



Assessing the Relationship between Councilors, Traditional Leaders and Society in Local Governance in Ubuhlebezwe Local Municipality

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Abstract

South Africa, with its heterogeneous population, aims to promote the engagement of all citizens in governance. Section 81 of the Local Government: Municipal Structures Act (Act No. 117 of 1998) enables traditional leaders to participate in municipal councils. There has been insufficient research and established models of best practices for implementing Section 81 since the national Act was passed. Sections 152(b) and 153(a) of the 1996 Constitution outline the authorised powers of local government. These sections state that one of the objectives of local government, under council members' leadership, is to ensure sustainable services to the public. Additionally, local government is responsible for organising and overseeing the municipality's budgetary, planning, and administrative processes, particularly prioritising the needs of vulnerable citizens. Consequently, ward council members were elected in the rural districts under the jurisdiction of traditional authorities. The rights and responsibilities of elected council members are specified in Section 156 of the Constitution. The Constitution does not provide a clear definition for the role of traditional leaders, who are responsible for managing extensive areas of land and receiving compensation from the government for their role in preserving culture and customs. Hence, this

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research analyses the correlation between council members, traditional leaders, and society in governance to ascertain compliance with section 152 (1) of the Constitution, 1996. Additionally, it explores the possibility of formulating a constitution and a code of conduct for traditional chiefs and council members, enabling citizens to lodge complaints against the activities of these two officials if required.

Keywords: Councilors, Traditional leaders, Service delivery, Society in local governance.

1. Introduction

The main objectives of establishing municipal government are to ensure efficient and effective administration and to promote democratic governance. The national government is duty-bound to provide the public with the necessary services. However, the national government faces difficulties in independently delivering these services. This is an outcome of the diverse requirements of different local communities. Based on the information provided, implementing "citizen participation" is necessary, which is one of the fundamental principles of democracy. When the population and land area are sufficiently manageable, this becomes achievable. The 1994 democratic advertisement and the subsequent non-racial local government election on November 5, 1995, marked the beginning of a new era of leadership in the local government sector in South Africa. Municipalities were founded in 1996 across the Republic of South Africa, encompassing both urban and rural areas, as section 151 (1) of the Constitution mandated. Consequently, traditional leaders exercised their authority by overseeing the election of council members in the region. Because municipalities are incorporated into rural villages, two distinct forms of leadership have arisen: traditional leaders and municipality council members. The specific duties of the two institutions within their respective communities are not delineated in the 1996 Constitution of the Republic of South Africa.

Hence, the government faces challenges in discerning traditional leaders and council members' distinct authority, responsibilities, and functions inside their local communities. The duties of council members in delivering services are specified in the Constitution of 1996. Sections 152(b) and 153(a) of the Constitution mentioned above establish the objective of local government, led by council members, to ensure the sustainable provision of services to communities. This includes organising and managing the municipality's budgeting, planning, and administration processes to prioritise the community's fundamental needs.

Conversely, chapter 12 of the 1996 Constitution acknowledges the existence of traditional leaders and provides instructions for their consultative function in both the national and provincial spheres of government. The purpose of such an entity in local governance is not well defined. Therefore, the government must prioritise the establishment of a strong local government framework that includes traditional leaders and council members (Reddy, 1999; Ray *et al.*, 2003). It is imperative to establish the specific responsibilities of conventional leaders in this situation (Reddy, 1999). In 1994, the present administration assumed power to end the practices that were prevalent during the apartheid era, thereby initiating a change in governance orientation.

This transformation impacts the status of the nation's traditional leaders. Traditional leaders confront a hurdle in their interaction with municipalities because municipal governments have authority over territories controlled by traditional leaders. Ubuhlebezwe Local Municipality was formed in compliance with the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), categorising it as a B municipality. As stated in the Ubuhlebezwe municipality IDP Review (2012)/2013:8, the municipality has a population density of 103.3 km² (268 square miles). Historically, traditional leaders have held authority over rural areas. Due to their pre-existing leadership roles within their communities, traditional leaders struggle to understand the lack of a clear definition of their roles and obligations under the current municipal government. However, traditional leaders reject municipalities as they perceive them to exclude them from local governance. The community experiences hardship when these two sides cannot reach a consensus on the management of the

local government. Conflicts and misinterpretations between conventional leaders and municipalities hinder communities from accessing top-notch services.

