



**THE MANAGEMENT OF THE RELATIONSHIP BETWEEN THE  
LOCAL GOVERNMENT AND TRADITIONAL LEADERS: A CASE OF  
THULAMELA MUNICIPALITY**

**BY**

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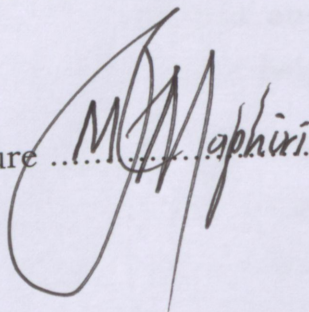
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## DECLARATION

I, **Mutshinyalo Jonathan Maphiri** declare that the content of this study, **The management of the relationship between the local government and traditional leaders: A case of Thulamela Municipality**, is my own work and that all the sources used have been indicated and acknowledged by means of complete references.

Signature .....



Date .....

04/05/2012

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## ABSTRACT

The study was carried out at Thulamela Municipality of Vhembe District Municipality in Limpopo Province in the Republic of South Africa. The study is about **The management of the relationship between the local government and traditional leaders: A case of Thulamela Municipality.**

The study seeks to investigate how the management of the relationship between the local government and traditional leaders over land ownership, control and authority impacts on service delivery and development. Furthermore, the study seeks to find ways through which the relationship between the two institutions could be managed to be harmonious in order to improve service delivery and development to communities.

In South Africa, Municipalities, especially those which are found in rural areas, are faced with challenges that sometimes hamper development and thus efficient service delivery to clients. These challenges are the results of the management of the relationship between the local government and traditional leaders over land ownership, control and authority. It is in this context that this study attempts to investigate the causes of conflict between the local government and traditional leaders and how the conflict impacts on service delivery and development.

Only qualitative method was used to collect data. Questions were formulated and interviews conducted to Thulamela Municipality officials, traditional leaders, members of the royal families and members of the public. Data was collected and analysed using descriptive method.

The research contained the following as findings:

- The management of the relationship between the local government and traditional leaders over land ownership, control and authority is poor.

- Poor consultation of traditional leaders by the local government before any development commences in areas under traditional leadership jurisdiction is another cause for concern.
- Some ward councillors do undermine traditional leaders.
- When development is halted, developers and the local government lose millions of rands in income and so are the local communities which are deprived of employment opportunities.

The following were recommendations which were made to the local government:

- There should be proper consultation between the local government and traditional leaders on matters of land management and development before any project commences.
- Monetary benefits, if needs be, should be agreed upon between the developer, local government and traditional leaders in advance.
- Traditional leaders should respect areas that are proclaimed and allow the local government to be in charge of service delivery and development without much interference.
- On the other hand, the local government should respect areas that are not proclaimed and give traditional leaders room to exercise their powers without being undermined.

The above findings and recommendations suggest that much still needs to be done between the local government and traditional leaders over land management, control and authority for the management of the relationship to be harmonious in order for service delivery and development to be done for the local communities.

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## CHAPTER ONE

### BACKGROUND OF THE STUDY

#### 1. INTRODUCTION

Thulamela Municipality is one of the four municipalities under Vhembe District Municipality. Some of the so called declared areas of Thulamela Municipality are Sibasa, Shayandima and Thohoyandou which fall under the jurisdictions of Mphaphuli Traditional Authority and Tshivhase Territorial Council.

This research seeks to explore the relationship that exists between the Local Government and the Traditional Leaders. The focus will be on Declared Areas under Mphaphuli Traditional Authority and Tshivhase Territorial Council, with special reference to areas around Sibasa, Thohoyandou, Shayandima and the surrounding villages. The main reason for this research is the impact on development in these areas due to the interaction between Thulamela Municipality and the Traditional Leaders. In some cases, when development, be it for business or residential purposes, is about to take place, a power struggle ensues as to who should be responsible in giving permission to the developer and who should benefit more in monetary terms. This has a negative impact on development and the delivery of service. The local communities are the ones who suffer because of this power struggle.

## 2. BACKGROUND

Before the democratic government which came into effect from 1994, Chiefs had areas which they controlled. But, with the new dispensation all areas in South Africa were declared to be under municipalities since “Section 151 (sub-section 1) of The Constitution of the Republic of South Africa, 1996, on Local Government provides that the local sphere of government consists of municipalities, which must be established for the whole of the territory of the Republic. This has caused a lot of confusion and conflict between the traditional leaders and the local government. In order to have a clear understanding of the situation before 1994, we should look at the history of the Declared Areas in Venda which dealt with the residential and business sites when Venda was a ‘Bantustan Republic’ within the Republic of South Africa.

The legislative power was vested in Parliament which consisted of the President and the National Assembly and had the power to make laws for peace, order and good government of the then new republic. The condition also provided for the continuation of the traditional system of government and administration at the local level (Bureau for Economic Research: Co-operation and Development (Benso), 1979:13-14).

In the commercial centre the master plan of the city did not provide for stands of specific pre-determined sizes. Any prospective shop owner could apply for a stand as large as he believed he needed. It was even possible for him to share a stand with his neighbour through a sectional titles system which promoted a large measure of elasticity in the planning of the city and its various components (Benso and RAU, 1979: 34).

In Venda, the chieftainship is of special importance in the traditional political life. The chief is considered to be the head of his area, the father of his family and the living representative of the forefathers. As a result community life revolves around him. He possesses the highest legislative and judicial power and no decisions on laws which concern his territory can be binding without his consent (Benso and RAU 1979:25).

### **3. STATEMENT OF THE PROBLEM**

Apartheid planning left deep scars on the spatial structure of our cities, towns and rural areas, and on the lives of individuals and households. The spatial integration of our settlements was critical. The introduction of municipalities in South Africa opened a new chapter in the history of governance and development even here at Thulamela Municipality in Vhembe District Municipality. According to the Municipal Systems Act, 2000 (32 of 2000), municipalities should plan and invest to meet the current and future land-use and infrastructural needs for residential, commercial and industrial development.

At the moment municipalities are required by the Development Facilitation Act, 1995 (No. 67 of 1995) to produce Land Development Objectives (LDOs). Municipalities are required by legislation to produce Integrated Development Planning (IDPs). According to the Local Government Transition Act, 1993 (No. 209 of 1993), municipalities should see the development of land development objectives as part of their IDPs and not as separate planning process. The Land Development Objective components or the planning requirements as put forward in the Development Facilitation Act provide a strategic framework for development in the area.

The Development Facilitation Act requires municipalities to develop objectives for service delivery: the services which a municipality will provide, the standards of service and the level at which they will be provided and the form of the settlement. These objectives deal with issues normally associated with town and regional planning or the spatial planning of an area, such as land-use control, environmental planning, integrating low-income areas into the broader settlement, etc. and development strategies. These objectives will provide a broad strategic framework for development (The White Paper on Local Government, 2003: 29).

Irrespective, of the above discussed legal framework, there are challenges that the local government is faced with, particularly the management of its relationship with traditional leaders when it wants to deliver some of its services. The management of the relationship between the local government and traditional leaders sometimes turns sour and end-up in courts of law, and it impacts on service delivery and development. During the talk show on Current Affairs Programme, known as Ndevhetsini in Tshivenda, there was an argument between the councilor who was representing Thulamela municipality and the spokesperson for the Mphaphuli Traditional Authority over development at Thohoyandou Unit D. The local government and the traditional leader could not reach an agreement on sites' development since it was alleged that the local government did not do proper consultation with Mphaphuli Traditional Authority. By that time development in the area had ground to a halt and it remained standstill for several months (Phalaphala FM Current Affairs Programme, 4 December 2008).

On another Current Affairs Programme, which was the continuation of the above matter, there was a heated argument between and councillor of Thulamela municipality and Mphaphuli Traditional Authority

spokesperson about the Sheriff's action who confiscated two vehicles and computers which belonged to the Mphaphuli Traditional Authority. Work at the tribal offices came to a halt since computers with all the information necessary and needed for day to day activities were taken away. According to Thulamela municipality councilor, the local government acted in such a manner because the Tribal Authority owed it R140 000 from the court cases in which the Tribal Authority lost (Phalaphala FM Current Affairs Programme, 12 November 2009).

#### **4. AIM OF THE STUDY**

The aim of the study is to investigate the management of the relationship between the local government and traditional leaders.

#### **5. SPECIFIC OBJECTIVES OF THE STUDY**

The specific objectives of the study are as follows:

- To investigate the causes of conflict between the local government and traditional leaders.
- To examine the roles of the local government and traditional leaders in service delivery and governance.
- To find out as to who has control and authority over land in declared areas between the two institutions.
- To examine the extent of the impact of conflict on service delivery and development.
- To find out about the perceptions of local government officials, traditional leaders and members of the community with regard to the management of the relationship between the local government and traditional leaders.
- To find out why is there a power struggle over land management and ownership between traditional leaders and the local government.

## 6. MAJOR RESEARCH QUESTIONS

The following are major research questions:

- What are the causes of conflict between the local government and traditional leaders?
- Who has control over land in declared areas between the traditional leaders and the local government?
- Why is there a power struggle between the local government and traditional leaders over land management and ownership?
- What extent does the conflict between the traditional leaders and the local government have on service delivery and development?
- What are the positions of traditional leaders in controlling territories under their jurisdiction which have been declared to be municipal areas?
- What are the perceptions of local government officials, traditional leaders and members of the public with regard to the management of the relationship between the local government and traditional leaders?

## 7. HYPOTHESES

The research hypotheses are as follows:

- Good communication and proper consultation between the local government and traditional leaders will ensure the smooth delivery of services by the local government.
- Clearly defined roles of traditional leaders in areas under their jurisdictions will foster good relationship with the local government.
- Agreed monetary benefits in the form of royalties for traditional leaders before development kicks off will ensure that projects are not halted.

## **8. DELIMITATIONS OF THE STUDY**

The research will focus mainly on declared areas of Sibasa, Thohoyandou, Shayandima and the surrounding areas. Although these areas are declared ones, they fall under the territorial authorities of Mphaphuli Traditional Authority and Tshivhase Territorial Council.

## **9. LIMITATIONS OF THE STUDY**

This research is very sensitive since it is about real things that are happening most of the time between the local government and the traditional leaders. Some respondents may not be willing to give information for fear of victimization.

Another challenge can be funds. Some respondents can only give information after they have been paid, and this can delay its completion on time since the research is not funded. I will be using my own monies to do this research.

## **10. SIGNIFICANCE OF THE STUDY**

In this section the researcher will answer why this study is important. The findings of the study will benefit several parties in the management and improvement of the relationship between the local government and traditional leaders in Thulamela municipality.

- Through suggestions and recommendations that will be made in the study, local government officials and traditional leaders should find ways and means through which a harmonious relationship can be fostered.

- When completed, the study can help policy makers on local government to consider the position of traditional leaders on land management, ownership and control.

