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**THE ROLES, FUNCTIONS AND POWERS OF TRADITIONAL LEADERS IN
COOPERATIVE GOVERNANCE IN THE VEMBE DISTRICT MUNICIPALITY, IN
THE LIMPOPO PROVINCE, POST 1994.**

by

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DECLARATION

I know and understand what plagiarism is and the University's policy on plagiarism.

I Susan Pikirayi declare that this dissertation is my own work, and where the work of other scholars has been used, I have cited and referenced accordingly. I also declare that this work has not been submitted for any other degree or qualification at any other institution.

The referencing style used for this study is: Harvard referencing.

DEDICATION

This is dedicated to the “survivor” woman warrior, “ when weak she is strong”. Glory to God in the highest.

Table of Contents

DECLARATION	ii
DEDICATION	iii
ABSTRACT	1
ACKNOWLEDGEMENT	2
Chapter 1: Introduction to Traditional Leadership and Governance in South Africa	3
1.1 Introduction	3
1.2 Research statement or problem	4
1.3 Research questions	6
1.4 Aims and Objectives	7
1.5 Literature Review	7
1.7 Conceptual framework	12
1.7.1 Traditional leadership	13
1.7.2 Governance	13
1.7.3 Cooperative governance	16
1.8 White Paper on Traditional Leadership and Governance (2003) and Act No. 3 of 2019: Traditional and Khoi-san Leadership Act (2019)	16
1.9 Methodology	17
1.9.1 Research design and paradigm	17
1.9.2 Case study approach and unit of analysis	18
1.9.3 Data collection	19
1.9.4 Data Analysis	20
1.9.5 Ethical considerations	21
1.10 Organisation of the study	22
Chapter 2: Literature Review	23
2.1 Introduction	23
2.2 Traditional Leadership	23
2.3 The return to traditional leadership, Mixed Modernity	24

2.4 The relevance of traditional leaders.....	27
2.5 Critique of traditional leaders.....	30
2.6 Examples from the African continent.....	33
2.7 Conclusion	37
Chapter 3: Conceptual Framework	39
3.1 Introduction.....	39
3.2 Governance and cooperative governance.....	39
3.3 Operationalisation of concepts	41
3.4 Framing local government	44
3.5 Legislation on traditional leadership.....	47
3.5.1 The Constitution of the Republic of South Africa of 1996 (Act 108 of 1996).....	47
3.5.2 The National House of Traditional Leaders Act of 1997 (Act 10 of 1997).....	49
3.5.3 White Paper on Traditional Leadership and Governance of 2003	49
3.5.4 The Traditional Leadership and Governance Framework Act 41 of 2003.....	51
3.6 Conclusion	51
Chapter 4: Methodology	53
4.1 Introduction.....	53
4.2 Research design and paradigm	53
4.3 Case study approach and unit of analysis	55
4.4 The research area.....	56
4.5 Approaches to data collection.....	57
4.5.1 Interviews with traditional leaders	57
4.5.2 Focus groups with local government officials.....	59
4.5.3 Observation.....	60
4.5.4 Sampling.....	61
4.5.5 Informal interactions	62
4.5.6 Personal experience.....	63
4.6 Data analysis	65
4.7 Ethical considerations.....	67
4.8 Reliability and validity	69
4.9 Conclusion	70

Chapter 5: Presentation of Data: Governance and Cooperative Governance	71
5.1 Introduction	71
5.2 Governance	72
5.2.1 Steering	72
5.2.2 Regulating	73
5.2.3 Accountability	75
5.2.4 Stakeholder engagement	76
5.2.5 Directing	78
5.3.6 Taking initiative	79
5.3 Cooperative governance	80
5.3.1 Development	81
5.3.2 Reliability	83
5.3.3 Efficiency	84
5.3.4 Good management	85
5.3.5 Participation	86
5.3.6 Social and economic well-being	87
5.4 Views and attitudes of traditional leaders to legislation	89
5.4.1 Roles and functions of traditional leaders	90
5.4.2 Relationship with municipalities	91
5.4.3 Ambiguities	93
5.4.4 Challenges	94
5.5 Conclusion	95
Chapter 6: Data Analysis: Cooperative Governance Issues	96
6.1 Introduction	96
6.2 Land	97
6.3 Service delivery	98
6.4 Development	100
6.5 Stakeholder engagement and partnership	103
6.6 The relationship between traditional leaders and local government	104
6.7 Ward communities	106
6.8 Legislation	107
6.9 Discussion	109

6.10 Conclusion	112
Chapter 7: Conclusion	114
7.1 Overview of the roles and functions of traditional leadership	114
7.2 Recommendations.....	118
8: References	120
9: APPENDIX	133
<i>Interview Schedule – The role, powers and functions of traditional leaders in the Vhembe District Municipality, Limpopo province, South Africa.</i>	
	133
Schedule 1: Interview questions for traditional rulers	133
Schedule 2: Interview questions for Government Officials	134

ABSTRACT

Traditional leaders, who are located on the periphery of mainstream governance and decision-making in South Africa, play a crucial role in rural areas, where government presence is absent. However, the role, functions and powers of traditional leadership are not clearly defined, even though the South African constitution recognises traditional leaders. Further, what traditional authorities do while exercising their roles, functions, and powers in rural areas overlaps with what has been assigned to local government officials. Some politicians and high-ranking local government officials also view traditional leaders as unelected and unnecessary competitors. Where on the one hand traditional leaders are perceived as undemocratic, on the other they fulfill a necessary role in the democratic state. Local government officials and traditional leaders are compelled to work together for effective cooperative governance to take place in rural South Africa, but how they should do this remains problematic.

Keywords: Traditional leadership, governance, periphery, cooperative governance, Act No. 3 of 2019: Traditional and Khoi-san Leadership Act of 2019.

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Chapter 1: Introduction to Traditional Leadership and Governance in South Africa

1.1 Introduction

This research demonstrates how, on the one hand, traditional leaders are perceived to be undemocratic, but on the other hand, fulfil a necessary role in rural South Africa, where government presence is barely present.

The research focuses on areas that are regarded as peripheral to mainstream urban centres, where communities governed through traditional leadership reside. Traditional leaders are custodians of culture and custom in those areas (Comaroff & Comaroff 2018: 23; Hinz 2008: 63). In both the apartheid and the post-apartheid democratic states, traditional leaders have and continue to have an ambivalent relationship with the central government, which compromises their power and decision-making (Ntsebeza 2004: 82; Van Kessel & Oomen 1997). The erroneous assumption has been that those traditional structures and institutions, such as chiefdoms and kingdoms, and their associated leadership, would soon become extinct in an increasingly modern world. However, this has not been the case, as these leaders, their institutions, and the communities they preside over remain important in the postcolonial state (Rugege 2009: 173-4; Logan 2008: 2).

Rather than disappear, they have adapted considerably. Traditional leaders have been lobbying government successfully on behalf of their communities, as they constitute a powerful election support base for politicians. These leaders appeal to their communities, which in turn respect rites, ritual, ceremony, and tradition, which gives them a different legitimacy than that of the ballot paper. In this regard, traditional leaders have been able to lead their communities to act in specific ways and have been able to influence community behavioural change (Comaroff & Comaroff 2018: 20; Ainslie & Kepe 2016: 20).

There are, however, numerous examples both in South Africa and beyond where traditional leaders are criticised for being undemocratic, for disregarding human rights, and for being

compromised by politicians and the central government, all of which results in poor decision-making and ineffectiveness (Rugege 2009: 173). Nevertheless, their leadership roles remain central to their communities. This study seeks to clarify the specific roles, functions, and powers traditional leaders occupy at local government level. It is because of the ambiguity in traditional leadership roles that most African governments in the postcolonial context struggle to decide how to deal with traditional leaders, given the latter's appeal to the sanctity of local custom and tradition. Thus, the roles of traditional leaders remain largely symbolic, or at best, they remain living ethnographic entities that are reservoirs of African 'culture and tradition'. Nowhere is this more evident than in South Africa.

This study used a qualitative research design, an interpretivist paradigm and a case study approach to study the role and functions of traditional leaders in South Africa. Data was collected in Venda, which falls under the Vhembe district municipality, located in the Limpopo province of South Africa.

This research, has been demarcated, "post 1994", as such there is no attempt to retell the prehistorical archaeology of the Vhavhenda nor their colonial and apartheid history and effects on Tshivenda. What was important, was emphasizing the point that due to the resilience of the institution of traditional leadership, Tshivenda traditional institutions, though no longer original, have survived to this day. In the same vein, "return to tradition" was not put in a wider global context as what Oomen (2005) and McNeil (2014) have done in their work. In this research I was interested in how the institution of traditional leadership in post-1994 South Africa, interacted with the local politics, history, economic and social environment, not the global link. As a result, only examples from other African countries were used in this research, for broader comparative purposes and not the international or global ones. The idea was to narrow the title which was already too broad at the time.

1.2 Research statement or problem

The role, functions and powers of traditional leadership are not clearly defined, even though the South African constitution recognises traditional leaders (White Paper 2003: 4.2; Mnwana 2019: 130, 132). On the one hand, traditional leaders are perceived as undemocratic, but on the

other, seem to fulfill a necessary role in a democratic South Africa. Further, what traditional authorities do while exercising their roles, functions and powers in the rural areas appear to overlap with the duties of local government officials. It is, therefore, not surprising that some politicians and high-ranking local government officials regard traditional leaders as unelected and unnecessary competitors who steal the limelight away from them (Logan 2008: 1, 2013: 354). However, the fact remains that those traditional institutions hold popular legitimate authority at the grassroots level, given their proximity to the rural population.

According to the White Paper on Traditional Leadership and Governance (2003: 4.2), traditional authorities should not perform duties assigned to municipalities, but rather concentrate on customary law issues, development, and the well-being of communities under their jurisdiction, while a cooperative governance relationship between traditional leaders and municipalities is emphasised and encouraged. These are mere guidelines for legislative processes, which are silent about the roles, powers, and function of traditional leaders, both in terms of what they are already doing and in terms of what they should be doing (Ainslie & Kepe 2016; Hinz 2008: 72).

This research demonstrates that traditional leaders are thriving and continue to fulfil the roles and functions that they have had since colonial times. However, their powers and functions need to be more carefully understood and aligned to South Africa's constitutional democracy (Delius 2019: 20, Robinson et al. 2016: 1). Traditional leaders and customary law have a legitimate authority to enforce the rule of law and good governance in rural areas (Comaroff & Comaroff 2018: 15). Often, the state lacks the necessary infrastructure and the capacity to deliver the rule of law to all citizens. Some areas may not be accessible due to geographic and social barriers, resulting in people taking refuge in traditional systems (Chirayath et al. 2005: 6). Formal courts are expensive, which makes people opt out of the formal system in support of traditional justice, which is accessible and popular in rural areas. Traditional institutions also regulate social life in rural areas; thus, no reconciliation, reconstruction and community rebuilding can be successful without their participation and involvement (Honwana 1997: 294). In many African countries, people outside the urban areas do not expect a government which does not have any capacity to render assistance, but are using their traditional ways to maintain peace and stability in their communities (Chirayath et al. 2005: 2; Logan 2008: 1).

In areas in South Africa where government presence is missing but traditional authority is present and functional, traditional systems are criticised for using male primogeniture to disinherit and expose women to abuse (Bekker & Boonzaaier 2008: 460, Chauke 2015: 32, Chirayath et al. 2005: 4). As a result, the voices and agency of women and children are not heard or felt because most traditional leaders are men who largely perceive the former as 'below them' and not in line to inherit leadership positions. This is in sharp contradiction to the Constitution of South Africa, which recognises equal rights for all. Those who oppose traditional systems argue that democracy and the institution of traditional leaders are not compatible because people have the right to choose who represents them and not have traditional leaders imposed on them through customary law (Ntsebeza 2004: 85). The clarity of their role and functions is further complicated by the fact that there are numerous examples both in South Africa and beyond where traditional leaders have been and are still being compromised by politicians and central government, resulting in poor decision-making and ineffectiveness (Rugege 2009: 173). Nevertheless, their leadership roles remain central to their communities.

The embedded cultural systems that exist and flourish in South Africa are difficult for outsiders, both national and international, to understand. It is because of this ambiguity in traditional leadership roles, powers and functions that most African governments struggle to decide how to deal with traditional leaders and their appeal to the sanctity of local custom. The problem lies in not really knowing what the functions and roles of traditional leaders are.

1.3 Research questions

Given the above-mentioned problem, this research answers the following driving question: What are the roles, functions and powers of traditional leaders in South Africa?

Sub-questions include:

1. Why, and in what areas, is there ambiguity with regard to the roles, functions and powers of traditional leaders in the Vhembe district municipality?
2. How do the perceived roles, functions and powers of traditional leaders in the Vhembe district municipality differ between traditional leaders and government officials?

3. How do these roles, functions and powers align with the White Paper on Traditional Leadership and Governance (2003), and or Act No. 3 of 2019: Traditional and Khoi-san Leadership Act of 2019?

1.4 Aims and Objectives

This research project investigated the roles and functions exercised by the traditional leaders in South Africa and compared these with the positions and propositions set in the White Paper on Traditional Leadership and Governance (2003) and Act No 3 of 2019: Traditional and Khoi-san Leadership Act of 2019. The study attains the following objectives:

- To understand what traditional leaders and local government perceive the functions of traditional leaders to be.
- To critically evaluate or assess the roles and tasks traditional leaders fulfil in their respective areas.
- To assess how the White Paper on Traditional Leadership and Governance (2003) and Act No. 3 of 2019: Traditional and Khoi-san Leadership Act of 2019 views the functions and mandate of traditional leaders.

1.5 Literature Review

The available literature on traditional governance presents the topic of traditional leadership in both historical and thematic dimensions. The literature was reviewed using the following themes: the critique of traditional leaders, the relevance of traditional leaders, the relationship between traditional leaders and local government, and what the White Paper on Traditional Leadership and Governance (2003) and Act No. 3 of 2019: Traditional and Khoi-san Leadership Act (2019) highlights on traditional leaders. It concludes by giving examples from the African continent to give a broader perspective.

Ntsebeza (2004: 72) and Ainsilie and Kepe (2016) argue that the power of the traditional leader is derived from traditional customs. Although not elected in the manner of the current democratic system governing the modern nation state, they continue to challenge and threaten democratically elected governments to the core. The institution of traditional leadership has been tampered with by colonialists, and as such, it is no longer original (Joireman 2001: 572).

Colonialism empowered older men to be traditional leaders; where there were no traditional structures and leaders, they were created for indirect rule to work. At independence, the African elite did not revert to pre-colonial institutions because they had become experts and familiar with colonial institutions (Joireman 2001: 578-579)

Mnwana (2019: 130; Delius 2019; Ntsebeza 2004) argues that chiefs currently have powerful positions through commoditisation and distribution, especially in the former homeland areas like Bophuthatswana, which are mineral-rich. The Bakgatla *dikgosi* control and distribute vast mining revenues and act as custodians of community property and agents of rural development (Mnwana 2019: 143). The powerful political status enjoyed by the Bakgatla *dikgosi* in controlling mineral-rich land is rooted in the colonial tribal trusteeship, which the current government has failed to reform. This makes it difficult to fully understand the role, powers, and functions of traditional leaders in the South African democratic cooperative governance.

Mamdani (1996: 22-24) has criticised traditional leaders as ‘decentralized despotism’ who lost legitimacy when they became agents of colonialism and betrayed their people. Ntsebeza (2004: 71-72), who agrees with Mamdani, argues that chiefs are accountable to the state rather than to the people. Traditional leaders continue to exercise power because the weak state has failed at both central and local government levels, reflecting the state’s lack of legitimacy because they are seen as elitist, coercive, oppressive or a vehicle for elite political and economic interests (Chirayath et al. 2005: 6). Robinson et. Al. (2016: 1) point out that unsolved social problems like the role of traditional leaders remain thorny issues, even though the post-1994 democratic government has been accepted as legitimate. These unsolved social problems, if allowed to persist, are seen as threatening the pillars of democracy in the long run (Robinson et al. 2016: 1; Samatar 1997: 688-690).

Using Afrobarometer data, Logan (2011) has evidence that traditional leaders are popular and remain valued among their communities. Their closeness to the people makes them more effective in adjudicating disputes, in the allocation of land and in advocating for their constituents more than the members of parliament, local councilors and state institutions (Logan 2011:357, Omen 2005:184, Brynard & Musitha 2011: 114). Traditional leaders are also popular because they work according to the norms and values, both formal and informal, that the people are familiar with. Therefore, they are more popular than elected officials because of

their accessibility and accountability, even though they are not elected for example in Botswana. While there is evidence that traditional leaders are better listeners, there is no evidence that allegiance to the chiefs arises out of rejection of democracy or dissatisfaction with elections for the modern nation state.

Most people in rural areas are content to support both democracy and traditional leaders and there is no apparent contradiction in doing so. The people who argue that traditional leaders are not popular and not well liked, appear not to know what is happening in the rural areas, because there is solid evidence elsewhere in the African continent attesting to the fact that traditional leaders are still important in their rural communities (Logan 2011: 375, Brynard & Musitha 2011: 115). In the Limpopo province, research by Oomen (2005: 184) shows that two thirds of the rural population accept traditional leaders. This notion is also attested to, by the 2005 South African Social Attitudes Survey (SASAS) which demonstrates that 52% of the respondents in the Eastern Cape and 68% in the Limpopo province have got faith in traditional leadership. This points to the resilience of the traditional rulers in terms of who they are rather than what they do. It seems therefore that the state takes advantage of the popularity of traditional leaders as proxies to get elected to power and ‘bolster’ the democracy of the modern nation state (Logan 2011: 376).

Traditional leaders are still able to mobilise their subjects. This situation is broadly the same in much of Africa. Traditional rulers often lobby government for community projects, they are well situated to serve effectively (Comaroff & Comaroff 2018). They are more closely tied to their communities than any elected official, with the means to discipline them while at the same time enjoying the necessary mandate to act as their agents (Comaroff & Comaroff 2018: 15; Van Kessel & Oomen 1997: 561-2). Development and donor agencies, non-governmental organisations (NGOs) and international corporations, for example, favors them as their collaboration partners to conduct business with in the execution of their humanitarian work. This is why African governments struggle to decide how to deal with them, because they are preferred and appeal to the sanctity of custom (Logan 2008: 5).

Traditional systems differ from one area to the other; for example, the Sotho-Tswana, who are consultative and participatory, and the Zulu, who are hierarchical and authoritarian, are under one state umbrella. Logan (2008: 4) questions whether the roles of traditional leaders should reflect such differentiation, while at the same time aligning as much as possible with the White

Paper (2003). This may be one way of safeguarding traditions in a context dominated by the ideals and norms of the modern democratic state. Since traditional leaders are relevant, it is essential to blend traditional governance with contemporary democratic principles and state needs. This is what Hinz (2008: 60) and Logan (2008: 16) refer to as alternative modernity, which, though complex, has many dimensions such as strong/weak modern monism and unregulated/regulated dualism.

In local government, the South African constitution of 1996, established three interdependent and interrelated tier system of governance, namely national, provincial, and local. Nine new provinces were established with 834 local government structures. No area in South Africa is not covered by a municipality (Hinz 2008: 65). To ensure their survival, in 1994 traditional leaders created the Congress of Traditional Leaders of South Africa (Contralesa) to lobby government and succeeded by being paid salaries. This, it is alleged, shifted the allegiance of the traditional authorities to the ANC (Ainslie & Keep 2016: 22). In acknowledgement of the importance of traditional leaders, a national department of traditional affairs was established in 2009. The Council of Traditional Leaders as set up at a national level to advise the national government on the customary law and cultural traditions (Hinz 2008: 66). They do not have the power to amend legislation and can only delay the passing of a bill by 60 days. The House of Traditional Leaders was set up in six provinces (Van Kessel & Oomen 1996: 573) to advise the provincial government on matters relating to tradition, custom and indigenous languages.

According to the White Paper on Local Government (1998), traditional authorities were supposed to be allocated roles close to the people. Given that the South African Constitutional Assembly has failed to prescribe the roles of traditional leaders, although it recognises them (Delius 2019: 20; Ntsebeza 2004S: 82, 83; Rugege 2009: 173-175, White Paper 2003), through the Municipal Structures Act (117 of 1998), traditional leaders were allowed to attend and participate in any council meeting and be consulted by council before any decision that affects their communities is taken (Brynard & Musitha 2011: 115). The Local Government Act (32 of 2002) emphasises that traditional rulers and communities must be given a chance to participate in decision-making. This act compels local government structures to recognise and dialogue with traditional authorities and their communities in decision-making. Further, the Traditional Leadership and Governance Framework Act of 2003 stipulates that partnerships be established between elected leaders and traditional leadership, to ensure that traditional leaders play a role in development and promote the general well-being of the marginalised communities. Reforms

in local government since independence have forced traditional authorities into the framework of national government structures as guaranteed by the constitution. Traditional authorities have complained about their eroded powers, but this status quo has remained in force in South Africa (Hinz 2008: 65). Given the constitutional guarantee and the provision of the above-mentioned acts, there is evidence that participation by traditional leaders in development issues, is still relatively insignificant and does not necessarily fulfil expectations (Hinz 2008: 65; Brynard & Musitha 2011: 113). Even though traditional governance is still relevant, playing an integral part in African societies, municipalities have also been given the power to exercise their functions without impediment from the national and provincial government (Ntsebeza 2004: 71). The aim in making such a provision in the constitution was fast-tracking the improvements in the standard of living of those living in the periphery of urban centers. They also wanted to democratise the way rural people were governed by enabling public participation of the way they are governed. Some have argued that with the ever-evolving, ever-changing customary law, it is difficult to allocate any role to traditional leaders and the way forward is to find a working relationship between traditional leaders and government (Hinz 2008: 59, Rugege 2009: 179).

The 2003 White Paper on Traditional Leaders and Governance further states that local government powers and functions will not be shared with traditional leaders, but a cooperative relationship will be encouraged. Their uncontested functions are customary, such as run the traditional courts, convene community gatherings through Khorro, kgotla, pitso, and imbizo, and protecting cultural values and customs (Hinz 2008: 59; Ainslie & Kepe 2016; Van Kessel & Oomen 1997: 561). Also, they must be asked to perform symbolic functions in their communities like opening a new school, hospital in their areas and to play a supportive role local government level. They could also mobilise local communities in support of development projects.

Currently, in most African countries, customary systems which operate outside the formal state systems are often the only form of governance and dispute resolution available for most of the people, particularly, those living in remote areas. For example, in Sierra Leone, such a system covers 85% of the people. In Ghana and Mozambique, up to 90% of land transactions are done through customary practices (Chirayath et al.2005: 2; Logan 2008: 1). Ethiopia, for example, has over 100 officially recognised people groups and some of them are not even recognised. Human rights abuses tend to go unchallenged in many communities, according to Chirayath et.

al (2005: 6), for example *ukuthwala/shobediso* – the abduction of young girls into forced marriages by the Xhosa/Zulu– and the appeasing *Ngozi* spirit – among the Shona in Zimbabwe, by giving a girl into a family as compensation for killing a family member.

The state, in most African countries is weak, lacks the necessary infrastructure and capacity to deliver the rule of law to all citizens, and in some areas, it may be inaccessible (Chirayath et al. 2005: 6). In rural Tanzania, the *sungusungu* (traditionally organised defence groups) working through the non-state systems produce better results for example in theft cases and petty crimes. In Mozambique, traditional institutions played a critical role in the Gorongosa war, where such institutions were crucial in the establishment of order, healing, and treatment of trauma among the people in the absence of government support (Huyse and Salter 2008:1). In Rwanda, the *Gacaca* courts have been used in conflict resolution (Huyse & Salter 2008: 173.) In Uganda, the *mato oput* ceremonies were designed to welcome the child soldiers who had participated in a devastating war of resistance. These institutions also regulate social life in rural areas and thus no reconciliation, reconstruction and community rebuilding can be successful without their participation and involvement (Honwana 1997: 294, Huyse & Salter 2008: 1, Senier 2008: 67, Roder 2012: 58). While acknowledging some negatives of customary justice practices, this research focuses on clarifying the roles, powers and functions of the traditional leaders because of the evidence that they are playing a pivotal role in the governing of rural areas.

1.7 Conceptual framework

This study is located within the broader framework of traditional leaders and cooperative governance. It is interested in investigating the roles, power, and functions of traditional leaders in areas outside the urban areas and then compare these with what the White Paper on Traditional leadership and Governance(2003) and Act No. 3 of 2019: Traditional and Khoi-san Leadership Act of 2019 say they must do. This requires understanding concepts around traditional leadership, governance, and cooperative governance. These concepts will be discussed in greater detail in chapter 2.

1.7.1 Traditional leadership

Traditional leadership may be explained in terms of how non-westernised, indigenous societies were and are led and governed. Such leadership is and remains grounded in traditions acquired from the past, although they have also dynamically changed and adapted over time (Hinz 2008: 59; Van Kessel & Oomen 1997: 561). Governance is tied to past leaders, normally kings, custodians of traditional medicines, ritual, and ceremony, and so forth. Today, such leaders derive their authority from either an independent political entity they run or the precolonial past, for example the Zulu under late King Goodwill Zwelithini. In a primarily Westernised context, most of these leaders no longer possess formal political authority, but mostly continue to command respect from the people they govern and exercise influence on (Comaroff & Comaroff 2018: 20, 23; Hinz 2008: 68). Peter Delius (2019: 20) notes that a colonially defined chieftainship model has been created at the expense of the pre-colonial one in South Africa. This has resulted in a chieftainship that is less compatible with a democratic regime than if pre-colonial practice had informed policy and praxis.

It must be acknowledged that traditional leadership was compromised considerably by European conquest and colonisation all over the African continent (Comaroff & Comaroff 2018: 3; Ainslie & Kepe 2016: 20-23; Ntsebeza 2004: 82; Van Kessel and Oomen 1997: 564). However, traditional leadership remains central to the majority black African population (Ainslie & Kepe 2016: 24). The institution has enjoyed overwhelming support from the people since it successfully mobilises communities especially in times of famine, disease outbreaks and other difficulties. Through structures such as the traditional councils and community gatherings, traditional leaders promote participatory and consultative democracy, decisions are arrived at collectively as opposed to top-down approaches. This makes these decisions tolerable to their people than decisions coming from the national, provincial and local spheres of government (Brynard & Musitha 2011: 114, Logan 2008: 5, Ainslie & Kepe 2016: 23). This has earned traditional leaders the respect of communities they preside over, especially in South Africa (Amoateng 2007: 17; Rugege 2009:171).