This article examines the correlation between Councilors, Traditional leaders, and Society in the democratically administered Ubhlebezwe Local Municipality. The study should also ascertain the insights gained by other local government domains from their encounters with the establishments of traditional leadership and council members during the early stages of their democracies. To ensure the fulfilment of their various duties, it is crucial to establish a means of collaboration between municipalities and traditional leaders, along with providing them with explicit behavioural standards. Traditional leaders often encroach onto the obligations of councillors in the context of service delivery and vice versa.

2. Theoretical Framework

The article's examination of the relationship between traditional chiefs and councillors and how it affects service delivery was grounded in the cooperation theory. This theory "applies in symmetric structures where actors occupy mutually dependent positions that are matched by reciprocity expectations among peers" (Catturani & Sacchetti 2017, cited in Mawere et al., 2022), addressing the conflict that often arises between what is best for each actor in the short term and what is best for the group in the long term (Axelrod, 2000). In this situation, local governments and traditional leaders should collaborate to accomplish cooperative governance.

The cooperative guidance principles outlined in the Constitution and the White Paper on Local Government must be the foundation for the relationship between traditional leaders and councillors (Knoetze, 2014). Traditional leaders' and municipality councillors' collaboration must be based on the principles of cooperative governance, mutual respect, and recognition of their respective positions. Additionally, Inkosi1 Luthuli was wise enough to emphasise that elected public representatives and traditional leaders must work together correctly, with the former always keeping their constituents' interests in mind (Zuma 2010, quoted in Tshitangoni & Francis 2018).

Traditional leaders and municipal council members would collaborate in the following:

- Through the national or provincial house of traditional leaders, traditional leaders participate in the national assembly (Mashau, Mutshaeni, & Kone, 2014). To influence decisions, municipal councillors and traditional leaders must work together at the municipal level, primarily by participating in local participatory structures like school governing bodies, Integrated Development Plan (IDP) Forums, and others (Mashau *et al.*, 2014).
- Traditional leaders must be given the appropriate role and authority within their region. At the same time, democratically elected individuals handle local government functions to prevent needlessly escalating tension and conflict between them and governmental structures (Mawere *et al.*, 2022). The crucial point still unresolved is how traditional leaders' interactions with elected municipal councillors affect the provision of services, even though numerous academics have written about the roles of these two groups (Nekhavambe, 2014).

3. The African and South African Traditional Leadership Structures

Traditional leaders have traditionally been the foundation of local administration in Africa (Rugege, 1998). Pre-colonial African nations were governed by monarchs assisted by a hierarchy of chiefs and counsellors selected from their groups. These traditional leaders were highly respected for their role in upholding society's ideals and serving as political, spiritual, and cultural leaders. Traditional civilisation ensured the welfare of its residents by granting them access to land for grazing and agriculture. Traditional leaders in African countries served as the people's representatives and controlled most of these societies. Attending to the needs of all the communities overseen by traditional leaders was necessary. Nevertheless, the attributes of conventional establishments and authorities vary among and within countries.

Every nation has its unique strategy for evolving and adjusting to its social, economic, legal, and constitutional settings. The objective is to impact local communities and, as much as possible, national politics. Consequently, traditional leaders bear specific duties in their respective countries. Regarding traditional leadership, South Africa is like other African countries. To maintain proper citizen behaviour and attitude, governments must acknowledge the influential position that traditional leaders hold within their communities. Additionally, these leaders offer services to their communities. Given the inherent imperfections of individuals, any organisation must have a constitution that outlines a set of rules and principles. This is necessary to ensure practical guidance and oversight over conventional leaders and councillors.

Traditional leaders and councillors can exercise their discretion in their respective communities. For a disciplinary hearing to occur, there must be a valid body specifically designed to address complaints from community members regarding the conduct or behaviour of councillors and traditional leaders. This is significant because the government must protect society from being used or manipulated by individuals in positions of authority. The inquiry compares the findings on traditional leadership and councillors in Namibia and Zimbabwe, two African nations, with the current situation in South Africa.