## 11. DEFINITION OF CONCEPTS

- **Research** means an intensive and purposeful search for knowledge and understanding of social and physical phenomenon, and action research is research which, after identifying a social problem, is primarily designed to provide an empirical test of a solution since it contains an innovation to produce the change in policy or procedure which monitored by social research method (Payne and Payne, 2004: 9).
- **Development** means to build or change property on an area of land with the main purpose of generating income and thus making profit (Hornby, 1995: 318).
- **Land development** means any procedure which is aimed at changing the use of land for the purpose of using land mainly for residential, industrial, business, small-scale farming, community or similar purposes.
- **Local Government** can be defined as local democratic units within the unitary democratic system which are subordinates members of the community in whom prescribed, controlled government powers are vested and sources of income in order to render specific local services

and to develop control and regulate the geographic, social and economic development of defined local areas (Reddy, 1996:49).

- **Community** can be defined as a street, one's neighbourhood, the suburb in which one lives, an entire town, city or a village (Winberg *et. al.*, 1997: 77).
- **Royal Family** means the core customary institution or structure consisting of immediate relatives of the ruling family within a traditional community who have been identified in terms of the custom, and includes where applicable other family members who are close relatives of the ruling family (The White Paper on Traditional Leadership and Governance, 2003:5).
- **Service Delivery** means the provision of services such as clean water, electricity, houses, sanitation, healthcare, education, transport, etc. According to Fox & Meyer, (1995:118) service delivery relates to the provision of tangible public goods and intangible services.
- **Declared Areas** refer to areas that have been set aside by the local government for business, residential or agricultural purposes.

## 12. LITERATURE REVIEW

The Municipal Demarcation Process which has been done in accordance with the Municipal Demarcation Act, 1998 (No. 27 of 1998) which requires that municipalities in South Africa should cover the whole

territory of the Republic and that in dealing with the social and economic functionality, viability and ability to deliver services, a range of objectives and factors should be taken into account. When demarcating municipalities, the Municipal Demarcation Board took into consideration the boundaries of traditional authorities although:

- (a) No complete record of all recognized traditional authority exists;
- (b) There are difficulties and thus problems around the legal description of each traditional authority;
- (c) Some traditional communities extend into state and privately owned land; and
- (d) Some traditional authorities consist of separate pieces of land.

The municipal model which has been established in effect means the influence of traditional communities has been significantly extended into the bases of economic and political power. Making traditional authorities municipalities would not make sense, given:

- (a) It would be like arguing that the colonial and apartheid demarcations of traditional authorities correctly describe areas of traditional communities;
- (b) The developmental challenges found in these areas;
- (c) The need for redistribution and sharing of resources; and
- (d) Difficulties in defining these areas legally.

While there are not many overlaps between Municipal Powers and those of Traditional Leaders, they are no different from those between Municipalities and the state and large-scale private land owners. In these instances, there must be effective conflict resolution (Article for IDASA, No year).

## 12.1. Local Government

Because of the allocation of powers and functions across the spheres of government, some of the most significant services for communities fall in the jurisdiction of local government, in particular water and sanitation, electricity, waste, environmental health and planning. The fact that water, waste and electricity are not only the financial lifeblood of municipalities, but that they are traditionally provided only to those who can pay for them, underscores the imperatives of fully understanding the inter-relationship between poverty and the institutional mechanisms designed to ensure that local government reaches those in need of services (Parnell, 2004: 17).

The powers and functions of local government should be exercised in a way that has a maximum impact on the social development of communities, and in particular meeting the basic needs of its customers. Through its traditional responsibilities, which are service delivery and regulation, local government exerts a great influence over the social and economic well-being of local communities (The White Paper on Local Government, 1998: 18).

### 12.1.1. Local Government and Service Delivery

Municipalities should deliver services to their customers. The provision of services should be done in accordance with the objectives of local government which are provided for in Section 152 (Sub-section 1) of the 1996 Republic of South Africa Constitution.

For many local citizens, their main contact with the local government is through the consumption of municipal services, and it is here that municipalities need to begin to build relationships with citizens and

communities. Municipalities need to be responsive to the needs of both citizens and business as consumers and end-users of municipal services. Improved customer management and service provision are critical to building an environment conducive to economic and social development (The White Paper on Local Government, 1998: 34).

### **12.1.2. Local Government and Development**

There are huge developmental challenges in rural areas and specifically in areas of traditional rural communities that the local government is faced with. The extent of all backlogs in water, electricity, telephones and sanitation supply in traditional authority areas is still a problem in many local governments in South Africa (Article for IDASA, No Year).

Developmental local government is local government that is committed to working with citizens and groups within community to find ways to meet their social, economic and material needs and improve the quality of their lives. The Constitution enshrines the rights of all people in our country to dignity, equality before the law, freedom and security. It affirms our rights to freedom of religion, expression, culture, association and movement, as well as our political, labour and property rights. The Constitution commits government to take reasonable measures, within its available resources, to ensure that all South Africans have access to adequate housing, health care, education, food, water and social security (The White Paper on Local Government, 1998: 17).

### **12.2. Traditional Leaders**

Inside the homelands, during the apartheid era, under the authority of traditional leaders, Africans were turned into subjects, their rights and privileges tied to the acceptance of chiefly authority in formerly

unprecedented ways. Whether it was about attaining a plot of land, getting a work permit or an old-age pension, or obtaining access to justice, the chief had by legislation been made into sole portal to government. The fact that traditional leadership was now bureaucratized and chiefs propped up by state power did not, of course, mean that they could completely disregard the opinions of their subjects (Oomen, 2005: 20)

Thus, the bureaucratized relationship between chiefs and administrators was largely based on trade-off in which traditional leaders were granted great deal of independence as long as they followed official regulations. More often than not, the reality did not follow these neat administrative schemes. Rather, it should be seen as a compromise on both sides because through Tribal Authorities the state attempted to transform the chieftainship into an agent of administrative and political control. The chieftainship, on the other hand, was trying to use its position within the state to bolster its own powers, and establish its independence from the state (Oomen, 2005: 44)

The existence of traditional leadership and South Africa's present democratic order are not mutually exclusive. Traditional leadership has to function in a manner that embraces democracy and contributes to the entrenchment of a democratic culture, thus enhancing its own status and legitimacy amongst the people. To this end, the critical challenge facing both government and traditional leadership is to ensure that the custom, as it relates to the institution, is transformed in accordance with the Constitution and the Bill of Rights (The White Paper on Traditional Leadership and Governance, 2003: 25).

Reasons for which the state decided to re-recognize traditional authorities seemed to be the following: first, there was the belief that indigenous institutions were worthy of recognition; second, the fact that they could add extra legitimacy to the ailing nation-state; and third, that they could not be wished away anyway (Oomen, 2005: 12).

### **12.2.1. Roles of Traditional Leaders in Governance and Development**

The trends at an international level indicate that traditional leadership institutions have a much bigger role to play as custodians of culture and protectors of custom. However, they also have a clear role to play in the performance of judicial functions within their communities. They define and interpret customary law, and settle disputes in accordance with customary law (The White Paper on Traditional Leadership and Governance, 2003: 20).

A large number of people live in rural areas where the institution of traditional leadership exists. In fact it is estimated that about 14 million people reside in areas which fall under the jurisdictions of traditional leaders. It is primary in these areas where people live in abject poverty and conditions of underdevelopment, and where there is a lack of access to economic opportunities, poor infrastructure and lack of basic services. When the new democratic dispensation came into being in 1994, the new government adopted the Reconstruction and Development Programme (RDP). At the centre of the programme was the need to launch a concerted drive to address rural poverty and the legacy of underdevelopment in rural areas. It is for this reason that, following the adoption of the RDP, a number of initiatives geared towards improving living conditions in rural areas were launched. These included, among others, the Spatial Development Initiative (SDIs), the Consolidated Municipal Infrastructure Programme (CMIP), the Rural Housing

Programme, the Local Economic Development Programme and the Land Reform Programme (The White Paper on Traditional Leadership and Governance, 2003: 31).

### **12.3. Power struggle: traditional leaders vs the local government**

Conflict over the management of land ownership and control between traditional leaders and the local government has been going on since the mid-1990s. In cases where councils did attempt to start up local development by implementing the government's ambitious RDP, this often led to immediate tensions with traditional leaders. "These people are living on our land and still they want to rule us. They even want to draw laws in our homes," as one traditional leader voiced the frustration of many colleagues. More often than not, the disputes were about land use. The Local Government Transition Act, 1993 (209 of 1993) for, instance, required councils to make an Integrated Development Plan (IDP) containing Land Development Objectives (LDOs). Setting such objectives also meant making plans for land over which, according to the Black Administration Act, 1927 (38 of 1927) and other applicable laws, traditional leaders still had jurisdiction. The ensuing tussle over land ownership management would often lead to development projects being paralysed and caused those involved to cite the old African proverb: 'where two elephants fight, it is the grass that suffers' (Oomen, 2005: 63).

Traditional leaders had laughed away legislation awarding them largely ceremonial functions, and instead had wrenched from the former president the guarantee that the powers and functions of traditional leaders in local government would not be eroded, even if this meant amendments to the constitution. Traditional leaders did not want the acceptance of their authority to be democratized, to become a matter of

free choice, but instead preferred to depend on the continued imposition of apartheid legislation imposing their position so that they, and not their subjects, could determine the pace of change in their areas. The clashes between traditional leaders and elected local government, often over land management, stalled developments and the delivery of houses, water and electricity (Oomen, 2005: 86).

### **13. REFERENCE TECHNIQUES**

Harvard reference techniques will be used in this research. According to this system, when citing, one is expected to quote the author's surname, year and followed by the page number.

In bibliography, one is expected to cite the author's surname, followed by initials, date of publication, the book's title, publishers and place of publication.

Permissions have been granted by the Thulamela Municipality Manager, Mphaphuli Traditional Authority and Tshivhase Territorial Council for the research to be conducted. There will also be informed consent from all the interviewees.

### **14. PROGRAMME OF THE STUDY**

Programme of the study is set-up in this fashion:

#### **CHAPTER ONE: BACKGROUND OF THE STUDY**

This chapter outlines introduction, background to the problem, problem statement, objectives of the study, major research questions, justification and significance of the study, literature review, hypothesis, research

methodology, ethical considerations, delimitation of the study, limitations of the study, definition of concepts and programme of the study.

## **CHAPTER TWO: LITERATURE REVIEW**

Chapter Two sets out to discuss information regarding literature review on the relationship between the local government and the traditional leaders. The concept 'relationship' is explored by studying and referring to various literature and legislations in order to find out about the relationships that exist between traditional leaders and Thulamela municipality, and how this impacts on service delivery in the affected areas. Special attention will be paid to the management of the relationship that exists between Mphaphuli Traditional Authority and Tshivhase Territorial Council and the local government, and in this case, Thulamela municipality.

## **CHAPTER THREE: RESEARCH METHODOLOGY**

Chapter Three will provide the research design and methodology.

## **CHAPTER FOUR: DATA PRESENTATION, ANALYSIS AND INTERPRETATION**

Chapter Four sets out to discuss presentation, analysis and interpretation of data collected.

