

**LOCAL GOVERNANCE IN POST-1993 LESOTHO: AN
ANALYSIS OF THE ROLE OF TRADITIONAL LEADERS**

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Dissertation submitted in partial fulfilment of the requirements for the

**MAGISTER TECHNOLOGIAE:
PUBLIC MANAGEMENT**

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2013**

SUMMARY

Traditional Leaders (Chiefs) historically served as “governors” of their communities with authority over all aspects of life, ranging from social welfare to judicial functions. The Basotho generally hold Chiefs in high esteem, continue to turn to them for assistance when conflict arises, depend on them for services, such as birth and death registration and regard them as integral and relevant role-players in local governance. Although many countries in Africa maintain a system of Traditional Leadership and many have incorporated Traditional Leaders into democratic forms of government, a concern exists in some quarters that Chieftainship in Lesotho may present a challenge to democratic governance and development. Similarly, local government structures created by the current decentralisation processes are perceived by many as deteriorating the authority of Chiefs. According to the Constitution of Lesotho, 1993 (Act 5 of 1993), the co-existence of the Chiefs and local Councils are legitimised. Under the legislation governing this process (the Local Government Act, 1997 (Act 6 of 1997), some of their powers and functions have been transferred to local government structures. The major sources of conflict between Chiefs and Councillors appear to be uncertainty and confusion around roles and functions of the various role-players created by the legislative and institutional framework and the loss of power and status that many Chiefs feel. Some of this confusion may be a deliberate form of resistance to the changes, but it is apparent that legislative clarity is required and that the roles and functions of all role-players need to be clearly defined and understood if development is to take place in a coordinated way.

The inclusion of two Chiefs in each Community Council as well as two in District Municipalities would seem a genuine attempt to ensure that Chiefs are not marginalised in this modern system of local governance in Lesotho. The high proportion of Traditional Leaders (Principal Chiefs) in the Senate is a clear indication of the pre-eminence of the institution of Chieftaincy (Traditional Leadership) in Lesotho. On the other hand, the National Assembly is completely elected and consists of 120 members, elected through the so-called Mixed–Member-Proportional representation model. Although Chieftaincy is

part of this organ of the state, it has limited powers in the legislative process and general decision-making processes outside Parliament. These powers are instead a jurisdiction of the elected representatives in the National Assembly. A similar set up exists at the local government level where Councillors enjoy decision-making powers with Chieftainship structures, such as the village, area and ward Chiefs role being ambiguously defined.

It is very clear that the co-existence of the two institutions is a very crucial and challenging one. This co-existence has raised a number of political, developmental and conceptual problems and problems and challenges that have not been adequately addressed, let alone resolved. One of the problems is the anomalous situation in which people are simultaneously citizens of the state and subjects of the Chiefs. Other challenges include, amongst others, contradicting legislation, revenue constraints, a lack of human resource capacity, poor stakeholder management, the increasing rate of HIV/Aids in Lesotho, and so forth. Possible causes of these challenges had been investigated as well as how they can be managed or minimised in order to enable Chiefs to play an effective role in a modern democracy.

With this research study an attempt was made to explore the role of Traditional Leaders in the current system of local government in Lesotho and how to improve Chieftainship as a strategy to complement governance at the grassroots level. The term “Chiefs” is used in this research study as synonymous to Traditional Leaders, because it is the term used in all legislation dealing with Traditional Leaders in Lesotho and it includes Principal Chiefs, Area Chiefs, Chiefs and Headmen, unless the context clearly indicates otherwise.

Key words: Chiefs, Traditional Leaders, Councillors, local governance, democracy, Chieftainship, Lesotho, decentralisation processes, Community Councils and District Councils.

DECLARATION OF INDEPENDENT WORK

DECLARATION WITH REGARD TO INDEPENDENT WORK

I, LETLATSA MATLANYANE, Identity number [REDACTED] and student number 208065563, do hereby declare that this research project submitted to the Central University of Technology, Free State for the Degree MAGISTER TECHNOLOGIAE: PUBLIC MANAGEMENT, is my own independent work; and complies with the Code of Academic Integrity, as well as other relevant policies, procedures, rules and regulations of the Central University of Technology, Free State; and has not been submitted before to any institution by myself or any other person in fulfilment (or partial fulfilment) of the requirements for the attainment of any qualification.

SIGNATURE OF STUDENT

13 January 2014

ACKNOWLEDGEMENTS

I forever remain grateful to the following:

- The Almighty for all the protection, opportunities and courage bestowed upon me.
- My late wife „Me Mafumane, and my current wife „Me Mamoalosi; my children, Fumane and Moalosi; and other family members for their sacrifice and support.
- My parents, the late Ntate Moalosi and „Me Malineo Matlanyane, for bringing me into this wonderful world.
- My supervisor, Dr Laetitia Laubscher for her guidance and motivation throughout the study.
- Professor Dennis Yao Dzansi, HOD: Business Support Studies, Faculty of Management Sciences at the Central University of Technology, for advising on the statistics and performing the data analysis.

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CHAPTER 1

INTRODUCTION/BACKGROUND

1.1 INTRODUCTION

As in many other African countries, the system of traditional authorities and Chieftainship in Lesotho is firmly entrenched. Traditional Leaders (Chiefs) historically served as “governors” of their communities with authority over all aspects of life, ranging from social welfare to judicial functions. Although many countries in Africa maintain a system of Traditional Leadership and many have incorporated Traditional Leaders into democratic forms of government, a concern exists in some quarters that Chieftainship in Lesotho may present a challenge to democratic governance and development. Similarly, local government structures created by the current decentralisation processes are perceived by many as deteriorating the authority of Chiefs.

The United Nations Development Programme (UNDP, 2007) acknowledges that local governance in Lesotho will deepen people’s understanding of their rights and obligations and strengthen national reconciliation, especially at community level. However, it warns local Councils in Lesotho to be precisely aware of their roles, because local governance structures are relatively new, and thus vulnerable to role confusion.

As creating a home for Traditional Leadership (Chieftainship) within the modern day democratic dispensation seems to be one of the most difficult areas for African states, this research study aims to investigate the role of Traditional Leaders in Lesotho’s current local governance system. In this chapter, the background and reason for the study, formulation of the problem statement, aim and objectives of the study, research methodology and the scope of the study will be outlined. The term “Chiefs” is used in this research study as synonymous to Traditional Leaders, because it is the term used in all legislation dealing with Traditional Leaders in Lesotho and it includes Principal Chiefs, Area Chiefs, and Chiefs and Headmen, unless the context clearly indicates otherwise.

1.2 BACKGROUND/OVERVIEW OF LESOTHO'S POLITICAL DEVELOPMENT

Lesotho gained independence from Britain in 1966 and adopted a multi-party democratic system of governance. However, after the 1970 general elections, the then ruling Basutoland National Party (BNP) - despite losing the elections to the opposition Basutoland Congress Party (BCP) - refused to hand over power. The „illegitimate' BNP government ruled Lesotho from 1970 until 1986 when it was deposed in a military coup. The military dictatorship ruled Lesotho until 1993. Multi-party democracy was restored in Lesotho after the March 1993 elections, with BCP emerging victorious. In 1998, the Lesotho Congress for Democracy (LCD), a splinter group of the BCP, won a highly contested election. The most recent elections were held in 2007 with LCD still emerging victorious.

1.2.1 Lesotho's governance system

Lesotho has a bicameral parliamentary system comprising of the Senate (Upper House) and the National Assembly (Lower House). The Senate is not elected and it comprises of 33 members made up of as many as 22 (67%) Principal Chiefs and only eleven (11) ordinary citizens nominated by the King upon the advice of the Council of State. Principal Chiefs are descendants of King Moshoeshoe 1. The Council of State is a body drawn from a wide spectrum of the Basotho society. The high proportion of Traditional Leaders (Principal Chiefs) in the Senate is a clear indication of the pre-eminence of the institution of Chieftaincy (Traditional Leadership) in Lesotho. On the other hand, the National Assembly is wholly elected and comprises of 120 members, elected through the so-called mixed-member proportional representation (Commonwealth Local Government Forum, 2009:108).

1.2.2 Local governance in Lesotho in perspective

Lesotho is divided into 10 administrative districts, each administered by District Administrators. Maseru is the capital city of Lesotho, where Parliament is based. The 10 administrative districts are further divided into 128 Community Councils. Community Council elections were last held in 2005.

Although some semblance of local governance was in place prior to 1993, local governance, in its modern form, is relatively new in Lesotho. Unlike now, the districts were never governed locally by elected people. Instead, they were run by appointees from the central government. Thus, it is reasonable to say that the Basotho, in most of the country's independence, have really not been able to fully exercise their rights as voters in electing local government Council members of their own choice. As Reddy (1999:91) acknowledges, it was not until 1993 that a climate in which the concept of local governance in the modern sense actually came to the fore with the promulgation of the Constitution of Lesotho, 1993 (Act 5 of 1993) (hereinafter referred to as the Constitution).

Section 106 of the Constitution mandates Parliament to establish local governance structures. According to Section 106(1) of the Constitution, "Parliament shall establish such local authorities as it deems necessary to enable urban and rural communities to determine their affairs and to develop themselves. Such authorities shall perform such functions as may be conferred by an Act of Parliament". In order to achieve this mandate, various acts were enacted.

1.2.3 Legislation impacting on local governance and traditional leadership in Lesotho

(i) Local Government Act, 1997 (Act 6 of 1997)

Functional decentralisation requires that local authorities have legal powers to exercise their functions and powers. The Local Government Act (Act No.6 of 1997) provides such legal powers. For example, the Ministry of Local Government (MoLG) was formed in 1994 and tasked with the responsibility of overseeing the implementation of Act 6 of 1997.

This Act also makes Traditional Leaders an integral part of the new local governance system in Lesotho. In terms of Act 6 of 1997, local authorities are authorised to regulate, control and administer all the matters in the first and second schedule of the Act.

The first schedule lists, among others, the following matters:

1. Control of natural resources
2. Land/site allocation
3. Grazing control
4. Recreation and culture
5. Water resources
6. Public decency and offences against public order
7. Forestry: preservation, improving and control of designated forests in local/authority areas.

The second schedule lists the following matters:

1. Minor roads (also bridle paths)
2. Water supply in villages (maintenance)
3. Markets (provision and regulation)

4. Burial grounds

It should be noted that all the functions in the first schedule mentioned above were traditionally performed by Traditional Leaders. With the implementation of Act 6 of 1997, this role seems to be diluted because of the broad transfer of political and legal powers from the traditional authorities to the local authorities.

The most important development, according to Mofuoa (2005:11) and Afrobarometer (2006:1), was that Act 6 of 1997 and its subsidiary legislation actually reorganised the extant decentralised system of Local government in Lesotho to a more modern form.

(ii) Local Government Amendment Act (Act 5 of 2004)

The Local Government Act, 1997 (Act 6 of 1997) was amended by the Local Government Amendment Act, 2004 (Act 5 of 2004). The amendment only elaborates on certain sections that deal with general provisions, such as Section 16 of Act 6 of 1997. The problem was that Section 16 of Act 6 of 1997 provided for the removal of the mayor/chairman and their deputies, but did not elaborate on such removal, such as circumstances under which they could be removed and the procedure to be followed to effect such removal.

(iii) Local Government Elections Act, 1998 (Act 9 of 1998)

The Local Government Elections Act, 1998 (Act 9 of 1998) gives the Independent Electoral Commission (IEC) powers to run local government elections in Lesotho. Local Government elections were successfully held for the first time in Lesotho on 30 April 2005.

(iv) Chieftainship Act, 1968 (Act 22 of 1968)

With the enactment of the Chieftainship Act, 1968 (Act 22 of 1968), the role of Traditional Leaders (Chiefs) and the Department of Chieftainship were formalised for the first time in Lesotho. According to the Lesotho Ministry of Local Government and Chieftainship (LMLG) (2006:11), the key role of the Department of Chieftainship is to supervise the proper implementation of the Chieftainship policy by guiding Chiefs in the day-to-day execution of their duties. The department also serves as the last level of appeal in Chieftainship disputes.

(v) Functions and roles of Traditional Leaders in Lesotho

Traditional Leaders (or Chiefs as they are also known) have always been a core structure of administration in Lesotho, especially at local and community level. According to Mofuoa (2005:5), recognised Chiefs have always had statutory powers and functions concerning law and order and general welfare, including agricultural practices. Chieftainship derives its legitimacy from the traditional political structure. They are the custodian of culture, customs and traditions in Basotho society; customary marriages which are still common in Lesotho take place before Chiefs, and they also prescribe punishments for certain transgressions such as damage to crops, adultery, and pre-marital sex. Thus, the Traditional Leaders have from time immemorial reigned supreme in the areas of their jurisdiction in Lesotho, but these leaders are not elected to their positions.

Traditional Leaders still deal with matters relating to customary law and the customs of communities. There is, however, a growing feeling that most of the Traditional Leaders view local authorities as a threat to their domain. According to Reddy (1999:101), many Traditional Leaders, especially the more senior ones, see local Councils as a threat to their positions. The reason being that Act 6 of 1997 authorises local authorities to regulate, control and administer all the matters in the first and second schedule of the Act.

It is quite clear that many citizens of Lesotho are in favour of local structures that are headed by Chiefs alone. Reddy (1999:102) believes that the system of Chieftainship is a common practice accepted by rural communities in particular, because of the valuable functions it performs. According to Reddy (1999:5), the usual argument is that, with Chiefs, there are no power struggles and Chiefs are able to unite their respective villages as well as responding timely to their needs since they are more accessible than elected officials.

As stated earlier, Traditional Leaders participate in local governance by serving on Councils as ex officio members. According to the LMLG (2006:11), some of the biggest challenges in ensuring effective governance in Lesotho are how to empower local authorities, and in particular how to improve Chieftainship as a strategy to complement governance at the grassroots level.

The inclusion of two Chiefs in each Community Council as well as two in District Municipalities would seem a genuine attempt to ensure that Chiefs are not marginalised in this modern system of local governance in Lesotho. The mission statement of the Department of Chieftainship clearly states that “ ... it is to strive to maintain the service-orientated character of a dignified, reputable Chieftainship institution by enhancing its peacekeeping role, dynamism and flexibility to allow for the evolution of modern ideas of governance and coexistence therewith” (The Ministry of Local Government and Chieftainship’s Draft Strategic Plan, 2009 – 2013). The pertinent question, however, is how Traditional Leaders and their subjects feel about the role of Traditional Leaders under the current local governance structure amidst all these changes.

1.3 PROBLEM STATEMENT

It is clear from the discussion so far that the introduction of the new post-1993 local governance system in Lesotho is all about decentralising governance to local communities and can therefore be viewed as a positive development. There is also no doubt that the experience, authority and skills of Chiefs who have ruled their local

communities for centuries will be most needed in the current local governance dispensation. Further, the willingness and acceptance of the new system by all stakeholders, including Traditional Leaders, is needed to ensure effectiveness in its implementation. It is also apparent from the discussion so far that the new system of local governance in Lesotho has tampered with some of the functions traditionally performed by Traditional Leaders. The danger therefore exists that the new local governance structure could be viewed by Traditional Leaders and citizens as a threat to the powers and authority of the traditional institution they have known, lived with, and gotten used to for so long. In particular, Traditional Leaders might view elected officials as usurping to their customary roles.

Secondly, change is never received well by anyone affected by it and Traditional Leaders cannot be expected to be any different. Changes in the local governance system in Lesotho might cause consternation among Traditional Leaders if they feel that their roles are threatened or diluted. Also, the introduction of the new local governance structure might lead to underutilisation of the knowledge, expertise and skills of Traditional Leaders. Therefore, this research will analyse the misconception and possible confusion that exists concerning the role of Traditional Leaders in the current local government system of Lesotho. Operational guidelines and suggestions can thus be provided to assist the different role players in their interaction and mutual aim to improve local governance in Lesotho.

1.4 GOAL AND OBJECTIVES/EXPECTED OUTCOMES

In terms of the problem statement, the main objective of this study is to assess perceptions regarding the role of traditional rulers in Lesotho under the current local government system.

- **Secondary objectives**

- (i) To determine the roles assigned to Traditional Leaders in Lesotho's current local government system in terms of relevant legislation;
- (ii) To determine how and to what extent the expertise of traditional Chiefs can be used to enhance effective local governance in Lesotho;
- (iii) To find ways of ensuring collegial relationships between elected officials and Traditional Leaders in local governance; and
- (iv) To enhance the contribution of the institution of Traditional Leadership to effective local governance in Lesotho.

This study can further contribute towards:

- (i) A better understanding of local governance in Lesotho.
- (ii) Enrichment of the literature on public management in Lesotho, with specific reference to local governance.
- (iii) A clearer demarcation of roles for Traditional Leaders in local governance in Lesotho.
- (iv) Preventing or at least minimising role conflict in local government between elected officials and Traditional Leaders.

1.5 RESEARCH METHODOLOGY

The role of Traditional Leaders in Lesotho in the current local government system forms the focus of this study. In order to achieve this purpose, a mixed-method approach would be used for data collection and analysis. The researcher will use various sources with related topics, such as Acts and related legislations, government documents, newspaper articles, magazines, and national and international books. All these will serve as the primary source of data collection. Thereafter, questionnaires would be used to collect empirical data (quantitative and qualitative) on perceptions about the role of Traditional Leaders and how it affects local governance.

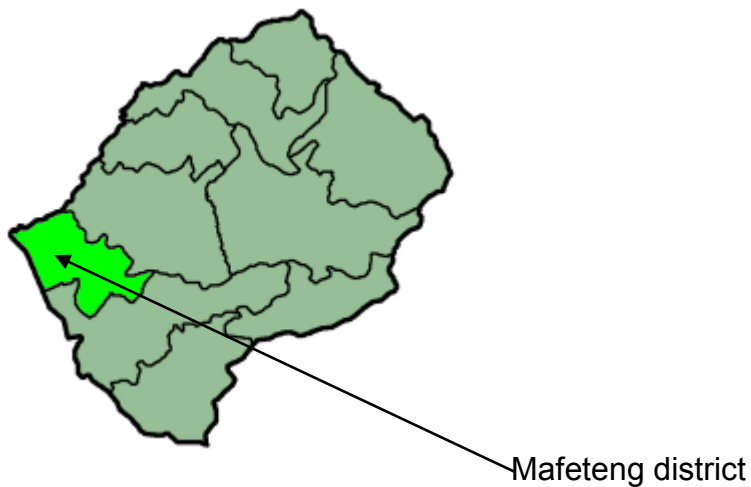
1.6 RESEARCH DESIGN

The study is designed to be qualitative in nature, because no hypotheses will be tested. A mixed-method approach is envisaged for collecting and analysing data.

1.6.1 Sampling

The geographical scope of the study is the Mafeteng District (see Figure 1) that has four principal Chiefs and 200 minor Chiefs. Mafeteng District Council comprises of 128 Community Councillors and 12 Community Councils. There are two Chiefs that serve on each of the 12 Community Councils and two Chiefs serving on the District Council.

Figure 1: A map of Lesotho showing the area covered by the Mafeteng District.



Except for including all the four principal Chiefs, an online sample size calculator, provided by Creative survey systems (2009), was used to select the rest of the sample. In order to calculate the sample sizes, the confidence level and confidence intervals were set at 95% and 5% respectively.

Out of the 200 minor Chiefs, the online calculator yielded a sample size of 132. This represents a 66% representation of minor Chiefs. The total number of Chiefs or Traditional Leaders is therefore 136.

Villages in Lesotho are widely spread. In order to cut down costs, the sample size was minimal, but adequate to justify statistical analysis and to generalise the research findings. The total population of Mafeteng District is about 330 000, according to Wikipedia (2009). Using the online sample size calculator provided by Creative survey systems (2009), a sample of 100 ordinary residents of villages in the Mafeteng district was selected and interviewed to seek the opinion of residents on Chieftainship affairs. This sample size was arrived at. Although the calculation actually yielded a sample size of 384, this was rounded off to 600 to ensure that the sample size would not fall below the calculated 384 in the event of a non-response.

In the case of elected officials, the online sample size calculator yielded a sample of 21 District Council members and 82 Community Council members.

Thus, the total sample size became 339, as detailed in Table 2 below.

Table 2: Details of the sample composition

Sample segment	Size
Principal Chiefs	4
Elected members from the local Councils	82
Minor Chiefs	132
Elected members from the District Council	21
Ordinary citizens	100
Total	339

1.6.2 Data collection

The data collection started with a review of the relevant literature to collect information on the role of Traditional Leaders as prescribed by legislations. Thereafter, questionnaires were used to collect empirical data (quantitative and qualitative) on

perceptions about the role of Traditional Leaders and how it affects local government in Lesotho.

The questionnaires collected two types of data. Structured questions were used to collect demographic data from respondents. Another section utilising the five-point Likert scale type questions were used to collect quantitative data on perceptions of the role of Traditional Leadership in Lesotho. Semi-structured or unstructured questions were also included to allow respondents to explain or elaborate on responses to the structured questions.

1.6.3 Data analysis

The data collected could have been analysed using either *excel* or *statistica* statistical packages. While today's Microsoft Office Excel is capable of performing several types of data analysis, is readily available, and relatively simple to use, its utility is limited. *Statistica*, on the other hand, is expensive, but can perform more sophisticated analyses.

Means, mode, and frequency graphs and charts were used to summarise, display and describe the data. Percentage analysis and mean scores were used to address the research questions.

1.7 LIMITATIONS OF THE STUDY

Not much has been studied about this topic in Lesotho. As a result, the available literature is not adequate. Also, the limited geographical coverage (only Mafeteng district was studied due to limited financial constraints) might hinder the generalisation of the findings.

The fact that all the questionnaires were translated into Sesotho in order to make it easier for the respondents to have a clear understanding of the questions and for the

purpose of ensuring a higher response rate, may have impacted negatively on the time needed for conducting empirical research.

CHAPTER 2

THEORETICAL AND CONCEPTUAL PERSPECTIVES OF LOCAL GOVERNANCE IN LESOTHO: LITERATURE REVIEW

2.1 INTRODUCTION

This chapter will provide an overview of Lesotho's political development, including an analysis of Lesotho's general political and governance structure. This is followed by a discussion of local governance in Lesotho that will include a discussion of the evolution of local governance in Lesotho and the legal basis of Lesotho's current local governance system. In this respect, parts of the Constitution affecting local governance as well as the Chieftainship Act, 1968 (Act No. 22 of 1968), the Local Government Act, 1997 (Act 6 of 1997), the Local Government Elections Act, 1998 (Act 9 of 1998) and the Local Government Amendment Act, 2004 (Act 5 of 2004) will be critically analysed.

2.2 POLITICAL HISTORY

Since independence from Britain in 1966, Lesotho's young democracy did not experience any major turbulence and there were encouraging signs that a democratic dispensation was the offering. However, the developments of 1970 would turn over a different page in Lesotho's post-colonial history. Severe inter-party conflicts, elections marred by violence, accusations of electoral fraud and several military coups d'état have characterised the first 40 years of the mountain kingdom's existence.

The first political instability that Lesotho experienced was after the 1970 general elections when the then ruling Basutoland National Party (BNP) - despite losing the elections to the opposition Basutoland Congress Party (BCP) - refused to hand over power. The BNP government immediately declared a state of emergency in 1970, suspended the Constitution and sent the King into exile. What followed was an undemocratic rule that characterised Lesotho for nearly 23 years. A *de facto* one-party

state emerged. This autocratic rule was marked by conflict and instability, which further compromised the legitimacy government and the credibility of the BNP government.

Since the 1970 elections and the disputed results thereafter, the political history of Lesotho has been dominated by instability, controversy and conflict, sometimes spilling over into violence. According to Matlosa (2011), the BNP government entrenched a one-party rule whereby the BCP members were forced into exile and political activity was restricted. It is certainly to this era of the facto one-party rule that the roots of Lesotho's major political problems can best be traced back, for this heralded the beginning of various types of violent conflict that became a hallmark of instability.

