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Traditional leadership and Local government in postmodernity – Overlaps, Incongruities, ambiguities or synergies

By

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Research question

- ***Is the interface of the interplay of local government, traditional leaders and society possible to restore transformation and community development in the areas where there are traditional leaders' presence?***

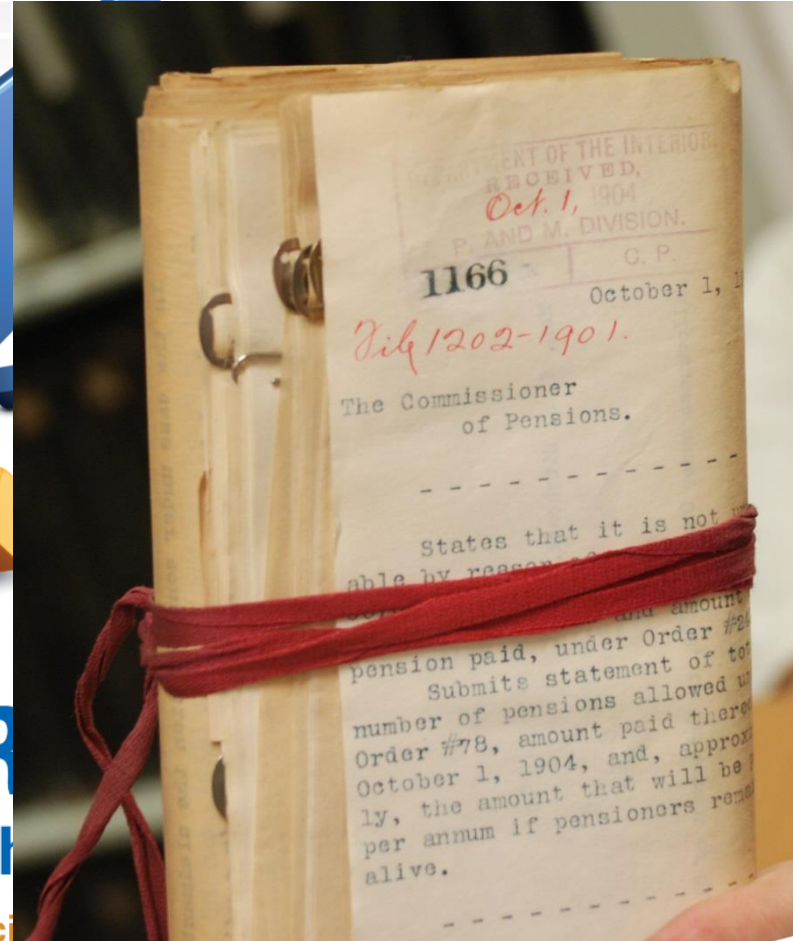
Methodology



Case Studies

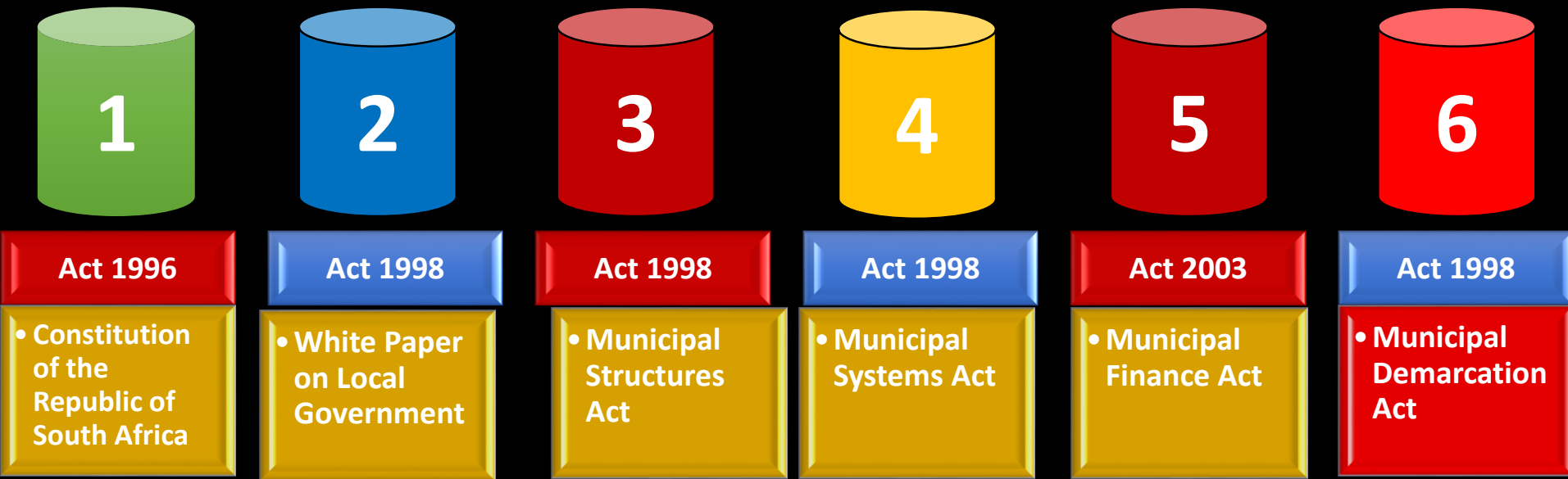


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- **Conducted Document analysis**

Legal Framework of Local Municipality and Traditional Leadership



Mandates of Local Municipality

Constitution Chapter 7

Municipal Systems Act 2000

Municipal Structures Act 1998

MPFA, 2003

Mandates and Claims by Traditional Leaders

- **Constitution Chapter 12**
- Customary Law
- Traditional Leadership and Governance Framework Act 2003



Background

- Over 24 years of democracy, the interplay of local government, TLs and society is problematic.
- It still fails to transform and translate into meaningful societal impact due to thunderstorms and contradictions among community leaders.
- Despite the law which recognises the existence of TLs, the relevance and sovereignty of traditional leaders is slowly eroded.
- For many years, the affairs and institutions of traditional leadership remained marginalized - in the periphery of development.
- TLs also have contributed to their own peril by demanding benefits and remuneration for their selfish livelihoods.
- Communities that live under traditional leadership did not have their development needs prioritized.



Problem

- Traditional leaders are recognised by the Constitution of the Republic of South Africa, 1996, but their roles are indistinct.
- ***Chapter 7 of the constitution is devoted in clarifying the role of local government but fails to clarify that of the traditional leadership.***
- Both traditional leaders and local government are meant to serve the communities
- ***Regrettably, the two, are besmirched by power struggles, court battles, residual loyalties and parallel administrations.***



Problem

- In some situations, the communities recognise more, the traditional leaders as the custodians of customs and traditions and others local government as custodians of service delivery.
- ***This begs the question whether traditional leadership and local government institutions are able to collectively and harmoniously work together to serve the interest of their communities in the postmodernism.***
- The study found that traditionality and modernity are two fundamental source of contradiction and tension between traditional leaders and local government institutions.

