LOCATING TRADITIONAL AUTHORITY IN POST-APARTHEID SOUTH AFRICA:

A CASE STUDY

OF BOKGOŠI BA GA-MASEMOLA

By

MADIKGOMO FAITH MORE

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MRS SAFIYYA GOGA

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To my grandmother, Nurse Mary.

"Ke Mokgadi"

Ke setlogolo sa babina tau,

ke morwedi wa Mmaphelakgadi,

ke kgarebe ya ga Kgoši Mmalebogo wa phala tša pele.

Tau sejela leopeng,

tau ya mariri,

tau sekgakantša makgukhubo.

Ke kgarebe e tšewa le dinala shidiwo!

Batau ba mahlo a ma hubedu.

Kgotso e be go lena!

Hai! Hai! Hai!

ACKNOWLEDGEMENTS

DECLARATION

I, Madikgomo Faith More, declare that the dissertation titled: "Locating traditional authority in post-apartheid South Africa: A case study of Bokgoši ba Ga-Masemola", is my original work. It is submitted in the Department of Political Science, at the University of Pretoria, South Africa in fulfilment of the Master of Art degree. It has not previously been submitted for any degree or examination at this or any other university. And all the information previously produced by any other person has been acknowledged.

Madikgomo Faith More   10 February 2023

ABSTRACT

Having been transformed by colonial-apartheid institutions such as the Department of Native Affairs and later the Department of Bantu Administration and Development, 'traditional leadership' and 'traditional authority' have a complicated relationship to the post-apartheid South African state. Between its historical inclusion as an institution within colonial-apartheid structures and its post-1994 integration into forms of democratic governance, this research explored the political meanings of 'traditional authority'. Beyond ideas of resilience, integration and relevance, what could the 'proper' place, functioning and meaning of traditional authority be read as in the post-apartheid period? How does its historical and continuing relationship to the state shape our understanding of its meanings? How does the post-1994 legislation shape our understanding of its resilience and relevance in relation both to the state and to poor, black citizens? How do we interpret the self-understandings of figures of traditional authority in order to further our interpretation of the meanings of traditional authority in the post-apartheid period? This project explored through legislation and policies shaping the role and function of traditional authority in the post-1994 period, as well as through in-depth qualitative interviews and self-descriptions of traditional leaders and community members, the politics and location of traditional authority in the democratic dispensation.

Keywords: Customary law, traditional authority, institution of traditional leadership, local government, rural governance, rural development

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CHAPTER ONE: INTRODUCTION

"The ideas of the ruling class are in every epoch the ruling ideas: i.e., the class which is the ruling material force of society, is at the same time, its ruling intellectual force. The class which has the means of production at its disposal has control at the same time over the means of mental production, so that thereby, generally speaking, the ideas of those who lack the means of mental production are subject to it" (Marx and Friedrich, 1965:61).

1.1 Traditional Authority

Traditional authority is an important part of the pre-colonial, colonial-apartheid and the democratic, post-apartheid political landscape. Logan (2013:353) posits that it is part of the 'modern' political landscape and therefore increasingly receiving attention from scholars and policy makers. "Past research on traditional authority focused on efforts to foster democratization and decentralization" (Logan,2009:102). This revealed that there are "competing claims to power and legitimacy at the local level" (Logan,2009:102; Koenane, 2017:2).

Traditional authorities "are rooted in the pre-colonial period and include political, socio-political and politico-religious" structures (Ray and Reddy, 2003:2-3). In various African countries, traditional authorities are known as "chiefs, traditional authorities, traditional rulers, monarchs, kings and queens, nobles, aristocrats, sultans and natural rulers" (Ray, 2003:2). They lead with the assistance of headmen, who are leading family representatives (Nicholson, 2006:84). The usage of the term traditional authority refers not to the colonial and apartheid states' usage but rather refers to the "political, socio-political and politico-religious structures rooted in the pre-colonial period" (Ray, 2003:2-3). Ray (2003:2-3) explains that 'traditional leader' extends to include "kings and queens, aristocrats holding offices, heads of extended families and other office holders in decentralized polities".

Owusu-Sarpong (2003:35) adds that "the word 'tradition' has often been misconstrued and perceived as referring to an ancient body of rules, habits, beliefs, of knowledge, only worthy of preservation". However, "the noun of tradition does not only mean the passing from one generation to another of the same cultural contents" but "more so the continuous reactivating of values as specific society considers as 'traditional'. That is, as inherited from its founding fathers" (Owusu-Sarpong, 2003:35). Hence, for this research traditional authority is conceptualized as both an ideology and belief system and as institution and practice (Thornton, 2003:130).

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1.2 Traditional Authority in Africa

In Africa, traditional authority and traditional leaders characterized systems of governance before colonialization in the 18th and 19th centuries (Ndlela et al.,2010:4; Tshela, 2005:15). Traditional authority *was* the state and so-called 'traditional authority' as the state constituted "a set of political structures and processes directed by one political authority" (Ray, 2003:87). 'Traditional authority' or the precolonial state exercised "control over all people within its territorial boundaries" (Ray, 2003:87).

Local government in rural communities was well established under traditional leadership (Ndlela, et al., 2010:4). Traditional authority through traditional leaders governed communities, exercising authority and control over all aspects of life (Ray, 2003:87). This ranged from the community's welfare to creating the rules and laws that community members had to abide by. The community land was also in their trust (Lutabingwa et al, 2006:73). However, in the 20th century, they were subordinated by treaties or conquest to colonial authority and subordinated or eliminated in the process of colonialization (Ray, 2003:10). Western empires and the colonial-settlers converted sovereign kings and queens and other officeholders into 'chiefs', 'headmen' and other subordinate roles, "[co-opting] chiefs, both traditional and neo- traditional as auxiliaries to colonial rule" (Ray, 2003:10). Dlamini (1992) argue that "the recognition of customary law was not born out of any exceptional insight or sympathy that the apartheid government may have had for African customary law", but of "other more prosaic reasons which were based solely on the need to facilitate more effective control over the African population" (Mamdani, 1996:27-29).

In many African countries, traditional authority is incorporated into democratic forms of government or retained as a 'system of traditional authority' (Murray, 2004). In South Africa, the colonial state and ethnic identities tied to 'tribal' political structures and authorities were shaped concomitantly in the conquest years of the 19th century (Crais, 2006:721). The colonial state "described kingdoms as 'feudal' and 'tribal'" (Sharp, 1998:68), setting up the basis on which the South African state would relate to and negotiate with forms of 'traditional authority' for decades and indeed centuries to come Logan (2009:104).

1.3 Traditional Authority in South Africa

In South Africa, the official term used to refer to traditional authority is the institution of traditional authority in English (Ray, 2003:2), 'Baetapele ba Setso' in sePedi and seSotho, 'Abarholi bendabuko' in Ndebele, 'Iinkokeli Zomthonyama' in SiXhosa,'Abaholi bendabuko' in SiZulu, 'Baholi bendzabuko' in SeSwati, 'Magosi' in Setswana, 'Vharangaphanḓa vha zwa

sialala' in Venda and 'Varhangeri ndzhavuko' in Tsonga. In South Africa research on traditional authority has been focused on efforts to foster democratization and decentralization after apartheid. Democracy has meant elected government (Edwards et al., 1996:11), and government is understood as the body that selects policy makers who will then draft policy that "represents and responds to 'citizens' preferences" (Edwards et al., 1996:11). But Sikander (2015:172) imagined decentralization within the South African state as the 'transfer of power' and authority "to perform services to the public, from individuals, institutions and agencies" in the white central apartheid government and state, "to individuals, institutions and agencies, which are closer to the public to be served". He places authority at a lower level in the territorial hierarchy, "…and thus geographically closer to services and clients" (Sikander, 2015:172). Hence, traditional leadership was idealized as a form of 'Africanization', particularly for the poor and landless.

Within the democratic state itself, traditional authority is recognized by the South African Constitution (1996), and within various pieces of legislation and related policies. However, the roles and functions of the institution remain unclarified in the democratic period (Ray, 2003:108). National, provincial and local structures were created for the institution which did not exist during apartheid (Khandlhela, 2018:1), but which continue to have an unclarified status. This points perhaps to the power and authority of European colonialism, which, rather than erasing precolonial forms of authority, successfully "transformed social arrangements and reinforced vernacular cultural practices everywhere, often reinventing them as tradition" (Comaroff and Comaroff 2009:258).

1.4 Background to The Problem

In South Africa, two schools of thought dominate debates about the role and function of traditional leaders in local government. These schools are polarized between "'traditionalist or romanticizers' and 'modernist or trivializers' of traditional leadership" (Keulder, 1998 and Oomen, 2000:16). Traditionalists argue that "a traditional leader acts as a symbol of unity to maintain peace, preserve customs and cultures, resolve dispute and factions, fights, allocate land, etc." (Khunou, 2009:105). They are of the view that rural governance, rural development and political stability are (or more properly, should be) under the "jurisdiction of traditional leadership" (Khunou, 2009:105). On the other hand, modernists view traditional leadership "as the basis of rural patriarchy" stemming from their primary concern with gender equality (Khunou, 2009:105). Both schools of thought agree however, that the "composition, functions and legal manifestations of traditional leadership should adapt to the changes in the new constitutional, social and political environments of post-apartheid South Africa" (Khunou,

2009:105). Neither however seems to have adequately accounted for traditional authority's resilience and continued influence in the 'modern' political landscape (Logan, 2009:102).

Traditional leadership falls under what is termed 'customary law'. 'Customary law' is primarily based on the preservation of the 'indigenous' (Ubink and Mnisi-Weeks, 2017:826). The 'indigenous' speaks to different governing systems and institutions which regulate the rights and relations among traditional communities primarily located in 'rural areas' (Ubink and Mnisi-Weeks, 2017:826). Scholars like Mamdani (2020:146) argue that the conception of 'customary law' in South Africa was created by settlers and is in no sense 'traditional'. While "particular practices and norms associated with customary law are in part inspired by the pre-colonial era" Mamdani asserts that 'customary law's' authority over natives derives from the statutes of the settler group (Mamdani, 2020:146). Despite the recognition of customary law in South African legislation and this being widely seen as a form of 'Africanization' Mamdani (2020:146) contends that,

> "Those who write the civil law ultimately determine what customary law is, while the natives themselves serve as customary law's custodians, implementing it within the 'tribal' territory. Together, the authors and enforcers of law determine, say, who gets to be a 'tribal' member, which land the member may own or use, what religion the member may practice, how the member is to dress and groom himself, or whether the member is at liberty or detained" (Mamdani, 2020:146).

Mamdani (2020) denies that customary law is 'traditional' in any sense because the settler set the standards according to which the natives are to be 'civilized'; liberated that is, from 'tradition'. In characterizing the relationship between custom and colonialism, Mamdani (2020:3) concludes that native elites were collaborators rather than resistors of colonialization through 'custom'. This was because the true source of their authority and power was derived from the backing of the colonizers as opposed to any inherited cultures and ways of life (Mamdani, 2020:146).

Exploring traditional leadership and "the characteristics associated with being located in a rural setting are important" (Douglas, 2018:5) in locating the role and function of traditional leaders. Scholars like Oladipo (2001:1) argue that there must be a reconsideration and then adaption of the "African heritage of democratic governance" located in rural areas. This would revitalize and consolidate democratic ferment concludes Oladipo (2001:1). Wamala (2006:435) asks if it is even possible to talk about democracy in a traditional African setting, as there is wide variation on "what being a traditional leader, king, queen, or 'chief' means" (Wamala, 2006:435). There are differences in what these institutions looked like historically, "in what sort of rules, roles and relationships they were in with colonial and apartheid administrations"

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(Wamala, 2006:435), and "How they adapted, both individually and collectively, to the many pressures and often competing incentives that they faced over the years" (Logan 2009:104).

In the present moment, it is necessary "to account for the role and function of traditional authority and institutions" in the processes of democracy and decentralization (Logan, 2009:102), particularly in rural governance and rural development. To this, Douglas (2018:5) explains that "the characteristics of rural contexts (e.g., landscapes, communities, organizations) are both operable in governance systems as active subjects (e.g., resident groups, land owners) and as objects being acted upon by various forces". Therefore, "characteristics associated with being rural are fundamentally important either as subjects or objects" (Douglas, 2018:5). Hence, when interpreting current systems of governance, there should be consideration of "the design of governance systems, the efficacy of the arrangements and the anticipated cause-effect relationship in the development process" (Douglas, 2018:5).

1.5 Theoretical Framework

The researcher explored the institution and practices of traditional authority and adherence to the institution in Ga- Masemola. This research study critically explored the representations and interpretations of authority and practice within a broad literature on traditional authority.

1.5.1 Critical theory

Critical theory is used to understand the meanings and interpretations of traditional authority.

> "Critical theory began as the project of illuminating how "traditional" theories of modern society, conceptions of social science, approaches to studying social life and practices of doing research start from largely implicit, yet highly problematic assumptions about the relationship between social science and society, in the sense of social science and concrete socio-historical context. The form, content, practice and normative orientation of social life and the social sciences are directly affected by specific economic, political, cultural and ideological configurations of socio-historical contexts" (Dahms, 2008:18).

Critical theory questions the prevailing world/ sociopolitical order (Biele and Morton, 2004), and it questions "institutions and social and power relations by concerning itself with their origins and whether they might be in the process of changing" (Cox, 1981:129).

Reality, it is posited, is inter-subjectively created and produced and reproduced by people (Bieler and Morton, 2008:86). People consciously act to change their social and economic circumstances, but their ability to do so is constrained by various forms of economic, political, cultural and ideological configurations (Dahms, 2008:18). For critical theorists, it is essential

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to ask "how existing social or world orders have come into being, how norms, institutions or practices therefore emerge and what forces may have the emancipatory potential to change or transform the prevailing order" (Bieler and Morton, 2004:86). Hence, the lens adopted by this study emphasizes the contests, conflicts and contradictions surrounding traditional authority in the historical moment of a democratic dispensation in South Africa.

"Every historical period produces particular rules that dictate what counts as scientific or historical fact" (Ray, 2003:127). Implicit rules that guide generations on facts regarding traditional authority are informed by particular "world views, political perspectives, conceptions of race, class and gender relations, etc." (Maree, 2007:62) that must be explored. Hence critical theorists argue "that what counts as valid social science knowledge arises from critiquing social structures and systems through analyzing discourse in society" (Maree, 2007:62). This includes viewing questions through the lens of the people who are the subjects of the study (In Mudua et al., 2018:184). "The critical researcher lays bare current discourses in society and analyses them in terms of the system within which they operate intending to disclose the power relations within the system and its structures" (Maree, 2007:62). Within forms of organization and the configurations that characterize modern societies, "critical theorists are concerned with the transformations that occur at the social and cultural level" (Maree, 2007:62). "Put differently, critical theory highlights the fact that all elements of societal reality maintain stability by continually adapting to an environment that is inherently dynamic, rather than static" (Dahms, 2008:21). This lens was chosen because of "the commitment to illuminating how exactly concrete socio-historical conditions shape and influence social life" (Dahms, 2008:22).

The case for this study is Ga- Masemola, in the Makhuduthamaga municipality, Sekhukhune district in the Limpopo province of South Africa. Ga-Masemola is a rural community that subscribes to Bokgoši as ideology and belief and adhere to and follow 'Baetapele ba Setso'. The members of the community are grounded in their identity as BaPedi BaTau. They are grounded in the history of where they come from; their culture of 'Bokgoši'; their experiences with and expectations of traditional leaders; the South African state and government and the democratic leadership system and their in- depth knowledge of the history and practices of their customs.

1.5.2 Ideology of tribalism

Using Archie Mafeje's (1971) the 'Ideology of Tribalism' to frame this research, the study explores the ontology of traditional authority in South African history, particularly in academic discourse, policy and legislation. It also explores the meanings and interpretations of

institutions and meanings of 'traditional authority' by ordinary people. In his paper, 'Ideology of Tribalism', Mafeje (1971) "critiques anthropology for its role in the continued use of dualistic concepts such as 'tribe' and 'tribalism' to other Africans". Mafeje (1971) took issue with the dichotomization of "African agriculture into 'modern' and 'traditional'". He took issue with constructs such as ethnic groups, the inventions of 'cultural' or 'traditional' practices and the traditional-modern dichotomy, through which traditional authority and traditional leaders are produced as part of the realm of 'tradition' i.e., outside of the 'political'. The 'Ideology of Tribalism' (Mafeje,1971) is preceded by his earlier critique of Anthropology as an academic discipline that excludes Africans from knowing themselves. His critique is that anthropology is an academic discipline that writes about Africans as objects to be studied by others and not rather than as subjects themselves. He argued that "anthropology was specifically created for the colonized others who were not permitted to understand themselves except through the eye of the colonizer" (Nabudere,2011:14). This meant that the white Western identity of the individual self needed 'the other' i.e., African "as a mirror through which their identity could contrast itself by as the subject self" (Nabudere, 2011:15). This led to 'The ideology of Tribalism' where Mafeje critiques the continued use of the concepts 'tribe' and 'tribalism' to understand and explain African society, as and in contrast to 'modern' society. This was even though modern African society was still dominated and colonized (Nabudere, 2011:14).

Through the exploration of South African discourse, policy and legislation concerning customary law, traditional authority and the 'institution of traditional leadership' this research explores the dichotomies of customary law vs. roman law, tradition vs. modern, traditional authority vs. common law, traditional leaders vs. government (municipal) officials, rural vs. urban and subjects vs. citizens. This is done to reveal the ontologies which have come to frame understandings of customary law, traditional authority and the institution of traditional leadership, which have in turn shaped how we think about, research, write, legislate about traditional communities and those deemed 'traditional'. This study uses Mafeje's (1971) "The Ideology of Tribalism" to also question the dual analysis of "economic and political relations between modern colonial capitalism and the traditional and rural agriculture" (Nabudere, 2011:19).

The presence of the 'institution of traditional leadership' as a form of governance to be legitimized, included and integrated, particularly within local government, has implications for "the state, sovereignty and legitimacy" as well as "for the involvement of traditional leaders in rural governance and rural development" (Ray, 2003:84). Although there is legislation and 'political accommodation' for the institution, the nature and role and function of traditional leaders remain ambiguous in the democratic period.

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1.6 Research Problem

The exploration into the 'institution of traditional leadership' emanates from the researcher herself seeking to research and write about herself and many others like her. She was born and raised in Ga- Mampane, a sub-village of Ga-Masemola in the Limpopo province of South Africa. In this research study, the researcher took issue with academic discourse, particularly South African mainstream literature and its theorization of African indigenous systems and institutions.

The Eurocentric approach to traditional authority and scholars' use and understanding of 'tribe' was informed by earlier anthropological approaches. There is descriptive literature on the institution in South African discourse which views the institution as backward, patriarchal, un-modern or as underdeveloped (Mafeje, 1971:257). The 'Ideology of Tribalism' as per anthropologists explains the successes and failures of traditional authority in modernization, while political scientists explain only failures (Mafeje, 1971:257). This is problematic because modernization is "the view of historical progression as a series of stages, reflecting intellectual, technological, economic and political development in terms of particular paths of transition" (McLean and McMillan, 2009:349, which means that history and development are interpreted in Western political and constitutional terms (McLean and McMillan, 2009:563). Despite their 'tribal language' they know far less about 'tribes' (Mafeje, 1971:257).

Furthermore, the Eurocentric approach to traditional authority denies the "dichotomy between the 'traditional' and the 'modern' in understanding political and socio-economic progress" (McLean and McMillan, 2009:349). These debates about traditional authority represent not just questions of political processes, but also "questions of identity and the assertion of local autonomy against the globalizing and modernizing power of the state" (Ray, 2003:127). The debate talks to the marginalization of the 'rural voice' i.e., the views, meanings and interpretations of rural citizens themselves. Rathbone (2000:3) argues that "modernization in its many forms created an entirely new kind of citizenry" who identify less with traditional leaders. Why do we not ask rural citizens about the role and function of traditional authority in South Africa today?

In short, traditional leaders not only "represent land and people in general democratic terms but more as a specific and local embodiment of people and place" (Ray, 2003:127). "Every region of South Africa has a distinctly different history" (Ray, 2003:127), and traditional authority differs from one province to the next. Traditional authority is often idealized as offering a form of resistance to all that is wrong with democracy. In the same breath traditional

authority was part of so-called 'native administration' under the Department of Native Affairs, a historical relationship that has shaped and influenced the 'institution of traditional leadership', its meanings and its post-apartheid integration into forms of rural and democratic governance. Although all fluidity and transformation of traditional authority cannot solely be caused by the colonial and apartheid experience, it is undeniable that colonialism and apartheid shaped the traditional authority we come to know today.

This led the researcher to ask questions regarding the true nature and position of traditional authority. It is clear that traditional authority is resilient, but why, how and through what forms of authorization and marginalization, incorporation and accommodation? Although there is legislation and 'political accommodation' for the institution, the nature, role and function of traditional leaders remain vague. If we can understand the everyday roles and functions of traditional authority in communities, we can better understand where and how they 'fit in' in systems of rural and democratic governance and development. How do we re-conceptualize rural governance and rural development to understand how traditional authority is localized and sustained?

1.7 Research Question(s)

The identified research question is inspired by how South African academic discourse, particularly mainstream literature theorizes African indigenous systems and institutions as backward, patriarchal and underdeveloped. This research study sought to empirically explore what traditional authority is and what it is doing in 2022 considering its historical roles and functions of being both a mode of resistance to. and of collaboration with colonialism-as-indirect-rule. The main research question is: what are the roles and functions of traditional authority in Ga-Masemola? How do we make sense of traditional authority as it functions within a local community today between a) its history of being shaped and formed by colonial and apartheid authorities in particular ways and for particular purposes and b) its post-1994 inclusion into the ambit of the 'political' through forms of constitutionalism and democratic governance? And finally, how might we read traditional authority as a vehicle for forms of local resistance to the democratic state?

This is followed by the sub-questions of:
- What is the basis of functioning of traditional authority in Ga-Masemola?
- How do we make sense of varied understandings of the roles of traditional leaders as given by the state, government, traditional leaders and the various actors within the community of Ga-Masemola who have a stake in its functioning?

- What are the ways in which traditional authority endures in the democratic context of Ga-Masemola?
- What are the ways in which it provides a vehicle for cooperation with and/or resistance to local government?

1.8 Research Aim and Objective(s)

This study aims to explore the meanings of traditional authority in relation to forms of local and democratic governance.

The research objectives of this study are:

- To explore the roles and functions of traditional authority concerning local government and in rural governance and rural development with specific reference to Ga-Masemola.
- To explore the varying interpretation of traditional authority among different actors in Ga- Masemola.
- To explore the relationship between the state and traditional leaders and the government and traditional leaders in discourse about rural governance and rural development.

1.9 Significance of the Study

"Thus, if social science is to be an effective and worthwhile undertaking, confronting directly the discrepancy between the projection and the actuality of modern society and its ability to recognize and confront concrete and actual – rather than simulated – challenges, especially as they relate to social structure, must be the first order of business"
(Dahms, 2008:9).

The institution of traditional leadership falls under 'customary law' which presides over vast numbers of people in rural areas who are marginalized by the state and government. Many people in rural areas need service delivery and access to development. We need to understand what, who, why and how, we have traditional authority as more than a political tool, but rather as an agent for the rural people which can play a role in service delivery and development. "The study of the evolving process of the political culture" of traditional communities of South Africa particularly in Ga-Masemola, Limpopo- "acquired, refined, modified over the years, by choice or imposition" – is central to the understanding of the contemporary history of a majority of South African people (Owusu-Sarpong, 2003:33).

This research study investigated the Ga-Masemola community in the Limpopo province of South Africa; however, the findings have relevance for South Africa as a whole and the entire Southern African region (Tshela, 2005:10), where the debate about the roles and functions of traditional authorities remain relevant and contentious today.

1.10 Delimitations of the Study

The study was confined to one province and was limited to the time spent in the field gathering data. The research study took place from 13 to 30 June 2022. The study location was in Ga-Masemola and the study sample was limited to Ga-Masemola community residents only and their respective leaders.

The research participants in the study answered all the interview questions openly and honestly. The researcher followed all ethical protocols in line with conducting fieldwork at the University of Pretoria. All interviews with research participants were conducted in an ethical and respectful manner adhering to the ethical protocols.

1.11 Definition of Terms

Bakgoma – Senior nobles

Bakgomana – Junior nobles

BaPedi BaTau community – Ga-Masemola community

Bokgoši – Traditional Authority – Traditional leadership

Candle wife/ Masetshaba – Principal wife of a Kgoši

Kgoši – King

Kgošikgadi – Queen

Mošate – Royal kraal

Motseta – Royal messenger

Reserves – Homelands, Bantustans

Sereto – Praise name

1.12 Organization of Remaining Chapters

The remainder of the dissertation is organized into five chapters, the reference list and appendices in the following manner. Chapter 2 is the literature review; it is a review of the relevant literature dealing with 'traditional authority' in South Africa. This chapter engages with legislation, policy and academic discourse regarding the institution of traditional leadership and all legislation promulgated for 'traditional authority', looking at the pre-1994 and post-apartheid periods. An attempt is made to identify contests, conflicts and contradictions within the literature given the historical context of traditional authority as shaped and formed by

colonial and apartheid legacies in particular ways for particular purposes. Chapter 3 delineates the research design and methodology of the study. This chapter provides a detailed description of qualitative research approach methodology. It provides a discussion of the methods adopted to analyze and discuss the research problem and subsequently, synthesize the data found. Chapter 4 presents and describes the case study. This chapter gives the case study background and lays out the context of Ga- Masemola. Chapter 5 presents the research findings and provides an analysis of the emerging themes and the synthesis of the research data and findings. This chapter integrates the theoretical and empirical chapters. Chapter 6 is the final chapter which concludes with the findings of the study as well as possible suggestions for other avenues of research that came to light during the writing of the dissertation.

1.13 Conclusion

This introductory chapter consists of the contextual and literary background to the study. It delineates the research problem, the research question(s), and study aim and objectives.
It also includes the theoretical framework and the research methods used to conduct the study. In conclusion, this chapter explored how to make sense of 'traditional authority' between the two different strands through which it has been characterized; its institutionalization within the colonial administrative systems and its post- democracy incorporation into democratic state governance.