In 1986, the BNP one-party rule itself was overthrown by the military. The military was led by Mayor General Lekhanya, who managed to bring some stability in the country for about five years. The Lekhanya-regime was also brought down by fellow junior officers amongst the ranks of the military in 1990, led by Colonel Phisoane Ramaema. The repressive politics of the BNP regime were now being replaced by politics of the barrel of the gun and orders, which further consolidated authoritarian rule between 1986 and 1993.

It should be noted that, during this period of military rule, all political activities were banned or suspended. As Mofuoa (2005:8) acknowledges, the military government issued Order No 4 of 1996, banning all political parties and activities in the country. The Order thus hindered popular participation of development activities, since the public gatherings were suspiciously considered as destabilising mechanisms by the military government. The military junta eventually pathed the way to the civilian rule in 1993. The transition from authoritarian rule to what is mainly a democracy since the democratic elections of 1993 to the late 1990's has not been easy and smooth. According to Matlosa (2011), the military relinquished power and withdrew back to the barracks in the early 1990's. This ushered in the turbulence and conflict that were to be a feature of the political system between 1993 and 1998. This will be unfolded at a later stage in this research study.

Currently, there is a lot of improvement in terms of political intolerance amongst the different political parties, an aspect that was lacking before. The introduction of a new election model, a combination of the First-Past-The-Post (FPTP) and the Mixed-Member-Proportional (MMP) model, has also enabled the making of an inclusive parliamentary structure in which the electorate felt to be well represented. According to a report in the African Peer Review Mechanism (APRM), Country Review Report No. 12 (2010:35), this model has won Lesotho credibility both regionally and internationally as a way of deepening democracy and ensuring political legitimacy. Key institutions of democracy are increasingly becoming vibrant, even if their capacity remains wanting. These include the three main arms of government (being the executive, the legislative, and the judiciary); political parties; civil society organisations (CSO's) and statutory watchdog institutions, such as the Independent Electoral Commission (IEC); the Office of the Auditor General (OAG) and the office of the Ombudsman. To date, local government structures have been revamped and restructured since 2005 as a means of decentralising power to the local authorities.

2.2.1 Post-1970 General Elections

In 1993, the military government restored the multi-party democracy in Lesotho by allowing free and fair democratic elections to be held in the Kingdom. This new political development delivered a landslide victory for the BCP. The BCP secured all 65 parliamentary seats. This demonstrated the weakness of the election model, First-Past-The-Post (FPTP), since the winner takes it all, resulting in the losers not being able to represent the electorate that had voted for them, irrespective of their numbers. Reddy (1996:6) acknowledges that, in a democracy, a winner must allow the loser to exist and continue to express his views until the next election.

As a result, the BCP government was in Parliament by itself, without any opposition to make inputs in decision-making, as a strong opposition can engage enthusiastically, participate, debate, argue and help to shape what a country should be. Even though there was a great leap from an authoritarian rule to one of a democracy in 1993, things

were not running smoothly for the BCP government. According to Matlosa (2011), it was turbulent, because although the transition to democracy had been achieved, various forms of conflict between and within key institutions had generated so much instability that the consolidation of a democracy was severely threatened.

There were frequent strikes by civil servants, teachers, nurses, the army and the police. According to the APRM Country Review Report No. 12 (2010:34), the onset of the multi-party democracy was following decades of authoritarian rule; Lesotho's democracy still remained fragile. Political instability and violent conflict among key governance institutions – the monarchy, the executive, the legislature, the public service, political parties, the army, and the police - were manifested.

Despite the disturbances that were brought about by the strikes and other destabilising factors in the BCP rule, it managed to survive the first five years in power, though the party split late in 1997, with the majority of Parliamentarians of the ruling BCP party crossing the floor to form the Lesotho Congress for Democracy (LCD). Led by the then Prime Minister, Dr Ntsu Mokhehle, the newly formed party enjoyed the majority seats in Parliament legally entitled to form a government. Hence the BCP lost power to LCD and became the official opposition. This newly established party enjoyed the support of a majority of seats in Parliament, and subsequently displaced the BCP. The BCP was then declared part of the opposition in Parliament, a designation it publicly rejected.

In 1998, the second democratic elections were held. The LCD emerged the winners. The 1998 post-elections were marked by protests from different political parties and civil society claiming vote rigging and other irregularities during the counting of votes. As a result, the country experienced some of the worst post-election violence it has ever come across. There was a subsequent army mutiny and a possible coup de tat; however, the South African National Defence Force (SANDF) and their Botswana counterparts, under the auspices of SADC, came to the rescue of the LCD government. According to the APRM Country Review Report No. 12 (2010:32), despite the fact that the 1998 election was proclaimed by many international observers as free and fair, it

was almost immediately followed by the worst violent conflict in Lesotho's history; a conflict involving the government and opposition parties. The conflict escalated into violence on a large scale and government sought military intervention from South Africa. South Africa, jointly with Botswana, intervened militarily and diplomatically to quell Lesotho's political instability.

Towards the end of the LCD term in government, a number of MP's also broke away from the LCD in 2001 to form the Lesotho People's Congress under the leadership of the then Deputy Prime Minister Hon Kelebone Maope. The 1998 elections were followed by the 2002 elections and the LCD party still emerged the winners. The 2002 elections were not marred by conflicts, since the FPTP electoral model, which was perceived by many as the root cause of Lesotho's post elections problems, had been compromised by adopting the Mix-Member-Proportional (MMP) model.

The MMP model was put to the test during the 2002 general elections and the observers of Lesotho's political scene agreed that it has delivered a desirable outcome for Lesotho's democracy, judging, for instance, by the broadly representative nature of the new National Assembly (Matlosa, 2011).

The four successive elections held since the return to multiparty democracy symbolise the deepening of the democratic dispensation. The general acceptance of the new electoral model as inclusive and representative of all shades of political opinion has been one of the main achievements since 2002 (Matlosa, 2011).

The 2002 elections were followed by the 2007 general elections. The LCD still emerged the winner. Today, Lesotho is a relatively stable and liberal democracy. The current epoch of the democratic transition in Lesotho since 2002 is marked by a relatively stable and inclusive democracy. The most widely acclaimed success of the current regime in Lesotho is surely the recent electoral reform process.

2.3 GOVERNANCE STRUCTURE

Lesotho is a constitutional monarchy. The King reigns and is the Head of State, whereas the prime minister is the Head of Government and has executive authority. The King's position is hereditary and accession to the throne is regulated by the Office of the King, Order No. 14 of 1990. The King serves a largely ceremonial function and the prime minister is appointed by the King in terms of Section 87(2) of the Constitution.

Lesotho has a bicameral parliamentary system, with the Legislature being composed of two houses, the Senate (Upper House) that is composed of 33 members, and the National Assembly (Lower House) that has 80 elected members and 40 proportional representatives. The Senate is not elected and it comprises of 33 members made up of as many as 22 hereditary Principal Chiefs and only eleven (11) ordinary citizens nominated by the King upon the advice of the Council of State. Principal Chiefs are descendants of King Moshoeshoe 1. The Council of State is a body drawn from a wide spectrum of the Basotho society. Its role is to advise and assist the King in the discharge of his functions. The high proportion of Traditional Leaders (Principal Chiefs) in the Senate is a clear indication of the pre-eminence of the institution of Chieftaincy (Traditional Leadership) in Lesotho. On the other hand, the National Assembly is wholly elected and comprises of 120 members, elected through the so-called Mixed-Member-Proportional representation (Commonwealth Report, 2005:108).

Lesotho has maintained its traditional Chieftainship system and the heritage of the monarchy and has incorporated both into a modern, democratic governance architecture. The co-existence of multi-party, democratic electoral systems; the separation of power between the three organs of state (the executive, Parliament and the Judiciary) and the fact that the King reigns but does not rule, are all provided for in a written Constitution and constitute a major maturity in democratic politics and governance in Lesotho.

The nurturing of a culture of consultation and dialogue among the political parties, such as the compromise that was reached by different parties that led to the MMP electoral reform, has also contributed significantly to the strengthening of the democracy and good political governance.

2.4 LOCAL GOVERNANCE IN LESOTHO

According to Ismail, Bayat and Meyer (1997:2), local government is that sphere of government which is commonly defined as a decentralised, representative institution with general and specific powers developed to it by a higher sphere of government (central or provincial) within a geographical defined area.

A local authority is an organisation comprising of elected and appointed officials that operate within a specific geographical area to provide services for its local community. Gildenhuys (1997:8) acknowledges that the goal of modern local government can be none other than to create circumstances within its municipality, its jurisdiction for the attainment of a satisfactory quality of life for each of its citizens. According to Reddy (1996:3), local government is created deliberately to bring government to the grassroots, giving people a sense of involvement in the political processes controlling their lives.

The history of local government in Lesotho dates back to 1943. Reddy (1999:93) acknowledges that the modern local government goes back to 1943 when the Basutoland Council (BC), a national consultative body, discussed the possibility of increasing popular participation by establishing District Councils in order to elect two representatives. Van de Geer and Wallis (1984:17) add that, as a result, District Councils were established two years later, and in 1948 they became statutory bodies. The establishment of District Councils in 1943; the establishment of a District Secretariat flagged by various Development Councils and Committees both at district and village levels in the 1970's and early 1980's and the establishment of the Maseru City Council in 1989, all prove the previous attempts by different Lesotho Governments to give power to the people (Mofuoa, 2005:1).

The District Councils that were established in 1943 had Chiefs as ex officio members plus other nominees. According to Mofuoa (2005:3), they acted as advisory institutions, often preparing motions and serving as electoral forums for the Basutoland National Council that was largely based on Chieftainship. The Basutoland Council, established in 1938 by the colonial government, was seen as an unrepresentative institution. Van de Geer and Wallis (1984:17) noted that, when the concept of local government was put into practice in Lesotho, citizens showed a lot of interest in its functions, but interest declined when it became apparent that they were merely advisory bodies to the central government.

In 1959, the District Councils were revised by Proclamation No. 52 of 1959 and were made a body corporate. According to Mofuoa (2005:3), this did not stop people from demanding increased participation in their affairs. The Local Government Proclamation No. 52 of 1959 provided for the District Councils to make by-laws. Their functions included overseeing agriculture, commercial, educational and other developments at local sphere. According to Mapetla and Rembe (1989:22), District Councils were vested with extensive powers to make by-laws, manage local finances and carry out various responsibilities related to agriculture, livestock, and the maintenance of bridle paths and selected roads, among other functions. Reddy (1999:93) adds that the District Councils also had powers in spheres such as public order, public health and the regulation of trade, commerce and industry.

2.4.1 Local Governance: Post-independence

Following independence in 1966, the District Councils were soon dismantled by the BNP regime. The reason being that they were seen as being dominated by the opposition party, the BCP, and as a result the BNP felt it could not co-exist positively with them.

According to Reddy (1999:93), what complicated matters as far as the incoming BNP government was concerned, was that the BCP controlled all nine District Councils. There was therefore a basis for intense central-local conflict with little prospect of

cooperation. This observation is also made by Mofuoa (2005:4), who submits that in 1968, two years after independence, the BNP government abolished District Councils through the Local Government Repeal Act. It was alleged that they were complicating lines of communication between central government and the districts. Mofuoa (2005:5) adds that a more important reason for their abolition was in fact a political one, since the BCP largely dominated the Councils. As such, they were seen as an alternative source of political loyalty, and therefore a threat to the government of the BNP.

The District Councils were abolished in 1968, and there were strong political motives for this decision: the BNP saw the move as part of its strategy to undermine the BCP before the next elections (Reddy, 1999:94). With the abolition of District Councils in 1968, the BNP government introduced the Local Government Act of 1969. The act provided a framework for the execution of functions formerly performed by the District Councils. This Local Government Act of 1969 established the Village Development Councils (VDC's) and the District Development Committees (DDC's) (Mofuoa, 2005:4). These bodies, according to Mapetla and Rembe (1989:31), were incapable of being effective local planning institutions. Mofuoa (2005:5) acknowledges that their structures firstly lacked the technical and managerial capacity and secondly the financial muscle to sponsor their local development programmes.

The BNP government's intention was to use VDC's and DDC's to strengthen its position in the grassroots, as opposed to village development, planning and execution. According to Mofuoa (2005:5), they mainly performed as a propaganda machine and institutions for mobilising political support for the BNP government, if anything; hence the fuelling political tensions in the villages. It is obvious that it was not possible to realise development objectives in such an environment.

The BNP government introduced the Urban Government Act of 1983. According to Reddy (1999:94), this piece of legislation was prepared with the assistance of the UK Government and the World Bank. The latter played a most influential role, linking the funding of urban development programmes to the establishment of local government.

With the implementation of this Act, the Minister of Interior was empowered to declare any area to be a municipality; to define the boundaries and to declare that any area shall cease to be a municipality.

Maseru was tried as a model for urban decentralisation with the implementation of this Act. The District Coordinators were also introduced, with their core functions being to strengthen the local administration and decentralisation projects. They were civil servants who were well educated to hold such positions. (Walakira in Mofuoa, 2005:6) acknowledges that District Coordinators were of high calibre and well qualified given the situation at the time. The responsibilities given to District Coordinators, according to Reddy (1999:94), were the following:

- to ensure that government's policies are implemented and fully explained to the people;
- to develop and maintain cooperation among officials working in ministries and departments;
- to keep government well informed of the wishes and efforts of local people;
- to liaise with ministries and departments on planning;
- to pay special attention to agricultural projects;
- to deal with border problems (all districts border with South Africa); and
- to maintain adequate standards of financial administration in the districts.

To run these bodies (the DDC's and the VDC's), the BNP government relied heavily on donor organisations. The allowances that were paid to members were donor funded. As a result, when the donors withdrew, the allowances were no longer paid to members, and as a result the attendance of members became poor and ineffective. Still the implementation of Urban Government Act of 1983 did not bring any tangible results to decentralisation in Lesotho. Mofuoa (2005:7) argues that, like their predecessors, the District Co-ordinators did not perform as expected. Political motives gained prominence over their overall governance. It is obvious that they were serving their masters, those in

power, rather than identifying and pursuing the development needs of the people at grassroots level.

2.4.2 Local governance: Post-BNP rule

In 1986, the BNP government was overthrown by the military junta. The military government made fundamental changes to the local administration system in Lesotho once they came into power. Reddy (1999:95) acknowledges that no local authority came into existence until 1986, when the military took over. The military immediately repealed the Urban Act of 1983. It was replaced with the Lesotho Government Order No.3. This Order gave the King legislative and executive powers. The military Council, headed by the army Chief, was also established and its mandate was to give advice to the King in performing his functions, as well as to serve as a Council of Ministers to oversee the day-to-day functioning of the different ministries in the country.

According to Kapa (2010), the military, under the then Major General Lekhanya, abolished and changed some institutional arrangements established by its predecessor. Among those arrangements were the central government-created local government structures that were established under the 1968 Local Government Act. The new administration put another structure in their place.

The military government introduced Order No. 4 of 1986, and it is with this that all political parties and activities were banned. Order No. 9 of 1986 was also introduced, which dealt with local administration in Lesotho. This order was concerned with district administration, local institutions and the Chiefs. The District Co-ordinators were abolished and replaced by the District Development Council's Secretariat (DDCS) as secretaries for the District Development Committees.

Kapa (2010) further notes that Order No. 9 of 1986 particularly shaped the local government system of the villages, by establishing the Village Development Committee (VDC), a body composed of seven members elected from the inhabitants of the

concerned area at a public gathering or a pitso that is open for attendance to all adults in the village. The Chief of the area would be an ex officio member and Chairman of the committee. Kapa (2010) describes the functions of VDC's as:

- representing and leading the community in its efforts to identify village development needs;
- raising funds for its local development purpose;
- stimulating local participation in development activities; and
- making government aware of local development priorities through the DDC.

According to Kapa (2010), the last structure was the District Development Committee (DDC), which was established in the country's ten administrative districts. The DDC consisted of fifteen members elected in a meeting of the members of various Ward Development Committees (WDC's). Mofuoa (2005:9) acknowledges that the District Development Committees were established by Article 12 of the Order to, amongst other things:

- promote socio-economic development at district level;
- formulate and implement development projects in the districts;
- ensure that projects in the districts are in line with the national plan;
- monitor the implementation of national projects; and
- raise funds for the implementation of national projects.

The military, despite having banned political activities in the country, at least tried its level best to let people participate freely in their own affairs at grassroots level, since the new structures that were put in place were not aligned to any political ideology, as compared to its predecessor, the BNP government. As Reddy (1996:51) puts it, local government is the second or the third sphere of government deliberately created to bring government to the grassroots population, giving them a sense of involvement in the political processes that control their daily lives.

Mofuoa (2005:9) adds that perhaps, alternatively, it demonstrated the military government's commitment to disassociate itself from the BNP government's legacy, and even to be seen as committed to the depoliticisation of local government. Kapa (2010) acknowledges that the local government structure of Lesotho under the military regime was a better, popular participation.

It should be noted that, unlike the BNP local government structures, the military government included Chiefs as ex officio members and Chairpersons in most of the bodies. It should also be remembered that the Lesotho Government Order No. 3 gives the King legislative and executive powers. However, during the BNP rule, the King was just ceremonial and at one stage the BNP government even exiled him. All this illustrate how the military government wanted to win the hearts and minds of Chiefs who were not so popular with the BNP Government. Mofuoa (2005:9) argued that the military government wanted to score political points for its legitimacy and gain the support of Chiefs, who had experienced a very difficult time under the BNP government.

Even though the military tried to make these local bodies work and become democratic institutions, there were no real elections, as people were just nominated at pitsos or public gatherings. It is clear that there was no competition amongst people with different political views or ideologies. According to Kapa (2010), the only limitation of the model was that it was not elective; hence a negation to liberal democracy. The villagers simply selected their representatives in pitsos, thus undermining one of the basic tenets of democracy - the principle of secret ballot. Reddy (1996:5) further adds that, within the context of democracy, elections are viewed as an important vehicle for a free exchange of views in which the voter can make a choice.

There was no infrastructure for the VDC's and DDC's to operate smoothly. There were no personnel with expertise to guide both the VDC's and DDC's. They were on their own, without any sustainable financial resources, and all this hindered progress on their functions. According to Mofuoa (2005:10), the tasks and responsibilities of the local institutions were not given technical expertise, and the availability of resources

(financial, personnel, infrastructure, transport, training, etc.) was a constraint to the local institutions. However, according to Bekink (2005:62), “ ... it must be emphasised ... that the advantages of a third or local sphere branch of government can be severely limited if such a sphere of government is not supported through specialised expertise, financial backing and administrative infrastructure”.

The Military was able to implement the Urban Government Act of 1983, that was passed by the BNP government by establishing the Maseru City Council in 1989. According to Mofuoa (2005:9), the military government saw this as a way of giving people an opportunity to order their own affairs. The military immediately amended the Urban Government Act of 1983 by Order No. 11 of 1990. This paved the way for the first Municipal Council elections held through nominated representatives mandated to campaign along non-partisan lines in 1991. According to Reddy (1999:96), this decision by the military stemmed from a desire to secure World Bank funding, for which a condition was visible progress on the establishment of urban local authorities.

The Maseru City Council had its share of problems. There was no sustainable funding, since it was an institution that was donor driven. The staff was inexperienced and the morale was low and many people saw it as ineffective and as a waste. According to Reddy (1999:97), antagonism came to characterise the relationships between the Council and central government, and senior bureaucrats saw the Council as an irritant, rather than as an institution with potential for growth; hence it became increasingly difficult for the Council to carry out any enforcement, examples being the collection of rates and physical planning procedures.

2.4.3 Local Governance: Post-1993 Democratic Elections

Based on the above background, one can clearly be bold enough to say some form of local governance existed in Lesotho prior to the democratic elections in 1993. However, Mofuoa (2005:1) adds that these previous moves were to last for a number of years and then, for various reasons, they were either abandoned or allowed to exist mainly for

political reasons. Local government in its current form is relatively new in Lesotho. As Reddy (1999:91) acknowledged, it was not until 1993 that a climate in which the concept of local governance in the modern sense actually came to the fore with the promulgation of the Constitution of Lesotho, 1993.

The civilian government, the BCP, immediately repealed the following Acts and Orders once it came into power in 1993:

- (i) Local Administration Act, 1969 (Act 13 of 1969);
- (ii) Development Councils Order, 1991 (Order 18 of 1991);
- (iii) Development Councils (Amendment) Order, 1992 (Order 13 of 1992); and
- (iv) Development Councils (Amendment) Act, 1994 (Act 7 of 1994).

Section 106 of the Constitution mandates Parliament to establish local governance structures. According to Section 106(1) of the Constitution, "Parliament shall establish such local authorities as it deems necessary to enable urban and rural communities to determine their affairs and to develop themselves. Such authorities shall perform such functions as may be conferred by an Act of Parliament". In order to achieve this mandate, various acts were enacted. The current decentralisation process started with the enactment of the Local Government Act No.6 of 1997 and the Local Government Elections Act 9 of 1998. Functional decentralisation requires that local authorities have legal powers to exercise their functions and powers. The Local Government Act, 1997 (Act 6 of 1997) provides such legal powers, for example the Ministry of Local Government (MoLG) was formed in 1994 and tasked with the responsibility of overseeing the implementation of Act 6 of 1997.

It has been noted earlier that the BCP government was rocked by political infighting that led to the split of the ruling party. The newly formed LCD factions eventually became government in 1997. They fast-tracked the implementation of Act 6 of 1997. According to Mofuoa (2005:11), such initiatives included the passing of the following legislation:

- (i) Local Government Elections Act, 1998 (Act 9 of 1998);
- (ii) Local Government (Amendment) Act, 2004 (Act 5 of 2004); and
- (iii) Local Government Elections (Amendment) Act, 2004 (Act 6 of 2004).

2.5 LEGISLATION IMPACTING ON LOCAL GOVERNANCE IN LESOTHO

(i) Local Government Act, 1997 (Act 6 of 1997)

The Local Government Act 1997 (Act 6 of 1997) originally envisaged five different types of elected local government bodies: the Urban Council, the Rural Council, the Municipal Council, the Community Council, and the District Development Coordinating Committee. However, prior to the first ever local government elections in 2005, the fragmentation of structures were limited basically to three different bodies, namely: the Community Councils (CC's), the District Councils (DC's) and the City Council, which exist only in Maseru. This Act also makes Traditional Leaders an integral part of the new system of local government in Lesotho. In terms of Act 6 of 1997, local authorities are authorised to regulate, control and administer all the matters in the first and second schedule of the Act.

The first schedule lists, among others, the following matters:

- Control of natural resources;
- Land/site allocation;
- Grazing control;
- Recreation and culture;
- Water resources; and
- Forestry: preserving, improving and controlling designated forests in local areas.

The second schedule lists the following matters:

- Minor roads (also bridle paths);

- Water supply in villages (maintenance);
- Markets (provision and regulation); and
- Burial grounds

According to a paper, Development Cooperation between the Kingdom of Lesotho and the Federal Republic of Germany (pre-feasibility study 2005), the various matters listed, or to be listed, in the First and Second Schedules also need a regulatory and legislative base before the local authorities could exercise functions over these matters. This requires a careful examination of various laws and regulations that deal with them at present and then preparing a consolidated report for consideration by the Committee of Principal Secretaries.

It's worth mentioning that all the functions listed in the first schedule were traditionally performed by Traditional Leaders. With the implementation of Act 6 of 1997, this role seems to be diluted, because of the broad transfer of political and legal powers from the traditional authorities to the local authorities.