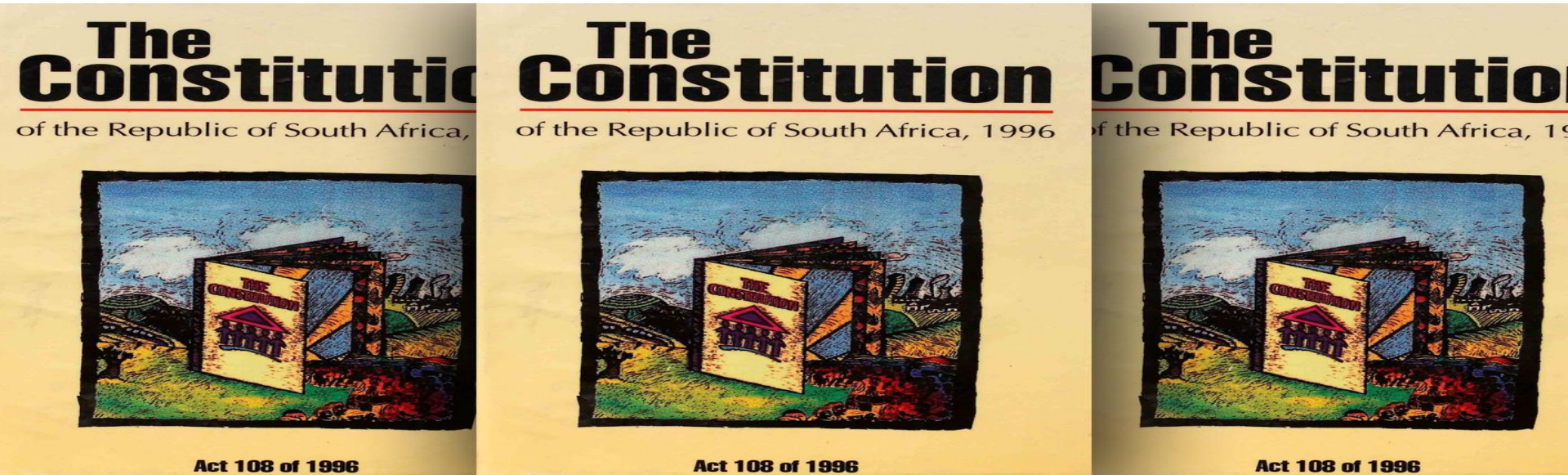


Rationale

- At this time and age, traditional leadership has evolved and straddled through colonial and post-apartheid rattles.
- In the post – 1994 democratic dispensation, it was intended that elected local government structures should extend to all areas including those under TLs.
- However, it was unbeknownst that this intention would bring tensions and unintended consequences.
- The relations between the ward councillors and TLs remained strained.
- A breed of TLs, ward councilors and CDWs need to be hybridized to avoid conflicts, but this is often difficult to resolve.



Paradox – constitutional concern



- Although the Constitution recognizes the importance of TLs, it fails to outline their exact role and function at local sphere of government.
- Section 212(1) of the Constitution states that ‘national legislation ***may*** provide for a role for traditional leadership as an institution at local level on matters affecting local communities.
- ***This clause by interpretation suggests that the role of TLs is an ambiguous constitutional afterthought.***