1.7.2 Governance

The governance landscape is problematic, as indicated by the voluminous literature available on the subject of governance. Most of it is heavily tilted in favor of Western notions of good governance, which are narrow and consumeristic and have been criticised for ignoring the human condition. According to Fukuyama (2016: 89), more recent literature on governance downplays the traditional state centric approach in favor of the new global or non- state actors. Governance comes from the Greek word *kubernan*, which is associated with the act of steering a large vessel, also derived from Latin and French, where it is associated with regulation of organisations (Fukuyama 2016:90). The word governance is used in a deliberate opposition to government and came into common use in the 1950s. Currently the word governance is linked to a range of activities that incorporates the act of steering or regulating social behavior (Fukuyama 2016: 98). There is massive contestation among the scholars as to what governance is all about. The act of governance can refer to the *rule-ruler-ruled* relationship, the regulation, enforcement, provision, effectiveness and distribution of rules, goods and resources, the maintenance and management of different relationships within the state, and a structure, good government, a value and process (Börzel & Risse 2010: 114; Nweke 2012: 207; Brockhaus et, al. 2012; Fukuyama 2016: 90; Adeyemo & Oljede 2008: 3). International development and humanitarian agencies are also viewed as governance, just like co-operation between various spheres of government (Hooghe & Marks 2003: 234-236)

Governance, just like government, implies the exercise of power in an institution or state. However, governance is broader because it includes government as one of its components. The shift from government to governance happened in the 1990s when the well-being and needs of the citizens in most developing countries became more important than the sovereignty and exercise of power by the state. Cooperative governance and other forms of alternative participatory governance came into being (Hooghe & Marks 2003: 233; Peters & Pierre 2001: 131). In the 1990s, governments were seen as a primary obstacle to robust economic growth (Fukuyama 2016: 98). According to the UNDP (Quadrat- Elahi 2009: 12), governance is about how an organisation or a country is run, including controls, structure, systems and processes used to safeguard and generate resources. It therefore means that these processes, systems, controls, institutions and organisations are at the disposal of the citizens to highlight their plight and fight for their rights, freedoms and participation in the way they are ruled.

Governance is about developing a responsive government – a system that is efficient, reliable, and participatory, allowing citizens to participate in decision-making (Dupont et al. 2003: 345;

Peters & Pierre 2002: 6). It is also about good management of a county's resources for the betterment for all. According to Fukuyama (2016: 89) and Börzel and Risse 2010: 113), governance also includes the business sector and civil society. Such stakeholders represent various institutions and organisations, collectively deciding which problems to attend to, by whom and how it should be done (Dupont et al. 2003: 333; Nweke 2012: 207). Governance is therefore about steering, directing, regulating and collectively involving all stakeholders (Fukuyama 2016: 98-99). Since the state has been identified as part of the problem, citizens are empowered to make their government accountable to their needs, including safeguarding their rights and freedoms (Malena et al. 2004: 1).

According to Dupont et al. (2003: 4), Hooghe and Marks (2003:234), Peters and Pierre (2001: 132) and Boege et al. (2009: 15), there are currently numerous forms of governance. Some of these varied and emerging typologies of governance are condominio, fragmentation, multi-level, multi perspectival, polycentric and hybrid political order governance. Governance not limited hierarchical steering by the state actors but also includes involvement of non-governmental actors such as the private sector and non- state actors, which is non-hierarchical. For the purpose of this research, multi-level governance, type (i) will be the only form of governance that will be referred to (Peters & Pierre 2002: 5). Multi-level type (i) governance refers to a broader, more encompassing process of coordination than do the traditional models of inter-governmental relationships (Peters & Pierre 2002:6). Multi-level governance is non-hierarchical in nature, decisions are arrived at collectively through power-sharing, conflicts of interests are negotiated, and also involves participation by non-state actors and institutions (Börzel & Risse 2010: 115; Hooghe & Marks 2003: 235-236).

Traditional leaders, who are central to this research, are also incorporated in multi-level governance, where they represent hybrid political orders (Boege et al. 2009: 15). These institutions challenge the state and are not liked by most politicians on the one hand, while on the other they complement the state because of their proximity to the rural populations and are custodians of tradition and custom (Boege et al. 2009: 20) Nevertheless, these hybrid political orders must not be ignored but should be consulted with when it comes to cooperative governance.

The concept of governance is further defined in the conceptual and theoretical framework (chapter 3) and is presented in more detail in chapter 5.

1.7.3 Cooperative governance

According to the South African constitution (Chapter 3 Article 40), one sphere of government cannot adequately cater for all citizens. Cooperative governance is thus required. Cooperative governance involves three spheres of government, namely local, provincial and national, all cooperating with other actors to ensure mutual trust, good faith, effective communication and coordination in decision-making (Edwards 2008: 66). According to the provisions of the constitution, traditional leaders must advise the government with respect to all matters related to customary law, tradition and custom and indigenous language. According to Armstrong and Gilson (2001: 3), cooperative governance is inclusive because it allows citizens to participate in the democratic process so that decisions are reached horizontally rather than vertically.

In essence, the key argument proffered here is that traditional leaders fulfil vital tasks in the rural communities, where government presence is minimal, so their roles and functions need further clarification. It is also, critically, a cooperative governance issue. The latter requires participation by those located in peripheral contexts such as traditional leaders and their communities in the way they are being governed. The concept of cooperative governance is going to be discussed further, in the literature review (chapter 2) and chapter 5 and 6.

1.8 White Paper on Traditional Leadership and Governance (2003) and Act No. 3 of 2019: Traditional and Khoi-san Leadership Act (2019)

Even though the South African constitution recognises traditional leaders, their roles, functions, and powers are not outlined; only a few guidelines meant for legislative purposes are given (White Paper on traditional Leadership and Governance (2003: 4); Act No. 3 of 2019: Traditional and Khoi-san Leadership Act 2019). For example, traditional authorities do not perform duties assigned to municipalities, but concentrate on customary law issues, development, and identifying needs and well-being of communities under their jurisdiction, and inform municipalities. On the other hand, a cooperative governance relationship between

the traditional leaders and municipalities is emphasised (White Paper on Traditional Leadership and Governance 2003: 4.2; Municipal Structures Act of 1998)

Chapter 2 of the constitution of South Africa recognises equal rights for all and the rights of all cultural communities. The customary law rule of male primogeniture must therefore not be used to exclude women from attaining positions in traditional leadership institutions because South Africa is bound by the democratic norms and values outlined in the constitution (White Paper on Traditional leadership and Governance 2003: 4.3) To solve the legislative complexity currently being faced by the judiciary, the White Paper recommended that customary law be rewritten so that it is not in conflict with the constitution and that the roles, functions and powers of all traditional leaders in the country be by standardised or regularised by a task team (White Paper on Traditional leadership and Governance 2003: 5.4)

This led to Act No 3. of 2019: Traditional and Khoi-san Act of 2019, which also failed to clearly define the roles and functions of traditional leaders. However, these roles were further constrained under chapter 2, section 8 of Act No 3 of 2019: Traditional and Khoi-san Leadership Act of 2019, because the politicians like the Member of the Executive (MEC), Minister (COGTA) were given hegemony over the traditional leaders. This will be discussed further in the literature review in chapter 2 and will be analysed in chapter 5.

1.9 Methodology

Meticulously applied research methods produce relevant, reliable, and unbiased data that answers the research problem stated initially in the study (Hofstee 2011: 107). This study used a qualitative research design, an interpretivist paradigm and a case study approach to study the role and functions of traditional leaders in South Africa.

1.9.1 Research design and paradigm

This section discusses the research design, which is the axis around which the entire research effort will revolve (Leedy & Ormrod 2015: 45), focusing on aspects of cooperative governance

in relation to the role and functions of traditional leaders in the rural areas. Such a qualitative research design uses non-numerical data and verbal information (Bryman 1988: 12). A qualitative approach was used to describe the phenomenon from social actors' point of view in this research.

An interpretivist paradigm was employed in this research project to understand through talking, listening and observation the roles and functions played by the traditional leaders on the ground and then compare with what the White Paper on Traditional Leadership and Governance (2003) and Act No. 3 of 2019: The Traditional and Khoi-san Leadership Act (2019) prescribes. The study gives the perspective of traditional leaders and local government officials on the roles and functions of traditional leaders and answer the question of what roles and tasks, traditional leaders fulfil in rural South Africa. Once the roles and functions of the traditional leaders are ascertained, the final stage of the research will be to compare with the White Paper on Traditional Leadership and Governance (2003) and Act No. 3 of 2019: Traditional and Khoi-san Leadership Act of 2019 on the roles, powers and functions of traditional leaders. This choice of this research strategy was influenced by cost, time, knowledge, and audience the researcher considers important.

1.9.2 Case study approach and unit of analysis

A case study approach was applied to this research, and more specifically an exploratory case study (Blaikie 2010: 190) located in the Vhembe District Municipality (VDM) in South Africa. VDM is one of five district municipalities in the Limpopo Province. The district is in the northern part of South Africa. VDM has a population of more than one and half million, covering some 25 596 km², with a population density of 55,3 persons per square kilometre (Statistics SA 2016). The Vhavhenda are one of South Africa's minority groups living alongside the Ma Tsonga, Ma Pedi and Afrikaners, making up to 70% of the population in the Vhembe District Council. Though mainly rural, VDM is made up of the towns of Makhado, Malamulele, Musina and Thohoyandou. Many people within VDM are economically poor and live in traditional settlements (Local Government Handbook 2017: 440). The rural people who live in the VDM and their knowledge of the local context are the target of this case study.

Venda was chosen for this case study because it is an area where traditional leaders are active and currently play a strong role in the communities. Although they were colonised, became a Bantustan under apartheid and were tempered with during this era. VhaVenda (the Venda) were resilient enough to survive this onslaught on their traditional leadership structures and culture. Loubser (1989:54), contends that Tshivenda (Venda culture and tradition) has survived up to this day, even though they have been interfered with and drawn into the toxic politics, economics and practices of successive colonial and apartheid governments. In post-apartheid SA, the traditional leadership institution has been forced to merge into the framework of development or modernity with Tshivenda and have remained relevant and legitimate for “the people”, the state and the kingship\queenship(Logan 2013: McNeill 2014: 87, Oomen 2005) . Tshivenda language has survived to this day even though it is no longer in its original form, it is now infused with words borrowed from other groups that they have interacted with up to this day, according to Van Warmelo (1932: 25)

There are about 200 traditional leaders in the Limpopo Province (Local Government Handbook South Africa 2017: 440).However at the time of the Ralushai (1996-2003) and Nhlapo (2005) Commission of Inquiry hearings in the VDM, Venda had 28 officially recognized traditional leaders. These commissions were tasked with verifying claims by those traditional leaders who had been irregularly demoted, deposed and not duly recognised by the previous governments for failing to collaborate with them. However, for the purpose of this research, the Ralushai and Nhlapo commissions will not be discussed because most of the issues they raised were taken into consideration in Act 3 of 2019, The Traditional and Khoisan Leadership Act. Disputes and claims are still being received at COGTA. Vhavhenda (the Venda people) have been forced to operate under the constitution, the local government legislative framework and co-operative governance. This further demonstrates that the institution of traditional leadership is no longer original as it has also been tempered with, by the current ANC government. However, due to the relative remoteness of the villages and the general inefficiencies of the modern state in the periphery, many in the rural areas continue to rely on traditional leaders to fulfil basic governance functions.

1.9.3 Data collection

Primary data collection was undertaken through interviews to capture views and perspectives on traditional leaders. Desktop research that encompassed published books or journals, reports and web-based information, newspapers, and magazines was also used (see for example Kumar 2019: 243, Leedy & Ormrod 2015: 298-299; Biglione 2012: 65; Galvan 2017: 3, Evans et al. 2014: 5, Terrell 2016: 53).

In this research, semi-structured interviews and open-ended questions were used to cover various topics that were of relevance to the research (Hofstee 2011:135). In this study, eight local government officials and six traditional leaders were interviewed.

For the interviews with traditional leaders, non-random/non-probability purposive sampling was used. The traditional leaders were chosen on the basis of those from whom it was easy to secure consent letters and whose areas were accessible. Headmen were approached to give access to the traditional leaders. This was done based on the view that they would provide valuable information to this study (see Leedy & Ormrod 2015: 183; Kumar 2019: 307). Due to the Covid-19 pandemic, interviews were done using the relevant Covid-19 safety protocol. On the other hand, local government officials were sampled based on the fact that they worked with traditional leaders. Snowballing was used in sampling the local government officials. I identified Rendani (interviewed 02/02/2022, Thohoyandou), who works at the VDM as a relevant local government based on fact that she worked with traditional leaders. She later directed me to her co-workers in Makhado, Musina and Thulamela local municipalities, who agreed to be interviewed.

1.9.4 Data Analysis

This research used content analysis to analyse data. A topic of this nature requires qualitative approaches using content analysis. The researcher used content analysis here to understand patterns in communicating information relating to the traditional leaders. These patterns can be established from information collected from, or relating to, traditional leadership roles and functions. Content analysis is the process of going through unprocessed descriptive responses from respondents to each question posed to them in the field (Kumar 2019: 402). Coding was assigned to each theme for easier counting and identifying patterns and categories in the collected data (Kumar 2019: 403). After identifying themes, the last stage in content analysis was to integrate these into the research report. I conceptualised cooperative governance into

the following themes: efficiency, reliability, participation, development and social and economic well-being. Secondly, governance was conceptualised into steering, directing, taking initiative, stakeholder engagement, regulating and accountability. Lastly, on the legislation governing the traditional leaders such as the Traditional Leadership and Governance Act of 2003 and Act No. 3 of 2919: Traditional and Khoi-san leadership Act of 2019, several themes emerged: the roles, powers and functions of the traditional leader in the VDM from both the local government and traditional leaders' perspectives, the relationship between the traditional leader and local government, challenges and ambiguities on the roles and functions of the traditional leaders. The above-mentioned concepts will be further discussed in chapter 2. Further these concepts will be applied to the data collected and analysed in detail in chapters five and six respectively.

In this study, content analysis was favoured because it gave a better understanding of the roles and functions of traditional leaders in the rural areas (Kumar 2019: 402). People responded differently to descriptive questions. It was vital for the researcher to choose words that comprehensively captured the meaning or perspective of each theme (Neumam 2014: 374).

1.9.5 Ethical considerations

In this case study, to gain access to indigenous settings, the researcher was aware that acceptable or tolerable engagements and methods had to be adhered throughout the interview time schedule to and show respect to the cultural values and beliefs of the Vhavhenda (Peu et al. 2021: 235). The indigenous aspects of respect, relationship, responsibility, reciprocity and distribution was observed from the beginning to the end of the research project (Peu et al. 2021:233). I conformed to the community dress code by wearing long dresses or skirts, and by sitting on the floor with legs stretched out during discussions. Peu et al. (2021) reflect that respect in the African context is expressed through dress code, greetings and participating in song and dance. These are necessary in creating a safe environment that allows participants to express themselves freely (see Afrin 2018: 32; Barakso, Sabet, & Schaffner 2014: 135; Maxwell 2013: 216).

Participants were informed of the objectives and outcomes of the study both formally and informally (Arifin 2018:30; Baraks, Sabet & Schaffner 2014: 135). Informed consent letters

from the Department of Cooperative Governance and Traditional Affairs (COGTA), traditional leaders and local government officials were attached. COGTA's work is to improve and regulate cooperative governance across the three spheres of government, in partnership with the institution of traditional leadership, and their permission is required before embarking on this research study. The research also protected participant confidentiality and ensured that they were not harmed. No incentives were paid to participants because of the guidelines of the University of Pretoria Faculty of Humanities ethics committee. Community elders and gate keepers were responsible for enforcing correct indigenous processes and guidance, leading and advice, and allowed access to participate. Elders recommend gifts to traditional leaders and elders as tokens of appreciation (Kumar 2019: 359; Peu et al. 2021: 234), because culturally people are discouraged from meeting them empty-handed. Since I am not fluent in the Tshivenda language, my original plan, as indicated to the Ethics Committee of the University of Pretoria, was to hire a translator so that the desired outcomes would be achieved without bias. The reality was that all the traditional leaders that I interviewed were able to speak in English without any difficulty as they all had a basic matric qualification. Two out of the six traditional leaders were university graduates. Therefore, no translators were employed for this research.

1.10 Organisation of the study

This study is organised into seven chapters. Chapter 1 gives the background to the study, including introducing the research, the rationale for the research, the research problem, question, aims and objectives. Chapter 2 discusses the literature review, and chapter 3 discusses the theoretical and conceptual framework employed in the study. Chapter 4 provides the methodology that was used to collect data for the study, including the research methods and techniques, ethical considerations, and sampling of the study population. Chapter 5 presents the data, while chapter 6 analyses the data. In Chapter 7, the main findings of the study are discussed, conclusions drawn, and recommendations given.

Chapter 2: Literature Review

2.1 Introduction

The primary purpose of this chapter is to identify gaps in knowledge at the intersection of national, local and traditional governance in peripheral areas in South Africa on the role and functions of traditional leaders at local government level. This gap will hopefully be addressed by my study on traditional leaders. This study is located within the broader framework of traditional leaders and their participation in cooperative governance. It is interested in investigating the challenges on the roles, power, and functions of traditional leaders in areas outside the urban areas, with special reference to the Vhembe District municipality in the Limpopo Province of South Africa. These are also discussed in greater detail in Chapter 5 and Chapter 6. It then seeks to compare these with the roles, power and functions of traditional leaders as outlined by the White Paper on Traditional Leaders and Cooperative Governance (2003).

The continued resilience of the institution of traditional leadership shows that a gap exists between the centre and the periphery; by that I mean the central government and the rural citizens. This chapter reviews the available literature on traditional governance using several themes, namely the return of traditional leadership, the relevance of traditional leaders, the critique of traditional leaders, governance, the relationship between traditional leaders and local government, and what the White Paper on Traditional Leadership and Governance (2003) and Act No. 3 of 2019: Traditional and Khoi-san Leadership Act of 2019 highlight about such leadership. It concludes by giving examples from the African continent to provide a broader perspective.

2.2 Traditional Leadership

Traditional leadership may be explained in terms of how rural indigenous societies were and are led and governed. Such leadership is and remains grounded in traditions acquired from the past, although they have also dynamically changed and adapted over time (Hinz 2008: 59; Van Kessel & Oomen 1997: 561). Governance is tied to past leaders, normally kings, custodians of

traditional medicines, ritual and ceremony, and so forth. Today, such leaders derive their authority from either the independent political entities they run or the precolonial past, for example the Zulu monarchy as currently constituted. In a changing world, also as a result of the traditional leadership institution's exposure to colonialism and apartheid for a long time, in South Africa most of these leaders no longer possess formal political authority, but continue to command respect from the people they govern and exercise influence on (Comaroff & Comaroff 2018: 20, 23; Hinz 2008: 68). According to Peter Delius (2019: 20), a chieftainship model determined by colonialism was created in South Africa at the cost of the pre-colonial one, leading to chieftainship that is less compatible with a democratic regime than if pre-colonial chieftaincy model had informed policy and praxis in post-1994 South Africa.

It must be acknowledged that the institution of traditional leadership was tampered with, compromised considerably through European conquest and colonisation all over the African continent (Comaroff & Comaroff 2018: 3; Ainslie & Kepe 2016: 20-23; Ntsebeza 2004: 82; Van Kessel & Oomen 1997: 564). However, traditional leadership remains central to the majority black African population and are well respected by the communities they preside over, especially in South Africa (Ainslie & Kepe 2016: 24; Amoateng 2007: 17; Rugege 2009: 171).

2.3 The return to traditional leadership, Mixed Modernity

Since 1994, the South African state has struggled to come up with a model of combining traditional governance and customary law, which could be integrated into the liberal democratic institutions of governance inherited from the colonial and apartheid regimes. Such a model would be relevant in post-apartheid South Africa, as it demonstrates the political willingness of the new leadership to move towards alternative imperialism, globalization and modernity (Hinz 2008: 60; McEwan 2018: 31; Said 1993: 5). Such a move would also be an acknowledgement that other cultures, traditions and societies exist in South Africa besides the dominant ones found in the urban areas.

After 1994, the South Africa government took into consideration that the newly empowered voices of the people in the periphery were asking to be heard. Crucially so, "returns" to culture and tradition were used by the state to appease the formerly marginalised and oppressed

societies (Hinz 2008: 63; Said 1993: 5). The ANC wanted to avoid the continuous creation of first and second-class citizens through poverty. These new political leaders aimed at addressing poverty through equalisation. Ethnic identities were also linked with development and service delivery in these areas as an effort to eradicate of poverty.

By “returning to tradition”, peoples’ cultures and traditions were also being recognised in South Africa, as these had been shaped through different lived experiences from one community to the other (Fukuyama 2018: 110; Taylor 1994: 38). These diverse traditional communities found in the post-apartheid state of South Africa wanted to be recognised as different because of their lived experiences, which are different from that of their colonisers, the ruling elite and other groups found in the cities. As a result, the constitution asks the local municipality officials to allow traditional leaders and their communities to participate in decision-making and issues of development affecting them. They were marginalised during apartheid, are some of the poorest people found in South Africa today, lacking most of the basic services found in all urban areas.

Post-apartheid South Africa has been shaped by its history of imperialism, colonialism and apartheid. This entanglement, according to McEwan (2018:7), between the development in Europe and underdevelopment in Africa, South America and South Asia, continues to shape the present.

South Africa’s struggle against apartheid was aimed at achieving greater equality by dismantling the apartheid system of white domination and expanding political rights and roles for blacks. The idea was black emancipation (Capano & Howlett 2009: 10). It could be argued that this emancipation would include the emancipation of the institution of traditional leadership. It is important for traditional leaders to be part of cooperative governance in their communities because it ends the culture of imposing decisions from the top. In the past, traditional leaders at grassroots level were forced to cooperate with national governments for administrative and public services.

Through cooperative governance, there is the potential for implementation of a more bottom-up approach (Olowu & Orero 1995: 15). Traditional leaders and the communities will potentially have an increased voice about the way in which they are being governed, by deciding what is best for their communities themselves. This decentralisation of governance

from the center was at the top on the agenda of ANC policies and would be in line with an emancipatory agenda.

This is related to the discussion by Hinz (2008: 60) about alternative modernities, including incorporating African traditional governance and customary law into existing structures and institutions of governance found in many African countries. There is no single solution, because modernity is multifaceted. Therefore, Hinz (2008: 61-63) comes up with five models of modernity that can be found in various African countries and the world. This was done through analysing government policies, particularly how these link the inherited African traditional governance structures to the structures of modernity as addressed in the various constitutions in Africa. These ideal types of governance, according Hinz (2008: 62-63), are theoretically possible and it is imperative for governments to decide which typology best serves their national interests. These models are, firstly, the strong modern monism that is mostly found in many former French colonies, where traditional leadership and customary law are abolished through the constitution (Ingelaere 2008: 34). The traditional leadership may still be around but serve no political function, as they are not involved in governance at all. However, in Rwanda, the Gacaca courts have been reintroduced by the government to deal with the genocide cases (Ingelaere 2008: 34-35). This demonstrates that traditional institutions are still considered useful in rural societies, even though the constitution has been used to abolish them, in the case of Rwanda.

Unregulated dualism is the second model where traditional leaders and governance are completely ignored constitutionally. They exist informally but are not regulated. The next scenario is that of a regulated (weak or strong) dualism (Hinz 2008: 64), where traditional governance and customary law are officially recognised through that country's constitution. This system is dual or plural because both traditional governance and customary law exist parallel to the formal system of the state (see for example Hinz 2008: 64; Mamdani 1996: 22-23). The degree of autonomy the state is willing to grant to these hybrid political systems according to Hinz (2008: 64) will determine whether the dual system is weak or strong. I highlight that South Africa falls under this ideal type for the purpose of this research.

Fourthly, under the weak modern monism type, traditional governance and customary law are not semi-independent but are incorporated into the state system through a set of rules (Hinz 2008: 64). Customary law is treated the same as any other laws of the state. Lastly is the model

of (strong) traditional monism, where African traditional governance and traits of customary law dominate the political and legal systems of the state, like in Swaziland.

For this research, I am only focusing on the regulated strong/weak dualism model, as it is aligned to research. The recognition of the institution of traditional leadership in the South African constitution implies strong dualism. However, when one interprets the legislation that governs traditional leaders, one is left with far more questions than answers. Even though they still have the same judiciary functions they had under apartheid, their executive roles, powers and functions have been transferred to local government. Traditional leaders do not seem to hold any real power. Even though traditional courts continue to work as they did in the past, they are forced into local government structures where they no longer have any meaningful roles, powers and functions (Rugege 2009: 170). It can be argued that this new African constitutionalism has weakened the institution of traditional leadership, as it forces them under the umbrella of both the constitution and the Freedom Charter (Hinz 2008: 67). This has resulted in challenges and ambiguities in understanding the roles, functions and powers of the traditional leadership in cooperative governance at local government level. Therefore, the South African model of alternative modernity represents regulated weak dualism. More needs to be done by the legislature to rectify the status quo, perhaps starting with including the relevant pillars of traditional governance and customary law into the constitution.

2.4 The relevance of traditional leaders

The available literature on traditional leadership highlights the relevance of traditional leaders in the contemporary setting. Scholars such as Comaroff and Comaroff (2018: 8), Logan (2008, 2013), and Oomen (2005: 184) attest to the relevance, legitimacy, resilience and adaptability of the institution of traditional leadership. They are also seen as a crucial, missing piece of the puzzle towards a sound governance model, help in developing the rural livelihoods. Traditional governance is also considered as a pillar of democracy for those in the periphery of urban areas. It is axiomatic that such and other roles, powers and functions associated with traditional leadership should be part of contemporary governance, at least local government level or be integrated one way or the other into mainstream governance.

Using Afrobarometer data, Logan (2011), argues that the institution of traditional leadership is dynamic and ever- changing, and supplies evidence suggesting that traditional leaders are popular and remain valued among their communities. She gives examples of women being heard, included in decision-making and having power. The traditional rulers are located closer to the people which makes them better dispute and land adjudicators, better advocates for their communities than the members of parliament, local councilors and state institutions (Logan 2011: 357; Oomen 2005: 184; Brynard & Musitha 2011: 114). Traditional leaders are also popular because they work according to culture and customs that the people understand and respect. Therefore, they are more popular than elected officials because of their accessibility and accountability even though they are not elected, for example in Botswana (Bauer 2016: 228, 232). While there is evidence that traditional leaders are better listeners, there is no evidence that loyalty to the chiefs arises out of disdain for democracy or contempt of elections in the modern nation state (Logan 2011: 342)

Given the Afrobarometer data, one can confidently conclude that chiefs can survive without the state because they are highly regarded and respected by their people. What Logan (2011: 376) states is in opposition to Mamdani (1996: 22-4) and Ntsebeza (2004: 72), who look at the negative side of the traditional rulers only, while failing to give full credit to their positive, or necessary, contribution to their communities. According to Logan (2008: 18), traditional institutions are relevant in most African countries and elected government officials and the traditional leaders can coexist without any problems. The evidence put forward by Logan (2011: 376) gives more credit to the traditional rulers in comparison to the local government institutions. The Afrobarometer data also highlights the fact that traditional rulers have a deeper and broader bond with their communities than elected government officials, by way of their traditional, cultural and historical connections. This development tacitly implies that, these traditional rulers are the more authentic representatives of their societies (see Logan 2011: 353 and Comaroff and Comaroff (2018: 8-9).

