How did traditional leadership deal with boundary disputes before 1994?
e. How does traditional leadership currently deal with boundary disputes? (If it is different ask the following follow on questions:)
    iii. What mainly caused this change in how it is dealt with?
    iv. Did local government contributed to this change?
f. Are there currently boundary disputes stemming from the relationship between traditional leadership and any of the Zululand District Municipality, eDumbe and Pongola Local Municipalities? (If so answer the following question:)
    i. How can the boundary dispute between the traditional leaders and local authorities be settled?

ii. How can the relationship between the traditional leaders and local authorities be improved with regard to boundary disputes?

vi. Gender issues

a. How would you explain the existence of gender disparities between men and women in the community?
b. What was traditional leadership's view on gender issues before 1994?
c. What is currently the view of traditional leadership on gender issues? (If the view is different ask the following follow on questions:)
   xi. What mainly caused this change in view?
   xii. Did local government contributed to this change in view?

vii. Generation relations

a. How did the relationship between youth and adults in the community changed since 1994?
b. What was traditional leadership's view on generation relations before 1994?
c. What is currently the view of traditional leadership on generation relations? (If the view is different ask the following follow on questions:)
   xiii. What mainly caused this change in view?
   xiv. Did local government contributed to this change in view?

viii. Family life

d. What changes did you notice in the organisation of family life since the 1994 democratic elections?
e. What was traditional leadership's view on family life before 1994?
f. What is currently the view of traditional leadership on family life? (If the view is different ask the following follow on questions:)
   xv. What mainly caused this change in view?
   xvi. Did local government contributed to this change in view?

PART 4:

General views

Please, give more details on the following questions about the relationship between the Simdlangentsha traditional council and the Zululand District Municipality, eDumbe and Pongola Local Municipalities:

j. How would you describe the current relationship of the Simdlangentsha traditional leadership with the Zululand District Municipality councillors (including the major)?
k. How would you describe the current relationship of the Simdlangentsha traditional leadership with the Zululand District Municipality officials?
l. How would you describe the current relationship of the Simdlangentsha traditional leadership with the eDumbe Local Municipality councillors (including the major)?
m. How would you describe the current relationship of the Simdlangentsha traditional leadership with the eDumbe Local Municipality officials?
n. How would you describe the current relationship of the Simdlangentsha traditional leadership with the Pongola Local Municipality councillors (including the major)?
o. How would you describe the current relationship of the Simdlangentsha traditional leadership with the Pongola Local Municipality officials?
p. How would you describe the current relationship of the Simdlangentsha traditional leadership with civic society?
q. Which functions of local government impact most on the functioning of the Simdlangentsha traditional leadership?
r. How can a good relationship between the Simdlangentsha traditional leadership and the Zululand District Municipality, eDumbe and Pongola Local Municipalities be maintained?

Thank you very much for your cooperation.

APPENDIX D

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The Head of Department

Department of Cooperative Governance and Traditional Affairs (COGTA)
Langalibalele Street
Pietermaritzburg
3200
25 November 2015

Attention: Mrs. N Qoboshiyane (Head of Department)

1. The letter refers to the research conducted by the author.

2. Three years ago I planned to do a research on the working relationship between traditional leadership and local government focusing on the Simdlangentsha Traditional Council. The research is completed and the findings are available on request.

3. Findings of the research includes but is not limited to:

    - Non-cooperation of the two structures in matters of joint venture.
    - Conflicts on the land administration.
    - Role confusion with regard to community development.
    - Conflicting approaches in land administration between traditional leadership and local government.

4. My intention is to secure an appointment with the Head of Department of Cooperative Governance and Traditional Affairs (COGTA) so that I would be in the position of briefing the Head of Department on the detailed research study and especially the empirical findings.

5. The purpose is a consultation meeting to submit my framework for a Discussion Document as proposal for a Green Paper on Working Relationships between Local Government Structures (e.g. ward safety committees) and Traditional Institutions.

6. The framework is based on specific identified strategic operational points of contact (SOPs) that can be applied to four particular focus areas – which will be elucidated during the meeting.