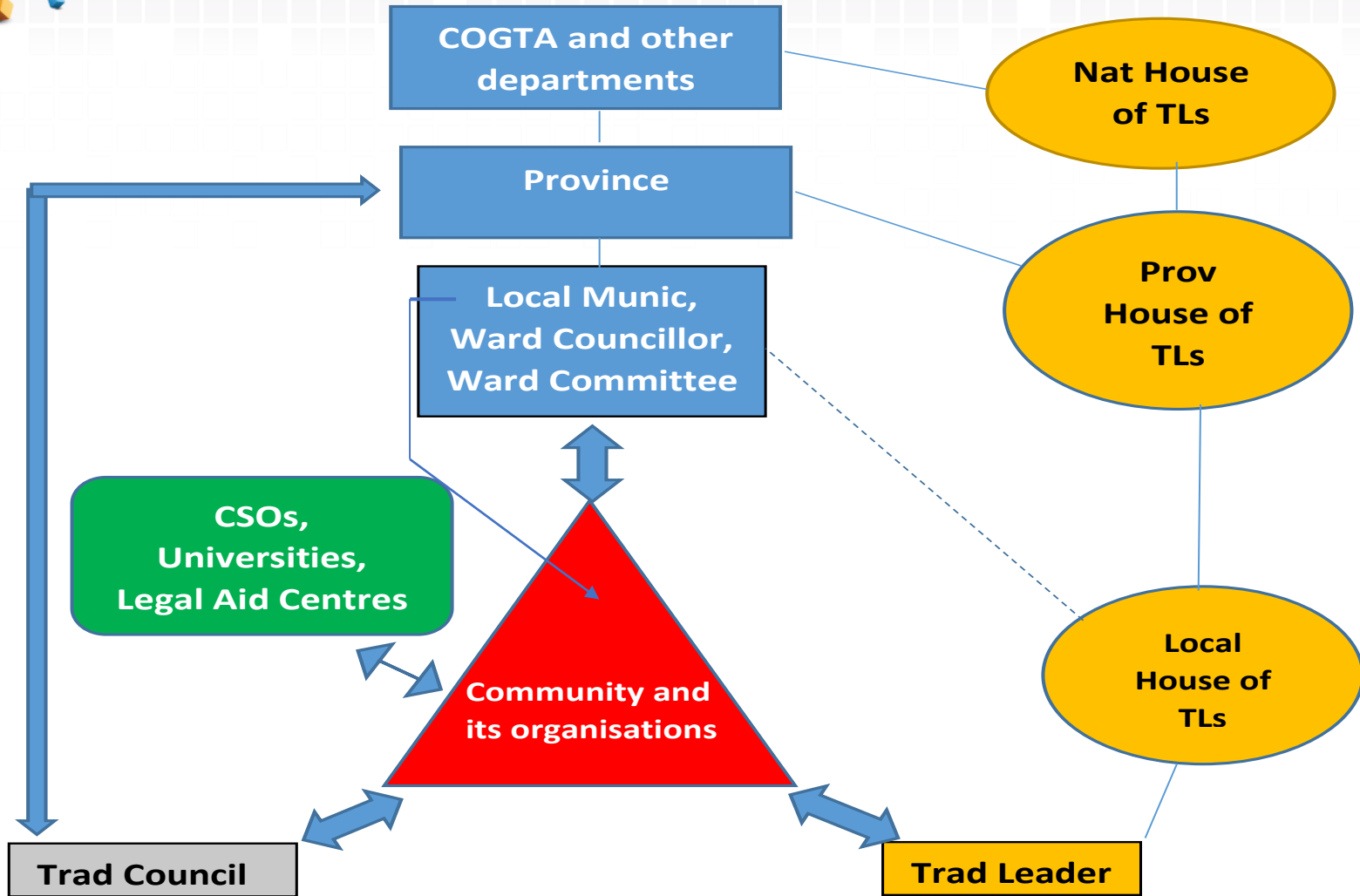
Paradox – roles

- ***TLs in municipalities have been fraught with ambiguities, chaos, tensions, confusions and contradictions given ongoing squabbles over what should be the role of TLs.***
- In rural areas and metros, municipalities have powers and functions that largely overlap with those that are supposed to be exercised by TLs.
