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Malindi, Stanley

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Continuity or Rupture? The shaping of the rural political order through contestations of land, community, and mining in the Bapo ba Mogale traditional authority area.

Stanley Malindi

A research project submitted at the University of the Witwatersrand, Department of Political Studies, School of Social Sciences, in fulfilment of the Master of Arts (Research) Degree.

Supervised by: Dr Julian Brown and Dr Gavin Capps.

March 2016

Declaration

I_____(Student number:_____) am a

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I hereby declare the following:

- I am aware that plagiarism (the use of someone else's work without their permission and/or without acknowledging the original source) is wrong
- I confirm that the work submitted for assessment for the above degree is my own unaided work except where I have explicitly indicated otherwise.
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Abstract

South Africa's countryside's are rich in 'new' high-demand metal and energy minerals, like platinum and uranium, as well as vast, untapped reserves of industrial staples, above all coal. Yet, these are also characterised by deep rural poverty and legally insecure systems of 'customary' tenure, under the local administrative control of traditional authorities. Here, new mining activity is setting in motion significant processes dispossession and Immiseration that are at once tracing, reconfiguring and widening the class, gender and other social divisions that define these rural settings. Communal land is frequently alienated with little or no compensation, local residents forcibly removed to make way for surface infrastructure, and scarce water and other natural resources polluted and depleted. At the same time political tensions are arising from the assumption that local chiefs are 'custodians' of the mineral-rich land under their jurisdiction. Questions of land, livelihood and rural democracy are thus intimately bound together on the new frontiers of the regional extractives boom in ways that are having profound implications for growing numbers of the rural poor.

Using a case study of the Bapo ba Mogale traditional Authority in the North West Province, South Africa, this thesis seeks to explore how these new mining activities are shaping and reconfiguring the heightened political contestations over the institution of traditional leadership in the area, the definitions of community and belonging/exclusion, and the struggles over land ownership and how mining capital is shaping these struggles and is connected with these struggles.

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A special thank you to the people of the Bapo ba Mogale. This thesis is not only about you, but, it is also for you.

Many thanks to Mrs Molly Mpane and her family for accommodating me in the Bapo area whilst I conducted the fieldwork for this thesis. Also, thanks to Dr Sonwabile Mnwana and Dr Gavin Capps for guiding me and teaching me about platinum mining and its impacts on traditional communities in the North West province.

Last but not least, thank you to my family and friends, for everything.

Dedication

Dedicated to the people of Bapo ba Mogale.

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Chapter 1

Introduction

This thesis seeks to explore the impact of platinum mining capital on the evolving forms and relations of communal land, traditional authority, and corporate community in the mineral-rich Bapo traditional authority area.

The Bapo ba Mogale are a traditional Setswana-speaking community that is based on a number of farms roughly midway between Rustenburg and Brits in the North West province, South Africa. The Bapo area is located in the district of the municipality of Madibeng.[1] According to the then state-appointed ethnographer who embarked on an anthropological study of the chiefdoms in South Africa in 1953, the Bapo ba Mogale "tribe is the fourth largest in the [Rustenburg and Pilanesberg] district. At the census of 1946 the resident population…was 2, 416 persons (1, 084 males and 1,332 females)." (Breutz, P. L: 1953: 176)[2]. Gradually over the years, the population that has come to find itself being ruled by the administration of the Bapo ba Mogale traditional authority, has grown exponentially in n umbers. Just over two decades after the 1946 census had been taken, the population of the Bapo ba Mogale had tripled. In 1970 newspaper reports pecked the population to be standing at '6000 strong Bapo people'[3]. Currently, according to Manson, A. (2012) the population of the Bapo ba Mogale stands at approximately 75 000 people[4]. The Bapo ba Mogale traditional authority area is comprised of eight villages.[5] The Bapo reside in an area that is richly endowed with mineral resources that are