(ii) Local Government Amendment Act, 2004 (Act 5 of 2004)

Act 6 of 1997 was amended by the Local Government Amendment Act, 2004 (Act 5 of 2004). The amendment only elaborates on certain sections that deal with general provisions, such as Section 16 of Act 6 of 1997. The problem was that Section 16 of Act 6 of 1997 provided for the removal of the mayor/chairman and their deputies, but did not elaborate on such removal, such as circumstances under which they could be removed and the procedure to be followed to effect such removal from office.

(iii) Local Government Elections Act, 1998 (Act 9 of 1998)

The Local Government Elections Act, 1998 (Act 9 of 1998) that outlines procedures, rules and regulations for the conduct of the local election process gives the Independent Electoral Commission (IEC) powers to run local government elections in Lesotho. Local

Government elections were successfully held for the first time in Lesotho on the 30th of April 2005.

An amendment of the Local Government Elections Act, 1998 (Act 9 of 1998) foresees female candidates in at least one third of the constituencies. In accordance with the law, one third of seats in each Council were reserved for women in the process of nominating candidates. This was an issue of contention in the processes leading up to the elections, as various stakeholders were of the opinion that it contravened the provisions of the Constitution of Lesotho.

This provision was considered by some stakeholders as discriminatory, for it deprives men from contesting elections in the electoral divisions designated for women. Civil society groups, in a statement, maintained that the provision being made for women could not be considered reasonably justifiable in a democratic society, based on the fact that:

- the principle of universal and equal suffrage, provided for by the Constitution, is compromised; and
- the principle of one taking part in the conduct of public affairs, either directly or by freely chosen representatives, is violated on the basis of sex: the electorate (including women) who want to be represented by a candidate who is not a woman may not have a free choice.

Similarly, there were concerns raised over the utilisation of the method of drawing lots in selecting electoral divisions to be reserved for women. An aggrieved candidate protested against this process by going to court. However, the case was thrown out two days prior to the Local Government Elections. In response, the IEC stated that it had conducted this process in accordance with the electoral law and in order to fulfil the provisions of SADC guidelines and other international instruments focused on the empowerment of women, to which Lesotho is a signatory.

(iv) Chieftainship Act, 1968 (Act 22 of 1968)

With the enactment of the Chieftainship Act, 1968 (Act 22 of 1968), the role of Traditional Leaders (Chiefs) and the Department of Chieftainship were formalised for the first time in Lesotho. According to the LMLG (2006:11), the key role of the Department of Chieftainship is to supervise the proper implementation of the Chieftainship policy by guiding Chiefs in the day-to-day execution of their duties. The department also serves as the last level of appeal in Chieftainship disputes.

The inclusion of two Chiefs in each Community Council as well as two in District Municipalities would seem a genuine attempt to ensure that Chiefs are not marginalised in this new system of local government in Lesotho. The question, however, how Traditional Leaders and their subjects feel about their role under the current system of local government in Lesotho amidst all these changes.

2.6 THE ELECTORAL SYSTEM IN LESOTHO

The Local Government Elections were to be conducted under the First-Past-the-Post System (FPP) and not the Mixed-Member-Proportional (MMP) system employed in the 2002 General Elections in Lesotho. In order to demarcate the electoral division boundaries, the IEC created the Community Councils, such as the Rural Councils, Urban Councils, District Councils and Municipal Councils.

These structures are underpinned by a Coordinating Structure, consisting of a District Development Co-ordinating Committee (DDCC), a District Administrator, a District Planning Unit, a Local Government Service Commission and a Local Government Service. According to Reddy (1999:105), this may be termed a „mixed authority’ in the sense that it consists of a combination of centrally appointed bureaucrats and Councillors, and its main purpose is to provide a framework that links local authorities to line ministries.

2.7 LOCAL COUNCILS: POST-2005 LOCAL GOVERNMENT ELECTIONS

Democratic local government elections were held in 2005. In April 2005, a total of 128 Community Councils and one municipal Council were elected. Each Community Council, consisting of a maximum of 13 elected members and two Chiefs, elected two members to the District Council. There were also 10 district Councils comprised from the 128 Community Councils.

The 2005 elections were characterised by a low turnout of only 25% of registered voters and therefore did not extend popular participation. According to the Commonwealth Report (2005), it was the concern of the team that voter turnout was low, while taking cognisance of the fact that these were the first Local Government Elections and those voters may not yet have familiarised themselves with this new electoral process. Among the reasons cited for the apathy of voters were an overall lack of trust in political parties, and the perception among voters that their votes would not bring about any changes in the government. Until the end of September 2005, most Councils have had 2 to 3 meetings since the elections. Meeting facilities were generally available (schools, rural resource centres, court buildings, etc.). Currently most of the Councils especially the Deutsche Gesellschaft fur Technische Zusammenarbeit GbH (GTZ), operate from well furnished offices due to donor funding.

It must be noted that functions that have been devolved to the Councils are functions that are currently executed by line ministries. Central-Local government relationships under the envisaged decentralisation system will be characterised by consultations, negotiations and support from ministries to local governments. There is quite a strong political will to implement decentralisation, since the Lesotho government has set up a specific directorate to deal with the decentralisation process in the Ministry of Local Government.

However, according to the APRM Country Review Report No.12 (2010), the local Councils continue to experience inadequate human resource capacity. They have scant

local revenue and are largely dependent on central government grants. They are therefore constrained in effectively discharging their functions and delivering public services.

Reddy (1999:110) acknowledges that, as far as human resources are concerned, the major problem is the lack of suitably qualified and experienced staff. The abolition of local government almost thirty years ago means that, within the current body of public servants, there are very few who have relevant experience of the realities of local government management.

According to the UNDP (2007:3), the Councils have no precedent to follow, no clearly spelt out procedures for the performance of their duties and little or no understanding of how the government machinery, of which they will now be an integral part, functions.

2.8 CONCLUSION

It is evident that local government in Lesotho has been tried in the past, even though it did not work towards fulfilling the aspirations of the ordinary citizens. The main reason, amongst other factors, is the fact that those in power imposed the local governance on the people by designing a model that would suit them or that will enable them to retain power. The past governments, including the current LCD government, were not studying the positive contributions of previous governments on local government, selecting the workable aspects and discarding the negative ones.

This has led to every government that has been in power to start afresh, and as a result there was no continuity. However, there is no question that the LCD government has done a great deal by attempting to spread democracy through establishing an elective local government system in 2005, and by introducing the quota for women in Councils. However, this has not been without constraints. There is a lack of skilled personnel, the infrastructure is still inadequate and most of the elected Councillors have not been to a

high school level. The lack of financial resources, apart from the grants, are also a major concern, since the Council cannot generate their own sustainable revenue.

CHAPTER 3

THE ROLE OF TRADITIONAL LEADERS IN THE CURRENT SYSTEM OF LOCAL GOVERNMENT IN LESOTHO

3.1 INTRODUCTION

In this chapter, the focus will be on analysing the role of Traditional Leaders (Chiefs) in the current system of local government in Lesotho. A short definition of Traditional Leadership will be provided and analysed, followed by a definition of the roles that were traditionally performed by Traditional Leaders in the pre-colonial period and how the very same duties have been incorporated in the new system.

The institution of Traditional Leadership represents an early form of societal organisation. It embodies the preservation of culture, traditions, customs and values. During the pre-colonial era, the institution of Traditional Leadership was a political and administrative centre of governance for traditional communities. The institution of Traditional Leadership was the form of government with the highest authority. The leadership monopoly of Traditional Leaders changed when the colonial authorities and rulers introduced their authority to the landscape of traditional governance (Khunou, 2009:1).

According to Linder and Lutz (2004:6), Traditional Leadership refers to the execution of power and leadership selection procedures that differ from modern democratic systems. A symposium on Traditional Leadership and Local Government (STLLG) Report (1997:53) reiterates that to be a traditional leader is to have one's authority, one's power legitimated by links to the divine, whether the sacred is a god, a spirit or the ancestors. For a traditional leader to function, that office must maintain and demonstrate its links to the divine. Ray (in Matlosa, Elklit and Chiror, 2006:129) suggests that such leadership refers to governance structures and processes that are rooted in the history and culture of indigenous societies which pre-date both colonisation and contemporary African states.

In Traditional Leadership, legitimacy is rooted in history and culture, often combined with religious/divine or sacred references, while legitimacy of leadership in modern societies is based on elections and embedded in constitutional and legal procedures and rules. Traditional Leaders have always been a core structure of administration in Lesotho, especially at local and community level. According to Mofuoa (2005:5), recognised Chiefs have always had statutory powers and functions concerning law and order and general welfare, including agricultural practices. Chieftainship derives its legitimacy from the traditional political structure. There is, however, a growing concern that most of the Traditional Leaders view local authorities as a threat to their domain. According to Reddy (1999:101), many Traditional Leaders, especially the more senior ones, see local Councils as a threat to their positions. The reason for this could be that the Local Government Act, 1997 (Act 6 of 1997) authorises local authorities to regulate, control and administer all the matters in the first and second schedule of the Act.

It is quite clear that many citizens of Lesotho are in favour of local structures that are headed by Chiefs alone. Reddy (1999:102) believes that the system of Chieftainship is a common practice accepted by rural communities in particular, because of the valuable functions it performs. The usual argument is that with Chiefs there are no power struggles and Chiefs are able to unite their respective villages as well as respond timely to their needs, since the Chiefs are more accessible than elected officials. According to the APRM Country Review Report No. 12 (2010:44), the Basotho have a long-standing traditional system of government that is based on their historical values and customs. The customary system of governance has deep roots and is highly respected everywhere in the country.

The Basotho recognise and accept that their traditional form of governance must co-exist with the colonially bequeathed system of government; hence the basis for the adoption of the constitutional monarchy that complements, rather than competes with, the modern state. According to the Lesotho Ministry of Local Government (LMLG) (2006:11), some of the significant challenges in ensuring effective governance in Lesotho are how to empower local authorities, and in particular, how to improve Chieftainship as a strategy to complement governance at the grassroots level.

The way Traditional Leadership is perceived and accommodated in African states differ from country to country, and is determined in terms of its history, its characteristics, features and its distribution throughout each country. In most African countries, the Traditional Leadership is hereditary, as it is handed down through the family hierarchy. That is the case in Lesotho, but in Cameroon, for example, there are two types of Traditional Leadership. According to Matlosa et al. (2006:131), the first existed before colonisation and is entrenched in the local culture and traditions, comprising of not only a Chief chosen from a predetermined lineage, but also of a number of other leadership structures with a more or less popular base. The second type, which came with colonial rule, has neither a cultural nor a popular base and, more often than not, comprises a single individual who is appointed as Chief usually by an authority outside the community. In Lesotho, for example, most people, especially in the rural areas, still view Traditional Leadership in a very positive manner. However, Ray in (Matlosa et al., 2006:129) argues that the role they play in modern African states remains both marginal and questionable, as some people view them as sinecures.

This is the case in the urban population of Lesotho, where in towns and more especially among the youth and the educated they see Traditional Leadership as a waste and as outdated. They want to elect their own leaders, who will be accountable to them, as they see tribal leadership as institutions that were used by the colonialists to oppress them. In South Africa some people do argue that Traditional Leadership is undemocratic, as it is hereditary and the citizens are denied the freedom to choose their leaders. Chieftaincy in South Africa operates on principles that are antithetical to liberal democratic ideals. Selection for the office of the Chief is not by popular vote, but is usually hereditary and for life. It is a hierarchical and patriarchal system that has largely excluded women from office, and it supports customary laws that are exclusionary, particularly in relation to property rights, notably land. In such a system, there are obvious limits to representation and downward accountability, and to this extent it is surprising that Traditional Leadership has held such sway in democratic South Africa (Afrimap and Open Society, 2006:164).

A fundamental contradiction exists in the Constitution of the Republic of South Africa 1996 (Act 108 of 1996) in attempts to accommodate the institution of Traditional Leadership and its incumbents in a liberal democracy, based on multi-party principles and representative government. Notions of multi-party democracy and decentralisation are in direct contradiction to the operations of traditional authorities. In so far as the institution is made up of hereditary leaders, the possibility of people choosing or electing their representatives is automatically eliminated (Ntsebeza, 2006:24).

However, Khunou (2009:2) argues that one of the remarkable features of the transformation of Traditional Leadership in South Africa is that gender equality has been progressively advanced. The inclusion of women in traditional government structures adds democratic value and credibility to the institution of Traditional Leadership that for many years remained essentially male-dominated. The doctrine of transformative constitutionalism is well established in South Africa.

Traditional rulers were thus co-opted by the colonial administrators to serve not as decision-makers, but as agents whose role was to collect taxes on behalf of the new rulers and relay instructions to their respective community members (Matlosa et al., 2006:132). Khunou (2009:3) also acknowledges that the leadership monopoly of Traditional Leaders changed when the colonial administrators and rulers introduced their authorities. Through the colonial system, Traditional Leaders became the agents of the colonial governments. The traditional authorities were recognised and shaped by colonial governments to suit, adopt and promote the objectives and aims of their colonial strategies and missions. Ntsebeza (2006:14) reiterates that in South Africa, Tribal Authorities were, in the mould of their Apartheid creators, highly authoritarian and despotic. As a result they were, in the eyes of many South Africans, discredited, hated and feared.

It is therefore obvious that, on account of varying characteristics of Traditional Leadership in African countries, the role this leadership is likely to play and its integration within the context of democratic governance will differ from country to country.

3.2 STRUCTURE OF LESOTHO'S PARLIAMENT

As stated earlier, Lesotho has a bicameral parliamentary system comprising of the Senate (Upper House) and the National Assembly (Lower House). The Senate is not elected, and it comprises of 33 members made up of as many as 22 (67%) Principal Chiefs and only eleven (11) ordinary citizens nominated by the King upon the advice of the Council of State. Principal Chiefs are descendants of King Moshoeshoe 1. The Council of State is a body drawn from a wide spectrum of the Basotho society.

The high proportion of Traditional Leaders (Principal Chiefs) in the Senate is a clear indication of the pre-eminence of the institution of Chieftaincy (Traditional Leadership) in Lesotho. On the other hand, the National Assembly is completely elected and consists of 120 members, elected through the so-called Mixed-Member Proportional representation (Commonwealth Local Government Forum, 2009:108). Although Chieftaincy is part of this organ of the state, it has limited powers in the legislative process and general decision-making processes outside Parliament. These powers are instead a jurisdiction of the elected representatives in the National Assembly. A similar setup exists at the local government level, where Councillors enjoy decision-making powers with Chieftainship structures, such as where the village, area, and ward Chief's role is ambiguously defined (Transformation Resource Centre, 2010:34)

3.3 STRUCTURE OF TRADITIONAL LEADERSHIP IN LESOTHO

The people of Lesotho live in small villages scattered all over the rural areas. Each village has its own Headman, reporting to a Village Chief, who in turn reports to an Area Chief. At the head of the leadership pyramid a Principal Chief is found, who reports to the King. As noted above, there are 22 Principal Chiefs in Lesotho. Each one of them has a specific area under his jurisdiction, which may consist of more than a handful of area Chiefs. These titles, ranging from Village Chief to King, are generally hereditary, as it is handed down from one member of the ruling family to another. Each Chief, irrespective of the level one operates in, has a group of wise men, usually the elders, around him/her. They are chosen at the discretion of a Chief. Their role is to advise the

Chief in making sound and informed decisions when dealing with subordinates. It is worth noting that the Chiefs at all levels get their monthly allowances from the central government.

Table 1: Distribution of Chiefs by Districts in Lesotho

District	Principal and Ward Chiefs	Area Chiefs	Chiefs	Headmen	Total
Botha Bothe	2	19	43	21	63
Berea	3	12	66	64	142
Leribe	2	37	35	31	113
Maseru	5	66	25	274	375
Mokhotlong	2	13	11	49	73
Qacha's Nek	1	14	16	54	85
Mohale's Hoek	2	56	20	104	176
Mafeteng	4	51	11	74	130
Thaba Tseka					
Quthing	1	14	19	20	53
Total	22	282	235	692	1209

3.4 LEGAL BASIS FOR TRADITIONAL LEADERS

According to the Constitution of Lesotho, the co-existence of the Chiefs and local Councils are legitimised. The powers of Chiefs are defined in Sections 6 and 7 of the Chieftainship Act, 1968 (Act 22 of 1968). They include, among others, supporting, aiding

and maintaining the King and his government; serving and promoting the welfare of people in their areas of authority; maintaining public order and safety; preventing crime and the administration of justice.

The co-existence of a traditional monarchical system of governance with the elected government in Lesotho demonstrates how culture and traditions are complementary to an imported form of democracy. It is clear that formal recognition of the traditional institutions of Chieftainship, and adapting it to the changed political, social and economic environment, could encourage the active involvement and participation of Traditional Leaders in the system of governance of a country.

3.5 THE ROLE OF TRADITIONAL LEADERS IN THE PRE-COLONIAL PERIOD

Traditional Leaders have always been a core structure of administration in Lesotho, especially at local and community level. According to Linder and Lutz (2004:2), traditional structures remain very important in organising the life of the people at the local level, despite modern state structures. Lesotho is no exception in this regard, as traditional authorities were the ones who regulate village life, control access to land and settle disputes. As stated earlier, recognized Chiefs have always had statutory powers and functions concerning law and order and general welfare. This is also the case in Botswana, where Chiefs have many responsibilities, including law and order; the administration of justice and serving as the spokesperson of their tribes (Matlosa et al. 2006:168).

Khunou (2009:3) reiterates that in the pre-colonial era, Traditional Leaders and traditional authorities were important institutions that gave effect to traditional life and played an essential role in the day-to-day administration of their areas and the lives of traditional people. The relationship between the traditional community and traditional leader was very important. The pre-colonial Traditional Leadership was based on governance of the people, where a traditional leader is accountable to his subjects. In

pre-colonial times, a significant proportion of the Southern African population was organised into political groupings with centralised authority vested in hereditary leaders known as Chiefs.

In Cameroon, before the arrival of colonial powers, the Chief exercised full authority over the community he/she was leading and often took decisions in the last resort. In most communities, the Chief was very highly respected by his/her people, almost revered like a god, as he/she exercised both temporal and spiritual authority over them. In short, the Chief was regarded as the custodian and even the incarnation of all the social, cultural and spiritual values of the community (Matlosa et al, 2006:132).

According to a STLLG Report (1997:14), the Chieftainship structure was maintained in large measure during the colonial and independence periods. Chieftaincy became the main form of rural local government throughout these periods. During the colonial era, traditional authorities were assigned powers, either in competition with, or directly over, elected local authorities (Matlosa et al., 2006:168). In Lesotho, Chieftainship derives its legitimacy from the traditional political structure. They are the custodians of culture, customs and traditions in the Basotho society; customary marriages (which are still common practice in Lesotho) take place before Chiefs; and they prescribe punishments for transgressions, such as damage to crops, adultery and pre-marital sex.

According to Nyane (2010:2), the design of governance in the pre-colonial Lesotho has largely been locally based on the now defunct institution of Chieftaincy. The Chieftaincy structure was organised in such a manner that every village had its own Chief who exercised administrative, judicial and sometimes legislative functions. The Chief acted as the conglomerate of all functions located in one person.

3.6 TRADITIONAL LEADERSHIP UNDER COLONIALISM

According to Sets'abi (2010:43), the institution of Chieftainship in the colonial era seems to have been largely shaped by three forces, namely the British Colonial Administration; emergent civil society formations and, towards independence, political parties.

Consequently, Chiefs were gazetted by the colonial administration for recognition. Recognised Chiefs received statutory powers and functions concerning law and order and general welfare, including agricultural practices. The Paramount Chief received powers to issue rules providing for peace, good order and welfare, subject to the approval of the high commissioner (Mofuoa, 2005:2).

The introduction of the Native Administration Proclamation of 1938 by the Colonial Administration is seen by many as a source of Chiefs being stripped of their traditional powers by the colonial administration. According to Nyane (2010:3), the barrage of statutes purporting to circumscribe the powers of the Chiefs started emerging in the middle of 20th century with the passing of the The Native Administration Proclamation of 1938, thereby destroying the whole legitimacy of the institution which was based on traditionalism. Nyane (2010:4) observes that the gazette process was the most destructive system on the whole institution of Chieftaincy because it shifted the entire system of Chieftaincy, whose legitimacy has, since time immemorial, been based on traditionalism and not on Weberian parlance. So much so that the power of Chiefs now depended on whether one has been gazetted.

Sets'abi (2010:44) acknowledges that the most drastic reforms to the institution of Chieftainship in Lesotho came in 1938 with the passing of the Native Administrative Proclamation and the Native Courts Proclamation. The two Proclamations reduced the number of Chiefs from over 2500 to 1340 in 1939 (Van de Geer and Wallis, 1984:25). By 1950, the number of Chiefs had been further reduced to 1152. In 1944, the treasury was established and Chiefs could no longer keep fines from the court proceedings. This practice also did not go down well with the Traditional Leaders.

The establishment of the Treasury in 1944 further dealt a blow to the Chiefs' powers. Finance was brought into the system of indirect rule. Chiefs could no longer keep fines and fees from court proceedings, but all such income would go to the treasury. These financial reforms meant a further reduction of gazetted Chiefs, as only task-justified payments would be gazetted (Mofuoa, 2005:3).

Mofuoa (2005:2) acknowledged that the 1938 reforms drastically changed the power basis of Chieftainship. Chieftainship no longer derived its legitimacy from the traditional political structure. It was now a statutory institution requiring the selection of Chiefs to be gazetted. However, Chiefs that were not gazetted continued to perform their functions, and the effects of the 1938 Proclamations became only gradually felt. Nevertheless, it was clear that the powers of Chiefs were drastically curtailed. According to Sets'abi (2010:43), the British found the Basotho Chieftainship to be a rival form of government that competed with their administration for the ears and minds of the Basotho people.

Traditional authorities have been in existence for more than a century and will probably be resistant to change and embrace a democratic system of local government. The existence of traditional authorities means that the introduction of local governance and decentralisation does not take place in a vacuum. It is very important that, for local government and decentralisation to be a success, traditional structures have to be taken into account.

3.7 THE IMPACT OF THE LOCAL GOVERNMENT ACT, 1997 (ACT 6 OF 1997) ON TRADITIONAL LEADERS IN LESOTHO

There is, however, a growing concern that most of the Traditional Leaders view local authorities as a threat to their domain. According to Reddy (1999:101), many Traditional Leaders, especially the more senior ones, see local Councils as a threat to their positions. The reason therefore could be that Act 6 of 1997 authorises local authorities to regulate, control and administer all the matters in the first and second schedule of the Act.

In terms of Act 6 of 1997, local authorities are authorised to regulate, control and administer all the matters in the first and second schedule of the Act.

The first schedule lists, among others, the following matters:

- Control of natural resources;
- Land/site allocation;
- Grazing control;
- Recreation and culture;
- Water resources; and
- Forestry: preservation, improving and controlling designated forests in local areas.

The second schedule lists the following matters:

- Minor roads (also bridle paths);
- Water supply in villages (maintenance);
- Markets (provision and regulation); and
- Burial grounds.

It is worth noting that all the functions listed in the first schedule, and burial grounds in the second schedule, were traditionally performed by Traditional Leaders. With the implementation of Act 6 of 1997, this role seems to be diluted, because of the broad transfer of political and legal powers from the traditional authorities to the local authorities.

It is quite clear that many citizens of Lesotho are in favour of local structures that are headed by Chiefs alone. Reddy (1999:102) believes that the system of Chieftainship is a common practice accepted by rural communities in particular, because of the valuable functions it performs. The usual argument is that, with Chiefs, there are no power struggles and Chiefs are able to unite their respective villages as well as responding timely to their needs, since the Chiefs are more accessible than elected officials.