2. CHAPTER TWO: LITERATURE REVIEW OF TRADITIONAL AUTHORITY

2.1 Introduction

This research critiques South African academic discourse, particularly mainstream literature and its theorization of African indigenous systems and institutions. The Eurocentric approach to traditional authority in which scholars use and understand 'tribe' and 'tradition' is informed by earlier anthropologist approaches (Mafeje, 1971). Hence, the 'Ideology of Tribalism' critiques the continued use of the concepts 'tribe' and 'tribalism' to characterise modern African society (Nabudere, 2011:14).

Mafeje (1971) argues that the modern African society is still dominated and colonized. Hence, the debate about traditional authority represents questions about identity and political processes (Ray, 2003:127). Secondly, "traditional leaders not only represent land and people in general democratic terms but more as specific and local embodiment of race, people and place" (Ray, 2003:127). But there is "descriptive literature on the 'institution of traditional leadership'" in South African discourse (Mafeje, 1971:257) which views the institution as backward, patriarchal and underdeveloped (Ray, 2003). Lastly, history and development are analyzed "in ways which are focused on Western conceptions of progress while minimizing the contribution from and the exploitation of non- Western societies" (McLean and McMillan, 2009:177). Ray (2003:127) puts forth that the debate about traditional authority represents "questions of identity and the assertion of local autonomy against the globalizing and modernizing power of the post-colonial state". The state has "social, political, cultural, economic and other forms of capital and power", which has influenced "individuals and groups in different relationships" (Foucault and Gordon, 1980:142), especially those deemed 'traditional' and located in a rural setting.

To explore the ontology of traditional authority in South African history, academic discourse, policy and legislation, a thematic review is employed. The thematic review explores meanings and interpretations in South African history, discourse, policy and legislation. The themes relevant to this study are 'customary law' and customs, traditional authority, the 'institution of traditional leadership', rural governance and rural development. The overall topic guiding the literature review is the interconnection between current debates about traditional authority and the "institution of traditional leadership" in local government. Secondly, debates about the "institution of traditional leadership" in rural governance and rural development and their relation to what is happening on the ground in communities today. The literature was reviewed through a themed chronology of South African legislation and policy. It is divided into three periods, namely, the pre-colonial, colonial-apartheid and democratic periods. The review

tracks historical moments to identify contests, conflicts, contradictions and similarities in South African discourse and legislation.

2.2 Situating Traditional Authority in the Pre-colonial era

2.2.1 'Pre-colonial'

The term 'pre-colonial' in this research refers to "African history before the establishment of colonial rule" (Ntsebeza and Saunders, 2014:2). Ntsebeza and Saunders (2014:2) put forth that it "describes periods varying in length from a few centuries to many thousands of years". This, however, is imprecise (Ntsebeza and Saunders, 2014:2). Another problem identified with the term 'pre-colonial' is that it is a kind of preface for Western colonialization, it is defined not in terms of its own history. Ntsebeza and Saunders (2014:2) further contend that the pre-colonial/colonial divide "downplays the continuities in African institutions and cultural practices across the moment of colonial annexation". Newly established colonial administrations, argue Ntsebeza and Saunders (2014:2) did not have the power to force new political and social systems into existence, but rather had to adapt to "African modes of governance and ways of life" (Ntsebeza and Saunders, 2014:2). In this research, the usage of the term is not to foreground colonialism as a historical phenomenon that reinforces the portal of racial oppression of Africans by Western colonizers (Ntsebeza and Saunders, 2014:2), but rather to refer to the period in African history before settler intrusion, influence and domination.

2.2.2 Pre-colonial states

Pre-colonial states had their structures and processes for exercising authority and carrying out various functions, including the governance of local polities (Ray and Reddy, 2003:2-3). "Until the 1830s or 1840s, African states and other political entities existed free from Western colonial control" (Ray, 2003:88). Ray (2003:3) characterizes the precolonial "states and other political entities as being rooted in political legitimacies that were particular to their special histories which existed before they were absorbed in one way or another by Western empires". The 'institution of traditional leadership' was an essential aspect of life in political communities in Africa. The institution "represented early forms of social organization and governance" (Ray, 2003). Koenane (2017:4) argues that during this era, "Africa was authentic to herself" because she "had not yet encountered colonialist or other worldviews". Scholars like Crais (2006:724) argue that concerns with pre-colonial Africa are "an attempt to present on the stage of world history the fact that pre-colonial Africa had centralized polities with strong rulers and that the African past could not be dismissed as backward and without history". This is to counter the white supremacist representation of pre-colonial "African society as anarchic, barbarous and lacking in centralized political" institutions (Crais, 2006:724).

2.2.3 Customary law

In the pre-colonial era, traditional leaders were custodians of 'customary law'. The 'institution of traditional leadership' "embodied the preservation of culture, custom, tradition and the values of people" (Khunou, 2009:81). Traditional "authority played an essential role in the day-to-day administration" of their communities and the lives of their people (Khunou, 2009:82-83). Customary law was the regulator of the social, political and economic spheres (Khunou, 2009:2; Mkhwanazi, 2012:18). Traditional leaders served as the defense and "integrity of the traditional state through different sets of instruments and strategies" (Ndlela, et al., 2010:2). Traditional leaders were "heads of state, chief justices, lawmakers and enforcers, spiritual leaders and military leaders" (Ndlela, et al., 2010:2). They were also farmers, hunters and traders (Ndlela, et al., 2010:2).

2.2.4 Local polities

The Southern African population was organized into political communities which had "centralized authority vested in hereditary leaders" known as 'Kgoši', 'Inkosi', or 'Morena' (Khunou, 2009:85; Spiegel and Boonzaier, 1988:49). According to Panin (2007), "the state functioned through an elaborate system of protocols negotiated through generations, which defined the place of every segment of society, such as men, women, children" and for the young and old. Within the jurisdiction of the kingdom, "everyone had their duties and responsibilities which were well-known and applied equally to all people" (Ndlela, et al., 2010:2). There was a system for removing traditional leaders if they were found wanting which demonstrated that "the historic states or kingdoms were not primitive, unregulated entities portrayed as a state of nature by Western fiction" (Panin, 2007). Scholars such as Ayittey (1991:18) argue that before the arrival of the West in Africa, the native through the system of traditional authority were free to express their ideas and exchanged their viewpoints. Participation and direct democracy during this time ensured free markets and free trade, as well as freedom of expression at village meetings (Ayittey, 1991:18). Panin (2007) argues further that "they were and are closer to our modern notions of democracy than the despotism that was imposed by Western colonialism". Traditional leaders understood the concept of political opposition. They were involved in politics (Ndlela, et al., 2010:2). However, their leadership monopoly changed when the colonial administrators introduced their authorities and administration (Khunou, 2009:81).

At the beginning of the 20th century "pre-colonial states and other political entities were subordinated by treaty or conquest" by colonial administrators (Ray, 2003:10). Crais (2006:729) puts forth that "conquest and colonial state formation permanently altered the complex pre-colonial landscape of power, authority and identity" (Crais, 2006:729), thereby

permanently altering the legitimacy and the history of pre-colonial states and their political entities.

2.3 Situating Traditional Authority in the Colonial and Apartheid era

The pre-colonial states and other political entities were changed by the colonial states and governments (Khunou, 2009:81). Westerners believed that Africans and themselves were culturally distinct and should be separated or segregated (King, 2007:65). Crais (2006:724) argues that the West measured "the Africans world according to their epistemologies" which separated "what seemed based on reason from the unintelligible and irrational".

In chapter one Archie Mafeje's (1971) 'Ideology of tribalism' was used to frame the research and to explain the need to trace out the ontology of traditional authority in academic discourse, policy and legislation. This was to highlight the colonial governments categorization and grouping of native nations, how white supremacy survives beyond its "officially proclaimed demise", and how it sustains and reproduces itself in academic discourse and legislation (Mills, 1998:123). To accommodate external power over natives, the concept of race had to be created in anthropology. Mafeje (1971) argues that the discipline of "anthropology was the colonizers political power over natives" (Nabudere, 2011:14). In that, the discipline aided in dehumanizing and devaluing the epistemologies and worldviews of Africans. "White racism so structured the world as to have negative ramifications for every sphere of black life- judicial standing, moral status, personal identity, epistemic reliability, existential plight, political inclusion, social metaphysics, sexual relations, aesthetic worth" (Mills, 1998:6). The African reality was reconstructed by colonialism in particular ways as Mafeje (1971:253) argues; Western colonialism reconstructed "African societies as particularly tribal". "This approach produced certain blinkers or ideological predispositions which made it difficult for those associated with the system to view these societies in any other light" (Mafeje, 1971:253). Hence, despite the many economic and political changes that have occurred in Africa over the last one hundred years, "certain modes of thought among European scholars in Africa and their African counterparts persist" (Mafeje, 1971:253).

The concepts 'tribe' and 'chief' have defined the social organization of the rural African population for more than a century (Quinlann, 1988:79). This is the official and popular conceptualization of rural social organization where tribe' and 'chief' are manipulated as ideological resources to project images of African societies as "discrete groups content to pursue agricultural livelihoods under the authority of hereditary paternal leaders" (Quinlan, 1988:79). This created the ideological and material basis for 'tribalism' (Mafeje, 1971:254). Natives were called natives because the settler laws created and called them so, not because

they had anything essential that made them 'natives' (Mamdani, 2020:146). In South Africa, 'tribe' and 'chief' have been constructed under the evolution of the colonial-apartheid state. They "have been naturalized, presumed to be part of a timeless native" (Mamdani, 2020:150). 'Tribe' identifies and categorizes group residence in a defined territory, while 'chief' identifies the individual leader of an identified group who assumes the political office of the identified group, with their indigenous status affirmed by both their successful negotiation of and the 'endorsement' by colonial officials (Quinlan, 1988:86). 'Chief' also referred to the government of each group by reference to their respective leaders (Quinlan, 1988:112). The 'chief' occupied the highest position in the political hierarchy as the 'paramount chief' of the 'tribal area' (Quinlan, 1988:112). Under segregation, rural areas were administrated by the Native Affairs Department and urban areas were subject to municipal authorities, which re-entrenched and legitimized 'tribalism' and tribal authority as particular kinds of concepts (Mamdani, 2020:161).

2.3.1 Colonial era

Believing that the best-suited institutions of governance for Africans were those which were 'traditionally' constructed (King, 2007:6) and that "African law and customs ran counter to the principles of civilization" (Dubow, 1989:111-112), early colonialists demanded separation from the African population (Quinlan, 1998:91).

'King' became 'chief' "in the lexicon of imperialism and colonialism which was first introduced in South Africa in the mid-19th century (Mashele, 2004:349). "The former pre-colonial leader's status was subordinated by the colonial state with this linguistic trick" (Ray and Reddy, 2003:3). This was what informed indirect rule that the British colonial system birthed. The British engineered a system of colonial rule that subordinated and incorporated 'chief' into colonial architecture and used them to legitimatize Britain's own rule (Mashele, 2004:349). Crower (1968:169) argues that "in practice, indirect rule laid heavy emphasis on the role of 'chiefs' in the government of African people". Rather than replacing local institutions, colonial rule proceeded to govern through them (King, 2007:6). 'Chiefs' became agents of the colonial governments through the colonial system (Khunou, 2009:86). Khunou (2009:83) argues that traditional authorities were "recognized and shaped by colonial governments to suit, adopt and promote the aims of their colonial strategies and missions". King (2007:6) contends that they were used as a means of controlling society and space.

King (2007:6) adds that for their use in colonial architecture, existing organizational structures had to be modified, particularly those "aspects of traditional government that were deemed

repugnant by Western ideals, or aspects that restricted the effective exploitation of the country and people" (King, 2007:6). Ntsebeza (2000) argues that in terms of accountability and legitimacy of traditional systems, the use of traditional authorities by colonial powers enabled them to exploit the ambiguity in the relationship between chieftaincies and their people (King, 2007:6). 'Chiefs' who did the British bidding were rewarded and those who were rebellious were deposed and marginalized (King, 2007:6). By so doing the British fostered competition and uncertainty through the exploitation of the traditional systems and therefore sowing "the seeds of discontent for future generations" (King, 2007:6). King (2007), Peires (1981) and Lambert (1995) contend that tribal structures were "autocratic and based on dominion rather than benevolent rule", with cases where communities' "mediated the power of the 'chiefs'" (Tapscott, 1997).

Several effects were created by the colonial state formation such as a new conceptualization of the map of power that aligned space and authority with the colonial definition of 'custom' (Crais, 2006:727). Crais (2006:728-729) puts forth that "colonial state formation created and valorized upward links to the colonial state", by locating authority in the body of the person who could be fixed within the schematic political diagram. Policy formulation regarding black people and the 'institution of traditional leadership' were permanently transformed by the Native Land Act of 1913, the Black Administration Act 38 of 1927, the Black Authorities Acts of the 1950s and subsequent apartheid legislation (White Paper on Traditional Leadership and Governance,2003:68).

2.3.2 Union of South Africa - Native Land Act of 1913

In 1910, the Union of South Africa was formed by constitution between the English and Afrikaans speaking whites (South African History Online,2019). In an alliance to dominate and exploit those deemed traditional, the union created a legal system which reflected this domination and exploitation through denying the majority of natives, or 'traditional people', the right to place and space (South African History Online, 2019). The Native Land Act 27 of 1913 (1913:438) made provisions for the occupation, leasing, purchasing and ownership of land by blacks and others residing within the Union. The Act legislated that no black person in the Union of South Africa was to enter into an "agreement or transaction for the purchase, hire or any acquisition of land from a person other than a native", restricting black people from entering into agreements with whites (Native Land Act, 1913:38). In addition, it assigned "the governor general as the 'supreme chief' of all traditional leaders in the Union" (Native Land Act, 1913:38). He was empowered to create, destroy, amalgamate and divide 'tribes'. He could appoint whomever as a 'chief' or 'headman' (South African Act, 1909). As a result, traditional

leaders and their communities lost land and could not enter into agreements or transactions "for the purchase, lease, or acquisition of land from whites" (Native Land Act, 1913:38; Khunou, 2009:87). The Union government's move towards harsher segregation policies and laws (King, 2007:6) was produced out of the strategic approach to and use of chieftaincy and traditional authority. Beinart (1982:6) explains that the segregationist ideologies modified chieftaincy in form so it could be seen and used "as a means to defuse agrarian and industrial class conflict in the 1920's".

With the promulgation of the Native Administration Act 38 of 1927, a greater uniformity in the application of laws came to fruition (Hendricks and Ntsebeza, 1999: 99; Mashele, 2004:350) and the 'retribalization' of natives began again (Crais, 2006:721). The move towards territorial segregation is what Mahmood Mamdani (1996) has described "as a system of 'decentralized despotism" (Crais, 2006:721). The promulgation of segregation policy bureaucratized state administration of Africans (Crais, 2006:721). Muller (1993:394-395) argues that this act "embodies concepts of territorial segregation of blacks and whites, reserving scheduled areas of land for exclusive occupation by blacks". Phatlane (2008:2) emphasizes that territorial segregation "also instituted an investigation and report on what areas should be set aside as areas within which blacks would not be permitted". Across South Africa's total land surface area, 13 per cent of the land was thus allocated for black 'homelands' by the union state, areas to which natives – properly organized into territorially segregated 'tribal groups' – belonged and were thus logically assigned (Muller, 1993:434-435).

2.3.3 Native Administration Act 38 of 1927

The Native Administration Act 38 of 1927 provided "for the control and management of native affairs" (Native Administration Act, 1927). The Act went a long way to establish the uniformity of native administration in the Union (Hendricks and Ntsebeza, 1999:104). The Act modified "various native councils and tribal structures which had previously been established" (Native Administration Act, 1927: xxxv), "essentially extending the authority of the various union native bodies to assist in matters of local administration" (Evans, 1997:21) and positioning 'chiefs' at the center of the institutions (Evans, 1997:21).

Section one stipulated that the province of Transvaal along with others, shall be under "the governor-general, who was the 'supreme chief' of all natives" (Native Administration Act, 1927: xxxv). The governor-general had rights, immunities, power and authority in any part of the stipulated provinces over all natives (Native Administration Act, 1927: xxxv). The governor-general could define the boundaries of tribal areas and often alter the locations of 'tribes' by

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dividing or amalgamating the tribes or parts of the tribes into a single tribe or constituting a new one (Native Administration Act, 1927: xxxv). Section two granted the minister powers and authority to appoint for any area a 'chief native commissioner' who shall exercise power and authority as recommended by the minister and subject to apartheid laws governing public service (Native Administration Act, 1927: xxxv). Section seven further empowered the governor-general to recognize and appoint anyone as a "chief of a native tribe", headman or acting 'chief' or acting headman in the place of or in addition to whoever is occupying the post or role (Native Administration Act, 1927: xxxv). The "governor-general could also depose any 'chief' or headman so recognized or appointed" (Native Administration Act, 1927: xxxv). Persons seen to obstruct any of the appointed or recognized officers, 'chiefs', or headmen were duly charged (Native Administration Act, 1927: xxxvi).

The Native Administration Act (1927:3) stated that "no legal proceedings concerning the ownership or acquisition of land by a native tribe shall be instituted or maintained against a 'chief of a tribe', or by an individual or members of the tribe concerned unless there was written certificate issued by the Secretary for Native Affairs". Furthermore, section (b) of chapter 11 subjected "any tribe or native to withdraw from any place or district or province within the Union" (Native Administration Act, 1927:4). The act placed further restrictions and regulations on commerce by natives such as restrictions on the sale of goods and payment methods, the lending of money by traders to natives and the presence of native traders. The act thus consolidated power and "vested it in the minister of native affairs" (White Paper on Traditional Leadership and Governance, 2003:21). "By establishing a uniform system of local, regional and territorial authority, the act placed 'chiefs' in charge of local administration"; they also, however, directly linked them "to the central government through the Department of Native Affairs" (Hendricks and Ntsebeza, 1999:105). Hendricks and Ntsebeza (1998:5) argue that the Native Administration Act (1927) was intended to "shore up the remains of chieftaincy in a country-wide policy of indirect rule, which would allow for the segregation of the administration of justice". Retribalization by the Native Administration Act (1927) meant that the union state's sovereignty and legitimacy had to be justified by racism, violence and diplomatic trickery (Hendricks and Ntsebeza, 1998:5).

Colonialism's dictatorship was based on the "rights of the conqueror rather than the consent of the people" (Ray and Reddy, 2003:5). Ray and Reddy (2003:5) explain that it was about "assertions of cultural or racial superiority of the colonializers over indigenous people. The use of constitutional and legal orders is rooted in imperial power" (Ray and Reddy, 2003:5). Evans (1997:17) asserts that "the most striking aspect of the Department of Native Affair's relationship to coercion in the 1950s is to be sought not in its active response to opposition,

but in the very character of the administration itself". The overarching ideology in which paternalistic native administration was developed in the segregation years informed the legacy that was inherited by the National Party in 1948 (Evans, 1997:24). "In 1948, the National Party 'won' the general elections and ascended to political power, introducing the apartheid system whose main goal was racial, cultural, ethnic and political domination" (Khunou, 2009:84). After 1948, every aspect of black life was subject to the "intrusive hands of clerks, bureaucrats and administrators of one sort or another" (Evans, 1997:1). The foundation of apartheid was premised on the formation of artificial black nations or homelands in the reserve (Khunou, 2009:84), which were under systemic state intervention (Evans, 1997:1).

Apartheid had to be constantly administered, hence, Evans (1997:1) argues that native administration came to enjoy "a special position within the ranks of the state's administrative apparatuses in the 1950s". 'Chieftaincy' in the early 1950s was used in increasingly cynical ways and 'chiefs' were implicated in the development of the administrative structures of the Bantustans (Murray, 2004:3). Evans (1997:1) argues that the Department of Native Affairs laid the groundwork for apartheid in the 1950s and "foreshadowed the growth of the state's repressive apparatuses from the 1960s onward".

2.3.4 Apartheid period

Mamdani (2020:150) states that apartheid was a half-century long contest between the Boer and the British over how to govern natives. "Realization dawned that race and tribe ought to be seen as complementary, not exclusive, methods of native control" (Mamdani, 2020:154). Hence, "both sides agreed that political democracy would define the character of settler political society" and that "natives [would be] excluded from it" (Mamdani, 2020:150). This preserved "white superiority in the central government" argues Mamdani (2020:155). Evans (1997:17) states that the "arresting feature of apartheid native administration was not its uncomplicated fusion with repression, but rather its dispersal into everyday life". Koelble and LiPuma (2010:9) also argue that apartheid fundamentally transformed "the relationship between the African National Congress political elites and the rural aristocracy", who "in many instances resisted colonial rule" (Koelble and LiPuma, 2010:9). Mamdani (2020:160) concludes that "blacks were moving from tribe to race as the locus of oppositional politics". However, "the apartheid state, inaugurated in 1948, responded by going in the opposite direction, reinvesting in 'tribe' as the antidote to black militancy" (Mamdani, 2020:160).

2.3.4.1 Apartheid's 'Bantu Authorities' and 'tribal authority' - Bantu Authorities Act 68 of 1951

The Bantu Authorities Act of 1951 was the third key piece of legislation that defined the trajectory of the 'institution of traditional leadership'. "The Act empowered the minister of native affairs to depose any chief, cancel the appointment of any councillor, appoint any officer he deemed necessary" (King, 2007:6-7). The Act established 'Bantu Authorities' and defined their functions as part of apartheid legislative structures (Bantu Authorities, 1951:1152).

The Bantu Authorities Act 1951 reshaped tribal political structure in rural areas. Van Kessel and Oomen (1997:563) argue that the Act "aimed at 'self-rule' and ultimately 'independence' for the Bantustans". Yet the 'Bantustans', so-called 'independent' homelands were administrated by "'chiefs' seen as loyal and compliant to the apartheid regime" (Koelble and LiPuma, 2010:9; Lodge, 1983). Khunou (2009:81) states that the 'tribal authorities' created homelands "based on the language and 'culture' of particular ethnic groups". Mashele (2004:349) called this the "balkanization of black South Africa" into a system of 'ethnic homelands'. Quinlan (1998:94) argues that the Bantu Authorities Act (1951) "divided political authority into two 'Tribal Authorities' in each designated 'tribe'" where "each tribe had to include the 'chief' or head of the tribe in question and councillors in the administration of community affairs in the respective homelands" Quinlan (1988:94). Mamdani (1996) uses the metaphor of the "clenched fist" to describe the powers that a 'chief' held under apartheid law (Koelble and LiPuma, 2010:10). "Those [chiefs] seen opposing the regime were deposed and replaced by more compliant members of the community" (Ibid). Typically, headmen "took the opportunity to usurp power" (Koelble and LiPuma, 2010:10). Khunou (2009:81) contends that the prototype of the disintegration of traditional authorities was the political leadership of the homelands. Through the Department of Native Affairs, the 'tribal authorities' were affiliated with the central government (Ntsebeza (2001). King (2007, 6) further argues that "bantu authorities were organized into tribal, regional and territorial levels, but at all levels, the 'tribal authorities were' dominant".

The establishment of the homeland system further confined Africans to locations where they could 'legitimately' claim land and a home under apartheid legislation (Tapscott, 1997). Van Kessel and Oomen (1997:563) argue that in the government's efforts to establish greater control over African labour, the homelands played a crucial role. Hence, "tribal authorities in the 'artificial' 'homeland states' were created by the regime" (Khunou 2009:81). They were not accountable to their communities, but rather to the political hegemony of the apartheid state (Khunou, 2009:81).

2.3.4.2 Bantu Self-Government Act 46 of 1956

The Promotion of Bantu Self-Government Act 46 of 1956 established "self-governing black units". The act further entrenched the categorization of black people into units based on language and 'culture' (Khunou, 2009:87). Khunou (2009:87) puts forth that the Act "laid the foundation for the constitutionalization of separate development". Firstly, the Act entrenched separation between blacks and whites. Secondly and most importantly, it "created radical separation between black ethnic groups from each other" (Khunou, 2009:85-86). Crais (2006:721) states that this was in line with apartheid "tribal social engineering and bureaucratic authoritarianism". Thirdly, the Promotion of Bantu Self-Government Act (1956) further changed the relationship between 'a traditional leader' and his people, which in turn "upset the balance within the 'tribal' hierarchy" (Van Kessel and Oomen, 1997:563).

However, not all chiefs were incorporated into apartheid structures. The disintegration and restructured traditional authorities resulted in a series of rural revolts in the 1950s and the 1960s (Van Kessel and Oomen, 1997:563). Traditional leaders like Kgoši Morwamoche Sekhukhune and his people in the Northern Transvaal (Van Kessel and Oomen, 1997:563) and BaSotho in QwaQwa, Free State actively opposed the Bantu Authorities system (Twala and Barnard, 2006:162). Van Kessel and Oomen (1997:563-564) note that in Sekhukhune, the Native Administration Department attempted to break the power of the paramountcy; however, "the doubtful origins of many 'chiefs' served to further weaken their legitimacy". Many of the Native Administration Department's recognized 'chiefs' were considered to be only 'headmen' who had usurped chiefly powers (Van Kessel and Oomen, 1997:563-564). In Sekhukhune, this history of resistance on the part of Kgoši Morwamoche, his people and other traditional leaders "could be drawn upon to demonstrate the role played by traditional leaders in the fight against apartheid and white domination" (Van Kessel and Oomen, 1997:563-564). Kgoši Morwamoche Sekhukhune and his peoples' opposition to the Bantu Authorities system in the Northern Transvaal, resulted in him being deposed and sent into exile (Van Kessel and Oomen, 1997:563). 'Tribal authorities' established in 1950s, "became known as regional authorities in 1962" (Twala and Barnard, 2006:162). Twala and Barnard (2006:162) state that in line with homeland policy, the territorial authority established in 1969 by the Bantu Authorities was replaced by the legislative assembly.

