Interview Nine- Local Government Municipal Councillor

(Pseudo name- Mr Councillor)

Agreed to recording; documentation of interview and disclosure of his identity.

22 June 2022

Place: Masemola Traditional Council Court Hall

Q1: What is tradition?

It is the undocumented, former lifestyle, way of living of different nations or clans. They differ from one nation to another nation. Each nation has its own set of rules, set of customs, beliefs and religions that comprise the traditional history of a certain nation or clan.

Q2: What is the value of tradition in the state system?

Tradition has value in enhancing governance and setting up the behavioural patterns of the inhabitants of the nation.

Q3: What is traditional authority?

Traditional leaders are selected families within the community that were recognised through their dominance over the others.

Q4: What is the basis of traditional authority?

Identity, identity as a nation, identity as a tribe because each and every group must have its own leaders by nature.

Q5: What is a traditional community?

Their lifestyles revolve around different spheres, tradition guided by a set of regulations and accepted customs that are different from those practised by people living in urban settles. If you can go into our local traditional authorities, you will find that even their burial, they have rites that they do conduct that are different from those living in urban areas. Traditional communities practice different rites and customs. Their historic relationships are through blood, family units, they are too common that they know almost each other. Unlike in other developmental areas where each comes from their different areas, each practise they own cultures and tradition and they cannot live in unisome in most cases.

Q6: What is your understanding of cooperative governance?

Cooperative governance for traditional leaders is, their position is to come with a uniform approach when coming to the traditional administrations, all of them inclusive. The primary goal of that is to assist in service delivery so that the nations can be developed, uniformly so. The municipal councils also contribute, even though theirs are elected leadership based on terms.

But there are some set of rules that are now being promulgated that will assist. Even if council sit and their term of office elapses, the incoming one will equally continue where the other one left. It is a matter of appointment and election to office.

In terms of traditional leadership being led by a ‘Kgoši’,’Makgoši’ do not retire. Once one dies, there is an heir to the throne. The position of ‘Kgoši’ and who will be next, is something normally discussed and managed by the families involved.

However, all of them their primary goal is to enhance cooperative governance and administration to our communities and effect service delivery.

Q7: What underpins the relationship between municipal officials and traditional leaders in your experience as a municipal official?

Cooperative governance and shared administration

They are centred on government’s role. They are not two independent institutions but all of them operate in line with the community needs and also, they want to promote natural justice by making sure that both administrative elements are respected and recognised. Their contribution is equally accepted even though there are some sectors where they are not yet defined well.

The issue of land ownership, is still a question where by you are not certain on who has ownership between ‘Makgoši’ and the state. When coming to issues of development, must the developed land now be owned by ‘Makgoši’, or by traditional councils, or can it be sold through title deeds or … this issue is still under debate. So for now, there is not yet a conclusive decision. The land issue is still a subject of debate in parliament.

Q8: Accordingly, to your understanding and experience on the topic of land, what would be the best or recommended partnership on land between traditional authority and the state (via municipalities)?

The ownership of land must be held under a ‘community/ traditional trust’, I say this because should we sell and have sub divisions of title deeds, we might end up diluting traditions and cultures. This means that for example if one should come here to buy land in Ga-Masemola from Zululand, they will come and practice their Zulu traditions and customs here and start diluting the tradition and cultures that exist here in Ga-Masemola. This will end up diverting our traditions and cultures.

And also in terms of traditional governance we know that we are subject to our own ‘Makgoši’. If you are staying here in Ga-Masemola, we all know we are governed by Kgošikgadi Makgatle Masemola. The potential inhabitant who comes from Zulu origin might give allegiance to King Zwelithini, or their chief or that he/she does not even pay allegiance to any traditional authority or the institution of traditional leadership. Or they believe in other systems or institutions. Once they are allowed to buy land and move into the community, then they have ownership to that piece of land. They are autonomous from here on. This will mean that they will not report to the Kgošikgadi or the traditional council.

Q9: What are your thoughts regarding the current reality of Ga-Masemola having different foreigner’s come into the community, such as Pakistan and Ethiopians coming to start businesses in the community?

Those ones there are not leasing land, they are leasing existing business properties from our own members of the community. So they do not own the land, they do not have a direct leasing permission or agreements from traditional authorities. The laws that govern them are the laws that govern business operations.

Even if they are going to pay the annual levy of R500, it is the business property owners who pay it. The ones leasing the business properties normally just pay rent to the owners. The owners then pay the annual levy. In the traditional offices, the business is still registered under the property owner and he is liable for the levy and not the person who is currently renting out the business premises. The leasing agreement is a private matter.