## **CHAPTER FIVE: CONCLUSION, FINDINGS AND RECOMMENDATIONS**

Chapter Five provides conclusion, findings and recommendations.

## CHAPTER TWO

### LITERATURE REVIEW

#### 2.1. INTRODUCTION

Before the ushering of the democratic government in 1994, and in accordance with Venda Land Affairs Proclamation, 1990 (No. 45 of 1990), in the former 'Republic of Venda' municipalities were confined to proclaimed areas. These areas had town managers and clerks who were responsible for managing the provision of services to the residents thereof. The local authorities had complete control over land in these towns, and they would administer these areas with little or no interference from traditional leaders.

And, here, in the former 'Republic of Venda' some of the proclaimed towns were Sibasa, Thohoyandou and Shayandima. These towns were proclaimed in accordance with Proclamation No. R.293 of 1962 and they now fall under the jurisdiction of Thulamela municipality.

On the other hand, Chiefs, with the help of Headmen and Headwomen, had rural areas which they completely controlled without the interference of local authorities.

#### 2.2. LEGAL FRAMEWORK ON THE ROLES AND FUNCTIONS OF THE LOCAL GOVERNMENT AND TRADITIONAL LEADERS

A comparable issue: chiefly sovereignty versus equality and individual choice, and thus the future of apartheid's patchwork, came up in the debates on the future of local government in the mid 90s until the second local government elections in December 2000. This was a highly

contentious and sensitive issue, with the traditional leaders demanding continuation of their position as the local government in their areas, while the African National Congress (ANC) sought to establish democratically elected government all over South Africa. It was agreed that the management of the relationship between the elected and traditional authority would be worked out in subsequent legislation (Oomen, 2005: 49).

### **2.2.1. Local Government**

The advent of democracy and the extension of municipal governance into traditional leadership areas had resulted in a shift in the development role of traditional leaders and their structures. Development and the provision of services became local government competencies. The obligation, therefore, to fund service delivery and development lies primarily with municipalities, working with the national and provincial spheres of government (The White Paper on Traditional leadership and Governance, 2003: 42).

#### **2.2.1.1. Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)**

Section 153 of the Constitution of the Republic of South Africa provides developmental duties of municipalities as follows:

A municipality must-

- (a) Structure and manage its administration and budgeting and planning processes to give priority to the basic needs of the community; and to promote the social and economic development of the community; and
- (b) Participate in national and provincial development programmes.

In addition to the above, Section 229 of the Constitution of the Republic of South Africa of 1996 has the following as municipal fiscal powers and functions:

A municipality may impose-

- (a) Rates on property and surcharges on fees for services provided by or on behalf of the municipality; and
- (b) If authorised by national legislation, other taxes, levies and duties appropriate to local government or to the category of local government into which that municipality falls, but no municipality may impose income tax, value-added tax, general sales tax or customs duty.

### **2.2.1.2. Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998)**

#### **2.2.1.2.1. Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998)**

The Local Government: Municipal Structures Act of 1998 also provides for functions powers and of municipalities.

A municipality has executive authority in respect of, and has the right to administer:

- (a) Air pollution;
- (b) Building regulation;
- (c) Childcare facilities;
- (d) Electricity and gas reticulation;
- (e) Local tourism;
- (f) Municipal health services;
- (g) Municipal public transport;
- (h) Storm water management system in built-up areas;
- (i) Trading regulations;
- (j) Water and sanitation services limited to potable water supply system and domestic waste-water and sewage systems; and
- (k) Refuse removal, refuse dumps and solid waste disposal.

### **2.2.1.3. Proclamation No. R.293 of 1962**

This Proclamation was promulgated for regulations of the administration and control of townships in Bantu Areas. And here, in the former Republic of Venda, in May 1982, the Department of Urban Affairs and Land Tenure defined and set apart land known as Thohoyandou for the establishment of townships and related purposes. In accordance with this proclamation, Sibasa, Thohoyandou and Shayandima were proclaimed areas which were controlled by the local authority under the leadership of the town manager and town clerks. The administrative responsibilities and land control in these areas were solely in the hands of the town manager and his clerks.

### **2.2.1.4. Venda Land Affairs Proclamation, 1990 (No. 45 of 1990)**

Section 17 of this Proclamation which was promulgated by the Chairman of the Council of National Unity (CNU) in December 1990 was about land use. This section provided for:

- (a) a town planning scheme which might be brought into operation in the prescribed manner in respect of any area within the jurisdiction of a local authority.
- (b) the general purpose of a scheme should be the co-ordinated and harmonious development of the area to which it related in such a manner as would most effectively tend to promote the economic development, health, safety, good order, amenity, convenience and general well-being of such area, as well as efficiency and economy in the process of development of such area.

(c) No person should use land, including a building, to which a scheme in operation related, in a manner contrary to the provision of that scheme.

Furthermore, sections 26 and 27 of the same Proclamation were about occupational rights and they provided for:

26. The Councillor might in the manner prescribed demarcated allotments on government land or authority land for the purpose of granting rights of occupation outside an approved town.

27. The Councillor might, in the manner prescribed and after consultation with the territorial council concerned, granted and recorded permission to occupy-

(a) Demarcated allotment; or

(b) An erf in an approved town which was situated in the area of jurisdiction of a territorial council on government land or authority land.

### **2.2.2. TRADITIONAL LEADERS**

Traditional leaders have ruled traditional authorities under their jurisdiction as their personal fiefdoms for many years. These leaders were not elected to their positions but inherited them. It was a family affair in which the son would succeed his father or uncle. Under South Africa's previous political system they enjoyed many privileges as they connived with the government in the enforcement of apartheid. Traditional leaders reigned supreme in areas under their jurisdiction (Mtimkulu, 1996: No page).

### **2.2.2.1. Black Administration Act of 1927, (Act No. 38 of 1927) and the Black Authorities Act of 1951, (Act No. 68 of 1951)**

The powers of traditional leaders were reinforced by the Black Administration Act No. 38 of 1927 and the Black Authorities Act No. 68 of 1951, which provided them with far-reaching administrative and judicial powers. Local Traditional Authorities were charged with:

- (a) The occupation, allocation and use of land held in trust;
- (b) The preservation of law and order;
- (c) The provision and administration of services at local government level;
- (d) Social welfare administration which included the processing of applications for social security benefits and business premises;
- (e) The promotion of education which included the erection and maintenance of schools and administration of access to education;
- (f) The collection of certain levies and taxes;
- (g) Prevention of animal diseases; and
- (h) Control of work seekers.

### **2.2.2.2. The Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)**

Sections 211 and 212 of the Constitution of the Republic of South Africa contain the following pertaining to recognition and role of traditional leaders:

- (a) **Recognition:** (i) the institution, status and role of traditional leadership, according to customary law, are recognized subject to the Constitution.
- (ii) A traditional authority that observes a system of customary law may function subject to any applicable legislation and customs, which includes amendments to, or repeal of, that legislation or customs.

(iii) The courts must apply customary law when that law is applicable, subject to the Constitution and any legislation that specifically deals with customary law.

(b) **Role of traditional leaders:** (i) national legislation may provide for a role for traditional leadership as an institution at local level on matters affecting local communities.

(ii) To deal with matters relating to traditional leadership, the role of traditional leaders, customary law and the customs of communities observing a system of customary law:

- National or provincial legislation may provide for the establishment of houses of traditional leaders; and
- National legislation may establish a council of traditional leaders.

The Constitution of the Republic of South Africa of 1996 is not clear on the role which traditional leaders have to fulfill in the newly created municipalities. Actually it does not explain in full the roles that traditional authorities should carry out or how they would be converted into modern municipalities or integrated into existing municipalities. It is clear from the 1996 Constitution that traditional leaders have been stripped of their powers. After wielding power for decades traditional leaders are to be subservient to elected councilors who used to be their subordinates. The issue of traditional leaders at local level still needs to be revisited as it leads to conflict between the modernizing elites and the traditional leaders. Certainly, all apartheid laws must be repealed. That is relatively simple task. However, this will not in itself result in a system of land law which meets the needs and aspirations of South Africa. There will be a need to construct a new system for land management (Mtinkulu, 1996: No page).

### **2.2.2.3. Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003)**

According to this act a traditional leader performs the functions provided for in terms of customary law and customs of the traditional community concerned, and in applicable legislation. In addition to the above the act lays down some guiding principles for allocation of roles and functions of traditional leaders in this manner: the national government or a provincial government, as the case may be, may, through legislative or other measure, provide a role for traditional councils or traditional leaders in respect of-

- (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; tourism; disaster management;
- (k) The management of natural resources; and
- (l) The dissemination of information relating to government policies and programmes.

From the above legal framework, one can deduce that the pre-democratic legislations, which have not been repealed, gave more powers to traditional leaders on land management, ownership, service delivery and administration of activities concerning communities. But, after the democratic elections of 1994 there was a shift from traditional authority centered roles to local government centered roles in which municipal

ward councillors took over traditional leadership roles. This has resulted in conflict over roles and it is still a cause for concern.

With the dawn of democracy in 1994, the authority to impose statutory taxes and levies now lies with the local governments. Duplication of this responsibility and the double taxation of people must be avoided. Traditional leadership structures should no longer impose statutory taxes and levies on communities (The White Paper on Traditional Leadership and Governance, 2003: 43).

Since traditional leaders function at local level, side by side with municipal councillors, their capacity building programmes could not be completely separated from those of councillors. However, owing to the distinctive nature of some of their functions, their capacity building programmes should be more specifically focused. But, where the Constitution of the Republic of South Africa of 1996 allocates a function to a sphere of government, that sphere has jurisdiction over that function and cannot perform that function or exercise power concurrently with the institution of traditional leadership. However, on matters of common interest, such as development and service delivery, co-operative relationships can be established (The White Paper on Traditional Leadership and Governance, 2003: 30).

Currently, there is renewed effort by government to focus on improving living conditions in rural areas in an integrated manner and to bring about sustainable development, through the provision of water, electricity, clinics, roads, housing, telephones, land restitution, etc. This initiative is being driven through the Integrated Sustainable Rural Development Programme, which seeks to ensure an integrated approach to rural development. These initiatives call for greater clarity regarding the role of the institution of traditional leadership in rural areas in

relation to government at all levels, particularly given the fact that, today, the democratic state, through the three spheres of government, has assumed authority and responsibility for the provision of infrastructure and basic services (Oomen, 2005: 49).

### **2.3. LOCAL GOVERNMENT**

During the apartheid era in South Africa, local government was never designed to unite people of different races. It was meant to keep them separate. In addition to the above statement, apartheid left a legacy in South Africa's human settlement and municipal institution that is not easy to rectify within a short period of time. To strengthen their oppressive government, the apartheid policy was officially introduced in statute books in 1948 when Dr. D. F. Malan took office as Prime Minister of South Africa. However, the key piece of apartheid legislation, the Group Areas Act of 1961, instituted strict residential segregation and compulsory removal of black people to 'own group' areas. Through spatial separation, influx control, and a policy of 'own management for own areas', apartheid aimed at limiting the extent to which affluent white municipalities would bear the financial burden of servicing the disadvantaged black areas (The White Paper on Local Government, 1998:1).