In Africa, countries are mostly underdeveloped, lacking the necessary infrastructure and capacity to deliver the rule of law to all citizens, and in some areas, it may be inaccessible (Chirayath et al. 2005: 6). In rural Tanzania, the *sungusungu* (traditionally organised defence groups) working through the non-state systems produce better results for example in cases of theft and petty crime, which helps to maintain peace and harmony. In Mozambique, traditional institutions played a critical role in the Gorongosa War, where such institutions were crucial in

in the establishment of order, healing, and treatment of trauma among the people in the absence of government support (Huyse & Salter 2008: 1). In Rwanda, the *Gacaca* (village courts) have been used in conflict resolution (Huyse & Salter 2008: 173). In Uganda, the *mato oput* (community ceremonies) were designed to welcome the child soldiers who had participated in a devastating war of resistance by successfully integrating them in their societies. These traditional institutions also regulate social life in rural areas and thus no reconciliation, reconstruction and community rebuilding can be successful without their participation and involvement (Honwana 1997: 294; Huyse & Salter 2008:1; Senier 2008: 67; Roder 2012: 58). While acknowledging the negatives of customary justice practices, the research focus is the need to clarify the roles and functions of traditional leaders because of the evidence that they continue to play a critical role in the governance of rural areas.

Traditional systems differ from one area to the other; the question is whether the roles of traditional leaders should reflect such differentiation, while at the same time aligning as much as possible to the White Paper (2003). It is interesting to witness that, to remain relevant, some traditional leaders, have managed to adapt by incorporating some of the new constitutional requirements while at the same time upholding most of their traditional norms and values (Oomen 2002; Anyanwu 2005: 9). This is particularly true with issues to do with equality, gender representation and human rights, which are part of the constitutional requirements and are not negotiable. For example, in the VDM, women are now allowed to participate in court sessions and can become traditional leaders, headwomen and elders. This is a testimony to traditional institutions being resilient, useful and effectively adapting to changing circumstances (Comaroff & Comaroff 2009: 2). This may be one way of safeguarding traditions in a context dominated by the ideals and norms of the modern liberal democratic state. Since it has been established that traditional leaders are relevant, it is essential to blend traditional leadership with modern democratic principles and the needs of the modern nation state. This is what Hinz (2008: 60) and Logan (2008: 16) refer to as alternative modernity, which, though complex, can support a model of governance such as strong/weak modern monism and unregulated/regulated dualism.

In essence, the key argument proffered here is that traditional leaders are fulfilling vital tasks in the rural communities, where government presence is minimal, so their roles and functions need further clarification. Critically, this is a cooperative governance issue. The latter requires

participation by those located in peripheral contexts, such as traditional leaders and their communities, in the way they are being governed.

2.5 Critique of traditional leaders

The literature available on traditional leadership and the roles they are fulfilling in cooperative governances at local government level demonstrates that it is a contested, complex terrain. While some scholars view traditional rulers as essential to contemporary politics, others view them differently. Mamdani (1996) and Ntsebeza (2004) see traditional rulers and what they represent as an irrelevant form of governance in the new democratic dispensation because they are not elected through elections but inherited from the past. Traditional leaders are also seen as authoritarian, despotic, gerontocratic and trampling on the rights of women, children and minority groups (Ainslie & Kepe 2016: 27; Anyanwu 2005: 41; Mamdani 1996: 22; Ntsebeza 2004: 70). They argue that in constitutional democracies like South Africa, state functions and duties towards its citizens must not be shared with traditional leaders. Nevertheless, their leadership roles remain central to their communities. Clarifying the specific roles, functions, and powers traditional leaders exercise in co-operative governance at local government level in South Africa is fundamental. It also helps in understanding the challenges faced by traditional leaders when they are executing their roles and functions in cooperative governance at local government level, where tradition and modernity are forced to share the same space.

Ntsebeza (2004: 72), and Ainslie and Kepe (2016: 29) argue that since the power of the traditional leaders is coming from traditional custom, it therefore lacks legitimacy because in a democratic liberal state like South Africa, it is very important for citizens to vote for representatives. Ntsebeza (2004: 72); Kessen & Oomen (1997: 564), further argue that traditional leaders lost their legitimacy during colonialism and apartheid eras when they collaborated with these regimes at the expense of their people. Those who refused to work with the colonialists were replaced with handpicked male rulers who implemented and articulated indirect rule policies. It is therefore argued, by those who critique traditional rulers, that the traditional institution is no longer original, it was tampered with during colonialism (Joireman 2001: 572). Customary law in Africa has become a hybrid of African traditional cultural practices diluted with European notions of common and civil law, which were meant to

articulate colonial policies at the expense of traditional communities (Joireman 2001: 572; Boyane 2005: 13). In this context, traditional leaders can be seen as irrelevant. Their usefulness as agents of exploitation of African labour and resources ended with the demise of colonialism in most African countries. Mamdani (1996: 22-24), sees them as ‘decentralized despotism’ who lost legitimacy when they became agents of colonialism and betrayed their people.

Ntsebeza (2004: 71-72) agrees with Mamdani, and argues that chiefs are answerable to the state rather than to their people. Traditional leaders have maintained their grip on power because the state has proved to be inefficient at both national and local government levels. This it has been argued, reflects the state’s lack of legitimacy because they are seen as elitist, coercive, oppressive or vehicle for elite political and economic interest (Chirayath et al. 2005: 6). Robinson et al. (2016: 1) highlights that unsolved social issues like the continued existence of traditional leaders in a democratic country like South Africa remain thorny, even though the post-1994 democratic government has been accepted as legitimate. Traditional leaders are viewed by some scholars as threatening the pillars of democracy and cooperative governance in the long run (Mamdani 1996: 23; Robinson et al. 2016: 1; Samatar 1997: 688-690). Further, these critics argue that, due to the continued presence of traditional rulers in the periphery, the rural people have lost most of their rights as guaranteed by the South African constitution. This has in a way turned the rural people into subjects, not citizens. For this reason, Mamdani (1996: 22) and Ntsebeza (2004: 72) advocate for the removal of the traditional governance institutions in South Africa because these are no longer relevant and are undemocratic.

The presence of traditional leaders in the rural areas makes it difficult for alternative voices or any formalised opposition to be heard, because the communities that traditional leaders operate are not egalitarian. According to Anyanwu (2005: 41), it appears that culture is attached to the traditional ruler and the upper ranks of the community elders. This makes it difficult for the youth and women (especially the educated) to freely express themselves and be involved in community development. This view, based on well-documented literature by Mamdani (1996) and Ntsebeza (2004), has been used to question the usefulness, credibility and the continued existence of traditional leaders in the current democratic environment. This is compounded by the fact that human rights abuses tend to go unchallenged in some communities where traditional leaders are found, according to Chirayath et al (2005: 6), for example *ukuthwala/shobediso* (abduction of young girls into forced marriages) by the Xhosa/Zulu. In South Africa some traditional leaders are also criticised for failing to stop young boys dying

under their care during initiation ceremonies. For these reasons, traditional leaders are perceived by those who critique them, such as Mamdani (1996: 24) and Ntsebeza (2004: 71), as enemies of democracy and progress, representing personal interests rather than that of their societies.

This self-serving nature of traditional leadership has been exposed by scholars such as Comaroff and Comaroff (2009: 7), who have attributed the ability of traditional leaders to survive in South Africa after independence to the current trends in commoditisation. This commoditisation is also explained by Comaroff and Comaroff (2009: 7) as the incorporation, or the branding and commercialisation of identity of the ethnicised populations into multimillion-dollar industries. These corporations sell culture and tradition to foreign visitors and institutions. Grischow (2008: 64) agrees with this observation when he says that traditional leaders are viewed as culturally suitable guardians of the rural people, “assumed to embody communal norms” and trustees in development projects. Yet the opposite is true.

Mnwana (2019: 130), Baldwin 2013, Comaroff and Comaroff (2018), Delius (2019) and Ntsebeza (2004) argue that traditional leaders currently have powerful positions through commoditization, distribution and powerful connections to the ANC political elites. This is particularly true, especially in the former homeland areas like Bophuthatswana, which are mineral-rich. It also seems to be the case among the Zulu through the Ngonyama Trust, and the Tshivhase in the Vhembe district Municipality. The Bakgatla *dikgosi* control and distribute vast mining revenues and act as custodians of community property and agents of rural development (Mnwana 2019: 143). The powerful political status enjoyed by the Bakgatla *dikgosi* in controlling mineral-rich land is rooted in the colonial tribal trusteeship, which the current government has failed to reform. This makes it difficult to fully understand the responsibilities of traditional leadership when it comes to cooperative governance in South African.

Traditional leaders are also criticised for their patriarchal nature, heavily tilted towards male primogeniture, and the rigid codified system of customary law (Jackson 2014: 129). In South Africa for example, colonialism empowered older men to be traditional leaders during the 19th century. In contexts where societal structures were apparently acephalous and largely heterogeneous, structures were created for indirect rule to work, for example the Tonga people found in both Zambia and Zimbabwe, and the Somali. These were replaced by an imposed

hierarchical political system of rule to help meet the needs of the colonial enterprise (Samatar 1997: 694). Also, in South Africa, those traditional leaders who resisted indirect rule were replaced by false ones who were willing to implement colonial policies. It is not surprising that traditional systems are viewed by others as diluted through colonial and apartheid policies, therefore, not a true reflection of the traditional and cultural practices of the Africans (Ainslie & Kepe 2016: 20; Boyane 2005: 10). At independence, the African elite had the choice of dismantling the colonially imposed structures by reverting to pre-colonial systems of governance. The African elite did not revert to pre-colonial institutions because they had become experts and more familiar with Western institutions than traditional ones (Joireman 2001: 578-579). There is a need to even the playing field at the intersection of local and traditional governance in the peripheral areas in South Africa, particularly on the challenges being experienced by traditional leaders in cooperative governance.

It is important to outline the roles and functions of traditional leaders at the intersection of local and traditional governance in the rural areas in South Africa, particularly on the challenges being faced by the traditional leaders in the process of fulfilling their daily tasks. The ambiguity that exists, through the existence of two parallel structures of governance needs to be addressed by clearly tackling the challenges being experienced by traditional leaders when implementing their roles and functions in cooperative governance.

2.6 Examples from the African continent

Just like under colonialism, the postcolonial African countries who have adopted the New African Constitutionalism all realised that to achieve modernity, democracy and legitimacy, especially in the rural areas, traditional leadership institutions had to continue existing alongside the state. Traditional leaders are a reality that could not be ignored, according to Hinz (2008: 70). It was crucial for policymakers to appropriate African traditional governance and customary law into constitutional democracies (Holm (2008: 75). This alternative modernity is found in almost all African countries. Botswana, Ghana and Zimbabwe have been chosen in this research, for their orientation towards strongly regulated weak dualism (see Hinz 2008: 63-67). In these chosen countries, African traditional governance and customary law have been subjected to the guidelines of a constitution that is more easily decreed than implemented, as

highlighted by Hinz (2008: 67). This is demonstrated by the fact that the roles and functions of traditional leaders are also not given priority by policymakers, just like in South Africa, even though they are recognised. Despite these limitations, cultural diversity has been maintained in these countries, emphasising the fact that everyone's culture is important and must be respected. These traditional institutions have raised their voices, thereby forcing these postcolonial governments in Africa to create some space for them in local government through various legislations. Through co-operative governance in the periphery, for example, traditional leaders and their communities participate in decision-making in issues affecting them in these countries.

In Ghana, traditional leaders were included in governance in the rural areas to make local government functional (Ayee 2007: 233; Mahama 2009: 8). Traditional leaders have been incorporated into governance since independence. In Ghana traditional leaders are respected, perceived as a crucial link between the marginalised rural majority and city people. Chapter 22 of the Constitution of Ghana (1992), recognises the institution of traditional leadership. Like in South Africa, the constitution of Ghana also established and set-up Houses of traditional leadership at national and regional levels. Traditional leaders were given a role to play in development, even though they are not allowed to participate fully in party politics (Constitution of Ghana 1999; Dano 2015: 20.) The traditional leadership have had to adapt and modernise themselves in this ever-changing social and economic environment and have remained relevant, demonstrating their resilience.

According to Davidson 1969, the African solution "is to find their own way of revolutionizing the structures of the past, and the colonial structures that have been imposed upon them, and which they inherited, in large part when they became politically independent" (quoted in Owusu 1996: 87). It is not surprising that during Nkrumah's rule in Ghana, the Communist People's Party (CPP) created various ways for educated chiefs to participate, as ambassadors, delegates to the United Nations (UN), cabinet ministers and commissioners. At the local level, traditional rulers were urged to identify with development projects to ensure their successful implementation. Currently, in Ghana, traditional leaders play critical roles such as dispute resolution, and regulating, especially those living in the rural areas according to Owusu-Mensah (2015:99). In Ghana and Mozambique, customary law covers up to 90% of the land transactions (Chirayath et al. 2005: 2; Logan 2008: 1).

Although chiefs are recognised, playing a role in development at local level, the Ghanaian constitution is not clear on the constitutional legal requirements for consultation with traditional leaders. Ayee (2007: 16) points out that the model of consultation is not prescribed, and the traditional rulers are left at the mercy of politicians, who may view them as competitors. This mixing of modernity and traditional systems in Ghana has created a high degree of ambiguity, as highlighted by the overlap of roles between local government and the traditional leadership. However, traditional leadership continues to flourish in Ghana and appears to fulfil the desires of both the state and the rural communities

At independence, the government of Zimbabwe abolished the roles, powers and functions the traditional leadership held under colonialism. Traditional leaders became mere symbols of culture (Chigwata 2016: 71; Musekiwa 2020: 590). The ruling party Zimbabwe Africa National Union (ZANU PF) did not want to share power with the unelected traditional rulers, they were replaced by politically appointed leaders. The politicians soon rectified the mistake they had made by restoring the traditional governance and customary system in the country in 1993. They learnt the hard way that traditional leadership was a necessary evil. The new government needed to anchor themselves on these leaders in order to govern and develop the rural areas. Traditional leaders proved to be legitimate, well liked, respected and could mobilise the people more than the elected politicians (Holm & Botlhale 2008: 74; Chigwata 2016: 69).

Currently in Zimbabwe, the traditional leadership's roles are legislated in terms of the Traditional Leadership Act and the Constitution of Zimbabwe (2013). At the intersection of local government and traditional governance in the rural areas, 2500 traditional leaders exist, each ruling roughly 35 households in rural Zimbabwe (Musekiwa 2020: 588; Chigwata 2016: 70). The traditional leadership institution is decentralised in Zimbabwe and are playing a critical role in development, local governance, land allocation and conflict resolution. Just like in Ghana and South Africa, the national, provincial and local Houses of Chiefs are provided for in the Zimbabwean constitution. Traditional leaders are allowed to participate in politics, belong to political parties and stand for parliamentary elections in terms of the Zimbabwean Constitution (2000). Although decentralisation is well defined legislatively, the reality, in terms of implementation is disappointing because very little is being done to develop and improve the livelihoods the rural poor. Musekiwa (2020: 595) has highlighted that

traditional leaders need capacity building, financial resources and political will, for them to fully participate in cooperative governance in Zimbabwe.

Colonialism did not destroy the fibres of the traditional institutions in Botswana, as it did elsewhere in the African continent (Sharma 2010: 2). In Botswana, the British were more concerned with the European population. As a result of this policy, the African institutions were left unscathed, as they were allowed to carry on with their traditional governance structures with no interference (Holm & Botlhale 2008: 75). During Colonialism, the traditional leaders held all the socio-economic and political power. They were not absolute rulers because they were helped by lesser traditional rulers, headmen and traditional councils to rule. These traditional rulers were replaced by district councils and land boards when Botswana became independent. However, to this day, the traditional leaders are well supported and respected in Botswana's rural areas, more than local government officials and politicians (Bauer 2016: 227; Sharma 2010: 140).

Afrobarometer data found that traditional leaders are highly regarded in Botswana because they are fulfilling important responsibilities in the running of municipalities, conflict resolution and maintenance of peace and harmony in the rural areas (Logan 2011: 10-12). Afrobarometer data also points out that most people in Botswana have got more confidence in the traditional leadership than in municipality officers. This is because traditional leaders are seen as better listeners to the people's problems than municipality officers (Logan, 2011: 14, 15). Just like in Most African states, the constitution of Botswana (1996) provides for the House of Chiefs and has also allowed traditional courts and meetings (*kgotla*) to continue.

According to Sharma (2010: 141), "the ruling party has built on the tradition of the *kgotla*, a communal assembly to consult public opinion and mobilize public support, in seeking local approval for development policies before any implementation". However, despite being recognised constitutionally, the traditional leaders are now only, mere shadows of their former glory, due to the fact that government officials and politicians have taken over most of their functions (Samatar 1997: 693).

Crucially, the above-mentioned review has identified a number of gaps in knowledge. The traditional leaders must also be understood in terms of what their roles and functions are in local government. The existence of two parallel structures of governance in the rural areas

requires that the roles and functions of both the state and the traditional leaders are clearly spelled out. What are the challenges being faced by the traditional leaders in the process of fulfilling their mandate, given the ambiguity of the constitutional provisions?

2.7 Conclusion

The ANC government was aware that the institution of traditional leadership had to continue existing in South Africa. Their existence represented the stability of peri-urban and rural areas where most marginalised people live. Traditional leadership has the necessary governance structures that the new state needed in order to achieve their goals. The new political leadership aimed to democratically decentralise political power, enable the participation of the people in issues that affected them, eradicate poverty and develop the rural areas for the betterment of all. The constitution was used to justify the ‘return’ to traditional governance and customary law in the new democratic era.

These traditional systems of governance are still relevant in the lives of rural people, as they continued to play crucial roles, they are well respected, are regarded as more attuned than the elected politicians and local government officials and have the mandate to act as the people’s agents at the grassroots. On the other hand, traditional leaders are criticised for being undemocratic and autocratic, and turning the rural people into subjects rather than citizens, according to Mamdani (1996: 23). Traditional leaders are also criticised for letting human rights abuses go unpunished in their respective areas, especially in relation to women and children. However, despite these shortcomings, traditional leaders as custodians of traditional customs and values, are widely relied on and respected in rural communities, to such a degree that their encouragements, orders and coercive interventions makes them key players in cooperative governance in South Africa. Based on these advantages, and the decentralised structures of traditional governance and customary law, traditional leadership can play a key role in community mobilisation, raising awareness, and development. It means that the process of building modern government structures requires the continued presence of the chieftaincy; however, to all appearances, at greatly reduced powers and carefully managed by the ANC government.

The South African constitution's recognition of traditional leadership gives one the impression that a strong dualistic or pluralistic system of governance is in existence at local government, where traditional leadership have been granted greater autonomy and self-determination by the state. This, however, is the opposite in the case of South Africa. Upon further scrutiny of the constitution and legislation governing traditional governance and customary law, there is evidence of a strongly regulated and weak dualism, in favour of the state and elected representatives. Thereby forcing traditional institution into the ambit of local government structures, where their roles, powers and function have been clearly ignored.

This subjection of the institution of traditional leadership to the constitution has created grey areas and ambiguity in understanding the challenges faced by these rulers in fulfilling their roles, functions and powers. To demonstrate that this mixture of modernity, traditional governance and customary law is more easily regulated than implemented, the White Paper on Traditional Leadership and Governance of 2003 also recommends that the institution of traditional leadership be adapted and aligned to the constitution. This may point to the fact that decentralisation is well legislated all these countries , but there is failure in implementation at local government level. Therefore, there is a need to understand the problems being faced by the traditional leaders in the process of fulfilling their various tasks when it comes to cooperative governance in the rural areas, and, as is the focus of this research, in the Vhembe District Municipality.

Chapter 3: Conceptual Framework

3.1 Introduction

The chapter is organised into five parts. The first part examines the relevant theoretical and conceptual frameworks in detail. The second part looks at governance and cooperative governance in South Africa and in general. The third part presents the local government framework as provided for in terms of the South African Constitution of 1996, the Local Government Act 32 of 2000 and the Municipal Structures Act of 1998 and the Municipal Systems Act of 2000. The fourth part operationalises governance and cooperative governance by drawing out key attributes through which data is analysed in chapters 5 and 6. The fifth part presents the legislation that governs the traditional leadership in terms of the South African Constitution (1996), The National House of the Traditional Leaders Act (1997), White Paper on Traditional Leaders and Governance Act of 2003 and Act No. 3 of 2019: Traditional and Khoi-san Leadership Act of 2019. The final section concludes by giving an outline of the whole chapter.

3.2 Governance and cooperative governance

According to Fukuyama (2016: 89), more recent literature on governance downplays the traditional state centric approach in favor of the new transnational or civil society actors. In this research, traditional leadership institutions play a pivotal role in rural communities, and are recognised by the South African constitution as part of the governance structures that runs alongside the state institutions of local government. With special reference to the Vhembe District Municipality in the Limpopo Province, the tasks that traditional leaders fulfil in cooperative governance need further elucidation, given the disagreements surrounding the act of governance. This will help in our understanding of the challenges that are besetting the traditional leadership institution in cooperative governance at local government level in South Africa.

Today, the term cooperative governance has to do with diverse activities that have a steering or regulating characteristics (Fukuyama 2016: 98). There is serious disagreement as to the scope of the term. It can also be used to refer to the *rule-ruler-ruled* relationship, the regulation, enforcement, provision, effectiveness and distribution of rules, goods and resources, the maintenance and management of different relationships within the state, and a structure, good government, a value and process (Börzel & Risse 2010: 114; Nweke 2012: 207; Brockhaus et al. 2012; Fukuyama 2016: 90; Adeyemo & Olojede 2008: 3; Olowu & Orero 1995: 3). Governance is therefore about steering, directing, regulating and collectively involving all stakeholders (Fukuyama 2016: 98-99).

According to the UNDP (Qudrat-I Elahi 2009), governance is about how an organisations or a country is run, including controls, structure, systems and processes used to safeguard and generate resources. It therefore means that these processes, systems, controls, institutions and organisations are at the disposal of the citizens to highlight their plight, fight for their rights, freedoms and participation in the way they are ruled. Governance is about developing a responsive government – a system that is efficient, reliable, and participatory, allowing citizens to participate in decision-making (Dupont et al. 2003: 345; Peters & Pierre 2002: 6). International development and humanitarian agencies are also linked to governance, so as co-operation between the various levels of government (Hooghe & Marks 2003: 234-236).

When the well-being and needs of the citizens in a country become more important than the sovereignty and exercise of power by the state, and cooperative governance and other forms of alternative participatory governance come into being (Hooghe & Marks 2003: 233; Peters & Pierre 2001: 131). In the 1990s, governments were seen as a primary obstacle to robust economic growth (Fukuyama 2016: 98). It was through this lens that the South African government included traditional leaders in cooperative governance in the rural areas. The aim was also good management of the county's resources for the betterment of all. According to Fukuyama (2015: 89) and Börzel and Risse (2010: 113), cooperative governance is not limited to the inclusion of indigenous groups; it also incorporates the business sector and civil society. These stakeholders represent various institutions and organisations collectively deciding which problems to attend to, by whom and how it should be done (Dupont et al. 2003: 333; Nweke 2012: 207). Since the state has been identified as part of the problem, citizens are empowered to make their government accountable to their needs, including safeguarding their rights and freedoms through participating in the way they are being governed (Malena et al. 2004: 1).

According to Dupont et al. (2003: 4), Hooghe and Marks (2003: 234), Peters and Pierre (2002: 132) and Boege et al. (2009: 15), there are various forms of governance. Some of these varied and emerging typologies of governance are condominio, fragmentation, multi-level, multi-perspectival, polycentric, and hybrid political order. Most are non-hierarchical. In this study, multi-level governance type (i) will be applicable (Peters & Pierre 2002: 5). Multi-level type (i) governance refers to a broader, more encompassing process of coordination than do the traditional models of intergovernmental relationships (Peters & Pierre 2002: 6). Multi-level governance is characterised by non-hierarchical coordination where decisions are arrived at collectively through power sharing, conflicts of interests are negotiated, and involves participation by non-state actors and institutions (Börzel & Risse 2010: 115; Hooghe & Marks 2003: 235- 236).

Traditional leaders, who are central to this research, are also incorporated in multi-level governance since they represent hybrid political orders (Boege et Al. 2009: 15). These institutions challenge the state and are not liked by most politicians on the one hand, while on the other they complement the state because of their proximity to the rural populations and are custodians of tradition and custom (Boege et al. 2009: 20). Nevertheless, in this research, these hybrid political orders are considered and represented when it comes to cooperative governance. However, it is the ambiguity that has been imposed on the traditional leadership roles, powers and functions by the South African constitution and legislature that needs re-examining.

3.3 Operationalisation of concepts

Given the contestations surrounding the use of governance and cooperative governance concepts among the various scholars involved in the field, these concepts need to be further understood and operationalised. For the purpose of this research, I am operationalising governance and cooperative governance through bringing attention to specific attributes of governance as defined in the literature.

According to Arnsten (1969: 216-224), there are various ways citizens can participate in cooperative governance, which can be categorised as bringing out : efficiency, reliability,

participation, development, citizen's social and economic well-being and good management. I see governance in terms of steering, directing, regulating accountability and collectively including all stakeholders. Even though governance is broader and includes many other concepts, the aforementioned characteristics of governance and cooperative governance are the ones that are deemed the most relevant to the research I conducted in the Vhembe District Municipality.

Citizen involvement in Cooperative governance brings out efficient systems and structures to manage the country's resources. Through participation interested groups are given the right to veto, to resolve undesirable networks and to make cooperative governance more effective. Citizens are consulted in the policy-making process. When proper consultation is done, people become part of the whole development process.

Even though development as a concept is contested and has many definitions, for the purpose of this research, I am interested in the bottom-up or the non-hierarchical approach to development, which improves the human condition according to Report of the World Commission on Environment and Development (WCED 1987: 43). This way, citizens have a say in the way they are governed through dialogue. Processes, structures and systems that include stakeholders are formed to promote joint planning and prioritisation, implementation and evaluation of projects and good management of the state's resources. This participation in development results in improving the general welfare of that area. Cooperative governance is about looking after the socio-economic well-being of citizens through participation and involvement (Malena 2004: 1).