In terms of the reporting line, I as the business owner and the inhabitant of the community, will pay the necessary levies.

I have never heard and you will not find that people from outside own the land, they develop the land and do business as they please. They are regulations in place set out for leasing land and for private arrangements between community members, i.e. business owners and those interested in conducting business in the community. When coming to land use in the community we do not have challenges like we do with ownership of land. They do not directly lease with the traditional authority, but rather with individual community members.

Q10: What is your opinion on the current representative structures of ‘Makgoši’ in municipal councils given their ‘ex officio’ status and membership?

The representatives of traditional leaders in municipal councils have been reduced to two, before they could be between five and six. In terms of the new municipal laws today, traditional leaders can only send two of their representatives to the council.

I believe that it is not enough, instead of reducing them , they should have increased the numbers because we need traditional leaders. They are a lot of projects and developments which will not go through without traditional leaders.

In terms of the municipal by-laws that need to be implemented, when engaging there needs to be proper forums with a representative delegation unlike having two, who should represent 164 traditional councils.

We have 164 villages in our local council and more than 28 ‘Makgoši’. Having only two, the number is too little when considering the number of communities, villages and ‘Makgoši’.

The other issue is with ‘zoning’, ’re-zoning’, ‘business zoning’ , there is still a challenge because we do not have the know-how to operate . For example, if you want to develop a portion of land that side, I need permission from the traditional leader in the area to occupy, after that I must go to the municipality and get a business zoning licence or permit.

When coming to the issue of business levies, the municipal councils want a business to pay direct to them and not to ‘Makgoši’. I think that will cause a conflict of interest because our traditional councils depend on such monies to run their offices. So when we move them to municipal coffers, we make them depend on government grants and budgets. This is robbing our already poor traditional councils of income. Now we have a challenge, businesses in Makuduthamaga, including all the government structures and offices, must pay levies to our municipality. There is no agreement on the matter . But a bill has been passed.

Our traditional leaders do not understand, and as a result have not agreed to this. But already, it has been passed. So when developing a new business, after securing land from traditional leaders, before building, you must involve the town planners, involve environmental assessors, who are all from the municipality.

So, the Cooperative Governance, Human Settlements and Traditional Affairs (COGHSTA) must get involved and deal with this matter. This is so a final decision can be taken in the matter and people and traditional leaders will understand. Currently people and business owners are paying levies to their traditional authorities. They do not know that they are defaulting by paying the traditional authority, and not the municipality. This is happening because there was no clear consultation and communication regarding this matter to the people. And with traditional leaders.

When we speak with each other, its often communicated that we do not get our revenue. We always say we are having too little because businesses are not paying, whilst the business people are paying, but paying at their local traditional authorities.

You cannot blame people about our revenue deficit because they are paying. It’s in terms of the new municipal laws that people who pay at their local authorities are said to be defaulting on such levies because the municipality is not receiving any money from this.

Also, infrastructures like schools are owned by the Department of Public works, but they are on the traditional leaders’ land. The rent for infrastructures is also paid to the municipality. Since 2004 or 2014, all the schools in the Makuduthamaga municipality pay rent to the same municipality. This took effect after the amendment or improvement of the act; public works owes the Makuduthamaga municipality R404 million rand in unpaid rent for buildings and offices. This is for all the schools, all the clinics, government buildings and offices.

This year as a municipality we received R144 million rand for infrastructure development. This has been paid into the municipal accounts, however, according to me, this money should have been transferred to ‘Makgoši’ as the owners of the land.

If each village has five schools, they must calculate those rates per village and pay the local traditional leaders. However, currently as it stands, it is collected by the municipality.

Public works has requested a 60% discount on the 404 million so that they can pay and then thereafter, they can reach an agreement of paying in trenches, let’s say every three months till the debt is covered. The community or tribal trusts still does not benefit directly or otherwise from this.

But this matter is not even up for debate. I can assure you now that communities, traditional leaders do not even know about this. They cannot raise matters further because they do not know. Nothing was ever communicated to people about such matters and the collecting of rents by the municipality on their own land.

The problem with this is that it also does not benefit the land owners, the tribal trusts.

The secrecy and ambiguity that the municipality operates under is what is causing the tensions between themselves and ordinary people and them and traditional leaders. This has created many challenges that we have to deal with and face.

When they come and request a space to build a school, traditional leaders do not sell the land space to them. But when it comes to the rental part, they are paying to the municipality and not the land owners.