- This boils down to whether TLs are still relevant in today's democratic society as their specific roles are not constitutionally pronounced.
- ***As the debate is commonly formulated, should TLs either be abolished as an anachronism in modern society or should be allowed a measure of independent existence without competing with democratically elected structures of government?***



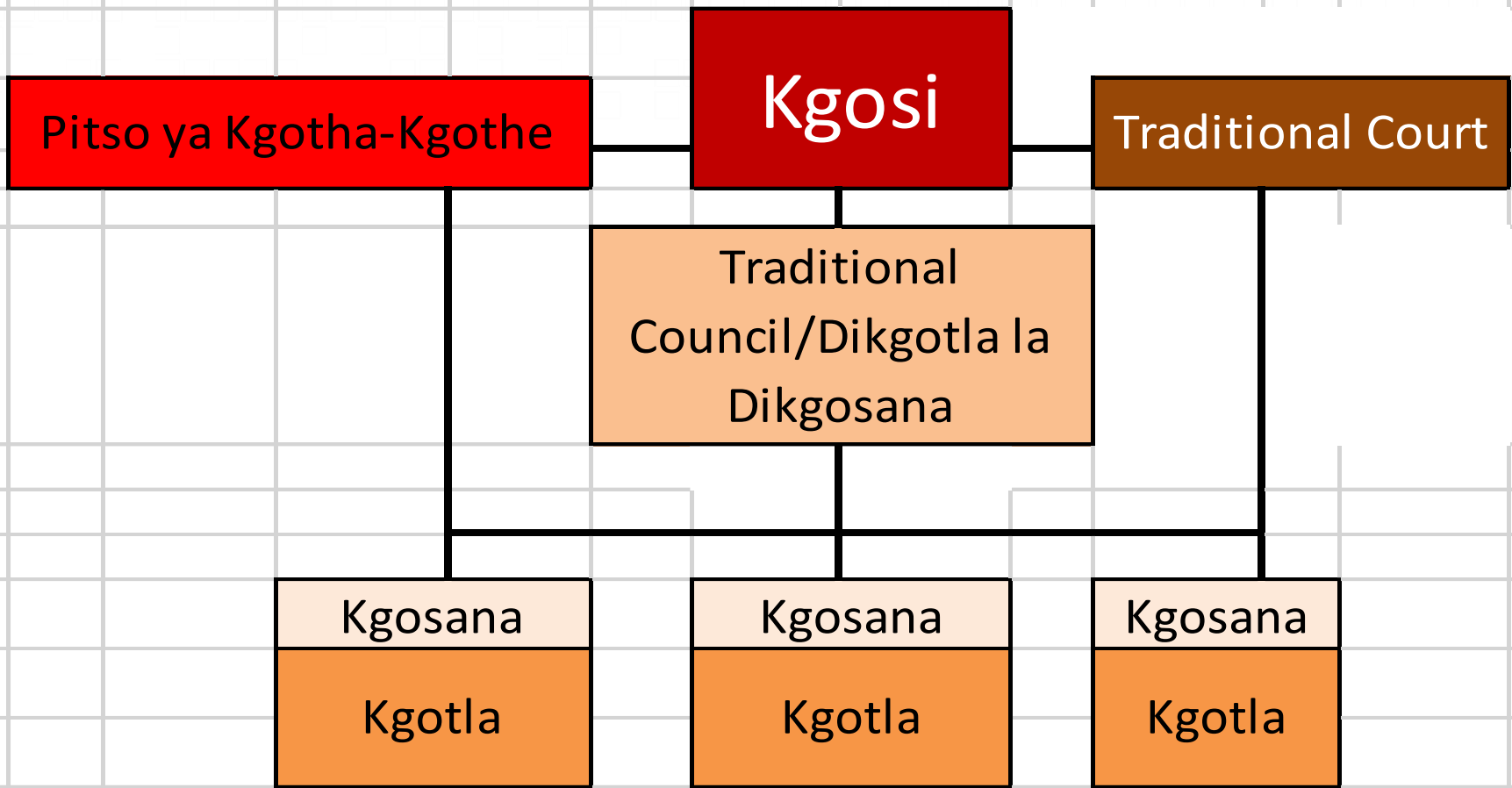
Paradox – roles, modernity and tradition