[1] See Appendix: A 1.
[2] Breutz, P. L. (1953). The Tribes of Rustenburg and Pilanesberg. The Government Printer. Pretoria. This book was a government publication that was published for the then *Department of Native Affairs*. It was published under their series of Ethnological Books as *Ethnological Publication No. 28*.
[3] This figure is taken from an article done by *The Star newspaper*. Alex Hardle. (1970). *Platinum will bring silver laughter*. Thursday September 3. The Star newspaper.
[4] Manson, A. (2012). *Mining and 'Traditional Communities' in South Africa's North West Province, c. 1996-2012: Contestations over Land, Leadership, and Assets*. Paper to the 9th International Mining History Congress. Gold Reef City Hotel, Johannesburg. 17-20 April. Johannesburg.
[5] See Appendix: A 2

currently being mined by mining companies such as Lonmin Plc amongst others[6]. Lonmin Plc mines these mineral reserves[7] under leases dating back to 1969. Lonmin plc is a multi-national mining company based in London. Its shares are traded on the London Stock Exchange. Its primary activity is platinum mining on the Bushveld Complex of the North West. Where the Bapo ba Mogale traditional authority is situated is also the site of Lonmin's biggest mining operations.

The Bapo ba Mogale traditional authority had been experiencing an internal dispute within the royal family that dates back to 1908.[8] The royal family is central to the functions and administration of the traditional authority because its members make-up a substantial amount of the traditional council. The conflict that had been going-on within the Bapo ba Mogale traditional authority culminated in the traditional authority being placed under administration in 2009 by the Premier of the North-West provincial government. "…In October 2010, the Premier of the North West provincial government initiated the process of mediation and restoration of order and harmony amongst the royal elites of the Bapo community."[9] (Khunou, F.; 2014; 2). In light of this task of initiating 'mediation and restoration of order' the North West provincial government appointed an administrator to take care of the affairs of the Bapo traditional authority. In April 2011, the administrator that had been appointed to handle the transactions of the traditional authority appointed a teaching professor from the University of the North West in Mafikeng, South Africa, to conduct research that would aid in resolving the on-going conflict within the traditional authority.

[6] There are currently about three mining companies that have active mining operations in the Bapo ba Mogale traditional authority area. They are Lonmin Plc; Sky Chrome Mine; and IFM (International Ferro Metals). IFM is a wholly owned subsidiary of Sky Chrome Mining Company.

[7] The mineral reserves that can be found in this area and that are being mined by these various mining companies such as Lonmin include PGM's (Platinum Group Metals), and chromium, and vanadium.

[8] This is further elaborated on in the 4th chapter of this thesis.

[9] Khunou, F. (2014). A path of legitimization patterns of the royal family of the Bapo ba Mogale: setting the record straight. Executive summary. Executive summary on the research project of the Bapo ba Mogale community titled: "The Bapo ba Mogale at the crossroads: A review and validation of traditional structures and succession patterns", North- West University (Mafikeng campus), South Africa, Law Faculty, Mahikeng, North West Province, South Africa. Retrieved 2014. The main objective of this executive summary is to provide the succinct understanding of the issues that are highlighted on the research main document, whose content is the main subject of this chapter.

The results of that research and the recommendations and solutions which would be proposed by the state-appointed ethnologist, culminated in the formation of a legally constituted traditional council of the Bapo ba Mogale in July of 2014. This formation of the traditional council as being legally constituted coincided with the Bapo ba Mogale traditional authority entering into a conversion of royalty to equity transaction deal with Lonmin mining company on the 29th of July 2014. As traditional authorities are, by virtue of statute, considered to be the custodians of the land they are the central figures in such mining deals and it is because of that, that it becomes important to understand how these mining deals construct communities in a particular way, all of which will be explored in the detail of this thesis.

This thesis seeks to investigate the impact of new mining activity on evolving forms and relations of communal land, traditional authority, and corporate community in the mineral-rich area of the Bapo ba Mogale traditional authority. Broadly, the key question is how changes in the regional political economy of extraction (mining) connect with their highly localized histories, patterns of differentiation and idioms of contestation. This thesis is thus concerned with the making and unmaking of the rural social order in the area of the Bapo ba Mogale traditional authority, as mining capital expands out of its historic heartlands into the former homeland and labour-sending areas such as the Bapo ba Mogale traditional authority area. Increasingly, as this thesis will show through the empirical research that was done, these areas are becoming the new mineral-commodity frontiers and the foremost sites of rural transformation and struggle.