3.8 THE ROLE OF TRADITIONAL LEADERS IN THE CURRENT SYSTEM OF LOCAL GOVERNMENT IN LESOTHO

With the enactment of the Chieftainship Act, 1968 (Act 22 of 1968), the role of Traditional Leaders (Chiefs) and the Department of Chieftainship were formalised for the first time in Lesotho. According to the LMLG (2006:11), the key role of the Department of Chieftainship is to supervise the proper implementation of the Chieftainship policy by guiding Chiefs in the day-to-day execution of their duties. The department also serves as the last level of appeal in Chieftainship disputes.

According to LMLG (2006:11), some of the significant challenges in ensuring effective governance in Lesotho are how to empower local authorities, and in particular, how to improve Chieftainship as a strategy to complement governance at the grassroots level. Traditional authorities and local government claim legitimacy and authority based on entirely different factors. Local government claims authority based on democracy and constitutional legality, much of which is inherited from the colonial period, despite the fact that colonialism itself was anti-democratic. Traditional Leaders claim legitimacy based on history and religion. Historically, Traditional Leaders claim political authority derived from the pre-colonial period. They are seen to represent „indigenous, truly African values and authority’. Religiously, they claim links to the divine, whether a god, a spirit or the ancestors.

This is really a great challenge since, after wielding power for decades, Traditional Leaders are now subservient to elected Councillors who used to be their subordinates. Though Act 6 of 1997 shifts a lot of responsibility from Traditional Leaders to local authorities, the Traditional Leaders are still involved in development activities that take place within their areas of jurisdictions. In the immediate independence era, the democratisation of local government undermined the political control of traditional authorities, with Traditional Leaders resisting the loss of their considerable power in terms of controlling access to resources (land, water and livelihoods) (Matlosa et al., 2006:168).

In Botswana, South Africa and Swaziland traditional authorities are recognised as a fourth level of government. In these countries, the devolution of political and administrative powers may have somewhat reinvigorated and given traditional authorities a new lease of life (Matlosa et al., 2006:168).

Act 6 of 1997 also makes Traditional Leaders an integral part of the new system of local government in Lesotho. Traditional Leaders participate in local government by serving on Councils as ex officio members. The inclusion of two Chiefs in each Community Council as well as two in District Municipalities would seem a genuine attempt to ensure that Chiefs are not marginalised in this new system of local government in Lesotho. There are some similarities between Lesotho and Botswana in the way Traditional Leaders are integrated into the new system of local governance. In the case of Botswana, the Chief, who is also the head of the tribal administration, is by virtue of his position an ex officio member of the district Council. Chiefs (Traditional Leaders) are represented on local authority structures as a basis for institutionalising legitimate local governance structures (Matlosa et al., 2006:168).

They support development, particularly at the community level, as they provide a forum for consultation by all institutions on matters of development or information dissemination. They still hold the ability to mobilise the population involvement behind development initiatives. It is a fact that, after the political hiccups that rocked Lesotho after it gained independence from Britain in 1966, the Traditional Leaders are still seen by many as a unifying force and as a base for strengthening national identity and culture. It is very important that this should be harnessed for the education and welfare of present and future generations. A review by Afrimap and Open Society (2006:163) indicates that traditional authorities have a stabilising influence under conditions of social and political turmoil or change.

Section 6(1) of the Chieftainship Act, 1968 (Act 22 of 1968) specifies that the duties of Chiefs in Lesotho include:

- Supporting, acting and maintaining the King in his Government of Lesotho according to the Constitution and other laws of Lesotho, and subject to their authority and direction;
- To serve the people in the area of his authority;
- To promote the welfare and lawful interests of people within his jurisdiction;
- To maintain public safety and public order; and
- To perform all lawful duties of his office impartially, efficiently and quickly according to the law.

Section 7(1) of Act 22 of 1968 further empowers Chiefs to other lawful functions of Chiefs that are not stipulated in the aforementioned Act, and include:

- Adjudicating local disputes;
- Calling public gatherings (*lipitso*) for the dispersal of public information;
- The identification and registration of livestock;
- Keeping records of the birth, death and marriages of people within their areas of jurisdiction;
- Writing letters of reference for people living in their areas of jurisdiction – these include letters of reference in the passport application process and certain banking services;
- Village protocol also demands that all visitors, particularly those who are coming by way of business, report themselves to the Chief of the local area or the village and alert them of their presence and nature of their activities.

However, Sets'abi (2010:45) argues that one of the primary objectives of Act 22 of 1968 was to subordinate the Chiefs to central government by entrusting their discipline to the Minister of Interior who not only has the powers to discipline the Chiefs, but also to dismiss them.

The role of Lesotho's Traditional Leaders in this new dispensation still has a huge impact in their local areas, since they are still responsible, among others, for:

- The resolution of conflicts and the maintenance of social justice;
- The mobilisation of communities through local area village development committees;
- Participation in other Council structures;
- The protection of government property and heritage sites;
- Maintaining and serving as the custodian of cultural and traditional roles; and
- Playing key leadership roles in HIV and AIDS awareness, prevention campaigns and supporting treatment and care, as they are the closest to the people on the ground.

As the custodians of cultural values, the formal recognition of the traditional institutions by the state will encourage Traditional Leaders to add more of their weight in the fight against the scourges of moral degeneration and HIV/AIDS. According to Linder and Lutz (2004:19), the mobilising capacity of Traditional Leaders is often needed in implementing policies in the social, economic or political structure of a community, for example in initiatives to fight HIV/AIDS, implement vaccination programs, and implement land reforms and road maintenance. Traditional Leaders also assist in civic education and community education programmes, for example in respect of primary health care.

In general, the roles of Traditional Leaders in the new dispensation are still the same, with the exception that the Traditional Leaders have been stripped of one of their most important functions, the allocation of land. According to Toulmin and Quan (2002:19), many governments attempted to break the power of customary Chiefs by the state after independence by taking formal ownership of land. Allocation of land has always been an important function of Traditional Leaders, as it was a symbol of one's authority and it generated income for the Traditional Leaders.

Toulmin and Quan (2002:2) argue that land remains an asset of great importance to African economies as a source of income, food, employment and export earnings.

Besides its economic attributes, land continues to have a great social value as a place of settlement, as well as symbolic and ritual associations, such as burial sites, sacred woodlands, and spiritual life.

In terms of Schedule I and II of Act 6, 1997, it is provided for functions to be assigned to the District and Community Councils. According to the APRM Country Review Report No. 12 (2010:64), for instance, the local Councils are vested with powers to generate revenue and impose levies and taxes, such as the collection of garbage; allocation of sites; small scale mining licenses; supplying water and sanitation services and issuing grazing permits and building permits.

The land issue does bring some confusion and conflict between the elected Councillors and Traditional Leaders, since Act 6 of 1997 and Act 22 of 1968 were not harmonised. For instance, the allocation of land is vested with the Traditional Leaders in terms of Act 22 of 1968. The elected Councillors are also vested with the functions of land and site allocation in terms of Act 6 of 1997. According to Goldman and Reynolds (2006:136), the lack of a clear division of roles and responsibilities between local municipalities and tribal authorities has also led to tension and complications. Some people still make land requests to Traditional Leaders, while others go to the elected Councillors. In some instances, traditional Chiefs allocate land that the Councils have earmarked for other developmental projects, as a result of confusion and conflict between the two institutions.

According to the APRM Country Review Report No. 12 (2010:65), the section dealing with land allocation in terms of Act 22 of 1968 was not amended or repealed when Act 6 of 1967 came into force; hence both the Chiefs and the Councils have the function of allocating land. The root of confusion appears to be the non-congruence of Act 22 of 1968, as well as Act 6 of 1997.

The tension between Traditional Leaders and elected officials seems to be a common problem in many countries. With reference to South Africa, Goldman and Reynolds (2006:137) argue that, despite the provisions of the Act and the White Paper on Traditional Leadership and Governance, the relationship between traditional authorities

and local government structures are often problematic, representing rival centres of power. Traditional authorities often have a key role in land allocation, as a local Chief may allocate land for residential, business, grazing or arable purposes, as well as allocate access to forests or woodlands.

Van Donk, Swilling, Pieterse and Parnell (2008:137) reiterate that there are certain problems in the effective administration of these rights, both in recording the rights and in demarcating the land, and as a result, disputes regarding the land tenure can occur. The introduction of Western freehold systems in traditional areas also contributes to land tenure disputes and weakens the traditional system.

In most African customary traditions, rights are established to land by birth, kinship and the investment of sweat and toil, as well as by social contract (Toulmin and Quan, 2002:3). Greater levels of debate and self-determination within Africa are required in relation to land and other areas of development policy. Toulmin and Quan (2002:2) note that, despite common problems in terms of securing rights to land; harmonising customary tenure systems and resolving land disputes in a transparent way, the countries of Sub-Saharan Africa present a complex mosaic derived from the past historical colonial legacy and the current economic pressures and opportunities. However, according to Matlosa et al. (2006:168), Chiefs in Namibia, Mozambique, Zambia, Zimbabwe and South Africa have increasingly sought to reassert their authority in recent years.

They feel that the transfer of control over allocation of land and other legitimate powers to local authorities has undermined their authority. Consequently, they are re-emerging as a political force against what they perceive to be a diminution of their role, which local government has reinforced and institutionalised. In South Africa, for example, the Congress of Traditional Leaders of South Africa (Contralesa) was formed in the late 1980's to cater for the interests of Traditional Leaders in South Africa.

According to Afrimap and Open Society (2006:159), the Congress of Traditional Leaders of South Africa (Contralesa) and some Traditional Leaders make periodic bids for increased political influence and power at the national and provincial levels.

Matlosa et al. (2006:169) argues that, between 1994 and 2000, Traditional Leaders in South Africa were able to use Contralesa to entrench influence on local government in their areas of jurisdiction. Contralesa demanded the reservation of 50% of local authority positions in response to the government's offer of 10%: a compromise of 20% hereditary was eventually reached.

A review by Afrimap and Open Society (2006:161) noted that the functions of traditional Councils in South Africa include:

- Administering the affairs of the traditional community in accordance with customs and traditions;
- Supporting municipalities in the identification of community needs;
- Facilitating the involvement of the traditional community in the development of the Integrated Development Plan of the municipality;
- Participating in the development of policies and legislation at the local level; and
- Promoting the ideals of cooperative governance, Integrated Development Planning, sustainable development and service delivery.

However, most of the Traditional Leaders have largely reconciled to their diminished powers, but they want and deserve to be treated with respect and dignity by the central and local authorities (Symposium on Traditional Leadership and Local Government, 1997:44). Nonetheless, the Traditional Leaders have maintained important cultural, social and juridical functions at local and village levels in many countries. According to Linder and Lutz (2004:14), the functions of Traditional Leaders have been constantly adapted to accommodate new circumstances. The economic and social organisation of societies have changed, particularly over the last century, and Traditional Leaders in many parts of the world have managed to respond to various external political changes and pressures in order to maintain their position within society.

It is clear that the importance of the role of Traditional Leaders cannot be ignored, and as a result it is vital that Traditional Leaders and central governments develop respect

and appreciation for each other and look into ways and means of promoting co-operation in the contemporary system of government. Useful though these institutions are, there is still a vast debate about whether the traditional practices they enforce are in line with democratic values. For example, the property rights of women and their control over communal land rights. (Afrimap and Open Society, 2006:165).

Studies conducted in Mozambique, for example, revealed that despite attempts by various post-colonial governments to marginalise and even abolish traditional authorities, the latter remained a force that could not be ignored when multi-party democracy and decentralisation were introduced in the early 1990's (Ntsebeza, 2006:16).

According to Linder and Lutz (2004:14), it is evident that Traditional Leaders have more recently regained relevance, not only because development agencies are looking for possible partners at the local level, but also because many central governments are recognising their important role in local governance. In many cases it is very difficult or impossible to implement policies without the support of the Traditional Leaders.

In communities where traditional institutions exist, Chiefs seem to command more respect than elected counterparts who are perceived as ordinary members of community. The electorate feel that the Traditional Leaders are there to stay, whereas the elected Councillors might be out of office at any given time. This highlights the necessity for the two institutions to cooperate, because they control different forms of resources for development. For example, the Traditional Leaders can mobilise local opinion in favour of, and participation in, development plans, programmes and projects for development. The Councillors on their part can mobilise funds and expertise for the developmental projects to be implemented.

Sklar and Ray in Ntsebeza (2006:27) argue that for the two institutions to co-exist, it is crucial that the tasks and functions of each institution must be clearly defined and identified. Beyond this, both institutions must be willing to forgo some powers, rather than to concentrate all the functions in one authority.

The Traditional Leadership could better understand the needs and priorities of the communities which they represent, thus serving as an effective two-way channel of communication between the government and the people. According to the STLLG (1997:47), Traditional Leaders could help to explain and, where feasible, manage change and the introduction of new concepts within their communities. They could be instrumental in initiating social change by striking a healthy balance between tradition and modernity. By remaining informed, they disseminate information about activities of organisations such as District Development Committees and Village Development Committees, which need their support in self-help activities.

3.9 CONCLUSION

Currently, Traditional Leadership play a much more limited advisory and lobbyist role in traditional, cultural and customary matters. Their power and resource base have been constantly redefined and neutralised in many African countries. Despite this, Traditional Leadership have shown strong resilience and continuity, hence the need for their more and concrete recognition.

Traditional Leadership continues to be the gateway into the rural areas. Any government department and NGO that seek to introduce its programmes or projects is well advised to consult with the local traditional leader for it to make progress. It is also clear that most African countries share the same problems concerning Traditional Leadership and this new phenomenon of democracy. It is therefore advisable that African countries share the knowledge and experiences of how to integrate the two different systems of governance.

Since most of the countries, Lesotho included, are now adopting decentralisation as a means of efficient and effective service delivery, it is very important to formally incorporate Traditional Leaders into the state structures to enable them to play a more prominent role in service delivery. The Chiefs and Councillors are dependent on one another for the purpose of development; therefore, all areas of development need the input of both the Chiefs and Councillors.

CHAPTER 4

THE ROLE OF ELECTED OFFICIALS IN THE CURRENT SYSTEM OF LOCAL GOVERNMENT IN LESOTHO

4.1 INTRODUCTION

In this chapter, the focus will be on the role of elected officials in the current system of local government in Lesotho. Firstly, there will be a brief overview of how local government has evolved in Lesotho over time and the role that was played by the appointees and or elected officials.

During the colonial era in Lesotho, Chieftaincy was the main form of rural local government. In 1938, the British established the Basutoland Council (BC), which was seen by many as an unrepresentative institution, as its membership was largely based on Chieftainship. This situation intensified the commoner struggle for increased participation. According to Mofuoa (2005:2), the Chiefs were gazetted by the colonial administration for recognition; recognized Chiefs received statutory powers to issue rules providing for peace, good order and welfare, including rules for agricultural practices. All these were subject to the approval of the High Commissioner.

Reddy (1999:93) acknowledges that the modern local government go back to 1943 when the Basutoland Council (BC), a national consultative body, discussed the possibility of increasing popular participation by establishing District Councils in order to elect two representatives. Van de Geer and Wallis (1984:17) add that, as a result, District Councils were established two years later, and in 1948 they became statutory bodies.

The District Councils that were established in 1943 had Chiefs as ex officio members, plus other nominees. According to Mofuoa (2005:3), they acted as advisory institutions, often preparing motions and served as electoral forums for the Basutoland National

Council, which was largely based on Chieftainship. Van de Geer and Wallis (1984:17) note that when the concept of local government was put into practice in Lesotho, citizens showed a lot of interest in its functions, but when it became apparent that they were merely advisory bodies to the central government interest declined. However, Reddy (1999:100) acknowledges the fact that these Councils were essentially consultative bodies without significant powers or resources. They have no finances or staff to execute any activities.

In 1959, the District Councils were revised by Proclamation No.52. In terms of this revision, the District Councils became a body corporate. According to Mofuoa (2005:3), this did not stop the community from demanding increased levels of participation in their affairs. Proclamation No. 52 of 1959 made provision for the District Councils to make by-laws. Their functions included overseeing agriculture, commercial, educational and other developments at local sphere. According to Mapetla and Rembe (1989:22), District Councils were, among other functions, vested with extensive powers to make by-laws, manage local finances and carry out various responsibilities related to agriculture, livestock, and the maintenance of bridle paths and selected roads. Reddy (1999:93) adds that the District Councils also had powers in spheres such as public order, public health and the regulation of trade, commerce and industry.

According to Kapa (2010:9), the first experiment of an elective political system in Lesotho (then Basutoland) was made by the British colonial administration in 1960, when the District Councils were established under the provisions of the Local Government Proclamation No. 52 of 1959, which provided for the establishment and constitution of District Councils and their organisation, proceedings, finance and the power to make by-laws.

Against this background of local governance in Lesotho, it is obvious that some semblance of local governance was in place prior to 1993, but that local governance in its modern form is relatively new in Lesotho. Contrary to the present day, the districts in the past were never governed locally by elected people. Instead, they were run by

appointees from the central government. Joseph (1999:288) argues that African local governments are often not elected, but are instead frequently appointed by the central government.

Thus, it is reasonable to say that the Basotho, in most of the country's independence, have really not been able to fully exercise their rights as voters in electing local government Council members of their own choice. As Reddy (1999:91) acknowledges, it was not until 1993 that a climate in which the concept of local governance in the modern sense actually came to the fore with the promulgation of the Constitution of Lesotho.

The District Councils were abolished in 1968 by the Basuto National Party (BNP) government, due to political reasons, as most of the District Councils were dominated by the opposing Basutoland Congress Party. According to Kapa (2010:10), the BNP government abolished the District Councils and transferred their powers and functions to different government departments and the Chiefs. The BNP government, however, did not complain about the actual performance of the District Councils, though this was negligible; rather, it believed that they inhibited the smooth flow of communication from central government to the people at the grassroots. The BNP government also found the system too costly at the time. Consequently, the BNP government made efforts, through the support of donors such as the Canadian International Development Agency (CIDA), to find ways of establishing a decentralised system of government.

Mofuoa (2005:5) adds that a more important reason for their abolition was in fact a political one. The BCP largely dominated the Councils, and as such they were seen as an alternative source of political loyalty and therefore a threat to the government of the BNP.

4.2 DEFINITION OF THE CONCEPT “LOCAL GOVERNMENT”

According to Ismail, Bayat and Meyer (1997:2), local government is that level of government commonly defined as a decentralised, representative institution with general

and specific powers devolved to it by a higher tier of government within a geographically defined area. It is constituted by law and has substantial control of local affairs, including the powers to impose taxes or to exact labour for prescribed purposes. The governing body of such entity is elected or otherwise locally elected.

Reddy (in Van der Waldt et al., 2007:3) defines local government as the level of government created to bring government to the local population and to give citizens a sense of participation in the political processes that influence their lives. Local authorities or municipalities were created and are still created to provide services and goods, because of the inability of central governments to render these services and goods.

Reddy (1996:49) acknowledges that local authorities are created to render services in defined geographical areas, primarily because of the inability of central governments to attend to all the detailed aspects of government. Kapa (2010:9) reiterates that local government has the potential to serve two purposes: to promote local democracy and to improve the quality of service delivery.

4.3 LEGISLATIVE FRAMEWORK FOR LOCAL GOVERNMENT IN LESOTHO

Unlike in the past, local government is enshrined in terms of the Constitution of Lesotho. In the past, local authorities were set up to suit those in power, and they were abolished from time to time when no longer serving the interest of those in power. More conveniently, elected Councils have frequently been dissolved and replaced by nominated or appointed Councillors (Joseph, 1999:288). The principle of serving the needs of the community was totally ignored. Following independence in 1966, the District Councils were soon dismantled by the BNP regime; the reason being that they were seen as being dominated by the opposition party, the BCP, and as the result the BNP felt it could not positively co-exist with them (Mofuoa, 2005:4).

Reddy (1999:93) argues that what complicated matters as far as the incoming BNP government was concerned, was that the BCP controlled all nine District Councils. There was therefore a basis for intense central-local conflict with little prospect of cooperation. According to Joseph (1999:285), for many countries in the world, including African countries, local government has been seen as an extension of the central state to the community.

To be fair, local governments in some countries became a cesspool of political and administrative corruption, but this merely portended what would happen at the national level in several of these countries in later years (Joseph, 1999:286). However, Van der Waldt et al. (2007:5) argue that each country's Constitution specifies the place of local government within state machinery, and its objectives, roles and functions. According to the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the objectives of local government are to:

- Provide democratic and accountable government for local authorities;
- Provide services that are sustainable;
- Promote social and economic development;
- Promote a safe and healthy environment; and
- Encourage the involvement of communities and community organisations in the affairs of local government.

Currently, according to the APRM Country Review Report No. 12 (2010:120), local government in Lesotho is guided by three major laws:

- () the Constitution of Lesotho;
- () the Local Government Act, 1997 (Act 6 of 1997), as amended in 2004; and
- () the Local Government Elections Act, 1998 (Act 9 of 1998), as amended in 2004.

These acts will now be highlighted:

4.3.1 Constitution of Lesotho 1993, (Act 5 of 1993)

The Constitution of Lesotho obliges Parliament to establish local authorities. Chapter 106(1) of the Constitution clearly stipulates that Parliament shall establish such local authorities as it deems necessary to enable urban and rural communities to determine their affairs and to develop themselves. Such authorities shall perform such functions as may be conferred by an Act of Parliament, in this case the Local Government Act, 1997 (Act 6 of 1997).

4.3.2 Local Government Act, 1997 (Act 6 of 1997)

Local authorities have legal powers to exercise their functions and powers. Act 6 of 1997 provides such legal powers, for example the Ministry of Local Government (MoLG) that was formed in 1994 and tasked with the responsibility of overseeing the implementation of Act 6 of 1997. The most important development, according to Mofuoa (2005:11) and Afrobarometer (2006:1), was that Act 6 of 1997 and its subsidiary legislation actually reorganised the existing decentralised system of local government in Lesotho to a more modern form.

However, compared to the South African legal framework that establishes ward committees as one of the internal structures that serve as a platform through which constituencies can participate in the governance of their localities, Act 6 of 1997 does not only run short of articulating how people will participate in the development processes, but also fails to institutionalise participation by way of establishing public participation bodies. In the case of South Africa, the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) provides for the ward committees to be constituted by the representatives of various interest groups within the ward, excluding politicians who by virtue of being elected representatives already serve in the Municipal Council (Shale and Moholisa, 2010:16).

4.3.3 Local Government Elections Act, 1998 (Act 9 of 1998)

Local government elections in Lesotho are held in accordance with legislation, such as the Local Government Elections Act, 1998 (Act 9 of 1998). This Act gives the Independent Electoral Commission (IEC) powers to run local government elections in Lesotho. The first ever elections for local government under the new system were held on 30 April 2005. They were conducted under the First-Past-The-Post system. Voters have to be 18 years of age or over. Anybody who has reached the voting age may be elected as a Councillor. The Lesotho Elections Amendment Act, 2004 (Act 6 of 2004) provides for 30% representation of women to be rotational for three successive elections, starting in February 2005. According to Kambule (2010:27), this was a deliberate strategy by government to achieve the 30% representation as stipulated by SADC Declaration on Gender and Development (1997) that has since been elevated to SADC Protocol on Gender and Development (2008).

4.4 ELECTED REPRESENTATIVES

According to Venter and Landsberg (1998:207), democratically elected representatives of a local community are known as Councillors. In Lesotho as well as South Africa elections for Councillors are to be held at intervals of not more than five years.

Gildenhuis (1997:13) observes that the key principles of a representative democracy are the concepts of the political responsibility and accountability of the elected Councillors, instead of direct participation by the individual taxpayer. It is the responsibility and accountability of Councillors as elected representatives that guarantee that they will govern in the interests of the individual taxpayer and not in the exclusive interests of some defined groups or in their own personal interests.

According to Gildenhuis (1997:13), representative local government is therefore based on the following:

- The principle of division of labour between the elected Councillor and the public;
- The approachability of the elected Councillors by the individual taxpayer; and
- The public accountability of the Councillors.