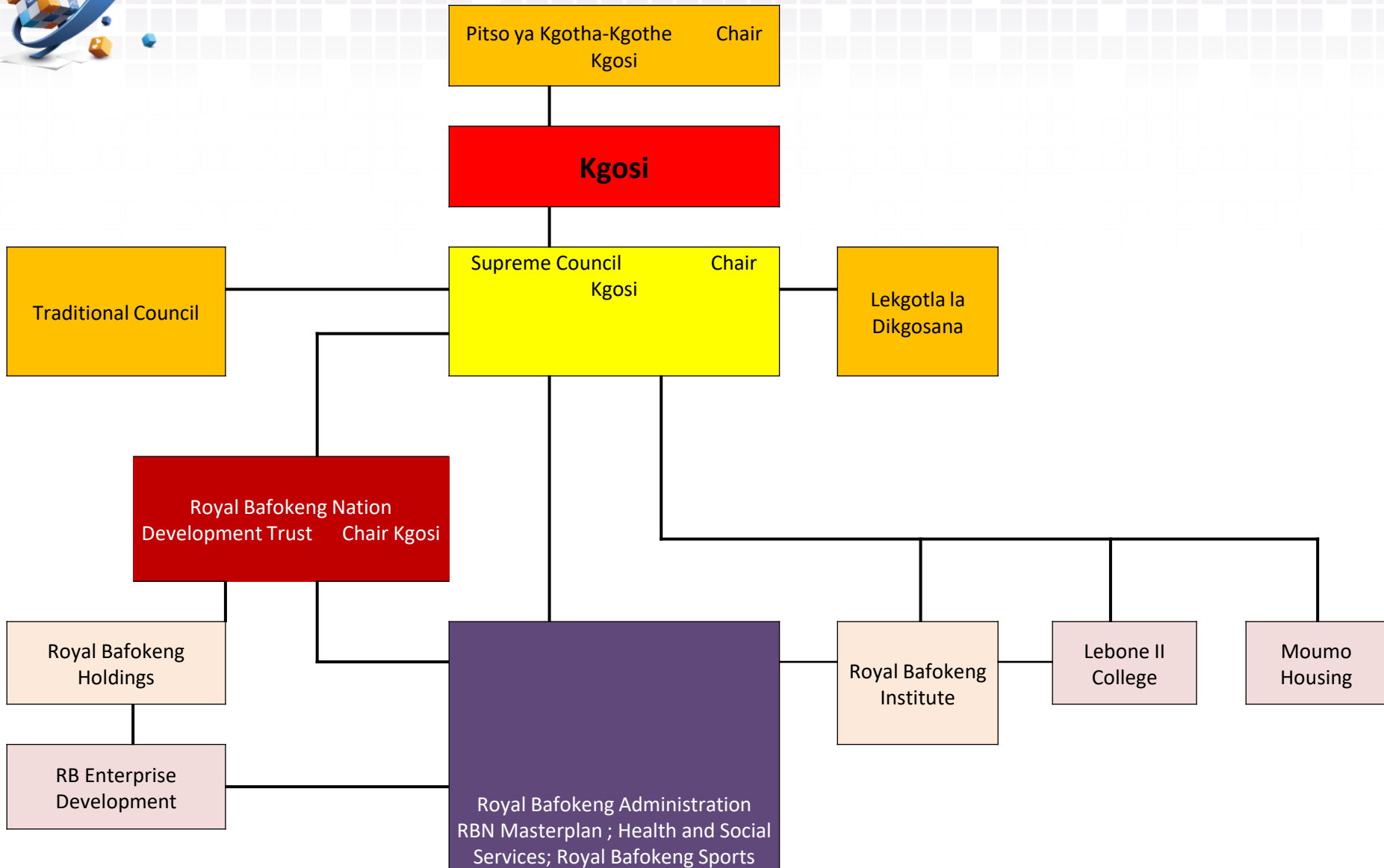
- The claim that traditional leader's role is not service delivery but development is conspicuously faulty because development itself is too broad.
- Development cannot be delineated as a function to one player, TLs, but also to all players, state, business and civil society.
- TLs are caught up between tradition and modernity informed by imported western models of governance.
- ***South Africa has three spheres of government but it is not clear whether traditional leadership is an appendage of local municipality or part of the government structure or pseudo fourth sphere?***