2.3.5 The period from 1970 -to 1989

Natives continued to occupy the lowest rung of South Africa's national racial and political hierarchies. Through apartheid administration and legislation, "blacks constituted a single racial group governed by the same law as their oppressors- a law with discrimination built into it" (Mamdani, 2020:150). The homeland system, argue King and McCusker (2007:6) was

apartheid's vision of separate development because it elaborated the system of racial classification. It is argued that in the apartheid government's strategy of extending its control over blacks in rural areas, the establishment and appointment of 'chiefs' became important in re-engineering the social, ecological and political landscapes. 'Tribe' and 'chief' became tools through which the apartheid government could establish the 'self-governing states', 'homelands' and the 'independent states' (White Paper on Traditional Leadership, 2003:27).

However, development services and infrastructure development in black rural areas were things not provided by the successive apartheid regimes and traditional leaders did become important, not just as a tool of government, but for their people. Respective traditional leaders assumed the role of development facilitators while resisting apartheid (White Paper on Traditional Leadership, 2003:27). Kgoši Morwamoche Sekhukhune is not the only traditional leader who resisted alongside his people to racial domination and oppression. He is most noted of all resistors because of the significant role he played during this time in the Northern Transvaal.

Quinlan (1988) posits that "indigenous political authorities could only exist if they had state recognition". State recognition required the granting of state remuneration to two officials, namely, the 'chief' and headman (Quinlan, 1988:95). However, the 'chief' was the "new office of 'chief' which was seen as the senior authority of the 'tribe'" (Quinlan, 1988:95). This "disrupted the indigenous structure of authority and narrowed the scope of authority of traditional leaders" (Quinlan, 1988:95). King and McCusker (2007:6) state that apartheid deeply scarred rural areas to a point of national revolt. King and McCusker (2007:6) highlight that the homeland system may have been abolished, but its re-engineering of the social, ecological and political landscapes of former homelands "has left a lasting imprint".

The Native Administration Act (1927) and some Bantu Authorities Acts framed rule over South Africa until the implementation of the South African Constitutions in (1993) and (1996) (Mamdani, 2020:158). In fact, the Native Administration Act (1927) was in effect up till the year 2010. The Act was in effect for sixty-four years after its promulgation. 'Tribe' and 'chief' do not describe any form of society in South Africa, but they are significant concepts in the political history of South Africa (Quinlan, 1998:111). As can be seen, "they continue to be ideological resources which serve the South African state and co-opts traditional leaders" (Quinlan, 1988:111). Homelands have been abolished, but they continue to "exist defacto" (Levin and Weiner, (1997:6), in King and McCusker, 2007:6). They are now reincorporated into the state, into provinces, into 'local government'. Cousins (2008:109) notes that "the long history of state interventions means that it is necessary to take into account the impacts of

past policies. These are particularly marked concerning the powers of traditional authorities in South Africa". This is because the apartheid state legislators' intent, argues Quinlan (1988:112), was to transform indigenous traditional authorities "into civil servants of a modern state bureaucracy" thereby significantly reducing their *independent* political significance (Quinlan, 1988:112) and reincorporating them into provinces and local government.

2.4 Situating Traditional Authority in the Post-Apartheid Democratic dispensation (1990- 2021)

2.4.1 Introduction

Various positions are proposed by scholars regarding the 'institution of traditional leadership' and its presence in the modern political landscape. Two schools of thought dominate the literature review of traditional authority and its institutions (Sithole and Mbele,2008:3).

2.4.2 Democratic pragmatists

The original school of thought "proposed that [traditional authority] would eventually collapse with the adoption of modernity and western liberal democracy" (Sithole and Mbele,2008:3). These scholars view the system of inherited rule "as illegitimate, undemocratic, feudal and unnecessary" (Ntsebeza, 1999; Ntsebeza 2004b, in Lutabingwa et al., 2006:78). They argue "that traditional authority was distorted and corrupted by colonial powers and therefore, the institution is dated, patriarchal and oppressed women and young people" (Mamdani, 1996; Ntsebeza, 2005). Mahmood Mamdani (1996) argues in his book 'Citizen and Subject' that rural residents under traditional authorities are not true citizens (but rather colonial *subjects*). The modernists advancing this position argue that traditional leaders were upwardly accountable to the colonial state and tha the colonial state captured traditional leaders by appointing them as agents of indirect rule in rural societies (Sithole and Mbele,2008:3). Thus, the apartheid regime "encouraged, reinforced and constructed" traditional authority (Lutabingwa et al., 2006:78). By so doing, traditional leaders removed themselves from the communities they represented and eliminated the (bottom-up) legitimacy they once enjoyed (Logan, 2013:356; Bank and Southhall, 1996; Ntsebeza, 1999).

Mamdani (1996) further argues "that the post-colonial state has replicated the patterns and interactions traditional leaders had with the colonial state as instruments of control in the rural areas". Mamdani (1996) argues that as long as rural Africans are under the leadership of traditional leaders, they are "subjects rather than empowered citizens" (Mamdani, 1996). The institution as argued by Mahmood Mamdani (1996) and others (Ntsebeza, 2004) is described as the "institutional embodiment of decentralized despotism". The democratic pragmatists argue that the persistence of "traditional forms of leadership even after the introduction of liberal democratic structures of governance and modern constitutions, shows how traditional

authority constrains the course of post-independence politics and governance" (Oomen, 2005; Rathbone, 2000). "At the heart of their debate is the compatibility of the 'institution of traditional leadership' with liberal democracy and human rights" (Koelble, 2005). Under a democratic system of governance based on the concept of 'human rights', the rights and freedoms of the individual to self-definition and 'choice' are essentially defined within the (white, Euro-Enlightenment) liberal humanist tradition.

Koelble (2005:12) puts forth that "traditional leadership should be becoming extinct, but it continues to thrive both because the institutional local governance in rural areas is lagging behind and secondly, government is mistakenly supporting this system despite the fact that it contradicts democracy". Scholars from this school consider the South African Constitution as paramount and supreme within a system based on democracy and human rights (Sithole and Mbele, 2008:3). They argue that "the undemocratic 'institution of traditional leadership' must eventually be displaced by democratic values and economic models propounded by global discourse" (Sithole and Mbele,2008:3). The establishment of local democracy will contribute to this displacement because traditional authority "does not give everyone a chance to be elected and does not have systems for recourse against unfair exercise of power" (Sithole and Mbele, 2008:5-6).

The Institute for Democracy in South Africa (Idasa) posits that the constitution determines democracy, transparency and accountability to be the foundation of the new post-apartheid state (Idasa, 2003). They are of the view that it is not clear whether the mechanisms of accountability by the 'institution of traditional leadership' are in place. They contend that there are no clear mechanisms for the institution of traditional leaders' accountability to communities (Idasa, 2003). This is Mamdani's (1996) point. Bank and Southall (1996) cautioned against the incorporation of the 'institution of traditional leadership' stating that "the maintenance of the institution with an active role in politics compromises democracy because its capacity in political administration is questionable" (Lutabingwa et al, 2006:78). These scholars scrutinize the institution of traditional leadership's compatibility with and indeed relevance to democratic governance and democratic ideals and 'values'.

Democratic pragmatists assessed both the Traditional Leadership and Framework Act of 2003 and the Communal Land Rights of 2005 (Sithole and Mbele, 2008:4). This school of thought highlights the absence of voting rights, where "the most obvious mechanism for ensuring accountability is seen by many as an insurmountable flaw of institutions of traditional rule" (Logan, 2009:105). Mattes (1997:5-6) further argues that traditional authority fosters the "demand for consensus and deference rather than freely given consent and that, in sum

traditional authority constitutes an antidemocratic or at best a non-democratic form of governance". Sithole and Mbele (2008:5) concur in their 'Fifteen Year Review on Traditional Leadership', stating that the prominent writers in this school Ntsebeza, 1999, Cousins, 2007 and Koelble, 2005 are "informed by the basic assumption that traditional authority is crucially about colonialism and apartheid's manipulative measure that sought to legitimize separate development". Hence, they contend that traditional authority should not be sustained in a political democracy as it contradicts the core values of 'freedom' and 'choice' (Sithole and Mbele, 2008:5).

Goodenough (2002) argues "that the 'institution of traditional leadership' was in the process of converging with multi-party democracy through changes such as elected indunas"; however, this has not happened nationally, only in the Eastern Cape and Kwa Zulu Natal (Lutabingwa et al., 2006:78). Ntsebeza (1999) calls the conflict that arises between the authority of traditional rulers in matters of local government and that of democratically elected municipal leaders "a tension of inconsistency, whereby the Constitution incorporates strongly democratic principles on one hand, but acclaim the role of unelected traditional leaders without any clarity regarding their powers and functions on the other hand" (Lutabingwa et al (2006:78). Ntsebeza (1999: 256-258) contends that elected and unelected leaders cannot legitimately exist at the same time.

2.4.3 Organic democracy

Other scholars posit that since the beginning of the 1990s, a wave of "retraditionalization" has taken place, suppressing the policy changes which tried to contain traditional authorities (Engelbert, 2002; Buur and Kyed, 2005; Kyed and Buur, 2006). This wave, they contend was an expression of the resurgence or resilience and enlargement of the role of traditional authority in local governance (Engelbert, 2002; Buur and Kyed, 2005; Kyed and Buur, 2006). Koelble and LiPuma (2010:5) argue that the emergence of democracy in South Africa was conceived by the global neoliberal economic and political order. Central to the neoliberal order was the new constitutional dispensation which was committed to the decentralization of power and authority to state provincial and local government institutions (Koelble and LiPuma, 2010:5). In rural areas, the state was economically and politically unable to extend its grip. This created the opportunity for traditional leaders to be recast as intermediaries between the state and society (Koelble and LiPuma, 2010:5).

The second school of thought, namely the traditionalists argue "that the institution is a legitimate institution more democratic than the modern political order, therefore, it still plays a

vital role" (Ayittley, 1991; Keulder, 1998; Tangwa, 1998). Scholars from this school do not see the 'institution of traditional leadership' "as a compromise of democracy or a contradiction that exists within a more legitimate setting of modern more generally applicable governance" (Sithole and Mbele, 2008:12). Ismail (1999) contends that "indigenous governance has democratic elements that can strengthen rather than weaken current efforts to build a democratic culture in South Africa". He posits that an engagement approach with the 'institution of traditional leadership' would facilitate the democratization of the institution (Ismail, 1999). These scholars argue that people who understand more than one type of democracy see traditional authority as a system of governance that fulfills different needs of people. Here the 'institution of traditional leadership' is seen as fulfilling a "governance gap where conventional democracy" cannot fully extend itself (Sithole and Mbele, 2008:12).

In the North West Province, Molotlegi (2003) observes the Bafokeng community found that democracy was not a new or revolutionary concept. He challenges the concept and how it has been applied in the African context. "I would ask you to consider whether democracy has lived up to its promise in other parts of Africa and whether we should risk abandoning the valuable traditions from our past in favor of systems that have no proven track record on our continent" (Molotlegi, 2003:9). Mzimela (2003), who concurs with Molotlegi's arguments, argues "that the traditional democratic decision-making process does not [in fact] allow traditional leaders to impose their views on the people" (Lutabingwa et al., 2006:79). The traditional decision-making system according to Mzimela (2003) is based on direct democracy, where "traditional leaders act as facilitators at community meetings and the people actually make the decisions" (Lutabingwa et al., 2006:79).

The above paradigms provide a way of theorizing and conceptualizing traditional authority, setting up the postcolonial /post-apartheid dichotomy between 'traditionalist' and 'modernist' schools of thought. Sithole and Mbele (2008:3) argue that the separation of the two dominant schools of thought was borne out of how scholars approached the question of traditional leadership as one of the institutions of governance within the modern political system. However, much of the debate replicates ideas about African cultures as patriarchal and backwards. Furthermore, they reiterate 'custom' and 'tradition' within a modern-traditional dichotomy bequeathed by ethnocentric epistemologies and ways of knowing and seeing. This then is the problematic paradigm through which much of the discussion about the 'usefulness' of traditional authority takes place. These emphases and paradigms are misplaced as they bypass the question of traditional authority as a historical phenomenon and the continuities that mark its transition from the pre-colonial, colonial-apartheid into the post-apartheid democratic period.

2.4.5 Constitutional transition (1990-1993)

South Africa embarked on a constitutional transition in the early 1990s, where negotiations between various political stakeholders took place. The negotiations were aimed at moving away from apartheid and its racial, ethnic and cultural segregation. They supposedly aimed to "create a 'new order' where all South Africans were entitled to equality of races and equality before the law" (Khunou, 2009:105). The Convention for a Democratic South Africa (CODESA) took place between 1990-1993 (Khunou, 2007:1). The Congress of Traditional Leaders of South Africa (CONTRELESA), which was formed in 1987 (Murray, 2004:5), lobbied for a role for traditional leaders in the new South Africa in these negotiations (Crais, 2006:721; Mathonsi and Sithole, 2017:37). Crais (2006:721) and Oomen (2004) argue that this was because of the "widespread support for traditional leaders in the former homelands" (Oomen, 2004). Mamdani (2020:178) argues that "CODESA produced a new government that in many ways entrenched white privilege. One of the key mechanisms for this entrenchment was the constitution". The constitution, according to Mamdani (2020), "guarantees protection of private property as a fundamental right, however, this protection is not for all". The 1993 Interim Constitution Principle Viii marked the culmination of the negotiations (Khunou, 2009:107).

2.4.5.1 1993 Interim Constitution

The 1993 Interim Constitution set the framework within which the new constitutional dispensation would emerge. Chapter eleven of the constitution recognized traditional authorities and indigenous and 'customary law' (Khunou, 2009:107). Section 235 "delegates legislation dealing with the administration of justice, traditional leadership and governance to the president of the republic" (Interim Constitution Principle Viii, 1993). The Native Administration Act 38 of 1927, the Bantu Authorities Act 68 of 1951 and other legislation dealing with the administration of justice, 'self-governing territories' and 'independent states' were assigned to the Department of Justice and Constitutional Development (Interim Constitution Principle Viii, 1993; Khunou, 2009:106). The 1993 Constitution then created the Council of Traditional Leaders Act 31 of 1994 which was promulgated to establish the composition, election, powers and functions of the Council of Traditional Leaders; "To establish the procedures according to which these powers and functions would be exercised and performed" (Council of Traditional Leaders Act, 1994:1). Traditional leaders were given an 'ex officio' status in local government structures (Khunou, 2009:107) but their roles and functions were not explicitly defined. Other matters were left to the closed processes of the transition negotiations and adopted via the Constitution of the Republic of South Africa Act 108 of 1996 (Khunou, 2009:107).

2.4.6 1996 Constitution

The Constitution of the Republic of South Africa Act 108 of 1996 provided for the continuation of pre-1994 legislation including legislation issued in the 1993 Interim Constitution. This meant that older orders of racial, ethnic and cultural segregation passed before 1994, like the Native Administration Act 38 (1927) and the homeland government's legislation were to continue (Khunou, 2009:106). The Constitution established the three spheres of government consisting of national, provincial and local governments. Local government was charged "in social and economic development, enhancing democracy, the sustainable provision of services and the promotion of participation" (Perret, 2004:3). However, Perret (2004:3) argues that these were highly ambitious ideals considering "the lack of practical guidelines, legislation gaps and the strong 'urban' bias in the implementation of these".

Section 211 (1), (2) and (3) of the Constitution recognizes the "institution, status and role of traditional leadership according to customary law", subject to the South African Constitution (Republic of South Africa Constitution, 1996:109). Section 212 (1) recognizes the 'institution of traditional leadership' as a governance institution at the local level. This section provides that national legislation 'may' be provided for traditional leadership in 'developmental local government' (White Paper on Traditional Leadership and Governance, 2003:7-8), which 'may' deal with matters affecting "local communities over and above their role of serving as custodians of customs and tradition" (Republic of South Africa Constitution, 1996).

Provisions were made for certain functions of traditional leadership at the central and provincial government levels. The National House of Traditional Leaders is the national body that works with the national government. The Provincial Houses of Traditional Leaders exists to provide for provincial legislation and a liaison body that works with the provincial government (White Paper on Traditional Leadership and Governance, 2003:33). The finer details were left to legislation (Republic of South Africa Constitution, 1996:109; White Paper on Traditional leadership and Governance, 2003:10). This is where the challenge of defining the place and role of traditional leaders in the new system of constitutional democratic governance was first identified (Lutabingwa et al., 2006:77; White Paper on Traditional Leadership and Governance, 2003:5).

2.4.7 Situating Traditional Authority within legislation and policy

2.4.7.1 White paper(s)

The first attempt at defining and clarifying the co-existence between liberal democracy and traditional authority via policy was set in motion by the 1998 White Paper on Local Government

(Mathonsi and Sithole, 2017:36). "The White Paper on Local Government (1998) established a municipal government system where traditional leaders would play a role in providing service delivery to their respective communities" (Mathonsi and Sithole, 2017:36). The second attempt was the White Paper on Traditional Leadership and Governance of 2003, which was meant to lay out the policy framework for drafting national and provincial legislation and setting the norms and standards for these (White Paper on Traditional Leadership and Governance, 2003:7-8). The objectives of this White Paper (2003) were to lay out the framework that would inform legislation "to define the place and role of the 'institution of traditional leadership' in the new system of democratic governance, *to transform the institution under constitutional imperatives* and to restore the dignity and legitimacy of the institution following customary law and practices" (White Paper on Traditional Leadership and Governance, 2003:11 – emphasis added).

The White Paper on Local Government (1998) and White Paper on Traditional Leadership and Governance (2003) attempt to provide roles and functions for traditional leaders in the democratic context. However, they do not indicate how the mentioned roles should be performed argue Bikam and Chakwinza (2014:43). Secondly, the idea of 'transformation' forms a part of critiques generally in line with the perspective of the 'democratic pragmatists', implying that the 'institution of traditional leadership' is archaic, backward and patriarchal. Instead of moving from the premise that transformation needed to be from a colonial institution to something that could escape coloniality, transformation in the White Paper (2003) is thought of in the colonial and apartheid understandings and logics of tradition versus modernity. South Africa is not unique with 'recognizing the significance and role of traditional leaders' in the post-apartheid 'democratic dispensation' (Sithole and Mbele, 2008:18). In fact, several other former African colonies have done the same including Botswana, Zimbabwe, Namibia and Ghana. Ghana is the main source of modelling for South African legislation on traditional authority, looking at the Constitution and the White Paper on Traditional Leadership (Department of Provincial and Local Government, 2002:16, in Sithole and Mbele, 2008:18).

2.4.7.2 Legislation
2.4.7.2.1 Traditional leaders in local government – their role and function in municipalities
Three major legislative Acts have resulted from the 1998 White Paper on Local Government, which are considered to be the pillars upon which local government laws are based, namely, the Municipal Demarcation Act of 1998, the Municipal Structures Act of 1998 and the Municipal Systems Act of 2000. The Local Government: Municipal Demarcation Act 27 of 1998 established an independent body that designed a set of criteria and procedures for determining municipal boundaries (Local Government: Municipal Demarcation Act, 1998:2).

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Provincial Houses of Traditional Leaders who had members who were affected by the municipal boundaries procedures and determinations were invited to submit their written views to the Board (Local Government: Municipal Demarcation Act, 1998:20). "The rationale behind the Demarcation Act (1998) was that the municipal boundaries that existed during the apartheid era were based on irrational settlement patterns that prevented municipalities from consistently planning and providing basic needs for their communities" (Lutabingwa et al., 2006:77).

The Local Government: Municipal Structures Act 117 of 1998 created requirements for different types and categories of municipalities and the regulatory systems and structures thereof and to ensure appropriate electoral systems (Local Government: Municipal Structures Act, 1998:2). "Traditional leaders within the area of a said municipality may attend and participate in the municipal council proceedings, however, the total number may not exceed 20 percent of the total number of elected councilors in that council" (Local Government: Municipal Structures Act, 1998:56).

Despite this (or because of this nominal inclusion), traditional leaders are not members of municipal councils and they do not have "legislative powers to vote and take decisions in council meetings" (Mathonsi and Sithole, 2017:39). These legislations can be seen as a form of municipal government being constructed and re-created at the expense of local authorities who had fulfilled these roles before. To legitimize municipal authorities, traditional authorities were invited to participate in the deliberations that led to these structures being solidified. However, they do not form part of municipal councils, instead performing what appears to be more of a ceremonial role.

2.4.7.2.2 Traditional Leadership and Governance Framework Acts
The Traditional Leadership and Governance Framework Act 41 of 2003 established the legal basis for traditional authority in the constitutional democracy. It recognized 'traditional leaders', 'traditional communities' and 'traditional councils' (Traditional Leadership and Governance Framework Act, 2003:2). The Act set out the basis for the relationship between traditional leaders and local government by positioning traditional leaders in the role of supporting "municipalities in identifying the needs of communities and also in the facilitation of the involvement of communities in the Integrated Development Plan (IDP) process" (Republic of South Africa, 2003a). It created national, provincial and local houses for traditional leaders (Traditional Leadership and Governance Framework Act, 2003:2). However, "traditional leaders are not officials or civil servants" (Khandlhela, 2018:4). Claassens (2014b: 761) declares that the Act continued to "entrench the geographical division of South Africa into two

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legal zones" where rural residents are subjected to both their respective customary law and customs and the South African Constitution (Claassens, 2014b: 762). Mathonsi and Sithole (2017:39) argue that the Traditional Leadership and Governance Framework Act 41 of 2003, rather than bridging "the gap between traditional leadership and democracy", further distanced the two, unable to resolve the seeming "contradiction of values and principles between the two systems". In 2010, the Act was declared unconstitutional and replaced by the Traditional and Khoi-San Leadership Act 3 of 2019 (Mapungubwe, 2021:1). The Traditional and Khoi-San Leadership Act 3 of 2019 commenced on 01 April 2021 and was determined by the President of the Republic (Cooperative Governance and Traditional Affairs, 2021). The Act is promulgated to recognize traditional and Khoi-San communities and leadership positions and to define the roles of traditional leaders. The Act further "recognizes and establishes the roles, functions and administration of kingship or queenship councils, principal traditional councils, traditional councils, Khoi-San councils and traditional sub-councils" (Traditional and Khoi-San Leadership Act,2019:2). The Act re-establishes the "National House of Traditional and Khoi-San Leaders and establishes new provincial houses of Traditional and Khoi-San leaders and local houses of traditional and Khoi-San leaders" (Traditional and Khoi-San Leadership Act,2019:2). It defines the composition and functioning of these houses and provides for regulatory powers by the minister and premiers (Traditional and Khoi-San Leadership Act,2019:2).

Sekgala (2018) argues that there are more similarities than differences between the Traditional Leadership and Governance Framework Act of 2003 and the Traditional and Khoi-San Leadership Act 3 of 2019. Both repeat the same words to describe the role of traditional leaders, with just the inserting of 'Khoi-San communities' (Sekgala, 2018:84). Both provide little information on the actual roles of traditional leaders (Sekgala, 2018:80). She further argues that both Acts "mandate traditional communities to alter and redesign their customary law and customs in order to comply with the relevant principles enshrined in the Constitution's Bill of Rights" (Sekgala, 2018:81; Republic of South Africa, 2003:2). National and provincial governments have the sole discretion of allocating a role and function to traditional leaders (Sekgala, 2018:85), meaning that traditional leaders do not have power over their defining their roles and functions.

2.4.7.3 Traditional authority and land in the constitutional democratic period
2.4.7.3.1 Communal Land Rights
The Communal Land Rights Act 11 of 2004 defines the powers of traditional leaders in relation to land, specifically, the 'security of tenure' for people living in 'traditional communities' and "restitution of land to people who were dispossessed after 1913" (Communal Land Rights Act,

2004). 'Legal security of tenure' entitled communities or individuals who were "legally insecure as a result of past racial or discriminatory laws or practices to tenure which is legally secure or to comparable redress" (Communal Land Rights Act, 2004:10).

The Act aimed "to provide 'legal security of tenure'" to communities by "transferring communal land to them or awarding an equivalent redress", which included registering communal land and new order rights to land in the name of the community or individuals, including women (Communal Land Rights Act 11, 2004:11). Lund and Boone (2013:2) argue that "control over land and political identity does not merely represent or reflect pre-existing authority", but reproduces it (Lund and Boone, 2013:2). Claassens and Cousins (2008:1) add that "control over land means not only control of productive resources but also power over people". In their book 'Land, Power and Custom: Controversies generated by South Africa's Communal Land Rights Act 11 of 2004', they challenged the Act by arguing that "it is unconstitutional because it renders the rights of rural people less secure than present" (Claassens and Cousins, 2008:4). Meer and Campbell (2007:6) argue that the Communal Land Rights Act (2004) gave "traditional leaders substantial and unprecedented powers which may be open to abuse, especially because councils have a majority of unelected and hence unaccountable members" (Mathonsi and Sithole, 2017:39). In 2010 the Constitutional Court declared the Act unconstitutional (Mapungubwe, 2021:1). Lund and Boone's (2013:2) argument that "traditional leaders have substantial and unprecedented powers", seems to be proven incorrect in this instance where the substantial and unprecedented powers of the constitution are demonstrated.

Mamdani's (2020:178) argument that the key mechanism for the entrenchment of white privilege is the Constitution, appears to be confirmed by the fact that it "guarantees protection of private property as a fundamental right, however, this protection is not for all". According to the constitution the protection of private property "excludes those lands which were appropriated after the passage of the 1913 Land Act and those dispossessed after the introduction of apartheid in 1948" (Mamdani, 2020:178). Mamdani (2020:178) concludes, "a statute in the legal code provides for the restoration of lost land to the majority population, but because this is extraconstitutional law, it usually loses out to constitutional protections when native and settler property rights are in conflict". This implies that settler land claims supersede native land claims to ownership (Mamdani, 2020:178). 'Security of tenure' for people living in 'traditional communities', is a legislative instrument designed to wrest control of the land away from these communities and to determine the political identity of people living in traditional communities. While seemingly upholding the right of communities to control and possess land

and property, there seems to be a suggestion that collective ownership and use of land and natural resources is in fact undemocratic or 'unconstitutional'.[1]

2.4.7. 4 Traditional Authority, justice and the legal system

2.4.7.4.1 Traditional Courts

The Traditional Courts Bill of 2017 attempted "to create a uniform legislative framework" within which traditional courts would be structured and fulfill their functions (Traditional Courts Bill,2017: 2). The Bill replaced former legislative frameworks of traditional courts in which disputes were resolved in terms of 'customary law' (Traditional Courts Bill,2017:16). The objectives of the Bill were to align to the Constitution the "evolving values of customary law and customs in the resolution of disputes based on restorative justice and reconciliation" (Traditional courts Bill, 2017:4). The Bill also addressed the "remaining provisions of the Native Administration Act (1927) and other legislation which regulated the resolution of disputes by the 'institution of traditional leadership'" (Traditional Courts Bill,2017:2; 13). The problem is that the Native Administration Act of 1927 stipulated the functions that traditional leaders performed on court issues. Section 12 of "the act required traditional leaders to work on minor cases in the courts" (Republic of South Africa, 1927). The Traditional Courts Bill (2017) like the Native Administration Act of 1927 stipulate the structure and function that traditional leaders perform on court issues.