4. Namibia

Traditional leadership's authority experienced a substantial decline when Namibia gained independence despite being recognised in the country's Constitution. The colonial administration in Namibia, like other African countries such as Zimbabwe, utilised traditional leaders to further its interests, facilitating the implementation of colonial programs and the enforcement of colonial laws. The authoritarian characteristics of colonial law enforcement resulted in a significant erosion of the traditional leaders' legitimacy among the general population. Due to their collaboration with the harsh colonial authorities, the traditional chiefs fell out of favour with the liberators who assumed control of the Southwest African People's Organisation after gaining independence in 1990. Traditional leaders experienced a reduction in their authority and role, leading to their

marginalisation. As an illustration, their jurisdiction was restricted to adjudicating civil cases by customary law, but they were no longer authorised to preside over criminal cases. The tribal police were disbanded, and their power to detain individuals was revoked (Rugege, 2002).

While the Traditional Authorities Act of 1995 (Act 17 of 1995) recognised traditional chiefs and their counsellors as traditional authorities, it did not explicitly allow them the right to exercise powers derived from customary law. The Traditional Authorities Act 2000 (Act 25 of 2000) does not substantially enhance the authority of traditional authorities. It assists the government in maintaining peace and order and limits their involvement with cultural or traditional issues. They do not have any specific duty for growth or service providing. As to Section 3 of the Traditional Authorities Act, 2000 (Act 25 of 2000), traditional authorities and their members have the duty to promote community well-being and harmony and oversee and ensure compliance with customary law by community members (Rugege, 2002).

Traditional leaders in Namibia are prohibited from holding elected political offices while serving as chiefs or heads of traditional communities, further restricting their influence on traditional affairs. Although traditional leaders are not prohibited from assuming political office, their election is considered a resignation from their role as chief or head of a traditional community. The traditional leader is disqualified from assuming the office of chief or head of a traditional community and from receiving the customary privileges associated with these roles. Nevertheless, no barriers prevent traditional leaders from participating in elections and holding positions on local authority councils, enabling them to influence development-related choices (Rugege, 2002).

According to the Draft White Paper on Traditional Leadership and Governance (2002) of the Namibian Constitution, traditional leaders must recognise and accept the modern state's power. According to the Namibian Constitution, traditional institutions should support regional and local authority councils and the national government in fulfilling their responsibilities. If there is a conflict between the authority of traditional chiefs and government

officials at all levels, the powers of the central government would be given priority.

The Namibian government did not allocate a unique role for traditional leaders in service delivery, as seen by the issue involving traditional leaders. Traditional leaders mainly focus on matters of culture and customs. The Namibian Constitution does not address the code of conduct that traditional leaders and councillors must adhere to maintain control over them and ensure social contentment. Undoubtedly, the Namibian government's treatment of the institution of traditional leaders mirrors that of South Africa. The 1996 Constitution of the Republic of South Africa, specifically Chapter 12, recognises the existence of traditional leaders. However, it does not give them the power to decide on providing services. According to Chapter 7 of the 1996 Constitution of the Republic of South Africa, councillors deliver services to their local communities.

5. Zimbabwe

According to the Zimbabwean Constitution of 1979, the President can acknowledge and designate traditional leaders while considering the customary rules of tribal members' succession, who will be under the chief's jurisdiction. The House of Traditional Leaders is organised into both national and provincial divisions. Out of 150 individuals in the National Assembly, a maximum of 10 are eligible also to be National House of Traditional Leaders members. According to the Constitution, there is a provision for establishing a Council of Chiefs, selected by chiefs residing in communal land areas. These areas specifically refer to rural regions that do not include commercial farming areas or rural towns.

Section 5 of the Traditional Leaders Act in Zimbabwe primarily concerns the functions and obligations of traditional leaders. The chief's primary obligation is to fulfil the responsibilities connected with holding the position of the traditional leader of the community under his jurisdiction. This pertains to the functioning of customary law and culture. Another responsibility is to carry out the tasks allocated to the chief according to the Local Courts Act and Customary Law. Another important duty is overseeing the collection of taxes, levies, rates, and other charges that must be paid according to the Rural District Councils Act. Chiefs are tasked with

ensuring the proper allocation of communal land and adherence to land occupation and use restrictions, as mandated by the Communal Land Act (Rugege, 2002).

Zimbabwe's traditional leaders have no specific restrictions on their eligibility to hold political positions and retain their identity as traditional leaders. This enables traditional leaders to participate in both local and federal governance. Like Namibia, traditional leaders in Zimbabwe do not possess equivalent status or duties as traditional authorities in South Africa, who are advocating for greater involvement of traditional leaders in local governance, specifically seeking autonomy from elected municipalities. The traditional chiefs of Zimbabwe have been relegated to public servants, tasked with administrative duties and tax collection, devoid of any substantial authority to make decisions, implement development projects, or deliver services (Rugege, 2002).