Royal Bafokeng Nation







Paradox – parallel administration



- Often, there is **parallel administration** between the RLM and the RBN.
- It was observed by researchers that there was poor communication between RLM and RBN, failed implementation of the MOU, power struggle and inconsistencies at the village-level.
- ***In one village, the headman refused to talk to the ward councilor, and this tension is not uncommon.***



Paradox – parallel administration



- The people living in Bafokeng villages are distrustful of local government and rarely attend meetings called by the ward councilors.
- Likewise, there are community members who are also frustrated by the traditional leaders who have turned against the ward councilors.
- The tension between the ward councilors and TLs compromises development in rural areas.
- A shared model in RBN collapsed due to **power struggle, parallel administration and divided loyalties**.



Paradox – power struggle

- ***Local municipalities have more viable fiscal powers over TLs.***
- ***To the contrary, TLs have stewardship powers over municipalities as custodians of African traditions, cultures and land.***
- ***Often, seniority between the municipal office bearers and the TLs is an issue.***
- The TLs vigorously defend their status by claiming that they were still very powerful amongst their subjects.
- ***One Chief said: ‘I always ask myself who is senior in terms of status: the chief, mayor, councillor and the president, and I always believe that it’s the chief’.***
- Local municipalities’ lack of consultation and co-operation with TLs imposing their views without consulting communities sparked protests and court battles.

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Paradox – loyalty test

- Another contestation is the loyalty test of the community members - whether their loyalty is with municipal councillors or TLs.
- There is competing interest between the municipalities and TLs, both domiciled in the same area in which community members reside.
- The communities always find it difficult to split their loyalties both to municipalities and TLs.
- It is actually immoral for people to be made to choose between TLs and service delivery by municipalities as they are entitled to both.
- The people loyalty is on a test, residing on a thin fence caused by the ambiguity of the role of TLs in the Constitution.



Court battles on headship – a legal test



- In 2013, Cala Reserve, Headman, Mr JH Fani, who served since 1979, tendered his resignation.
- As had been their custom, the residents of the Cala Reserve called a community meeting and elected Mr Gideon Sitwayi.
- amaGcina Traditional Council rejected their choice because he was not a member of the royal family.
- Chief Gecelo, Head of the council, imposed his own choice on the community to appoint Mr NJ Yolelo.
- After the EC Premier refused to act on the series of complaints made by the community, the community sought LRC representation to challenge the appointment in court.
- The High Court found the Premier and Chief Gecelo acted in breach of sec18 of the TLGA which requires customary law to be followed.
- ***The court ruled in favour of the community because the practice in Cala was to elect their leaders irrespective of a royal blood.***



Conclusion

- ***Chief Mangosuthu Buthelezi emerged as the loudest critic of the recent legislation and fears that it will make TLs little more than instruments of municipal government.***
- ***According to Chief Buthelezi, the removal of the TLs from their position of power and respect undermines the ritual and substance of a custom, identity and nation.***
- ***Therefore, negotiations over the role of the TLs in the consolidation of democracy and nation-building undoubtedly remain an important issue in South African politics.***



Conclusion

- **We should resist the forces of doom to tempt us that TLs are a threat to democracy and should suffer natural dinosaurian annihilation.**
- TLs should undergo public sector reforms to reconsolidate its community efforts with *more powers not only to consult but also consulted to express their views to make crucial decisions in the best interest of the communities they serve.*
- TLs should be malleable and adaptable to traditionalism and modernism without losing their historical sight to reimagine themselves in the democratic dispensation.
- Overall, the interface of the interplay of the Local Government, TLs and society is only possible when the role of TLs in development of the society is constitutionally clarified and not limited to advisory functionalities as it is currently.