The problem is that all the money is going to the municipality and the municipality decides who gets what or even if they should even get anything regardless of them paying tax and levies. If tribal trusts or community trusts, receive their due rent, then they would be in a better position to finance their own infrastructures developments and any other developments needed in the community. They would have budgets from rents and would be able to create their own other income streams and betterment projects. Money would be spent more effectively and efficiently if they were transferred to communities.

Imagine if the 144 million rand was transferred to ‘Makgoši’, and they divide the money according to each village and its needs. It would be something. The municipality would be left to attend to other service delivery matters, instead of creating and dealing with the same problems over and over again.

‘Makgoši’ and their representatives have not raised issue with this matter.

Q11: How can we capacitate traditional leaders to play a more vital role, given what you have said above and the challenges?

The most important way to capacitate them is to inform them of the municipal plans and projects. They do not know about a lot of things because the municipality does not inform them.

They do not know that they are being robbed because no one has informed them of what the municipality is doing. So we, as municipal councillors and workers do not sit in traditional councils, but, sometimes, they do invite me. They invite me as a guest seeking clarity on some issues. They can write me a letter with questions or schedule time with me to get a better understanding or clarification on matters. However, this is me, not all municipal councillors do this.

I do not form part of the Masemola Traditional Council, so I cannot lead any programmes and I usually attend at the council’s request. Then I inform them of any changes and matters happening in the municipality, but it’s up to them to take up matters with their other neighbouring councils such as CONTRALESA and then it will start a bargaining point from there on.

Q12: What are the problems that you are experiencing when working with traditional authorities?

There are not many, however, the issue of misunderstanding protocols. The impression that the municipality is undermining their leadership is because of as a council , you are given a mandate that you must fulfil and authorised by council. But when coming down to the villages, you experience an element of repulsion or rejection because the people think the councillors are the ones who came up with the mandates or issues .

There were no forums to sit and clarify matters when some of the acts were promulgated. So communities are on one side and the municipality is on another side. To meet each other half way, we need to have workshops, so that everything can be cleared.

Traditional leaders perceive municipal councillors as wanting to take away their powers because the messages and laws are not clearly communicated and clarified to them.

Q13: What are your perceptions about the process of incorporating traditional authorities into municipalities?

There are no more perceptions because traditional leaders are now forming part of municipal council. Our municipality consists of 62 councillors, 31 ward councillors and 32 peer councillors the two being traditional leaders. All along the number of traditional leaders was more than the others, but it has been reduced to two.

Should traditional leaders have issues, they can raise the matters themselves through their representatives in the council.

Q14: Given the ambiguity about land and land developments and the duplicate local governance structures, with traditional leaders being the actual owners and the municipality being the service providers in these areas, who is actually in charge with initiating development and service delivery in these areas? Is it traditional leaders or the municipality? Who ensures that development and service delivery is actualised?

We all take initiate, the community can come with their own proposals, ‘Makgoši’ can come with their own proposals. The municipality then takes all the proposals and suggestions and ‘packages’ everything and checks where and where to act. What kind of steps to take.

Even when we have our Integrated Development Plans (IDPs), we do have a session with ‘Makgoši’, a session with businesses, a session with a special community that is disabled, then we have a session with the community at large. Where we go out into the villages and some people come, and people come and register their needs. And their wished. It could be tar road.

We then take everyone and consolidate into one thing and we check per village. Which village needs what, which village we can give what.

Q15: What are the communication channels between communities, traditional leaders and the municipality?

The community can participate in matters through the IDP public meetings in the villages. The municipality will set a date, place and time for this meeting and communicate the agenda beforehand. On the said date, individual members can raise their concerns and needs.

We put together the needs and aspirations of different communities and put together subject to our available resources. Then we divide amongst the communities. You will find that out of the ten listed needs of the community, they will get two from the list, another community will also get three, another three, depending on the available resources and the costs.

Q16: At the heart of disputes between traditional leaders and municipal workers are the decision-making processes regarding land. To this end, which people, at what level and through which processes are entitled to decide about who may occupy and use land for what purposes and whether the said land may be transacted or not?

Answered

Q17: What causes delay in the implementation of policy or set development plans?

The first challenge is the resource allocation and the availability of budget. We have vast issues, but lesser resources. So each and every year when we go to IDP maybe we request six services, we get two or one fulfilled. Sometimes you request four, you only get two, sometime six and you only get three, you request five, you get one.

Q18: Do you know about the Native Administration Act of 1927?

Yes, I do, but not in detail. I went through it a long time ago.

Q19: What can you tell me about it?

It was legislation based on separate development of whites and blacks. The amenities were separated. When developing the white supremacist government was developing better services for whites and sub-standard services for blacks.