Steering ensures that the defined strategies and objectives are met using ideal resource management and avoiding risks and wastage. Steering is a continuous effort that does not slow down once a policy is formally introduced (Beunen & Assche 2021: 366). Steering in governance is about analysing what works, responding to shifting strategy patterns by actors involved and adapting to new circumstances (Beunen & Assche 2021: 366). Directing is about how an organisation or country is run. According to the UNDP, this includes controls, structures and systems (Quadrat-Elahi, 2009: 8-10). Citizens participate in these controls, structures, systems, institutions and organisations to safeguard their development interests. Effective directing forces the government to be responsive to the human suffering experienced. In developmental project management, directing involves factors such as skills and

sustainability, the experience of the directors, developing competence, resources available to them and the tools and processes they can deploy (Bain 2011). It is about the proper management of a nation's resources for the well-being of all its citizens. This is why citizens are allowed to take initiative.

When citizens take initiative, they improve the government's capacity to fulfil its mandate because citizens become part of the solution (Peters & Pierre 2002: 6), thus initiative taking is an important part of governance. For example, citizens take initiative to fight corruption by establishing anti-corruption commissions, sharing and monitoring the state's use of public funds and implementation of policies (Peters & Pierre 2002: 8).

In regulating, the citizens demand a better, fairer, more efficient and participatory system of governance. Regulation involves a continuous process of monitoring, assessing and refinement of rules (Levi-Faur 2011: 4). This definition emphasises the role of diverse set of actors in the process of rulemaking, rule monitoring and rule enforcement in economic, political and social development.

Stakeholder engagement is crucial in governance because of the increased socio-economic inequality among the people, resource constraints facing the state and lack of trust in public institutions and leaders (Van Zyl 2013: 47). As a result of discontentment, it has become necessary for the stakeholders to be informed of all government plans and strategies and how these strategies will affect their lives. This communication to the stakeholders by government, according to Van Zyl (2013: 55), has to be integrated. For integrated reporting to be successful it should be based on continuous interactive communication with key stakeholders.

Stakeholder engagement in the public sector helps create awareness of the stakeholders' interests and expectations and creates transparency. In the case of the VDM, stakeholder engagement should help local government to disclose information about the way they are carrying out projects and to react positively to criticism.

Accountability is the relationship between the state and society at large, in providing and demanding better governance, according to OCED (2013: 39). Accountability that is shaped by local politics, power, incentives and by local citizens or other state institutions deliver services better than where decisions are imposed from the top. This is an approach towards

building accountability that relies on civic engagement, namely a situation where ordinary citizens or civil society organisations participate directly or indirectly in exacting accountability (Gyong 2011: 76; OCED 2013: 34). This is also referred to as society-driven horizontal accountability. It is not led by any one actor, but rather brings together a variety of actors and institutions. Accountability in governance is the extent to which the state is answerable to its citizens for its actions.

I will be using the above-mentioned concepts of governance and cooperative governance through to present and analyse my data in Chapter 5 and Chapter 6.

3.4 Framing local government

The recognition of the institution of traditional leadership in the South African constitution gives one the impression that traditional leaders and customary law have become equal partners when it comes to cooperative governance. It also implies the existence of a regulated and strong dualistic model of governance according to Hinz (2008: 63), in which traditional governance and customary law coexist with the state system of governance. This view becomes questionable, ambiguous and unattainable, like a mirage, upon further scrutiny and interpretation of the current legislation governing local government and local municipalities in the rural areas. To make matters worse, the judiciary functions of traditional leaders are still positioned the same as they were under colonialism and apartheid. The model of governance adopted by the post-colonial state of South Africa becomes that of a strongly regulated and weak dualism (Hinz 2008: 63). The reason of this conclusion is because of the degree of autonomy that has been granted to local government, while on the other hand, traditional leaders become a mere shadow of its former glory. Further the traditional authority has been limited and restricted in preference for local municipalities and elected representatives in the rural areas (Hinz 2008: 65), even though traditional leaders are well located to serve the people than the elected representative (Logan 2008: 16)

As a result, in local government, the constitution established municipalities with powers and functions based on three categories, referred to as A, B and C (The Constitution of the Republic of South Africa, 1996: 74). Municipalities that fall under category A are metropolitan in nature, found in cities like Tshwane and Johannesburg, while category B are district municipalities and category C are local municipalities found in rural areas. In 1994, nine new provinces were

established, with 834 local government structures, effectively covering every area in South Africa with a municipality (Hinz 2008: 65).

The constitution directs municipalities “to provide democratic and accountable government for local communities, to ensure the provision of services to communities in a sustainable manner, to promote a safe and healthy environment, to promote social and economic development, and to encourage the involvement of communities and community organizations in the matters of local government” (The Constitution of the Republic of South Africa, 1996: 78). These provisions in the constitution mean that municipalities and not the traditional leaders, have the mandate to look after the rural communities’ socio-economic, political and developmental interests. The same constitution is silent on the roles, powers and functions those traditional leaders ought to fulfil. This government position is further emphasised in the White Paper on Local Government (1998), where traditional authorities are supposed to be allocated roles close to the people. The Constitutional Assembly has not allocated any roles to the traditional leaders, which has created uncertainty within the institution. Some scholars are of the opinion that this lack of determination by parliament demonstrates the fact that the South African Constitutional Assembly has failed to prescribe the roles of traditional leaders, although it recognises them (Delius 2019: 20, Ntsebeza 1999: 82, 83; Rugege 2009: 173-175).

To diffuse tension between the two parallel structures of governance at local level, the Municipal Structures Act (117 of 1998) stipulated that traditional leadership were allowed to attend and participate in any council meeting. Further municipalities were expected to consult the traditional leadership and their communities before they make any decision that affected their areas of jurisdictions (Brynard & Musitha 2011: 115). The Local Government Act (32 of 2002) emphasises that the traditional rulers and communities should be part of decision-making. This legislation compels local government structures to identify and consult with traditional authorities and their communities in decision-making. Despite all efforts at equality and legislate, traditional leaders have been left at the mercy of the local government officials, as more ambiguity and confusion have been created. This position is supported by Hinz (2008: 65), who proffers the idea that reforms in local government since independence have forced traditional authorities into the framework of national government structures as guaranteed by the constitution. The powerful position they used to enjoy in their communities during colonialism and apartheid has been eroded.

Traditional authorities have complained about their dwindling powers, but this status quo has remained in force in South Africa (Hinz 2008: 65). Given the constitutional guarantees and the provisions of the above-mentioned pieces of legislation, participation by traditional leaders in issues affecting them is relatively insignificant and below expectations (Hinz 2008: 65; Brynard & Musitha 2011: 113). Some have argued that with the ever-evolving, ever-changing customary law, it is difficult to allocate any role to traditional leaders and the way forward is to find a working relationship between traditional leaders and government (Hinz 2008: 59; Rugege 2009: 174). To further boost their powers, local municipalities have also been granted the power to exercise their functions without impediment from the national and provincial government (Ntsebeza 2004: 71).

The aim in making such a provision in the constitution was fast-tracking the improvements in the standard of living of those outside the urban centers. They also wanted to decentralise governance by allowing the majority in the rural areas to participate development agendas that had a direct impact on their lives and their general well-being (Constitution of the Republic of South Africa, 1996: 74). However, there is very little evidence that the rural people are benefiting from these constitutional provisions because they remain marginalised, lacking basic services like water and infrastructure development.

Currently most local municipalities are facing challenges in policy implementation, lack capacity, perceived as weak, inefficient and without finances to fund social services which are required by the local people (Chirayath et al. 2005: 6). The promotion of social and economic development by municipalities is meant to act as a conduit for implementing government policies and programmes, to create jobs and improve the socio-economic well-being of the rural people (Department of Constitutional Development, 1996). As a result, traditional leaders are expected to participate in cooperative governance to improve the livelihoods of the poor, even though local government has been granted more administrative and judiciary duties through strong regulation than traditional governance, which have been weakened. The following legislative frameworks have been put in place to regulate traditional leaders in cooperative governance at local government level.

3.5 Legislation on traditional leadership

The ANC-led government realised that it had to be tactful in its approach towards the institution of traditional leadership to achieve its objectives of modernising and democratising the rural areas. According to Holm (2008: 74), this policy articulation required the continued presence of the institution of traditional leadership in post-1994 South Africa. Many in the ANC would have liked to live without the problems the institution of traditional leadership creates for them, especially the controversy they bring by their continued existence in a democratic country. However, they quickly recognised that some costs must be paid for the stability of the country, which traditional leaders and customary law provided (Holm 2008: 74). As a result, the institution of traditional leadership had to be remodelled so that its power was curtailed and it was effectively forced to operate under the umbrella of the national government. Co-operative governance and the desired participation of rural communities in issues affecting them were incorporated into the institution of traditional governance through legislation. These include the 1996 Constitution, the National House of Traditional Leaders Act of 1997 (Act 10 of 1997), the White Paper on Traditional Leadership and Governance of 2003, the Traditional Leadership and Governance Framework Act 41 of 2003) and Act No. 3 of 2019: Traditional Leaders and the Khoi-san Act of 2019 briefly explained below. These documents are discussed in this section as these make it clear that traditional leaders are allowed to exist under the new political dispensation but under the banner of the new African constitutionalism (Hinz 2008: 69). These legislative pieces help us to understand the ambivalent position faced by traditional leaders when it comes to their roles, powers and functions in cooperative governance in the rural areas. The constitution promises what is very difficult to implement when it comes integrating traditional governance and customary law into the ambit of the state.

3.5.1 The Constitution of the Republic of South Africa of 1996 (Act 108 of 1996)

According to the South African Constitution (Chapter 3, Article 40), one sphere of government cannot adequately cater for all citizens. Cooperative governance is thus required. Cooperative governance involves three spheres of government, namely local, provincial and national, all cooperating with other actors to ensure mutual trust, good faith, effective communication and coordination in decision making (Edwards 2008: 67). To meet the needs of the rural citizens

and include them in governance issues affecting them, the constitution of the Republic of South Africa of 1996 (Act 108 of 1996) recognises and respects the cultural positions of traditional leaders. Section 212 provides a role for the institution of traditional leadership on matters affecting local communities. This provision was meant to ensure that decisions are reached horizontally rather than vertically (Armstrong & Gilson 2011).

However, the role was not prescribed, the national legislature was tasked with the allocation of roles and functions of traditional leaders. Parliament has not come up with the roles and powers of traditional leaders to date. The functions and roles of traditional leaders in South Africa's new democratic political system have not been clearly defined in the Constitution. This has created ambiguity regarding their participation at local government level. More effort could have been made to try and outline the roles and functions of traditional leaders in the country's constitution. This lack of clarity in the Constitution makes it vague for all concerned, especially the traditional leadership, to understand their functions and future roles. Traditional leaders have been left to the whim of politicians and local government officials whose roles and functions are well defined in the constitution and through various pieces of legislation.

To ensure that they survive this political onslaught in the new democratic dispensation in South Africa, traditional leaders created the Congress of Traditional Leaders of South Africa (Contralesa), to lobby government. The formation of Contralesa made it difficult for the government to ignore traditional leaders, even though their credentials were badly stained by colonialism and apartheid, which had used them in suppressing and manipulating the people (Ainslie & Kepe 2016: 20; Van Kessel & Oomen 1997: 564). The Congress of Traditional Leaders of South Africa (Contralesa) represents most of the country's traditional leaders. Under the banner of Contralesa, they pressured the government and succeeded in being paid salaries. It is alleged that the paying of salaries shifted the allegiance of the traditional authorities to the ANC (Ainslie & Kepe 2016: 22). Anyawu (2005: 10) highlights that the rise to prominence by the traditional leaders during this period demonstrates that the credibility of the African institutions cannot be framed using the different roles they played in the pre-colonial, colonial and apartheid periods. They are now expected to play different roles in the new South Africa. Also, the fact that Chapter 2 of the South African Constitution recognises traditional leaders, tacitly implies that the institution of traditional leadership is there to stay. They are well supported by most of the population, particularly by those who reside in the rural areas, where traditional leaders are found (Mathonsi & Sithole 2017: 44, Oomen 2005;184).

3.5.2 The National House of Traditional Leaders Act of 1997 (Act 10 of 1997)

In recognition of the importance of traditional leaders in the periphery, a national department of traditional affairs was established. The Council of Traditional Leaders was set up at the national level to advise the national government on customary law and cultural issues (Hinz 2008: 66). They do not have the power to amend legislation and as they can only delay the passing of a bill by 60 days. The National House of Traditional Leaders Act of 1997 (Act 10 of 1997) provides for the establishment of a National House of Traditional Leaders and outlines the objectives and functions of this body. The House of Traditional Leaders was set up in six provinces (Van Kessel & Oomen 1997: 573) to advise the provincial government on matters relating to customary law, tradition, custom and indigenous languages. At local government level, local houses of traditional leaders were set up to strengthen the cooperative relationship between municipalities and traditional leaders on customary law and development. The National House of Traditional Leadership Act 10 of 1997 was repealed in 2009). It also makes it imperative for municipalities and traditional leaders to work together in the spirit of co-operative governance. This is a major challenge in terms of policy implementation and is made worse by the government's inability to curb corruption in its ranks.

Civic society involvement is crucial because it forces government to be accountable to its citizens. This development has resulted in a people-centred approach to governance that embraces the informal sector once seen as irrelevant (Diamond 1994: 6). He also argues that at times it is difficult to identify the differences roles exercised by civil society, the state and the private sector, because of the intricate nature of their relationship. This relationship is not straightforward, as assumed by Western notions of governance.

3.5.3 White Paper on Traditional Leadership and Governance of 2003

Even though the South African constitution recognises traditional leaders, their roles, functions, and powers are not outlined therein, save for a few guidelines for legislative processes (White Paper 2003: 4). Traditional authorities are prohibited from performing duties assigned to municipalities. They are expected to concentrate on customary law issues, development, and well-being of communities under their jurisdiction. A cooperative

governance relationship between the traditional leaders and municipalities is emphasised (White Paper 2003: 4.2)

South Africa recognises equal rights for all citizens and the rights for all cultural communities. The relating of traditional governance and customary law to the Bill of Rights creates conflicts between traditionalists and modernists. For example, the Baloyi, who belong to the Xitsonga culture, only installed Hosi Mwamitwa II after a long succession court battle that ruled in favor of Shilubane, a woman. According to Bekker & Boonzaaier (2008: 452) and Chauke (2015: 37), this judgement by the constitutional court means that customary law is flexible, a living law that need to develop over time to meet the changing needs of the community. All traditional leaders are empowered to change or develop where necessary to move with the times and evolving fabric of the egalitarian society as envisioned in the South African constitution (Bekker & Boonzaaier & 2008: 45; Chauke 2015: 37). To solve the legislative complexity currently faced by the judiciary, the White Paper recommends that customary law be rewritten so that it is not in conflict with the constitution and that the roles, functions and powers of all traditional leaders in the country be standardised or regularised by a task team (White Paper 2003: 5.4).

These expectations of levelling the playing field for the traditional leadership to effectively participate in cooperative governance were also articulated in the South African Yearbook (2018-19) as follows,

“The 2003 White Paper on Traditional Leadership and Governance sets out a national framework, and norms and standards that define the role and place of the institution of traditional leadership within the South African system of democratic governance. It seeks to support and transform the institution in accordance with constitutional imperatives and to restore the integrity and legitimacy of traditional leadership in line with the African indigenous law and customs subject to the Constitution”
(The South African Yearbook, 2018-19).

Their uncontested functions are customary, such as presiding over customary courts, convening meetings of communities through *kgotla*, *pitso*, and *imbizo*, protecting cultural values and customs (Hinz 2008: 59; Ainslie & Kepe 2016; Van Kessel & Oomen 1997: 561). They must

also be requested to perform ceremonial functions, for example, inaugurating a development project, opening a new school, clinic and so forth in their areas and to provide a supportive role to government in different spheres, especially at local government level. They could also mobilise local communities in support of development projects.

3.5.4 The Traditional Leadership and Governance Framework Act 41 of 2003

The White Paper on Traditional Leadership and Governance of 2003 led to the passing of the Traditional Leadership and Governance Framework Act (41 of 2003). The law provides for the recognition of traditional communities, the establishment and recognition of traditional councils, a statutory framework for leadership positions within the institution of traditional leadership, the recognition of traditional leaders and the removal from office of traditional leaders, the establishment of houses of traditional leaders, the functions and roles of traditional leaders, the resolution of disputes and the establishment of the Commission on Traditional Leadership Disputes and Claims, a code of conduct for traditional leaders, and the amendments to the Remuneration of Public Office Bearers Act (20 of 1998). As a result of the criticism levelled against the Traditional Leadership and Governance Framework Act 41 of 2003, Act No. 3 of 2019: Traditional and Khoi-san Leadership Act 3 of 2019 came into effect. Act No. 3 of 2019: Traditional and Khoi-san Leadership Act (2019) has not brought any clarity on the roles and functions of traditional leaders, just like the previous legislations. However, more detail on Act No. 3 of 2019: Traditional and Khoi-san Leadership Act of 2019 will be given in chapters 5 and 6.

3.6 Conclusion

In this chapter, the concepts of governance and cooperative governance were operationalised into themes for easier presentation in Chapter 5 and analysis in Chapter 6. Governance were operationalised into steering, directing, taking initiative, stakeholder engagement, regulating and accountability. Furthermore, cooperative governance was operationalised into efficiency, reliability, participation, development, social and economic well-being and good management. The legislation governing traditional leaders, such as the South African Constitution of 1996, the National House of Traditional Leaders Act of 1997 (Act 10 of 1997), the Traditional

Leadership and Governance Framework Act 41 of 2003, and Act No. 3 of 2019: Traditional and Khoi-san Leadership Act (2019) were discussed.

Postcolonial theory specifically deals with the marginalised and how they were deliberately exploited for the continued advantage of the elite, whether economic, political or otherwise (Said 1993: 4). The traditional leadership and their communities are poverty-stricken today because they were not prioritised and were turned into second class citizens under apartheid. Currently, the marginalised people found in South Africa's rural areas are given the power to improve their social and economic well-being through participation in governance. Through multilevel governance, which is non- hierarchical, hybrid political orders such as traditional leaders also participate in governance. Cooperative governance therefore gives all stakeholders, including the traditional leadership found in the VDM, the ability to decide what is good for themselves, not what the government thinks is good for them. Western modernity cannot be used locally in its present form because it was moulded in a different environment and circumstances. The only way for it to work is by combining modernity with the traditional and customary governance system. This alternative modernity is relevant in that it ensures the participation by the poor in identifying their own problems, prioritising and finding solutions to their problems (Gammelgaard et, al 2020: 1215).

This is why through the constitution and the various legislative frameworks available, like the Municipal Structures Act of 1998, local government was asked to ensure that there is participation by the traditional leaders and their communities in all development projects that affected them in the VDM. The aim was to be inclusive by making decisions filter from the bottom to the top. The only challenge faced by the traditional leaders and local government is the lack of clarity on the roles and powers of the traditional leader when it comes to cooperative governance in the rural areas.

Chapter 4: Methodology

4.1 Introduction

In this chapter, I present an overview of the research method, approach, collection of data, and the validity and reliability of the methods used in the study. I also discuss how the data was analysed and interpreted, and ethical considerations. A qualitative research method was preferred because it allowed for a critical analysis of the roles, powers and functions traditional leadership are perceived to have in cooperative governance. It further allowed for an exploration of the challenges faced in terms of cooperative governance the Vhembe District Municipality (VDM). The VDM is located in the Limpopo province of South Africa. Cooperative governance stakeholders, such as traditional leaders and local government officials, were interviewed to obtain their perspectives and understanding of the roles of the traditional leaders in their respective areas.

This study is an example of ‘real-world’ research, which is research conducted in real-life situations to try and make sense of complex contexts (Leedy & Ormrod 2015: 105). It used a case study design. A case study was suitable for the nature of the study because it allowed for detailed coverage of a specific area, while allowing flexibility in sampling the participants involved. As a result, descriptive, exploratory and explanatory questions of “what”, “how” and “why” were used to collect data and to find patterns during data analysis (Neuman 2014: 51). A case study approach made it possible to understand the roles, functions and powers of institutions of traditional leadership in the research area, as specified in the problem statement. The challenges faced by the traditional leadership in the process of fulfilling their mandate in cooperative governance at district and local municipality level was established through the case study approach.

4.2 Research design and paradigm

This research design is the axis around which the entire research effort revolves (Leedy & Ormrod 2015: 45). The research focused on aspects of cooperative governance in relation to

the role and functions of traditional leaders in the rural areas in post-apartheid South Africa. The intention of the research was to clarify the ambiguities that exist in cooperative governance at local government level when it comes to the roles, powers and functions of the traditional leaders.

A qualitative research approach was adopted as a research method for this study because it understands social reality as being constructed, enabling the researcher to focus on the interactive processes and events that concern the roles and functions of traditional leaders in the Vhembe District Municipality. I was able to interact with the communities and obtain insight into the way communities are being governed at national, local and traditional levels. Bryman (1988: 12) has pointed out that qualitative research as a method is not strictly formalised in character, but rather flexible, easily adapting to changes as soon as they arise, with the use of non-numerical data and verbal information. This informality engrained in the qualitative research methodology enabled me to study the VDM in detail in a flexible manner. As a result, traditional leaders, local government officials and community members in the VDM had a sense that their voices mattered and played a crucial part in answering the research questions raised in the study (Chilisa 2020: 15).

The participation of traditional leaders and local government officials in the research process helped me to understand and analyse cooperative governance through their perceptions and lived experiences. As suggested by Chilisa (2020: 11), this is an intended outcome of a qualitative approach, that the traditional leaders and their communities felt included in this research process. This was demonstrated by the fact that they even suggested to the researcher ways that would work for them as people in the periphery and how to minimise their marginalisation in the new democratic dispensation.

Qualitative research has been criticised for being value-laden, since the researcher is part of the research process and may be biased (Creswell 2013: 36, Newman 2014: 347). My approach in this regard followed Newman (2014: 355), which was to avoid personal biases when interviewing the respondents. In this way, I was able to distance myself from biases while remaining relevant to the research context and universe. With this approach, the truthfulness of the project was emphasised when thematically analysing challenges on the roles and functions of traditional leaders (Kumar 2019: 276). I also began my research with a self-assessment and realised that I needed my interviewees more than they needed me. They were

my source of data and as result, without their input, I would not be in a position to progress. Crucially, they had to be treated with respect. Creswell (2013: 36) argues that qualitative researchers necessarily begin with a self-assessment and reflection. An interpretivist paradigm was employed in this research project (Newman: 2014: 103), to understand the research participants through talking, listening, observation and recording the experiences, roles and functions played by traditional leaders. The choice of this paradigm is influenced by cost, time, knowledge, and the audience the researcher considers important (Newman 2014: 347).

In summary, this study gives insight into the perspective of what traditional leaders and local government officials understand in terms of their functions and roles in South Africa. Upon ascertaining the roles and functions of traditional leaders, I then compared these with the White Paper (2003) on traditional leaders as amended in Act No. 3 of 2019: Traditional and Khoi-san Leadership Act of 2019.

4.3 Case study approach and unit of analysis

A case study approach was applied to this research. The research explored the roles, functions and powers of the traditional leaders in cooperative governance in the local municipalities of Makhado, Musina and Thulamela, which fall under the jurisdiction of the Vhembe District Municipality (VDM), all located in the Limpopo Province of South Africa. A case study design made it possible to cautiously navigate the complex terrain of cooperative governance, leading to an understanding of how traditional leaders as the custodians of local customs and traditions within their communities, participate in local governance. This was done, as Bryman (2012: 66) suggests, “through the generation of an intensive examination” of the roles, powers and functions of traditional leaders in the local municipalities.

A case study approach was influenced by the character of the study, which is qualitative. A case study allowed for the challenges around the roles and functions of traditional leaders in cooperative governance to be explored using multiple modalities of communication (Yin 2018: 84). Exploration was done through semi-structured questions, and new themes that emerged were adapted even though these had not been framed initially in the research design (Yin 2018: 85). In terms of content, this exploratory case study was designed to give a comprehensive

analysis of the challenges faced by traditional leaders in the process of fulfilling their roles and functions in the local municipalities (Blaikie 2010: 190). Yin (2018: 86) refers to a case study method as an “... intensive holistic description and analysis of a single instance, phenomenon or social unit”. It is a very useful design in exploring an idea where little is known or a holistic understanding of the situation, phenomenon, community, and so forth is required, as suggested by Kumar (2019: 196).

4.4 The research area

The Vhembe District Municipality (VDM) in South Africa is one of the municipalities in the Limpopo Province, located in the northern part of South Africa. VDM has a population of more than one and half million, covering some 25 596 km², with a population density of 55,3 persons per square kilometre (Statistics SA 2016). It is home to the Vhavhenda people, one of South Africa's ethnic groups living alongside the MA Tsonga and Afrikaners, with the former comprising 70% of the population in the district. Though mainly rural, VDM is made up of the towns or cities of Makhado, Malamulele, Musina and Thohoyandou, each being responsible for a vast rural area. Most of the people within VDM are economically poor and live in traditional settlements (Local Government Handbook 2017: 440). These rural people and their knowledge of their local context were the focus of the case study portion of the proposed research.

The Vhavhenda were the preferred case study population because they are an example of where traditional leaders remain active and continue to play strong roles within their communities. Although they were colonised, and affected by being demarcated as a Bantustan (homeland for black people in the rural areas) during apartheid, the Vhavhenda were resilient and adaptive to their changing circumstances. Their culture, language and crafts have survived up to this day (Loubser 1989:54, Van Warmelo 1932: 25-26).

There are about 200 traditional leaders in the Limpopo province (Local Government Handbook South Africa 2017: 440). Vhavhenda have had to operate according to the principles of co-operative governance. For example, the traditional leadership in Venda has been arranged into 39 traditional councils, which fall under the Department of Cooperative Governance and

Traditional Affairs. They have also been forced through the legislation of the Municipal Structures Act of 1998 to operate under the framework of the Department of Local Government and are as such divided into municipal wards. In these wards, the ward councillor and ward committees are responsible for identifying the needs of the community and take these to local government, not to the traditional leader according to the Municipal Structures Act of (1998). However, due to the relative remoteness of the villages, many wards receive little attention from the municipality, and many remain outside the purview of the state, relying on traditional leaders to fulfil basic governance functions.