The apartheid local government worsened the situation because it focused mainly in the provision of services in white areas, and in those areas, white municipalities generally acted as service providers themselves. In 1994 South Africa had a fairly well-developed system of local authorities, but, which was based on racist policies. The local authorities were established and performed their functions in terms of the provisions of acts of Parliament and provincial ordinances. It thus follows that the local authorities were subject to directives of and control

exercised by Parliament, the provincial authorities and the state departments. When the democratic government was ushered in 1994, attempts were made to change municipalities in ways that addressed seriously the aspirations and needs of the majority of political realities. (Cloete, 1994: 27).

Local authorities form an integrated part of the local governmental hierarchy and it is therefore important to briefly consider their organizational locus within the total South African governmental hierarchy. Indeed, the new constitutional dispensation makes it more necessary than ever before to consider this matter carefully. Provincial authorities have been given delegated powers over local authorities and are free to legislate on various matters concerning local authorities that are not repugnant to Parliament legislation. Each provincial authority institutes a Department of Local Government that is usually charged with the execution of provincial ordinances applicable to local authorities and the promotion of orderly development of communities. These departments are also charged with the regulation, control and administration of local authorities and the advancement of local government and administration in general (Hanekom, Rowland and Bain, 2004: 116-117).

Municipal affairs are controlled by the provincial councils and they have passed a number of ordinances to regulate the activities of municipal authorities. To execute the provision of the ordinances as well as those Acts of Parliament relating to municipal affairs, each province has its own department of local government. The main functions of local government departments relate to control over the establishment of townships, division of land, supervision over the planning activities of municipal authorities as well as their capital expenditure (van Wyk, 1980/1: 142).

Local governments are responsible for providing all residents within the area of jurisdiction of a local government access to water, sanitation, primary health services, education and housing. Local governments are therefore responsible for a broad spectrum of functional fields (du Toit and van der Waldt, 1997: 124).

Governmental relations are of particular importance to local authorities because they are at the lowest rung of the hierarchy of governmental institutions and, as a result of the unitary nature of the state, carry out their duties within a framework of prescriptions and restrictions which are set by the higher authorities. It is also of particular importance to attend to the relations within governments, because excellent intra-governmental relations ought to ensure efficient local government and administration. Intra-governmental relations are those found between the components of a particular local authority, and in this regard both vertical and horizontal relations can be identified. Vertical intra-governmental relations between the council and committees, the committees and the municipal manager, the municipal manager and heads of departments right through to the lowest level in their departments, are of concern here. Horizontal intra-governmental relations, on the other hand, are influenced mainly by the division of government power among legislative, executive and judicial institutions. These relations are not only restricted between these institutions but are also found within them and between the members of each of them. Therefore relations between councillors, heads of departments and officials within the department are also to be considered. (du Toit and van der Waldt, 1997: 118-119).

### 2.3.1. Local Government and Service Delivery

The local government is responsible for the provision of household infrastructure and services, an essential component of social and economic development. This includes services such as water, sanitation, local roads, storm water and drainage, refuse collection and electricity. Good basic services, apart from being a constitutional right, are essential to enable residents to support family life, find employment, develop their skills or establish their own small businesses (The White Paper on Local Government, 1998: 23).

To improve efficiency and effectiveness of service provision to the public, the so called Batho Pele Principles were identified and implemented. These principles were officially launched by the then minister of Public Service and Administration on 1 October 1997 (du Toit and van der Waldt, 1999: 162).

These principles would be applicable to those parts of the public sector, both national and provincial, which are regulated by the Public Service Act, 1994. However, they are also relevant to all areas and employees of the public sector who are regulated by other legislation, such as the **local government** and **parastatals**. In line with the Constitutional principle of co-operative government, particularly as regards to promoting a coherent government, it is expected, therefore, that all sectors of public administration would agree to follow the principles set out in the White Paper (White Paper on Transforming Public Service Delivery, 1997: 14).

Improving the provisioning of services to the public means redressing the imbalances of the past and, while maintaining the continuity of service to all levels of society, focusing on meeting the needs of South Africans who are living below the poverty line such as the disabled and black women

living in rural areas, who have previously been disadvantaged in terms of service delivery. Improving service delivery also calls for a shift away from inward-looking, bureaucratic systems, processes and attitudes, and a search for new ways of working which put the needs of the public first, is better, faster and more responsive to the citizens' needs. It also means a complete change in the way that services are delivered. The objectives of service delivery therefore include welfare, equity and efficiency. Improved service delivery cannot only be implemented by issuing circulars. It is not only about rule-books and 'prescripts', since it is not simply an 'administrative' activity. It is a dynamic process out of which new relationship is developed between the public service and individual clients in order to implement a service delivery programme successfully (White Paper on Transforming Public Service Delivery, 1997:11).

The starting point must be to prioritise the delivery of at least basic level services to those who currently enjoy little or no access to services. This can be achieved with the assistance of capital grants from the Consolidated Municipal Infrastructure Programme (CMIP), or through local cross-subsidisation, or by mobilising private investment in municipal infrastructure. It can also be facilitated by assisting groups within the community to establish their own delivery institutions. An example is the establishment of networks of small business to collect refuse in a number of townships. Equally important, the development of a service-oriented culture requires the active participation of the wider community. Municipalities need constant feedback from service-users if they want to improve their operations. Local partners can be mobilised to assist in building a service culture (The White Paper on Local Government, 1998: 23).

In rural areas, the challenges of building liveable environments range from securing access to land and services for the rural poor, to

addressing the distortions in ownership and opportunity that apartheid created between white and black rural dwellers. Many settlements face particularly acute challenges as a result of the apartheid practice of forcibly relocating communities to decentralisation points in the former homelands (The White Paper on Local Government, 1998: 35).

### **2.3.2. Local Government and Development**

In South Africa, as we strive to overcome the social devastation caused by apartheid policies, development has become one of the most important national buzzwords. But development is often taken to mean the provision of clean water, housing, education and other social services to an impoverished population. Development is not just a series of projects to provide services to individual communities; it is part of a complex world-wide system which favours some nations over others (Winberg, Douglas, van Heerden, van Heusden and Pointer, 1997:1).

And, when talking about the local government and development, the objectives of local government should also be taken into account, which are as follows:

- (a) To provide democratic and accountable government for local communities;
- (b) To make sure that services are provided to 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 organizations in the matters of local government (Craythorne, 1997: 49-50).

The local government functions could range from markets and municipal roads to health services, trading regulations, water supply and sanitation (Oomen, 2005: 63).

Development means giving people a voice. Giving people a voice means that the local government should encourage active participation by communities in its affairs. Many of the problems are lack of housing, water, electricity supply, etc. One important goal of community involvement, and thus participation is to find ways to address all these problems. The reasons why communities in South Africa highlight similar problems is that lack of housing, water, electricity, adequate waste removal, etc. all impact on the health and well-being of the community. One of the main goals of community participation is to ensure a sustainable, healthy and hospitable living environment (Winberg *et. al.* 1997: 79).

The phenomenon of community involvement in the public affairs of democratic governments is a well- established global concept. A study of the relevant literature leaves no doubt that community engagement provide useful mechanisms through which inhabitants of villages, towns and cities may interact with their local authorities. One of the most obvious and probably the most decisive reason for encouraging community involvement is the fact that collectively, a group of people are in a favourable position to negotiate successfully with a local government than individuals are on their own (Bekker, 1996: 29).

The local government should encourage community involvement when it engages in development for the following reasons:

- (a) The first reason in the local level is to ensure that the local government is managed in accordance with the principles of

- good governance and that the expectations of the inhabitants of towns and cities are fulfilled;
- (b) Secondly, the involvement of communities tend to stabilize the relationship between the local authorities and the inhabitants of towns and cities;
  - (c) The third reason is that communities should be involved for historical perception that they are mechanisms through which the physical safety of inhabitants is guaranteed; and lastly,
  - (d) The need of individuals to share social interaction within the community may also be regarded as another reason why community involvement at local level is so important (Bekker, 1996: 33).

#### **2.4. TRADITIONAL LEADERS**

Although the South African Department of Native Affairs was renamed Traditional Affairs after the transition to democracy, many things remained the same. For instance, the maps depicting the borders of homeland and chieftaincy areas like a colourful patchwork continued to adorn the department's corridors long after the country had officially been reunited. Apartheid, as has been remarked, was essentially a spatial endeavour, an exercise of mapping, creating separate territorial spaces each with its own political, administrative and legal rationalities. The political geography set out in atlases produced before the transition in 1994 is one which, apart from presenting 'white, 'coloured' and 'Indian' areas, is flecked with the four independent homelands – Transkei, Boputhatswana, Venda and Ciskei – and the six self-governing territories, many of them scattered in ragged tatters in the vast surrounding area ( Oomen, 2005: 37).

It is not surprising that it was remapping, just like rewriting history that was one of the new government's first priorities. The prospect of a unitary, democratic South Africa in which artificial boundaries like those of homelands and created chieftaincies would be erased once and for all to make new way for equality in spatial planning loomed large. At first glance, the new government was successful. Atlases which were published after the transition proudly show one country, with nine new provinces and no mention of areas like Qwaqwa, Kangwane and Lebowa. In the more detailed versions, regional and municipal boundaries replaced those of chieftaincies. But the overhaul was largely superficial, and it was not without reason that the Traditional Affairs stuck to their old maps. Six years after the first democratic elections in 1994, almost all the institutional arrangements that singled out the former homelands as separate spheres of rule, largely under chiefly jurisdiction, were still in place. The social reality largely remained a reflection of the geographical inequality created and implemented during the apartheid regime, and driving into a former homeland automatically meant pothole roads, barefoot children and overcrowded corrugated iron shacks. What is more striking is that the whole web of administrative and legislative arrangements that partly gave rise to these conditions also remained in place. For instance, even when new legislation on local government and land tenure was passed, the old arrangements which were based on Black Administration Act, 1927 (38 of 1927) and Black Authorities Act, 1951 (68 of 1951) continued to apply simultaneously (Oomen, 2005: 37-38).

Traditional leadership is not unique to South Africa. Almost every country in the world had various forms of hereditary leadership or absolute monarchies. However, the demand and pressure for representative forms of government, which was based on universal franchise, the struggles by countryside peasants and urban factory-

based workers for better wages and working conditions, and the struggles for gender equality, resulted in the birth of democratic movements all over the world. And in Africa, before colonization, systems of governance were characterized by traditional leadership rule, and traditional leaders and institution dealt with a wide range of issues which were related to traditional communities. (White Paper on Traditional Leadership and Governance, 2003: 15-16).