Please advise me with the available date early in December 2015

Yours faithfully

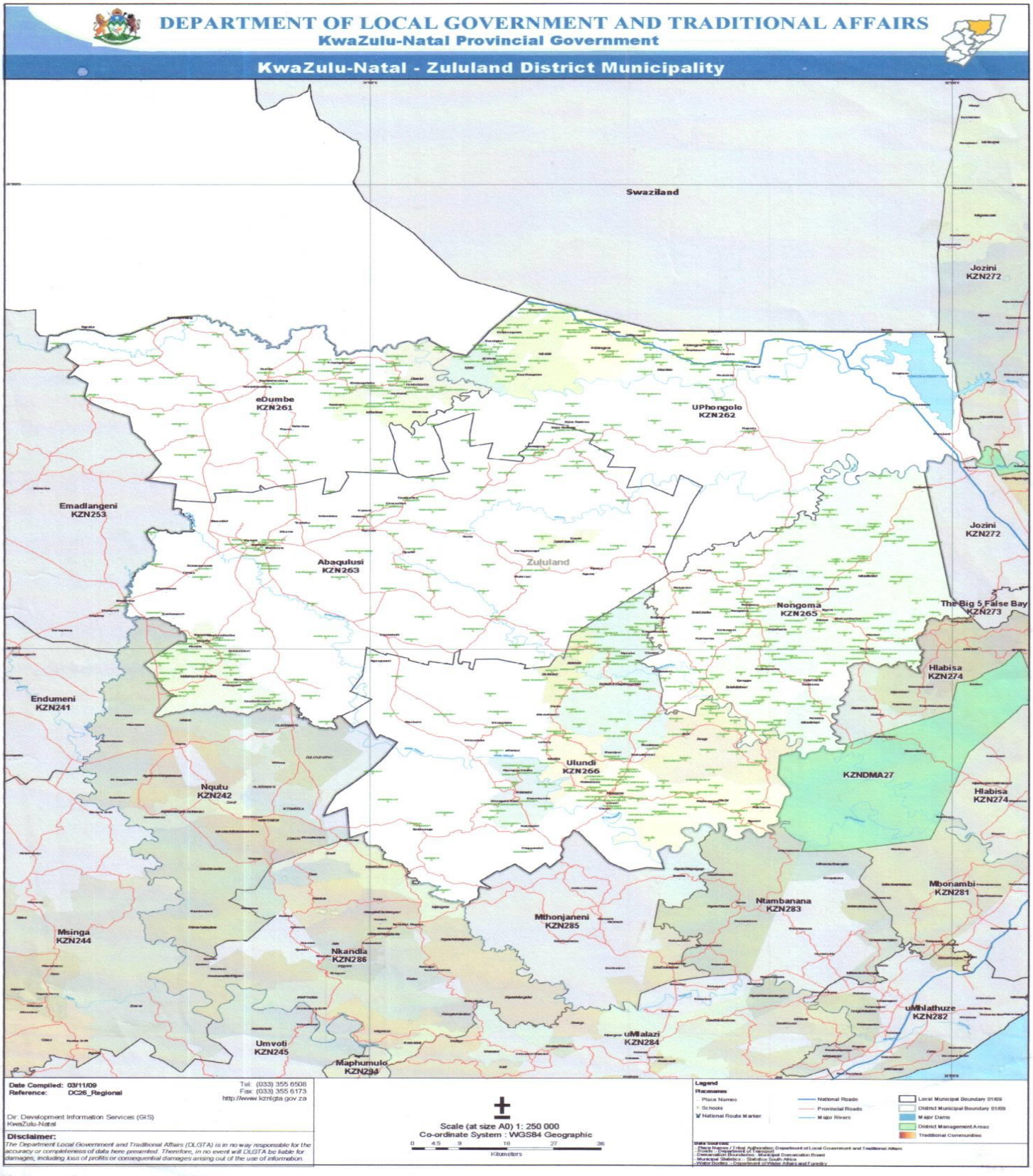
_____

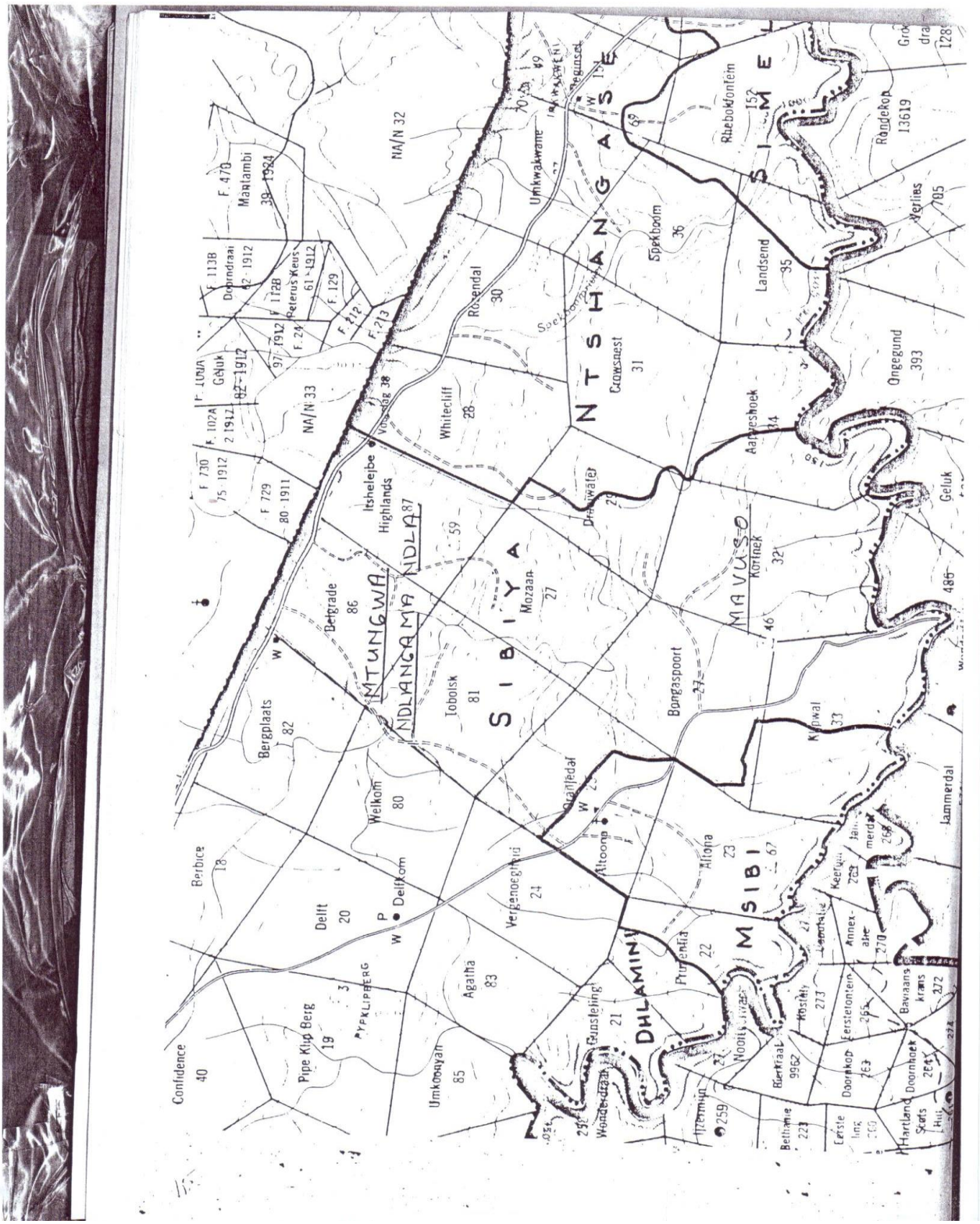
Mr. MJ Maseko

Date: _____

APPENDIX E

KWAZULU-NATAL: ZULULAND DISTRICT MUNICIPALITY (Source: Department of Local Government and Traditional Affairs, KwaZulu-Natal Provincial Government)



APPENDIX F

MAP OF THE SIMDLANGENTSHA TRIBAL AUTHORITY (Source: Department of Local Government and Traditional Affairs, KwaZulu-Natal Provincial Government)