2.5 Traditional Authority in the democratic dispensation

2.5.1 'Customary law' and customs

The Constitution recognize the "institution, status and role of traditional leadership according to customary law" (Republic of South Africa Constitution, 1996:109), but this continues to be a contentious, partial, and historically structured recognition, beset by all the contradictions that the 'establishment' of democracy and equality in the post-apartheid has brought. The

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[1] In order to understand and conceptualize land and its meanings and relationships in a South African traditional setting, one needs to understand the below quote by Mafeje (1991:109):"The traditional African community did not conceive of land in terms of ownership but in terms of dominum eminens within which use-rights were guaranteed. These were activated through family units and could get entrenched, depending on demographic pressure and the use to which different types of soil were put. The fact that individual families were units of production as well as of appropriation and could hold their plots of land in perpetuity as long as they were under use cast doubt on the supposition by liberal economists and Marxists alike that? communal land tenure necessarily militated against the development of material forces in Africa. It is important to note that capitalist production has occurred in black Africa since the introduction of cash crops, without any changes in land tenure systems but more in land use. We are also reminded of the fact that in the Orient production increased and great technological innovations occurred over a very long time, without the development of individual property rights. The same is true of the great, pre-Columbian empires of Latin America. In the light of all this, individual property rights, as a necessary condition for development, must remain an attribute of Western natural theology" (Mafeje, 1991:109).

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'democratic project' aimed to create a new order where all races were entitled to equality including equality before the law (Khunou, 2009:105). But the Constitution (1993 and 1996) recognizes and gives 'customary law' a right "of existence and legislative status of activity" only if the established traditional structures operate "within a modern Westernized legal context" (Nicholson, 2006:191). This continues to subject the nature of the 'traditional' as somehow existing outside of the 'political'. Thornton (2003:130) posits that "most of the battles over traditional authority, including that leading up to the final draft of the constitution, are fought in terms of ideology rather than concerning knowledge of how (and if) the institution exists on the ground or works as claimed". This means that the 'incorporation' of customary law into liberal political governance is under principles set out by the liberal constitutional order.

The liberal constitutional order was produced by the closed negotiations of CODESA (Mamdani, 2020:178). The closed CODESA negotiations did not include traditional leaders or the 'representative' body CONTRALESA (Mamdani, 2020:178). Furthermore, in 1993 "the position of governor general was assumed by the president of South Africa and in 1996, [those] powers were assigned to the premiers of the various provinces" (White Paper on Traditional Leadership and Governance, 2003:13). Nicholson (2006:192) argues that the manipulation of indigenous laws is used as a tool to dominate traditional leaders' roles and interpret and westernize it in such a way as to dominate African people. Ntlama (2012:826) "argues that the 'constitutional protection' of 'customary systems' conveys nothing more than the institutional dominant status of 'common law' over those of customary law". Ntlama (2012:26) furthers that customary law was reduced significantly "to a system in which it is a stepchild to common law". Nicholson (2006:192) further argues that the lack of understanding of traditional law and politics as well as the attempts to establish traditional structures within a modern westernized legal context distorts the current legal approach to the 'institution of traditional leadership'. To this Pillay and Prinsloo (1995:384) add that "traditional laws draw legitimacy from acceptance within a traditional community and fundamentally differs from western conceptions of law" (and the basis for their legitimacy). Makolomakwe (2021:58) states that the disruptions injected on the institution during colonial and apartheid regimes are still evident today given the intentional crisis mode within which these were set.

The Native Administration Act 38 of 1927 set the legal basis for the roles, functions and powers of traditional leaders (Murray, 2004:15) in order to achieve uniformity in control of native local administration. Today, "some sections are the responsibility of the Department of Land Affairs (land), the Department of Justice (customary law, customary courts and inheritance), the Department of Home Affairs (marriages) and the Department of Provincial

and Local Government (responsible for several other sections)" (Republic of South Africa, 2019). Since 1994, the following sections of the Act have been assigned to the provinces concerned: "Section 1 (dealing with the supreme chieftaincy and the power to appoint traditional leaders) and Sections 2(7), (7) bis and (8)" (White Paper on Traditional Leadership and Governance, 2003:67). Taking the above into consideration, how does the 'institution of traditional leadership' form a uniform legislative framework if the legal jurisdictions are so fragmented?

2.5.2 Traditional authority

Traditional authority is recognized by "constitutional mandate implying that its autonomy, the repeal and amendment of positions and the regulation of 'customary law' is done by statute" (Du Plessis and Scheepers, 1999). During colonialism and apartheid, Makolomakwe (2021:58) concurs that the state managed and controlled the institution of traditional authority through legislation. Therefore, argues Sizani (2017), the "post-1994 government continues to control and endorse the recognition and appointment of traditional leaders and traditional councils". Traditional leaders and traditional councils "are regarded as illegitimate until their recognition and appointment is sanctioned by the state and the state offers salary remuneration" (Sizani, 2017). Du Plessis and Scheepers (1999:10) contend that the National House of Traditional Leaders and the provincial Houses of Traditional Leaders are constitutional institutions. "They came into existence in terms of the 1993 constitution and were perpetuated in terms of the 1996 constitution (Du Plessis and Scheepers, 1999:10). The constitution recognises the 'institution of traditional leadership'; however, it subjects "indigenous customary laws applicable to the majority of the population", to the Constitutionally-mandated national legal system (Nicholson, 2006:184).

2.5.3 The institution of traditional authority

In line with the decentralization process, local government is the third constitutional sphere of governance. The Local Government: Municipal Structures Act 117 of 1998 provided for the representation of traditional leaders in municipal council meetings; however, they are not municipal council members, meaning that "they do not have legislative powers to vote and make decisions" in matters directly affecting their communities (Mathonsi and Sithole, 2017:39). Mathonsi and Sithole (2017:39) interpret this as "constituting a fundamental limitation on the 'institution of traditional leadership'". If traditional leaders are tasked with "the fight against poverty, homelessness, illiteracy and the promotion of good governance" (White Paper on Traditional Leadership and Governance, 2003:1), how can they do so without the necessary policy making powers and decision-making power? Section 81 of the 1998 Local

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Government Municipal Structures Act was amended in 2000 to 'defuse' the tension between traditional leaders and municipal officials (Lutabingwa et al., 2006:79). The amendment was to provide for 'enhanced representation' of traditional leaders in municipal councils and representation of traditional leaders at the district and metropolitan levels (Republic of South Africa, 2000b). However, the right to vote in council meetings was not granted (Lutabingwa et al.,2006:79).

At the same time, the jurisdictional demarcation of traditional authorities and municipal boundaries is a real issue in the debates about the role of traditional leaders and local government (Murray, 2004:13). In terms of section 155(3)(b) of the Constitution, "municipal boundaries must be demarcated by an independent authority" (Constitution of the Republic of South Africa Act, 1996: 75); however, there is confusion on which municipality some traditional leaders fall under in terms of section 81 of the Local Government: Municipal Structures Act of 1998. Madumo (2015:154) posits that overall "local government is inundated with a variety of challenges including the inability to facilitate and enhance development in the communities which the municipalities serve". She argues that the Constitution mandates local government through municipalities to ensure an inclusive approach when budgeting and planning processes are undertaken. However, the municipalities lack "openness, transparency and accountability" and fail to "consult and negotiate with communities" and their traditional leaders (Madumo, 2015:156). The problem argues Pieterse (1999:185-186) is that traditional leaders are reduced to advisors at the very most in local municipalities. He further argues that for decentralization to be in effect, traditional leaders "needed to become elected representatives and fully voting members of municipal councils" (Pieterse, 1999:185-186).

2.5.4 Rural governance

The contentious issues that arise in some literature, legislation and policy sectors is a result of the municipalities which cover rural areas, which were previously under the jurisdiction of traditional leaders (Rugege, 2009:171). Three quarters of South Africa's population live in rural areas and are effectively under the governance of traditional authority (Dlungwana, 2002:1). "Within rural areas, the 'institution of traditional leadership' is perceived by local citizens as an independent and a valuable institution" (Makolomakwe, 2021:53). However, the various policies, legislation and programs are "conceived and managed centrally and promoted and implemented at the national and provincial levels" (Perret,2004:1). Mafeje (1998) viewed the issue of rural governance as the key to understanding social relations in rural areas. He posits that understanding social relations in rural areas will aid in developing a "basis for understanding the categories and concepts that could be used in analyzing the situation"

(Nabudere, 2011:19). For this reason, Nabudere (2011:19) puts forth that field studies need to be conducted to understand "specific processes under way in the African rural situation and how they relate to capitalist relations".

2.5.5 Rural development

Perret (2004:4) reports that rural development approaches, initiatives and policies in democratic South Africa make repeated reference to rural development in the various texts, but little has emerged in terms of actual material changes (Everatt and Zulu, 2001; Davids, 2003). Furthermore, the 1995 National Rural Development Strategy which is the primary document on rural development in the democratic period, "ignored local government issues such as the uncertain role granted to traditional leaders and weak local transition municipalities" (Perret, 2004:4).

Madumo (2015:159-160) posits that rural development, "is about creating a better future for communities through the promotion of local socio-economic development programs and projects". The idea of 'localization' is predominant in development programmes. And innitiatives and development literature: "Development programs undertaken with public participation permits for adaptation to the specific needs of the locals. Localization increases the sense of ownership and responsibility for the development programs" (Sikander, 2015:174). To this, Van der Waldt (2015:16) explains that to create a better future for communities, there should be "capable institutions, systems, strategies, policies, processes and procedures that promote grass-root-level development" (Madumo, 2015:160). Subban and Theron (2011:98) "highlight that development and participation should be seen as intertwined concepts" in deepening local democratic culture. The call for localization could mean municipal government or traditional authorities, because both allow for participatory mechanisms. However, the assumption that calls for localization do not mean or suggest the importance or necessity of including traditional authorities in the processes of local governance is flawed. This is because very often, this decision is taken by the locals through their support or rejection of leadership and development programs. The reality is that traditional authority and its institutions will not disappear, "despite it being perceived in some literature, legislation and policy sectors as being an anomaly in a liberal system of democracy" (Subban and Theron, 2011:98).

2.6 Conclusion

The thematic review above explored meanings and interpretations of traditional authority in South African history, discourse, policy and legislation. The review detailed current debates

about traditional authority and the ''institution of traditional leadership'' in the post-apartheid democratic period, specifically in local government. The review included debates about the 'institution of traditional leadership' in rural governance and rural development. At the heart of the disputes described above are the processes of decision-making regarding traditional authority and institutions over land and people. "Which people, at what level and by which processes are entitled to decide who may occupy and use land for what purposes and whether the said land may be transacted or not" (Claassens, 2008:289). Chilenga (2017:89) rightly observes that in South Africa, "policy making has produced mixed results. On the one hand, it is necessary for building the democratic state, but on the other hand, this process has involved the entrenchment of powerful policymaking clusters; the continuation of colonial and apartheid modes of governance and the lack of participatory democracy within affected communities" (Chilenga, 2017:89). The relationship between the state and traditional leaders is characterized by "divided sovereignty and legitimacy" (Pay, 1998:64-65). De Sousa Santos (2006:66) describes this divide as "the relations between the parallel worlds of traditional authority and the official politics of recognition and control as an intense and chaotic web of interlacing among different legitimacies, local powers, legal cultures and legal practices" (Logan, 2009:124).

Owusu (1996:329) makes clear "that the 'institution of traditional leadership' is such an important part of the local political figure in Africa that we cannot talk about democracy from below, from the grassroots, without talking about traditional authority". Phindi Tlou (2020) emphasizes the importance of understanding the co-existence of the "modern system of governance and the 'institution of traditional leadership'". Within a 'constitutional democracy', how do we make sense of the tensions that arise between discourses of 'human rights and 'freedom' and so-called traditional customs and practices? Much of the literature on traditional leaders focuses on their political roles, however, there is little information on what they are doing in society, what their sociopolitical functions in everyday life are and how people perceive them. Chapter three delineates the research design and methodology of the study.

3. CHAPTER THREE: RESEARCH METHODOLOGY

3.1 Introduction

Chapter three details the research methodology and explains the research approach, design and the methods used to conduct the study. The research question is "What is the role and function of traditional authority in Ga-Masemola? How do we make sense of traditional authority as it functions within the Ga-Masemola community today between a) its history of being shaped and formed by colonial and apartheid strategies in particular ways and for particular purposes and b) its post-1994 inclusion into the ambit of the 'political' through forms of constitutionalism and democratic governance. But also, how does it function as a vehicle for forms of local resistance to the state?". This question was addressed using a qualitative research approach. A case study research design was adopted with an interpretive phenomenological approach. The sample technique used was nonprobability sampling, specifically, purposive sampling. The study area is presented and delineated. The Research instruments are explained and justified. The data management and analysis sections are also discussed below. The chapter concludes with addressing the ethical component of conducting research. The below methods aid in exploring the multiple meanings and interpretations used to make sense of traditional authority.

3.2 Ethical Clearance

The study was cleared by the University of Pretoria's Research Ethics Committee on 24 March 2022. The clearance number is (HUM046/1121). The ethical clearance document is attached as 'Appendix A'.

The study information sheet, attached as 'Appendix D', and the participant informed consent form (attached as 'Appendix E') were shared with research participants before data collection commenced. It is ethical to acquire permission to access the study area and the research participants as per Ethical clearance protocols. More so for research conducted in South African traditional areas. In order to secure interviews with the participants in Ga-Masemola, the researcher approached a gatekeeper from the Masemola Traditional Council (Singh and Wassenaar, 2016), who consulted the traditional authority of Ga-Masemola on her behalf. The researcher shared the study documents and asked for permission to conduct the study in the community. Subsequently, the researcher followed the protocols set by the Masemola Traditional Council and Kgošikgadi Makgatle Masemola. Permission was granted by the Masemola Traditional Council, see attached 'Appendix B'. The researcher also approached the Department of Traditional Affairs for permission to interview designated officials in the national and provincial houses of traditional leaders. 'Appendix E' and 'Appendix D' were

shared with the department. The department granted permission after consulting with the designated officials. See attached permission letter as 'Appendix C'. It is only after receiving written permission letters from the Masemola Traditional Council and the Department of Traditional Affairs that interviews commenced in Ga-Masemola.

The above documents were in the English language; however, the informed consent forms were explained in sePedi to the research participants and recorded. The researcher was born in Ga-Mampane, a sub-village of Ga-Masemola and has good command of the sePedi language. As a result of both researcher and research participants having good command of English and sePedi, the interviews were conducted in both sePedi and English to ensure that participants understand and can respond accordingly. This was to minimize any ethical issues that might have surfaced concerning consent. Research participants were aware that they are free to withdraw from the study for any reason. Lastly, due to financial and time constraints, officials from the national and provincial houses were not interviewed.

The researcher preserved the anonymity of the participants to ensure the integrity of the research project.

3.3 Research Approach

A qualitative research approach was adopted to answer the research question(s) and to achieve the aim and objectives of this study.

3.3.1 Qualitative research approach

Qualitative research is called a 'naturalistic inquiry' because it is conducted in the real-world setting, with no attempt from the researcher to manipulate the environment (Roberts, 2010:3). It is a way of exploring and understanding "how individuals or groups of individuals come to give meaning to social or human phenomena" (Creswell, 2014:4). Furthermore, "qualitative research has a wide range of interconnected interpretive practices which are adopted to better understand the subject matter" (Denzin and Lincoln, 1994:3-4). In summation, "qualitative research stresses the socially constructed nature of reality, the intimate relationship between the researcher and what is being studied and the situational constraints that shape inquiry" (Denzin and Lincoln, 1994:8). The advantage of this approach is that it gives a comprehensive and complete understanding of phenomena. It "emphasizes the value-laden nature of inquiry" (Denzin and Lincoln, 1994:8). This allowed the researcher to explore how the community members of Ga-Masemola interpret and understand traditional authority, as well as how traditional authority functions in this rural community.

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The below methods adopted for the research design allowed the researcher to get significant information about the people, their feelings and reactions to leadership by traditional authority (Mouton, 2001:17). The methods met the study aim and objectives in that they aided in revealing the meanings and interpretations that the people in Ga-Masemola attach to the activities and events in their environment. The purpose of adopting these research methods is to reveal the multifaceted nature (Leedy and Ormrod,2013:141) of traditional authority in the Ga-Masemola community. They reveal the functioning of the system in the community and people's feelings and reactions to the processes and their relation to the system and processes of Bokgoši.

The researcher designed a qualitative questionnaire and used an open-ended technique to data collection, keeping in line with the qualitative research approach.

3.3.2 Case study

3.3.2.1 Case study research design

This research uses an illustrative case study research design. In an illustrative case study, the researcher examines a single case in a structured way in a specific context (Creswell, 2014:11).

The research is a case study as it focuses on exploring traditional authority as the unit of analysis, in the democratic dispensation in the context of South Africa, in the Limpopo province, in the community of Ga- Masemola. This case study was chosen because Ga-Masemola is a majority BaPedi community that is (mostly linguistically and culturally) homogenous. This enabled the researcher to trace the 'natural' history of the community and its relationship with 'customary law' and traditional authority in a rural setting. An illustrative case study seeks to move past superficial descriptions of consensual reality to the structures underlying it (Roberts,2010). Therefore, the research took place in a rural community where traditional leaders and community members of the traditional community reside. Through a series of face-to-face open-ended interviews with various actors in the field of Ga-Masemola in Limpopo, the project considered the various and varying discourses through which traditional authority is understood, interpreted, authorized and legitimized.

3.3.2.2 Interpretive phenomenological approach

An interpretive phenomenological approach was adopted. It is a qualitative research methodology that describes the 'lived experience' of a phenomenon. This is relevant because research participants used their own experience, understanding and interpretations of

traditional authority. An interpretive phenomenological approach was chosen because the research included the community members of Ga-Masemola, who gave their meaning and everyday understanding of traditional authority, its role and function and its basis in the community. The research study aimed to explore and understand what traditional authority is and what it is doing in Ga-Masemola because of the significance attributed to and resilience of the system in this particular village. The research "process included data collection, data analysis and representing the material found to audiences" (Creswell,2007:24).

During the research process, the researcher did not further marginalize the participants but respected them, their time and their environment. Good faith is practiced in presenting this research and its use (Cresswell,2007:24). Adopting an interpretive approach has "the aim of social justice, which may also lead to the call for action and transformation" (Creswell,2007:24).

3.3.3 Sample

3.3.3.1 Area of study

The study area is in the Limpopo province of South Africa. In Ga-Masemola which is located in the Makhuduthamaga municipality in the Sekhukhune district.

3.3.3.2 Sample selection

This section details the sample selection including the description of the sample of individuals who participated, and the procedures used to select them. The sampling approach used was nonprobability sampling, specifically purposive sampling for the development of the sample. Purposive sampling is a technique, whereby the researcher deliberately selects a sample size from the population (Kumar, 2011:178). In other words, the participants of the study were purposively selected. In this research, the researcher targeted indigenous knowledge holders and practitioners, young and old, men and women who are knowledgeable about the traditional authority of Ga-Masemola. The sample here includes traditional authorities, community leaders, local government officials as well as elders in the community who offered an historical account of the role and function of traditional authorities in Ga-Masemola.

3.3.3.2.1 Purposive sampling

Purposive sampling was used in two ways to select the ten research participants in Ga-Masemola. Firstly, the participants from state institutions, including the National House of Traditional Leaders, Limpopo House of Traditional Leaders and the Makhuduthamaga municipality, these officials were chosen for the specific department which works with

traditional leaders at the local, provincial and national levels. They would have spoken on an official level and not in their personal capacities. However, due to the travel costs involved and the clashing of schedules, interviews with national and provincial members could not be scheduled. However, a council member of the Makhuduthamaga municipality was interviewed. The second set of participants were residents of Ga-Masemola. Membership in the community was the first criterion. Secondly, participants had to physically live in the community. This was so that as community members, they could offer their meanings, interpretations and assessment of the everyday roles and functions of traditional leaders. This set of participants is diverse in that the participants belong to different sections of the community and offer diverse perspectives. The third group is traditional leaders. This group consists of the Masemola Traditional Council members, Royal Council members and Kgošikgadi Masemola.

3.3.3.2.2 Snowball sampling

The snowball sampling technique was also used. Snowball sampling is when "each sampled person is asked to identify other potential participants with the inclusion characteristic" (Christensen et al., 2015:171). The researcher collected information about the reflections of people in the community living under traditional authority from key informants and they located others who they knew were knowledgeable about the subject matter as well. The key informants and research participants were chosen because of their abilities to accurately recall information regarding traditional authority and its evolution in the community. The participants could directly speak about the roles and functions of traditional leaders in the community in rural governance and rural development. The research study focus was on traditional authority in Ga-Masemola and locating it today, having members who lived, worked and grew up in Ga-Masemola was necessary. The participants all share this characteristic. Their respective perspectives represent the recorded and lived history of those living under this type of system and leadership. They know and understand traditional authority. i.e., Bokgoši, as it functions according to their customs and traditions.

3.3.3.3 Sample description

The study consisted of 10 interviews with five key informants and five participants from Ga-Masemola. Three interviews were conducted with traditional leaders who the researcher knew because they form part of the Ga-Masemola Traditional Authority. The researcher is from Ga-Mampana, a sub-village of Ga-Masemola. Her home is under the authority of the Ga-Masemola Royal Council, so she knows her leaders. These leaders were chosen because they represent and understand, amend and implement Bokgoši. These three traditional leaders include the Kgošikgadi who is the Queen Mother of the area and occupies the royal

seat. She is also a member of the Limpopo House of Traditional Leaders and the National House of Traditional Leaders. Two traditional leaders are from the Ga-Masemola Royal Council; one is a scholar and reverend who paints the picture of traditional authority in policy sectors and academic discourse. The other is a senior royal noble and has occupied the royal seat in Thabampshe. He gave insight into the colonial and apartheid periods. Together they gave their on-the-ground perspective and lived experience. These key informants shared their understandings, perspectives and lived experiences which are considered in relation to the literature.

The other two key informants are from the Masemola Traditional Council. They implement Bokgoši by adjudicating matters between members of the community according to the norms and protocols of the BaTau ba Ga-Masemola. These five key informants form part of the Ga-Masemola Traditional Authority which is the governing system, structure and institution. There was an official from the Makhuduthamaga municipality who liaises with traditional leaders. He was selected and recruited by the Kgošikgadi Masemola to be part of the study. He gave a close examination of the relationship between traditional authority and the state, specifically local government. His perspective and insights have represented that of a state official. The remaining four research participants were ordinary community members from Ga-Masemola who were referred by different people, including those who did not want to participate in the study and the key informants. They were chosen based on their insights and knowledge on traditional authority in Ga-Masemola. Community members were interviewed to provide their understandings of what Bokgoši is to them and their interaction, interrogation and integration of the system in their everyday lives.

It is important to understand from their perspective what the roles and functions of traditional leaders are in Ga-Masemola in the post democratic dispensation. The analysis that follows in chapter five is based on interviews conducted with the following leaders and community members (Below are the pseudonyms used for the remainder of the chapters to identify quotes of participants):

1. Kgošikgadi Masemola – Queen Mother of Ga-Masemola; Masemola Traditional Council chairperson; Ga-Masemola Traditional Authority chairperson and Royal Family member
2. Mr. Development Initiatives – Retired teacher and principal and institutor of various development projects and development committees and forums
3. Mr. Messenger – Junior noble (Motseta) and Ga-Masemola Traditional Authority member
4. Mr. Entrepreneur – Community member and business owner
5. Mr. Councillor – Makhuduthamaga municipal official

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6. Mr. Council – Masemola Traditional Council member; Ga-Masemola Traditional Authority member and Royal Family member

7. Miss Student – Community member and a member of various youth forums

8. Mrs. Church elder – Church leader and elder

9. Mr. Former Teacher – Retired teacher and Masemola Traditional Council member

10. Dr. Rev – Academic, researcher, reverend, Ga-Masemola Traditional Authority member, Masemola Traditional Council member and Royal Family member

3.4 Research Instruments

A research instrument is anything that the researcher makes use of to get the data they are going to analyse (Hofstee, 2011:117-118). This research study made use of interview schedules as the research instrument which are attached as 'Appendix G'. The interview schedules explored the multiple meanings and interpretations used to make sense of traditional authority as it functions within a local community today. The questions explored broad research themes and questions. The lists of questions are not fully represented on this list because new issues and questions arose during the interviews due to the open nature of unstructured interviews and conversational techniques.

3.5 Methods

3.5.1 Data collection technique and instruments

The researcher used both primary and secondary techniques for data collection. "Primary data was collected through face-to-face semi-structured, open-ended interviews" (Gibson and Brown, 2011:15). Face-to-face interviews produce "communicatively rich modes of exchange" in that "the gestural aspects of the discourse are visible to the participants" (Gibson and Brown, 2011:15). The advantage of face-to-face interviews is that the information is collected by the researcher (Gibson and Brown, 2011:15). The interviews were recorded with an audio device. Gibson and Brown (2011:7) state that the iterative nature of data generation and analysis fits well with the overall aims of qualitative inquiry.