The situation in Zimbabwe exemplifies how acknowledging traditional leaders under the country's Constitution is limited to subjects about customs. Traditional leaders are also authorised to collect taxes, levies, rates, and other fees on behalf of the government. Like South Africa, traditional authorities in Zimbabwe do not have the power to choose between carrying out development projects and providing services. However, the Zimbabwean Constitution does not provide any guidance on the specific rules of behaviour that traditional leaders and councillors must adhere to to preserve authority and ensure society's contentment.

6. South Africa

The colonial state and later the racial segregation state in South Africa assumed control over the primary authority previously held by traditional leaders throughout colonisation and racial segregation (Rugege, 1998; Düsing, 2002). This undermined the authority of traditional leaders in guiding the African population. According to the Commission on Provincial Government (1995), in the early 1900s, the state implemented a system of elected advisory councils alongside the existing colonial bureaucracy of civil servants and magistrates. Therefore, the chiefs lost their capacity to perform important administrative tasks.

The colonial and racial segregation states eroded the authority of traditional leaders. The influence traditional chiefs once exerted over their tribe members has significantly declined. The jurisdiction of traditional leaders was restricted to enforcing ethical standards, while the state retained control over all other primary administrative responsibilities and authorities. However, the South African government ultimately recognised traditional leaders within the communities governed by tribes. The Black Administration Act 1927 (Act 110 of 1927) granted the Governor-General the power to appoint traditional leaders with the highest chieftain positions.

Rural communities in South Africa lacked functional local government prior to the non-racial democratic elections in 1994 (Rugege, 2001). Under the previous Black Authorities Act, 1957 (Act 110 of 1957), traditional leaders were granted authority over their specific districts. Rural villages were under the continued control of traditional authorities. Traditional chiefs held positions of power within tribal institutions and were given jurisdiction over the black populace. Section 152 of the 1996 Constitution grants traditional leaders with functions now performed by municipalities.

The democratic system and the institution of traditional leaders encountered fresh challenges during the 1992 discussions, ultimately establishing a democratic South Africa. The challenge lies in reconciling the democratic system with the traditional leadership system and accommodating the role of traditional leaders within a democratic South Africa, particularly in municipalities where they are involved. This historical setting also emphasises the significant positions of authority that traditional leaders have occupied in both pre-colonial and post-colonial communities. This implies that in a democratic South Africa, traditional leaders must not be ignored.

During the preceding democratic era in South Africa, traditional leaders held powers and authority over their regions of jurisdiction under the Black Authorities Act of 1957 (Act 110 of 1957) since they were responsible for the tribal authorities and their people. After the Black Local Authorities Act of 1959 was repealed in 1994, elected local government councillors were given powers and responsibility over communities in both rural and urban areas, as stated in section

156(5) of the Constitution, 1996. The status of traditional leadership in Namibia and Zimbabwe, like in South Africa, declined in terms of their power and autonomy regarding service delivery and development projects following the implementation of a new democratic government structure. By section 156 of the 1996 Constitution, local political entities have actively engaged in matters related to the delivery of services.

The circumstances in these three nations demonstrate that South Africa can differentiate between the functions of politically elected officials, such as councillors and traditional leaders. South Africa, as a democratic nation, is responsible for ensuring that its elected representatives at the national, provincial, and local levels of government deliver services to the citizens. Chapter 7 of the 1996 Constitution refers to ensuring that these elected authorities are responsible and answerable to the country's citizens. Moreover, South Africa has characteristics similar to those of previously stated countries in terms of traditional leadership following the attainment of democracy. In South Africa, traditional leaders are recognised according to section 211 (1) of the 1996 Constitution. Nevertheless, according to section 153 of the 1996 Constitution, council members in municipalities retain ultimate authority for matters related to service supply.

7. Traditional leaders in South Africa before democracy

Traditional leadership has been a longstanding tradition in Africa for centuries. Before colonialism, South Africa's social structure was characterised by multiple tribal regimes that governed distinct territorial regions. The notion of kingship first formed the basis for conventional leadership. Traditional leaders acquired their seats by inheritance rather than through elections. The succession of the father's role was a familial affair, with the eldest son assuming responsibility. The traditional chiefs possessed supreme control over their tribe. The community was united through the leadership and traditional authority of an individual responsible for safeguarding collective welfare. The advent of colonialism gradually eroded the old African governance system, leading to the gradual dismantling of the firm and long-lasting bond between traditional leaders and their tribal constituents.