The growing and often excellent scientific literature on chieftaincy is mostly concerned with interactions between traditional leaders and the national, provincial and local governments. A review of this literature by Thomas Spear shows how its emphasis shifted from the notion of a top-down 'invention of tradition' as central in Ranger's locus classicus to a more nuanced analysis of the discursive relation between states and chiefs, and the reciprocal process of legitimating ( Oomen, 2005: 28).

In South Africa, the institution of traditional leadership has a significant role to play in deepening and enriching democratic governance at local level. Traditional leaders must constitute part of the cadre of leadership that should continue the struggle for a better life for all in a democratic South Africa. Our government recognizes that traditional leadership, as an institution located in rural areas, has a role to play in the fight against poverty, homelessness, illiteracy, and the promotion of good governance throughout all over the corners of the country. (Oomen, 2005: 3).

#### **2.4.1. Roles of traditional leaders in governance and development**

Nowhere was apartheid's patchwork legacy more visible than in local government. What would euphemistically come to be known as the 'rural areas', those areas in the former homelands under traditional authority

rule, still had a population density of 199 people per square kilometer, as opposed to 19 elsewhere. Institutionally, traditional authorities had been the only form of local government in these areas up to 1994, with the Black Administration and the Black Authorities Acts of 1927 and 1951 respectively giving them functions ranging from taxation to weed eradication. Behind these authorities and curbing their powers, in the homeland era, stood an ever-expanding army of technocrats and civil servants directed from the central government. Their point of departure was that elective local government was only for urban areas, while the rural areas merely had to be administered, technocratically and without interference to politics. Paradoxically, although it was in these areas where democratization and deracialisation of governance were most needed, it was also in these areas that this would prove most difficult since vested interests among both the traditional leaders and white-ruled municipalities were simply too powerful (Oomen, 2005: 59).

Needless to say, the traditional leaders were vehemently opposed to what they regarded as a system of 'two bulls in a kraal'. From the start it was clear that newly elected councils would be expected to perform many of the same functions as had been allocated to them in the past. The Interim Constitution, for instance, stated that a local government would make provision for access by all persons living within its areas of jurisdiction to water, sanitation, transportation facilities, electricity, primary health services, education housing and security. For all these reasons, traditional leaders opposed the democratization and deracialisation of local government in their areas (Oomen, 2005: 60).

South Africa's transformation from undemocratic, unrepresentative and unaccountable system of government necessitated that all values, practices, institutions and structures of governance, be reviewed in the light of the new order. Chapter 12 of the Constitution envisaged that this

broad transformation society would include the institution of traditional leadership, precisely because this institution has a significance role to play, especially in rural areas. It is the vision of government, therefore, to transform and support the institution of traditional leadership in accordance with the principles of democracy and equality and that it may represent the customary interests of communities, play a role in socio-economic development and contribute to nation building, and be accountable (The White Paper on Traditional Leadership and Governance, 2003: 25).

The institution of traditional leadership has, over the years, performed different governance functions. The institution performed its duties within the defined limits of its jurisdiction. The institution was, however, affected by colonization as the colonizers interfered changed its government functions and roles. The successive colonial and apartheid regimes did not directly provide development services and infrastructure in black rural areas. Unlike in urban areas, there were no local government structures in rural areas. This resulted in traditional leaders assuming a role of facilitating development in their respective areas. They played a role in ensuring that their traditional authority areas were developed. They worked hand in hand with the government to build schools, clinics, roads and other facilities (The White Paper on Traditional Leadership and Governance, 2003: 27).

Since development is not merely the creation of abundance but the construction of society, traditional leadership is a creature of custom and generally carries out customary functions. It may, however, complement the role of government in areas under the jurisdiction of traditional authority (Institute of Development Studies, RAU, 1979: 1).

- (b) To promote service delivery;
- (c) To contribute to nation building.

The role of traditional leaders in governance and development has been receiving ongoing attention since 1993. The 1996 Constitution introduced a new constitutional arrangement for the whole country and assigned governmental functions across the three spheres of government: national, provincial and local. The 1996 Constitution also provides that all law that was in force when the new Constitution took effect continues to be in force, “subject to consistency with Constitution”. Furthermore, section 211(1) of the Constitution provides that “the institution, status and role of traditional leadership, according to customary law, are recognized, subject to the Constitution”. Finally, the Constitution, in section 212(1) goes on to provide that “national legislation may provide for a role for traditional leadership as an institution at local level on matters affecting local communities”.

(c) Can influence government policy and legislation especially in so far as  
Looking at the above provisions of the Constitution, one may deduce that firstly, the Constitution entrusted to the three spheres of government all powers and functions which are governmental in nature, and assigned to traditional leadership those functions which are customary in nature. Secondly, the Constitution left the specifics relating to “how traditional leadership should operate in the wider democratic society” to national legislation.

Government at all levels is mobilizing all sectors of society to maximize the delivery of services at local level. In the rural areas, the institution of traditional leadership plays an important role in supporting government to improve the quality of life of the people. The following are some the roles that the institution of traditional leadership can carry out:

- (a) To promote socio-economic development;
- (b) To promote service delivery;
- (c) To contribute to nation building;

- (d) To promote peace and stability amongst members of the community;
- (e) To promote social cohesiveness of communities;
- (f) To promote the preservation of moral fibre and regeneration of society;
- (g) To promote and preserve culture and tradition of communities; and
- (h) To promote the social well-being and welfare of communities (the white paper on traditional leadership and governance, 2003: 32).

In carrying out the above roles, traditional leaders as custom-guardians:

- (a) Can influence government policy and legislation especially in so far as it affects the institution and traditional communities;
- (b) Can advise the government particularly on matters that affect the custom;
- (c) must be consulted at appropriate levels on policy and programmes that affect rural areas in general and traditional communities in particular;
- (d) must compliment and support the work of government at all levels; and
- (e) Must form co-operative relations and partnerships with government at all levels in development and service deliver (the white paper on traditional leadership and governance, 2003: 32).

### 3. POWER STRUGGLE: TRADITIONAL LEADERS VS THE LOCAL GOVERNMENT

The main causes of conflict between the traditional leaders and the local government are land ownership and control over it as well as unclear, conflicting and overlapping roles assigned to both traditional leaders and councillors by the government after 1994. There are many instances where the local government and traditional leaders clash over these issues.

Traditional leaders want to be recognized as the primary layer at local government and that chiefs should be the executive heads of rural local government. Vehement clashes between the government and the traditional leaders have been going on since 1993, and the Municipal Demarcation Act of 1998 (27 of 1998) adding salt to the wounds because it led to the establishment of the Municipal Demarcation Board. The Municipal Demarcation Board, as it was instructed by the government vowed to create financially viable municipalities and this, as it immediately turned out, meant at times amalgamating existing traditional authorities into wider municipalities, or cutting through their borders. It became clear that the redrawing of boundaries would diminish the control traditional leaders wielded over land (Omen, 2005: 64-65).

In addition to that, chiefly subjects, who in the apartheid era had become used to their basic needs being subsidized by the “Bantustan Venda Government”, would now have to start paying for services such as water, electricity, roads, water and waste collection and disposal. This has led to the culture of non-payment of services by some residents in the local communities, and outstanding debts, totaling millions and millions of rands are owed to the local government (Venter, 1998: 208).

Nevertheless, the main fear concerned the potential loss of political authority. For, as one observer has remarked: 'Ultimately this threatens chiefs' interests. If councils do their job properly and promote development it will speed up urbanization and strengthen the electoral principle', and it is also for this reason that traditional leaders want to be recognized as the primary layer of local government (Oomen, 2005: 66).

The 1998 White Paper on Local Government provides, in broad terms, for a co-operative model within which traditional leadership could co-exist with municipalities. This new system of local government is perceived by some traditional leaders as unacceptable, and that it would lead to the usurpation of their powers, and this is causing a lot of tensions in rural areas (The White Paper on Traditional Leadership and Governance, 2003: 23).

According to the Municipal Structures Act, 1998 (117 of 1998) functions of traditional leaders include some of the following:

- (a) To collect and administer all fees and charges which are, according to custom, payable to the traditional authority;
- (b) To perform such functions as may be delegated to them by a municipal council;
- (c) To be custodians of culture and customs; and
- (d) To 'convene meetings of community members'.

The Department of Land Affairs, which was established specially to deal with land issues after 1994, was eager to get land back to the people under the leadership of the newly appointed minister, Derek Hanekom. In years to come, the Department would be characterized by an atmosphere of wide consultation and a strong desire to remedy what was regarded as apartheid's most injurious legacy. From the beginning it was

clear that the Department's policies for rural areas would be based on a mixture of individualism and communalism, stemming from the belief that decisions must be taken by the rights holders in democratic process so that the interests of a minority cannot lead to the dispossession of the rights of others. And there would be very little patience with chiefs, unless they had high popular legitimacy. 'We are' as one Land Affairs official said, 'a socialist department, committed to the people and not to archaic structures. Another was more direct and very specific: 'We work for the communities on the basis of their constitutional rights and there is no way in which we will contribute to the perpetuation of apartheid fallacies like the Tribal Authorities. (Oomen, 2005: 71-72).

In rural areas the individual families and the group or tribe want to feel secure in their use and occupation of land, to make permanent improvements, to graze their animals, to have access for gathering fruits, fuel, minerals, and to bury their dead.

The issue of land is causing a lot of conflict and confusion between the local government and the Mphaphuli Traditional Authority. During residential sites development at Unit D, graves were accidentally exhumed while development was in progress, seven of them. This caused a lot of tension between Thulamela Municipality and Mphaphuli Traditional Authority that development was ground to a halt for almost a year. According to the Spokesperson of Mphaphuli Traditional Authority, the place is also a sacred one, where some community members do ancestral worship (Phalaphala FM Current Affairs Programme, 07 January 2010).

Development resumed after the above matter was settled out of court between Mphaphuli Traditional Authority and Thulamela Municipality. The Spokesperson for Mphaphuli Traditional Authority, responded by

saying that any new development should be undertaken only after proper consultation with the Chief and the local communities by Thulamela Municipality. In stands where graves were exhumed, it is proper if grave owners would be given first preference to reside in that particular stands, and this is in accordance with the Vhavenda Culture. In future, all developments would be prevented from taking place if proper consultation procedures are not followed in land that belongs to the Traditional Authority of Hamphaphuli (Phalaphala FM Current Affairs Programme, 20 January 2010).

At Maniini Block K portion, a conflict occurred between the residents and Thulamela Municipality over the construction of a road on sites which the traditional leader had allocated to his subjects. The conflict was broadcast on the National Television Channel 1 of the South African Broadcasting Corporation (SABC). Some of the residents who had built houses were forced to demolish them to give way to the road under construction. Some residents have not yet demolish them and are not willing to do that. The Communications Manager of Thulamela Municipality made it clear that those residents would receive no cent in compensation since they had settled there without the permission of the local government. When the sites were allocated to them they were told not to build permanent structures, but temporary ones until the local government would do proper demarcation. And, according to the Communications Manager of Thulamela Municipality those people who do not want to move out of the road under construction are against development (SABC 1 19h30 News, 03 June 2011).