However, Kerly (1994:177) argues that various official and unofficial studies of local government elected members clearly demonstrated that Councillors are not representative of the population at large and that they also have not been in the past. According to Kerly (1994:177), the nature of the people who become Councillors is influenced by a number of factors, such as the number of local authorities that is currently dominated by representatives of political parties; there is a small and gradually decreasing number of Councils in which independents form the majority of members.

4.5 THE ROLE OF ELECTED OFFICIALS IN LOCAL GOVERNMENT IN LESOTHO

According to Van der Waldt et al. (2007:74), Councillors do not have the authority to act individually, unless authority has been delegated to a specific Councillor by the Council. Councillors have decision-making powers as a collective body. In terms of Act 6 of 1997, local authorities in Lesotho are authorised to regulate, control and administer all the matters in the first and second schedule of the Act.

The first schedule lists, among others, the following matters:

Control of natural resources

- Regulating the use and mining of natural resources such as sand, stone, diamonds. etc.

Land/site allocation

- Town planning activities;
- Processing land applications;
- Intervening in land disputes; and
- Legal action against transgressors.

Grazing Control

- Introducing and implementing grazing control policies; and
- Nature conservation.

Recreation and culture

- Provision and maintenance of sports facilities;
- Provision, development and maintenance of parks and public open spaces;
- Organizing of different sport codes, including indigenous sport codes; and
- Organisation of concerts.

Water resources

- Taking care of water resources, such as rivers, lakes and wet lands to ensure that they are not polluted.

Public decency and offences against public order

- Regular holding of public gatherings during which the public should be sensitised about upholding and abiding by the laws which governs them; and
- Legal action against transgressors.

Forestry

- Preservation, improving and control of designated forests in local/authority areas; and
- The cultivation of seedlings in nurseries for rehabilitation of deforested areas.

The second schedule lists the following matters:

Minor roads (also bridle paths)

- Construction and maintenance of local roads;
- Construction and maintenance of paved sidewalks and bridle paths; and
- Construction and maintenance of rain water drainage systems.

Water supply in villages (maintenance)

- Construction and maintenance of bulk water supply;
- Construction and maintenance of water reticulation networks; and
- Supplying water connections to individual consumers.

Markets (provision and regulation)

- Provision and maintenance of markets; and
- Proposing market regulations.

Burial grounds

- Allocation of burial grounds; and
- Maintenance of cemeteries.

To fulfil all these objectives, Councillors need the expertise of civil servants who will be implementing and executing the policies as they are being laid down by the elected representatives. However, this is not an easy task in Lesotho. In South Africa the most significant challenges that were faced by local government in general, according to Van der Waldt et al. (2007:16), include:

- Inexperienced and/or uncommitted officials and political representatives;
- Vested interests and an organisational culture that is not conducive to the new realities;
- Municipal structures, processes and technologies that are not aligned with a new paradigm;
- A lack of funding and resources from local revenue and from other government levels; and
- A lack of ability to adjust to new policy imperatives.

These are the same challenges that local government in Lesotho is faced with and needs to overcome in order to realise its objectives. The other thorny issue is the functions that were traditionally performed by Traditional Leaders and appear in the first schedule of the elected representatives functions.

4.6 COUNCIL STRUCTURES IN LESOTHO

Local government structures are created to enhance participatory governance. It is by means of local government that some of the government's mandate and responsibilities are exercised through the devolution of powers (Lenka, 2010:29). According to Lenka (2010:32), local government structures should really ensure maximum participation in decision-making processes at the local level. As suggested, local government is supposed to enhance people's participation in a democracy.

In terms of Act 6 of 1997, the composition of the Councils at three levels (the Community Council, Rural Council and Urban or Municipal Council) would include two elected gazetted Chiefs. However, Kapa (2010:11) argues that the exact role of the Chiefs was not spelled out in the Act and this, at the onset, set the envisaged Councils and Chiefs on a collision course.

An urban Council, such as the Maseru City Council, is headed by a Mayor(ess) and District Councils are headed by Chairpersons. Administrative Councils are headed by a Town Clerk in the Urban Councils and a Community Council Secretary in the district. The Councils have wider interests and responsibilities to provide local level development leadership and they provide an important link between the people and their government. According to Joseph (1999:286), local government also promotes the accountability of the public administration, because their officials are physically, socially and psychologically closer to the public.

Reddy (1999:98) observes that the advocates of local government in Lesotho envisaged several benefits deriving from its establishment. Power will be transferred to the people and exercised by them within localities. It was anticipated that sustainable development would be enhanced, giving local people a greater sense of ownership in relation to projects and service delivery. Access to government was to be improved by providing easier points of contact.

The following bodies and their functions will now be highlighted.

4.6.1 Community Council

The Community Councils are elected members, and the Chairperson of the Community Council is elected by Councillors amongst themselves. All Community Councils have Council secretaries as Chief Executive Officers. The Community Council Secretaries command staff under their supervision in dealing with the day-to-day errands of the Community Councils. According to Morphet (1993:183), it is the link with both the Council and central government.

4.6.2 District Council

All ten of Lesotho's District Councils consist of representatives from Community Councils. Lesotho has ten District Council Secretaries (DCS's), who are the secretariat to the District Councils and are also the Chief Executives to the permanent and pensionable staff of the District Councils. The District Council is also responsible for assisting and giving advice to the Community Councils when such need arises. The senior staff members under the DCS at the District Council are the Administration Manager, Human Resource Manager, Finance Manager, Senior Legal Officer and the Procurement Officer.

(i) District Council Secretary (DCS)

The main duties of the DCS are to:

- Take down the minutes of Council meetings and be the custodian of the minutes and other records;
- Give technical advice to Councillors during meetings;
- Implement Council decisions;
- Suggest strategies for identified problems to the Council;
- Assist the Council in policy formulation; and
- Ensure that an agenda is sent out timeously.

(ii) *Administration Manager*

The Administration Manager is accountable to the DCS, and the main purpose of his/her job is to manage the operational effectiveness of the administration division; to implement administrative policies, work systems and procedures; to manage and control the Council's fixed and operational resources; and to supervise administration cadre and staff throughout the Council.

The main duties of the Administration Manager could be summarised as follows:

- Initiating and formulating administrative policies, work systems and procedures;
- Managing and controlling the Councils' fixed and operational resources, such as arranging and controlling the maintenance of Councils' fixed and part-mobile assets;
- Co-ordinating administrative functions throughout the Councils; and
- Co-ordinating the development and implementation of departmental plans and consolidating Councils' recurrent annual budget.

(iii) *Financial Manager*

Under the general supervision of the DCS (Chief Accounting Officer), the Finance Manager is responsible for the establishment and maintenance of an appropriate and integrated financial structure of the local government service, as well as for designing, installing and maintaining an appropriate financial accounting system and procedures. The Finance Manager also participates in the appraisal, selection and preparation of development programmes, and in the coordination and guidance of the preparation of financial statements, reports and budget estimates on recurrent revenues, expenditure and capital for the local Councils. According to Kerly (1994:85), budgets and financing are important to any organisation, but they are particularly important to public organisations. This is because a local authority is spending public money, the majority of which is raised through taxation of one form or another, and therefore it must be accountable for this money.

The main duties of the Finance Manager could be summarised as follows:

- Ensuring the general supervision of account section units operating in the departments of District and Community Councils;
- Coordinating and giving guidance in preparation of annual estimates for the District and proper administration of the budget; and
- Producing, when required by the Councils or by the Auditor General or the Auditor appointed under Section 63 of Act 6 of 1997, all books and records or accounting documents of the Councils.

Reddy (1996:190) acknowledges that modern local government financing demands that the Chief Finance Officer is proactively involved in coordinating the policy of the Council and supervising the financial activities of various other functional departments, so that account can be rendered on various facets of financial management. Marshal (in Reddy 1996:190) reiterates that the important function of the Chief Finance Officer is to administer all funds of the Council, subject to the Chief Executive Officer, Finance Committee and Council by:

- Ensuring that the available money is suitably invested; and
- Advising the Finance Committee and Council on the raising of capital funds.

(iv) Human Resource Manager

The Human Resource Manager is responsible for the operational effectiveness of the Human Resource Division and the implementation of HR policies, plans, recruitment, development, utilisation, retention, working relations and effective HR systems.

The main duties of the Human Resource Manager could be summarised as follows:

- Developing a manpower plan;
- Maintaining and providing effective employee recruitment, utilisation and termination of services;

- Guiding, training and developing performance and career management;
- Managing employee relations, terms of appointment and conditions of service;
- Coordinating the design and implementation of HR plans;
- Ensuring the production and retrieval of Human Resources Information; and
- Managing the Human Resources Division and supervising staff.

According to Reddy (1996:114), local government Human Resources Management is an essential activity of local government administration. Moreover, it is an important and necessary function in order to attain the objectives of a local authority. Public institutions, including local authorities, require human resources to, amongst others, implement policies, manage service delivery and render services. The process through which a local authority mobilises human labour manifests itself as human Resource Management. Therefore, in local government, Human Resource Management refers broadly to the provision, training, development and maintenance of human resources.

(v) Senior Legal Officer

The Senior Legal Officer (SLO) oversees all legislative matters of the District and Community Councils, advises them on all legal and procedural matters; represents them in law suits in the courts of law and is responsible for the day-to-day activities of the legal section. The main duty of the SLO is to interpret Act 6 of 1997 (as amended) as principal law in conjunction with all other related laws to harmonise the interpretation of these laws. He/she must also advise and make recommendations on labour related issues where disputes have occurred or are likely to occur, as well as in disciplinary proceedings.

(vi) Procurement Officer

Under the direct supervision of the Administration Manager, the Procurement Officer plans, monitors, organises and supervises the procurement recording and storage of supplies for the local Councils in line with the procedures and policies that were laid down.

The main duties of the Procurement Officer could be summarised as follows:

- Planning, managing and implementing the procurement plan of the District and Community Councils;
- Maintaining the required level of stock at the appropriated stores and see that they are properly operated;
- Monitoring the use of materials by the organisation and recommending measures that would save costs;
- Ensuring the proper storage of stock by keeping and managing the stock and asset register; and
- Taking responsibility of the day-to-day store's activities.

Staats (in Reddy, Sing and Moodley, 2003:146) defines public or government procurement as the science, or perhaps the art, of getting the most for the taxpayer's money in a whole spectrum of buying, leasing or otherwise acquiring goods and services, while Westing and Fine (in Reddy et al., 2003:143) submit that procurement is a business activity directed to obtain materials, supplies and equipment required for the continued operation of an institution.

As these managers are recruited into the organisation based on their profession, it is important that they should be politically sensitive, since they are working in a political environment. The political authorities come and go with different manifestos and agendas, so it is important for civil officers to be ready to accept any change of authority that may come unanticipated. Van der Waldt et al. (2007:8) also noted that Councillors give political direction and leadership in the municipality and should, in conjunction with officials, determine the policies and direction of the municipality. The officials should have the required knowledge and skills regarding the technical and specialised aspects of municipal affairs.

Political attitudes and approaches vary more sharply from authority to authority than professional attitudes. Politics can vary between parties, but also within parties. Politics

can change quickly within an authority. The electoral process or a change in leadership can bring about sudden and sweeping changes, often unanticipated and little understood by officials within the authority (Steward, 1995:16).

4.7 COMMITTEE SYSTEMS

Councillors come from different backgrounds, with different knowledge, skills and political ideologies. According to Kerly (1994:179), being a Councillor requires that the individual concerned fills one or more of a variety of roles and does so sometimes in very individual ways, depending on the nature of the person concerned and the pattern of working in the Council to which they are elected. Committee systems can be a very effective remedy for bringing unity and uniformity in the Councils.

Craythorne (2006:169) observes that once a Council has been elected, there has to be a system within which Councillors can perform their functions. In other words, Councillors need some formal system under which they can be organised to exercise their powers and to perform their duties and functions. Van der Waldt et al. (2007:8) reiterates that Councillors meet in various committees (usually referred to as portfolio committees) to develop proposals for the Council. The significance of committees in the operation of local government cannot be overemphasised: the existence of committees, their practice of working and the membership of those committees shape and define the way in which members see their job as a Councillor (Kerly, 1994:183).

According to Van der Waldt et al. (2007:74), a Municipal Council may establish one or more committees necessary for the effective and efficient performance of any of its functions or the exercise of any of its powers. Members of a Council may be appointed as members of the committees, and the Council must appoint Chairpersons for the committees.

The Councils in Lesotho operate through a system of committees; hence there is a legal requirement in Section 22 of Act 6 of 1997 to establish committees. This legislation

gives Councils discretion to establish other committees, other than Finance, Special Committees and Joint Committees involving more than one Council, including Standing Committees. Other than a Standing Committee on Finance, Councils established committees on land administration and management, social services and HIV/Aids. According to Venter and Landsberg (1998:143), one of the advantages of having a multiple committee system is that it enables Councillors to participate actively in Council matters.

According to Craythorne (2006:170), the multiple committee system is a system in which Councillors break up the work they have to do into functional units, known as Committees or Standing Committees. This system is often simply referred to as the Committee System. Examples of committees would be finance, general purpose, housing, land use planning, health, amenities and as many more as the Councillors desire to create.

The law allows the Councils to do anything in their power to promote order and good governance, and they are empowered to make and enforce by-laws. As stated earlier, the Lesotho Councils have wide-ranging functions to take care of in terms of Schedule 1 and Schedule 2 of Act 6 of 1997. Venter and Landsberg (1998:144) acknowledges that the identification and prioritisation of services to be rendered are the key objectives of a municipality.

4.7.1 Standing Committees

These are committees of Council which consider Council matters before they are put before the Council. They also consider proposals from individual Councillors referred to them by the Council. Standing Committees consider proposals and make recommendations to Councils. The Local Government Councils have to elect Standing Committees they consider appropriate. In this case, the following serve as examples:

- I. Finance and Planning;
- II. Lands and Environment; and
- III. Social Services.

(i) The Finance and Planning Committee

The Finance and Planning Committee is responsible for making sure that all activities to be undertaken are viable, feasible and practical. They plan, monitor and control the budget expenditure and revenue. Venter and Landsberg (1998:146) acknowledge the fact that a local municipality cannot raise unrealistic expectations that are beyond the financial and administrative capacity of its municipality. They make sure that the procurement of goods is in alignment with the national procurement policies. They have to see to it that services, such as refuse collection, water services and street lighting are sustainable and not interrupted in any way as a result of cash shortages. Sustainability could imply that, once commenced, the service should continue and not be easily abandoned. A service is also only sustainable if it is affordable and addresses a real need of the public (Venter and Landsberg, 1998:144).

(ii) Land Administration and Management Committee

The Land Administration and Management Committee is responsible for the administration of land and allocation of sites in the communities in which they operate. They are responsible for graze control by ensuring that a good range of management policies are adhered to by the community.

(iii) Social Services Committee

The Social Services Committee is responsible for providing infrastructural services, such as water, bridle paths and roads. They have to ensure that there are social services, such as health clinics, parks and recreation centres that are accessible to the public. This committee is also responsible for ensuring that the communities they serve live in a

healthy environment that is free from any sort of pollution, such as noise, water and air pollution. According to Venter and Landsberg (1998:145), the provision of clean drinking water, the effective treatment of sewage and an efficient solid waste disposal service will also promote a safe and healthy environment. The Social Services Committee is also responsible for ensuring that there are good policies in place relating to pollution issues and that legislation intended to protect the environment and human health and safety is complied with.

(iv) HIV and Aids Committee

The HIV and Aids Committee is responsible for coordinating with other stakeholders to mobilise the community in a fight against the epidemic. They organise public awareness campaigns, rallies and other educational programmes as a means of disseminating information to the communities.

This committee does its work on the assigned tasks and communicate its findings to the Council. The Council will then adopt the recommendation if they feel satisfied. The Council can also refer the matter back if there are certain points they are not clear with, or if the information provided is not enough to make a final decision on it. The Council can also amend or make a small adjustment on the recommendation tabled before it and then adopt it. The Council, if not satisfied with the proposal, can reject it as a whole. Councillors are fully entitled to amend or substitute a recommendation, provided that it complies with three criteria: it must be legal, it must be financially in order and it must be practical (Venter and Landsberg, 1998:143).

In dealing with complex issues, the committees may invite officials with expert knowledge to assist. In most cases these committees comprise of Councillors with specific knowledge and leadership skills. This committee, which comprises of “strong” Councillors, i.e. those with special leadership qualities or specific knowledge, will then study these reports intensively and thereafter submit their recommendations to the full Council. (Venter and Landsberg, 1998:141) It is a fact that these committees are starting

from scratch with no past experience, training, infrastructure and resources, but they are very committed and very willing to make local governance in Lesotho a success. Without a doubt, a genuine attempt at developing the structures of local governance in Africa will not only promote economic development, but will help to defuse much of the ethnically-based tensions and restrain recklessness, inefficiency and the abuse of power and corruption by state-based agencies (Joseph, 1999:295). However, Cameron (1999:16) argues that local government in developing countries can be described as centralised. Post-independent African local government is generally weak with limited functions, powers and revenue-raising sources.

4.7.2 Special Committees

Special Committees are set up by the Council to inquire about or investigate specific issues and report to the Council under the terms specified by the Council. Members can be Councillors themselves or a mixture of Councillors and external people.

4.7.3 Joint Committees

These are committees between two or more Councils to handle a matter of common interest. The cooperating Councils determine what powers and duties to delegate to the Joint Committee. The Joint Committee is prohibited to:

- I. Raise any loan;
- II. Levy and rate; and
- III. Impose any tax.

4.7.3.1 Advantages of the multiple committee system

Craythorne (2006:173) lists the advantages of the multiple committee system as the following:

- It enables Councillors to privately obtain the views of expert officials and to ask them for further information and explanations, thereby speeding up the work;
- It gives Councillors the opportunity to make contributions in areas in which they have a particular interest or knowledge;
- As there are a number of committees, each Councillor gets the opportunity to feel that he or she is contributing something to the government and administration of his or her town, and this prevents him or her from being frustrated;
- As the system enables Councillors to have close contact with the department concerned, they get the opportunity to become the authority on that subject with their colleagues; and
- Heads of Departments are able to request Councillors to clarify the Council's policy, so that they can direct the efforts of their department's art achieving policy goals.

4.7.3.2 Disadvantages of the multiple committee system

According to Craythorne (2006:174), the disadvantages of the multiple committee system, among others, are the following:

- The system prevents co-ordination and forward planning;
- The system wastes time and leads to delays and the fragmentation of the Council's services;
- Councillors do not need the multiple committee system in order to participate in the Council's work or to consult officials; and
- It is extremely difficult for the public to hold one or a few Councillors accountable for wrong or unpopular decisions, because accountability defused.

4.8 THE ROLE OF MUNICIPAL OFFICIALS IN LOCAL GOVERNMENT IN LESOTHO

The District Council and Community Councils are comprised of unelected officials who are recruited on their professional capacity and experience. These civil servants are recruited on merit, and as such they are experts in their respective fields. They use this knowledge and expertise to advise Councils on various matters, but the final decision lies with the Council. Hence their role is to give support and technical know-how to the elected officials and to implement the Councils' decisions.

According to Steward (1995:6), the management processes of local government are set in a political management system. The key processes of decision-making are political processes in which the dominant factors will be the political priorities of the majority party. The management processes of local authorities should, therefore, support those political processes and fulfil the requirements of political control. According to Van der Waldt et al. (2007:8), Councillors have to weigh up recommendations from officials in terms of community needs and interests. Once the Council has reached a decision, officials are expected to carry this out in the most efficient and cost-effective way.

Van der Waldt et al. (2007:34) recommends that, in a local democracy context, municipal officials should:

- Make municipalities more responsive to their communities by channelling feedback from the community to decision makers and back;
- Serve the public interest by providing an articulated and clear voice; and
- Increase the community's knowledge by providing relevant information through various channels.

4.9 THE NEED FOR A CODE OF CONDUCT FOR ELECTED REPRESENTATIVES IN LOCAL GOVERNMENT IN LESOTHO

It is necessary that, on election to a local authority, Councillors will not follow the same pattern of behaviour. They will develop different interests and apply themselves in different ways to working within the Council (Kerly, 1994:179). According to Reddy et al. (2003:112), the unethical and corrupt behaviour of public representatives and public officials influences how public resources are obtained, allocated and utilised. It is very important to have a clear Code of Conduct for the Councillors and Public Officials. However, this is not the case in Lesotho, where the elected representatives are only given guidelines on how to behave themselves during their sessions. In Lesotho, newly elected Councillors do receive some orientation on Council's functions and how Councillors conduct themselves, but this is very limited. It is not given the priority and attention it really deserves. The guidelines only specify issues such as the attendance of meetings, the unauthorised disclosure of information, solicitation for reward and the acceptance of gifts and favours. According to Kerly (1994:179), many members elected to serve on local authorities who have no job description and no previous experience of the activity and responsibility, now find it very hard to commit themselves to shared agreements on patterns of working and practice. In the case of South Africa, there is a clear Code of Conduct for elected representatives.

4.10 THE NEED FOR A SOUND PERFORMANCE MANAGEMENT SYSTEM FOR LOCAL GOVERNMENT IN LESOTHO

According to Reddy et al. (2003:127), performance management refers to results and responsiveness to the needs, desires and resources of the community, client or user. Unlike South Africa, local authorities in Lesotho do not have performance management systems. It is high time that performance management is introduced in local authorities in Lesotho, so that progress performance and challenges can be monitored and evaluated. The introduction of performance management will impact very positively on the effective utilisation of the Councils' resources. In South Africa, performance is

covered by law. According to Reddy et al. (2003:127), Chapter 6 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) provides for, amongst others, performance management indicators and targets, performance review, monitoring and evaluation.

Performance management has become an integral part of the theory and practice of local government management and development in South Africa. Local authorities are expected to have performance management systems in place to give effect to their transformation and Integrated Development Plans (Reddy et al., 2003:ix). The fact that performance management systems are lacking in Lesotho's local authorities contributes negatively to the Council's objectives. There are no mechanisms that can be used to measure Council's performance against their budget plans and development activities. If implemented, the performance management systems will assist the Council in monitoring and evaluating the failures, if any, as well as the progress made against the set developmental targets. Performance management systems can also assist in determining rewards for employees, thus improving morale and employee satisfaction. This can boost productivity.

4.11 CONCLUSION

Even though local government is enshrined in the Constitution, the local authorities still have a long way to go, since all the funds transferred to local authorities are conditional in the sense that they are tied to a specific development or current expenditure function. The Councils are also forced to implement projects that are imposed by the central government instead of implementing projects that emanate from the Councils. This should not be the case, and the remedy for this would be for the Councils to be financially independent.

The non-congruence of Act 6 of 1997 and Act 22 of 1968 still poses a problem for the smooth operations of local authorities, particularly in land issues, which both the Chiefs and Councillors are bound by law to administer. This has brought a lot of confusion

between the two parties and the public at large. There is an urgent need to harmonise these two acts, so as to balance and improve the working relations of Chiefs and local authorities.

It is also very important that the local authority's employees should be aware that they work in a very sensitive political environment. As a result, they should be professional in the day-to-day activities of their respective Councils. The Councillor's role is to indicate political direction and officials should implement the set goals.

CHAPTER 5

RESEARCH METHODOLOGY: CHALLENGES IN LOCAL GOVERNMENT IN LESOTHO

5.1 INTRODUCTION

The previous chapters constituted the theoretical background of the study. Chapter 2 focused on the literature review of local governance in Lesotho. Chapter 3 sought to outline the role of Traditional Leaders in Lesotho under the current system of local government, while Chapter 4 outlined the role of elected officials in Lesotho under the current system of local government. Chapter 5 will present a detailed discussion of problems/challenges faced by local government in Lesotho; their possible causes and suggestions on how they can be managed or minimised. It has been noted earlier that local government in Lesotho is not totally new, but some semblance of local governance has been put in place in Lesotho prior to the democratic elections in 1993. As a result, there have always been challenges faced by previous local government structures.