4.5 Approaches to data collection

There are several sources of data, such as documents, observation, questionnaires and interviews, that can be used in a case study approach to collect data. In the instance of this study, both primary and secondary methods of data collection were used. Primary data collection was undertaken through interviews that captured the views and perspectives of six traditional leaders and eight local government officials. In this research, semi-structured, face-to-face interviews and open-ended questions have been used to cover various topics of relevance to the research. This follows the approaches discussed in Hofstee (2011). Biglione (2012: 65), Galvan (2017: 3), Evans et al. (2014: 5), and Terrell (2016: 53) belong to the school of thought that view desktop research as secondary data. This is found in published books or journals, reports and web-based information, newspapers, and magazines were used. The choice of these data collection methods as well as the key informants was based on the ability to generate adequate information for the research, cost-effectiveness and feasibility in relation to the time available for the study. The selection of key informants was also informed by the level of engagement of the selected participants around the study.

4.5.1 Interviews with traditional leaders

Interviews were held with six traditional leaders. For the interviews with traditional leaders, non-random/non-probability purposive sampling was employed (Flick 2018: 182; Newhart & Pattern 2018: 100-101). The traditional leaders were chosen based on the belief that they were

reliable sources of information. For three traditional leaders, selection was also based on how easy it was to secure consent letters and whose areas were accessible. Headmen/headwomen were approached first to obtain access to the traditional leaders. I had problems securing the last three traditional leaders. I had to approach other persons that were well known in the area to secure access to these leaders. In this way, I managed to get an influential person in the area to help, and he was able to direct me to a well-informed traditional leader. Through the snowballing technique, as explained in Newhart & Patten (2018: 103), my interviewee directed me to other traditional leaders in Collins Shabane, Makhado, Musina, Thulamela and areas close to the Kruger National Park.

Interviews are generally viewed as highly subjective, value-laden, with the possibility of researcher bias (Kumar 2019: 228; Leedy & Ormrod 2015: 63; Newman & Patten 2018: 102). Even though this method has been presumed to be biased, I believe that these traditional leaders gave me valuable responses that answered my research questions based on their knowledge and lived experiences.

Qualitative semi-structured, open-ended questions were used as a primary instrument for the collection of data. These questions were preferred because they allowed for flexibility (Leedy & Ormrod 2015: 167). This also made it possible for new questions to be brought up during the interview, leading respondents to talk about issues they felt most comfortable with and knowledgeable about (Brinkmann & Kvale 2018: 45). The interviews followed a broad interview guide that outlined the topics to be covered (see Appendix no. 1). This ensured that the questions were of a high standard and that the more experienced researchers mentored the less experienced researcher before going to the field; it also guaranteed that the questions were open-ended, objective and of high quality. The researcher also allowed enough time for the interviews and allowed for flexibility so that interviews could be conducted at times most suitable to the interviewees, as it is not the convenience of the interviewer, but rather the informant, that is important.

Despite the limited time available for data collected and analyses, enough time was allowed for the interviews and no major challenges were experienced during fieldwork. Depending on the answers from the respondents, the interviewer probed for additional information and if necessary altered the line of questioning for the interviewee to provide a comfortable atmosphere that would generate additional information. This helped to obtain a fuller picture

of the interviewees' perspectives because I was looking for depth and detail, to enrich the thematic material required to answer my research questions (see for example Flick 2018: 217).

My research schedule experienced some delays, which made it impossible for the interviews to be strictly planned, some ended up being rescheduled. Some traditional leaders seem to be experiencing research fatigue because they seem to have been interviewed before and appeared not to see further value in participating in more of these interviews (Brinkmann & Kvale 2018: 62). Some community members obtained my details and promised to call when they were ready to be interviewed, but never did. My judgement was that they preferred to be left alone, and I had to respect that. For this reason, I had to be flexible to accommodate such experiences. This was crucial, because in qualitative research, analyses and outcomes are also determined and influenced by the quality and nature of interviews one obtains from informants. Sufficient time was allocated to conduct the interviews at locations that were convenient for the interviewees, usually their homes or offices (Brinkmann & Kvale 2018: 44). By taking advantage of the flexibility of this research method, follow-up interviews were arranged where necessary.

4.5.2 Focus groups with local government officials

Although the original intention was to hold one-on-one interviews with two local government officials only, the circumstances were such that instead informal focus groups emerged. I ended up interviewing eight of them. For example, at one point during my research, I was directed to an informant who was attending a local government workshop in the town of Makhado. After two days of waiting, I had a focus group interview made up of five local government officials from various portfolios. This arrangement resulted in an unforeseen but highly welcome focus group. Although this took days to materialise, the lesson learnt here is that the researcher needs to exercise patience and flexibility, given that some arrangements of this nature often yield useful data. The focus group was made up of five municipal officials who worked with traditional leaders, in most of their official duties. In Musina, I had a small focus group made of two local government officials. The researcher was encouraged by the fact that they all engaged traditional leaders in most of their daily official duties. They were thus able to provide information that provided valuable insights to the study, including a variety of viewpoints regarding the challenges they experienced in their interactions with traditional leaders in the rural areas (see for example Leedy & Ormrod 2015: 183, Kumar 2019: 307). The

researcher was forced to effectively manage the interview processes to avoid chaos and the domination of the process by one or two people by all taking turns to answer the questions in an orderly way.

4.5.3 Observation

Any field research requires careful planning and patience. According to Brinkmann and Kvale (2018: 62), a great deal of what researchers do in the field is paying attention to the interviewee's voice and facial and bodily expressions accompanying their statements and listening carefully. In this way, the researcher becomes an instrument that absorbs all sources of information. On the other hand, research of this nature has been criticised for causing considerable personal harm to the interviewee, beyond body language. Most social scientists are accused of regarding informants themselves as subjects of study and turning the interview session into a curiosity-driven enquiry (Chilisa 2020: 228). The observation technique was used by the researcher because it has the advantage that real life behaviour can be perceived, studied and verified, meaning that misunderstandings would also be clarified on the spot (Brinkmann & Kvale 2018: 62-63). The disadvantage is that a group may feel that an outsider is interrupting them in their work, and they may become uncomfortable. However, I attempted to mitigate this by introducing myself carefully and indicating the purpose of my attendance thoroughly.

I managed to observe the general attitudes and reactions of the participants during interviews. The common experience after the interview was that the interviewees found it enriching and enjoyed talking freely with an attentive listener. They also obtained new insights into important themes of their lived world (Brinkmann & Kvale 2018: 66). This can be attributed to the interview questions, which challenged the interviewees to think about their own personal circumstances. Concluding the interview by way of debriefing helped me to obtain valuable feedback from the participants, which required that I captured their sentiments and perceptions well.

This closing question gently reminded participants to rethink and they were able to raise issues they had perhaps failed or hesitated to mention during the interview. Also, once the sound recording was stopped, some people felt free and opened up, and this was particularly true with the local municipality officials

Some of the participants raised questions that were not necessarily relevant to the topic. This observation was picked up particularly on their response to the question regarding the relationship between the traditional leaders, local municipality officials and government officials at provincial offices in the city of Polokwane. On the other hand, questions on the roles, functions and participation of traditional leaders in cooperative governance and service delivery matters were understood better because they were passionate about these issues that affect the quality of their personal lives.

4.5.4 Sampling

Strydom and De Vos (1998: 191) view a sample as a subset of measurements drawn from a population, events or objects where researchers are interested. The researcher was aware that representativeness is a vital aspect of sampling that required close attention; therefore, nonprobability sampling was employed in this study. Babbie and Mouton (2007: 166) define non-probability sampling as a “method in which the sampling elements are selected using something other than a mathematically random process”. Due to the nature of the study topic, non-probability sampling methods were relevant because information could only be derived from a specific sample, such as the traditional leaders and local municipal officials, all of which were relevant to the study. To determine the sample, the research used purposive sampling (Babbie and Mouton 2001: 166; Kumar 2019: 305; Strydom & De Vos 1998: 198). According to Babbie and Mouton (2007: 166), this method is used in exploratory research to select a sample that is informative and knowledgeable on the research topic. This view agrees with Strydom and De Vos (1998), who state that the ultimate goal of purposeful sampling is to obtain cases deemed information-rich for the purposes of study. While the approach also involves the judgement of the researcher in terms of selecting member of the population to participate in the interviews, it should not be seen as subjective or biased, since such judgement is often a result of consultation and assessment of environmental and other circumstances on the ground.

According to Kumar (2019: 306), purposeful sampling is my judgement as to who can provide the best information to achieve the objectives of the study. This meant only going to those people who in my opinion were likely to have the information I wanted and were willing to share with me. Not everyone in the community studied had the required information, hence,

the sample was selected purposively. Some respondents were selected because of their work experience in local governance, like municipal officials. Other respondents were identified through the roles and responsibilities they held and exercised in their respective community, such as traditional leaders.

As argued by Newhart & Patten (2018: 71-72), it was impractical for me to include all the traditional leaders and local government officials found in the Vhembe District Municipality as my research sample. The target population would have been too large for me to manage in terms of size, time and the resources that were at my disposal. In the end, six traditional leaders and eight government officials were selected on the hope that they were representative of the target population (Newhart & Patten 2018: 71). Their views and perspectives that I managed to collect are regarded as authentic data because the patterns and themes that I found from it enabled me to answer the research question state in the first chapter.

4.5.5 Informal interactions

During field data collection, I stayed mainly in the Sibasa area of Venda. This is a community where rapid transformation is taking place from what used to be a very rural environment (Koenane 2017: 260) to what is now visibly the rapidly sprawling Thohoyandou metropolitan area. My research assistant and guide lived in the Makwarela suburb in Sibasa. It is through his knowledge and that of other people he introduced me to that I was able to successfully interact with the local communities, ordinarily and informally, learning as much as possible about them, including the language. It was through such interactions that I was invited to attend a *Khoro* (a traditional court presided over by a local council in collaboration with the traditional leader, where villagers bring their grievances, hoping for a resolution or seeking guidance) and to present my research and request for permission to interview the local traditional leadership.

Coincidentally, my interest in the research area was also stimulated by a discussion I had with a retail chain manager in Midrand. He indicated that the area of Masisi in South Africa's north-eastern lowveld part of Venda would be an ideal business investment location. I was able to identify at least two people living in Sibasa who also had direct business and investment interests in Masisi and were more than willing to accompany me there to meet traditional leaders. I also had the opportunity to meet some prominent and influential Venda academics

and public intellectuals, such as Doctor Christopher Neluvhalani, a heritage expert on Mapungubwe and Venda. My encounters and discussions with him assisted in linking me to some Venda traditional leaders.

4.5.6 Personal experience

Several field trips were conducted in the Vhembe District Municipality from December 2021 to May 2022. The first fieldwork took place in December 2021. It was a scoping survey to familiarise myself with the environment, the context of study and the participants. It was in the process of this scoping survey that one traditional leader promptly gave me the opportunity to interview him, which I found beneficial, as it put things into perspective. That leader presented a pilot of the research in terms of what to expect when formal data collection commenced in earnest. The scoping survey also indicated where to I needed to adjust, for example, in terms of planning and executing the research design, like the need to visit traditional leaders several times before they finally agreed to be interviewed.

I also discovered during my initial visit that it was neither ideal nor convenient to visit municipal offices during the period from December up to mid-January. This coincided with the end of the year and the start of a new one, with December being a busy month for most municipal employees who had to wind up business for the year. Besides, most key officials take their annual leave during this period, which means that those officials I would have wanted to meet were unavailable. The interviews targeting local government officials had to be rescheduled for February 2022, when they became available.

The second phase of the fieldwork took place in February 2022, with local government officials targeted for my interviews. All the local municipalities in Venda fall under the authority of the Vhembe District Council. The Vhembe Municipality was my first destination. It was then used as a springboard for locating key local government informants who were employed in the smaller municipalities. Through this channel, using the snowball technique, key informants who worked and collaborated with the traditional leaders as part of their job description, were identified. I succeeded in scheduling appointments and eventually interviewing officials in the Thulamela, Makhado, and Musina local municipalities. In the Musina local municipality, Mulalo, a local government official (interviewed 10/02/2022), invited his immediate superior

to participate in the interview session. This was enriching since the session provided comprehensive detail from the two, who took turns to respond to questions posed in a manner that complemented each other. These two interviewees were the ideal respondents, in my view, because they were also able to articulate government views and policies towards traditional leaders and were also knowledgeable on the White Paper on Cooperative Governance and the White Paper on Traditional Leadership (2003). In Makhado, a local government official, Masindi (personal interview, 07/02/2022), who was attending a local government workshop in town, directed me after two days of waiting to four other officials, who worked in his office/department. At Thulamela local municipality, however, Mberi (personal interview, 06/02/2022), a local government official, asked me to provide him with the questionnaire that I intended to use during the face-to-face interview the following day. When I got there at the scheduled time, he was not there but had left the questionnaire with a colleague in the next office. He had only answered four questions on paper, saying the rest were not related to his work. I explained to him telephonically that it was supposed to be a face-to-face interview, where I was supposed to clarify questions he did not understand orally. A telephonic interview was organised as a follow-up to the conversation.

The third phase of the fieldwork took place towards the end of March. The aim was to interview five traditional leaders. To secure an appointment for an interview with one of the traditional leaders in Sibasa, near Thohoyandou, I attended a *khoro* gathering where I presented my case to the council that comprised eight men and a woman (who is the sister to the traditional leader). They requested adequate personal identification, including my University of Pretoria identification. They also requested my research proposal and all the relevant permissions granted by the university. In my view, this traditional council was well versed in matters of research. This council promised to consult with the traditional leader and revert to me with a decision. They never did. However, I subsequently succeeded in convening the interview with the traditional leader during my last phase of fieldwork, upon following up on the appointment. This proved to be a good exercise in circumventing gate keeping (see for example Kumar 2019: 359; Peu et al. 2021: 234).

I also planned an interview session with another traditional leader located further away from the city of Thohoyandou. This only took three days. The leader did not convene a traditional council for this, but only the secretary, an advisor. At that point, I also did some reflecting on the research process, having realised the slow pace at which it was unfolding. It was going to

take a long time to meet the required sample of six traditional leaders to answer my research question. This reflection was prompted by the realisation that six days of fieldwork had yielded only one interview with one traditional leader. I realised that I had to learn to be patient with the process, especially respecting the community in terms of their culture, traditions and daily schedules, which they prioritise. This is what other researchers refer to as epistemic humility (Schmidt & Kehoe 2019: 14), which is based on approaches of ‘listening’ to the views and contexts of our informants, and the reflexive experience of which helps inform both our method and theory. I realised that the community were doing me a favour by letting me gather data on their lived experiences. They were also my source of knowledge. It was when after a breakfast session with a well-known heritage practitioner, public intellectual and elder in the area and province that I was directed to another traditional leader, also a prominent property developer in the VDM. I was able to interview the traditional leader the following day. It took him a mere phone call to direct me to other traditional leaders I needed to interview in Collins Shabane, Makhado, Musina and Thulamela local municipalities.

4.6 Data analysis

Postcolonial theory was used in this research to understand the role, powers and functions of the traditional leader and how they were exploited in the past for the benefit of the colonisers. The institutions that were used by the centre to underdevelop the rural areas in South Africa are still there. Hence the need to clarify the roles, powers and functions of the traditional leaders so that they can contribute to their emancipation through participation in cooperative governance in the VDM.

This research uses content analysis to analyse the data. It is evident that a topic of this nature requires qualitative approaches using content analysis. Such analysis is key to understanding patterns in communicating information relating to the roles and functions of traditional leaders. These patterns can be established from information collected from, or relating to, traditional leadership roles and functions. Content analysis is the process of going through unprocessed descriptive responses from respondents to each question posed to them in the field (Kumar 2019: 402). The data was analysed in the form of codes that were later categorised into themes. Codes were assigned to each theme for easier counting and identifying patterns and categories in the collected data (Kumar 2019: 403).

Content analysis allowed me to investigate the challenges faced by the traditional leaders in the rural areas in the process of fulfilling their mandate. It was crucial that when doing content analysis, the researcher chooses words that comprehensively capture the meaning or perspective of each theme. According to Leedy and Ormrod (2015: 317), the researcher develops new concepts, formulates conceptual definitions, and examines the relationships among concepts and links these concepts to each other. In this study, key concepts or themes were relied upon, as outlined in the literature review, as well as new themes that surfaced from my fieldnotes or transcription of in-depth interviews as a way of making sense of the data.

The aim of embarking on data analysis was to transform the information or data collected into a meaningful form, and eventually to answer the original research question (Kumar 2019: 376).

I reviewed the responses from eight local government officials and six traditional leaders as key informants, to find patterns, respondents' reactions, dominant views, contrasts, and justifications for their opinion.

In analysing the data, I drew from the conceptual and theoretical framework included in chapter 3 of this research. As suggested by Newhart & Patten (2018: 81), I sought ways to operationalise the complex integration of modernity and traditional leadership found in cooperative governance in the Vhembe District Municipality. Cooperative governance was described in chapter 3 as being about efficiency, reliability, participation, development, and efficient management of resources for the betterment of all traditional communities. Governance was framed as being about steering, directing, taking initiative, regulating, stakeholder engagement and accountability. These concepts were used to organise the data into related themes.

Lastly, I used Newhart & Patten's (2018: 162) approach to tackle the analysis of the White Paper on Traditional and Cooperative Governance (2003), as amended in Act No. 3 of 2019: Traditional and Khoi-san Leadership Act (2019). The themes that were identified in relation to the White Paper included the roles, functions and powers of traditional leaders, the relationship between traditional leaders and local government, as well as the challenges and ambiguities within these roles.

4.7 Ethical considerations

To ensure that the ethical considerations were complied with, the ethics committee and the Department of Political Science at the University of Pretoria approved my research design and the methodology before I undertook my fieldwork. It was only when they were satisfied that all ethical matters had been attended to that I was allowed to embark on the interviewing process. Firstly, before the interviews commenced, permission was sought and was granted by the Department of Cooperative Governance and Traditional Affairs (COGTA) in Polokwane, to interview traditional leaders, community members and local municipalities. COGTA's work is to improve and regulate cooperative governance across the three spheres of government, in partnership with the institution of traditional leadership, and their permission was required before embarking on this research study.

The principle of voluntary participation was applied to ensure that people were not coerced into participating in the research. For example, those who were no longer interested in participating in the interviews even though they had initially agreed to take part were allowed to opt-out. Participants were all informed about the objectives and anticipated outcomes of the study both formally and informally (Arifin 2018: 30; Baraks, Sabet & Schaffner 2014: 135). Through the principle of informed consent, the participants were given an overview of the study process and were all kindly asked to give their consent to participate in the study through signatures. At the same time, two standards were applied to help protect the privacy of research participants. The researcher guaranteed the participants' confidentiality by assuring them that the information and data they provided to the researcher would not be made available to anyone unless permission was granted by the informant. This ensured that no harm could be caused to the participants. The confidentiality of the interviewees was further upheld using pseudonyms. Having taken these precautions, the overall risk for the interviewees is viewed as very low.

In this case study, to gain access to indigenous settings, the researcher was aware that acceptable protocols and procedures had to be adhered to. It was also important to show respect to the cultural values and beliefs of the Vhavhenda (see for example Peu et al. 2021: 235). The indigenous aspects of respect, relationship, responsibility, reciprocity and distribution were observed from the beginning to the end of the research project (Peu et al. 2021: 233). The researcher also conformed to the community dress code and observed all the relevant protocols

during discussion sessions, whether formal or informal. Peu et al. (2021: 235) reflect that respect in the African context is expressed through dress code, greetings and participating in song and dance. These are necessary in creating a safe environment that allows participants to express themselves freely (see for example Afrin 2018: 32; Barakso, Sabet, & Schaffner 2014: 135; Maxwell 2013: 216). I could not help but observe that even though Peu et al. (2021: 233) emphasise traditional dress protocols, given my experience in the same research area, it appeared to be dramatisation or over-performance by these scholars. Their recommended dress code did not align with the informants themselves, who preferred to be approached with less formality. My assistants and those who guided me to the traditional leaders simply recommended regular or proper clothing. As such Vhavhenda must not be perceived in terms of “ethnographic present” (Huffman: 1996: 10-11), since they have continuously changed in terms of their culture and have embraced modernity in practically everything they do.

Community elders and gatekeepers are responsible for enforcing correct indigenous processes and guide, lead, advise and allow access to traditional settings. Even though no material and financial gifts were given to the participants, elders recommend gifts as tokens of appreciation to traditional leaders and elders (Kumar 2019: 359; Peu et al. 2021: 234), because culturally people are discouraged from meeting them empty-handed. I was limited regarding the language of communication, which was mainly Tshivenda, while on the other hand, I am Karanga/Rozvi, with some understanding of core Venda vocabulary. This limited my ability to probe respondents or build trust between us. This was however circumvented by hiring a Venda assistant, a PhD student at the university of Pretoria. His parents are well known and trusted by most of the elders and the traditional leaders in the VDM. This made it easy to gain the confidence of the gate keepers and elders who led us to the traditional leaders. All the traditional leaders understood and were able to communicate in English during the interviews. They also appreciated the fact that I greeted them in Tshivenda and respected their culture. Given the depth of knowledge my informant had, I am confident I did not lose much in terms of meaning and interview content because I recorded all the proceedings.

I also experienced some handicaps when approaching the compounds of the largely poor communities. Ideally, a gift would be the best way of breaking the ice, but we are obligated by University of Pretoria ethical guidelines and policies not to offer gifts to our informants. This lack of generosity on my part constrained the relationships that I would have wanted to establish with my informants. I felt embarrassed, because in my culture gifts are synonymous

with visiting. Upon completing the interviews, some of my informants gave me gifts from their fields and gardens like fruit and vegetables, out of their generosity and a sense of welcome and goodwill. This further added to my discomfort.

4.8 Reliability and validity

Interviews are generally viewed as highly subjective, value-laden, with the possibility of researcher bias (Kumar 2019: 228, Leedy & Ormrod 2015: 63). To minimise the shortcomings of interviews, an interview schedule was developed to shape the interviews process, serving as a guide. The Faculty of Humanities (University of Pretoria) Ethics Committee and the Political Science Departmental Research Committee reviewed and approved the interview schedule. According to Kumar (2019: 276), the reliability and validity of an inquiry is dependent on its trustworthiness and authenticity. Trustworthiness in this qualitative research is anchored in four indicators that are closely related to validity: credibility, transferability, dependability, and confirmability, as stated by Kumar (2019: 277). There are various ways of establishing reliability and validity, including reflexivity, clearly distinguishing between data and memos, triangulation, peer debriefing, prolonged engagement, seeking exceptions and contradictory evidence, confirmability, bracketing, and balance (Leedy & Ormrod 2015: 278). In this inquiry, the researcher used triangulation, sought exceptions and contradictory evidence and prolonged engagement to validate and improve on the reliability of the research findings.

In triangulation, the researcher uses multiple and different sources and methods to strengthen the validity and reliability of the findings (Cresswell, 2013: 205-206). For this study, data collection relied on three different sources, namely informal interactions, interviews and document analysis. While document analysis gave insight into the roles, powers and functions of the traditional leadership and the legislation available to frame their roles, it could not address the questions on the perceptions that the local government officials, traditional leadership and rural communities have on the roles and functions of these traditional leaders and their participation in cooperative governance. This led to the information emanating from document analysis to be triangulated through interviews, to verify its authenticity and trustworthiness.

Further, due to the embeddedness of the issue of traditional and municipal leadership, many actors were involved in the process. This was done to authenticate the data that was collected from one informant to the other. The way the interview was conducted also helped the researcher to compare respondents' perspectives on issues, as well as detect biases and contradictions among the various participants. The researcher also triangulated information and data by follow-up telephone calls to some of the respondents to clarify ambiguities. As a result of employing these checks and balances, the validity and reliability of the study was significantly enhanced.

4.9 Conclusion

This chapter presented the research methodology that was chosen to answer the research question. A qualitative research approach was used as a source of data collection. The study adopted a case study approach to examine the challenges of the roles, functions and powers of the traditional leaders in cooperative governance in the Vhembe District Municipality. The researcher also viewed the informal interactions with the community as a method of collecting data. This is because these informal engagements with communities helped in shaping the perspectives of ordinary people who are also governed by traditional leaders. Personal experience during fieldwork was also presented in this chapter, to help the reader to understand the dynamics that were at play, during the research.

The criteria that were used to operationalise cooperative governance was given in the data analysis section of this research. The themes were drawn from the conceptual framework in chapter 3. Governance was framed in terms of steering and regulating, stakeholder engagement in order to make government accountable through partition. Cooperative governance was seen as reliability, efficiency, good management, development and participation of stakeholders in issues that affect their social and economic well-being. The White Paper on Traditional Leadership and Governance of 2003 and Act No. 3 of 2019: Traditional and Khoi-san Leadership Act of 2019 were used to understand the roles, functions and powers of the traditional leadership in the VDM. Issues of ethical consideration, validity and reliability of the methods used were also discussed.

Chapter 5: Presentation of Data: Governance and Cooperative Governance

5.1 Introduction

The purpose of this chapter is to present the data on governance, cooperative governance, and views or perceptions on the roles and functions of the traditional leaders in the VDM. Although many concepts are involved in governance and cooperative governance, for the purpose of this research, only the concepts defined in the conceptual and theoretical framework in Chapters 1 and 3 were chosen.

Cooperative governance is a system in public administration that allows for efficiency, reliability and good management of the country's resources for the betterment of all citizens' social and economic well-being (Mararike 1995). In cooperative governance, development projects only achieve these desired objectives if the target group is involved in all the stages of the project (Börzel & Risse 2010: 113; Mararike 1995: 11). In this case all stakeholders, including the traditional leaders, are expected to participate in all issues that affect them in the VDM. The traditional leaders, who are central to this research, are also included in multi-level governance because they represent hybrid political orders (Boege et al. 2009: 15). In this research, these hybrid political orders are reckoned with and engaged with when it comes to cooperative governance. Traditional leadership and multilevel governance are further discussed in chapter 6 and 7.

All stakeholders, including the traditional leaders, are expected to participate in all issues that affect them in the VDM. These stakeholders participate in governance through steering, directing, and regulating (Fukuyama 2016: 98-99). This is why the roles, functions and powers of the traditional leaders need to be redefined so that all ambiguities are clarified in cooperative governance in the VDM. It is the only way the government can be made accountable, thereby safeguarding the rights and freedoms of the people in the rural areas.

5.2 Governance

In this section, I contextualise governance into six concepts that have been drawn from the contextual and theoretical framework found in chapter 3 and Chapter 1 to present the data. According to Fukuyama (2016: 89), the act of governance involves steering, regulating, directing, accountability and stakeholder engagement and taking initiative by stakeholders. These concepts have been defined briefly in chapter 3 for easier understanding of what governance is all about. For the purpose of this research, only these concepts will be applied to governance. The following themes have been identified.