Background to Maniini Block K Portion conflict is as follows: During the late 1990s, residents of Maniini pressurized the local traditional leader who passed away in June 2004, to allocate residential sites for their children. The local traditional leader made it clear that part of his land

had been declared to be an urban area by Thulamela Municipality. But, he allocated land on condition that people residing there should build temporary structures until the local government would demarcate sites for them to settle permanently.

In 2001, Thulamela Municipality demarcated and allocated sites to 327 families, and since there were more families than sites, the local government increased the number of sites to 656 in order to accommodate them and created Bloc K and K Portion. In 2003-2004, 87 families were found to be staying in the area where a road would be constructed in future, and the then councilor in the area, requested the local government to relocate the families. The local government agreed and relocated them to the newly established Block R, with only 87 families.

In 2007-2008, some members of the Civic Organisation of Block K and K Portion started to allocate sites to needy people in the area where a road would be constructed, and would charge R1 500, 00 for a site, pocketed R1000, 00 and gave the local traditional leader, a Sub-headman who also died in October 2009, R500, 00.

In the evening of 14 June 2011, the window panes of the house of the former Chairperson of the South African National Civic Organisation (SANCO) at Maniini Block K Portion were broken, allegedly by angry residents who were coming from a SANCO mass meeting in the area, accusing him of not wanting development since he wanted road construction to be stopped until the local government built houses for those residents whom it wanted out to give way to the road under construction. The former SANCO Chairperson fled his home and went to Thohoyandou Police Station where he spent the night for his safety (Phalaphala FM Current Affairs Programme, 15 June 2011).

Concerned community members who felt that they were being deprived of development wrote him a letter and delivered it to his house. In the letter, he was warned that he should stop interfering in the development of the area. He was furthermore warned that he should tell his people who were occupying the land illegally to move out or action would be taken against him. The man who the community believed was the main obstacle towards development in the area, that of a major road that would link it to the neighbouring Muledane village, told community leaders in the presence of police that he would not do anything that his organization, which he claimed is SANCO, did not tell him to do, and, that was telling people to demolish their houses for the road under construction (Limpopo Mirror, July 1, 2011).

On visiting the area that was the cause of conflict, I found that some of the residents had already destroyed their houses and others vowed not to because they were given the sites by the late Sub-headman of the area and that they had nowhere to go to. The road was also under construction.

In Ngovhela, Lukau village, near former Venda College of Education (VECO) and now Marude Secondary School, which is a kilometer from Thohoyandou Central Business District (CBD), Thulamela Municipality vowed not to bring running water, proper roads and electricity to the area unless the residents relocated and settled somewhere since they settled there without taking into account that the area had been proclaimed around 1986, and that the local government had already demarcated residential sites in 1995. The local traditional leader, Sub-headman demarcated and allocated sites to his subjects claiming that the area belonged to him. According to the Mayor of Thulamela Municipality, residents in the area were given six (6) months to vacate, and if not, the local government would not provide any service to an area

which was not well planned (Phalaphala FM Live Current Affairs Programme, Thohoyandou Town Hall, 06 May 2011).

Along the R524 road, an area that had long been proclaimed to be industrial sites, and especially from Tshilidzini Nursing College towards Thohoyandou on the right and left sides, the Chief, to whom the area falls under his jurisdiction was also responsible for allocating business sites. In some instances a conflict arose when the same site was given to more than one person. The site might have been allocated to someone by the local government and the traditional leader would give the same site to somebody else. This caused conflict between the developers themselves, and between the local government and traditional leaders. In some cases development came to a halt until the matter was settled, sometimes in a court of law.

#### **4. CONCLUSION**

In conclusion, conflict and thus power struggle on land ownership and control between the local government and traditional leaders was a result of lack of clarity on the roles that traditional leaders should carry out in the new democratic dispensation. This lack of clarity around land and governance resulted in delays in development, because it was sometimes not clear to potential investors with whom to negotiate: local government and the traditional leaders (Oomen, 2004: 76).

In addition to the above, Congress of Traditional Leaders of South Africa (CONTRALESA) Chairperson, Pathekile Holomisa issued a statement on behalf of traditional leaders complaining that Municipalities, through their elected councillors were undermining their powers and authorities, and traditional leaders were left with no roles to play in their communities ( SABC 19h00 News, 21 June 2011).

Those who were observant enough had expected that, with the dawn of democracy in South Africa, chieftaincy would melt away like ice in the sun could not have been more wrong. It proved politically impossible, for instance to replace the once so hated Black Administration Act, 38 of 1927 and Black Authorities Act, No 68 of 1951, which are referred to as apartheid era laws, with new general legislation on traditional leadership. In the meantime, any attempt to curtail the powers that the apartheid state had given traditional leaders could count on such stubborn resistance that it was sure to fail (Oomen, 2005: 85).

On the other hand municipalities in South Africa seem to have authority and thus more power over traditional leaders because all areas in the whole of the country are under municipalities, irrespective of the status attached to these areas, whether urban or remote, and this is in accordance with the 1996 South African Constitution and the Municipal Demarcation Act, No 27 of 1998.

## **CHAPTER THREE**

### **RESEARCH DESIGN AND METHODOLOGY**

#### **3.1. INTRODUCTION**

Research design has to do with the development of a research method that includes the choice of design, description of samples and procedures. According to Bless (2000: 157) in Nethengwe (2009: 43), research design refers to the set of procedures that guides researchers in the process of verifying a particular hypothesis and it allows the researcher to draw conclusions about the relationship between variables. In addition to that, research is a general label applied to different research methods that share a common purpose. In this case, interviews were used to obtain information relating to the management of the relationship that exists between Thulamela Municipality, Mphaphuli Traditional Authority and Tshivhase Territorial Council. The relationship between these three institutions is based on the management over land ownership and control by the local government and traditional leaders.

#### **3.2. RESEARCH DESIGN AND METHODOLOGY**

Research design and methodology will focus on the following:

##### **3.2.1. Qualitative research methodology**

The research methodology will be a qualitative one. This type of methodology is rich in information and it gives more detail.

Qualitative methods produce detailed and non-quantitative accounts of small groups, wanting to interpret the meanings people make of their lives in natural settings, on the assumption that social interactions form

an integrated set of relationships which can be understood best by inductive procedures (Payne and Payne, 2004: 175).

Since qualitative research has one natural setting, the researcher is the key instrument as the direct source of data collection. As a researcher I will spend time at Thulamela municipality, Sibasa, Thohoyandou and Shayandima as well as in surrounding villages which are the focus areas of the study. Qualitative researchers go to specific setting under the study since they are concerned with context. Qualitative methodology implementers believe that action can be best understood if it is observed in a natural setting where it occurs. Qualitative research is descriptive, context bound and the data collected are in the form of words or pictures rather than numbers. The written results of research will have quotations from the data illustrated and authenticate the presentation (Biklen, 1992: 17).

According to Holloway, (1997:1), Louisy, (1997: 202-203) and Neuman, (1997:328, 418) in Nethengwe (2009: 7) qualitative research is a form of social inquiry which focuses on the way people interpret and make sense of their experiences and the world in which they live, and on that note, a small scale qualitative research will be considered appropriate, thus allowing for flexibility and the opportunity it affords to obtain personal viewpoints and full answers to the research problem at hand.

Dooley, (1984: 281) in Monobe (2003:11) stipulates that qualitative research is descriptive since it seeks to describe life on a daily basis from the view of respondents. Furthermore, qualitative researchers are more concerned with the process rather than simply with outcomes or products.

### **3.2.2. Study Area**

The research will focus on declared areas of Sibasa, Thohoyandou, Shayandima and the surrounding villages which fall under jurisdictions of Mphaphuli Traditional Authority and Tshivhase Territorial Council in Thulamela Municipality in the Vhembe District Municipality, in Limpopo Province, South Africa.

### **3.2.3. Population**

A population refers to any group that is the subject of research interest. The researcher is of the opinion that the population is the entire group whose characteristics are to be estimated (Melville & Goddard, 1996: 26). In this study the population is consisted of Thulamela municipality employees, members of the royal families of Hamphaphuli and Hatshivhasa, residents and business people of Sibasa, Thohoyandou and Shayandima as well as community members from the surrounding villages. Respondents will be randomly selected.

### **3.2.4. Sampling and sample size**

The sample should be representative of the whole population so that the research conclusions can be generalized from it. The term sampling refers to selecting or choosing a group of people or a number of items out of the whole population to represent it. This means that the researcher should take a sample of things rather than the whole group (Goddard and Melville, 2001: 42). The researcher will employ systematic random sampling method in which the number is drawn from the larger group and then down-sized.

A sample is a number of individuals selected from a population for a study. These individuals should represent the larger group from which they were selected (Hysamen, 1994: 39). The sample size will consist of 4 (four) Thulamela Municipality officials, 11 (eleven) Traditional leaders, 6 (six) members of the royal families and 14 (fourteen) members of the public. The total number of interviewees will be 35 (thirty-five).

### **3.2.5. Procedure of collecting data**

In this study, the instrument to be used when collecting data will be mainly interviews. Interview questions will be prepared in advance. Data will be collected from Thulamela municipality employees, traditional leaders and members of the public.

An interview can be defined as a one-on-one verbal interaction between the researcher and a respondent, and in this instance the researcher should not try to direct the respondent's answers through his tone of voice or through the way in which questions are phrased (Goddard and Melville, 2001: 49). These interviews will be open-ended ones and thus semi-structured.

### **3.2.6. Data analysis and interpretation**

For the purpose of data analysis and interpretation, information will be arranged into themes as reflected in each of the interview question. In addition, descriptive method will be used to interpret data.

Since the study is qualitative, data, which was collected through interviews was analysed by way of content analysis. Comparisons of data collected were made. Questions which were asked during interviews were open-ended ones and they were mostly based on major research questions contained in the research proposal.

Respondents were allowed to interpret and make sense of their own experiences in areas where they live and operate, and were afforded opportunities to give their personal viewpoints and full answers to the research problem at hand.

Matrices tables were constructed to present frequencies of specific research questions such as causes of conflicts, impact on service delivery, consultation, roles of traditional leaders and councilors, etc. The description and analysis of such frequencies and events will provide the basis for interpretation of data in the context of the defined research objectives, and towards the conclusion of the study.

#### **4. ETHICAL CONSIDERATIONS**

Ethics is regarded as the science of human behavior and conduct with the intention of valuing and safeguarding human dignity, promoting justice, equality, truth and trust. Ethics is typically associated with morality (Babbie, 1991: 464).

Permissions to conduct research have been granted by Thulamela Municipal Manager, Mphaphuli Traditional Authority and Tshivhase Territorial Council.

Since collecting data from people raises concerns, procedural concerns, which include taking care to avoid harming people, having due regard for their privacy, respecting them as individuals and not subjecting them to unnecessary research, all these should be my main concern each time I engage respondents in interviews. And, because ethical practice is a moral stance that involves conducting research to achieve not just high professional standards of technical procedures, but also respect and

protection for the people actively agreeing to be studied, anonymity and confidentiality should also be considered (Payne and Payne, 2004: 66).