That’s why we have urban settlements, we have towns, where blacks were not allowed to stay and wear whites majority still stay. Then you had villages where blacks stayed. Everything was communal, you found communal toilets, communal taps. There was misgovernance.

But we all were giving allegiance to them. The Act was a measure to ‘manage the natives’. So that whites remain in charge.

Q20: Why were some sections of the Native Administration Act 38 of 1927 still not repelled post 1994 considering the impact the legislation has had on policy formulation in South Africa?/ In the former Transkei region?

That I can put at the door of the democratic government. The democratic government did not do much to fix those loopholes.

If you can check, we have many kingdoms in South Africa, however, there was only one that was given special preference, which is the Zulu nation. The Zulu nation is even given its own budget more than the Venda, Pedi, etc. The province is the only one that had regional legislations that could promote their kingdom because of the separate development. But if you check in Transkei and Ciskei, they were different.

But all of them were sub states of South Africa, they were given independence, in fact they were ‘Bantustans’. But reporting to Pretoria, all of them. But they create their own laws within. But those laws were not independent from apartheid South Africa. In Ciskei, Transkei, KZN, Free State and the Cape, each had their own laws, their own legal systems, their own judges, their own local government legislation. All of them different.

Post 1994, the government failed to match all the above and come up with a uniform legal framework. Up to now they are still working on it, but its still not yet finalised.

You can check. last month it was said that the budget of the King has been allocated, but what you will find is that the budget of the Sekhukhune king was not allocated, even though government says it has been allocated. This creates backlogs.

These are some of the challenges we are facing in the democratic dispensation, but this is not a municipal issue. This is something that should be delt with by our legislation and the national parliament.

Q21: Where are the local, provincial and national houses of traditional leaders, what are their roles in such matters?

Sometimes you will find that there is a role they can play and sometimes you find that there is no role they can play. This is because some are conflicted between you find some leading these political structures and are activists. You find that a person is a traditional leader, leading at one of the houses, but belongs to a certain political movement. And if you belong to the one in government, you cannot defy your own organisation. So they end up choosing between the aspirations of their institutions or their political parties.

When governing parties do decisions, they come up with policies. Their policies are the ones being implemented in government. So you cannot adopt a policy from your organisational position and defy it in governance. It becomes difficult for some of our traditional leaders in these houses to stand up on some issues because they are already adopted and ratified by their political organisations.

In governance, the dominating policies are the policies of the ruling party and class.

Post 1927, the dominant polices were of the apartheid government, post 1994, the policies that are dominant are the polices of the African National Congress (ANC). Whatever government implements, comes from the ANC as the ruling party.

That is why there is this conflict of interest for some of the traditional leaders in the traditional houses.

Q22: Why do you think ‘tradition’, ‘traditional laws’, ‘Setjo’, is not well document or at times misrepresented or misunderstood in academic and policy sectors?

This takes us back to the laws of the previous governments because traditionally, we were not recognised. We were treated as sub humans, only to be exploited as a source of labour. When they were doing development, it was only the development of urban settlements to get people nearer to the mines. That’s why they created townships like Soweto, so that when they need labour, they do not suffer.

They created railway lines to carry you to white areas and back to black settlements. The hostels were built for this as well. This was to make sure that black people are only providers of labour and service providers. You work your whole life, you get old, they dump you back and you retire.

So our cultures were never properly documented because we were not recognised. It is only in the post 1994 era where recognition is given. We have the Department of Arts and Cultures, which is currently trying to start these processes if documentation, but there is still be the problem of backlog. The ministry was only created after 1994. It has to go back and try and capture history from the 18th century.

White missions had all their histories documented, but ours was not because we were not recognised. Even at universities you will not find much history documented , in some universities, you will find the anthropology department but not a history department.

Divide and rule worked for whites, but it destroyed our history and cultures and traditions.

If you can check the history of the British royal council, it is well documented, highly respected and very powerful, but when coming to black people and their kingdoms, there a dark and negative connotation attached to our kingdoms and traditional authorities.

We are still feeling the impact of the segregation years, even though the laws have been repealed. The impact is still there because there was a lot of under development, people could not be educated and are not skilled, resulting in unemployment , and unemployment leads to underdevelopment because a family of seven, they are all uneducated, they are all unskilled and unemployed. It will be difficult for this family to develop itself or for you to develop it so end up becoming depended on the state. You must get a grant, when you want to be educated, you must get NSFAS. Those are the challenges. Even though apartheid has been defeated, the effects are still felt down to the present generation.