The traditional leaders were assigned numerous obligations, which encompassed safeguarding the interests of their subjects and staying well-informed about matters about their tribe (Fox & Wissink, 1990). Furthermore, it was anticipated that they would personally evaluate the concerns and grievances of their constituents. Prior consent from traditional leaders was required for any action to be undertaken. Traditional leaders held the power to make legal decisions and enforce and create new laws. In addition to their customary roles, the leaders were responsible for assigning property for residential and commercial use, even without a codified land distribution plan.

8. Traditional Leadership in South Africa after Democracy

The section of the 1996 Constitution about the functions of traditional leaders is vague and open to interpretation. The function of traditional leaders has been delineated, like that of elected local government council members. The inquiry is: What role do traditional leaders fulfil in conformity with customary law as acknowledged by the Constitution of 1996? The assertion posits that customary law can adjust to changing social and economic circumstances. Furthermore, it argues that numerous responsibilities presently fulfilled by elected municipal council members are inherent to their customary obligation of ensuring the community's well-being. Before the 1994 elections, it was presumed that traditional leaders in rural areas fulfilled their duty to their communities by offering various services.

9. Disputes Resolution Procedure and Khonza Fee Issue by Traditional Leaders

The chief is the leader of his community and serves as the adjudicator and mediator of conflicts. Strangely, no documented training course exists for chiefs and izinduna to employ while holding trials and resolving disputes among community members. Moreover, the trial method lacks hierarchical levels designed to safeguard society and prevent bias. Traditional leaders in South Africa impose different punishments on the guilty party after prosecutions and khonza fees, resulting in the exploitation and

mistreatment of impoverished communities, and there is no proper recording during trials.

10. Roles and Obligations of Traditional Leaders

Section D 4.1 of the White Paper on Local Government 1998 indicates that traditional leaders within municipalities carry out the following roles and obligations, among others:

- serving as the leader of traditional authorities and consequently wielding restricted legislative power along with specific executive and administrative responsibilities;
- overseeing traditional law courts and upholding law and order;
- engaging with traditional communities via public gatherings;
- aiding community members in their interactions with the government;
- providing counsel to the government on traditional matters via the councils of traditional leaders;
- organising meetings to engage with communities about their needs and priorities and sharing information;
- safeguarding cultural values and fostering a sense of community in their regions through a shared social perspective;
- acting as representatives of the communities;
- serving as the emblem of togetherness in the community;
- serving as guardians and defenders of the community's traditions and overall well-being;
- provide advice on land distribution and the resolution of land conflicts;
- advocating the government and other organisations for the advancement of their regions; and
- guaranteeing that the traditional community is involved in development decision-making, contributes to development expenses, and evaluates and suggests to authorities regarding trading permits in their regions per legal requirements.

11. A Case Study of the Traditional Leaders Project in Ubuhlebezwe Local Municipality

In September 2011, Solutions (Anon, 2011) conducted a four-day training program for thirty traditional leaders from KwaZulu Natal. This training formed part of Khulisa's Justice and Restoration Project (JARP) and was financed by the European Union. The project's primary objective was to enhance access to justice for the target community, decrease the backlog of court cases, and redirect minor offences away from the formal justice system, enabling courts to concentrate on addressing more serious and violent cases. At first, the traditional leaders opposed the services provided by Khulisa to local courts; however, after several months, they sought training as Restorative Justice Mediators to improve the services rendered within the community-based traditional courts.

Traditional courts strive to apply customary law to foster traditional justice, as the South African Constitution describes. These courts are grounded in the principle of ubuntu and promote peace and restorative justice. Moreover, this approach underscores traditional leaders' significance in managing community-based justice (Claasen [Sa]). The training program aimed to inform traditional leaders on embracing a restorative perspective and to investigate how their roles could facilitate healing and social progress in their communities. The anticipated outcomes included encouraging sustainable community safety, restoring justice, and establishing inclusive economic and developmental opportunities.

The program utilised the Social Transformation System tool and methodology, founded on Dr. Barbara Holtmann's Safe Community of Opportunity model from South Africa (Holtmann, 2011). A systems theory framework was applied during the training to elucidate the intricacies of societal challenges and emphasise that solutions to social problems are not simple but interactive and systemic. On the initial training day, traditional leaders were acquainted with restorative justice principles. They utilised the Cycle of Crime and Violence framework to investigate the root causes of crime in society and examine alternative adjudication methods.