The following will also be discussed:

#### **4.1. Personal integrity**

The researcher will have personal integrity. The reader of the report of this research should be able to believe that what the researcher is saying had really happened, otherwise it is all for nothing (Walsh, 2001: 70).

#### **4.2. Researcher's responsibility**

In this study, the researcher will be responsible at all times, mindful and sensitive to human dignity. All these will be adhered to in this study.

#### **4.3. Protection of participants**

In this research, necessary steps will be taken into account so much so that no individual is compelled to take part in the research against his or her will. Participants will be assured of their anonymity when answering questions during interviews.

#### **4.4. The right to confidentiality**

The confidentiality of respondents could not be compromised since their names will not be used in the data collected. No private or secret information should be disclosed as the right to confidentiality of respondents has to be respected (Huysamen, 1994: 134).

#### 4.5. The right to non-participation

No respondent will be forced to participate in the study without his or her consent.

#### 5. CONCLUSION

This chapter dealt with research design and methodology, aim and focus of the study. It was also concerned with the method of collecting data, and sampling procedures had been well outlined. The next chapter will be about interview questions and analysis of answers given by respondents.

Table 4.2.1. Age of respondents

Age	Frequency	Percent
18-20	12	34.3%
21-30	13	37.1%
31-40	4	11.4%
41-50	6	17.1%
Total	35	100%

The majority of respondents, 73, which constituted 71.4%, were between the age group of 18-30, while only 10, which constituted 28.6% were above the age group of 31. The majority of respondents were young and employed and they supported the management of the relationship between the local government and traditional leaders and the extent to which they supported delivery and development better than the ability.

## CHAPTER FOUR

### DATA PRESENTATION, ANALYSIS AND INTERPRETATION

#### 4.1. INTRODUCTION

The purpose of this chapter is to present and analyse the information gathered from interviews. The researcher collected data and respondents were divided into 4 (four) groups: Local government officials, traditional leaders, royal family members and members of the public. Frequency distributions are given in the form of percentages (%).

#### 4.2. Data from local government officials, traditional leaders, members of the royal families and members of the public

**Table 4.2.1. Age of respondents**

Years	Frequency	Percent
Between 31 and 40	12	34.3%
Between 41 and 50	13	37.1%
Between 51 and 60	4	11.4%
61 and above	6	17.1%
Total	35	100%

The majority of respondents, 25, which constituted 71.4%, were between the age group of 31-50, while only 10, which constituted 28.6% were above the age group of 51. The majority of respondents were young and middle-aged since they understand the management of the relationship between the local government and traditional leaders and the extent of its impact on service delivery and development better than the elderly.

**Table 4.2.2. Gender of respondents**

	Frequency	Percent
Male	22	62,9%
Female	13	37.1%
Total	35	100 %

The majority of respondents, 22, which constituted 62,9% were males while females were 13 and constituted 37.1%. These figures are clear indication that according to the Vhavenda culture, males are more concerned about traditional leadership issues than females.

**Table 4.2.3. Highest standard passed**

	Frequency	Percent
Male	13	37,1 %
Female	22	62,9 %
Total	35	100 %

The majority of respondents 31, which constituted 88, 6% had secondary and tertiary education, and only 4 respondents, which constituted 11, 4% were illiterate. Therefore, the majority of respondents could understand the impact the management of the relationship between the local government and traditional leaders has on service delivery and development.

**Table 4.2.4. Relationship between the local government and traditional leaders**

	Frequency	Percent
Yes	27	77,1 %
No	8	22,9 %
Total	35	100 %

The majority of respondents, 27, which constituted 77,1% knew and understood that the management of the relationship between the local government and traditional leaders was not good at all, while only 8, and which constituted 22,9% were of the opinion that the relationship was bad. They read in local newspapers and heard it over the radio when traditional leaders complained about the way the relationship between these institutions was managed.

**Table 4.2.5. Causes of conflict between the local government and traditional leaders**

	Frequency	Percent
Yes	31	88,6%
No	4	11,4%
Total	35	100 %

Of the 35 respondents, 31 of them, which constituted 88,6 %, knew and agreed that land was the main cause of conflict between the local

government and traditional leaders, while 4, which constituted 11,4% did not agree. Respondents also blamed monetary benefits in the form of royalties as another cause of conflict between the local government and traditional leaders.

If the local government and traditional leaders could agree on land development and royalties, relationship management between these institutions could be improved and be a harmonious one.

**Table 4.2.6. Impact of conflict on service delivery and development**

	<b>Frequency</b>	<b>Percent</b>
Yes	29	82,9%
No	6	17,1%
Total	35	100%

The overwhelming majority of 29 respondents, which constituted 82,9% understood that the conflict between the local government and traditional leaders was bad and had a negative impact on service delivery and development since some projects were halted. In addition to the above, some areas were not provided with basic services such as water due to this conflict. Only 11,1% did not understand why the two should be mixed in such a way that hampered service delivery and development.

**Table 4.2.7. Land ownership and control in declared areas**

	Frequency	Percent
Yes	33	94,2%
No	2	5,7%
Total	35	100%

As is shown on the table, 33 respondents, which constituted 94,2% agreed that land, irrespective of the status attached to it, is owned and should be controlled by traditional leaders, while 2 respondents and which constituted only 5,7% support land ownership and control by the local government. All traditional leaders, members of the royal families and members of the public agreed that land ownership and control is the birthright of traditional leaders.

For development and service delivery, declared areas should be controlled by the local government since it is the only institution that is capacitated by the government in accordance with the Constitution of the Republic of South Africa, 1996, to service local communities.

**Table 4.2.8. Level of consultation with traditional leaders**

	Frequency	Percent
Yes	16	45,7 %
No	19	54,3 %
Total	35	100 %

The above table clearly indicates that 16 respondents which constituted 45,7% believed that the local government consulted with traditional leaders on matters relating to land development, while 19 respondents which constituted 54,3% believed that the local government was not consultative enough when it started with some projects. The majority of respondents believed that had the local government consulted traditional leaders, projects wouldn't be stopped and that conflict would not have had happened.

**Table 4.2.9. Traditional Leaders and service delivery and development**

	<b>Frequency</b>	<b>Percent</b>
Yes	8	22,9 %
No	27	77,1 %
Total	35	100 %

The majority of respondents, 27 which constituted 77,1% agreed that traditional leaders did not have capacity for service delivery and development, while 8 respondents which constituted 22,9% believed that they could provide services and development. Traditional leaders could only co-ordinate service delivery and development with the local government in the forefront since the local government is capacitated by the government to deliver services to residents.

**Table 4.2.10. Perceptions of the management of the relationship between the local government and traditional leaders.**

	<b>Frequency</b>	<b>Percent</b>
Yes	28	80 %
No	7	20 %
Total	35	100 %

28 respondents which constituted 80% understood that the management of the relationship between the local government and traditional leaders could be improved while 7 respondents which constituted 20% could not see that it could be improved. The management of the relationship between these institutions could be improved for smooth service delivery and development, and this could lead to the betterment of the lives of communities under their jurisdiction.

### 4.3. CONCLUSION

This chapter dealt with data analysis and results. Thulamela municipality employees, traditional leaders, royal family members and members of the public were interviewed. The results clearly suggest that a lot still needs to be done in order to improve the management of the relationship between the local government and traditional leaders over land ownership and control for efficient service delivery and development by the local government.

Thulamela municipality must take into account that traditional leaders should be engaged in talks with itself and the developer before any development commences. On the other hand traditional leaders should respect proclaimed areas and allow the local government to be in charge of service delivery and development without much interference.

## **CHAPTER FIVE**

### **SUMMARY, RECOMMENDATIONS AND CONCLUSION**

#### **5.1. INTRODUCTION**

This chapter reviews the findings of this study on the management of the relationship between Thulamela Municipality, Mphaphuli Traditional Authority and Tshivhase Territorial Council. The investigation will be followed by recommendations to Thulamela Municipality.

#### **5.2. SUMMARY OF THE FINDINGS**

Respondents who were engaged in interviews comprised 100% of the population. The findings of the study are as follows:

- The findings suggest that the relationship between the local government and traditional leaders is poor.
- Traditional leaders, members of the royal families and the majority of public members agree that the local government does not do proper consultation with traditional leaders on land management and development.
- The main causes of conflict between the local government and traditional leaders are ownership, control and authority over land, and monetary benefits (royalties) thereof.
- Roles of traditional leaders are not well spelt out in the Constitution of the Republic of South Africa of 1996. The Constitution devotes only less than a page on the roles that traditional leaders should play. Roles which traditional leaders used to do have been given to the local government through ward councillors.

- In addition to the above, to all intent and purposes the institution of traditional leadership has been downgraded and has been subjugated to elected municipalities.
- The majority of traditional leaders find it most difficult to be part of the democratic local government when previously they ruled by decree. While it was agreed that there was a need to extend democracy to the rural areas, no thorough thought seemed to have been given to the role of traditional leaders in the new political system.
- The institution of traditional leadership sometimes finds it difficult to operate side by side with SANCO which is an affiliate of the ANC. Where traditional leaders would tell politicians that they were 'mere subjects', a civic leader once snapped at the country's traditional leaders: 'You are all residents and you are supposed to be members of SANCO'. During the 1994 elections, SANCO had both the constituency and political clout to compete with CONTRALESA as a voice representing rural areas. It was an umbrella body of thousands of grass-roots organizations that had taken part in the struggle for democracy, and over bread-and-butter issues like housing and water in rural areas (Oomen, 2005: 98).
- On the other hand, traditional leaders do interfere in municipal affairs when it comes to development in a way that impact negatively on service delivery and development.
- Halting of developmental projects is doing more harm than good to both the local government and traditional leaders since it deprives the local government of income and employment opportunities for the local communities.
- Developers lose millions of rands when development is ground to a halt.

### 5.3. RECOMMENDATIONS

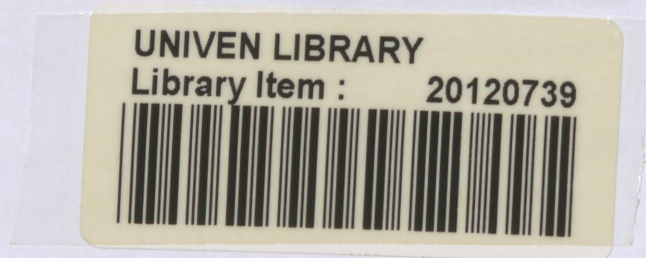
The findings of the study suggest that good management of the relationship between the local government and traditional leaders over land ownership, control and authority in Thulamela municipality could lead to the improvement in service delivery and development. And: -

- The local government should make proper consultation with traditional leaders on matters of land development before any project springs up.
- Monetary benefits (royalties), if needs be, should be agreed upon between the local government and traditional leaders before the commencement of a project.
- If a site to be developed is sold by an individual, the local government, traditional leaders, the seller and the developer should be engaged in talks and reach an agreement before development starts.
- The local government should respect areas that are not proclaimed to be controlled by traditional leaders.
- Traditional leaders should respect areas that are proclaimed and let the local government be responsible for service delivery and development.
- The local government, through its ward councillors, should have a harmonious relationship with traditional leaders and give them respect, honour, authority and thus status which they deserve in order to preserve and strengthen positive African cultural values attached to the institution of traditional leadership. This contributes to the upliftment of moral well-being of society. This should be done in a spirit of tolerance, dialogue and consultation (The White Paper on Traditional Leadership and Governance, 2003: 19).