5.2.1 Steering

In governance, steering ensures that the defined strategies and objectives are met using ideal resource management and avoiding risks and wastage. When it comes the act of steering in governance in the VDM, there is evidence that traditional leadership and their council are not fully involved. In this regard Masindi, a local government official in the Makhado local municipality, thinks that traditional leaders are not fully implementing their roles and functions. According to Masindi,

“Traditional leaders are supposed to do facilitation in terms of development of their own communities, addressing issues of governance or local government within their areas of their jurisdiction” (interview with Masindi, 07/02/2022, Makhado Local Municipality).

They are expected to cooperate with local government to create ways of addressing service delivery challenges. However, both the traditional leaders and local municipality officials acknowledge that the environment that they operate in is ever-changing, presenting new challenges when it comes to governance (interviews with Rendani, 05/02/2022, Khoroni, 06/05/2022). Traditional leadership, roles, functions and powers seem to be increasing because they are handling more portfolios than before. According to traditional leader Gizara,

“People now talk about access to economic opportunity. For example, people are moving from subsistence to commercial farming. They no longer want to be limited to substance farming, since they now want to sell their produce.

They also want to be involved in mining, for example quarrying. With this move towards townships development, some people now want formal stands” (interview with Gizara, 06/05/2022, Hamasiya).

All local government officials contend that they have well laid out structures and procedures in place to provide these formal stands. However, according to local government officials Mulalo and Albert (10/02/2022, Musina) and Rendani (05/02/2022 VDM) traditional leaders think that government want to take their land. Albert went further and said,

“There is disjuncture between the headman/headwoman and the needs of the community. Government officials are seen as enemies who want to take their responsibility, yet there is a common agenda, that is to serve the people. Local municipalities and traditional leaders must find a way of working together, so that the two systems are not in conflict, but rather complement each other” (interview with Albert, 10/02/ 2022, Musina Local Municipality).

All traditional leaders in Vhembe dispute this alleged antagonism that they cause in land demarcation processes because they are aware of most of the legislation that governs them.

5.2.2 Regulating

According to Act No. 3 of 2019: Traditional and Khoi-san Leadership Act 3 of 2019, traditional leaders exercise dual roles, which are customary law and statutory law.

According to traditional leader Mudau;

“Under customary law, we do things like the installation of a headman/headwoman, king or queen and land allocation, and the government does not get involved. We operate traditional courts where customary law is applied, and where criminal acts and disputes are resolved. For example, according to Tshivenda, when somebody commits a crime, your whole family has committed the crime. The family of the perpetrator is expected to report to court and participate

in the proceedings and pay compensation. The traditional system gives justice to the offended and restores justice between the families who continue to live together. Customary law is not governed by any statute but by tradition and custom” (interview with Mudau, 24/03/2022, Thavhani Mall).

Traditional leader Mudau also pointed out that according to Act No. 3 of 2019: Traditional and Khoi-san Leadership of 2019,

“Traditional leaders have a role to play in local government, particularly, in the actual running of local municipalities. Many roles are assigned to the traditional leaders e. g. the role of the traditional council is to identify the needs of the community, then the traditional leader informs the municipal council of the identified needs. This role is critical and must be exercised. Currently, the number of traditional leaders who should participate in council meetings is gazetted by the MEC” (Interviewed 24/03/2022, Thavhani Mall, Thohoyandou).

Mudau (interviewed 24/03/2022) is here referring to the Member of the Executive Council (MEC) responsible for local government matters in a particular province who authorises the number of people that should participate.

Other traditional leaders claim that several ways have been created legislatively to enable the participation of leaders and communities in cooperative governance in the VDM. According to traditional leader Khoroni, ward councillors must cooperate with the ward committees for cooperative governance to work. Their participation is governed by the Municipal Structures Act of 1998 and Municipality Systems Act of 2000, which specifies how ward committees are supposed to be elected from the community. They can participate through the ward councillors, ward committees, traditional councils, senior traditional leaders and their councils in cooperative governance (Khoroni interviewed on 06/05/2022, Sibasa).

In terms of legislation, traditional leaders do not have real powers on issues of local government, according to most of the traditional leaders interviewed. Traditional leader Gizara supported this notion and went on to say that depending on the character of such traditional

leaders, one can only have powers to influence to a limited degree. He stressed that they do not have real powers even in terms of those who sit in the district and local municipalities. They serve as mere observers, sitting in council to listen but do not raise issues, talk or vote. As such he believes that such roles are merely ceremonial (Gizara, interviewed 06/05/ 2022, Hamasia). Traditional leaders do not have the power to make the government accountable, even though they attend council meetings.

5.2.3 Accountability

Accountability in public administration is associated with transparency and good governance (Fukuyama 2016: 89; Pepaj & Mirlinda 2018: 61). This means that accountability is desired in governance because it brings about efficiency, effectiveness, rule of law and responsiveness in government to the needs of its people. When there is accountability in public administration, the people are given the power to participate fully in cooperative governance because all information, processes, structure and systems are transparent for all to monitor (Pepaj & Mirlinda 2018: 67).

There is evidence of lack of accountability and corruption in the VDM, especially on issues to do with human settlement. This lack of government accountability was highlighted by Mulalo, a local government official. He said,

“For transparency and accountability in the VDM, when government pays for a housing subsidy, it must do so on a formal stand number, so that government is not defrauded” (Interview with Mulalo, 10/02/2022, Musina).

It was suggested by many local government officials that people receive housing subsidies but do not build the houses. Mulalo (interviewed, 10/02/2022, Musina), made it clear that local municipality officials formalise residential and commercial stands so that they are able to go into their system and verify who occupies it. This also acts as a check and balance on corrupt traditional leaders who are taking land from the people for their own benefit. A local government official, Rendani, said,

“There is need to monitor and stop fraudulent documentation and substandard infrastructure that is rampant in the VDM. Traditional leaders need to be educated on the role of government in cooperative governance to enhance their participation in governance issues that affects them as stakeholders” (Interview with Rendani, 05/02/2022, VDM).

5.2.4 Stakeholder engagement

The evidence shows that there is stakeholder engagement in the VDM. The power of traditional leaders is controlled by the MEC. Rendani (interviewed 05/02/2022, VDM), said

“Each time there is a demarcation and spatial analysis or IDP forum in the Vhembe District Municipality, stakeholders are included. They consist of VDM, South African Local Government Association (Salga), COGSTA, (COGTA is the national while COGSTA is the province), traditional leaders, Local Economic Development Environment and Tourism (LEDET), Office of the Premier and the Department of Rural Development. When they plan a development project, say in Masisi adjacent to the Kruger National Park to the east, the Musina Local Municipality will be part of the stakeholders since local municipalities are the implementors. In such instances, COGSTA assists with maintaining the relationship between traditional leaders and local municipalities, strategies, funding, installing and restoring services wherever is possible. COGSTA also assists during policy formulation. They also assume membership of various committees and facilitate in issues to do with Reconstruction and Development Programme (RDP) houses. The Department of Rural Development is very important because if there is any development they want to do in the rural areas, it has to be consulted. They are the owners of the rural land on the one hand, while on the other hand, traditional leaders are the administrators of such land” (Interview with Rendani on 05/02/2022 VDM).

Besides government departments, traditional leaders also work with other stakeholders. Traditional leaders have pointed out that the relationship they have with other stakeholders is

not standard; it depends on who you are. For example, traditional leader Gizara (interviewed 06/05/2022, Hamasiya), attested to the fact that educated traditional leaders can protect their territory, while the uneducated ones are exposed and can be taken advantage of by municipalities. For this reason, traditional leader Masoja (interviewed 07/05/2022, Masisi) is not even aware of these stakeholders and has not worked with any government department in his area. Some said that COGTA mainly works with traditional councils and this is why less prominent leaders are neglected, while others indicated that they only attend IDP if they are invited or are having problems they want to present to them. Others said that they work with COGTA in matters of succession of a headman and senior traditional leaders as legislated in Act No. 3 of 2019: Traditional and Khoi-san Leadership Act 3 of 2019. However, all the interviewees agreed that conflicts and court cases can be avoided if all the stakeholders work together.

Some traditional leaders identified other stakeholders that they were engaging, such as the University of Venda, which draws most of the students from their areas. They have partnered in terms of research and have a memorandum of understanding with them. The university guides them in their five-year planning processes in terms of educational development. One traditional leader also works with Stellenbosch University and have collaborated in areas of agriculture. He contends that the collaboration they have with Stellenbosch is highly empowering and beneficial. This is because, to a large extent, they gain capacity in terms of planning their agricultural development. Traditional leader Khoroni also said:

“They work with organisational structures that help them as traditional leaders to appreciate what the people are saying about the services that they give as traditional leaders. That is how they acquire the requisite feedback, which is vital in terms of governance of their communities” (interview with Khoroni 06/05/2022, Sibasa).

Four traditional leaders pointed out that they cannot generalise the work of government. There are departments that are helpful such as the Department of Rural Development, with whom they have a positive and progressive relationship.

5.2.5 Directing

Good governance is anchored in sound directing. When directing is done properly, good governance is inevitable. For this to happen, all stakeholders must be empowered to monitor the way they are being governed through participation. In monitoring and directing, participants have the power to play an oversight role and interrogate how governance processes and structures are being deployed and managed (Bain 2011: 70,78; NDP (Quadrat-Elahi, 2009: 8).

Masindi, a local government official, said,

“Traditional leaders as important stakeholders participate during formulation of policies so that they inform us what they want during IDP meetings. When government implement projects, they involve everyone by holding IDP meetings which enable public participation. They also advertise the IDP meeting through local newspapers and radios. Information pamphlets are limited because these depend on capacity, some municipalities cannot afford them” (interview with Masindi 07/02/2022, Makhado Local Municipality).

In the VDM there is evidence that directing by other stakeholders is not taking place. Traditional leaders have no real powers to monitor local municipalities as legislated in the Municipality Systems Act of 2000. This directing process required for local governance to be fully operational has been compromised by the absence of watchdogs or meaningful checks. Six local government official dispute the fact that traditional leaders are fully involved when it comes to directing. For example, in Musina, local government officials Mulalo and Albert said,

“Traditional leaders give consent in the initial stages. When it comes to the final decision, they do not share the final information with the traditional leaders since they are not part of that meeting. They instead compile the final report, and the person who authorises the report does not call the traditional leaders to meetings to approve Therefore, the traditional leader is not fully involved in the directing process” (Interview with Albert and Mulalo on 10/02/2022, Musina).

Tsitsi and Masango in Makhado agreed with their counterparts and went further to say,

“There are no systems that been put in place to monitor and make local government accountable to the people they serve. Unfortunately, the directing process restarts every five years because of local government elections when terms of office for some come to an end and new politicians are voted into municipalities (Interviews with Tsitsi and Masango, 07 /02/ 2022, Makhado).

5.3.6 Taking initiative

Even though the institution of traditional leaders represents continuity in local governance, the challenge is taking the necessary initiative to make this model of alternative modernity in governance work as desired in the VDM. Through participation, non-state actors like traditional leaders and civil society are allowed to take the initiative to jump-start effective development in their communities through monitoring and partnerships.

Traditional leader Mudau, one of the two traditional leaders with a university degree, challenged the traditional leaders and mayors that they should come together using their own initiative to be self-sufficient and implement development in the VDM. He said,

“I initiated development in my area. I was able to partner with the Department of Health, Water Affairs, Education, Roads and others, Vhembe District Council and the local municipalities. We also joined the party with Eskom and Road Agency and changed the game by offering to pay 10% of the budget. Another example is, last week the gravel road in my area was bad. I called municipality to fix the road, only to be told that they had no petrol. The Trust paid R4000 to the municipality, now our roads are nice and clean. They were shocked because no citizens have ever paid for these services.” [sic] (Interview with Mudau, 24/ 03/2022, Thavhani Mall, Thohoyandou).

Traditional leader Mudau went further to say that

“In order to succeed in cooperative governance, the clause that talks about ‘partnership’ in Act No. 3 of 2019: Traditional and Khoi-San Leadership Act of 2019 has to be exploited by the traditional leaders and their communities for their benefit. Traditional leaders and the communities are privileged because they owned land which is a resource that can be used to bring change in the rural areas (interview with Mudau 24/03/2022, Thohoyandou).

On the other hand, traditional leader Gizara, insisted

“Taking initiative in cooperative governance in the VDM is somehow tricky because our roles and functions have not been defined. Failure to define how the traditional councils must operate in relation to the government is the greatest problem, that does not give us room to manoeuvre. Yes, the state must capacitate traditional councils to be centres of service delivery that link ordinary people with ward councillors, municipality, district and provincial government and national government. This kind of relationship needs to be activated, be regulated by law, it must not be optional” (interview with Gizara, 06 05/2022, Hamasiya).

5.3 Cooperative governance

In this section, cooperative governance has been conceptualised into themes to present the data. Concepts such as participation, development, reliability, efficiency, good management of resources and improvement in the general social and economic well-being are going to be used to understand cooperative governance. These themes have been defined and conceptualised in chapter 3 of this research for easier understanding of what cooperative governance is all about. However, for this research only the concepts below will be used in conjunction with cooperative governance.

5.3.1 Development

When it comes to development in the VDM, the Integrated Development Plan (IDP) developed by municipalities are expected to be inclusive, by involving other stakeholders, interested parties, traditional leadership and the community in putting together strategic planning instruments for their municipalities every five years (Municipal Systems Act 32 of 2000). This developmental policy must be arrived at collectively, which means that the traditional leadership should be consulted and allowed to participate in all development structures, systems and processes.

In terms of whether cooperative governance is working in the VDM, the positions of local government officials were mixed. Four local government officials agreed that cooperative governance is working on the basis that they have been working with traditional leaders in all developmental programmes taking place in the district. These projects include the aforementioned IDP, capacity building, spatial training, land use and environmental management. During public forum gatherings, projects are reviewed while traditional leaders get capacitated. Rendani, a local government official in the VDM said,

“The VDM has 39 traditional councils, as local government officials we have sat in all of these, presenting our issues to them. More than 50 sites in the VDM have been demarcated properly, which shows we have a good relationship with most traditional councils in that district. Development and investment are only introduced in areas that are properly demarcated because no investor wants to invest without these” (Interview with Rendani, 05/02/2022, Thohoyandou).

However, two local government officials countered this position and asserted that even though they interact with traditional leaders in all local municipalities, cooperative governance is facing serious challenges. Their concern is that most of these leaders do not understand their roles and functions, particularly when it comes to land management. Mulalo, a local municipality official in Musina, supported this notion by saying,

“These leaders feel threatened especially with land demarcation. They think that we want to take their land. Awareness campaigns are difficult because

traditional leaders do not seem to understand their roles.” (Interview with Mulalo, 10/02/2022, Musina).

The last two local municipality officials did not agree with Mulalo and argue that traditional leaders are not fully consulted in IDP forums (interview with Magoma and Masango, 7/02/2022, Makhado).

Only one traditional leader concurred that they are consulted and participate fully in IDP forums, structures, processes and systems (Interview with Mudau, 24/03/2022, Thohoyandou). However, four traditional leaders that were interviewed contended that they understood their functions and roles but their relationship with the municipality is not what it appears to be (interviews with Munyadziwa, 11/12/2022, Funduzi 22/03/2022, Khoroni & Gizara 06/05/2022). Vhomusanda Munyadziwa, for example, said:

“We meet and talk and agree on things they should do for us, but the municipality does not fulfil these obligations. There is too much talking and little action. We are not getting essential services that we ask for” (interview with Vho Munyadziwa, 11/12/2021, Sengwe village).

Traditional leaders highlighted that the roads are in a dire state of disrepair, they have serious water problems in their areas of jurisdiction, and unemployment has led to high poverty levels in their communities (interview with traditional leaders Munyadziwa, Khoroni, Funduzi, Masoja, Gizara and Mudau 11/12/2022, 21 & 24/03/2022, 6/05/2022 & 7/05/2022 respectively).

Traditional leader Masoja explained,

“I have never been invited to attend IDP meetings since I became a traditional leader, ten years ago. Even my father during Mandela never attended an IDP forum. We do not have any government official to work with. We have nothing. For example, we have not benefited from RDP since 1994”. (Interview with Masoja, 7/05/2022, Masisi). As a result, his area has been marginalised because it has not been governed, within the context of cooperative governance, service provision and development (interview with Masoja, 7/05/2022, Masisi).

5.3.2 Reliability

Given the varied sentiments raised by both local government officials and traditional leaders, cooperative governance cannot be relied upon to address the needs and wants of those in the rural areas. There is a general consensus among traditional leaders that cooperative governance has not really worked for them as they are still marginalised by government in terms of service delivery and development.

All the traditional leaders in the VDM subscribe to the idea of an African traditional governance system that is highly reliable, consultative and encourages cooperative governance in all sectors. They bemoan the lost opportunity by the VDM in terms of failing to tap into traditional governance structures. Some traditional leaders boasted that they are able to work with the civic and ward committees because traditional systems can be relied upon to accommodate other forms of governance. The ‘civic’ refers to The South African National Civic Organisation (SANCO), which is chosen by the people and the traditional leader. It is like a village committee during the time of apartheid. A ward committee is constituted in terms of the Municipal Systems Act of 2000, working under the ward councillor. The wards councillor is responsible for conveying matters to the local municipality.

Some municipal officials attest to the unreliability of the current cooperative governance model that has been allowed to exist in the VDM. For example, local government officials claim that they are always finding loopholes that need to be corrected or attended to when they are working. For cooperative governance to work efficiently to improve the livelihood of the poor. Magoma maintains,

“Both traditional leaders and local municipalities need to do more to enhance our working relationship and service delivery. The municipality should do more awareness campaigns and capacity building for traditional leaders. That way they will be aware of our expectations from them as a municipality. When regulation changes we must go to the villages and tell them about the changes” (interview with Magoma 07/02/2022, Makhado Local Municipality).

Further, Tsitsi, a local government official, explained how difficult it is to deal with municipalities, stressing,

“It is difficult to do more because of the bureaucracy involved, approval takes too long, and funding is limited, and the process is too long. Now when we do meetings we are not allowed to budget for food, while on the other hand you cannot invite traditional leaders to a meeting and not feed them” (Interview with Tsitsi, 07/02/2022, Makhado).

5.3.3 Efficiency

Cooperative governance is about having efficient systems and structures to manage the country’s resources for the benefit of all citizens (Dupont et al. 2003: 345; Peters & Pierre 2002: 2; Fukuyama 2016: 89). There is a great deal of inefficiency in the VDM.

Cadre deployment seems to be a serious problem, as accentuated by six out of eight local government officials interviewed. Some people employed by municipalities are not qualified because of the cadre deployment policy of the ANC government, leading to inefficiencies in the running of municipalities such as the VDM, Musina, Thulamela, Collins Shabane and Makhado local municipalities. Kenneth, who works for the Machado local municipality, said,

“They should not let politics rule but let professionals do their work without interference from politicians, who want to have a say in everything the municipality does” (Kenneth, interviewed 07/02/2022, Makhado).

Others lamented that political patronage had taken over the running of municipalities, hiring consultants and awarding of tenders. This resulted in the failure to fulfil government mandates, improve the lives of the poor, and implement government programmes and plans (interview with Masindi, Masango, Kenneth, Tsitsi & Masindi, interviewed 07/02/2022) Makhado).

As a result of unqualified people holding positions of power, fights and misunderstandings are rife at village level between the South African National Civic Organisation (SANCO) , ward committees and other stakeholders. The problem is the SANCO, who seems to cause

misunderstandings because they do not understand their roles and responsibilities, according to two traditional leaders. The sentiment was that this governance structure should be made clear for everyone so that there is no conflict between SANCO and the traditional council. The other problem highlighted was that there are too many organisational structures operating at village level. Some of the tasks overlap, which often leads to serious conflicts. Traditional leader Fundudzi recommends that workshops be held regularly to empower and give confidence to the different people involved in a village to fully function and participate in governance issues (interview with Fundudzi, 21/03/ 2022, Thathe).

5.3.4 Good management

When people are empowered and become confident, they advocate for the good management of the state's resources, although the idea of empowerment was questioned some five to seven years ago, based on the argument that the state empowering its citizens is in effect a top-down approach and does not work (Armstrong & Gilson 2011:3). The argument of this research is that when proper public participation processes take place in cooperative governance, people become part of the whole development process. Problems arise when it comes to good management and public participation, as there is confusion in the case of the VDM.

Land management is a thorny issue between municipalities and the traditional leadership on the one hand, while on the other hand, traditional leaders argue among themselves over land ownership (interview with Albert, 10/02/2022, Musina Local Municipality). One traditional leader says the area is his, and another traditional leader objects, saying the area belongs to him instead. There are no institutions and mechanisms dealing with issues of boundaries among traditional leaders, which is problematic (interview with Mulalo 10/02/2022, Musina Local Municipality). Traditional leaders do not have accurate maps that demarcate their own areas. There are also problems of land invasions by the disgruntled parties, which take long to resolve and stall development projects in the area concerned. This point was stressed by all the five officials from Makhado Local Municipality interviewed for this research (interview with Masindi, Tsitsi, Magoma, Kenneth & Masango 7/02/2022, Makhado Local Municipality, interview with Rendani, 05/02/2022 VDM, interview with Mulalo and Albert, Musina Local Municipality).

Good management of resources is key to development. According to Mulalo,

“We must work together to provide those human needs and wants and close the gap because communities will be short-changed if we do not work together with traditional leaders to manage the resources and processes” (interview with Mulalo, 10/02/2022, Musina Local Municipality).

Traditional leader Gizara agrees: “some of the projects done by local government can be delegated to traditional leaders, so as to avoid wastage and corruption. This delegation will lessen the distance that people travel in search of services” (interview with Gizara, 6/05/2022, Hamasiya).

5.3.5 Participation

All local government officials advocate for more dialogue with traditional leaders to reap the rewards of participation by all stakeholders in service provision, development and the general well-being of their communities. The level of participation by traditional leaders in cooperative governance in the Vembe seems to differ from one leader to the other. Traditional leader Mudau, said that traditional leaders are consulted by the municipality on IDP issues like roads, water and electricity. He added,

“In the VDM we do not only participate in local municipality only, we also sit in the District Municipality as well. There is the Local House of Traditional Leaders. The Local House of Traditional is comprised of all the traditional leaders found in Vhembe. This house has a relationship with VDM, the law defines this relationship. Politicians, mayors and MEC also consult the traditional leader in order to check on whether what the local municipality says, agrees with what the community need” (interview with, Mudau, Thavhani Mall, Thohoyandou).

This was disputed by other traditional leaders, who hold the view that IDP processes are not transparent. According to traditional leader Khoroni, reasons are not given by the municipality for lack of transparency. He said:

“Not everything that we discuss in the IDP is implemented, many people have been left out of these big projects. For example, roads are so bad and we do not have clean water, we are tired of telling them the same problem for so many years, they do not act. On the other hand, there are issues that we are not consulted, especially proclamation of land” (interview with Vho Khoroni, 6/05/2022, Sibasa).

Municipalities have been accused of covering up the lack of proper grassroots participation by implementing what is required in terms of the law when it comes to land proclamation. For example, they advertise and gazette without consulting the traditional leaders and their community, leading to a confrontational relationship. Some challenges include projects that are not implemented and the lack of documentation regarding such projects.

On the other hand, traditional leaders Munyadziwa and Masoja, who live further from Thohoyandou, disagree that traditional leaders are consulted and participate in the IDP. Masoja insists that he never participated in an IDP since he ascended the throne ten years ago, stressing that they are abandoned. The local municipality never consults them on anything. There is no service delivery in their areas (interviews with traditional leaders Munyadziwa 11/12/2021, Sengwe, and Masoja, 07/05/2022, Masisi).

5.3.6 Social and economic well-being

The state has been identified as part of the problem by causing human marginalisation and suffering, according to Malena (2004: 1). The only way to safeguard human well-being, rights and freedoms is through the participation of non-state actors, including traditional leadership, councils and the community, in the way they are being governed.

Rendani agreed that for IDP to work for the general well-being of the people, the marginalised group must tell local government what they want and their priorities. Through consultation and participation, they can force the government to be responsive to their needs.

Mulalo (interviewed 10/02/2022, Musina) pointed out that ownership of land by traditional leadership disadvantages the people because the leaders benefit more from the land than the people. They do not have full ownership of land but are given permission to occupy some land by the traditional leader. This limits them to subsistence farming instead of the full social and economic freedoms associated with land ownership.

However, all the traditional leaders interviewed for this research disagree with Mulalo, but concede that traditional authority is more effective in governance and looking after the social and economic well-being of the community. According to Munyadziwa, firstly,

“The fact that you find relative peace in rural areas is because there is a defined authority with an effective system of governance. Secondly, crime is nipped in the bud because we do have our own systems. For example, we protect our communities from livestock theft and their potato fields and other produce are guarded through policing forums. Thirdly, gender-based violence is minimised as a result of interventions from the community. Counselling is also done for diseases and diet to promote good health lifestyles” (Munyadziwa interviewed on 11/12/2022, Sengwe).

Two traditional leaders also pointed out that the poor also get financial relief through the Extended Public Works Programme (EPWP),

“We participate in the EPWP process by identifying the poor who get these jobs in our areas, these jobs include fixing roads, grass cutting, digging graves. Further, we take care of the social well-being of the community. Poverty is alleviated through food distribution to poor families and child-headed families until they reach out to social workers. The destitute and the internally displaced due to floods and fire are taken care of by the traditional leaders and the community until they are able to stand on their feet” (interviews with Vho Funduzi and Vho Khoroni 21/03/2022, 06/ 05/ 2022), Thathe and Sibasa).

Traditional leader Gizara supported them and went on to say,

“we do not have street kids in our area because we take care of own poor people” (interview with Gizara, 06/05/2022, Hamasiya).

Through dialogue, traditional leaders engage the private sector to employ locals as well. This way they get jobs, new skills and they get trained. Four traditional councils have established community trusts. Such trusts own land for projects like poultry, golf estates, nature reserves and agricultural ventures that benefit the communities. Traditional leader Mudau said,

“We have an agreement with the University of Venda (UV) that whenever there is a child from his area that is admitted to UV, the community trust pays the registration fee for the child with no burden on the parents. NSFAS then pays the tuition fees. They have employed people who apply to NSFAS for funding for the children so that they are in control of the process and that the matriculants who qualify are not disadvantaged by lack of knowledge. They have done this for eight years and have sponsored over 300 graduates with no burden to the parents” (interview with Gizara 06/05/2022, Hamasiya).

“Further we have also partnered with a few health professionals like cardiologists, gynaecologists and eye-specialists who screen and carry out checks for the community during the weekend at no cost to our people. The community trust does all the negotiations for their poor people in the community (interview with Mudau 24/03/2022, Thavhani Mall, Thohoyandou).