5.2 PROBLEMS FACED BY TRADITIONAL LEADERS IN LOCAL GOVERNMENT IN LESOTHO

As it has been stated earlier (in Chapter 4), local authorities are authorised to regulate, control and administer all the matters in Schedule 1 and Schedule 2 of Act 6 of 1997. The Ministry of Local Government (MoLG) was formed in 1994 and tasked with the responsibility of overseeing the implementation of Act 6 of 1997. This Act also makes Traditional Leaders an integral part of the new local governance system in Lesotho.

Traditional authorities and local government claim legitimacy and authority based on entirely different factors. Local government claims authority on democracy and Constitutional legality, as stated in Section 106(1) of the Constitution of Lesotho: “ ... Parliament shall establish such local authorities as it deems necessary to enable

urban and rural communities to determine their affairs and to develop themselves. Such authorities shall perform such functions as may be conferred by an Act of Parliament”.

As Matlosa et al. (2006:131) noted, democracy encompasses the following basic principles: popular participation; human rights and freedoms; the right to information; accountability; regular free and fair elections; economic empowerment and equal opportunity; decentralisation; the rule of law; and mutual respect and tolerance. Traditional Leaders on the other hand claim legitimacy based on history and religion. Historically, Traditional Leaders claimed political authority derived from the pre-colonial period, and they seem to represent indigenous, truly African values and authority. It is a true fact that in Lesotho, just like in many other parts of Africa in the past, most of the Traditional Leaders were seen as serving the interests of their colonial masters.

Linder and Lutz (2004:25) lamented that, due to the different sources of legitimacy, the government and Traditional Leaders can view each other as a threat. It is not surprising to see that many states did not recognise traditional authorities (who often served as local governments during the colonial period) after independence. This challenged the position of the Traditional Leaders in many societies, and there still remain numerous conflicts about power and influence between traditional authorities and governments.

Matlosa et al. (2006:168) add that the democratisation of local government undermined the political control of traditional authorities, with Traditional Leaders resisting the loss of their considerable power in terms of controlling access to resources (land, water, livelihoods), arbitration, mechanisms and services such as education and health. Traditional authorities also objected to the boundaries which cut across tribal land. This situation is still prevailing in Lesotho. Some of the citizens feel that local authorities are there to marginalise their Traditional Leaders, and they do not support local authorities, while others thought that Traditional Leaders are outdated, so democracy and elected leadership should be the norm of the day. They argue that there is a need to give the ruled the opportunity to choose and elect their leaders. This is a very challenging situation to the local authorities, since they have to convince the citizens across all

sectors of the population, so that they are accepted and supported by all citizens – both the traditionalists and those who support democratic ideas. Matlosa et al. (2006;136) noted that those who insist on the incompatibility between Traditional Leadership and democracy often point to the fact that the former is hereditary, while the latter has the holding of regular elections to choose leaders as one of its pillars.

According to Ntsebeza (2006:22), the notions of multi-party democracy and decentralisation are in direct contradiction to the operations of traditional authorities. In as far as the institution is made of up of hereditary leaders, the possibility of people choosing or electing their representatives is automatically eliminated. However, Ismael (in Ntsebeza, 2006:20) adds that the institution of Traditional Leaders cannot be abolished overnight without causing some political disequilibrium among the indigenous people, especially in rural areas.

It is very clear that the co-existence of the two institutions is a very crucial and challenging one. Ntsebeza (2006:26) concedes that this co-existence has raised a number of political, developmental and conceptual problems that have not been adequately addressed, let alone resolved. One of the problems is the anomalous situation in which people are simultaneously citizens of the state and subjects of the Chiefs.

Lutz and Linder (2004:30) agree that a similar problem is linked to the parallel existence of tradition and modernity. Every country with a traditional structure has a segment that lives according to modern values and norms. These different systems can interfere, and will more likely do so with increased urbanisation. This will result in having to judge which systems are superior when there is a conflict between core elements of human rights and the rights of cultural self-determination.

However, the Basotho recognise and accept that their traditional form of governance must co-exist with the colonially bequeathed system of governance. This is the basis for the adoption of the constitutional monarchy that complements, rather than competes

with, the modern state. They cite the co-existence of a traditional monarchical system of governance with the elected government as an example of how their culture and traditions are complementary to an imported form of democracy. It is this respect for traditional authority and the overwhelming desire for its perpetuation that are at the root of the establishment of the constitutional monarchy (APRM Country Review Report No. 12, 2010:44).

Matlosa et al. (2006:136) reiterated that to be understood, Traditional Leadership should not be seen as contrasting with modern forms of governance, but rather as indigenous forms of leadership that developed from indigenous (African) cultures, and that existed before the various indigenous policies came under the influence and domination of foreign (mostly European) powers. Seen in this light, Traditional Leadership cannot be said essentially to contradict democratic principles, because what has come to be known as democracy today itself developed from forms of governance that were indigenous to other parts of the world.

Ntsebeza (2006:18) noted that, with the advent of multi-party democracy and decentralisation, traditional authorities in these countries re-emerged as a force that could not be ignored. At the local level, the traditional authorities obtain their popularity from their subjects. The current government is therefore faced with the challenge of defining the place, roles and functions of the institution of Traditional Leadership in the new system of governance, especially in the local government sphere (Venter, et al., 2007:180).

5.3 PROBLEMS FACED BY ELECTED OFFICIALS IN LOCAL GOVERNMENT IN LESOTHO

The elected officials are faced with a mammoth task of service delivery. As noted by Kapa (2010:12), the newly elected Councils had to contend with several challenges, many of which remained unresolved at the end of its five-year term. There has been a severe lack of capacity to carry out its constitutional and legal mandates. The system

experienced a lack of financial and human resources to provide services to the local people, as provided for in terms of Act 6 of 1997. Schedule 1 of this Act, which applies to the three larger Councils, lists several functions and provides for what could prove to be a massive reorganisation of service delivery. In itself, this will constitute a major challenge, even if it is implemented with thorough planning (Reddy, 1999:105).

According to Van der Waldt et al. (2007:82), development problems are so complex and uncertain that the traditional problem-solving approaches of government institutions are no longer sufficient in order to deal with them. Governing our modern society so as to achieve sustainable development therefore requires new forms of governance that explicitly deal with the diversity and divergence in societal and policy processes.

Newman (1996:11) adds that the process of managing change has become more complex, as local government has had to deal with multiple and interactive changes. Local authorities have struggled to respond to new agendas driven by central government in which cycles of change have been overlaid on each other with little time for reflection or consolidation.

It is obvious that governing has become increasingly complex compared to the past, and as a result elected officials are confronted with challenging issues relating to the financial stability, health and welfare of the communities they serve. Therefore, learning to govern efficiently, ethically and wisely requires considerably more time, effort and education than ever before. Van Niekerk, Van de Waldt and Jonker (2001:253) observe that public institutions are increasingly functioning within a complex and rapidly changing environment. It is for this reason that governments need to have flexibility to meet the challenges they are faced with.

5.3.1 Political Interference

The Councils in Lesotho are dominated by party politics. The Councillors are elected using their party tickets. This always causes problems where the Council is not run by

the members of the ruling party. The government always wants to make such a Council appear as a failure, since it will be in the hands of the opposition. As observed by Shale and Moholisa (2010:33), it is no secret that the local Councils themselves are elected according to party line. If there is a political lethargy with the mainstream politics, and these mainstream politics perpetuate themselves in local Councils, the recipe is disastrous.

Many times the conflict that often arises is a result of roles that are not clearly exercised, and often these roles are clouded by partisan politics that do not allow talent in the management of people's affairs. Incompetence, a lack of resources, roles that are not clearly clarified, partisan politics, conflict and political arrogance have all contributed to local Councils not performing to the desired effect in Lesotho (Shale and Moholisa, 2010:33).

When the first local authorities were established in Lesotho, the majority of the Councils were run by the Basutoland Congress Party (BCP), but the government was run by the Basotho National Party (BNP). This did not go down well with the BNP government; hence they blamed the Councils for being stumbling blocks on the implementation of the government's plans and policies. For example, following independence in 1966, the District Councils were soon dismantled by the BNP regime; the reason being that they were seen as being dominated by the opposition party, the BCP. As a result, the BNP felt it could not co-exist with them positively. Kapa (2010:10) observes that the strong District Councils had become centres of political dissension and opposition. This is because the District Councils were dominated by the opposition BCP that had won the 1960 male-only elections, sweeping all 32 of the 40 contested District Council's seats, while the BNP and the Marema-Tlou Party shared the remaining eight seats.

The government initially suspended the DC's through the Government Notice No. 8 of 1966, later permanently abolishing them through the Local Government Repeal Act of 1968 and replacing them by government-appointed Councils, which were supervised by a political supervisor of cabinet status. Mofuoa (2005:1) adds that these previous

moves were to last for a number of years and then, for various reasons, they were either abandoned or allowed to exist mainly for political reasons. According to Reddy (1999:93), what complicated matters as far as the incoming BNP government was concerned, were that the BCP controlled all nine district Councils. There was therefore a basis for intense central-local conflict with little prospect of cooperation. This observation is also made by Mofuoa (2005:4), who submits that in 1968, two years after independence, the BNP government abolished District Councils through the Local Government Repeal Act. It was alleged that they were complicating lines of communication between central government and the districts. Mofuoa (2005:5) adds that a more important reason for their abolition was in fact a political one: the BCP largely dominated the Councils. As such, they were seen as an alternative source of political loyalty and therefore a threat to the government of the BNP.

The same problem still persists even today, as local government is still held along partisan ideals, and as a result one party may dominate the Councils. The problem is even worse when the Councils are dominated by an opposition party. That in itself causes problems for such Councils, since their operating budget is funded by the central government, as all Councils in Lesotho cannot generate sufficient revenue on their own to run their daily business.

In a statement made during the recent National Conference on Local Government organised by the Transformation Resource Centre (TRC) in May 2010, the Honourable Minister of Communications, Science and Technology, Mr. Mothetjoa Metsing, who participated in the conference in his capacity as Secretary General of the ruling Lesotho Congress for Democracy (LCD), indicated that the LCD prefers local government elections to be contested along political parties. In his view, parties are better placed to make policies than individuals who contest local elections. The political parties in Lesotho have dominated both the national and local elections; what follows is that the Councils are made up of political party members who naturally appease party leaders instead of working for the people (Shale and Moholisa, 2010:18).

However, Van der Waldt et al. (2007:88) argue that democracy cannot function without political parties. The principle of representation in a democracy is based on the existence of political parties. The representation of the people, who are the source of power, can only be effected by the election of representatives, and it is for this reason that political parties are necessary. The primary task of the political parties is to organise the public will.

5.3.2 Contradicting legislation

According to Ismail, Bayat and Meyer (1997:162), the most common policy instrument used by local authorities is legislation. Legislation has the advantage of being legally enforceable, and transgressors face the prospect of a fine, imprisonment, or both.

In terms of Act 6 of 1997, local authorities are authorised to regulate, control and administer all the matters in Schedule 1 and Schedule 2 of the Act.

It should be noted that all the functions in Schedule 1 were traditionally performed by Traditional Leaders. With the implementation of Act 6 of 1997, this role seems to be diluted, because of the broad transfer of political and legal powers from the traditional authorities to the local authorities. Act 22 of 1968 also gives the Traditional Leaders the authority to allocate land and manage it. This in itself has caused a lot of tension between Traditional Leaders and elected officials, since some Traditional Leaders feel that their power and authority are being compromised. According to Sets'abi (2010:49), Chiefs, through control of land, have traditionally also controlled and managed natural resources within their areas of jurisdiction.

As noted by the APRM Country Review Report No. 12 (2010:65), the root of the confusion appears to be the non-congruence of Act 22 of 1968 and Act 6 of 1997. Act 22 of 1968 gives the power of land allocation to the Chiefs, whereas Act 6 of 1997 gives the functions of land and site allocation to the Councils. The section dealing with

land allocation in Act 22 of 1968 was not amended or repealed when Act 6 of 1997 was adopted; hence both the Chiefs and the Councils have the function of allocating land.

If traditional authorities are to have a role in providing services alongside local government, there must be cooperation between the two, since both actors want to have the leading role, leading inevitably to a deadlock and conflict. Roles must be well defined and agreed upon, and the public must understand who is responsible for what. The harmonisation of Act of 22 of 1968 and Act 6 of 1997 is very crucial to avoid confusion between the elected officials and the Traditional Leaders (Chiefs).

Section 47 of Act 6 of 1997 gives local authorities a mandate to generate their revenue through taxes, water, stalls, bus stops, animals, toll gates, and shared company and income tax. However, while Act 6 of 1997 and its regulations empower them to mobilise revenue from local sources, other laws restrict these powers to the Ministry of Finance and Development Planning (MoFDP). Hence, the revenue collected is being taken to the consolidated fund. It is vital that locally collected revenue is used locally. The Parliament of Lesotho therefore has to harmonise these regulations to make meaningful progress, especially in the area of fiscal decentralisation (APRM Country Review Report No. 12 (2010:125)).

Effective decentralisation requires clear terms of reference for Chiefs and elected Councillors. They also need to be educated about their area of responsibilities and authority in order to avoid conflict. To minimise the tensions between Chiefs and elected officials, it is very important that research should be conducted to find out how local people feel about Traditional Leadership in general and their leaders in particular. If they are supportive of both, it is important to include all leaders in plans for local government.

However, Lenka (2010:33) argues that the participatory governance in local Councils has not been witnessed. Instead, the local Councils have been beset with a wrangling for power between themselves and the Chiefs. According to Venter (2007:88), traditional authorities have remained a significant social, cultural and political force, and exercise

their power particularly in rural areas. Although Traditional Leaders in rural areas do not provide significant municipal services, their control over the dispersion of tribal authority land secures their political and economic influence within their areas of jurisdiction. Traditional Leaders should not be viewed as individual citizens within a uniform democratic system, but as a special interest group worthy of consultation and active participation in local government matters.

Compared to the South African legal framework, that establishes ward committees as one of the internal structures that serves as a platform through which the constituencies can participate in the governance of their localities, Act 6 of 1997 does not only run short of articulating how people will participate in the development processes, but also fails to institutionalise participation by way of establishing public participation bodies, as is the case in South Africa. In South Africa, the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) provides for the ward committees to be constituted by representatives of various interest groupings within the ward, excluding politicians, who by virtue of being elected representatives already serve in the Municipal Council. Therefore, there is no gainsaying that Act 6 of 1997 turns people into passive participants in governance. The major weakness of the entire system is that it assumes that people will interact with Community Councils when the latter embarks on development activities without legally providing for such interaction (Shale and Moholisa, 2010:16).

According to Matlosa et al. (2006:179), the areas of governance over which local government has final decision-making powers must be clearly demarcated. If the institutional framework results in local governments being unsure as to what exactly their powers are, this will result in either trepidation or unnecessary legal wrangling. On the legal side, further adjustments, by-laws and ministerial publications are still necessary to eliminate overlapping competencies and functions between local authorities and traditional Chiefs, in order to enable local authorities to raise property rates and other taxes and fees and to foresee financial regulations. Kapa (2010:9) observes that a

carefully considered delineation of powers and roles between the elected authorities and the hereditary structures in their different forms must be made.

The government has to decide, in close consultation with the Chiefs, what the exact role of the Chieftainship in local government should be, so that the Chiefs support all the efforts of the Councils in their respective areas unreservedly (Kapa, 2010:13).

5.3.3 Decentralisation of functions to local government

According to Matlosa et al. (2006:150), decentralisation refers to any change in the organisation of the state which involves the transfer of power or functions from the central level to any sub-national levels, or from one sub-national level to another lower level. As observed by Matlosa et al. (2006:150), decentralisation is conceived as a multi-dimensional concept and is taken to refer to the transfer of power, authority or responsibility for decisions, planning and management of resource allocation from central government to its field units, district administrative units, local government, and regional or functional authorities.

Decentralisation, which has positive connotations, is indicative of something at the centre which could be dispersed. In both political and financial contexts, “decentralisation denotes the transference of authority (legislative, judicial or administrative) from a higher level of government to a lower level” (White, 1959:23). Decentralisation generally refers to the sharing of decision-making powers with lower levels in the organisation (Reddy et al., 2003:41).

Decentralisation is basically a governance process. Its quality depends on not only the resources and the institutions that are in place, but also on the broad acceptance by the society as a whole to embrace the new regulatory framework and to make it work. Decentralisation design must therefore prevent local governments from being burdened with duties without the concomitant resource (Matlosa et al., 2007:179).

A major challenge of elected officials in Lesotho is the unwillingness of the central government to let go of the responsibilities that are supposed to be decentralised. The budget and other resources, such as human resources, are still being controlled by the central government. This makes it difficult for local authorities to operate; hence they are often compelled to comply with central government ambitions rather than their own, out of fear of losing the central government's support. As emphasised by Matlosa et al. (2007:149), since the 1990's, a critical objective of governance reform has been the strengthening of local government by the decentralisation of powers, resources and responsibilities to local authorities and other locally administered bodies.

According to Shale and Moholisa (2010:34), the challenges for Lesotho's decentralisation are two-fold. Firstly, it is the country's failure to develop the necessary conditions for the establishment of a functional and viable system of local government. These are, but not limited to, the demarcation of municipal and Council boundaries; gender equality; the development of frameworks for local government finance and fiscal decentralisation; human resources; decentralised planning; infrastructural facilities and capacity building for Councillors and Council staff. The demarcation of boundaries is indispensable for local government, as it provides the geographical limits within which the Councils would perform their roles as well as within which communities would participate.

Secondly, it is the conflicting relationship between the Chiefs and the elected representatives. This kind of relationship is attributable to the ambiguity of roles that has proved to be a fertile ground for power struggles and conflicts between the traditional and modern structures within Councils. The conflict between local authorities and Chiefs has led to arrested development in some Council areas. The situation is aggravated more by the non-effective intervention of the central government, which is often blamed for favouring Councillors. According to Sets'abi (2010:49), there is a general complaint from the Councils that the Chiefs generally do not comply with Council resolutions, despite the fact that they are represented in the Councils.

5.3.4 Devolution of power to local government

Matlosa et al. (2006:150) noted that devolution is viewed to be the most extensive form of decentralisation. It refers to the conferment of authority to discharge specified functions upon formally constituted autonomous local agencies or bodies that can operate independently in their own areas of jurisdiction. However, this is not currently the case in Lesotho, as local authorities are always seeking permission or approval from the central government before taking any action on the ground.

Devolution is very important in that it promotes democracy at grassroots level, as it encourages the people to participate freely in their own affairs. As stated by Matlosa et al.(2006:150), this forms of decentralisation facilitates a significant degree of participation and is normally referred to by some scholars as democratic decentralisation or political decentralisation. According to Reddy (1996:51), democracy denotes a political system in which the eligible people participate actively, not only in determining who governs them, but also in shaping the policy output of their government. Determining the composition of a government is done in free and fair elections supervised by an impartial body.

Matlosa et al. (2006:165) reiterated the fact that democratic decentralisation entails shifting political power to the local level, which creates apprehension, jealousy and even opposition, as bureaucrats and politicians at the national level perceive that power is being devolved at their expense. Historically, central governments often have not wanted to devolve any real power to the local level. This has been one of the major reasons why decentralisation initiatives have been ineffective. Reddy (1999:186) states that the process of decentralisation must be incremental and must take into account the necessary political support, the willingness to decentralise and the availability of trained personnel and financial means. It is vital that the political elite in Lesotho should demonstrate a genuine political commitment to devolve sufficient power to the local authorities.

5.3.5 Revenue Constraints

The issue of raising funds for local authorities in Lesotho is a great challenge facing local authorities, and it does not seem to be getting better any time soon. Council dependency on government grants and donor funding limits the operations of the Councils. They cannot spend the funds on any project that has not been approved by the central government. According to Shale and Moholisa (2010:35), the fiscal framework is also critical, because it does not only indicate the central-local financial resources allocation formula and the revenue sharing methods, but also spells out the rules and regulations within which the limited resources are to be managed. A planning framework is also important for decentralisation, so that the financial resources are used on plans that derive from the communities instead of on plans that descent from the top.

Reddy et al. (2003:41) observe that local decision-making is responsive to the people for whom the services are intended, encouraging fiscal responsibility and efficiency, particularly if the financing of services is decentralised; unnecessary layers of jurisdiction are eliminated and inter-jurisdictional innovation and competition are enhanced. According to Reddy et al. (2003:42), some of the advantages of fiscal decentralisation include:

- Improved municipal services and public satisfaction when the expenditure mix and tax rates are determined locally;
- Stronger local governments that contribute to nation-building, as the local population relates more closely to local activities than to central government; and
- Increased overall resource mobilisation, as local governments can tax the fast developing parts of local economy better than the central government.

According to Reddy et al. (2003:42), many countries have realised that strengthening local government through fiscal autonomy is an integral part of decentralisation and, ultimately, development. As Matlosa et al. noted (2006:179), a sufficient degree of autonomy in financial matters lies at the heart of a concept of decentralisation that aims

to facilitate development. Limited revenue-generating possibilities and little or no access to capital markets, coupled with insufficient assistance from the central government, is a common recipe for local government failure.

The donor funding is channelled through central government; hence much red tape occurs before Councils can access it. This is a clear indication that the issue of the devolution of power to the local authorities is compromised. A major constraint to autonomy is the limited scope for raising local revenues, with the result that Councils depend financially on central government. However, Matlosa et al. (2006:167) alleges that local authorities do not only have to depend on central government allocations, but the allocations are wholly inadequate and often erratic in timing.

The Maseru City Council, the oldest Council in Lesotho, had its share of problems. There was no sustainable funding, since it was an institution that was donor driven. The staff was inexperienced and the morale was low; many people saw it as ineffective and as a waste. According to Reddy (1999:97), antagonism came to characterise the relationships between the Council and central government; senior bureaucrats saw the Council as an irritant, rather than as an institution with potential for growth, hence it became increasingly difficult for the Council to carry out any enforcement, for example the collection of rates and physical planning procedures. As observed by Matlosa et al. (2006:167), in some countries, the ability of local authorities to derive revenue from their own local sources, such as property taxes and services charges, is constrained by the central government for fear of eroding, political support among the urban population.

According to Matlosa et al. (2006:166), consequently, fiscal dependency on central government grants is a common feature of local government in most African countries, which casts doubt on the viability of decentralisation initiatives. Such dependency on central government seriously limits local government autonomy. Cameron (1999:47) states that local democracy can be meaningless, unless local authorities have sufficient finance to perform their functions. The World Bank (in Cameron, 1999:47) agrees that central or regional grants can perpetuate the dependence of local authorities on upper-

tier governments, with a possible loss of autonomy, transparency and efficiency of lower-tier governments.

Matlosa et al. (2006:166) reiterated that, until such time as local authorities become capable of raising significant amounts of their own revenue as envisaged in most of the decentralisation policies of the government in the region, the mentality of “he who pays the piper, calls the tune” is bound to continue.

5.3.6 Lack of Human Resource Capacity

The lack of Human Resource Management in the Councils in general poses a great challenge to local government in Lesotho. According to Reddy (1996:114), Human Resource Management is an essential activity of local government administration. Moreover, it is an important and necessary function to attain the objectives of a local authority. Public institutions, including local authorities, require human resources to, amongst others, implement policy, manage service delivery and render services. Therefore, in local government, Human Resource Management refers broadly to the provisioning, utilisation, training, development and maintenance of human resources.