The essential elements for creating a just society were specified, and the position of traditional leaders in this process was assessed. For the rest of the training, the concentration was on empowering participants with knowledge about general conflict resolution, accentuating conflict dynamics, various types of conflicts, and different responses to conflict situations. Participants were also introduced to alternative dispute resolution and restorative justice as strategies for tackling crime and settling societal conflicts. Attention was also directed towards different mediation models, and role-playing exercises were implemented to assist participants in practising victim-offender mediation, family group conferencing, and other mediation techniques.

Efforts were directed towards enhancing the participants' communication and problem-solving abilities. Ultimately, the mediator's code of conduct was reviewed with the participants to address ethical matters related to mediation. The results from the assessment questionnaire indicated that the workshop effectively imparted knowledge about restorative justice as a viable alternative for adjudication and conflict resolution. The participants recognised the links between restorative justice values and ubuntu principles. All participants communicated their intentions to implement restorative justice practices and reported enhanced conflict resolution and crime prevention skills within their communities.

As part of the procedure, traditional leaders were responsible for developing an action plan to pinpoint diverse areas in their communities where they could promote social transformation.

The areas they pinpointed indicate that they accepted the restorative framework of thought and acknowledged their function in the change process.

Establishing an administrative centre that will also act as an information hub. The responsibility of traditional leaders is connected to advocacy and providing access to information.

- Establish a flea market area to improve local trade and job opportunities.
- Planning for sustainable land distribution.

- To encourage conversation and nurture a feeling of respect throughout their communities.
- To employ restorative methods for resolving conflicts and addressing criminal activities whenever possible.
- Taking charge of the community's needs and utilising community-based organisations to meet these needs rather than relying on outside governmental bodies for solutions and collaborating with governmental entities as needed.
- Act as stewards of the traditional culture within their communities.
- Involvement in educational institutions is vital to ensure that children obtain the highest quality education that integrates local traditions and practices.
- Health programs should incorporate the reinstatement of circumcision, which is both a cultural and health issue.
- Traditional leaders are important in nurturing a sense of cultural identity through arts and culture.

An assessment of the program revealed its diverse effects on the participants. Attendees reported personal growth and acquiring knowledge and skills that enabled them to implement restorative principles within their communities. It also highlighted the significance of traditional leaders within communities and the relevance of customary practices for settling disputes and delivering justice.

12. Discussion

Even though the people they serve much need service delivery, the power imbalance between traditional leaders and councillors raises concerns about the local government's developmental agenda because traditional leaders and the municipality do not always agree. The crucial point that has not been addressed is how traditional leaders and municipal councillors interact in providing services, even though numerous academics have written about their respective roles. Concern has been raised about the power dynamics between elected councillors and traditional leaders, as they could

impede and postpone progress. The debate over the role of traditional leaders in governance has been intensified by the passing of laws establishing a revised local government system and the demarcation of municipalities in the 2000 municipal elections (Rugege, 2003).

To effectively deliver socio-environmental and economic services to communities, it is essential to have a robust and advancing local government sector. This sector should be guided by strong political leadership and actively engaged with citizens, groups, and communities to establish sustainable human settlements. This approach aligns with the requirements outlined in section E (1) of the White Paper on Local Government (1998). Section 81 (1) of the Local Administration: Municipal Structures Act, 1998 (Act 117 of 1998) mandates the participation of traditional leaders in local administration. According to the Municipal Structures Act 1998, traditional leaders who follow customary law in a municipality are allowed to attend and participate in council meetings. This is stated in sections 81 (1) and 2 (a) of the Act.

The maximum allowable proportion of traditional leaders attending municipal council sessions is 30% of the council's overall membership. Notably, a municipal council must allow the traditional leader of that jurisdiction to express their viewpoint before deciding on any matter that directly impacts that jurisdiction. However, the traditional leader's influence is limited, as they are only permitted to voice their opinions on matters affecting rural communities before council decisions, and they are not actively involved in the decision-making process. This suggests that traditional leaders lack the authority to contest council decisions that influence their respective areas. In addition, traditional leaders lack the jurisdiction to make decisions regarding service delivery matters. Their role is limited to expressing their opinions on specific delivery issues, while the final decision-making authority lies with council members, as stated in the Municipal Structures Act of 1998. As indicated above, traditional leaders' functions mostly pertain to cultural and traditional matters within their communities.