5.4 Views and attitudes of traditional leaders to legislation

This sub-section looks at the role, powers and functions of traditional leadership from the perspectives of both the local government officials and the traditional leaders found in the VDM. Both the traditional leaders and the local government officials agree on the customary roles of the traditional leaders. The local government officials listed most of the statutory roles and functions of the traditional leaders; however, they pointed out that these roles are not

standard: the roles vary depending on the traditional leader, area and the people they governed. The traditional leaders also outlined their roles and functions from their perspective.

This section also discusses the relationship between local government, legislation, challenges and ambiguities from the perspectives of the traditional leaders and local government officials.

5.4.1 Roles and functions of traditional leaders

The roles, functions and powers of the traditional leaders are legislated in terms of Act No. 3 of 2019: Traditional and Khoi-san Leadership Act of 2019. In the interviews, local government officials all agreed that the function of the traditional leaders varies according to different areas and the calibre of the people they rule. They acknowledged that traditional leaders play a strategic and leadership role in governing municipalities through the inputs they give in their various portfolios. The following are some of the roles, functions and powers of the traditional leaders from the local government perspective.

Traditional leaders are directors of operations, in terms of the land they own, distribute and allocate land, also advise on the suitability of the land, mediation and resolution of conflicts in the community. Kenneth, who works in Makhado Municipality, summarised it all when he said:

“They are like the government because they hold many and different portfolios. They run the traditional court portfolio, play a platform for land affairs, water affairs, policing portfolio and human settlement provision. They talk to municipalities, private sector, government, -non-governmental organisations and international organisations on behalf of their communities. Traditional leaders also facilitate on development projects and township establishment in the rural areas. They play a role in terms of service delivery. Whatever the community needs, they go to the traditional leaders first before the councillor goes there. Councillors liase with the traditional leader before going to the people. Traditional leaders unify the people, for example if there are problems in certain parts of the community, it is only the traditional leaders who can calm the storms and bring harmony to the community. Traditional leaders play a role in politics, by mobilising their people for politicians and promote multi-party

democracy. This is why different political parties are found in all villages in the district” (interview with Kenneth, 07/02/2022, Makhado).

All traditional leaders agree with the roles identified by local government officials. There was consensus among the traditional leaders on their customary roles. For example, traditional leader Fundudzi added,

“We are custodians of culture, rituals and tradition. In Thathe I preserve cultural dances by teaching the youth Venda dances such as *tshikona*, *malende* and *domba*. Traditional leaders are the voice of the paramount traditional leader to the people, and I attend tribal council meetings, three or four times a year (interview with Fundudzi 21/03/2022, Thathe).

Masoja, a traditional leader, highlighted that he protects the environment and stops deforestation even though he is conflicted,

“The challenge is that people cut trees to sustain themselves because they do not have jobs, they want to improve their lives, they are very poor” (interview with Masoja 07/05/2022, Masisi)

Traditional leaders play a pivotal role in cooperative governance in the VDM, their roles and functions need to be clarified for local government to work for them. This will end the plethora of grievances that the traditional leadership have against municipalities and vice versa.

5.4.2 Relationship with municipalities

All local government officials that were interviewed confirmed that traditional leaders have more power and influence over the community than the municipalities. This was asserted by one official in Musina Local Municipality who said,

“Ordinary people in the VDM consult traditional leaders more than local government municipalities on everything they do, they cannot do anything without the traditional leader. As a result, municipalities are forced to cooperate with traditional leaders when it comes to governance issues”

(interview with Mulalo 10/02/2022 Musina).

Their roles and functions are different because traditional leaders allocate land, while local municipalities are occupied with management, according to Rendani, a local government official in the VDM. She complained,

“Smaller sections of traditional leaders are difficult to work with directly. We would like to get in touch with traditional leaders through official channels which they take seriously. The channels of traditional leaders are difficult, complicated to understand, the communication channel between traditional leaders and municipalities should be simplified for all concerned” (interview with Rendani, 05/02/2022, VDM).

This is why Masindi, a local government official, recommends

“There must be someone stationed at municipality offices who understands how the traditional leaders work. We spent a lot of time and money phoning them before they respond to our requests.” (interview with Masindi, 10/02/2022, Makhado)

On the other hand, traditional leaders also complained that it was complicated to work with municipalities because they get caught up in the bureaucracy and red tape. Hence,

“Working with municipalities is frustrating, it takes a lot of time and effort to get them to do small things. You are moved from one office to the other and get nothing sometimes” (interview with Munyadziwa, 11/12/2022, Sengwe).

Traditional leaders also recommended that a local government official be based at councils to help them navigate the complicated terrain they find themselves entangled in when working with municipalities. They went on to say that it would be better if the provincial government, district and COGTA could work hand in hand to improve service delivery and development in the in VDM. In this vein, they emphasised that an office is needed at local municipality offices for traditional leaders to meet other stakeholders easily and build trust between the two institutions (interviews with leaders, Munyadziwa 11/12/2022 Thengwe, Khoroni, Sibasa & Gizara, Hamasiya 06/05/2022 & Funduzi 21/03/2023, Thathe).

The biggest challenge is lack of trust between the traditional leader and local municipalities not governance issues. This was supported by Mulalo, a local government official who said,

“The implementation of the legislation is poor due to trust issues by the traditional leaders. The challenge we face is that traditional leaders still want to carry on with what they were doing before” (interview with Mulalo, 10/02/2022, Musina).

This is why Albert (interviewed, 10/02/2022, Musina) indicated that they needed new ways to circumvent the problem so that the community benefits from cooperation between traditional leaders and local government. This would make it easy for them to participate in community governance as per the legislative provisions.

According to Rendani, a local government official (interviewed, 05/02/2022 VDM),

“Act No. 3 of 2019: Traditional and Khoi-san Leadership Act 3 of 2019 does not assist us as municipality. According to her, the laws created at national level do not seem to be functional. Instead laws that are locally formulated are the only ones that are functional in local government because these involve the people.”

Other local government officials think that the roles, powers and functions of traditional leaders partially align with Act No. 3 of 2019: Traditional and Khoi-san Leadership Act of 2019 on one hand, while not doing well on the other hand. They are not sure that they understand their roles and functions. Most of the government officials do not understand the legislation that traditional leaders should adhere to, choosing not to answer the question as it confuses them.

5.4.3 Ambiguities

There are challenges and ambiguities on the roles and functions of the traditional leaders. Masindi, a local government official explains

“We find challenges because most traditional leaders do not understand their roles and rights in land use and in general. They feel threatened especially with

land demarcation. They think that we want to take their land. Awareness campaign is difficult because traditional leaders do not seem to understand their roles” (interview with Masindi 07/02/2022 Makhado).

All local government officials agreed that there is ambiguity, especially with issues to do with land boundaries, and that the organisational structures are not clearly defined.

According to traditional leader Khoroni (interviewed on the 06/05/2022, Sibasa),

“There is no clear legislative authority that is available in terms of agreeing or rejecting to IDP policies and government initiatives in land demarcation. Municipalities exploit these ambiguities because development is tilted in their favour. They can proceed with implementation even if no consultation and cooperation is done”.

Traditional leaders normally resist such initiatives, which leads to conflict.

5.4.4 Challenges

Other traditional leaders are of the opinion that the government failed:

“They just put the law but did not explain at all to the traditional leaders. The MEC never hold workshops to interpret the law for us to understand our roles. Some cannot interpret this law, consequently, do not understand all our roles and functions, and other stakeholders” (interview with Khoroni, (06/05/2022 Sibasa).

Other traditional leaders have been accused and blamed by their well-informed counterparts,

“... of not taking the initiative to develop their communities because they are interested in getting gifts from the people, just for one minute” (interview with Mudau, 24/03/2022 Thavhani Mall, Thohoyandou)

There is a problem of underdevelopment in the ungoverned areas in the periphery and the biggest problem in these areas is service delivery. Water is a big problem because the villages are growing, and people are not benefitting at all. In some areas, expensive equipment was used, and people are stealing the pipes because there is no water. Most female local government officials had to deal with attitudes of men towards women as traditional leaders preferred working with men.

5.5 Conclusion

The roles and functions of the traditional leadership were presented from the perspective of both the traditional leadership and local government. Local government officials unanimously agree on the customary roles of the traditional leaders. However, on the one hand, local government officials indicated that the traditional leaders do not seem to understand their roles and functions when it comes to cooperative governance. On the other hand, some traditional leaders deny this allegation and argue that their roles are not clearly defined and are not given an opportunity by local municipalities to participate fully in cooperative governance. Other traditional leaders give the impression that they are participating fully in cooperative governance in the Vhembe District. However, there is evidence that in some areas traditional leaders have been excluded from cooperative governance, they are abandoned by their political representatives and have never participated in the implementation of the IDP.

Chapter 6: Data Analysis: Cooperative Governance Issues

6.1 Introduction

In this chapter, the data presented in Chapter 5 is used to analyse how hybrid political orders such as traditional leaders are participating in multi-level governance in the VDM. Crucially, in analysing data, I answer the research question raised in Chapter 1 and Chapter 4 of this research. The aim of the research project was to understand the roles, powers and functions exercised by the traditional leaders in the VDM and compare these with the positions and propositions set in the White Paper on Traditional Leadership and Governance (2003) and Act No.3 of 2019: Traditional and Khoi-san Leadership Act of 2019. The different perceptions expressed by the traditional leaders, local government officials and legislation will help to explain the challenges and ambiguities inherent in the roles, powers and functions of traditional leaders in cooperative governance.

This potential given to the former marginalised hybrid political orders in cooperative governance helps them to decide what is best for their communities themselves. This decentralisation of governance from the center is high on the agenda of ANC policies and is in line with their emancipatory agenda. This inclusion will potentially give them an increased voice to question the way in which they are being governed.

In chapter 3, the concepts of governance and cooperative were operationalised into themes. Concepts such as steering, directing, regulating, taking initiative, stakeholder engagement and accountability were categorised into governance, while efficiency, reliability, participation, development, social and economic well-being and good management were categorised into cooperative governance. This chapter has seven sections such as land, service delivery, development, stakeholder engagements and partnerships, relationship between the traditional leaders and municipalities, ward committees and legislation.

Even though there is evidence that traditional leaders and local government are cooperating, especially in IDP, when analysing the data, I examine the level of participation by the traditional leaders in issues affecting them such as land, service delivery and development. Traditional leaders were included in cooperative governance in rural areas by the

South African government because they wanted to develop an efficient, reliable and participatory system. The chapter examines whether the voices of those in the periphery are being heard when it comes to infrastructure development, water and sanitation.

Further, the chapter also examines the legislation that governs traditional leaders in the VDM such as Act No. 3 of 2019: Traditional and Khoi-san Leadership Act of 2019. I am interested in examining how the roles and functions of the traditional leaders have been defined by the various pieces of legislation. The data analysis process seeks to determine whether the roles that have been allocated to traditional leaders are clear. What challenges and ambiguities have emerged on the roles, functions and powers of the traditional leadership in the VDM? Has the relationship between traditional leaders and the municipalities been made easier or complicated as a result the legislation, especially on issues to do with land and representation in local government? The chapter also examines how traditional leaders are exercising their roles and functions when it comes to politicians such as the ward councillors and the MEC. Crucially, in analysing data, I answer the research question raised in Chapter 1 and Chapter 4 of this research.

6.2 Land

Traditional leadership seem to occupy an ambivalent position when it comes to cooperative governance, especially on issues to do with land ownership and administration. Their roles, powers and functions need further clarification. Through the policy framework of the Department of Land Affairs in the rural areas, the community are the owners of the land, and they have the right to decide who should manage or administer (Ntsebeza 2004:80). This was an attempt by the government to demonstrate to the rural constituency that they were no longer subjects but citizens and their voice also matters, besides that of government institutions, politicians and the elite.

The Local Government: Municipal Structures Amendment Act(33 of 2000), Section 81 (1) created ambiguities when traditional leaders were given a role in land allocation. This amendment in reality is very difficult to implement in cooperative governance and creates confusion on the role of these leaders in land reform in the rural areas. In land proclamation,

for example, local government and the Department of Rural Development can take land from the traditional community without consultation. All the municipality has to do is to follow due process by advertising and gazetting the available land. It has been argued that municipalities have exploited this loophole (Hollands 2007: 58). Traditional leaders, on the other hand, continue to enjoy the powers that they had under apartheid (Ainslie & Kepe 2016: 30). They are the custodians of communal land in South Africa and give permission to occupy to whoever they choose, even though they are supposed to consult the community. This tacitly implies that traditional leaders are land administrators, responsible for anything happening on the land as the rightful owners. Complicating all this is the evidence that both the traditional leaders and the municipalities are corrupt when it comes to land (Koenane 2013: 264)

Cooperative governance faces serious challenges in the Vembe District because traditional leaders are so powerful that they can frustrate and stall development and investment in their areas. When such interference occurs, “we stop and leave them until they are ready to work with us”, according to one of my informants (interview with Rendani 05/02/2022, VDM). These conflicts that take place in land demarcation processes attest to the fact that the roles, powers and functions of traditional leaders need further clarification for fair representation to occur. Governance is compromised because it should be people-centred. Land should be used to improve the social and economic well-being of communities, yet, on the other hand, local governments do not want to antagonise the traditional leadership who may feel betrayed if they are completely removed from land issues. They are still relevant and respected by their own people, who are still marginalised by the government.

6.3 Service delivery

Evidence from this research shows failure to implement government programmes, that poverty has not been eradicated and that the majority of the people in the rural areas are still marginalised. People lack basic services such as roads, water and sanitation, internet connectivity and other related digital requirements. Schools and clinics are situated far from where people live. There are no tertiary and vocational training institutions in these areas, resulting in acutely high unemployment figures, especially among the youth. There is evidence

of overgrazing and environmental degradation as a result of poor environmental management systems and climate change.

Even though the relevant legislation is there, the function of the traditional leaders has remained misunderstood, understated and overlooked, according to Koenane (2017: 250-251). The picture one gets, according to local municipality officials, is one of traditional leaders who are stubborn, mulish and ignorant. They stand accused of not wanting to learn, even though efforts have been made by local government officials to capacitate and educate them. Service delivery is in shambles in the Vhembe District Municipality because of the absence of stakeholder engagement and lack of consultation and cooperation among the various stakeholders. This failure in service delivery in the municipality implies that the alternative modernity model adopted in South Africa post-1994 is failing. This indicates that the constitution needs further amending. However, as warned by Hinz (2008: 67), mixing modernity and tradition is not a one-size-fits all process, because there are many contradictions in most models, in particular the regulated weak dualism that has been adopted in South Africa. This hybrid governance system is more easily decreed than implemented. Traditional leadership and everyone involved at local government level should not promise things that they cannot fulfil.

The other problem highlighted by Koenane (2017: 261) and Rugege (2009: 171) is that before the dawn of democracy in South Africa, traditional leaders were never equipped to provide basic service delivery, which is now seen as a measure of government delivery at local level. This is particularly true because traditional leadership they are constrained by the way they are governed. They do not have the capacity to play an oversight role when it comes to service delivery. They are, for example, not self-reliant financially and do not have the capacity to embark on any service delivery projects for the community without government or private partners. However, Koenane (2017: 262) underscores that the institution of traditional leaders has the capacity to augment problems in municipalities if given a chance.

Even though traditional leaders handle many portfolios, there are also no parameters for how they should cooperate with all government departments. Failing to define how the traditional council must operate in relation to government departments is the greatest problem that they face, which has a negative impact on service delivery. They do not have real powers in issues of local government, even though they attend district and local municipalities meetings. Traditional councils have no legislative authority, in terms of agreeing to or rejecting local

government initiatives. They have been forced into local government structures where they no longer have any meaningful roles, powers or functions (Municipal Structures Amendment Act of 2000) (Rugege 2009: 171). They are fighting losing battles when it comes to service delivery because their roles and functions are not legislated. Hollands (2007: 59) has maintained that traditional institutions do not have the power to stop the rampant corruption and maladministration that have infested local government in the Vhembe District Municipality. The participation of local communities in governance has not led to effectivity and efficiency in service delivery because the colonial and apartheid system of domination from the top has not been dismantled. Traditional leaders and their communities are tired of raising service delivery issues, which local municipalities and relevant government department have not prioritised for years. The water situation is so bad in Venda that people are forced to improvise by buying water and water storage tanks. People are also drinking from wells, fountains and springs in some remote areas of the Vembe District.

6.4 Development

My research shows that development has taken a different trajectory than initially intended. In Vhembe District Municipality example, with the attainment of democracy in 1994, the ANC government policy through the, Reconstruction and Development Programme (RDP) and National Development Program (NDP) was to eradicate poverty, inequality and unemployment. According to Capano and Howlett (2009: 10), developing rural areas was seen as emancipatory because it was meant to raise the standard of living and improve the quality of life for the grassroots. The government introduced the Integrated Development Plan (IDP) to spearhead development. The constitution and legislation emphasised the need for community participation in formulating IDPs. This participatory requirement for the community was aimed at ensuring that these plans were expressive of the needs and priorities of the local people rather than the central government (Ntsebeza 2004: 80). It was also aimed at dismantling the previous government's culture of imposing development policies from above, thus giving a voice to formerly marginalised communities. In any case, it was their lives that were going to be affected by these programmes. This made traditional leaders and their communities become agents of development in their areas (Mahama 2009: 9).

My research shows that most traditional leaders and their traditional councils are consulted and participate in IDPs. However, it seems the process is not bottom-up and transparent. Municipalities give no reasons for choosing certain areas for development projects and not others. Moreover, not everything discussed in IDP forums is implemented. They have been raising issues about roads, water and sanitation since independence and these have fallen on deaf ears. So, their participation is not transformative. The reason is that although they are consulted, their issues may not make it into agenda-setting because they do not decide policy formulation, implementation and evaluation (Sabatier 1999: 293-5). These agendas can be hijacked by the elite and politicians where formal bureaucracy is weak (Baldwin 2013: 807; De-Jongh 2006: 8). Resulting in only those traditional leaders who are heavily involved with the ANC being able to influence development in their areas while those not involved with this party do not have access even to lottery funds and other forms of funding to develop their areas. In local municipalities such as Makhado, Musina, and Thulamela, evidence from my research shows that the cadre deployment policy of the ANC-led government is a problem. It creates a system of patronage (Hollands 2007: 11). The most qualified people are not employed, leading to inefficiency, maladministration and corruption. This rampant inefficiency has resulted in failure to implementing government mandate and programmes in the municipality.

Another challenge traditional leader face when it comes to development is that they believe the government owes it to them to develop their communities. Therefore, it is fair to say that some of the underdevelopment in rural areas has been caused by dependency on the centre, as claimed by Du-Toit (2017:5) Traditional leaders need to move away from this dependence syndrome and towards self-sufficiency. As suggested by Contralesa, provisions must be made so that traditional leadership can effectively participate at all levels of government. Koenane (2017: 264) agrees with this view, and goes on to say that both institutions are legally empowered to serve the same rural communities and need to co-exist and respect each other. This research argues that traditional leaders and local government are a necessary evil who need each other.

The field of development has been criticised by McEwan (2018:38) because of its tendency to focus on issues of culture and representation and a tendency to neglect the lived experience and material realities of post-coloniality. My research demonstrates that most parts of Venda are urbanising rapidly, which is slowly taking agency away from traditional leadership because this modernisation is changing the social and economic environment traditional the traditional

leadership is familiar with. Traditional leaders are overwhelmed by the social and economic changes that are associated with cities and towns and need to be capacitated for them to be effective in the governance and cooperative governance space. This affirms what Koenane (2017:261) observes in relation to the continuous western modernisation of rural areas, which he says has diminished the power of chiefs. There is no evidence that traditional leadership was involved in effective development in their communities during colonialism and apartheid (Rugege 2009: 172). Yet they are now expected to become development agencies in their areas without the proper training, in a faster-changing context than what they were used to. This is a mockery of the whole process of cooperative governance in Vhembe, which is characterised by continued poverty, unemployment and growth disparity.

Evidence from the data shows that in the Vhembe district politicians are the ones who speak to the people during IDP forums, and they are the ones who take peoples' grievances to the municipalities. This political patronage has created inequality when it comes to development (Baldwin 2013: 794; Hollands 2007: 11). Depending on the character and education level of traditional leaders, some have failed to bring development to their communities since the dawn of democracy. To exacerbate matters further, the political term of local government councillors is five years. When their term ends, the same process is triggered through local government elections. There is no guarantee that communities will get influential and effective ward councillors to spearhead development in their areas. Some areas only see their ward councillors during election seasons when they are campaigning. This was highlighted during my research by informant Masoja. He said that they had been abandoned and ungoverned since 1994.

Anyidoho (2006: 156-7) argues that location matters: where you come from and how you are situated affects the issues at stake. When it comes to development, some traditional leaders have become insiders because they have good relationships with the politicians who influence development, while others have become outsiders because they do not have access to political patronage. The data shows that for outsiders or those without influence there is a glaring gap between aspirations of the anti-colonial struggles and the realities of unemployment, deepening mass poverty and corruption they are facing.

6.5 Stakeholder engagement and partnership

Traditional leaders were included in cooperative governance in rural areas by the South African government because they wanted to develop an efficient, reliable and participatory system (Dupont et al. 2003: 345). Stakeholders in the Vhembe District Municipality include Musina, Thulamela, Makhado and Collins Shabana local municipalities, traditional leaders, the business sector, civil society and all government departments. These stakeholders are a prerequisite for governance because they are collectively responsible for directing, regulating and making the government responsive and accountable to their needs (Fukuyama 2016: 98). Through the Municipal Systems Act of 2000, traditional leadership's participation in issues affecting the community and customary law were seen as necessary. Municipalities were required to work with traditional leaders by also inviting them to attend council meetings. The rationale behind this requirement was the realisation by the government that any development is improved or succeeds if the target group are involved in all the stages of development.

While all local municipalities in Vembe work with traditional leaders and the relationships are reciprocal, research shows that the involvement of traditional leaders in municipalities has not brought the desired results. They are just ceremonial heads in council meetings. According to Gizara, who was interviewed for this research, their voices do not matter because they are only allowed to listen; they do not have any powers to change anything in these council meetings. So traditional leaders as stakeholders do not seem to be doing what stakeholders are meant to be doing, which is mainly participation and monitoring. As a result, the opportunity to make municipalities more effective in development and improving the livelihoods of the people has been lost. This also shows that the colonial and apartheid system of governance was not done away with, as it is still being practised in the Vhembe District. Decisions that affect ordinary people are made by bureaucrats and politicians. Rural development is failing because it lacks real participation of local communities. Decisions are still top-down. Traditional leaders still find themselves in an awkward position because agency has been taken away from them through legislation and presented to local government. This also echoes what has been said by Hinz (2008: 65), that traditional leaders have been strongly regulated and no longer real power. This destroys the whole essence of self-determination in rural areas because Eurocentric modernity has been allowed to flourish in the Vhembe District under the guise of cooperative governance (McEwan 2018: 118). This model of strongly regulated and weak

dualism adopted by the South African constitution has created ambiguities and challenges for traditional leadership. However, through their resilience, some traditional leaders are partnering with other stakeholders to provide services to their communities.

Based on my research findings, traditional leaders have partnered with social workers. They consult them, especially in issues dealing with poverty alleviation. Traditional leaders help social workers identify those in need of social grants and food relief in the community. The research also shows that institutions of higher education such as the University of Venda have partnered with traditional leaders. They have memorandums of understanding and tuition agreements, where traditional leaders help pay registration fees for pupils and also get guidance in the planning process. They also have an agricultural relationship with the University of Stellenbosch. They have benefited from this partnership because they are empowered and capacitated in rural agriculture. This creates farming opportunities and jobs in rural areas. This has complemented the work of the Department of Agriculture and extension service officers. The Department of Rural Development is said to be very helpful, they also have a good relationship with the police even though they are under resourced. Some have also partnered with NGOs, especially in the provision of water and youth unemployment. However, the relationship between the traditional leaders and the municipality has remained complicated because of their competitive roles and functions.

6.6 The relationship between traditional leaders and local government

According to Kanyane (2007: 319), the relationship between traditional leaders and municipalities is complicated because there is a lack of trust. Traditional leaders do not trust local governments because they see them as competitors doing the work they are supposed to be doing, especially relating to land. Therefore, they feel undermined by the municipalities because traditional leaders are the custodians of communal land (Bennett et al. 2019:13, Kanyane 2007:319, Mnwana 2019: 143). To make matters worse, traditional leaders are powerless legislatively to reverse land proclamation; the whole process has been imposed from the centre and is not negotiated. On the other hand, local governments think that there is a disjuncture between the headman/headwoman and the needs of the community when it comes to land proclamation. There is a growing feeling in South Africa that traditional leaders are

self-serving because customary land rights are only respected in the absence of lucrative business opportunities (Bennett et al. 2013, Grischow 2008: 64, Mwanza 2019:142). This notion is supported by the fact that traditional leaders are controlling vast pieces of land, which is benefiting them at the expense of the community through mining rights and renting out land to farming companies (Mwana 2018: 2, Comaroff & Comaroff 2009: 7). This seems to be the case in the Vhembe District Municipality among the Venda, where the Tshivhase Trust currently maintains powerful positions through political patronage, commoditisation and distribution of land. As a result of these trends inherent in the traditional leadership institution, they are seen by Ainslie and Kepe (2016: 20) and Boyane (2005: 10) as agents of international capital and not as a genuine embodiment of the traditional and cultural practices of the Africans. It is not surprising, therefore, that municipal officials question the integrity of traditional leaders when it comes to cooperative governance.

There is a considerable gap between the roles, functions and powers traditional leaders are supposed to play, as compared to what they are currently playing in local government development processes (Brynard & Musitha 2011: 119). What is clear is that the Municipal Structures Act (1998), the Traditional Leadership and Governance Framework (2003) and Act No. 3 of 2019: Traditional Khoi-san Leadership Act (2019) were used to dupe and pacify the traditional leadership while at the same time stripping them of any meaningful roles and functions they previously held. This has resulted in ambiguities in their roles and functions in cooperative governance.

Brynard and Musitha (2011: 121) accentuate that it is imperative for municipalities to solicit real participation by all stakeholders, in particular the traditional leaders' structure, through any means that might make their participation move beyond the level of mere consultation to actual participation in decision-making, policy adoption, implementation and evaluation.

It is ironic that traditional leaders who are recognised constitutionally lack real power when it comes to cooperative governance. This is despite the fact that the White Paper on Local Government (1998), the Municipal Systems Act (32 of 2000), the White Paper on Traditional Leaders (2003) and the new Act No. 3 of 2019: Traditional and Khoi-san Leadership Act (2019) request municipalities to allow participation by local communities and other stakeholders in governance and development issues which affect them. As if this is not enough, other opportunities have been created to enable traditional leaders and communities to participate in

local government in the Vhembe District Municipality besides the IDP. These include the ward committees and the civic leadership.