According to the APRM Country Review Report No. 12 (2010:12), the local Councils continue to experience inadequate human resource capacity. They have scant local revenue and are largely dependent on central government grants. Therefore, they are constrained in effectively discharging their functions and delivering public services. According to Matlosa et al. (2006:178), a centralised system which seeks to reach to countrywide needs requires a high degree of institutional capacity and great sophistication of information gathering, finance, accounts and audit systems. Kapa (2010:9) reiterates that local government structures should also have the capacity, in terms of requisite financial and human resources as well as supporting infrastructure, to carry out their mandate.

Reddy (1999:110) acknowledges that, as far as human resources are concerned, the major problem is the lack of suitably qualified and experienced staff. The abolition of local government almost thirty years ago means that, within the current body of public servants, there are very few who have relevant experience of the realities of local government management. As Shale and Moholisa (2010:35) noted, equally important is the question of staffing where, even before local authorities are established, government has to know the number of required human resources and the type of skills needed to perform specific functions. Related to this is capacity building in order to ensure the necessary management and technical skills at local government.

Matlosa et al. (2006:166) also noted that management capacity deficit is a major hindrance to effective decentralisation. There is insufficient human resources capacity to cope with the multiplicity of de-concentrated and devolved functions that have to be carried out, more or less simultaneously, by the decentralised democratic local governance structures. The scarcity of qualified staff, especially the shortage of qualified professional and technical staff, has been a major constraint for most of the local authorities in the region.

Reddy (1999:110) adds that, as far as human resources are concerned, the major problem is the lack of suitably qualified and experienced staff. This issue cannot be solved in a short term, since the local Councils cannot attract competent staff with high skills as a result of a lack of good remuneration. Smaller local units may be unable to attract sufficiently competent officials, because they can pay only comparatively low salaries (Cameron, 1999:49).

According to the UNDP (2007:3), the Councils have no precedent to follow, no clearly spelt out procedures for the performance of their duties, and little or no understanding of how the government machinery, of which they will now be an integral part, functions. Financial and administrative capacity deficits should therefore be seen as a common, ongoing problem for most local authorities in Lesotho.

5.3.7 Increasing rate of HIV and Aids in Lesotho

It has been emphasised that one of the local authorities' main objectives is to develop and promote democracy in local areas. As stated by Ismail, Bayat and Meyer (1997:3), local government exists for two reasons, namely service-rendering, which is a utilitarian consideration, and democracy, which is a civic consideration. The high rate of the HIV and AIDS pandemic in Lesotho, more especially in rural areas, poses a great challenge to the local authorities. As stated by the APRM Country Review Report No. 12 (2010:43), other challenges that have impacted on democracy and good political governance arise from the broader context of Lesotho's existence, including the country's economic vulnerability, poverty, unemployment, and the prevalence of the Human Immunodeficiency virus (HIV) and the Acquired Immune Deficiency Syndrome (AIDS). Thus, the high prevalence of HIV and AIDS has the potential of further reducing the effectiveness of public service delivery in Lesotho. When the citizens are ill and living in poverty, they will not be able to pay for the services rendered to them. Ismail et al. (1997:4) acknowledge that service rendering functions are largely dependent on the ability of the local residents to pay for the services they receive.

It is increasingly clear that HIV/AIDS is not merely a health issue and that prevention efforts aimed at behaviour change is insufficient to stem the spread of HIV. Instead, the developmental aspects and implications of HIV/AIDS are becoming even more evident. Whereas, on the one hand, HIV/AIDS can be viewed as a short-term emergency, requiring immediate and targeted action, it also has long-term development repercussions that warrant a more comprehensive conceptualisation of HIV/AIDS that is subsequently translated into multifaceted strategies and interventions (Van Donk et al., 2008:245).

HIV/AIDS is now well understood to have a causal-effect relationship with poverty, and is now also recognised as a major threat to governance. The disease is increasingly challenging the capacity of people to avail themselves of, and to participate in, various processes. This, together with the impact on the functioning of institutions at all levels as

a result of absenteeism, death and low morale, has important implications for governance and democracy. In addition, HIV/AIDS is already having a major effect on the capacity of civil society institutions (Matlosa et al., 2006:97).

With specific reference to South Africa, Van Donk et al. (2008:244) observe that municipal service provision is directly affected by HIV/AIDS, as service delivery demands grow in quantity and complexity and as organisational capability to respond to these demands is likely to be eroded from within, as a result of the internal impacts of HIV/AIDS on human resources, organisational productivity and municipal finances. At the same time, affected households' ability to pay for municipal services (including rates and taxes) is eroded and their need for financial support (e.g. in the form of rebates and subsidised service provision) increases, which further challenges the financial stability of municipalities.

Since the first AIDS case in the country was reported in 1986, the adult HIV prevalence rate has risen from around 4% in 1993 to 25% in 2004. This makes Lesotho the country with the third highest HIV prevalence rate in the world, and the poorest of the three. By implication, one in every three Basotho's aged 15-49 is now infected with HIV (UNDP 2007:2).

5.3.8 Poor stakeholder management

The essential function of government is to uphold the rights of its citizens. The government's role is enhanced by formal and non-formal institutions of society. These are made up of state-created structures and of non-governmental organisations (NGO's), including civic groups, other community-based organisations and private interest groups with social responsibility programmes. Organisations falling outside governmental structures may be called organs of civil society. The relationship between government and civil society is the strongest at local government level. This is because organisations at the local level articulate an immediacy of community needs (Reddy, 1996:253).

Councillors are faced with the challenge of maintaining good stakeholder management. There are now more stakeholders to current local governance than before. Presently, the elected officials need to work and consult with other stakeholders who are operating within local communities, such as environmentalists, lobby groups, Traditional Leaders, religious groups, non-governmental organisations (NGO's), donor agencies, line ministries and political parties with different ideologies.

According to Van der Waldt et al. (2007:88), Councillors, in performing their roles, should consult with communities, officials, local businesses, community-based organisations, residents and other role players. They should also consider involving other organisations in service delivery, especially in cases where the Council itself does not have the money or expertise to provide services.

5.3.8.1 Absence of pressure groups

According to Craythorne (2006:408), pressure groups can have an effect on planning and decision-making, because it is the means by which a group of people with a particular interest (from nesting birds to new rating systems) band together so as to give strength to, and obtain a hearing for, their views. Pressure groups can be a potent force in municipal politics, because they are persistent and, if colourful enough, gain the attention and sympathy of the press. They can also be idiosyncratic and somewhat crazy. They have value in that they draw attention to a particular need or situation, and they may make demands on resources that may not be related to real needs, leading to the administrators becoming frustrated and hostile.

Pressure groups in Lesotho became more effective during the construction of the Lesotho Highlands Water Project in the late 1980's. They have now been gaining momentum ever since, and the citizens are making use of them more often to pursue their interests.

5.3.8.2 Non-governmental Organisations (NGO's)

According to Reddy (1996:254), the term NGO embraces a variety of organisational forms and activities, ranging from small, informal local initiatives to more formalised structures; their composition and goals varying from, for example, a radical rural peasant organisation to a conservative cultural women's movement. NGO's are voluntary, non-profit organisations that function independently from the state apparatus. Reddy (1997:254) observes that, in the broadest sense, NGO's are non-profit groups outside of government, organised by communities or individuals to respond to basic needs that are not being met by either the government or the market. Some produce goods; others deliver services; and some of the largest do a combination of both. The groups are either formed at the neighbourhood level, by and for the community, or at a regional level where they have intermediary functions.

Van der Waldt et al. (2007:90) describe NGO's as non-profit making, non-membership intermediary organisations that are independent of the state and undertake a range of activities to realise development objectives. These activities include:

- Public policy research;
- Policy dialogue support and facilitation;
- Rights-based and interest groups advocacy;
- Capacity building in the form of information dissemination;
- Training and support; and
- The facilitation of social service delivery and direct delivery.

Reddy (1999:102) acknowledges that the districts are also characterised by the presence of a number of non-governmental organisations (NGO's) and community-based organisations (CBO's). They often play significant roles in the provisioning of services and in facilitating local participation in ways that can have implications for local government. NGO's have often been viewed as vital for democracy, because of their

strong support at grassroots level and their capacity for the development and empowerment of the poor (Reddy, 1996:257).

According to Van der Waldt et al. (2007:90), CBO's are formalised representative structures that champion the interests of their members. Their roles are defined in relation to a specific geographical area within which their members reside. In terms of this broad description, "stokvel" associations, cultural associations, sports organisations, and religious structures are all examples of CBO's.

Matlosa et al. (2006:169), acknowledges that NGO's and CBO's are normally seen to be pivotal in the provision of participatory and responsive development. It is argued that NGO's and CBO's should work closely with local government and not compete with them or replace them. Thus, NGO's and CBO's are expected to play a critical role in democratic decentralisation by providing services, lobbying with government to provide greater services and by making people aware of their rights. According to Craythorne (2006:344), interested voters and NGO's have the right and duty of scrutinising financial statements in order to check on the financial health of their municipality and the financial management of their municipal Councillors. A warning sign that things are going wrong is if there is a serious delay in the preparation and publication of financial statements.

According to Reddy (1999:185), one of the pre-conditions for successful decentralisation is the possibility of an advisory committee in each region in which community leaders, Traditional Leaders, representatives of line ministries and NGO's are represented. However, Matlosa et al. (2006:169) observed that local authorities are reluctant to embrace and engage civil society, NGO's and CBO's and to exercise principles of participatory governance. This robs governments of valuable opportunities that could reinvigorate their development. However, Reddy (1996:257) argues that NGO's have often been viewed as vital for democracy, because of their strong support at grassroots level and their capacity for the development and empowerment of the poor. As in the case of Lesotho, most donors have been giving more funds to NGO's than to government.

5.3.9 Uneducated Councillors

Governing has become increasingly complex, and as a result Councillors are supposed to be knowledgeable enough to counter the complex challenges. Therefore, learning to govern efficiently, ethically and wisely requires considerably more time, effort and education than ever before. Van Niekerk et al. (2001:253) observe that public institutions are increasingly functioning within a complex and rapidly changing environment. It is for this reason that governments need to have flexibility to meet the challenges they are faced with.

As put forward by the APRM Country Review Report No. 12 (2010:125), stakeholders at district level expressed concern about the election of uneducated Councillors who are not able to deliver. Government should therefore set rules about minimum educational qualifications for candidates who want to serve as Councillors in Lesotho. According to Kapa (2010:9), the elected Councillors and administrative staff must be equipped with appropriate skills through training, so that they are able to meet the challenges relating to the exercise of power in their respective communities.

5.4 CONCLUSION

In this chapter, the challenges faced by local authorities in Lesotho and the way in which those challenges might affect the local authorities in their endeavour of playing a developmental role and in offering effective service delivery to local communities, have been indicated. As discussed earlier, the current local authorities are operating from scratch, as there was no base or foundation to build on, since Councils have no precedent to follow.

The role of elected officials is clearly specified in Schedule 1 and Schedule 2 of Act 6 of 1997. The issue of financial constraints, a lack of competent human resources and a small tax base for the Councils to collect revenue still poses a challenge to the new local authorities' ability to implement the required functions.

Several authors have agreed that local authorities, without their own source of revenue, compromise their autonomy. As long as local authorities are still financially attached to the central governments, they will be controlled by central governments. One would suggest that it is high time that the locally collected revenue should be used locally to improve the lives of the local people. This will make people pay for the services rendered and will also enable them to have trust in local authorities.

More challenging issues are the lack of skilled personnel, the infrastructure that is still inadequate and the fact that most of the elected Councillors have not been to a high school level. The lack in financial capacity and the issue of depending mostly on grants from the central government are also a major concern, since the Councils cannot generate their own sustainable revenue. This has become a great constraint to local authorities, therefore compromising their autonomy to those with financial muscle.

The importance of cooperation of all the stakeholders in local governance can minimise most of the challenges, as each party will be aware of its role and boundaries; hence the harmonisation of laws, which is a very important issue, needs to be handled with care. The issue of good stakeholder management can also enhance the effective participation of civil society in local governance in Lesotho. However, for local authorities to be a success, it is crucial that central government should have a political will to fully implement decentralisation and the devolution of powers, with the necessary resources to local authorities. This will strengthen the local authorities' capacity and enable them to achieve their mandate effectively.

CHAPTER 6

RESULTS AND DISCUSSION

6.1 INTRODUCTION

This penultimate chapter presents and discusses the results of the study, and is aimed at addressing the study objectives. The results are presented under two main sections. The first section (6.2) deals with demographic data, whilst the second section (6.3) focuses on data related to the research objectives.

At this juncture, it is considered necessary to recapitulate the objectives of the study in order to properly place the results into context.

6.1.1 Objectives of the study

The main objective of this study was to analyze the roles of Traditional Leaders (Chiefs) in Lesotho under the current local governance system, by addressing the ensuing secondary objectives. This main objective was demarcated into the following sub-objectives:

The first sub-objective was to determine the roles assigned to Traditional Leaders in Lesotho's current local government system in terms of relevant legislation. This objective was to be answered through an examination of relevant legislation; in other words, through document analysis. The second sub-objective was to determine citizens' understanding of local governance in Lesotho. Sections of the questionnaire required elected officials, Chiefs and the electorate to indicate their level of understanding of two key legislations, namely the Local Government Act, 1997 (Act 6 of 1997) and the Chieftainship Act, 1968 (Act 22 of 1968) that govern local governance in Lesotho. The third sub-objective sought to determine the perceptions of citizens regarding the role of Traditional Leaders in the current local governance system in Lesotho. To achieve this objective, elected officials, Chiefs and the electorate were asked to answer two key

questions related to authoritative land usage and fine collection on livestock that trespass grazing land. The fourth sub-objective was aimed at finding out how collegial the relationship between elected officials and Traditional Leaders in the current local governance system in Lesotho is, while the fifth sub-objective was to determine citizens' perceptions regarding local government service delivery since 2005. The last (sixth) sub-objective sought to suggest ways of enhancing the contribution of the institution of Traditional Leadership to effective local governance in Lesotho. This would be done in the next chapter on conclusions and recommendations, based on scrutiny of the findings.

6.2 DEMOGRAPHIC DATA

Table 6.1: Demographic variables by group

Group	Variable	Classification	Percentage	
Chiefs	Education	Primary	68.70	
		Secondary	31.30	
	Length of time as Chief	Under 5 years	10.84	
		Above 5 years	12.05	
		More than 10 years	77.11	
Councillors	Political Affiliation	Independent	10.26	
		Represents a political party	89.74	
	Education	Primary	47.44	
		Secondary	50.00	
		Tertiary	2.56	
	Electorate	Age	Below 25 Years	18.99
			26-35 years	25.32
			36-40 years	30.38
			Above 40 years	25.32
Education		Primary	26.58	
		High school	31.65	
		Tertiary	41.77	

Table 6.1 indicates that most (68,7%) of the Chiefs interviewed have gone through primary school, while (31.30%) have been through secondary school. None of them have tertiary level education. Table 6.1 also indicates that most (77.11%) of the Chiefs have been Chief for more than 10 years, which implies they have a wealth of experience and perhaps knowledge of Act 22 of 1968. Chiefs who have been in service for less than five (5) years make up only 10.84%, while those who have been in service for more than five (5) years, but less than 10 years, make up 12.05%.

Local government in Lesotho was introduced in 2005, hence the discussion with Chiefs indicated that Chiefs who have been in service for less than (10) years have a better understanding of how local government operates and what is expected of them than those who have been in service for more than 10 years. The reason might be older Chiefs' resistance to change, because they view local government as a threat, while the younger Chiefs are flexible, eager to learn and to adapt to new things.

Table 6.1 indicates that most (89.74%) of the Councillors are affiliated to political parties, while a very small percentage (10.26%) are independent. During the data collection, those representing political parties made it clear that they take the mandate from their political parties more than the electorate. The independent Councillors pointed out that the Council resolutions for developmental projects are usually voted for. As a result, their electoral divisions are always considered at a later stage, only after political representatives have satisfied their electoral divisions.

6.3 DATA RELATED TO RESEARCH OBJECTIVES

6.3.1 Roles assigned to Chiefs by legislation

The powers of Chiefs are defined in Sections 6 and 7 of Act 22 of 1968 (Chieftainship Act). They include, among others, supporting, aiding and maintaining the King and his government; serving and promoting the welfare of people in their areas of authority;

maintaining public order and safety; and preventing crime and the administration of justice.

Section 6(1) of Act 22 of 1968 specifies that the duties of Chiefs in Lesotho include:

- Supporting, acting and maintaining the King in his Government of Lesotho according to the Constitution and other laws of Lesotho, and subject to their authority and direction;
- To serve the people in the area of his authority;
- To promote the welfare and lawful interests of people within his jurisdiction;
- To maintain public safety and public order;
- To perform all lawful duties of his office impartially, efficiently and quickly according to the law;

Section 7(1) of Act 22 of 1968 further empowers Chiefs to other lawful functions of Chiefs that are not stipulated in the aforementioned Act, including:

- Adjudicating local disputes;
- Calling of public gatherings (*lipitso*) for the dispersal of public information;
- Identifying and registering livestock;
- Keeping records of birth, death and marriages of people within their areas of jurisdiction;
- Writing letters of reference for people living in their areas of jurisdiction – these include letters of reference in the passport application process and certain banking services;
- Village protocol also demands that all visitors, particularly those who are there on business, report themselves to the Chief of the local area or the village and alert them of their presence and the nature of their activities.

6.3.2 Data generated from the questionnaire

6.3.2.1 Citizen's understanding of local governance

Knowledge of the two main laws that direct the conduct of local government administration in Lesotho was considered to be a good pointer to how the parties involved view and understand their roles. The summary of the questionnaire items that address the knowledge of the two main Acts (Local Government Act, 1997 (Act 6 of 1997) and the Chieftainship Act, 1968 (Act 22 of 1968) that govern local government are presented in this section.

Table 6.2: Understanding of local governance laws by citizens

ELECTORATE							
ITEMS		ACTUAL RATING				MODIFIED RATING	
		Poor	Fair	Good	Very Good	<i>Insufficient</i>	<i>Sufficient</i>
Familiarity with Act 6 of 1997	N	33	23	17	6	71%	29%
	%	41.77%	29.11%	21.52%	7.59%		
Familiarity with Act 22 of 1968	N	47	16	10	6	80%	20%
	%	59.49%	20.25%	12.66%	7.59%		
CHIEFS							
ITEMS		ACTUAL RATING				MODIFIED RATING	
		Poor	Fair	Good	Very Good	<i>Insufficient</i>	<i>Sufficient</i>
Familiarity with the Local Government Act 6 of 1997	N	50	27	6	0	92.8%	7.2%
	%	60.24%	32.53%	7.23%	0.00%		
Familiarity with the Chieftainship Act 22 of 1968	N	0	1	48	34	1.2%	98.8%
	%	0.00%	1.20%	57.83%	40.96%		

ELECTED COUNCILLORS							
ITEMS		ACTUAL RATING				MODIFIED RATING	
		Poor	Fair	Good	Very Good	<i>Insufficient</i>	<i>Sufficient</i>
Familiarity with Act 6 of 1997	N	0	15	45	18	19.2%	80.8%
	%	0.00%	19.23%	57.69%	23.08%		
Familiarity with Act 22 of 1968	N	43	31	4	0	94.9%	5.1%
	%	55.13%	39.74%	5.13%	0.00%		

The rating scale ranged from poor, fair, good and very good. For the purpose of analysis, the four point ratings were combined into a modified scale for interpretation. Fair and poor were combined into INSUFFICIENT knowledge, whilst good and very good were transformed into SUFFICIENT knowledge. Table 6.2 captures the ratings of understanding as perceived by the electorate, Chiefs and elected Councillors.

As can be seen from Table 6.2, the majority (71% for Act 6 of 1997 and 80% for Act 22 of 1968) of citizens lack understanding of the two basic laws governing local governance in Lesotho. One wonders how the electorate are to perform their roles fully if the majority do not understand the underlying basic laws. This situation is certainly not good and points to the need to conduct mass education programs for citizens on the key laws governing local governance.

The electorate's understanding of local government in Lesotho may be generally poor, but it appeared during discussions that the ones with a higher level of education have a better understanding than those with a lower level of education.

For Chiefs, Table 6.2 indicates that whilst the overwhelming majority (92.8%) of them reported not having sufficient understanding of Act 6 of 1997, an equally overwhelming

majority (98.8%) reported that they have sufficient understanding of Act 22 of 1968. This finding is not at all surprising. Firstly, given that these are Chiefs, it would have been very surprising had they lacked sufficient understanding of the basic law that govern their institution. Secondly, for Chiefs to lack much understanding of Act 6 of 1997 is worrying, because like the electorate, one wonders how Chiefs are to perform their roles fully and in accordance with legislation if they do not fully comprehend the underlying basic law. So, such as in the case of the electorate, this situation points to the need to include Chiefs in educational programmes of citizens on Act 6 of 1997 and any other related law governing local governance in Lesotho.

Concerning the elected Councillors, Table 6.2 indicates that a very high proportion (80.8%) of the Councillors reported having sufficient understanding of Act 6 of 1997. On the other hand, an overwhelming majority (94.9%) reported that they have insufficient understanding of Act 22 of 1968. A clear understanding of Act 6 of 1997 is very welcome, but what is certainly disturbing is that the majority (80.8%) of the Councillors say they do not have sufficient knowledge of Act 22 of 1968, which invariably has a serious implication for local governance in Lesotho, as Act 22 of 1968 sets out the functions of Chiefs. Therefore, like the electorate, Councillors need training on Act 22 of 1968 as well, so that they can fully understand the role of Chiefs in local governance in Lesotho.

An analysis of variance tests were conducted to test if there are any significant differences in the level of knowledge of the law between the Chiefs, the electorate and the Councillors. The results are presented below. The results in Table 6.3 indicate that the knowledge of the acts of law under which local governance operates, differs among the three groups being studied.

As far as familiarity with Act 6 of 1997 is concerned, Councillors (mean score = 3.04) are better informed than the electorate (mean score = 1.95) and the Chiefs (mean score = 1.47). The three groups are all significantly different, as shown by the ANOVA test

results ($F = 87.674$, $dh1 = 2$, $df2 = 237$, $p\text{-value} = 0.000$) and the Tukey tests (all three groups have different subscripts).

Table 6.3: Tests for the understanding of the law governing local governance

		N	Mean	Std. Deviation	ANOVA Tests	
					F (df1, df2)	p-value
Familiarity with Act 6 of 1997	Electorate	79	1.95 ^b	0.973		
	Chiefs	83	1.47 ^a	0.631		
	Councillors	78	3.04 ^c	0.654	87.674(2,237)	0.000*
	Overall	240	2.14	1.007		
Familiarity with Act 22 of 1968	Electorate	79	1.68 ^a	0.968		
	Chiefs	83	3.40 ^b	0.517	172.489(2,237)	0.000*
	Councillors	78	1.50 ^a	0.598		
	Overall	240	2.22	1.122		

*significant at 5% level

^{abc} Means with different superscripts are significantly different (Tukey test results).

The tables of familiarity are turned when it comes to the knowledge of Act 22 of 1968. Here the Chiefs (mean score = 3.40) are more knowledgeable than the electorate (mean score = 1.68) and the Councillors (mean score = 1.50). The ANOVA test confirms this significance ($F = 172.489$, $dh1 = 2$, $df2 = 237$, $p\text{-value} = 0.000$). The electorate and the Councillors are in fact not significantly different in their little knowledge of Act 22 of 1968 (Tukey tests give them the same superscript of ^a).

6.3.2.2 Perceptions of citizens regarding the role of Chiefs in the current local governance system in Lesotho

This study is based on three questionnaires, one administered on the electorate, one on the Councillors and the third administered on Chiefs. The analysis gives summaries of the roles of Traditional Leaders from three points of view, namely: the Chiefs' points of view, the political representatives' points of view and finally the points of view of the

electorate. Table 6.4 provides a summary of the viewpoints of Chiefs, the political representatives and the electorate.

