

Chapter 3

Exploring the Influence of Legislative and Policy Frameworks for Traditional and Democratic Leadership in South African Municipalities

Nzimakwe Ian Thokozani

Introduction

The relationship between traditional leadership and the modern system of government in South Africa is possible only if the functions of traditional leaders and municipal councils are outlined and understood by both parties. For instance, where traditional leaders could impact the ordinary lives of rural communities, they need to continue to provide the services required without any constraints and share ideas with their municipal councils.

Through the Department of Cooperative Governance and Traditional Affairs (CoGTA), numerous pieces of legislation have been passed to ensure that traditional leadership makes an important contribution to local development. Some of the legislation passed by the government has clauses aimed at strengthening the collaboration between traditional leaders and municipal councils. In this chapter, the author aims to analyse and explore the influence of these legislative and policy frameworks on traditional and democratic leadership in municipalities.

Indigenous forms of governance and their integration into modern systems of government have thus far proved difficult and problematic not only on the African continent but specifically in South Africa. Although most constitutions of African countries refer to indigenous systems, these institutions are marginalised, serving merely a symbolic rather than a functional role. More importantly, these institutions are known to be inconsistent with democratic governance principles, despite their presence long before the colonial rule became a historical reality (Khan, Lootvoet & Mantzaris, 2006).

Background

Traditional leaders are considered custodians of many South African people's morals, values and cultural systems. As such, they remain important in preserving African life,

and they play a crucial role in this regard. Phindi (2020) contends that when South Africa gained its independence in 1994, one of the important issues tabled for discussion was the role and status of traditional leaders and traditional leadership institutions in governance. The agreements reached in this regard were legislated in Chapter 11 of the 1993 Interim Constitution. All other outstanding issues were left to the processes that led to the adoption of the Constitution of the Republic of South Africa of 1996.

Today there is confusion and controversy around the role of traditional leaders, particularly the chief's role within the new democracy. This role is perceived as inherently undemocratic and patriarchal as it is hereditary and reserved for men. However, chiefs are leaders of their people and guardians of their culture and customs. Hence, despite concerns surrounding the undemocratic essence of tribal leadership, it remains an important part of a rich South African cultural heritage which, despite widespread misgivings, receives considerable popular support (Nicholson, 2006).

Literature Review and Theoretical Framework

What is Traditional Leadership?

Traditional leadership is the notion of receiving power inherited from a predecessor. A current example would be kings, chiefs, *amakhosi* and *izinduna*. The 1996 Constitution states that the institution, status, and role of traditional leadership, according to customary law, are recognised. The government acknowledges the critical role of traditional leadership institutions in South Africa's constitutional democracy and communities, particularly concerning the development of rural communities. The South African government, therefore, remains committed to strengthening the institution of traditional leadership. To this end, numerous pieces of legislation have been passed and various programmes implemented to ensure that traditional leadership makes an important contribution to the development of society (Constitution, 1996).

Sithole (2000), an anthropologist and astute commentator on traditional leadership, believes that traditional leadership in Southern Africa is an institution based on kinship rooted in the relationship of blood, fictive or distant, between the leader and the people under his authority. Sithole (2000) further argues that the key element of traditional leadership is the close relationship between the leader and his people, especially among the Nguni people. Thus, leadership succession is shaped by blood kinship as identity, leadership, and inheritance pass from father to son. Even historians have pinpointed the historical reality that the primary concern of traditional leaders during the pre-colonial period was their relationship with their people and not with geographical or land boundaries.