3.5.2 Semi-structured interviews

Holstein and Gubrium (1995:119) argue that "semi-structured interviews involve a less formal distinction between the interviewer and interviewee". They describe the creative interview, "where the production of a climate of mutual disclosure between the interviewee and the interviewer allows the interviewee to have a deeper involvement in the conversation's development" (Gibson and Brown, 2011:7). This is an advantage because it removes the interactional barriers of the attitude of "the interviewer as an objective outsider" (Gibson and

Brown, 2011:7-10). The researcher specified the key themes of the interview, which are formulated as key questions but the researcher can also vary the order of the questions according to the natural flow of the conversation (Gibson and Brown, 2011:6).

The technique was chosen because it is flexible and allows for new questions to be brought up during the interview as a result of what is said. The advantage of adopting a flexible approach is that the information is collected personally by the researcher from the participants ensuring that topics not included in the interview schedule can be explored. So, the researcher may try to fit pre-defined interests into the unfolding topics as they emerge in the interview process, as opposed to requiring the interviewees to fit their ideas into the interviewer's pre-defined questions and their ordering (Gibson and Brown, 2011:6). This helps ensure reliability and validity by enabling the researcher to get the direct views of the research participants, therefore minimizing bias. The researcher was constantly aware of how the interviews were unfolding, to ensure they were reflecting the research aim and objectives and research questions.

3.5.3 Secondary data

Secondary data was also used. This is data collected previously by other researchers which was reviewed in chapter two (Khothari,2004:95). It includes the legislation and policy (Christensen et al., 2015:76) around customary law, traditional authority, the institution of traditional leadership, local government, rural governance and rural development in South Africa's post-apartheid political landscape. The overall topic guiding the literature review was the interconnection between current debates about the 'institution of traditional leadership' as a system and structure for rural governance and rural development and their relation to what is happening on the ground in communities. The chronological themed review of South African legislation and policy in chapter two tracks key historical moments and documents/ legislation and identified contests, conflicts and contradictions in South African constitutional discourse and legislation. The review of these were also used to answer the research questions.

3.6 Data analysis

Interpretivist approaches assume that there is not one reality but multiple realities (Maree, 2007:37). Hence an inductive data analysis process was adopted. This data analysis strategy was chosen because the researcher carried out the research at a place where the site and its people are under exploration. The members of the site are interviewed to get the best possible meanings and understanding of traditional authority as it functions in Ga-Masemola. The

qualitative analysis of the data includes both thematic and content analysis in line with the aim and objectives of the study.

Content analysis was used to analyze data from the personal interviews. According to Kumar (2011:248), content analysis is when the interview data is analyzed as a way of identifying the main themes that would have emerged from the responses of the participants as a strategy to simplify and manage the data. The process is carried out in four stages (i)Identification of the main themes (ii)assigning codes to the main themes (iii)classifying responses under the main themes and (iv) integrating themes and responses into the dissertation write- up (Kumar, 2011:248).

3.7 Ethical consideration

According to Creswell (2007:141), regardless of the qualitative approach a researcher adopts, "many ethical issues surface during the data collection on the field and in the analysis and dissemination" of the research project. This is because "research as a purely objective activity removed from all aspects of politics and power is a myth" (O'Leary, 2004:50). It is for this reason that researchers are responsible for "the integrity of the research process" (Creswell, 2007:141). Ethical issues can be classified into "informed consent procedures, deception or covert activities, confidentiality towards participants, sponsors and colleagues, benefits of research to participants over risks and participant requests that go beyond social norms" (Creswell, 2007:141).

3.7.1 Informed consent

For this research, informed written consent was sought from the research participants. There was also a commitment to preserving the confidentiality of the participants. The informed consent letter was in English but also explained in sePedi to the research participants and recorded. The interviews were conducted in both sePedi and English to ensure that community members understand and respond accordingly.

3.7.2 Integrity

The researcher was committed to the integrity of the research process (Creswell, 2007:141). All utilized sources within the public domain are adequately referenced to distinguish the thoughts of others from the researcher. Secondly, the research participants' anonymity and confidentiality are protected. Ultimately, no harm came out of this voluntary participation.

3.7.3 Confidentiality, anonymity

The majority of the participants gave their consent for the researcher to use their real names, however, due to the researcher's commitment to anonymity and confidentiality of the other

participants, fictional names are used for all participants. There was this commitment because there are participants from the Ga-Masemola Royal Council and Masemola Traditional Council who shared with the researcher sensitive and secret information not known to outsiders. They did so for the purpose of this research study. For the sake of the implication of this study, they want important information documented, but sacred information should be for the ears of the researcher only.

3.7.4 Participant requests

Research participants could at any stage and for any reason withdraw from the research study.

3.8 Limitations

The study was confined to one province and due to financial constraints, limited in terms of the time spent gathering data.

3.9 Conclusion

This chapter delineated the research methodology of the research study. It details the data collection techniques and the data analysis methods used. An interpretive approach was used and a case study design was adopted to explore traditional authority as it functions in the community of Ga-Masemola. The methods chosen for the research design allowed the researcher to get significant information about the people, their feelings and reactions to leadership by traditional authority (Mouton, 2001:17). These methods met the study aim and objectives in that they aided in revealing the meanings people in Ga-Masemola attach to the activities and events in their environment.

4. CHAPTER FOUR: BOKGOŠI BA GA-MASEMOLA AND THE EVERYDAY

"Culture are all those things, material and non-material which are created by human beings. These creations are passed on from generation to generation, significantly through the learning process. Then the purpose of culture is to help human beings to adopt to nature, to another and even to themselves as part of nature" – (Vilakazi, 1998:80).

4.1 Introduction

The concept of culture is dismissed by sociologists, anthropologists and post-modernists because they believe the concept is vague and polysemic (Nabudere, 2011:32). "Instead, they favour other terms such as ideology, discourse, hegemony, meaning, interpretation, subjectivity, identity and the unconscious" (Nabudere, 2011:32). However, Nabudere (2011:32) puts forth that they all express the same thing. He argues "these concepts are themselves an expression of a people's culture, hence their relevance in understanding different situations". This is because "the social processes whereby people communicate meanings, make sense of their world, construct their identities and define their beliefs and values" is culture (Nabudere, 2011:34). Therefore, "culture is the entire field and process of symbol interaction, communication and technologies through which people define and express themselves" (Nabudere, 2011:34). Moreover, Thipe (2013:489) points out that "the constant recreation of culture and social continuity points to the competition between different knowledge and the ways that specific knowledge gain dominance over others". This was demonstrated in chapter two.

Hence, this chapter presents the findings of the empirical study- i.e. the reports of participants in the interviews. The culture of Bokgoši ba Ga-Masemola is a context specific conservative cultural traditional system. Bokgoši is the BaTau's specific type of traditional authority which functions at the level of the personal and every day. It is a holistic system, which "is intertwined with the social, cultural, religious, artistic and recreational life of the people" (Funteh, 2013:139, in Mudua et al.,2018:183) of Ga-Masemola. The BaPedi BaTau from Ga-Masemola, Sekhukhune, in Limpopo use their traditional values, norms, customs and protocols to cope with the current realities in their society. This is the BaPedi BaTau's everyday meanings and interpretations of Bokgoši.

4.2 Limpopo

The BaPedi are located in Limpopo, Sekhukhune district, in the Makhuduthamaga local municipality (Municipalities South Africa, 2022; Statistics South Africa, 2022). "Limpopo is located on the south-eastern part of South Africa's most northern province" (Republic of South

Africa,2020:6). "It is inhabited by many other 'tribal' groups of vastly differing origin" (MÖnnig, 1967: V). "It is largely rural in nature and is made up of four local municipalities" including the Makhuduthamaga municipality where Ga-Masemola is located (Republic of South Africa,2020:6). "The name Makhuduthamaga is derived from the liberation name given to those who supported the anti-apartheid struggle in Sekhukhuneland in the 1950s" (Municipalities South Africa, 2022). Makhuduthamaga literally means "those who resisted white domination" (Sekhukhune District Municipality, 2019). The Makhuduthamaga waged war against white commissioners and their assailants in Sekhukhune during apartheid" (Municipalities South Africa, 2022). Lastly, the Makhuduthamaga municipality controls the administration of the area, which "implies that both the traditional leaders, as well as municipal officials, collaboratively, share leadership in this area" (Municipalities South Africa, 2022).

4.2.1 Ga-Masemola in Makhuduthamaga Local Municipality, Sekhukhune District, Limpopo Province, South Africa
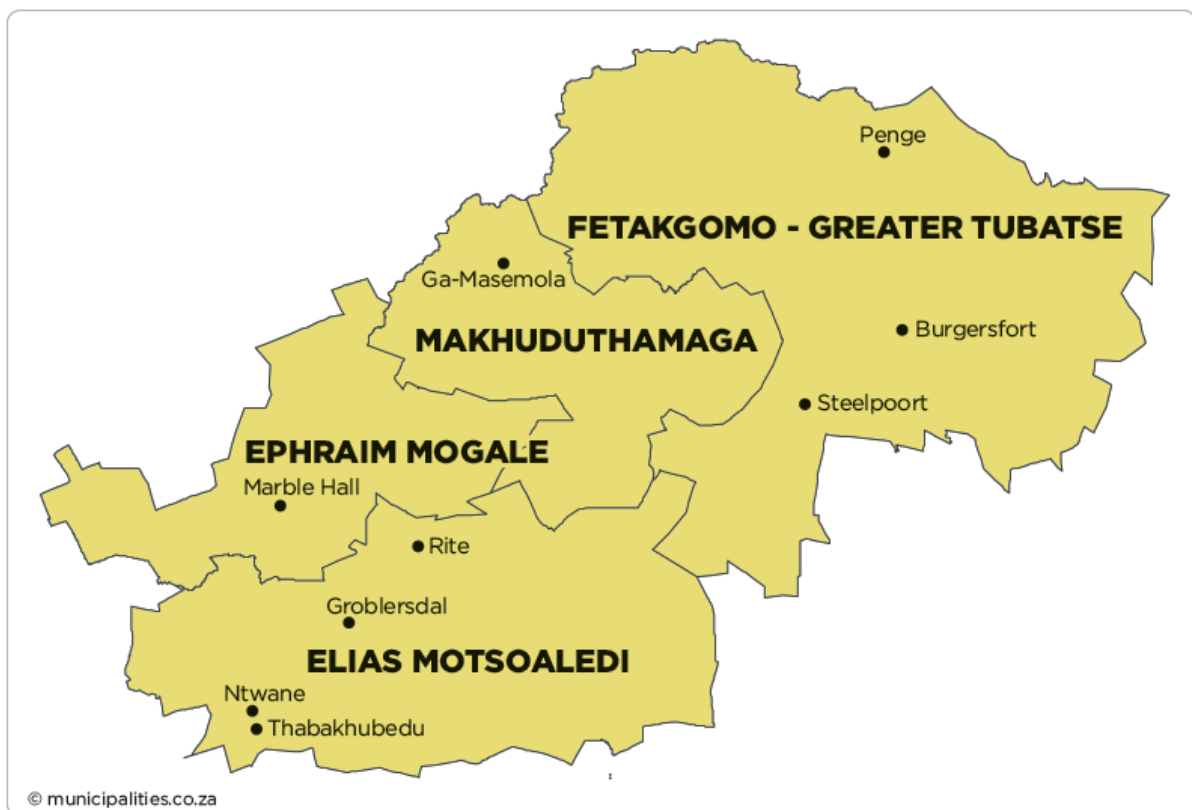
Figure 4-1 (Municipalities South Africa, 2022).

4.3 BaPedi BaTau

BaPedi BaTau originate from the 'Maswatsi a ga Nkwana' (Ramaila, 1936:9). "Our origin is that we are MaSwazi. We are the children of Matlejoane I. He birthed Mokwena, who then birthed Matlejoane II. There are different theories with regard to the children of Matlejoane II.

We have Mogashoa, Seloane, Phaahla, Masemola and Tladi. You can from this linkage trace the people of Ga-Masemola. They are the children of Matlejoane II" (Dr. Rev, 22 June 2022). "The children of Matlejoane II all had different 'Mošate' scattered in Sekhukhune and out of them, came many 'Makgoši', who are their descendants. For instance, the Ntsabeleng clan, they are descendants of 'Kgoši' Masemola. Before residing in the Thabampshe area, they had resided here in the community of Masemola. So, they too, are the descendants of Matlejoane II" (Dr. Rev, 22 June 2022).

4.3.1 Cultural history of BaPedi BaTau

"In pre-colonial times, Bokgoši was taken through 'li rumo', the royal leadership was won through battles and wars. So, leadership was defined by violence and conflict, where a man's power and authority were seen through his ability to conquer and defeat other men. Your peers would begin to respect you from this moment on. You became a leader when you have conquered and defeated others and others respect your authority. Gradually things changed, ideas around leadership changed and developed through the pre-colonial times" (Mr. Messenger, 15 June 2022).

"As a result of many battles and wars for the leadership position, people started determining who was to become their leader according to their ideas of leadership. Following these wars and the conquering of others, people decided that the system of hereditary leaders be initiated because of the past which was determined by violence. The system of hereditary leaders determined that the first-born male child from the candle wife, would become king. The candle wife is a royal-born female who is married by the people of a king's community through contribution from every household for her 'makgadi'. The contribution for her 'makgadi', i.e., bride wealth, comes from the king's nation and not from the king's kraal. She is not the king's wife, but the mother of the nation. It is she who will give birth to the people's future king and leader" (Mr. Council, 22 June 2022). "Before women were led and were not direct leaders due to the realities of the past of war and violence. Rather than seeing this as discrimination, one should also look at the reality which informed certain prescripts of history and people. We had and continue to have a king and a queen" (Mr Communications, 15 June, 2022).

"Those who have come before us created, discussed, mediated and developed many of our ways of life as they saw life happen to them. Every member of our society played and continues to play certain roles which also have responsibilities relative to the collective. We operated under the premise of unity and collective continuity of us BaPedi BaTau. When it comes to matters which involve our collective identity, self- determination and governance, we

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do not elect or appoint people. Our rulers and leaders are chosen for us by those who came before us, who were far superior than us in power, authority and the ability to conquer" (Mr Communications, 15 June, 2022).

4.4 Ga-Masemola

Ga-Masemola is largely a rural area. It is approximately 97km from the city of Polokwane and 38km from the township of Lebowakgomo. The area covers a border in the east near "Mohwerelere, Phaahla in the south east, Mampana in the south, the entire stretch of the Olifants River in the west and Mphahlele/ Strydkraal/Mphanama in the north west, north and north east" (Sekhukhune District Municipality, 2019). The exact geographical size of Ga-Masemola is not easily determined, due to the BaTau losing land during colonial and apartheid times (Kgošikgadi Masemola, 19 June 2022; MÖnnig, 1967:3). "The people in this community fervently observe traditional and cultural practices, as well as beliefs" (Sekhukhune District Municipality, 2019). Ga-Masemola is a majority BaPedi community that is homogenous and the majority of the people speak sePedi. The area of Ga-Masemola was established around 1800. King Tseke I, started the 'Mošate' of Ga-Masemola (Ga-Masemola Royal Council, 2022).

4.5. 'Ba bina Tau'

"The first factor is the geography in which we find ourselves and the language which we speak, we call it our official language. The culture which we follow, all of these are what make up what we call the BaPedi." (Dr. Rev, 22 June 2022).

4.5.1 Totem praise name

 "Sereto sa ba bina tau ba Ga-Masemola

Re ba binatau ba tšwago seoko le seokodibeng se semerithi mebedi menya maloba. Re boa ga kgomoammoko segopela Matebele, mola Basotho ba gabo ba tletše, ba gabo ke ba marumo a mantšane marumo malalakgotla a ntlo tša go lala ba re ntlo go lala dikgwaletšo tša basadi mola sekgophe se lala tšhidi a marumo.

Re ba tswako re tšwa Mphanama re tšwa gag abo Mmaselepe Mahlako, ba re selepe gomela mere o remile o tlaba war ema le mehweleshana nka meruswana mola ba re hlare tša borwa ga di rengwe. Re boa ga Kgoši Tseke Mmamagane a noka bare go Mmaswi Kgoši o ile Tseke se fenya batho a re metsane mennyane ga ke e tsene, ya bo morwa mokgwatšane a re yena o tšame a ema mabothobolong kua ga gabo, gabo seeki sa manaleng.

Re tšhaba mediti" (Ga-Masemola Royal Council, 2022).

4.5.2 Cultural history of 'BaPedi BaTau ba Ga-Masemola'

"Bokgoši BaTau ba Ga-Masemola was started by Kgoši Tseke I. We landed here in Ga-Masemola and it has been a long time since. But we fought for this piece of land against other BaPedi from the Sekhukhune area. We fought some wars that ultimately led us here (Dr. Rev, 22 June 2022; Kgošikgadi Masemola,19 June 2022). In the mountains, that's where they say that 'Kgoši' Maboewe I, the father of 'Kgoši' Tseke I settled. With him we also fought many wars, with the forefathers of Mohlaletse" (Dr. Rev, 22 June 2022).

"This is our piece of land and we fought for it" (Ga-Masemola Royal Council, 2022). There was constant interference by other groups in our areas. We also had to fight off the Ndebele. 'Kgoši' Maboewe II fought and died in battle in the Stoffberg area in a war of survival. All the 'Makgoši' fought great wars including the leading 'Kgoši' Tseke IV (Dr. Rev, 22 June 2022). "We conquered others because our weapons at the time were indigenous trees which use to grow here. There is a mountain south from here which is called 'Swana le nhlane' and the central mountain at 'Psereng', where the BaPedi confronted us and they were underneath these trees and we on top. We would kill the cattle of the BaPedi and put them up a tree called 'Mohloko'. Only to find that the tree was poisonous. This killed many enemy soldiers when they tried to confront us and free their cattle" (Dr. Rev, 22 June 2022).

Tseke III is the only 'Kgoši' who did not participate in war because he ruled during the period of 'enlightenment' and war was no longer a solution or option (Dr. Rev, 22 June 2022).

4.5.3 Linear representation of the Kings who ruled in Ga-Masemola

-Tseke 1

-Mabowoe 1

-Tseke 2

-Mabowoe 2

-Tseke 3

-Mabowoe 3, born 1869

-Tseke 4, born 15/12/ 1911

-Maboewe 4, born 14/05/1957. He is the husband of Kgošikgadi (Queen) Makgatle Masemola, who is the Queen Regent for King Tseke 5

-Tseke 5, born 13/01/1995

4.6 Bokgoši ba Ga-Masemola

4.6.1 Bokgoši ba Ga-Masemola defined, described and interpreted by 'Batho' ba ga Masemola.

"Traditional authority is a holistic system that covers not just leadership and governance issues, but it deals with the everyday. We are the custodians of times where people like me and you were the victors. Our customs and traditions attend to the complexities of life and death, not just leadership and authority. It is not just about control or rule over others, but it is control and rule of people by people and their ideas, history, politics, family and so much more" (Kgošikgadi Masemola, 19 June2022).

"Bokgoši is 'hlago ya batho', i.e., people's way of life" (Mr. Entrepreneur, 18 June 2022). "Bokgoši for me is about where I come from so, I don't get lost. It informs me and others of where I come from, who I am and where we are located. When someone meets me, they are able to tell that I am BaPedi because of how I speak, what I am wearing and how I carry myself. Bokgoši is my value system and what I believe in. Our ancestors pass their wisdom and knowledge through our traditions. Many secrets and truths are transmitted through our tradition. 'Bu ela', the things that you are 'de ela'. These are protocols one should follow in their life journeys whether as a man or a woman. There are protocols for having children, marriage, death etc." (Miss Student, 20 June 2022). "Bokgoši is leadership where you are not appointed or elected like the position of being president, premier or municipal official. You'll never hear of an appointed or elected Kgoši. He is born a leader through his birth right; he is a hereditary leader. It is for this reason that when he passes, his first- born son birthed from a candle wife, is the next Kgoši" (Mrs. Church Elder, 20 June 2022). "Bokgoši ba Ga-Masemola is hereditary. To say that someone is a Kgoši or Kgošikgadi, means that he or she is not appointed or elected. He or she has a birth right to the royal position. He or she is not chosen by the people or any group in society, but rather through his or her bloodline" (Kgošikgadi Masemola, 19 June 2022).

"In sePedi tradition or customs, Bokgoši 'ke ba mosadi' and not 'ba monna'. A Kgoši can marry any number of wives from two to ten, who are called 'ba humakgadi'. As many as he chooses and have boy children from his wives but in a situation where he is married to wives with children, but he passes on before marrying a candle wife, the principal wife, 'Makgoši'. If the Kgoši has passed on before marrying 'Mmagosechaba', you cannot take a wife from the smaller houses and make them 'Makgoši'. Their sons cannot become Kgoši because they are not born from a 'Mmagosechaba'. What is going to happen is that the Royal Family is going to marry a candle wife, the principal wife for him from a specified royal kraal, who will then

become 'Kgošikgadi' for the nation. It is this principal wife who will then give birth to the next Kgoši. Once the candle wife has been married, she will become the 'Kgošikgadi' till she gives birth to the next heir to the throne. Even though the Kgoši has passed away, the candle wife will still give birth to the next Kgoši. For as long as the principal wife is from a royal kraal and has royal blood, she is fit to lead and give birth to the next Kgoši. The Kgošikgadi will occupy this position till her son is old enough to take the position of Kgoši in the nation and also marry his 'Mmagosechaba'" (Kgošikgadi Masemola, 19 June 2022).

"When a Kgoši marries 'Mmagosechaba', the candle wife, he contributes nothing. It is the various villages, communities under his authority that will contribute to the candle wife's 'makgadi'. Also, in most instances, the future Kgoši does not live in the community when he is young, he is brought up elsewhere. This is because he might be killed or assassinated" (Kgošikgadi Masemola, 19 June 2022). "Kgošikgadi Lydia Masemola, 'Mahlako' is the Queen Mother of Ga-Masemola. She is the wife of the late Kgoši Mabowoe IV. The Kgošikgadi is 'Seshego sa renna', meaning that she is the custodian and authority of the custom and culture of Bokgoši BaPedi BaTau ba Ga-Masemola. She is the custodian and authority via practices such 'diKomma' and other rites. It does not matter that she is religious and Christian, when people want 'diKomma', she has to give them access to such practices. She can't stop 'diKomma', or any of the customs. Hence, why she is the custodian and authority of the customs and culture of the Ga-Masemola people" (Dr. Rev, 22 June 2022).

"At the same time, Kgošikgadi Lydia Masemola is the custodian of the land. It is she who is tasked with looking after the land on her people's behalf. She is the executor and is the one that controls the land and oversees it, but it is not her land. The Ga-Masemola Traditional Authority and Masemola Traditional Council do not have ownership to the land but are safe guarding it for the people. The people who have gone before, the people who are alive and present today and the people who are yet to be born" (Dr. Rev, 22 June 2022).

4.7 Bokgoši ba Ga-Masemola structures, roles and functions

4.7.1 Kgoši and Makgoši

"There is a Kgoši and Makgoši / Kgošikgadi. The Kgoši and Makgoši rule and lead together. They are the heads of the structures and processes of Bokgoši ba Ga-Masemola. They represent and are the custodians of the BaPedi BaTau ba-Ga-Masemola customs, culture and traditions. They lead sixteen villages, along with thirteen foremen, five headmen and two headwomen who form part of 'mešate' of the Ga-Masemola Traditional Authority" (Kgošikgadi Masemola, 19 June2022).

4.7.2 'Mošate' le 'mešate'

'Mošate'

"Kgošikgadi Masemola works with 'Bakgoma', who are her late husband's male siblings, his father's children from the smaller homes. Meaning the previous Kgoši 's wife or wives who are not the candle wife's children" (Kgošikgadi Masemola, 19 June2022). Then there are 'Bakgomana', who are the Kgoši 's father's male siblings and cousins. They all help make decisions. When something is brought to the attention of the 'Kgošikgadi', 'Bakgoma' and 'Bakgomana', it is brought to their attention via a 'Motseta' (Kgošikgadi Masemola, 19 June2022). 'Motseta' is a royal messenger. You cannot approach a 'Kgoši' or 'Kgošikgadi' yourself, you have to inform the 'Motseta', who will then take up the matter with the 'Kgoši' or 'Kgošikgadi' on your behalf first. There are royal structures for men and there are royal structures for women. The royal women's structures handle all matters regarding and related to women and children (Kgošikgadi Masemola, 19 June2022). This was a fact perhaps widely known in the community. However, the researcher was not aware. Hence, the detail of the 'Bakgoma', 'Bakgomana' and 'Motseta' who represent the male structures. To continue, you cannot simply approach the 'Mošate' and say, "I am here to report this or that person. There are protocols you must follow. You approach a 'Motseta', who will then take the matter to 'Mokgomana'. 'Mokgomana' will take the matter to the Kgoši or Kgošikgadi. Therefore, the 'Kgoši' and 'Kgošikgadi, 'Bakgoma', 'Bakgomana','Batseta', along with other royal family elders and heads (inclusive of women) make up 'Mošate'" (Ga-Masemola Royal Council, 2022).

'Mešate' (royal kraals)

"Our community is birthed by the 'Kgoši', 'Makgoši' and the 'ma Nduna'. The Kgoši and Makgoši are the senior traditional leaders, among them are 'ma Nduna' who are under them. 'Ma Nduna' operate like a Kgoši and Makgoši because they lead specific villages or kraals which are under the leadership of the 'Mošate'. Here in Ga-Masemola we have Mampane, Mmphane, Malope, Thabampshe, etc. all these communities have 'ma Nduna'. They also have foremen, who also assist the Kgošikgadi and the 'ma Nduna' lead in the communities. The 'ma Nduna' and foremen make up the individual 'mešate' of the villages or kraals" (Kgošikgadi Masemola, 19 June2022).

4.7.3 Ga-Masemola Royal Council

"We have the Royal Council, 'le kgotla la Bakgomana', which is loosely translated as 'the body of Bakgoma'. The Royal Council consists of the various royal kraals and is at 'Mošate' level. The Royal Council only steps in when the Traditional Council is unable to reach a resolution

on a matter between community members. The Royal Council sits in at 'Mošate' and is not in the tribal office hall. These meetings are not open to the community at large, but rather are attended by the Royal Council members. Most matters brought here come from the 'ma Nduna' from the different villages. Matters that involve the 'ma Nduna' do not include the Traditional Council, but the Royal Council. There are other structures which deal with institutions such as 'diKomma', which also bring their matters to the Royal Council and not the Traditional Council" (Kgošikgadi Masemola, 19 June 2022). Kgošikgadi 'Mahlako' Masemola is the chairperson of both the Traditional Council and the Royal Family Council. She is the final adjudicator in all matters of both councils if they are unable to reach consensus.