As can be seen from Table 6.4, all Chiefs report that they are actively involved in development projects in their areas of jurisdiction. Interestingly, the majority (79% and 87%) of the electorate and Councillors respectively see Chiefs as indispensable to the successful implementation of programmes in their areas of jurisdiction. Given that a universal aim of local governance is to accelerate development through local participation, this finding should be a source of joy for policy makers in Lesotho, where the institution of Chiefs have been held in high esteem and can hence be used as a rallying point for community support for local governance and local development.

Table 6.4: Perceptions about the role of Traditional Leaders (Chiefs)

ELECTORATES' VIEWS					
Views on the success of development programmes without Chiefs' active involvement		Yes		No	
	N	17		62	
	%	21.52%		78.48%	
Main person to be consulted when there is a need for a development project		Councillors	Chief	Both	
	N	30	10	39	
	%	37.97%	12.66%	49.37%	
Satisfaction with the role of Chiefs in the current local governance structure		Very dissatisfied	Dis-satisfied	Satisfied	Very satisfied
	N	15	40	17	7
	%	18.99%	50.63%	21.52%	8.86%
COUNCILLORS' VIEWS					
Views on the success of development programmes		Yes		No	
	N	10		68	

without the active involvement of Chiefs	%	12.82%	87.18%	
Main person to allocate land		Councillors	Chiefs	Both
	N	73	1	4
	%	92.41%	1.27%	25.60%
Main person to collect fines for animals that have trespassed on grazing land		Councillors	Chiefs	Both
	N	74	0	4
	%	94.87%	0.00%	5.23%
CHIEFS' VIEWS				
Active involvement in development activities		Yes	No	
	N	83	0	
	%	100.00%	0.00%	
Main person to allocate land		Councillors	Chiefs	Both
	N	2	1	80
	%	2.41%	1.20%	96.39%
Main person to collect fines for animals that have trespassed grazing land		Councillors	Chiefs	Both
	N	0	44	39
	%	0.00%	53.01	46.99%

Another interesting finding is that, according to Table 6.4, the greatest proportion (approximately 49%) of the electorate sees the role of leading development as a shared responsibility between local Chiefs and the elected officials. This finding again goes to confirm the important role of Chiefs in local governance in Lesotho. This question was not posed to Chiefs and elected Councillors, so as to obtain an objective view.

Anyone familiar with the Basotho way of life will agree that land ownership/usage and livestock grazing control are two issues that have always been dear to the hearts of the Basotho. It is not strange that these two issues should be intertwined with the Basotho way of life for at least two reasons. Firstly, animal husbandry happens to be the main occupation of rural people. Secondly, geographically, there is not much grazing land

available in a largely mountainous and rocky country. Thus, trespassing on grazing land should always be expected to be a serious issue for local government. These two issues have always been handled by Chiefs. Again, anyone familiar with the Basotho way of life will agree that Chiefs have, prior to local governance, been institutionalised and have performed this task with aplomb. Part of the questionnaire assessed elected officials and Chiefs' views regarding the role of Chiefs in handling these two issues under the current local governance system.

Table 6.4 indicates that 92% of the elected officials believe they (the elected officials) should allocate land and 95% think they (the elected officials) should be responsible for collecting fines for grazing trespassing. On the other hand, the majority (96%) of Chiefs believe in sharing roles in land allocation and 53% of them believe only Chiefs should handle grazing trespass fines; while 47% believe in sharing the responsibility for grazing trespass fines. The data in Table 6.4 compels one to describe elected officials as somewhat self-centred, whilst Chiefs can conveniently be described as willing to share roles in handling land and grazing issues.

6.3.2.3 Collegiality of the relationship among elected officials and Chiefs

Firstly, the results in Table 6.5 indicate that the relationship between Chiefs and Councillors is mainly complementary as far as the electorate is concerned (78.5% say it is complementary). However, the electorate feel that, in their day-to-day interaction, the relationship between Chiefs and Councillors is poor, as indicated by only 10.1% who say it is good and 63.3% who said it is poor, with the other 26.6% saying that it is fair. The Councillors themselves are divided as to how they view their working relationship with Chiefs, as 52.6% (Table 6.5) said they have a positive working relationship; while 47.4% says the working relationship is negative.

Table 6.5: Relationship between Chiefs and Councillors

ELECTORATE'S VIEWS								
Relationship between local Chiefs and Councillors		Poor	Fair	Good	Very Good	Not collegial	Collegial	
	N	50	21	8	0	89.1%	10.1%	
	%	63.3%	26.6%	10.1%	0%			
Local authorities as a threat or as complementary to the Chieftainship institution		Complementary			Threat			
	N	62			17			
	%	78.5%			21.5%			
COUNCILLORS' VIEWS								
Working relationship with the Area Chief in the electoral division		Positive				Negative		
	N	41				37		
	%	51.9%				47.4%		
Level of cooperation from Area Chief		Poor	Fair	Good	Very Good	Poor	Good	
	N	31	35	11	1	84.6%	15.4	
	%	39.7%	44.9%	14.1%	1.3%			
CHIEFS' VIEWS								
Working relationship with the Councillor in your area		Poor		Fair	Good	Very Good	Poor	Good
	N	27		46	10	0	88%	12%
	%	32.53%		55.42%	12.05%	0.0%		

Local authorities as a threat or as complementary to the Chieftainship institution		Complementary	Threat
	N	67	16
	%	80.7%	19.3%

Table 6.6 below indicates how the level of education affects the Councillors' working relationship with their Chiefs. The percentages of those with a positive relationship with their Chief progressively increases with the level of education (37.8% for primary, 64.1% for secondary and 100% for tertiary education). The results in Table 6.4 also indicate that the education level of Councillors is a significant factor affecting a working relationship between them and their Chiefs (Chi-square=7.105, df = 2, p=0.029).

Table 6.6: Working relationship of Councillors with Chiefs by educational level

Level of education	Q11. How is your working relationship with the Area Chief in your electoral division?		% Positive	Chi-square	p-value
	Positive	Negative			
Primary	14	23	37.8%	7.105 (df = 2)	0.029*
Secondary	25	14	64.1%		
Tertiary	2	0	100.0%		
Total	41	37	52.6%		

The results in Table 6.7 indicate that the level of cooperation that Councillors get from Chiefs also increases with the level of education of the Councillor themselves (mean score for primary = 1.51, secondary = 1.97, tertiary = 2.50) and the ANOVA tests show that these levels of cooperation are significantly different (F = 5.238, df1 = 2, df2 = 75, p = 0.007). The frequency of interaction between Councillors and Chiefs is, however, not affected by the level of education of the Councillors (F = 2.392, df1 = 2, df2 = 75, p = 0.098).

Table 6.7: Relationship between Chiefs and Councillors by educational level

Relationship of Councillors with Chiefs	N	Mean	Std. Deviation	ANOVA Tests		
				F (df1, df2)	p-value	
Q12. How can you rate the level of cooperation that you get from your Area Chief?	Primary	37	1.51	0.651		
	Secondary	39	1.97	0.743		
	Tertiary	2	2.50	0.707	5.238 (2, 75)	0.007*
	Total	78	1.77	0.737		
Q13. How often do you interact with your Area Chief to discuss the electorate concerns?	Primary	37	2.00	0.882		
	Secondary	39	2.38	0.673	2.392 (2, 75)	0.098
	Tertiary	2	2.00	0.000		
	Total	78	2.19	0.790		

From the Chiefs' point of view, the relationship between them and the Councillors is complementary, as shown by 80.7% of the Chiefs saying so (Table 6.5). However, the Chiefs feel that the working relationship with Councillors is not good (only 12.05% said it is *good or very good*).

6.3.2.4 Service delivery at local government level in Lesotho since 2005

Table 6.8: Service delivery

Electorate's view on service delivery in the local Council since the introduction of local authorities in 2005.		V. Poor	Poor	Good	V. Good	POOR	GOOD
	N	36	32	11	0		
%	45.6%	40.5%	13.9%	0%			

Chiefs' view of service delivery in their local Council since the introduction of local authorities in 2005.		V. Poor	Poor	Good	V. Good	POOR	GOOD
	N	13	60	10	0		
	%	15.7%	72.3%	12.0%	0%		
Councillor's rating of service delivery since the introduction of local authorities in 2005.		V. Poor	Poor	Good	V. Good	POOR	GOOD
	N	13	60	10	0		
	%	15.7%	72.3%	12.0%	0%		
Councillors' view of the types of problems constraining service delivery.		Financial	Political	Legal	All three		
	N	31	3	2	42		
	%	39.7%	3.8%	2.6%	53.8%		

Table 6.8 indicates that, in general, the level of service delivery at local government level in Lesotho is not yet good. The majority of the electorate, Councillors and Chiefs all agree that service delivery is still poor. As Table 6.8 indicates, the majority (86.1%) of the electorate view service delivery by local government in Lesotho as poor. The same table shows that a large proportion (88%) of Chiefs view service delivery as poor. The interesting part in this table is that even the Councillors who are responsible for the developmental activities in their respective electoral division are also of the view that service delivery is poor. According to Table 6.8, 88% of Councillors, as opposed to 12%, are of the opinion that service delivery is poor.

The Councillors cited three constraints that hamper service delivery notably, namely financial, political and legal issues. Table 6.8 indicates that 53.8% of Councillors are of the opinion that all three factors affect their performance on service delivery, while

39.7% view financial constraint as the main issue that impacts negatively on service delivery. A small percentage (3.8%) of Councillors view political indifferences as the problem, and approximately 2.6% blame legal issues for poor service delivery. It is also interesting to note that Councillors do not blame their poor relationship with Chiefs as a contributor to poor service delivery.

6.4 CONCLUSION

This chapter has presented the results of the study. In terms of the roles of Chiefs as assigned by legislation, Act 22 of 1968 specifies a number of responsibilities, but it specifically empowers Chiefs to among others: adjudicate local disputes; identify and register livestock; keep records of the birth, death and marriages of people within their areas of jurisdiction and write letters of reference for people living in their areas of jurisdiction. The latter includes letters of reference in the passport application process and certain banking services.

Concerning an understanding of local governance using the two laws (Act 22 of 1968 and Act 6 of 1997) as a basis to gauge understanding of local governance, it is clear that there is a general lack of understanding of both legislations as far as the electorate are concerned. Whilst Chiefs have a good understanding of Act 22 of 1968, they do not have a good understanding of Act 6 of 1997. On the other hand, elected officials do not have a good understanding of Act 22 of 1968, but they do have a good understanding of Act 6 of 1997.

With regard to perceptions regarding the role of Chiefs in the current local government dispensation, Chiefs reported that: they are playing a leading role in development projects, and that they believe in shared responsibility in terms of land usage and cattle control. The electorate and elected Councillors also view Chiefs as indispensable to local government and development. However, whilst the electorate agree with Chiefs that land usage and animal control should be a shared responsibility between Chiefs and elected Councillors, the elected Councillors feel that responsibility rests only with

them (the elected Councillors). This is a pointer to role conflict as far as land usage and animal control is concerned.

It is clear from the results that the relationship between Chiefs and elected Councillors is not cordial, although all the parties agree on the complementarity of the roles of Chiefs and elected Councillors.

Finally, as far as service delivery is concerned, Chiefs, the electorate as well as elected Councillors are in agreement that service delivery is below par.

The next chapter presents the conclusions and recommendations.

CHAPTER 7

CONCLUSIONS AND RECOMMENDATIONS

7.1 INTRODUCTION

The findings of this study were presented and discussed in the previous chapter. Chapter 7 presents the conclusions based on the results. Recommendations are also made, where possible.

7.2 CONCLUSIONS BASED ON THE LITERATURE

The current local government system that came into being as a result of Act 6 of 1997 and 2005 and the local government elections are by far the best local government Lesotho has ever seen. The research has shown that local government has been tried in Lesotho in the past, and it changed with every government that came into power. There was no continuity; hence, each new government had to start afresh to create a workable policy on local government. It has been evident that one of the core causes of failure of local governance in Lesotho was that those who were in power saw it as a threat and competed with central government. This was because most local Councils were usually controlled by the opposition.

The central government has a great responsibility and duty in ensuring that local authorities work effectively to lead the country towards sustainable development. This can only be achieved by developing a clear policy on local government. However, the study has revealed that there is no policy on local government in Lesotho. It is therefore imperative that the Lesotho government develops a clear policy on local government. This will promote continuity and assist upcoming governments in carrying forward the policy without starting afresh each time a new government take power.

The study revealed that post-1993 local government in Lesotho still faces a lot of challenges that need to be addressed, since the Councils have started anew. There is a

lack of skilled personnel, the infrastructure is still inadequate and most of the Councillors have not been to a high school level. Also, the lack of financial resources apart from the grants is a major concern, since the Council cannot generate their own sustainable revenue.

It is also evident that, like in the past, the central government does not fully entrust the decentralised functions to the local authorities. They also impose their will against local authorities' resolutions and priorities. The local authorities usually comply with central government's demands over their own resolutions; not that they are in support of them, but merely because the central government is the main sponsor of local authorities, so failure to comply with them would mean punishment by withholding funds.

The study revealed that the Traditional Leaders' authority is deeply rooted in the custom and tradition of the people of Lesotho. The people want to protect their customs and traditions, and they see their Traditional Leaders as unifiers. However, as democratic values and ideals take firm hold, the authority of the Traditional Leaders seem to be overlooked, and some of the Traditional Leaders see this as a threat that will reduce their authority and power even further. It is evident from the study that the institution of Chieftainship is represented at all levels of Councils and, therefore, is part and parcel of the local government system, according to Section 4 of Act 6 of 1997, as amended in 2004.

7.3 CONCLUSIONS REGARDING THE OBJECTIVES

The first objective was to determine the roles assigned to Traditional Leaders in Lesotho's current local government system in terms of relevant legislation. This objective was to be answered through an examination of relevant legislation, which entailed document analysis. Through the analysis of Lesotho's legislations, it became clear that Act 22 of 1968 is the main instrument that specifies roles and responsibilities for Chiefs. Based on the evidence gathered from this legislation, it is concluded that the main roles of Chiefs are to: adjudicate local disputes; identify and register livestock;

keep records of the birth, death and marriages of people within their areas of jurisdiction and write letters of reference for people living in their areas of jurisdiction. These include letters of reference in the passport application process and certain banking services.

The second objective was to determine citizens' understanding of local governance. Using the two laws (Act 22 of 1968 and Act 6 of 1997) as a basis to gauge understanding of local governance, it is concluded that there is a general lack of understanding of both legislations as far as the electorate are concerned. Further, whilst Chiefs have a good understanding of Act 22 of 1968, they do not have a good understanding of Act 6 of 1997. On the other hand, elected officials do not have a good understanding of Act 22 of 1968, but they do have a good understanding of Act 6 of 1997. It is therefore concluded that citizens lack a good understanding of local governance in Lesotho.

The third objective sought to determine the perceptions of citizens regarding the role of Traditional Leaders in the current local governance system. The results indicated the following:

- Chiefs believe they are playing a leading role in development projects. They also believe in shared responsibility in terms of land usage and cattle control.
- The electorate and elected Councillors also view Chiefs as indispensable to local government and development. However, whilst the electorate agree with Chiefs that land usage and animal control should be a shared responsibility between the Chiefs and the elected Councillors, the elected Councillors feel that responsibility rests only with them (the elected Councillors).

It is therefore concluded that, although Act 22 of 1968 holds Chiefs responsible for land and animal use, there is role conflict between the Chiefs and the elected Councillors as far as land usage and animal control is concerned.

The fourth objective was aimed at finding out how collegial the relationship between elected officials and Traditional Leaders in the current local governance system in Lesotho is. It is clear from the results that the relationship between the Chiefs and the elected Councillors is not cordial, although all the parties agree on the complementarity of the roles of Chiefs and elected Councillors. Therefore, it is concluded that the relationship between the Chiefs and the elected Councillors is not cordial.

The fifth objective was to determine citizens' perceptions regarding local government service delivery since 2005. In this regard, the Chiefs, the electorate and the elected Councillors are in agreement that service delivery is below par. Therefore, it is concluded that service delivery by local government in Lesotho is poor.

The last (sixth) objective sought to suggest ways of enhancing the contribution of the institution of Traditional Leadership to effective local governance in Lesotho. This is done by means of recommendations based on scrutiny of the findings.

7.4 RECOMMENDATIONS

Policy and further research recommendations follow:

7.4.1 Policy recommendations

Firstly, this study revealed that the working relationship between Traditional Leaders and elected representatives is poor. The most notable cause of conflict is the non-congruence of Act 6 of 1997 and Act 22 of 1968. The two acts allow both the Councillors and Chiefs to administer land. However, it is evident that Traditional Leaders (Chiefs) can play a more meaningful role on all levels of government, especially on local government level. It is still possible that Traditional Leaders cooperate with the elected representatives on local government level, as it is actually on this level of government that rural communities would like to see the Traditional Leaders playing a more meaningful role when it comes to service delivery.

It is therefore important that Traditional Leaders should be flexible and take note that local government is now a reality and they have to work with it in all developmental activities in their communities. Their roles nowadays is no longer only the guarding of custom and tradition, but also to work hand in hand with elected representatives to seek ways of alleviating poverty and to create jobs in their communities. This new role would be more politically useful and nationally relevant than the role of protecting and preserving customs and traditions only. Most people in the rural areas still look to their Traditional Leaders (Chiefs) to provide leadership in the communities, and democratic values and ideals mean little to them.

The elected representatives should then make use of the experience that Traditional Leaders possess and the respect that they command among the citizens in local communities to drive developmental projects within communities.

It is evident from the study that the two institutions complement each other when it comes to effective service delivery and sustainable development.

Furthermore, the following specific recommendations are made:

- Policy on local government should be developed, and all stakeholders – the Chiefs, Councillors, public officers and the electorate- should be sensitised about it.
- Chiefs should also be given the training sessions that the Councillors are currently receiving;
- More frequent communication should be encouraged between Councils and Chiefs through regular meetings, with the aim of keeping Chiefs up to date with all developments that are being undertaken by Councils.
- The roles and responsibilities of Chiefs contained in Act 6 of 1997 and Act 22 of 1968 should be synchronised to eliminate the potential for role conflict.
- Chiefs should be an integral part of the planning and prioritisation of development in their respective areas.

- Act 22 of 1968 is currently outdated and needs to be re-drafted in order to accommodate the current developments, amongst others an inception of the current local authorities.
- The Ministry of Local Government should ensure that all local authorities have the necessary resources in order to perform their functions effectively.
- Central-local government relationships under the decentralisation system should be characterised by consultations, negotiations and total support from ministries to local government.
- All land functions, such as grazing control, land tenure, surveys and physical planning should be handled by a committee comprising of both Chiefs and Councillors.
- There should always be consistent feedback to the electorate on the functions of the Councils.
- The evaluation and monitoring on the performance of Councils should be a priority of the Ministry of Local Government.
- To foster harmonious working relationships in the local government, it is advisable that the Councillors, Chiefs and public officials should:
 - Cultivate a culture of trust;
 - Respect each other;
 - Be completely commitment to the service of the Council;
 - Work as a team;
 - Protect the image of their Council; and
 - Always evaluate the attitude of the people towards the way the Council delivers services.

7.4.2 Recommendations for further research

Since this study was limited to only one district, it gives a true picture of that district, whilst providing some indication of what may be happening countrywide. To acquire a more accurate national picture, it is recommended that a countrywide study be conducted. The study found a lack of understanding of two local governance

legislations, namely Act 6 of 1997 and Act 22 of 1968, amongst the three groups interviewed. It is possible that citizens may be lacking knowledge of other legislations relevant to local governance. It is therefore recommended that a study be conducted nationwide to verify to what extent citizens really do understand local governance and their roles in it.

7.5 CONCLUSION

This study has set out to assess perceptions regarding the roles of Traditional Leaders (Chiefs) in Lesotho under the current local governance system by addressing the ensuing secondary objectives. To address this problem, six objectives were set to guide the study. Through a system of literature review and empirical data collection and analysis, all the objectives were addressed.

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ANNEXURE A: QUESTIONNAIRE

CHIEFS			
Qn1	What is your level of education?		
	1. Primary	2. High school	3. Tertiary
Qn2	How long have you been a Chief?		
	1. Under 5 years	2. Above 5 years	3. More than 10 years
Qn3	How familiar are you with the Local Government Act 6 of 1997?		
	1. Poor	2. Fair	3. Good
Qn4	How familiar are you with the Chieftainship Act 22 of 1968?		
	1. Poor	2. Fair	3. Good
Qn5	Are you as a Chief being involved in development activities in your area?		
	1. Yes	2. No	
Qn6	Who is responsible for the allocation of land in your area?		
	1. Councillors	2. Chief	3. Both
Qn7	Who collects fines for animals that trespass grazing land?		
	1. Councillors	2. Chief	3. Both
Qn8	Is local government a threat or complementary to Chieftainship institution?		
	1. As a complementary	2. As a threat	
Qn9	How is your working relationship with the Councillor in your area?		
	1. Poor	2. Fair	3. Good
Qn10	Rate the service delivery in your council since 2005		
	1. Very Poor	2. Poor	3. Good

COUNCILLORS			
Qn1	Are you an independent Councillor or a representative of a political party?		
	1. Independent	2. Representative of a political party	
Qn2	What is your level of education?		
	1. Primary	2. High school	3. Tertiary
Qn3	Have you ever received any training to capacitate you as a Councillor?		
	1. Yes	2. No	
Qn4	How do you rate the relevance of the training to your daily Councillor activities?		
	1. Poor	2. Good	3. Excellent
Qn5	How familiar are you with the Local Government Act 6 of 1997?		
	2. Poor	2. Fair	3. Good
Qn6	How familiar are you with the Chieftainship Act 22 of 1968?		
	2. Poor	2. Fair	3. Good
Qn7	Who is responsible for the allocation of land in your area?		
	1. Councillors	2. Chief	3.Both
Qn8	Who is responsible for collecting fines for animals that trespassed grazing land?		
	1. Councillors	2. Chief	3.Both
Qn9	How is your working relationship with the area Chief in your electoral division?		
	1. Positive	2. Negative	
Qn10	How can you rate the level of cooperation that you get from your area Chief?		
	1. Poor	2. Fair	3. Good
Qn11	Please rate service delivery in your council since you became a Councillor		
	1. Poor	2. Fair	3. Good
Qn12	What type of problems do you face in your ward in terms of financial constraints, Political interference and Legal issues?		
	1.Financial	2. Political	3.Legal

ELECTORATES				
Qn1	What is your age?			
	1. Below 25	2. (26-35) years	3. (36-40) years	4. Above 40 years
Qn2	What is your level of education?			
	1. Primary	2. High school	3. Tertiary	
Qn3	How familiar are you with the Local Government Act 6 of 1997?			
	3. Poor	2. Fair	3. Good	4. Very Good
Qn4	How familiar are you with the Chieftainship Act 22 of 1968?			
	3. Poor	2. Fair	3. Good	4. Very Good
Qn5	Do you think development programmes can succeed without Chiefs?			
	3. Yes		4. No	
Qn6	If you need any development in your area, who do you consult?			
	1. Councillors	2. Chief	3.Both	
Qn7	How satisfied are you with the role of Chiefs in local governance today?			
	1. Not satisfied	2. Fairly satisfied	3. Satisfied	4. Very satisfied
Qn8	Who is responsible for the allocation of land in your area?			
	1. Councillors	2. Chief	3. Both	
Qn9	Who is responsible for collection of fines for animals that trespass grazing land?			
	1. Councillors	2. Chief	3.Both	
Qn10	Rate the relationship between your Chief and Councillor in your area?			
	1. Poor	2. Fair	3. Good	4. very good
Qn11	Do you see local authorities as threat or complementary to Chieftainship?			
	1. As a complementary		2. As a threat	
Qn12	Rate service delivery in your local authority since 2005			
	1. Poor	2. Fairly good	3. Good	4. Very good