Mining in the Bapo ba Mogale traditional authority area

One of the first recorded transactions and agreements between a mining company and the Bapo ba Mogale traditional authority can be traced back to 1938. “In 1938 the Department of Native Affairs approved of a mining agreement between International Base Metals and Pty Ltd and Chief Edward Mogale [wherein he represented himself as owner of tribal land] to lease the right to prospect and mine for chrome, base metals and precious stones for the consideration of 5 pounds per farm per month, one shilling per ton of chrome and 5 percent of the value of base

metals and minerals recovered."[10] During these negotiations the groups that were living in the farms where the mining would take place, groups that were living within the jurisdiction of the Bapo traditional authority, were consistently ignored and not consulted. The Bapo traditional authority was given the powers to negotiate and act as the representatives of these groups due to the stated legislations and the complex mineral ownership frameworks which privileged the role of the chief as the 'trustee' of these populations.

In areas that are under the jurisdiction of a traditional authority, land ownership is directly linked to decision-making power. Here, traditional councils and the office of the chief have the 'ultimate authority' over land rights and use in communal areas. Most communal land in the former Bantustans is land that is registered in the name of the state. The Minister of Rural Development and Land Reform holds this land in trust on behalf of the people who occupy it. Land titles are transferred to the traditional councils of the respective traditional authorities that occupy the land. Traditional councils were recognized by the Traditional Leadership and Governance Framework Act 41 of 2004 ('Framework Act'). This Framework Act gave official status to the tribal authorities that had been set up under an apartheid law called the Bantu Authorities Act of 1951 and that were still in existence at the time of the transition to democracy in 1994. Not to go off on a tangent, the crux of the matter is that these traditional councils, in practice, act as, and are dealt with as the community representatives in respect of development initiatives, service delivery agreements with local municipalities, and most importantly for our purposes, when entering into mining deals as well.

On the 29th of July 2014 the Bapo ba Mogale traditional authority entered into binding agreements with the mining company, Lonmin Plc. For Lonmin Plc entering into these agreements was pivotal because it helped to ensure that the relevant Lonmin group companies were able to meet the South African governments requirements regarding Black Economic Empowerment ('BEE') targets. Under the agreements and central to this arrangement was the clause which stipulated that the Bapo would waive their current statutory right to receive

[10] Legal Resources Centre, *Submission of the Wonderkop Land Claim Committee in Respect of the Farm Wonderkop*, p.11, 2014/07/30. Submitted to the Commission of Inquiry into the tragic incident in Marikana held in Centurion, Gauteng, South Africa. The Legal Resources Centre were acting as Attorneys of the Wonderkop Land Claim Committee.

royalties from Lonmin's operating companies Eastern Platinum Limited ('EPL') and Western Platinum Limited ('WPL'). Together these operating companies (EPL and WPL) constitute Lonplats. The Bapo traditional authority were waiving their rights to receive royalty payments from Lonmin in exchange for a share equity in Lonmin. Another stipulation within the agreement stated that "…a deferred royalty payment of R20 million per annum payable by Lonplats in each of the five years following completion of the transaction, which would be used by the Bapo to pay the administrative costs of running, controlling, and directing the affairs of the Bapo."[11]

The Mineral and Petroleum Resources Development Act 28 of 2002 ('MPRDA') outlines the conditions under which mining companies such as Lonmin Plc need to foster a stake for the groups or individuals that are regarded as 'historically disadvantaged South Africans' (HDSA). In order for mining companies such as Lonmin to be able to renew their mining licenses they need to have fulfilled the conditions of having 20% of their stakeholdership allocated to a group or individuals that fall under the HDSA category. The 2002 and the 2008 versions of the MPRDA promote not only BEE but also community participation. In chapter 1 (definitions) of the Amended Act (No. 49 of 2008) of the MPRDA, 'community' is defined as a "…[coherent, social group of persons] group of historically disadvantaged persons with interests or rights in a particular area of land which the members have or exercise communally in terms of an agreement, custom or law." Furthermore, and most importantly for our purposes here, the Act stipulates that "…provided that, where as a consequence of the provisions of this act, negotiations or consultations with the community is required, the community shall include the members or part of the community directly affected by mining on land occupied by such members or part of the community." (*ibid*)

Schedule 2 of the MPRDA encourages tribal communities to convert their mineral interests into community shareholdings arrangements.