4.7.4 Masemola Traditional Council

"There is the Masemola Traditional Council, which is the council for the community at large. The norm is that members are chosen from the respective 'diKgoro', for example the Masemola 'Kgoro', the 'ba Ntsabeleng Kgoro' in the community of Masemola. In each 'Kgoro' they nominate someone who will represent their 'Kgoro' in the Masemola Traditional Council. The council members of the Masemola Traditional Council, must live in Ga-Masemola. In each of the 'diKgoro', i.e., different groups in the nation, people choose individuals they know or are of the perception that they will represent the Masemola community's interest and their respective group interests. There is no voting system for these members, they are chosen by the 'Kgoro' in which they originate. Before it was only men, but today, people can choose a male or female to be part of the council. People look at that person's ability to read and write, if they can listen, their level of discipline, their level of empathy, the principles they believe in, etc. A lot is considered when one is chosen to be part of the Masemola Traditional Council. The Kgoši or Kgošikgadi cannot simply say that I want so and so to be in the council. There are processes to be followed. There are certain requirements and standards that the community looks for in these members" (Ga-Masemola Royal Council, 2022).

"The Masemola Traditional Council, work in the court hall. They deal with matters that arise in the community between community members. They fulfil the roles of listening, consulting and mediating with the aim of long-lasting peace between those in dispute with each other. You can take your matter straight to the 'Kgošikgadi', no one is going to stop you. However, when you approach her as a community member regarding a grievance, you cannot say I am here to report so and so. If you go to her and report so and so, they are going to direct you to the Masemola Traditional Council which deals specifically with these types of matters. It is only when the council cannot find a resolution, will they then consult her regarding you reporting so and so. The Kgošikgadi will only intervene in this matter if you approach her for advice or

words of wisdom regarding your disagreement or grievances with so and so. But not when you are there to report that person because they are structures and protocols in place for such" (Mrs Church Elder, 20 June 2022).

"When you ask for her advice, she will call both you and the said person and you will have a face-to-face sit-down mediation session with her. She is our mother, she cannot choose between her children, but as a mother, she can listen and advise. Her role is to maintain respect and the bonds between siblings by giving advice that will ensure peace and harmony between members. If you do not find her advice fair or objective, she can refer you to the other elders who will listen to all sides and advise based on what is said and ensure respect and peace between members. The Masemola Traditional Council can be approached again and they will listen until a resolution is found. Interpreters and community elders from different sects can be involved at the will of those involved. So, it's continuous listening, sharing, advising and empathy (Mrs Church Elder, 20 June 2022).

"Tuesday and Thursday the Council meets to hear matters regarding land and stands and to hear those who bring grievances. If a problem cannot be solved on a Tuesday, the council members also use the Thursday. If it is still not solved, the following Tuesday again, you'll be back at the court hall" (Mrs Church Elder, 20 June 2022). "If you are unsatisfied with the processes and outcomes of the Masemola council, you are free to approach the magistrate court or small claims court" (Kgošikgadi Masemola, 19 June2022).

4.8 Historical background on the role of the Kgoši in Ga-Masemola

4.8.1 The Kgoši

"In earlier times, the Kgoši was not permitted to work or offer himself up for labour. In the past there were designated fields, 'his fields called 'Mutha' where the community had to sow, maintain and harvest the fields. This was to ensure that there is always food at the royal palace for in case any member of the community, especially women and children who were hungry would have access to food. If someone from elsewhere found him or herself in the village at night, in need of a place, the Kgoši would ask certain members of the community to accommodate this stranger so they may have a place to lay their head and fill their stomachs over the night. If there was any person that was destitute and in need of help, they would be welcomed in the royal palace because the people, i.e., the community, provided for the 'Kgoši'" (Kgošikgadi Masemola, 19 June 2022).

4.8.2 The 'Kgoši' and Weddings

"When there are weddings in the community, each and every person who is wedding and slaughtering cows, ought to take 'le hla kore', which a specific part of the cow, to 'Mošate'. This is called 'sesheba sa Kgoši'. This is so the Kgoši or Kgošikgadi enjoys the wedding with you even if they are unable to be there physically. Those getting married also take along a drum of freshly brewed traditional 'mabele' beer, which is called 'di bego' for 'Bakgoma' so they may drink and fill their stomachs so they are able to attend to people who come to them for assistance or guidance. This is what we call 'se šeba sa ba diše ba Kgoši'. These men look after people and should not go to their own homes and eat food there. In the 'Mošate' where they work, they should be taken care of because they work for the community and should therefore also be taken care of by the same people who they help and work for. Their roles require them to be at 'Mošate' the whole day and attend ceremonies such as weddings, so the above ensures they are able to do their work and are accessible and available at all times. There is also an induction called 'Bothugo' which takes place when one gets married. This induction or practice is a process where one is orientated and re-introduced and welcomed as a married woman/ man in society. The different BaPedi BaTau groups from various communities, 'diKgoro' under the 'Kgoši' and 'Kgošikgadi' came together at a secret location to welcome you as a bride/ groom. Other married women and men from the various villages celebrate with you. For this occasion, specific regalia 'di tito', 'di ntepa' and jewellery are worn. The Kgoši facilitates and leads the male ceremonies and the Kgošikgadi facilitates and leads the female ceremonies. There is singing, name-praising and many other cultural practices which take place only on this occasion" (Mr Development Initiatives, 2022).

4.8.3 The 'Kgoši' and community disputes

"Sometimes in these very serious matters, you find that people do not want to involve the police but would rather prefer I listen to the matter and help in finding a lasting and acceptable solution for the parties involved. People sometimes want mediation and peaceful resolution as oppose to exposure and imprisonment. We encourage people to report serious crimes to the police, however, you still find that people want me to assist instead. You cannot force people to go to police stations. The honest truth is that we deal with so many matters including the above, because people do not want to include the police. People from this community often prefer to find solutions that will enhance rather than destroy family and community bonds. People always tend to want lasting solutions which will restore peace between aggrieved parties. The police will give you a case number and then you are on your own. There is no open mediation and discussion between people. Even the victims do not find closure or therapy. But how we listen, discuss and give time to listen to people's grievances, makes the

best difference because they feel heard. They feel that they are not alone in seeking justice and that at any point in time, the traditional authority members are available to lend an ear, eye and support. The process of finding peace is not a one stop shop, but rather a continuous process that aims to mend relations and change behaviours" (Kgošikgadi Masemola, 19 June 2022).

4.8.4 The 'Kgoši', community courts and justice

"We have court halls and court rooms, before we didn't have such. Before, the 'kgoro', the community meeting place, was at a tree. Community meetings and community matters where wrongdoing was concerned or grievances were raised, were held at this tree. The Kgoši and the male elders would gather there to hear the matters or case, together with those involved in the matter and adjudicate in front of every member of the community. The punishment or fine would be given here. So, matter(s) and recourse to the matter(s) were started and concluded here. The Kgoši would make final adjudication based on the input by everyone present at the meeting. In these court halls or court rooms, only those involved are called to be judged in front of a magistrate who rules with foreign laws, or nowadays laws. These court proceedings run differently from ours. The rules, laws and outcomes are different from how we live and understand grievance processes and procedures. The types of lasting outcomes we would want. But the 'Bakgoma' and 'Bakgomana' still hold meetings the way they use to before in the royal home. They consult each other, they consult the Kgošikgadi and they consult ordinary people" (Mrs Church Elder, 20 June 2022).

4.9 The Ga-Masemola community today

The population size of Ga-Masemola is estimated to be 93 900, with 19 900 households (Ga-Masemola Royal Council, 2022). The Ga-Masemola traditional community places "focus on the entire family, as well as the wellbeing of the community" (Mamaleka, 2019:34). "Every person in the community is a composite and a reflection of the spiritual world of ancestors, as well as the material world of the living" (Schiele, 2000). Every child, parent, family clans and community members have to integrate respect for each other and the 'Mošate' in their day-to-day activities (Ga-Masemola Royal Council, 2022). When there is a problem in the community, the community has to identify the problem. They then have to communicate with 'Batseta' regarding the issues so that they may be brought to the Kgošikgadi's attention. The Kgošikgadi will then delegate 'Motseta' to organise a community gathering where every member of the community is called to participate in discussions regarding the particular problem and issues found. The community is tasked with not just identifying issues, but also coming together and deliberating on the issues and finding possible solutions or outcomes. The community is

tasked with implementing and entrenching the conclusions or resolutions reached. Therefore, the community has the responsibility to implement and entrench the laws under which they want to live (Mr. Messenger, 15 June 2022; Kgošikgadi Masemola, 19 June 2022). "Today, Ga-Masemola has changed significantly compared to the pre-1994 period. The community experiences different events today that did not happen before such as crime. The community has degenerated because people have changed, society has changed. As a result, the community has moved in a different direction than before. Communication channels and how people communicate has changed" (Mr. Messenger, 15 June 2022).

Ga-Masemola infrastructure:
- ➢ 20 primary schools and 17 secondary schools
- ➢ 4 clinics
- ➢ 1 police station
- ➢ 1 stadium
- ➢ 1 dam called, Pietgouws Dam, irrigation systems/ schemes
- ➢ 1 radio station
- ➢ 2 petrol stations
- ➢ A taxi rank
- ➢ Tarred roads
- ➢ 95% of households in the area have electricity.

Ga-Masemola socio-economic issues:
- ➢ High rates of unemployment, especially amongst the young
- ➢ Gravel roads
- ➢ Lack of education and vocation institutions
- ➢ Lack of recreational facilities
- ➢ No running tap water
- ➢ 'Tenderpreneur' system

4.10 Conclusion

Nabudere (2011:32) was correct to state that "adaptions in a particular culture are transmitted and maintained from generation to generation by the group rather than by the individuals acting as independent or discrete agents". Bokgoši ba Ga-Masemola is "'kakaretso ya sitso sa batho' – meaning the holding together of people's way of life, or the continuation of people's way of life. "We carry together with us in our bloodline and continue with the values, norms, practices and protocols which we as people believe we can live under" (Dr. Rev, 22 June 2022). Also, the importance of 'Direto' are to trace back their ancestors who lived before through the use of surnames which also confer duties in the community. It is important to know

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'se reto sa genu'. So, you can trace your family lineage and know where you come from. Bokgoši is the continuation of the authority that the BaPedi BaTau people live under even after their own existence has passed. "Moreover, the group exists alongside other groups and this is what enables adaptions of cultures to take place" (Nabudere, 2011:32).

Bokgoši ba Ga-Masemola highlights how intractable and thoroughgoing culture is in defining a person and their place in society. Tied to this was the discussion with participants which revealed the significance of individual names, family names and the clan names (Mudua et al.,2018:186). Surnames form a long lineage of ancestors who had rights and responsibilities in the community which were defined by their surnames. Titles confer more than just status; they comprise a system of historical positionality. Parekh (1982:18-19) rightly puts forth that "a society is not a collection of individuals, but a system of positions… to be a member of a society is to occupy a pre-structured social space and to find oneself already related to others in a certain manner" (Parekh, 1982:18-19). Hence the 'resilience', 'endurance 'and 'continuation' of the system and its institutions. It is the consent and adherence by the community that allows it to derive its power, legitimacy and natural justice. Furthermore, the people's understanding of reality, the times in which people are living under inform their conceptions of the authority they want to live under. Hence, the continued practice of these living customs and traditions. The Traditional Authority of Ga-Masemola share leadership responsibilities with their community members according to their values, norms, customs and protocols.

This chapter has shown the depth and complexity of the history, lineages, systems of rule, knowledge and institutional norms and values that make up what is referred to in the literature as 'traditional authority'. I hope to have demonstrated that while some of these may have been reconstructed or distorted through colonial-apartheid impositions, there is much that has been preserved and retained, including ways of being and seeing. This is not to argue for an ahistorical understanding of traditional authority as it exists today as a pre-colonial institution that can resurrect some ideal past; rather, the point of demonstrating the functioning, relevance and the authoritative legitimacy of traditional authority in the everyday lives of people in a single community, is to suggest that the functioning, relevance and legitimacy of the institution exists in very concrete and significant ways outside of the ambit of the state and its governance structures. This chapter has sought to demonstrate that this may very well be due to the entrenchment of knowledges, self-understandings and identity formations that have deep, enduring and seemingly intractable historical roots. If this appears to be somewhat idealistic, the next chapter demonstrates the equally deep contradictions that characterise the institution within the democratic system of governance; contradictions that are in part produced

as a result of the entanglements of administrative construction under colonialism-apartheid, and the ambiguities of incorporation into state structures that aim at harnessing traditional authority for its own ends while ensuring that such authority is circumvented, diluted and subjected to state control.

5. CHAPTER FIVE: RESEARCH FINDINGS, DISCUSSION AND SYNETHESIS OF RESULTS

5.1 Introduction

Chapter five presents the research findings, discussion of the findings and synthesis of the results. The researcher conducted ten in-depth individual interviews with community members from Ga-Masemola to investigate the role and function of Bokgoši. The researcher explored how to make sense of Bokgoši as it functions within a local community today between a) its history of being shaped and formed by colonial and apartheid strategies in particular ways and for particular purposes and b) its post-1994 inclusion into the ambit of the 'political' through forms of constitutionalism and democratic governance. But, also as a vehicle for forms of local resistance to the state.

5.2 Research findings – The 'personal' is part of the 'political'

This section presents the key informant and participant responses under the emergent themes of the study. Direct quotations are used for this section. The discussion and synthesis of the research data and results follow thereafter.

5.2.1 'Baetapele ba Setso sa BaPedi BaTau'

"Are things what they are called, or do they have an existence which is independent of the nomenclature that attaches to them?" (Mafeje,1971:253).

The first question on the interview schedules asks, 'What is traditional authority?'. The question was changed to 'What is 'Bokgoši?' because the term traditional authority is a general term used to refer to African political systems (Mafeje,1971:253). Why highlight this? Well, Mafeje (1971:253) states that "objective reality is difficult to disentangle from subjective perception". In the same way "concepts in the social sciences are hard to purify of all ideological connotations" (Mafeje, 1971:253). It was evident on the field that the term traditional authority or 'tradition' refers to various political systems and their guiding values, norms, customs and protocols which people live under. To begin, traditional authority is a "specific form of social, economic and political social organization that can be fixed in space and time" (Mafeje, 1971:258), however in general terms. Consequently, for this research the word 'traditional authority' neutralizes and dislocates the people who are the subject of investigation. Rather than clarify the context under investigation, the term further mythicizes the people and context.

In contrast, the term 'Bokgoši' refers to 'Di ema' tša BaPedi BaTau. 'Di ema' are a set of rules, set of customs, beliefs and religions that comprise the traditional history of BaPedi BaTau. 'Bokgoši' is a system of belief which adheres to the values, norms, customs and protocols of the conservative BaPedi BaTau nation in Ga-Masemola. The use of the term 'Bokgoši'

pinpoints the exact location where this system operates and the prevailing conditions under which this system operates. It was found that "'Di ema' are the undocumented, former lifestyle, way of living of the BaPedi BaTau nations or clans. They differ from one nation to another nation. Each nation has its own set of rules, set of customs, beliefs and religions that comprise the traditional history of the nation or clan" (Mr. Councillor, 22 June 2022). Furthermore, in South Africa the respective indigenous populations have their own word for 'Bokgoši', nation, clan and lineage which identifies the respective nation or clan (Mafeje, 1971:253).

"'Di ema' are practised and instituted through Bokgoši. Then Bokgoši is a "holistic system that covers nature, history, leadership, governance and it deals with the everyday. The BaPedi BaTau customs and 'traditions' attend to the complexities of life and death, leadership and authority and control or rule over oneself. It also includes control and rule of people by people and their ideas, history, politics, family and so much more" (Kgošikgadi Masemola, 19 June2022).

5.2.2. Whitewashing of history

Racism continues to define how we conceptualize and understand 'Di ema' and Bokgoši, their relevance and appropriateness. Mills (1998:75) rightly puts forth that "race is a political system in its own right". Racism then still defines how whites "understand their identity, their position in the world, their manifest destiny, their civilizing mission, their burden, their entitlements and privileges, their duties and responsibilities" (Mills, 1998:75). Mrs Church Elder (20 June 2022) theorised about the debate between colonial and apartheid governments (white) vs. indigenous governance (black). She put forth that both systems are competing for power structures. She spoke about the period before colonialization and how various black nations were themselves competing for power and land amongst themselves. "Before the arrival of the whites, black nations had their own 'apartheid' amongst each other. We fought amongst each other at different periods for different reasons. Different periods of history were informed by different events. What separates 'black apartheid' from 'white apartheid' is that 'white apartheid' discriminates [against] all black people. Apartheid to me is a set of belief systems. So for example, our conservative BaPedi people before, did not want to mix with BaPedi who were exposed to other ways of life. So, we lived separated, but in harmony and not segregated. The ones who were exposed to other beliefs and as a result, changed their ways of life, were left to live freely and peacefully. And we lived in our areas where we practised our Bokgoši. We continue to do this because we do not want to dilute our customs and traditions" (Mrs Church Elder, 20 June 2022). She put forth that there is a white washing of history and that white rule's success in administration and infiltration of communities, contributed to their domination today.

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This confirms Evans (1997:1) argument. The difference between Black apartheid and White apartheid is the formalisation and legislation of their belief system and ideologies. She put forth that the church and the institutions it brought (a new religion; a new system and understanding of education; new medico-social understandings and practices of healthcare) played a significant role in their rule. This is where indirect rule started and the dissemination of different ways of life.

She also highlighted that the failure of the 'institution of traditional leadership' in the constitutional liberal democratic period is mostly attributed to the 'Constitution' and globalization, the state system and the international arena which dictates national policy, intellectual production and political inclusion. They have in turn shaped debates about what 'Bokgoši' is and the role and function of the system and its institutions in the South African state, in discourse and in society today.

5.2.3 Reflections on the role and function of Bokgoši ba Ga-Masemola in historical times

"Before, if someone lived on the soil and land of a Kgoši, they ought to respect Bokgoši and the Mošate which the Kgoši represented. For example, if it was found that you are guilty of an offence and the consensus and adjudication by the Kgoši and council was banishment from the community. The Kgoši was permitted and authorised to ask that person to leave the community. 'Go nyatsa Kgoši ke go thluga'. You were asked to go live where you will do as you please, but not in the community of Ga-Masemola" (Mr. Former Teacher, 22 June 2022). "Something else that has changed, is where we choose to build our houses or where we settle as groups. Before, we built them on mountains because to us, land is sacred. We spared land for farming and harvesting and as burial sites. We didn't just build on any open field or piece of land. We built on mountains also because if an enemy launched an attack, we'd be able to see them coming. The Kgoši would give instructions and we would hide in between the mountains to counter attack. But, upon knowing this, the white governments coerced people to move away from the mountains. With the introduction of the church, education and healthcare, people's perceptions changed about things, we came out. The white governments argued that they couldn't bring education or health care to the mountains. If people want access to these services, they would have to come to the service centres" (Mrs Church Elder, 20 June 2022).

"Before when one gets married and leaves their home, one could not go settle where they want. You approached the Mošate and the Masemola Traditional Council if you needed a place to stay or land to live on as newlyweds. You approached the 'Mošate' and ask that you

saw a vacant land where you would like to build your home. Before we had the prevailing laws of the country, when you approached the 'Mošate' and asked that you saw a vacant land that you want to live on, they allowed you access to that vacant land. They did not measure for you the size or tell you where to go. What mattered was that you identified the land and according to your own research and information, found it suitable for you to live and build on. Today because of the Constitution and the idea of property rights, we have to apply to the government and wait for government to get back to us, which is not good. Where do you live while the government process and approve your application? Secondly, they still choose where you will live and the size of the land on which you will live, which according to me is not fair. This does not originate from how we live but from the Constitution and its drafters. Before, this system worked because the system made people have enough land to live, build and grow their own family, produce and livestock. The Kgoši facilitated this and ensured that the specialised people in the community assist who understood different soils to live, build and harvest. Land is the property of nature, but connects us to our 'badimo' and the Kgoši understands and mediates between the natural and supernatural. Although we lived close to each other but, our homes were spread out enough for people to have land to do the above. People lived better because they had enough space for themselves, their neighbours and their forefathers" (Mrs Church Elder, 20 June 2022).

5.2.4 Land

"When it comes to land, the municipality wants land from us, but land is not something that we just sell off for profit. It is nothing to play about. This land is not my land, but the people's land. I am just the custodian of the land. We cannot sell land for development purposes, but we can lease land for development so that ownership belongs to the people. The people must get their share not the state. We do not know who is the state, but we know each other. You know I am Kgošikgadi of Ga-Masemola. We do not know who the municipality is going to then sell the land to, because we do not know who the state is. Who it represents. You must not forget where South Africa comes from, how we got to our current reality" (Kgošikgadi, 19 June 2022).

5.2.5 'Baetapele ba Setso' and the Makhuduthamaga Municipality
"The municipality is at an advantage because they have a budget. The municipality collects rates and taxes and as a result has the funds. We are no longer allowed by law to collect any of these. But you will still find that people see traditional leaders as their primary local governance structure. The municipality can call for a community meeting, but no one will show unless I ask the community to come and participate, they will not. The municipality has the resources and budget to do things in the community, but people do not have confidence in

them. Unless I am involved in some agendas, the community will not participate because it is not about budget or resources, but people's perception that they are listened to and consulted in matters that concern them. Traditional leaders have an 'ex officio' status in local government structures, meaning that we cannot vote. We do not make the decisions that affect us, but our communities as well. There are efforts to change and undermine traditional authority because of the duplication of the local government system. However, local government is facing many challenges today along with us 'Baetapele ba Setso'" (Kgošikgadi Masemola, 19 June 2022).

5.2.6 Makhuduthamaga Municipality and rural development

"The issue is with 'zoning', 're-zoning' and 'business zoning', these are a challenge because we do not have the know-how to operate. For example, if you want to develop a portion of land, firstly you need permission from the traditional leader in the area to occupy. In addition, you must go to the municipality and get a business zoning licence or permit. Secondly, when coming to the issue of business levies, the municipal council wants businesses to pay directly to them and not to 'Makgoši'. But I think this causes a conflict of interest because our traditional councils depend on such monies to run their offices. So, when we move them to municipal coffers, we make them depend on government grants and budgets. But this is robbing our already poor traditional councils of income. Businesses in Makuduthamaga, including all the government structures and offices, must pay levies to our municipality despite there being no agreement on the matter. But a bill has been passed. Consequently, our traditional leaders do not understand. But already, the bill has been passed. So, when developing a new business, after securing land from traditional leaders, before building, you must involve the town planners, involve environmental assessors, who are all from the municipality and part of the state" (Mr. Councillor, 22 June 2022).

"People and business owners are paying levies to their traditional authorities. They do not know that they are defaulting by paying the traditional authority and not the municipality. This is happening because there was no clear consultation and communication regarding this matter to the people and with traditional leaders. When we speak with each other as municipalities across the country, its often communicated that we do not get our revenue. We always say we are having too little because businesses are not paying, whilst the business people are paying, but paying at their local traditional authorities. But you cannot blame people about our revenue deficit as a municipality because they are paying. It's in terms of the new municipal laws that people who pay at their local authorities are said to be defaulting on such levies because the municipality is not receiving any money from this. Also, infrastructures like schools are owned by the Department of Public works, but they are on the traditional leaders'

land. The rent for infrastructures is also paid to the municipality. All the schools, clinics and hospitals and all government building and offices in the Makuduthamaga municipality pay rent to the same municipality. This year the municipality received R144 million rand for infrastructure development. This money was paid into the municipal accounts, however, according to me, this money should have been transferred to 'Makgoši' as the owners of the land. If each village has five schools, they must calculate those rates per village and pay the local traditional leaders. But the matter is not even up for debate. Communities and traditional leaders do not even know about this. They cannot raise matters further because they do not know. Nothing was ever communicated to people about such matters and the collecting of rents by the municipality on their own land. The problem with this is that it does not benefit the land owners. The secrecy and ambiguity that the municipality operates under is what is causing the tensions between themselves and ordinary people and them and traditional leaders. This has created many challenges that we have to deal with and face as municipal workers. When they come and request a space to build a school, traditional leaders do not sell the land space to them. But when it comes to the rental part, they are paying to the municipality and not the land owners. The problem is that all the money is going to the municipality and the municipality decides who gets what or if they should even get anything regardless of them paying tax and levies. If traditional council trusts or community trusts, receive their due rent, then they would be in a better position to finance their own infrastructure developments and any other developments needed in the community. They would have budgets from rents and would be able to create their own other income streams and betterment projects. Money would be spent more effectively and efficiently if they were transferred to communities. Imagine if the 144 million rand was transferred to 'Makgoši' and they divide the money according to each village and its needs. The municipality would be left to attend to other service delivery matters, instead of creating and dealing with the same problems over and over again" (Mr. Councillor, 22 June 2022).

5.3 Research finding discussion and synthesis of results – Tensions between the state and Bokgoši

The primary objective of this section is to present the conflicting arguments and realities regarding the role and function of 'Baetapele ba Setso' in the democratic dispensation under liberal constitutionalism and democratic governance.

5.3.1 'Di ema'

Archie Mafeje is a scholar who has contributed immensely to discourse concerning African people's search for self- understanding, self-determination and political emancipation (Nabudere, 2011:1). Hence, his work, the 'Ideology of Tribalism' (1971) was used as the lens

in which to frame and understand this research. Mafeje's (1971) work highlights the continued alienation and misrepresentation of African people in discourse, particularly in Anthropology and political science. (Nabudere, 2011:1). In his work he "critiques anthropology for its role in the continued use of dualistic concepts such as 'tribe' and 'tribalism' to other Africans". Mafeje (1971) took issue with the dichotomization of African agriculture into 'modern' and 'traditional' and constructs such as 'ethnic groups', the 'inventions of 'cultural' or 'traditional practices to other Africans. This research takes issue with constructs such as 'customary' law vs 'roman' law; 'tradition' vs 'modern'; 'traditional authority' vs common law; 'traditional leaders' vs 'government officials'; 'rural' vs urban' and 'subjects' vs 'citizens. They inevitably achieve the same dichotomization of everything black and African as 'traditional' which is produced outside the political and "as objects to be studied by others and not subjects themselves" (Nabudere, 2011:14), worthy of knowing themselves.