## 5.4. CONCLUSION

This study has clearly shown that the management of the relationship between the local government and traditional leaders over land ownership and control should be improved for a harmonious relationship to exist. This should be done so that service delivery and development are not hampered. The local government must provide an efficient service in order to secure peace, safety, stability, comfort and convenience of the population it serves (Craythorne, 1997: 13).

The majority of traditional leaders are not satisfied by the way in which the local government manages the development of land under their jurisdiction. The local government and traditional leaders should consult and engage one another in talks for the smooth delivery of services to communities. These two institutions should operate on the basis of mutual respect.



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P.O.Box 400

Vhufuli

0971

The Municipal Manager  
Thulamela Municipality  
P/Bag X5066  
Thohoyandou  
0950

Dear Sir/Madam

**APPLICATION FOR PERMISSION TO CONDUCT RESEARCH**

I Maphiri M.J. I.D: 6403056168081 hereby apply for permission to conduct research in Declared Areas of Sibasa, Thohoyandou, Shayandima and surrounding villages.

I am doing Masters in Public Management (MPM) with the University of Venda (UNIVEN).

The topic of my Mini-Dissertation study is entitled: **The relationship between the Local Government and the Traditional Leaders: A case of Thulamela Municipality.**

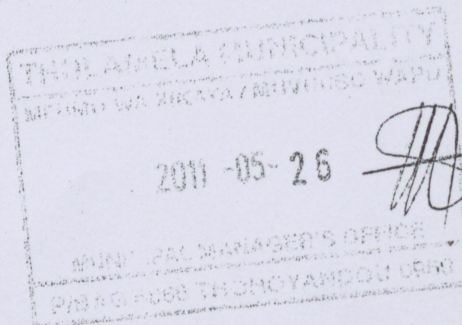
I will be very grateful if my application is taken into account, and I would also like to thank you in advance for your kind consideration.

Yours Faithfully

Maphiri M.J

*M. Maphiri*  
.....

073 983 1020/ 082 423 8383



*Approve*  
*[Signature]*

MPHAPHULI TRADITIONAL AUTHORITY  
P.O. BOX 59  
SIBASA 0970  
2011 MAY 26  
TEL. 015 963 2476  
FAX: 015 963 2480

REQUEST APPROVED  
Mphahuli  
University of Venda  
Creating Future Leaders

P.O.Box 400  
Vhufuli  
0971

Mphaphuli Territorial Council  
Sibasa  
0970

Dear Sir/Madam

### APPLICATION FOR PERMISSION TO CONDUCT RESEARCH

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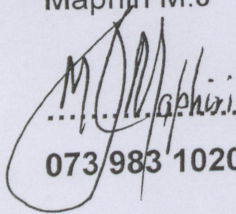
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I will be very grateful if my application is taken into account, and I would also like to thank you in advance for your kind consideration.

Yours Faithfully

Maphiri M.J

  
.....

073 983 1020/ 082 423 8383



## APPENDIX C: APPLICATION TO CONDUCT RESEARCH

P.O. Box 400  
Vhufuli  
0971

Tshivhase Territorial Council  
P. O. Box 1093  
Vhufuli  
0971

Dear Sir/ Madam

### APPLICATION FOR PERMISSION TO CONDUCT RESEARCH

I Maphiri M.J, of I.D: 6403056168081 hereby apply for permission to conduct research in Declared Area of Shayandima and surrounding villages.

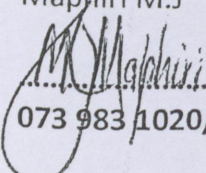
I am doing Masters in public Management (MPM) with the University of Venda (UNIVEN).

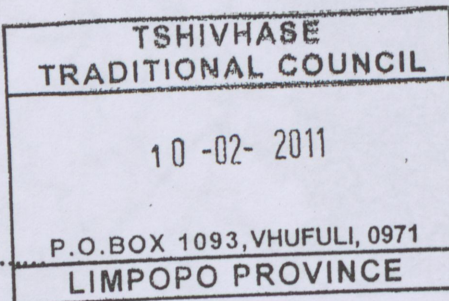
The topic of my Mini-Dissertation study is entitled: **The relationship between the local government and the traditional leaders: A case of Thulamela Municipality.**

I will be very grateful if my application is taken into account, and I would also like to thank you in advance for your kind consideration.

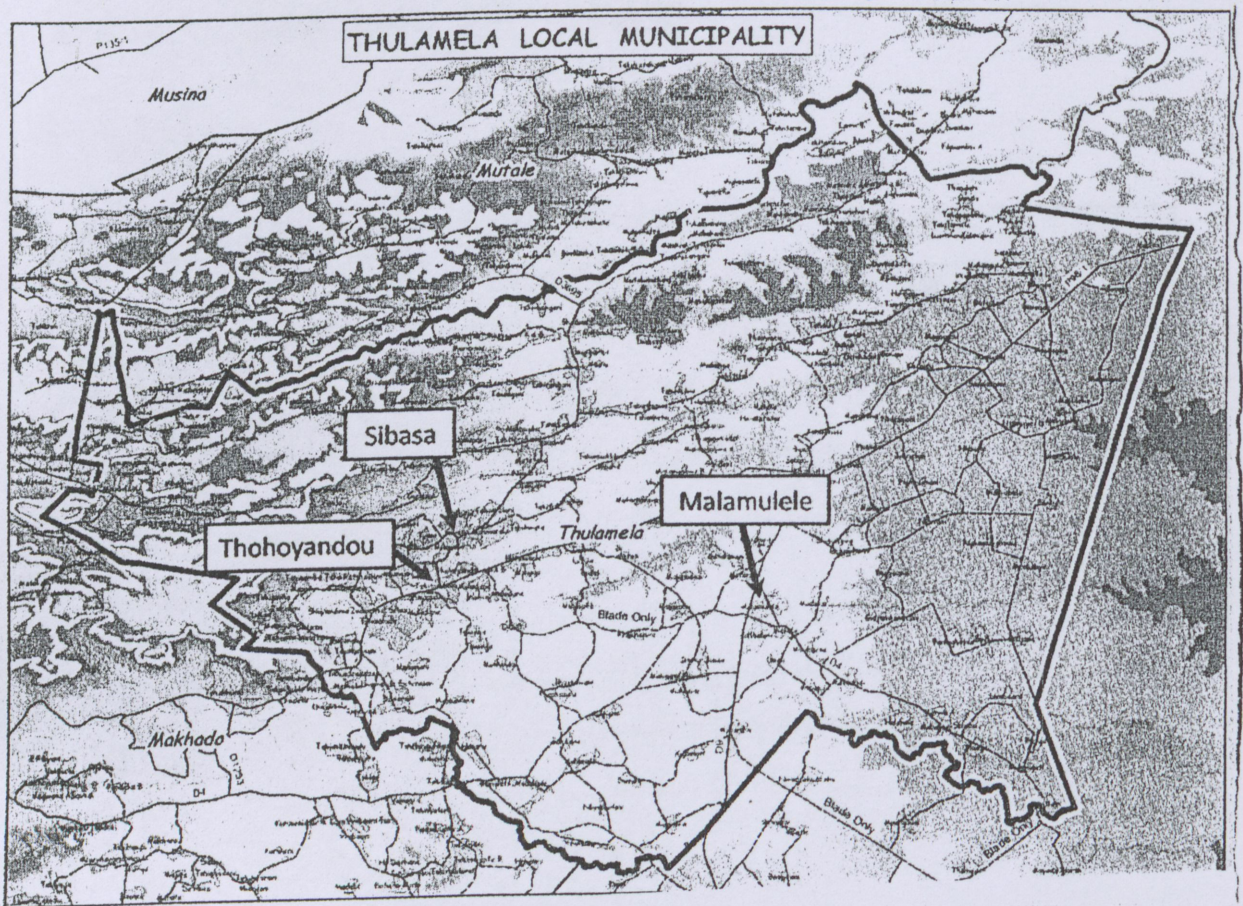
Yours Faithfully

Maphiri M.J

  
073 983 1020/ 082 423 8383



# APPENDIX D: MAP OF THULAMELA LOCAL MUNICIPALITY



**SOURCE:** Thulamela-official publication of Thulamela Municipality  
**YEAR:** January – March 2011

## APPENDIX E: QUESTIONS

### THE MANAGEMENT OF THE RELATIONSHIP BETWEEN THE LOCAL GOVERNMENT AND TRADITIONAL LEADERS: A CASE OF THULAMELA MUNICIPALITY

#### SECTION A: PERSONAL PARTICULARS

##### 1. Age

Between 31 and 40	1
Between 41 and 50	2
Between 51 and 60	3
61 and above	4

##### 2. Gender

Male	1
Female	2

##### 3. Highest standard passed

Primary level	1
Secondary level	2
Tertiary level	3
No schooling	4

## SECTION B: QUESTIONS

The following are questions about issues related to the management of the relationship between the local government and traditional leaders in Thulamela municipality:

1. What are the causes of conflict between the local government and traditional leaders?
2. Who has control over land in declared areas between the local government and traditional leaders?
3. Why is there a power struggle between the local government and traditional leaders over land management ownership?
4. What extent does the conflict between the traditional leaders and the local government have on service delivery and development?
5. What are the positions of traditional leaders in controlling territories under their jurisdiction which have been declared to be municipal areas?
6. What are the perceptions of local government officials, traditional leaders and members of the public with regard to the management of the relationship between the local government and traditional leaders?

SECTION C: Themes on the management of the relationship between the local government and traditional leaders:

Relationship between the local government and traditional leaders:

Yes	1
No	2

**Causes of conflict between the local government and traditional leaders:**

<b>Yes</b>	<b>1</b>
<b>No</b>	<b>2</b>

**Impact of conflict on service delivery and development:**

<b>Yes</b>	<b>1</b>
<b>No</b>	<b>2</b>

**Land management, ownership and control in declared areas:**

<b>Yes</b>	<b>1</b>
<b>No</b>	<b>2</b>

**Land management and control in rural areas:**

<b>Yes</b>	<b>1</b>
<b>No</b>	<b>2</b>

**Level of consultation with traditional leaders:**

<b>Yes</b>	<b>1</b>
<b>No</b>	<b>2</b>

**Traditional leaders and service delivery and development:**

<b>Yes</b>	<b>1</b>
<b>No</b>	<b>2</b>

**Perceptions of the management of the relationship between the local government and traditional leaders:**

<b>Yes</b>	<b>1</b>
<b>No</b>	<b>2</b>