The Constitution of 1996 and additional legislation, such as the Municipal Structures Act of 1998, establish the inclusion of traditional leaders in the government's initiatives for community

development and service delivery. This is the final assessment regarding acknowledging traditional leaders in a democratic South Africa. Legislation has not addressed the position and power of traditional leaders within the jurisdiction of city councillors. Consequently, different ideologies emphasise the significance of traditional leaders in South Africa's democracy, namely within local government. There is abundant evidence indicating that the democratic government does not have a directive to be followed by traditional leaders when prosecuting citizens. In other words, trials are informal. Nevertheless, it is imperative to safeguard destitution and susceptible communities against the exploitation and mistreatment perpetrated by traditional leaders. The rights of the impoverished are at risk.

13. Recommendations

Section D 4.1 of the White Paper on Local Government 1998 indicates the roles and obligations of traditional leaders within municipalities. Therefore, traditional leaders should not interfere with service delivery as it is the responsibility of councillors, and traditional leaders should not be part of decision-making in the Municipality council. Traditional leaders have cumbersome work to do to ensure societal social welfare. The problem is that no one monitors them to ensure they carry out their responsibilities accordingly. Traditional leaders operate on a *laissez-faire* approach, thus manipulating society. One of the duties of traditional leaders is to ensure that cultures are maintained and society is well disciplined. This alone demands more time on the part of traditional leaders. Further, the non-availability of an official directive to be followed by traditional leaders when dealing with community trials poses a threat to the welfare of society, as it makes them prone to manipulation or abuse by traditional leaders. The directive is necessary to promote good governance in local municipalities and traditional authorities and prevent violating society's rights. In addition, all prosecutions or trials in traditional settings should be recorded to preserve the proceedings for later use should the circumstances demand.

The chief serves as the leader of his community; hence, chiefs fulfil the functions of judge and arbitrator in conflicts. Establishing a well-documented training program specifically for chiefs and izinduna is necessary, enabling them to conduct fair trials for residents. Moreover, trials should incorporate hierarchical stages involving a valid appeal authority, allowing community members dissatisfied with the trial's decision to file an appeal to ensure societal protection and prevent unfairness. Furthermore, traditional leaders possess the authority to determine the penalty for the offending party rather than adhering to a specific regulation. Traditional leaders impose varying penalties based on their discretion, necessitating the government to delineate the different charges, penalties, and khonza fees within the policy. All traditional leaders must adhere to this uniform policy when designating sites for communities and prosecuting and penalising individuals to guarantee fairness, protection, and the welfare of impoverished citizens throughout the Republic of South Africa. It is suggested that the restorative philosophy underlying restorative justice provides an optimal framework to reconcile traditional culture with contemporary living.

Some significant avenues for further research have been mentioned in the essay. Among these would be the inclusion of traditional leaders in the municipality's internally displaced people (IDPs), with their duties explicitly outlined in the plan, and the execution of an empirical study to examine the influence of traditional leaders and elected municipal councillors' communication channels in rural administration.

14. Conclusion

This paper has examined the topics of Introduction, Municipal local government, and service delivery. The African and South African traditional leadership institutions and the systems of traditional leaders in Namibia, Zimbabwe, and South Africa. It also explores the role of traditional leaders in South Africa before and after democracy, dispute resolution procedure and khonza fee issue by traditional leaders, roles and obligations of traditional leaders and a case study of the traditional leaders' project in Ubuhlebezwe Local Municipality. Finally, the paper concludes with a discussion and

recommendations. The courts must enforce customary law when relevant, subject to the Constitution and any legislation that mainly addresses customary law. Traditional leaders carry out their responsibilities at the rural local government level, namely about issues that impact local communities, such as customary law and community norms. Legislation at the national or provincial level may allow for the creation of residences dedicated to traditional leaders. Additionally, national legislation may establish a council specifically for traditional leaders. According to Sections 81 (1) and 2 (a) of the Municipal Structures Act, 1998, traditional authorities following customary law in a municipal area can participate in council meetings. However, the final decisions are made by the municipal council itself. Consequently, it would be beneficial to undertake a comprehensive analysis of the broader implementation of restorative justice principles as a means of social reform.

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