5.3.1.1 Every day is informed by 'Di ema'

The 'Ideology of Tribalism' was used because it reveals the ontology of 'traditional authority' in academic discourse, policy and legislation. 'Customary law', 'tradition' and 'traditional authority' are produced outside of 'the political'. Meaning the historical progression, intellectual, technological, economic and political reflection of those deemed 'traditional' is not considered.

Through the review of literature, policy and legislation in chapter two, it was revealed that the mainstream literature and the 'state' act as "oppressive social structures which continue to constrain 'traditional' people into certain roles" (Mills, 1998:35). Also, "narrow their choices, disable and restrict them in various ways, thereby creating apparent evidential support for negative dispositionalist accounts" (Mills, 1998:35) about 'traditional' people. In South Africa the official term used to refer to 'traditional authority' is the institution of traditional leadership, but BaPedi BaTau do not have such a word in sePedi. Secondly, because the 'traditional' is outside of the political, 'traditional authority' in South Africa is not thought of as "specific forms of social, economic and political social organization that can be fixed in space and time" (Mafeje, 1971:258). Rather than clarify, the use of the term the 'institution of traditional leadership' adds confusion to what is being referred to as indigenous governance systems.

Although for this research, the term 'traditional authority' neutralized and dislocated the people who were the subjects of the investigation, the term 'traditional authority' clarifies the context under investigation in discourse. Therefore, when we talk about 'traditional authority', we are referring to indigenous governance systems, which are undocumented and are a way of life of nations, communities and clans. They differ from one nation to another nation. Each nation

has its own set of rules, set of customs, beliefs and religions that comprise the traditional history of the nation community or clan. Therefore, 'Bokgoši' is an institution of 'Di ema' tša BaPedi BaTau.

'Di ema' are the set of rules, set of customs, beliefs and religions of the BaPedi BaTau ba Ga-Masemola. 'Bokgoši is the practice of the system of belief which adheres to the values, norms, customs and protocols of the conservative BaPedi BaTau nation in Ga-Masemola. The use of the term 'Bokgoši' locates the exact location where this system operates and the prevailing conditions under which this system operates. Contrary to mainstream theorization about 'Di ema' which are the set of rules, set of customs, beliefs and religions of the BaPedi BaTau ba Ga-Masemola are not static, but changeable (Mönnig, 1983:308). 'Di ema' are customs and traditions inherited from the ancestors. The conserving of 'Di ema' and the accompanying cultures and practices make the BaPedi BaTau a conservative group. But 'Di ema' are changing, because the system allows for change. "Changing conditions result in changed customs which affect the law" (Mönnig, 1983:308). This is evidenced by adjustments made which have resulted from contact with Europeans as well as those affected by 'tribal laws' of the colonial and apartheid regimes as well as the post-apartheid state.

Furthermore, 'traditional authorities' rather than 'Bokgoši' continue because on the one hand, it is being shaped and formed by the state in particular ways and for particular purposes. But with 'Bokgoši' on the other hand, the socio- historical context of incorporation of 'traditional authorities' into constitutionalism and 'democratic governance' initiated local resistance to the state. The local resistance to the state represents questions about identity, political inclusion and political processes (Ray, 2003:127). Hinz (2012:88) already highlighted that legal orders have different ways of manifesting law (Hinz, 2012:88). Hence, some people keep their law in writing, while others keep law orally (Hinz, 2012:88). That is the reason why African indigenous systems and laws have survived for thousands of years. "They are orally transmitted systems of law" (Okupa, 2010). Then 'Di ema' differ from Western law in that it "is based on different concepts of justice and democracy," (Hinz, 2012:89). And "each has its own procedural rules geared towards achieving those concepts" (Hinz, 2012:89).

Nabudere's (2011:31) conclusion that Africa is the worst victim of racial, intellectual and cultural imperialism still dominates in literature, policy and legislative circles. South African 'customary law' is indeed not 'traditional' per Mamdani's (2020:146) arguments in chapter one. The concept and conception of 'customary law' in South African legislation and policy was created by the statutes of the settler group (Mamdani, 2020:146). The settler groups are the authors and enforcers of 'customary law' (Mamdani, 2020:146). However, contrary to

Mamdani (2020), it was found that 'Baetapele ba Setso' in this case were not and are not collaborators. Rather they are resistors of racism, imperialism and colonialization through 'custom'. Traditional leaders serve as custodians of their inherited cultures and ways of life in Ga-Masemola. 'Di ema' are the set of rules, set of customs, beliefs and religions that comprise the traditional history of BaPedi BaTau. Traditional leaders through, 'Bokgoši' implement the values, norms, customs and protocols of the conservative BaPedi BaTau nation in Ga-Masemola. 'Di ema' are the undocumented, former lifestyle, way of living of the BaPedi BaTau nations or clans (Mr. Councillor, 22 June 2022).

Therefore "'Di ema' practised and instituted through Bokgoši is a holistic system that covers nature, history, leadership, governance and it deals with the everyday. "The BaPedi BaTau customs and 'traditions' attend to the complexities of the everyday, of life and death, leadership and authority and control or rule over oneself. It also includes control and rule of people by people and their ideas, history, politics, family and so much more" (Kgošikgadi Masemola, 19 June2022). But, to understand and interpret 'traditional authority' in this way depends on how you approach studying the system, its institutions and practices. Are you white or black, from within or from outside, liberal or Marxist, or constitutionalist or 'traditionalist', poor or rich, property owner or landless, educated from liberal institutions or learned through indigenous knowledge. This shows that the current legal approach is distorted.

The current legal approach to traditional leadership is a consequence of a lack of understanding of traditional law and politics and the attempts to establish traditional structures within a 'modern' westernised legal context" (Nicholson, 2006:191). Failure to use the appropriate language to refer to the respective and differing systems and institutions highlights this. 'Di ema' are living law "rather than official versions of 'customary law'. In that, the conception, legal structures and political inclusion bear no relation to 'Di ema' and Makgoši as they are instituted and practiced in Ga-Masemola today (Nicholson, 2006:191).

5.3.2 History - "Re-present events, to preserve a certain viewpoint"- (Connerton, 1989:43)
Mafeje argues that culture "distinguishes man from brutes" (Nabudere, 2011:30). In that culture "characterizes human history and simultaneously divides it over time and space" Nabudere, 2011:30). It encompasses complexities since it is subject to mutations and transformations. But culture is changeable and dynamic." Culture is intimate knowledge of the dynamics in a contemporary setting" (Nabudere, 2011:31). Therefore, culture is an important component of language. Language is not only expressive, but is in fact constitutive

of people. Then, no one can understand themselves and others except through their language and culture of which it is a part of. There is no meaning except through a people's language. But Africa and Africans, continue to be victims of intellectual and cultural imperialism.

As Mafeje (1971:257) explained, the 'Ideology of Tribalism's ideological predispositions make it difficult for those labelled 'tribal', i.e., 'traditional' and African to talk of democracy and justice. The modes of thought in mainstream South African discourse make it difficult to associate those deemed 'traditional' as conceiving of and practising democracy. To begin "'tribal language makes it difficult for them to explain similar phenomena elsewhere in the modern world without falling victims to the ethnocentric ideology" mentioned in the introductory chapter. Also, when one talks of democracy, the Eurocentric 'classic' definition of democracy comes to mind. Can't Africans define and practise 'democracy' without their meaning and interpretation being pitted against their western counterpart's definition and conception? Presently, 'tribal' language "over-simplifies, mystifies and obscures the real nature of economic and power relations between African themselves and between Africa and the capitalist world. In the same way as the term 'feudalism' applied in Latin America, camouflages the crucial role played by international finance, capital and imperialism in accentuating and perpetuating the existing social formations in that part of the world" (Mafeje, 1971:261). 'Tribal language' in South Africa persists to conceal the economic and political relations between the modern colonial capitalist state and the 'traditional' and 'rural' land (Nabudere, 2011:19).

Secondly, the modernist school of thought views the "institution of traditional leadership as the basis of rural patriarchy" because of gender inequality (Khunou, 2009:105). However, Chauke (2015) puts forth that "the patrilineal system never precluded women from becoming leaders within the institution". Rather, "the colonial and apartheid definitions and the subjection of women to an inconsequential status in relation to men through patriarchy misled many views" (Chauke, 2015:34-39). In Ga-Masemola men and women have complex interwoven relationships with each other. As such, "the focus has been misdirected to take attention away from the important roles and responsibilities of men and women within the institution" (Makolomakwe and Raniga, 2021:55). Scholars like Makolomakwe and Raniga (2021:54) found that "senior female traditional leaders play a critical role in addressing women abuse in rural communities". The problem is that "western concepts of democracy and human rights superimpose on traditional values systems" (Pieterse, 1999:180).

In Ga-Masemola and other 'traditional settings', male and female are not two autonomous bodies, separate from each other. But rather they are in a complex way intertwined into one in the daily realities of people. The problem of gender or gender inequality is an academic

problem only identified in discourse and academic literature. People do not consider themselves separate from man or women because that is not how they form their understanding of reality. Sesanti (2016) highlights "that African cultural and traditional practices share and maintain power within women and men's respective roles of power". He therefore opposes the above biased views that African culture marginalizes women (Sesanti, 2016). African people, particularly the BaPedi BaTau ba Ga-Masemola do not have gendered roles but have community responsibilities. There can be no man without a woman and they can be no woman without a man. The 'Bokgoši' of Ga-Masemola consist of a 'Kgoši' and a 'Makgoši', who are both considered the ruling power. The King is not more powerful than the Queen and vice versa. There are structures for men and there are structures for women, all equally forming 'Baetapele ba Setso' ba Ga- Masemola who are governed by 'Di ema' tša Bokgoši ba Ga-Masemola as a single political authority.

5.3.3 Social and political membership- Hereditary leadership: Role and function

In various rural communities where Bokgoši operates, the understanding of democracy and 'justice' are not necessarily understood within the realm of the 'Bill of Rights' and the Constitution (1993) and (1996). Democracy in Ga-Masemola is understood to be much broader, inclusive, communal and societal (More, 2021:162). Liberal democratic judicial practices and understandings suppress, cripple and bury local understandings of democracy and justice in Ga-Masemola (More, 2021:162). Ray and Reddy (2003) highlight that "failure has in particular been identified around the inability to fully embrace and restore the lost functions and strengths of traditional leadership that would enable meaningful contribution to development in rural areas". Despite this fact, "'traditional authority' is amenable to the cultures and histories of Africa and its people" (More, 2021:162), specifically the people of Ga-Masemola. "People's understanding of the rapid flow of continuing social events depends less on formal judgmental procedures, but on general knowledge of objects, people, events and their characteristic relationships" (Nisbett and Ross, 1983:28-29). More's (2021:162) position is "that 'Baetapele ba Setso' have the advantage of local knowledge and an understanding of community norms and practices that makes them effective in resolving local conflict". In fact, "local residents define democracy and justice in terms of their lived realities and histories" (More, 2021:162). Hence, 'Di ema' and 'Bokgoši is carrying out this role and function because it has done so since time memorial.

5.3.4 Relationship between people and land

Traditional leaders are custodians of land in broad terms, in that as custodians of culture and customs, they understand how to interact with the seen and unseen worlds. Kelly (2018: xxxvii)

highlights the importance of land as space for physical and spiritual security as well as place that historically sustains groups of people. Land is space and place conveying "complex set of ideas and principles of organization" (Kelly, 2018: xxxvii). This is because "places acquire different meaning for people through accretion of sentiment and informed local identities" (Kelly, 2018: xxxvii). Accretion of sentiment and the formation of local identities "is rooted in the homestead, in which every male, wife and child was assigned a place in relation to each other and the ancestors" (Kelly, 2018: xxxvii). In Ga-Masemola, homestead connects the male, wife and child to 'Baetapele ba Setso', who then connects them to each other and the Badimo. Bokgoši and Badimo "interact with nature which humans depend on and land is one such property of nature" (Nabudere, 2011:34). The value and significance of the land in Ga-Masemola emerges out of the intimacy of these human and spiritual relationships. (Kelly, 2018: xxxvii). "So, land is space which allows for social reproduction and homesteads are created. Land is a place where homesteads reproduce and sustain themselves" (Kelly, 2018: xxxvii). As a result, land is always needed for security purposes, whether in times of peace or war (Kelly, 2018: xxxvii). In short, land in Ga-Masemola is a space and a place that contributes to order. Hence, BaPedi BaTau see places as the burial sites of their Badimo and they do not sell it, but rather lease it in matters of exchange.

5.3.5 Power- To govern- Rural governance

All research participants held the view that local government is a duplication of Bokgoši; hence: "Instead of cooperation there is competition" (Mrs Church Elder, 20 June 2022). 'Baetapele ba Setso' in Ga-Masemola and local government sometimes perform the same functions in terms of governance. This is in line with the reviewed literature, policy and legislation in chapter two. Municipalities cover rural areas, which were previously under the jurisdiction of traditional leaders (Rugege, 2009:171). That is why there is no proper cooperation between 'Baetapele ba Setso' and local government officials in the area.

A finding that surprised the researcher was that the Ga-Masemola community built their own infrastructure during the colonial and apartheid periods which individual community members contributed to; however, post 1994, the government demolished these to build infrastructure owned by Public Works. This reveals that the control and management of rural areas is the issue causing contention. Douglas (2018:5) in chapter one explained that "the characteristics of rural contexts (e.g., landscapes, communities, organizations) are both operable in governance systems as active subjects (e.g., resident groups, land owners) and objects being acted upon by various forces". Mr Councillor (22 June 2022) highlighted that issues of control and management of the areas manifests via land ownership and use. Land ownership is "still

a question where one is not certain on who has ownership between 'Makgoši' and the state" (Mr. Councillor, 22 June 2022). But in Ga-Masemola 'Baetapele ba Setso' and their communities still do "not conceive of land in terms of ownership but in terms of dominum eminens within which use-rights are guaranteed" (Mafeje, 1991:109). Before the 1994 period, dominum eminens was activated through the family units within the communities of Ga-Masemola. These were entrenched, however, depending on demographic pressure and the use to which different types of soil were put (Mafeje, 1991:109). To concur with Mafeje (1991:109) "individual families were units of production as well as of appropriation and held their plots of land in perpetuity as long as they were under use". But this changed with the adoption of the constitution (1993) and (1996). Kelly (2018: xxxvii) reminds us that "new ways of seeing land and polities do not erase the old. "But rather come into existence alongside them, at times overlapping and at other times coming into conflict" (Kelly, 2018: xxxvii).

The Constitution (1993) and (1996) conceptualizes land within the framework of liberal constitutionalism and 'democratic governance. The constitution (1996) provided for the continuation of pre-1994 legislation including legislation issued in the 1993 Interim Constitution. Older orders of racial, ethnic and cultural segregation passed before 1994, like the Native Administration Act (1927) and homeland government's legislation were to continue (Khunou, 2009:106). Furthermore, it protects private property but "excludes lands which were appropriated after the passage of the 1913 Land Act and those dispossessed after the introduction of apartheid in 1948" (Mamdani, 2020:178). The Municipal Demarcation Act (1998), the Municipal Structures Act (1998) and the Municipal Systems Act (2000) are the framework within which 'Baetapele ba Setso' must function and operate. But, within these frameworks 'Baetapele ba Setso' do not have legislative powers to vote and take decisions. Colonialization and apartheid created territorial boundaries and different conceptions of land as property (Kelly, 2018: xxxvii). Is this not a continuation? Control and management of rural contexts clearly represents authority (Lund and Boone, 2013:2). When you control and manage land, you control and manage people and their identity and their reproductive resources (Claassens and Cousins, 2008:1).

In chapter two the Communal Land Rights Act (2004) was detailed and it defined the powers of traditional leaders on land. Specifically, 'security of tenure' for people living in 'traditional communities' and restitution of land to people who were dispossessed after 1913 (Communal Land Rights Act, 2004). 'Legal security of tenure' entitled communities or individuals who were legally insecure as a result of past racial or discriminatory laws or practices to tenure which is 'legally' secure or to comparable redress (Communal Land Rights Act, 2004:10). To which Claassens and Cousins (2008:1) and Meer and Campbell (2007:6) argued, the act was

"unconstitutional because it renders the rights of rural people less secure than present" (Claassens and Cousins, 2008:4) and it gave "traditional leaders substantial and unprecedented powers which may be open to abuse, especially because councils have a majority of unelected and hence unaccountable members" (Meer and Campbell, 2007:6). But "in governance, the dominating policies are the policies of the ruling party and class" (Mr Councillor ,22 June 2022). Therefore, governing parties make decisions and come up with the policies. Their policies are the ones being implemented in government.

Secondly, it is evident that the constitution and its institutions have substantial and unprecedented powers. In that all the documents presented, in chapter two, no traditional leader particularly in this case, was invited to the consultation or processes of these documents. But they concern and affect them and their governance in rural areas. This is a cause of concern. Hence, Mafeje (1991:109) casts doubt on the question of "communal land tenure". Mamdani (2020:178) had already cast doubt on the constitution and its subsequent policies and legislation. The constitution "guarantees protection of private property as a fundamental, however, protection is not for all" (Mamdani, 2020:178). Protection of property rights "excludes those lands which were appropriated after the passage of the 1913 Land Act and those dispossessed after the introduction of apartheid in 1948" (Mamdani, 2020:178). If a statute in the legal code provides for the restoration of lost land to the majority population, why "exclude those lands which were appropriated after the passage of the 1913 Land Act and those dispossessed after the introduction of apartheid in 1948"? When native and settler property rights are in conflict, why does extraconstitutional law, usually lose out to constitutional protections? Moreover, municipalities clearly lack "openness, transparency and accountability" because they fail to "consult and negotiate with communities" including 'Baetapele ba Setso' (Madumo, 2015:156). 'Baetapele ba Setso' are reduced to advisors at the very most in local municipalities and this constitutes a fundamental limit (Sithole and Mathonsi, 2017:39) to their contribution to rural governance. If the primary role and function of local government is to assist in service delivery so that people, citizens can be developed, uniformly so. How will this happen given the current conceptualization of power and authority? Mr Councillor (22 June 2022) highlighted that in rural governance, 'Baetapele ba Setso' and municipalities should not be thought of as two independent institutions but rather all of them should operate in line with the community needs. These institutions are also there "to promote natural justice by making sure that both administrative elements are respected and recognised" (Mr Councillor, 22 June 2022). Their contribution should equally be accepted. But there needs to be new developments for understanding and analysing the dynamic changes happening in rural areas (Nabudere, 2011:78). It is worth exploring why "Africans continue to uphold inheritance practices of affiliation and allegiance to shape relationships with their

leaders and to make decisions in moments of change" (Kelly, 2018: xiii). Furthermore, understanding how everyday Africans grant 'Baetapele ba Setso' legitimacy is critical to better understanding how colonialism and apartheid operated in the everyday lives of rural Africans (Kelly, 2018: xiii).

5.3.6 Power- To develop- Rural development

Mafeje (1991:109) reminds us of the fact that "Orient production increased and great technological innovations occurred over a very long time, without the development of individual property rights and communal land rights. The same is true of the great, pre-Columbian empires of Latin America" (Mafeje, 1991:109). So, are these legal instruments used "against the development of material forces in Africa?" (Mafeje, 1991:109). This is asked because "the various policies, legislation and programs are "conceived and managed centrally and promoted and implemented at the national and provincial levels" (Perret,2004:1), without 'Baetapele ba Setso'. But, 'Baetapele ba Setso' are considered to be the sacred embodiment of the customs and traditions that strengthen their communities and contribute to the daily struggles of survival for individuals, families and people in general. Kgošikgadi Masemola plays an active role in sustaining and enhancing the moral fabric of the nation and as an agent of development in the community. No decision taken at the level of central, provincial and municipal affecting the people, can be implemented or maintained without the active involvement of 'Baetapele ba Setso' in the area. Therefore, 'Baetapele ba Setso' play an important role in development, administration and politics. They are the closest authority to people (Dlungwana, 2002:3). As a symbol and representative of the BaPedi BaTau's collective identity, how can Baetapele ba Setso' contribute to the conceptualization of rural development in ways that preserve the group's heritage and transmission, but also creates a better future for their communities given their current 'ex officio' status? Despite this uncertainty, this research has great faith in ordinary people to provide for themselves with collaboration with 'Baetapele ba Setso', despite Eurocentric and capitalist infiltration.

5.4. Some conclusions

The personal is the political

'Bokgoši' and 'Baetapele ba Setso' are social systems and leaders who regulate and maintain relationships and social behaviour within communities.

"Traditional leaders are the living memory of their communities, their oral poets, their historians. They are counsellors of the political and religious leaders, the mouthpiece of the commoners, the link in the unbroken chain between the living and the dead. Through the practice of institutions, such as 'diKomma', members of Ga-Masemola foster in each other a

sense of pride, of belonging, of togetherness and they instil in each other the desire to continue to build on their common heritage" (Owusu-Sarpong, 2003:36-37). Hence, Mr Councillor (22 June 2022), as a municipal official emphasized that 'Di ema' tša Makgoši have value in enhancing governance and setting up the behavioural patterns of the inhabitants. "Decentralizing governance enables people to participate more directly in governance processes and can empower people previously excluded from decision making. Allowing local communities to manage and develop their own affairs and needs can make "development more sustainable through genuine ownership" (Sikander, 2015:174). Therefore, democracy should mean representation, but not limited to election or appointment. This way it also includes rural populations represented outside of democratic constitutionalism.

'Di ema' build on the strong histories which emanates from the people of Ga-Masemola's epistemologies and indigenous oral knowledge. This qualitative case study research approach with an interpretive design reconstructed the meanings and interpretations of the 'Bokgoši ba Ga-Masemola. The exploration into the role and function of 'Bokgoši and 'Baetapele ba Setso' in the liberal democratic period, particularly in Ga-Masemola revealed that municipal boundaries and demarcation are simulated challenges meant to marginalize, undermine and distort 'Bokgoši and 'Baetapele ba Setso'. "Development whether social, political or economic becomes meaningful and real only when it stems from the lowest societies level, the so- called grass- roots level". (Sikander,2015:171). It is important to ask, "which people, at what level and by which processes are entitled to decide who may occupy and use land for what purposes and whether the said land may be transacted or not" (Claassens, 2008:289). This is important because in this community "production and appropriation of 'value' are organized on a broader basis than individual, households and families" (Nabudere, 2011:270).

5.5 Conclusion

'Di ema' tša Bokgoši BaPedi BaTau ba Ga-Masemola denote both culture and production relations. "Language is symbolic, expressive as well as instrumental at the level of cognition and conceptualization in the development of science" (Mafeje, 1996A:60). Exploring 'Bokgoši' reveals that production and appropriation of value are organized on broader terms than 'individual', 'household' or families. Thinking in this way, posits Mafeje (1996) transforms "capitalist production, into some kind of cooperative organization" because of the specific form of social, economic and political social organization" in this context. The "challenge then is to make sense of the ways in which the forces of tradition and those of liberal democracy are confronting one another at the present moment, how in ongoing often strident struggles, both are being transformed- altering the shape and substance of postcolonial politics of citizenship and democracy" (Comaroff and Comaroff, 2003:458). Also exploring the relationship between

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the state and 'Baetapele ba Setso' in rural governance and rural development led the researcher to question "the ways in which disparate but interdependent social and economic agencies are coordinated to achieve specific goals and objectives" (Goodwin, 1998:8). By exploring this co-ordination, the researcher raises issues concerning the distribution of political power both internal and external to the state". This exposed the noticeable gap in the literature on contemporary "studies concerning the ways in which rural areas are governed" (Goodwin, 1998:5). Rural areas are affected by new ways of governing" (Goodwin, 1998:6) which are not yet fully explored. "At the local level the institutional map of rural local government has been transformed into a system of governance which involves a range of agencies and institutions drawn from the public, private and voluntary sectors" (Goodwin, 1998:6) beyond just the 'state'.

6. CHAPTER SIX: CONCLUSION

6.1 Introduction

This concluding chapter presents the summary of the study and conclusions drawn from the literature presented in chapter two and data presented and interpreted in chapter five. Finally, implications for action and recommendations for further research are listed.

6.2 Summary of the study

This study is a qualitative case study of the institution of Bokgoši in the context of South African historical developments and in the present-day understandings of members of the Ga-Masemola community in Limpopo. The study is inspired by fundamental questions regarding Bokgoši in South Africa. It includes a systemic study of the histories of these institutions at the national level as well as existing debates regarding their nature and their significance in the present-day. The study reviews the contemporary function of traditional authority under a constitutional democratic dispensation, with reference to a) the historical background – structured according to consecutive stage, of the pre-colonial, apartheid, and post-apartheid periods, b) the relevant policy and legislation, c) an overview of the political structures of leadership and governance, with consideration of their relationship with the South African state and d) a qualitative empirical study conducted in Ga-Masemola, by means of in-depth interviews with traditional leaders and members of the community who hold expert knowledge of the functions of traditional authority in this community.

6.3 Overview of the problem

'Traditional authority' and the 'institution of traditional leadership' have a contentious relationship with the South African state. Having been formed through colonial-apartheid institutions such as the Department of Native Affairs, in the post-1994 period, 'traditional authority' is read as being co-opted into democratic government structures. So, between its historical emergence as an institution within colonial-apartheid structures and its post-apartheid integration into forms of 'democratic' governance, how do we interpret the political meanings of 'traditional authority' and the 'institution of traditional leadership'? How do we interpret the self-understandings of figures of traditional leadership in order to further our interpretation of the meanings of 'traditional authority' in the post-apartheid democratic period? With the aim of answering these questions, this project explored academic discourse, legislation and policies shaping the 'role' and 'function' of the 'institution of traditional leadership' in the post-1994 period. Also, the self-descriptions from traditional leaders and community members. In short, this project explored the politics and location of traditional authority in the democratic dispensation.