It is within this context of the Bapo ba Mogale traditional authority's decision to convert the royalties that they had been receiving from Lonmin Plc into a share equity stake, that the impact

[11] Lonmin Plc, 'Acquisition and Proposed Issue of Equity', 30 July 2014. Attached as appendix: B. This appendix also includes the notification that was given to community members of the Bapo area to consult them on the royalty-equity deal. It also includes the 'resolution' that was given out at the meeting before the meeting had even concluded and times was given to discuss the proposed deal.

of platinum mining capital needs to be understood. The process of consulting the community members of the Bapo was flawed and rushed. Identities of people that are often considered not to be Bapo ba Mogale (i.e. migrant workers, informal settlers, etc.) were appropriated to vote in favour of the transaction. Those that are considered to be the 'original inhabitants' of the Bapo had their voices of dissent against the transaction going ahead drowned out and disregarded as they were out-numbered by those that filled the hall in Segwaelane village on 29 July 2014, who weren't Bapo citizens. It is here where questions of 'who are the community', 'who are the Bapo', 'who determines the boundaries and controls access into belonging as a Bapo', how has the striking of these mining deals reconfigured the historically constructed and ever-changing notion of the rural community of the Bapo. Chapter three of this thesis deals directly with these questions and attempts to elucidate how the Bapo ba Mogale traditional authority area is not comprised of a single group that is a single entity and has a single set of common interests.

On the other hand, pockets of groups that reside in some of the villages that make-up the Bapo ba Mogale traditional authority, disapproved of the mining deal that was being struck with Lonmin Plc. Their contention was based on the fact that they are the rightful descendants of the original purchasers of the land on which mining activities are taking place in the Bapo area. Key to their contention was that they were not receiving any 'benefits' from the mining that was taking place near their villages and that they were the ones that were directly affected by the physical environmental impacts of platinum mining in their villages. These environmental impacts also included the establishment of informal settlements in their villages, especially in places where they used to graze their cattle and cultivate their crops. These contestations, and other reasons which will be highlighted in greater detail in this thesis, is the basis on which rival land restitution claims are made by these pockets of groups in the Bapo area.

In the striking of these mining deals and concessions, the voices of these group syndicates are silenced and the Bapo traditional authority is presented as a unified 'community'. The royalty to equity transaction that was done on July 29th 2014, highlighted the deep crises of legitimate group representation. The imposition of platinum mining capital in the Bapo area has highlighted the fact that at the heart of the contemporary struggles that are taking place in the Bapo area is how tribal trusteeship fosters chiefly accumulation at the expense of such groups. These struggles take on the form of competing land histories, rival restitution land claims, and the

eventual emergence of competing group representatives. These struggles and how they are being shaped by the imposition of platinum mining capital in the area will be further discussed in greater detail in the second chapter of this thesis, 'tribal trusteeship and social conflict over land'.

Perhaps the most striking feature of the mining deal between the Bapo traditional authority and Lonmin Plc, is the role of the state. The state, in the form of the local government, the North West Provincial government, played a pivotal part in the striking of this mining deal. Firstly, through the administrator of the Bapo ba Mogale traditional authority the North West Provincial Government hired a state-ethnologist, a North West University Professor, Freddy Khunou, to ensure that the Bapo traditional council could be legally gazetted and thus constituted. This was an extremely important act to play because without the traditional council being legally constituted, the Bapo traditional authority could not enter into any mining deal with Lonmin. On the other hand, Lonmin Plc could not have been able to fulfil its HDSA 26% BEE stake which would have resulted in the loss of its operating license.