6.7 Ward communities

Ordinary community members have been allowed to participate in municipality processes and systems through ward committees. These are gazetted in terms of the Municipal Systems Act (32 of 2000) as forums of community participation in local government. The ward committee works with ward councillors to highlight community challenges. However, it is the ward councillor, a politician, who discusses these challenges in development and service delivery issues of that ward with the municipality. This has resulted in ward committees being highly politicised. Ward councillors have been accused of not being honest brokers as politicians because of their tendency to integrate ward committees into political party branches (Piper & Deacon 2008: 43). The ward committees are also criticised for the poor literacy levels among their members. This has compromised them, especially in their failure to give feedback to communities, ineffective decision-making and poor understanding of their responsibilities (Himlin 2005). Ward committees are incapacitated and need to collaborate with traditional leaders who have the required communication structures in place to overcome this. Even though ward committees and civic bodies exist in the Vhembe District Municipality, research shows that they do not interact effectively with the communities.

Ward councillors, as politicians, have had hegemony over the traditional leaders and their communities, which limits their participation in cooperative governance, especially if there is poor working relationship with them (Baldwin 2013: 807). For example, it is the councillors who convey the grievances of the community to the municipality, not the traditional council, which further creates more ambiguities and challenges on the role, functions and powers of the traditional leaders. Some communities, for example, only see them during election time, when they are campaigning, according to informant Masoja, interviewed during this research.

Municipalities are responsible for the adoption of IDPs while traditional leaders do nothing because they have ceremonial powers and are excluded from voting. Their relationship with local government is deceptive because they can only influence local government during

consultation. However, adoption and implementation of the public policy framework are done by municipalities alone.

Traditional leaders want to be viewed as building blocks of local government for effective service delivery and economic development (Kanyane 2007: 321). Local government can make cooperative governance happen easily if they are willing to delegate some of their functions to traditional leaders. Rugege (2009:179) maintains that giving traditional leaders a role with regard to functions already allocated to elected local government would require amendment of the relevant legislation. This way, there would be accurate monitoring, participation, collaboration and making local governance accountable to the citizens, not politicians (Kanyane 2007: 322).

6.8 Legislation

Since its independence, the South African government has struggled with integrating traditional leadership into cooperative governance structures at the local government level. This is demonstrated by the legislation available to regulate the roles, powers and functions of the traditional leader. The criticism levelled against both the White Paper on Traditional Leadership and Governance (2003) and the Traditional Leadership and Governance Framework Act (2003) led to the drafting of the current Act No. 3 of 2019: Traditional and Khoi-san Leadership Act (2019). All these plans and pieces of legislation have not helped to clarify the functions and roles of traditional leadership.

According to Act No. 3 of 2019: Traditional and Khoi-san Act of 2019), traditional leaders perform two functions. These are customary law and statutory law. The problem that arises from this legislative requirement is that applicable roles and functions have not been clearly specified. This has been left to the prerogative of the MEC, who also determines the resources to be made available to traditional and Khoi-san leaders as may be necessary to enable them to perform their functions, and this is gazetted. This shows that politicians and the elite have the power to influence decisions that affect communities without consulting them (Kanyane 2017: 213; Baldwin 2013: 807). This involvement of the minister and MEC in traditional leadership and community resources has opened up the decision-making process to corruption and

maladministration because he who pays the piper chooses the tune as claimed by De-jongh (2006: 15). The hegemonic position that has been enjoyed by traditional leadership in the past has also been diluted when it comes to succession and land. Politicians have been given most of the powers to clip the wings of traditional leadership, and they seem to have the last word (see Chapter 2, Section 8, Act No. 3 of 2019: Traditional and Khoi-san Act of 2019).

The partnerships and agreements between traditional leaders, municipalities, government departments and any other body or institution are allowed under stringent conditions. The office of the MEC has the final authority when it comes to these partnership agreements (see Chapter 2, Section 24 , Act No. 3 of 2019: Traditional and Khoi-san Act of 2019). This technically locates development in rural areas in the office of the MEC, making it unpredictable, as it is now tied to political patronage. Besides this limitation, most traditional leaders are not legally educated, not lawyers, meaning that they do not understand the legal language used in the formulation of the bill. The MEC therefore should have visited the Vhembe District explaining to the traditional leadership and their councils, their roles and functions when it comes to these partnership and agreements. Alternatively, the bill could be translated into Tshivenda so that all traditional leaders in the Vhembe District Municipality understand that they occupy an important position in service delivery deployment in their areas. A few traditional leaders who understand this legal language are slowly taking agency. They are partnering with government departments such as the departments of education, health and water and sanitation in a quest to improve the service delivery and the standard of living in their communities.

Data also shows that more than half of the traditional leadership and their councils have formed development trusts, targeted at raising funds for the betterment of the community. To allow for transparency in handling finances, traditional councils and authorities are now expected to keep financial statements that are audited annually (Act No.3 of 2019:Traditional and Khoi-san Leadership Act of 2019). However, most of these traditional authorities and councils cannot comply because they do not have the capacity and are too poor to pay for professional accounting firms to audit their finances.

The roles of traditional leaders have been paradoxically defined. They still fall under the Municipal Structures Act (1998). For example, traditional leaders' responsibilities include

identifying specific needs of the community to the municipality, facilitating the involvement of the community in the development and amendment of IDPs in their areas, mobilising the community so that they participate in all local municipality economic development, planning and support committees (Act No. 3 of 2019: Traditional and Khoi-San Leadership Act of 2019). These roles as outlined demonstrate that the government acknowledges the importance of the existence of traditional leaders (South African Constitution of 1996). They are necessary for the acceleration of poverty alleviation, service delivery and the success of local government. Act No. 3 of 2019: Traditional and Khoi-san Leadership Act (2019) also indirectly acknowledges that traditional leaders handle so many portfolios on behalf of their communities such as health, policing, social work, security, infrastructure, water and sanitation, education and environmental management. These functions unfortunately overlap with those allocated to local government (Rugege 2009: 171). The legislation has not been sincere, when it comes to the roles and functions of traditional leadership in cooperative governance. Act No. 3 of 2019 :Traditional and Khoi-san Leadership Act (2019) has not brought real clarity to the roles of the traditional leaders, except that they are now at the mercy of the MEC and the Minister of COGTA (Kanyane 2017: 320). The Local Government: Municipal Structures Act (117 of 1998), emphasises cooperation between municipalities and traditional leaders when it comes to governance. In the same vein, it also emphasises that development is a major function of the municipalities.

6.9 Discussion

Act no. 3 of 2019: Traditional and Khoi-san Leadership Act (2019) did not change the status quo on the role and powers of the traditional leadership, and there is a general failure in implementing alternative modernity when it comes to governance in rural areas. It is evident that traditional leaders, mayors, municipal managers and service providers are not working together. As a result, communities that live under traditional leaders do not have their developmental needs attended to, for some since independence (Kanyane 2017: 213). There is nothing traditional leaders can do about poverty among their communities because strategic community development matters have been placed in the three spheres of government, at their expense. As a result of this challenge, traditional leaders are finding it difficult to dictate the

strategic developmental trajectory they would have wanted their community to take, given the confusion concerning their roles and functions (Kanyane 2017: 213)

The other ambiguity in cooperative governance is that local government has access to financial resources, training and equipment, while traditional leaders, who are supposed to participate, direct, monitor and take initiative, have been left to self-fund. This has also been made worse by the fact that they have to obtain approval from the MEC, who has hegemony over the traditional leadership, before they make any crucial decisions. Further, the customary roles and functions of the traditional leadership, especially to do with land allocation and succession, have been tacitly taken over by the MEC, minister and the president. Local government has been taking advantage of this ambiguity by proclaiming land without involving the traditional leader. This ambiguity when it comes to land proclamation has led to conflict, land invasion and court cases that have stalled development projects.

Poor infrastructure development is a major challenge in the Vhembe District Municipality, especially in the remote areas, which are located far from Thohoyandou and other local centres as pointed out by the African Development Bank (1998: 28) and Heymans and Thorne-Erasmus (1998: 662). The poor state of the roads makes access to social services such as hospitals, the magistrates court, the post office, government departments such as Home Affairs and traditional leaders very difficult. According to Makhura and Wasike (2003: 129), a centre-periphery approach in infrastructure development in the rural areas affects rural productivity and perpetuates the vicious cycle of poverty inherent in most rural households of the Vhembe District Municipality. Poor roads hinder their access to markets to sell their agricultural produce and livestock, resulting in failure to alleviate their suffering and improving their social and economic well-being. This has been compounded by the fact their voices are mostly absent in IDPs and the roles and functions of traditional leaders have continued to be ceremonial.

Decentralisation in the development of infrastructure does not seem to be producing the desired goals of accelerating human and economic development (Makhura & Wasike 2003: 131). This observation expostulates that cooperative governance has not been inclusive because those in the margin have not benefited from this decentralisation. As stressed by the Development Bank of Southern Africa (1998: 29) and Heymans and Thorne-Erasmus (1998: 663), policies about infrastructure development should be made in the context of job creation, poverty alleviation and environmental sustainability.

Traditional leaders have also contributed to their own downfall because they have maintained the undesirable characteristic of exploiting their people as they used to do under apartheid and colonialism. Some traditional leaders have an insatiable appetite for demanding gifts and levies from their communities (Van Kessel & Oomen 1997:567). Kanyane (2017: 213) and Van Kessel and Oomen (1997: 577) have pointed out that some traditional leaders are in danger of seeing themselves as government employees, more so because of the salaries they receive from the government. They also demand more remuneration and benefits from Contralesa. This shows that they are set on improving their circumstances at the expense of their people and communities.

According to Koenane (2017: 264), the local government environment that traditional leaders are forced to work in is fluid, faces a lot of corruption, and is poorly administered, lacking transparency and accountability. This is aggravated by the fact that some municipalities and traditional leaders are corrupt and dishonest in the way they carry out their responsibility. He argues that this has resulted in disastrous systems of managing public affairs at the periphery. The challenge is that corruption in local government is systematic and rooted in the current political culture, policy and systems (Hollands 2007: 58). The ANC policy of cadre deployment has led to inefficiency, lack of monitoring and enforcement because other stakeholders are excluded from development policies. This political patronage has affected service delivery and development for the poor in the Vhembe District Municipality. Consequently, those who are not in good books with the politicians are living in ungoverned spaces. They only see their political representatives during election campaigns and are abandoned soon after, as was highlighted by Masoja who was interviewed during this research, as the root cause of their abandonment and exclusion from cooperative governance.

There is a need to clarify the roles and functions of traditional leaders in order to ensure that they are not limited in their approach towards cooperative governance and that public power is not abused for individual gain or sectional gain (Hollands 2007: 12). As it stands, public participation happens only on paper, not in actual practice, and this is why stakeholders are incapacitated when it comes to decision-making. Local government and politicians are taking advantage of these ambiguities and loopholes inherent in the legislative roles, powers and functions of traditional leaders, hence the need to go back to the drawing board.

To exacerbate matters further, the pace of urbanisation in the Vhembe District Municipality is rapid. This has also trapped traditional leaders in modernity. Kanyane (2017:230) argues that this is creating fear that over an extended period, this institution will become extinct. Koenane (2017: 264) seems to agree with him when he says that traditional leaders should be the core of local government. He sees the idea of the African Renaissance as helpful in creating an ideal environment for traditional leaders to flourish and fulfil their mandate. He recommends that through the African Renaissance, this former institution must be formed to spearhead an effective and efficient local government.

6.10 Conclusion

There is evidence that most traditional leadership participate in IDP. However, their participation is limited. They do not participate in agenda setting, policy formulation, implementation and evaluation processes systems and structures, which implies that they are excluded from cooperative governance. The ambiguity inherent here is that IDPs are make-belief while actual cooperative governance is not taking place. It is still a top-to-bottom approach in governance, and not the desired bottom-up approach where stakeholder participation is crucial for effective and efficient management, accountability and improvement of human livelihoods. Further, the relationship between local government and traditional leaders is facing challenges because of trust issues, especially on the issue of land proclamation and land demarcation. This mistrust is caused by the overlapping roles and functions being played by the two institutions when it comes to land in the Vhembe District Municipality. These challenges have sometimes led to serious conflicts, land invasion, court cases and stalling of development projects. There is evidence that both the municipality and traditional leaders are corrupt when it comes to issues of land and service delivery.

The centre-to-periphery approach in development is evident in-service delivery and infrastructure development, which highlights the lack of participation by the grassroots in issues that affect them in the Vhembe District Municipality. Water and sanitation and roads have not been prioritised in the rural areas, while towns like Thohoyandou are serviced relatively well. Poor roads have led to poor agricultural productivity, access to markets and unemployment, as people find it difficult to transport their agricultural produce and livestock.

It is also a challenge for people in the rural areas to access social services that are mainly found in Thohoyandou, due to the long distance. The Vhembe District Municipality is water scarce; there is evidence of lack of consultation, as expensive equipment was installed in some areas and yet no water is available in these communities, resulting in the equipment being vandalised (Yerema et al 2020: 2, 9). Traditional leaders were never equipped to provide basic services, even under apartheid, so there is need to capacitate them if these roles are to be delegated to them, by way of legislation.

Act No. 3 of 2019: Traditional and Khoi-san Leadership Act (2019) has created more ambiguities and challenges when it comes to the roles and functions of the traditional leaders. Their power has been curtailed and given to the MEC, giving them very little room to manoeuvre in cooperative governance. Their roles are still ceremonial, as they have been forced to operate under local government framework and ward councillors by the Municipal Structures Act of 1998. However, these traditional institutions are important in the rural areas because they are still relevant and are playing central roles and functions.

Chapter 7: Conclusion

7.1 Overview of the roles and functions of traditional leadership

The research looked at the roles of traditional leaders from the perspective of traditional leaders and local government officials. My study helped answer the research questions posed through investigating the functions fulfilled by traditional leaders in South Africa concerning the issues they face in cooperative governance in the Vhembe District Municipality. I fulfilled this task through the case study approach. Both members of the institution of traditional leadership and local government were interviewed to get different perspectives. An understanding of the functions of traditional leaders was arrived at by listening to the perspective of traditional leaders and local government officials during interviews.

Traditional leaders and local government officials unanimously agree on the customary roles of traditional institutions. Traditional leaders oversee various portfolios regarding the socio-economic well-being of their people. They are considered social workers because they are involved in poverty alleviation, looking after the poor by feeding them until social workers take over from them. There is no evidence of destitute people in their villages because they take care of their own. They even participate in disaster management, aiding flood and fire victims. Traditional leaders also give financial relief to the poor. This is done through Extended Public Works Programme (EPWP), where they team up with ward councillors in identifying those that are in need. Traditional leaders also help their communities acquire birth certificates and identity documents. This is possible because they are trusted by the Department of Home Affairs to write letters vouching for citizens. Gender-based violence is minimised through counselling by family and the community. Crime is nipped in the bud in most rural settings because traditional governance systems seem to be more effective in dealing with issues such as petty crime and theft of livestock. However, traditional leaders are not equipped to deal with organised crime and syndicates who are stealing goats to export to the Middle East.

Local government officials are of the view that the function of traditional leaders varies according to different areas, levels of education and the calibre of the people they rule. However, from the local government perspective, some of their roles are as follows: they are directors of operation in terms of land management and allocation, advising on the suitability

of land, mediating and resolving conflict. Traditional leaders are similar to the government because they hold many different portfolios like the traditional court, water affairs, policing, human settlement provision, talking to municipalities, the private sector and non-governmental and international organisations on behalf of their communities.

Traditional leaders play a role in service delivery and development. Councillors go to traditional leaders before going to the people, according to the local municipality official. The role of traditional leaders is strategic. It is clear from what government officials highlighted as the roles of traditional leaders that whatever the community needs, they go to traditional leaders before they do anything. One can safely add that if there are problems in the community, it is only the traditional leader who can calm the storm. Politically, traditional leaders play a strategic role because they mobilise their people and promote multi-party democracy, even though most traditional leaders seem to have a better relationship with the ANC, which is the current governing political party in South Africa

Depending on the area, some traditional leaders are involved in environmental awareness campaigns to stop overgrazing, deforestation and environmental degradation. This demonstrates that traditional leaders are working in more rapidly changing social, economic and political set-ups than they are used to. They demonstrate their resilience when they adapt and cater for the move from subsistence farming to commercial agriculture. When travelling through the district, bananas, tea plantations, groundnuts, avocados and sweet potatoes are being grown commercially. Commercial activities such as mining, especially quarrying, are taking place while townships are mushrooming, indicating the rapid pace of urbanisation in the Vhembe District Municipality. There is a need to enable traditional leaders to effectively cooperate with local government efforts in cooperative governance in these fast-changing traditional settings.

When it comes to the legislation governing traditional leaders in cooperative governance, most local government officials demonstrated that they do not understand what the White Papers on the Traditional Leadership and Governance Act (2003) and Act No. 3 of 2019: Traditional and Khoi-san Leadership Act (2019) say about the role of traditional leaders, while most local government officials were not able to answer questions related to the white papers, choosing not to answer the questions. On the other hand, traditional leaders' understanding of the legislation governing them depended on their level of education and legal background. Those

traditional leaders with legal education can articulate and interpret the legislation while the less educated had to go to the paramount leaders to clarify any misunderstandings.

One of the key findings in this as well as previous research is that traditional leadership is still relevant in South Africa. Traditional leaders fulfil an important role in rural areas, especially where there is minimal cooperation between traditional leadership and local government. Even though what they are doing is evident for everyone to see, some think that traditional leadership is too powerful and dictatorial to continue in rural areas. Traditional leaders are sometimes accused of violating the rights and freedoms of their people with impunity. For example, even though the constitution advocates for equal rights between sexes, all the senior traditional leaders are men, while women mostly occupy the position of the petty headman. Furthermore, most of these women occupy regent positions on behalf of their dead husbands or interim while their husbands are in the city. All traditional councils are also male-dominated.

In governance, cooperative governance stood out for the researcher. There is evidence that traditional institutions and local governments are working together in IDP forums and spatial planning. However, cooperative governance is not working out well in the Vhembe District Municipality. Evidence points to the fact that local government and traditional leadership are ignorant of how cooperative governance should function effectively. Local government officials complain that traditional leaders are difficult to work with. Similarly, traditional leaders complain about being moved from one office to another when they visit municipalities, indicating that the processes and structures in the Vhembe District Municipality are not functional. There is a need to revisit how cooperative governance is supposed to work so that all the stakeholders implement the right processes and protocol. The traditional leadership do not have much power when it comes to cooperative governance due to the legislation that governs them.

My research demonstrates that there are challenges to the role of traditional leaders when it comes to land in the Vhembe District Municipality. The allocated positions given to the local government appears to be same functions performed by the traditional leaders. This has created tension and misunderstanding between the governance institutions. Traditional leaders and municipalities have been accused of land-related corruption. This makes it difficult for these stakeholders to work together, as it seems they are driven by self-interest, not by the spirit of collaboration in cooperative governance. The roles of traditional leaders need to be clarified so

that the government can be held accountable to the people. Ideally, land should be utilised to improve the lives of the people, not for personal and group interests.

As a result of failing to implement government programmes, people in rural areas are still poverty-stricken and lack basic services such as water and sanitation, internet connectivity, schools, a clinic nearby and environmental management systems. This represents a failure in cooperative governance. The Vhembe District Municipality is water-scarce and traditional leaders as stakeholders have been left out. Another problem is their inability to deliver services to their communities effectively. Water and sanitation are better provided by the government because traditional leaders do not have the financial resources and capacity to provide basic water infrastructure. This is also complicated by the fact that rural settlements are far away from each other. This makes the provision for these services out of reach for those in rural areas because they are not prioritised by those in charge. Traditional leaders do not have real power with regard to cooperating with local governments because their roles have not been defined. When it comes to infrastructure development, similar to service delivery, centre-periphery approaches have been adopted, as is evidenced by the standard of roads in Thohoyandou compared to those in remote locations. This demonstrates a failure in clarifying the role of traditional leaders, leading to further marginalisation of the poor for the benefit of those at the centre. The lack of infrastructure development in rural areas indicates that relevant policies are not made with job creation, poverty alleviation and sustainability in mind.

When it comes to IDPs, consultation takes place when people are told by politicians and mayors about development projects. However, not everything discussed in the IDP forums is implemented and other areas are excluded from participating. Traditional leaders are not fully participating in IDPs because they are told about the projects the local government wants to undertake. On the other hand, they do not participate in the policy-making process. This is not conducive to the role of traditional leaders in cooperative governance. Their roles are ceremonial because they have been forced by the Municipal Systems Act of 2000 to operate under the framework of local government. The challenge facing traditional leaders in fulfilling their role is being at the mercy of local governments whose roles are defined while those of traditional leaders are still constrained.

Another ambiguity is that traditional leaders have developed a dependency syndrome, depending on the centre for their salaries and livelihood. This further compromise them, as

they are viewed as self-serving civil servants. They are accused of pressuring Contralesa for higher salaries at the expense of their communities, which are not benefiting from this relationship. There are trust issues between traditional leaders and municipalities, which harms cooperative governance in the Vhembe District Municipality. This is caused by the ambiguity in the functions of traditional leaders; as a result, local government officials and traditional leaders view each other as competitors and not team players.

Legislatively, the powers of traditional leaders have been given to the ward counsellor, MEC and minister. They are under the control of the MEC, whom they consult on all matters, including succession. The MEC's involvement in the functions of traditional leaders has weakened their power.

The methodology adopted for the study enabled me to meet with relevant traditional leaders and local government officials. Both the traditional leaders and the local government officials helped, through the case study approach, to highlight the areas where there were ambiguities in the functions of traditional leaders. Local government officials also expressed the challenges they face when working with traditional leaders. The type of questions asked during the interviews were not leading questions. The questions in interview schedules 1 and 2 allowed me to probe and get more details on the challenges and ambiguities inherent in the roles of traditional leaders. However, the methodology used for the study created challenges for the researcher. For example, it was difficult to obtain informants within the time initially allocated to the research. It took me from December 2021 to the end of May 2022 to get all the informants and I had to go to the Vhembe District Municipality several times to organise the local government informants. I acquired lessons in epistemic humility. As a researcher, one has to be relevant. To be relevant to them, I had to spend time with them, understand their problems and listen to what they had to say. The informants were doing me a favour, I eventually realised, not the other way around. Another challenge was the limited output of informants and the exaggerated importance of others, especially traditional leaders.

7.2 Recommendations

Even though this research was conducted in the Vhembe District Municipality, these findings apply to South Africa and most African countries that have included traditional leadership in the realm of local governance. They are seen as essential to make rural communities participate

in democratic systems of governance. It is recommended that real participation by all stakeholders should be encouraged in cooperative governance. This would lead to real buy-in by stakeholders, especially traditional leaders who are influential in their communities. However, to fully participate in cooperative governance, their roles and functions must be defined to make participation meaningful. Political patronage has no place in the running of municipalities. Cadre deployment by the ANC has to be done away with, as it compromises the quality of municipal employees. The tender process has led to corruption, as politicians have the power to influence who receives tenders and which areas get developed. This has led to inefficiency in municipalities. Legislation is not implemented, making cooperative governance difficult to attain in the Vhembe District Municipality. The ambiguities concerning the roles and functions of traditional leaders make it difficult to pinpoint how they should collaborate with local government. These roles must be clearly defined so that traditional leaders can fully participate in the affairs that affect them in their communities without the influence of politicians.

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9: APPENDIX

Interview Schedule – The role, powers and functions of traditional leaders in the Vhembe District Municipality, Limpopo province, South Africa.

Schedule 1: Interview questions for traditional rulers

- a) What roles, powers and functions do traditional leaders play in governance at local government level in the Vhembe District Municipality?
- b) What do the traditional leader understand their role to be In the Vhembe District municipality?
- c) Do you think that the functions of traditional leaders are clear? Explain your answer.
- d) How in your view, are the communities that you represent benefiting from your roles, functions and powers?
- e) What other mechanisms and institutions must be put in place to promote cooperative governance in your area of jurisdiction?
- f) Are traditional leaders consulted by municipalities and politicians in matters that affect the communities? Please explain?
- g) Does your voice matter in decision making? Please explain why think so.
- h) What relationship exist between the traditional leaders and Government officials at the provincial COGTA offices in Polokwane? Please explain.
- i) What opportunities/advantages and limitations do you derive from working with the different mechanisms in place and institutions that provide governance in your area?
- j) In your opinion, do you think that the South African government has fulfilled its mandate to provide cooperative governance in the area under your control? Why do you say this?
- k) What is your opinion on the cooperative governance work in your territory?
- l) Do you think traditional leaders have been included in cooperative governance in the Vhembe District Municipality? Explain what interventions have been put in place in this municipality for co-operation in governance since 1994?
- m) Do you think that as traditional leaders, you can play a greater role in cooperative governance than they are doing currently? Please explain.
- n) In your opinion, can traditional leaders and the South Africa government work together to provide good governance? Do you think that your community would benefit from such a partnership? Please explain.
- o) Is there anything you would like to add?

Schedule 2: Interview questions for Government Officials

- a) What is your opinion on how the South African government has performed in its mandate to provide cooperative governance in the Vhembe District Municipality? Why do you say this?
- b) Do traditional leaders play any roles and functions in governance in the Vhembe District Council? Please explain. What does the local government understand the role of traditional leaders to be?
- c) What functions does local government *expect* traditional leaders to fulfil in their respective areas?
- d) How do the roles, functions and powers of traditional leaders in the Vhembe District Municipality differ from those of the ordinary people and government officials?
- e) Please explain your understanding of the White Paper on Traditional Leadership and Governance (2003).
- f) How do roles, functions and powers of traditional leaders align with the White Paper?
- g) What relationship exist between traditional leaders and Government officials at the provincial COGTA offices in Polokwane? Please explain
- h) Are there any institutions or mechanisms that stand out in the provision of cooperative governance? If so, please name them.
- i) When are traditional leaders consulted by municipalities and politicians in matters that affect their communities?
- j) What are the opportunities/advantages and limitations do you derive from working with the different mechanisms in place and institutions that provide governance in your area?
- k) Why, and in what areas, is there ambiguity with regards to the roles, functions and powers of traditional leaders in the Vhembe District Municipality?
- l) How do you think traditional leaders have been included in cooperative governance in the Vhembe district municipality? Explain what interventions have been since put in place in this municipality for co-operation in governance since 1994?
- m) Do you think that traditional leaders, in the Vhembe district municipality can play a greater role in cooperative governance than they are doing currently? Please explain.
- n) In your view, can traditional leaders and the local government work together to provide good governance? Do you think that Vhembe District Municipality would benefit from such a partnership? Please explain. Is there anything you would like to add?