6.4 Purpose statement and research question(s)

This study critiques Eurocentric social scientific conceptualisations of traditional authority, with reference to alternative African epistemic consideration of its functions that offer a better understanding of their value and legitimacy. Traditional leaders are the local embodiment of people and where they come from (Ray, 2003:127). This is because "every region of South Africa has a distinctly different history" (Ray, 2003:127). Hence, traditional authorities differ from one province to the next. The study also critiques state interference in institutions of traditional authority, which because of the imposed illegitimate functions in the colonial and apartheid period and after the apartheid period. In the same breath traditional authority was part of the native administration and under the Department of Native Affairs, however, set aside from local governance. This historical relationship has shaped and influenced the 'institution of traditional leadership'. Although all fluidity and transformation of traditional authority cannot solely be caused by the colonial and apartheid experience, it is undeniable that colonialism and apartheid contributed to the formation and structures of 'traditional authority'.This led the researcher to ask questions regarding the true nature and position of 'traditional authority'. Despite, legislation and 'political accommodation' for the institution, the nature, role and function of traditional leaders remain vague.

6.4.1 Research question

The research question was inspired by how academic discourse, particularly South African mainstream literature theorizes about African indigenous systems and institutions as particularly backward, patriarchal and underdeveloped. This research study moved away from prescriptions and went on to find out what 'traditional authority' is and what it is doing in 2022 considering its historical roles and functions of being both resistors and collaborators of indirect rule. What are the roles and functions of traditional authority in Ga- Masemola? – So, how do we make sense of traditional authority as it functions within a local community today between a) its history of being shaped and formed by colonial and apartheid strategies in particular ways and for particular purposes and b) its post-1994 inclusion into the ambit of the 'political' through forms of constitutionalism and democratic governance. But, also as a vehicle for forms of local resistance to the state?

This was followed by the sub-questions of:

- What is the basis of functioning of traditional authority in Ga-Masemola?
- How do we make sense of varied understandings of the roles of traditional leaders as given by the state, traditional leaders and the various actors within the community of Ga-Masemola who have a stake in its functioning?
- What are the ways in which traditional authority endures in the democratic context of Ga- Masemola?

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- What are the ways in which it provides a vehicle for incorporation by local government?

6.4.2 Research aim and objective(s)

The study aim was to explore the contribution that traditional authority can make to rural governance and rural development.

6.4.3 The research objectives of this study were:

- To explore the roles and functions of traditional authority concerning local government and in rural governance and rural development with specific reference to Ga-Masemola in Limpopo.
- To explore the varying interpretation of traditional authority among different actors in Ga- Masemola.
- To explore the relationship between the state and traditional leaders in discourse about rural governance and rural development.

6.5 Review of methodology

A qualitative research design was adopted to conduct this study. Qualitative research is a way of exploring and understanding the ways in which individuals or groups of individuals come to give meaning to social or human phenomena, in this case 'traditional authority' (Creswell, 2014;4). This research was concerned with trying to understand and interpret 'traditional authority' in the rural village of Ga-Masemola which is a majority BaPedi community which has its own historical, political and social meanings and interpretation of traditional authority. Therefore, a case study research design was adopted for this qualitative study. The focus was on exploring and understanding traditional authority in the democratic dispensation as it functions in rural areas in the context of South Africa, Limpopo. It is a case study because Ga-Masemola is a majority BaPedi community which enables the researcher to trace out the cultural history of the community and its relationship with 'customary law' and 'traditional authority' in a rural setting. Secondly, within the homogeneity of Ga-Masemola, lies diverse in-depth information about Bokgoši ba Ga-Masemola.

Through a series of ten individual in-depth interviews with various actors in the field of Ga-Masemola in Limpopo, the project considered the various and varying discourses through which traditional authority is understood, undermined, authorized and legitimized. An interpretive approach was adopted where community members of Ga-Masemola gave their meaning and everyday understanding of traditional authority, its role and basis in the

community. This research aimed to explore and understand what traditional authority is, and what it is doing in Ga- Masemola. This was done with the aim of exploring the institution's contribution to rural governance and rural development. The process of research included data collection through the use of interview schedules, "data analysis and representing the material found to audiences" (Cresswell,2007:24). During the research process, the researcher did not further marginalize the participants but respected the participants, the village and protocols. The presentation of this research and its use are in good faith (Cresswell.2007:24).

6.5.1 Data collection method

Primary and secondary methods of data collection were used. Primary data was collected first-hand by the researcher, through semi-structured, open-ended interviews. The semi-structured interviews were conducted using interview schedules; however, the individual schedules are not explained in chapter three because during the interviews the researcher varied the order of the questions according to the natural flow of the conversation. The key themes of the interviews were formulated as key questions, but due to the flexibility of this technique, new questions were brought up during interviews as a result of what the interviewees said. As a result, topics that were not included in the interview schedules were explored. Secondary data included South African legislation and policies, previous research material, articles, journals and books. The review in chapter two answered the research question(s) and met the study aim and objectives.

6.5.2 Sample selection

Purposive sampling was used in two ways to select the research participants. Firstly, for the research participants from state institutions, these officials were chosen on the specific office which works with traditional leaders directly at the local, provincial and national levels. And based on the contributions they have made to the sector via policy formulation. They spoke on an official level and not in their personal capacities. The second set of participants were members of the Ga-Masemola traditional community. Membership in the community was the first criteria. Also, participants had to physically live in the community.

6.5.3 Data analysis

Interpretivist approaches are based on the assumption that there is not one reality but multiple (Maree, 2007:37), hence an inductive data analysis process was adopted. This is because the researcher carried out the research at the research place where the site and its people were under exploration. The members of the site were interviewed to get the best possible

understanding of traditional authority in Ga-Masemola. The key informants and participants had good comprehension of the English language, which ensured as possible that research questions kept the same meaning if asked in sePedi.Then a thematic analysis was used to analyse the data from the individual face-to-face interviews. According to Kumar (2011:248), a thematic analysis is when interview data is analysed in a way of identifying main themes that have emerged from the responses of the participants as a strategy to simplify and manage the data. The researcher; (i) identified the main themes (ii)assigned codes (highlighting) to the main themes (iii)classified responses under the main themes and (iv) integrated the themes and responses into the write-up (Kumar, 2011:248).

The researcher did not enlist the services of an interpreter during the research fieldwork and for data transcribing, which is generally a hurdle in conducting fieldwork and thereafter analysing the research. But translation is a hurdle precisely because words translated into another language tend to change or lose meaning. The researcher, with the help of the key informants and research participants discussed the meaning of the questions to ensure as far as possible that the research questions whether asked in sePedi or English, do not lose their intended meaning. However, after the data transcribing process and analysis, the researcher acknowledges that backward and forward transcription would have enhanced the study. For the researcher's PhD thesis, the researcher will enlist the services of a professional language translator to enhance the study outcome. Due to time and financial constraints, the researcher did not do that for this dissertation.

But for the PhD the researcher will design questions in English and translate them into sePedi and then take the sePedi questions and translate them back to English to ensure the meaning is not lost. The translator will be enlisted for the interview schedules and the data transcribing and analysis processes. This will enhance the data transcribing and analysis processes and may open up other ideas or factors currently not explored in this study.

6.5.4 Limitations of the study

The study was confined to one province and was limited to the time spent on the field gathering data. The study did not conduct forward and backward transcription of the data.

6.6 Major findings

- The control and management of rural land is a major issue of contention
- In Ga-Masemola 'Baetapele ba Setso' do not sell land, but rather lease it in matters of exchange

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- Constitution (1993) and (1996) allows the continuation of pre-1994 legislation including older orders of racial, ethnic and cultural segregation passed before 1994, like the Native Administration Act (1927) and homeland government's legislation

- Democracy is also practised and represented outside of democratic constitutionalism specifically in rural settings

- Language is symbolic, expressive and instrumental at the level of cognition and conceptualization; therefore, one cannot understand people, without understanding their language.

6.7 Findings related to the literature

Chapter two reviewed academic discourse, policy and legislation. It presented how eurocentrism dehumanizes and devalues the epistemologies and worldviews of Africans through discourse. It demonstrates that it is about the control of knowledge about traditional authority and institutions and those deemed 'traditional'. Africa, especially South Africa, is indeed the "battleground for the production of knowledge about Africa and the rest of the world" (Nabudere, 2011:1). Nabudere (2011:83) observed that in discourse, "at the level of methods and techniques there are no essential differences with scholars". But, "it is at the level of interpretation that significant divergences emerge within the same discipline, hence the existence of different schools of thought" (Nabudere, 2011:83). Thus, language matters at the level of interpretation. Indigenous languages must be brought to the centre of knowledge creation because languages are at the centre of exploring and understanding people. It was evident through the review of policy and legislation that the "policy making process continues to have powerful entrenched policymaking clusters; the continuation of colonial and apartheid modes of governance, and the lack of participatory democracy within 'traditional' communities" (Chilenga, 2017:89). The point of using Archie Mafeje's 'Ideology of Tribalism' (1971) was to unmask this. His work and that of others plays a political role in that they try to change the perception of 'the other' (Nabudere, 2011:2) and expose the status quo. It is evident that imperialist powers are still determined to gain control over Africa and her natural resources. But what is significant is the resistance happening at the grassroots level which is underexplored. This resistance exposes "a struggle for political power and control over the human minds and land they tried to colonize" but failed (Nabudere, 2011:1).

6.8 Implication for action

Reflecting on how this study was conducted, the researcher also maintains that Africans need to create their own epistemologies that emanate from indigenous cultures and languages.

People are not 'traditional communities'; rather they are asserting themselves against the tendency to be invisible. Hence, researchers need to place themselves within "people and their culture in order to" (Nabudere, 2011:2) 'think', 'write' and 'analyse' issues for them like them. Thus, this work has the transformational potential of representing the BaPedi BaTau's struggle for political inclusion of their identity, self- control and self-emancipation (Nabudere, 2011:2).

6.9 Concluding remarks

The indigenous BaPedi BaTau have a history which details Bokgoši, its institutions and processes. But they can "only be understood in terms of local dialectical social relations and interactions" (Nabudere, 2011:2). Hence, the researcher went to great lengths to cover relevant legislation, to cover the history of the Ga-Masemola community and to gain valuable findings from key participants to which she had access to. The contribution of this study was to explore contemporary understandings of Bokgoši as expressed by selected members of Ga-Masemola in Limpopo and further already known knowledge on this subject in the public domain. This research located knowledge at the "community sites of knowledge, where the knowledge is produced, and disseminated jointly" (Nabudere, 2011:2). Studying other cultures as a means towards understanding them has the effect of making one appreciate "the differences in human knowledge as a whole" (Nabudere, 2011:83).

6.10 Recommendations for further research

- More research on the actors and processes underway in South Africa's rural setting and how they relate to capitalism

- National government to give more budget and resources to 'Baetapele ba Setso' to do their current 'role and function' in rural governance and rural development

- More research should be conducted in rural areas regarding the condition of rurality because not much is known about the various and differing rural environments and conditions of rural areas, the people and the factors that affect, effect and dictate rurality.

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Appendices

Appendix A

Faculty of Humanities
Fakulteit Geesteswetenskappe
Lefapha la Bomotho

UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

24 March 2022

Dear Miss MF More

Project Title:	☐ Locating traditional authority in Post-Apartheid South Africa: A case study of Bogoshi ba Ga-Masemola
Researcher:	Miss MF More
Supervisor(s):	Mrs S Goga
Department:	Political Sciences
Reference number:	14295459 (HUM046/1121)
Degree:	Masters

I have pleasure in informing you that the above application was **approved** by the Research Ethics Committee on 24 March 2022. Data collection may therefore commence.

Please note that this approval is based on the assumption that the research will be carried out along the lines laid out in the proposal. Should the actual research depart significantly from the proposed research, it will be necessary to apply for a new research approval and ethical clearance.

We wish you success with the project.

Sincerely,

Prof Karen Harris
Chair: Research Ethics Committee
Faculty of Humanities
UNIVERSITY OF PRETORIA
e-mail: tracey.andrew@up.ac.za

Research Ethics Committee Members: Prof KL Harris (Chair); Mr A Bloos; Dr A-M de Beer; Dr A dos Santos; Dr P Guture; Ms KT Govinder Andrew; Dr C Johnson; Dr D Krige; Prof D Maree; Mr A Mohamed; Dr I Noomé; Dr J Okeke; Dr C Puttergill; Prof D Reyburn; Prof M Soer; Prof E Taljard; Ms D Mokalapa

Room 7-27, Humanities Building, University of Pretoria, Private Bag X20, Hatfield 0028, South Africa
Tel +27 (0)12 420 4055 | Fax +27 (0)12 420 4565 | Email postgraduate-humanities@up.ac.za | www.up.ac.za/faculty-of-humanities

Appendix B

Masemola Traditional Council

Stand no: 1 Pahiring
P O Box 510
Masemola
1060

Phone: 083 604 8371/072 514 6734
Fax: 086 5188681
E-mail: masemolatc@webmail.co.za

Ref : CH 11/8/4-89
Date : 08/02/2022
Enq : Maphutha M.T
        072 4123 525
        maphuthamtg@gmail.com

To: Ms Goga and the Ethics Committee

REQUEST FOR PERMISSION TO CONDUCT FIELDWORK RESEARCH AT ga-MASEMOLA COMMUINITY ON LOCATING TRADITIONAL AUTHORITY IN THE POST-COLONY: BOGOSHI BJWA ga-MASEMOLA

Your letter regarding the above matter refers:

In the said letter, Ms Madikgomo More (with student U14295459) requested permission to conduct the above mentioned research in the community of ga-Masemola and to conduct interviews with Kgoshigadi Makgatle Masemola and community members of ga-Masemola.
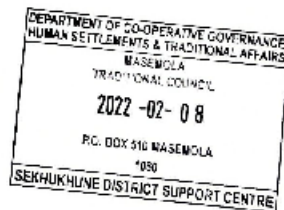
We, the Traditional Leadership Council hereby inform you permission is granted to access our Traditional Leader and categorized as per the brief in your letter. However, please note that participation in the study will be on voluntary basis.

We trust that Ms More will approach Kgoshigadi Masemola and the Community at large with respect and dignity.

We wish Ms More all the best in her study.

Kind regards

Kgoshigadi M.L Masemola

DEPARTMENT OF CO-OPERATIVE GOVERNANCE,
HUMAN SETTLEMENTS & TRADITIONAL AFFAIRS
MASEMOLA
TRADITIONAL COUNCIL

2022 -02- 0 8

P.O. BOX 510 MASEMOLA
1050
SEKHUKHUNE DISTRICT SUPPORT CENTRE

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Appendix C

traditional affairs
Department:
Traditional Affairs
REPUBLIC OF SOUTH AFRICA

Private Bag X804, Pretoria. 0001   Tel: (012) 334 0600, Fax. (012) 334 0603
509 Pretorius Street, Arcadia, Pretoria

Ms Safiyya Goga
University of Pretoria
Pretoria
0002

Dear Ms Goga

**REQUEST FOR PERMISSION TO CONDUCT RESEARCH AT THE DEPARTMENT OF
TRADITIONAL AFFAIRS ON LOCATING TRADITIONAL AUTHORITY IN THE POST-COLONY:
BOGOSHI BA GA-MASEMOLA.**

Your letter regarding the above matter refers.

In the said letter, you requested permission for Ms More to conduct the abovementioned research
in the Department of Traditional Affairs and in this regard, conduct interviews with Mr Sithole and
Mr Khandlhela from NHTKL.

You are hereby informed that permission is granted to access officials of the Department
categorized as per the brief in your letter. However, please note that the said officials shall
participate in the study on a voluntary basis.

I advise that Ms More contact my Office for the attention of Mr Jacob Mashishi at 012-334 4802 or
at 060 610 4254 or email address JacobM@cogta.gov.za, who will assist her with the contacts of
the respondents categorized in your brief. I wish Ms More all the best in your study.

Kind regards

MR MASHWAHLE DIPHOFA
DIRECTOR-GENERAL
DATE: 02/02/2022

Appendix D

Faculty of Humanities
Fakulteit Geesteswetenskappe
Lefapha la Bomotho

Department of Political Sciences

Humanities 100.
— Since 1919 —

Department of Political Sciences
University of Pretoria
Pretoria 0002
012 420 2034 (office)

Dear Sir or Madam *(Head of organisation's Personal Details)*

RE: Letter Requesting Permission

My name is Madikgomo More and I am a Master's student at the University of Pretoria pursuing a degree in Political Science. I am conducting research on the everyday roles and functions of traditional authority in Ga-Masemola, Limpopo.The title of the research is 'Locating traditional authority in post-apartheid South Africa: A case study of Bogoshi ba Ga-Masemola'.

A participant from your organisation has been selected to be interviewed as part of the study. This is because your organisation/department/district/local municipality is known to be directly involved with traditional leaders. I am therefore requesting permission to go ahead with interviewing Mr/Ms............in their official capacity. (*Of course here one may include other aspects requiring permission ie access to organisation documents and archives*).

My study seeks to understand the everyday roles and functions of traditional authorities better, given their historical role as both collaborators with and resisters to colonialism and apartheid. This is done to understand better where they can contribute in rural and local governance and development. The study is purely for academic purposes and all information collected from interviews will be stored on my personal laptop, which only I have access to, and which is password-protected. The data will also be safely stored in the *Department of Political Science* for a period of fifteen years, in accordance with the University of Pretoria's policy. During that time, only I and my supervisor will have access to the data, which may be used for further analysis. The data will be used for the purposes of completing the dissertation and related articles or presentations.

Should permission be granted for the interview, kindly note that the participant will be asked questions about the above-mentioned topic. The interview time, and date will be chosen by the interviewee at their convenience and schedule. Due to the Coronavirus (COVID) 19 pandemic and Disaster Management Act with its Alert Level 1 Lockdown, this study will comply with all COVID protocols including social distancing, wearing of mask at all times and hand sanitation. For all safety consideration of the researcher and the research participants, all preventive measures will be ensured. The interview will approximately take one hour.

During the interview process a voice recorder will be used and notes will be taken. The interview is voluntary and is based on informed consent. Therefore the interviewee may

Appendix E

Faculty of Humanities
Fakulteit Geesteswetenskappe
Lefapha la Bomotho

Department of Political Sciences

HumanITIES 100.
—— Since 1919 ——

Department of Political Sciences
University of Pretoria
Pretoria 0002
012 420 2034 (office)

INTERVIEW: INDIVIDUAL INFORMED CONSENT

U14295459
Madikgomo More
Master of Arts (Political Science)
Title: Locating Traditional Authority in the Post Colony: A case study of Bogoshi ba Ga-Masemola

I, the undersigned,
TITLE:
INITIALS AND SURNAME:
INSTITUTION / COMPANY/INTEREST GROUP:
POSITION / APPOINTMENT:
ADDRESS:

have been fully informed about the purpose of the research and understand the conditions of informed consent under which I shall be interviewed. I hereby grant permission for the interview on condition that:

* Delete what is not applicable

the interview *may / may not be *electronically recorded / documented in an electronic format / documented in a written form for research purposes

*my name and affiliation to _____ may be used and cited for the purposes of *the thesis only/the thesis and related articles.

*if the researcher wishes to pursue publication at a later date, my name and affiliation to _____ *may be cited / may be cited only with prior informed consent

*my name may not be used or cited, or my identity otherwise disclosed, in this research project, thesis or related articles, but that the interview can be used or cited on a basis of anonymity

*the interview may not be used or cited, or my identity otherwise disclosed, in this research project, thesis or related articles

Interviewee signature: ------------------------------------- Date:---------------- Place: --------------------

Researcher signature: ------------------------------------- Date:---------------- Place: --------------------

Room 21-14, Humanities Building
University of Pretoria, Private Bag X20
Hatfield 0028, South Africa
Tel +27 (0)12 420 2034 | Fax +27 (0)12 420 4921
Email victoria.graham@up.ac.za | www.up.ac.za/faculty-of-humanities

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Appendix F

Faculty of Humanities
Fakulteit Geesteswetenskappe
Lefapha la Bomotho

Department of Political Sciences

Humanities 100.
—— Since 1919 ——

Department of Political Sciences
University of Pretoria
Pretoria 0002
012 420 2034 (office)

(Interviewee particulars)

Dear ...

INTERVIEW: INDIVIDUAL INFORMED CONSENT

1. **I, Madikgomo More am a registered postgraduate student for the Master by Arts degree in the Department of Political Sciences, University of Pretoria. I am conducting research on *traditional authority in Ga-Masemola* under the supervision of Ms Safiyya Goga.**

2. The purpose of the study is academic (in fulfillment of degree requirements) and is aimed at exploring the everyday roles and functions of traditional leaders.

3. This interview is unstructured and explores themes pertaining to this research. The purpose of the interview is to obtain some perspectives, explanations and experiences on traditional authority from experts in the field. The interview will approxately take one hour.

4. With the permission of the interviewee, the inputs of this interview will be utilised for purposes of writing and documenting the research thesis and related articles.

5. The interviewee may choose whether to remain anonymous or not, and whether note taking, recording or both, would be preferred as a means for capturing the interview.

6. If requested in advance and to ensure that the account of views expressed as an expert in the field is correct, the interviewee will be given insight into all references attributable to him/her and the interview in the mini-dissertation/dissertation/thesis prior to its examination and publication.

7. There will be no risks or discomforts (physical or mentally) to the interviewee.

8. The interviewee may – by notifying the researcher and without any consequences – withdraw and terminate his/her participation prior to, during or after the interview. Should the interviewee withdraw, records of the interview will not be used for research purposes and will be destroyed.

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Department of Political Sciences

University of Pretoria

Pretoria 0002

012 420 2034 (office)

Student name and surname: Madikgomo More

Student Number: U14295459

Degree: Master of Arts (Political Science)

Research title: Locating Traditional Authority in the Post-Apartheid: A case study of Bogoshi ba Ga-Masemola

INTERVIEW SCHEDULE

The broad research themes and questions to be explored in the interviews are listed below. This is not an exhaustive list of questions since new issues and questions may arise during the interview, due to the nature of unstructured interviews.

Schedule 1: Interview questions for traditional leaders

What is traditional authority?

What is the basis of traditional authority?

What roles and functions do traditional leaders perform in the community? Why?

How to you perform these functions?

What roles does the state require you to perform?

What is your relationship to the state? Has is always been like this?

What roles does your community require you to perform?

What does traditional authority represent? Who does it represent?

Do people come to meet you? What do they come to meet you for?

How is your current relationship with the Makhuduthamaga municipality?

How many traditional leaders attend and participate in the council meetings?

Are traditional leaders given opportunity in the council meetings to make decisions on matters directly affecting their areas?

What is your role in local and rural governance?

Is there a working cooperative governance between traditional leaders and municipal workers? Please explain.

Is traditional authority in your view adequately represented at the local government level?

How would you measure your current performance in local and rural government?

Is the community under your leadership been able to receive service delivery and development ? Why is that?

What is your relationship to the Limpopo Traditional House as a traditional leader?

How do you communicate in your official capacity to the House? Are there any formalities?

What is your relationship to the National House as a traditional leader? How do you communicate in your official capacity to the House?

Is traditional authority still necessary today? Why?

How has your approach to dealing with requests for intervention changed over time?

Today, how would describe the changes seen taking place in traditional institutions and structures since 1994?

What should one know about traditional leaders today, that is not popularly known in academic discourse?

Is there anything you would like to add?

Schedule 2: Interview questions for Government Officials

Are you familiar with the term traditional authority?

What is your understanding of cooperative governance?

What underpins the relationship between this office and traditional leaders?

Do you believe that traditional authorities should be represented in the Council? And why?

How many traditional authorities attend and participate in the council meetings?

Are traditional leaders given opportunity in the council meetings to make decisions on matters directly affecting their areas?

How different is the Makhuduthamaga Local Municipality now that traditional leaders are incorporated into municipalities?

What mechanisms are there for capacity building of traditional leaders?

What are the problems that you are experiencing when working with traditional authorities?

What are your perceptions about the process of incorporating traditional authorities into municipalities?

Is there a cooperative governance between this office and traditional leaders?

Who is responsible for community development in this area?

How are communication channels between the council and traditional authorities?

Is there anything you would like to add?

Schedule 3: Interview questions for community members of Ga-Masemola?

In your opinion what is traditional authority?

What characterises traditional authority and traditional leaders in Ga-Masemola?

Is it effective in governing the village?

How do you perceive the relationship between traditional leaders and councillors?

What problems do you encounter when working with traditional leaders?

What problems do you encounter when working with councillors?

From your experience, is the partnership between traditional leaders and municipal officials effective? Why do you say so?

According to you, how can traditional leadership play a more significant role in the community?

What are the factors that have hindered the effective cooperation between traditional leaders in this area?

From your experience, to what extent does traditional authority play a role service delivery and development in the village?

In your opinion, has the South African government managed to efficiently integrate the traditional leadership institution in rural and local governance structures?

How can a more meaningful and dynamic relationship be created between traditional leadership and the relevant role players in local and rural governance?

In your opinion, what does the practice of traditional customs give rise to in the community?

How would you describe the relationship between traditional leaders and other leaders in the community? (Religious, educators, etc)

Is there anything you would like to add?

Schedule 4: Interview questions for experts in the subject of Traditional Authority in South Africa

What defines the place and role of traditional authority in the system of democratic governance according to the White Paper?

What is your interpretation of customary law being subject to the constitution?

How different is local government now that traditional authorities have been incorporated into municipalities?

In your opinion, has the South African government managed to efficiently integrate the traditional leadership institution in rural and local governance structures?

How can a more meaningful and dynamic relationship be created between traditional leadership and the relevant role players in local and rural governance?

What mechanisms are there for capacity building of traditional authorities?

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How did the process informing the national audit of traditional authority look like?

Subsequent to the issuing of the White Paper, have the objectives been fulfilled or at least progressed in the attainment of these objective?

What background is there on the drafting/ planning/ input/ process/ players/ implementation of the White Paper?

How were traditional leaders expected to contribute to the reconstruction and development of rural areas according to the White Paper?

Is there anything you would like to add?