Effectively, the state engaged in an apartheid old-order practise of using state-appointed ethnologists to try and resolve an internal dispute that had deep and complex dynamics dating back to 1908. The methodological approach of solving the internal dispute, the recommendations and solutions that were soon reached thereafter, starkly resemble the practises of the old Native Affairs' Departments ethnological department. Moreover, these 'solutions and recommendations' were soon reached to ensure that the Bapo could enter into mining deals such as the royalty to equity transaction of July 2014. The complex dynamics of traditional leadership, rural community, and customary land use and ownership were not taken into consideration during the research investigations and also in the final report that was used to implement strategic solutions to 'solve' the chieftaincy dispute. Essentially this was another imposition of the identity of traditional leadership onto fluid and dynamic groups in the Bapo area. The final chapter of this thesis will argue that this is in effect a continuation of the rural political order that was established by the colonial state.

Therefore, this thesis will show how these mining deals are tied up with the struggles over land, community, and traditional authority. This thesis will argue that the insertion of mining capital in these areas, is determining these different areas of struggle. The land struggle, epitomised by the rival land restitution claims in the Bapo area, and the struggles over the definition of community

(inclusion and exclusion, migrant workers, etc.) along with the contestations over the Bapo ba Mogale traditional authority are all struggles that are shaped by, connected to, and find impetus in mining.

To this end, this thesis will argue that the insertion of platinum mining capital in areas such as the Bapo ba Mogale, has only served to reproduce the distinctive political order in rural Africa that was established by the colonial state.

Data Collection and Methodological Approach

i. A note on data collection.

Mining and Rural Transformation in Southern Africa (MARTISA), research project.

I was fortunate enough to be located in the Mining and Rural Transformation in Southern Africa (MARTISA) research project that is located within the Society, Work, and Development Institute (SWOP) at Wits University. It is through MARTISA and SWOP that I was able to initially learn about the Bapo ba Mogale, make initial contacts for fieldwork, and gain a keen and sustained interest in the area.

Fieldwork

The fieldwork undertaken for this research was comprised of two periods. The first period of fieldwork began on the 21st of November 2013 and lasted a week, until the 28th of November 2013. This initial phase of fieldwork in the Bapo area was very important for a couple of reasons. Firstly, this period helped with familiarizing me with the research site. Secondly, it gave me the chance to establish initial contact with some informants. These informants helped with familiarizing me with the issues that were taking place in the Bapo area. Thirdly, living in the village was important because it helped to establish some level of trust between myself and some of the contacts that I would encounter through the connections of my 'landlord'. This period was also important because it was also during this period where I had to be granted permission from the traditional authority of the Bapo in order to be able to conduct research in their area. In order to attain the permission I had meetings with the then administrator of the Bapo who could only grant me permission to do the research in the area on the bases that I provided a couple of documents. These documents included a shortened version of my MA proposal, a copy of my student card, and a letter from the university (drafted by my supervisor) indicating that I was indeed granted approval by the university to do this research in the Bapo area. During this period I conducted 8 in-depth interviews. These interviews illuminated the contestations of land history

that were taking place in two of the farms that are in the Bapo area. They also brought to light the struggles over the traditional authority of the Bapo.

The second period of fieldwork began in late February 2014 and lasted until the middle of May 2014. During this 12 week period a further 29 interviews were conducted in the Bapo area. These interviews were conducted with members of land claiming organizations in the area, some members of the Bapo traditional authority, the Bapo royal family, community liaison officers of one of the mines that is located in the Bapo area, members of the local municipality under which the Bapo falls under-Madibeng municipality, members of community based organizations, local business actors in the area, and members of village governance structures such as the Wonderkop traditional authority and the headman of the Segwaelane village. These interviews were structured and semi-structured in nature. That is, the structured interviews were conducted according to a set of questionnaires that I had prepared beforehand to help guide the interview.[12] Other interviews were semi-structured in that in so much as I approached the interview with a set of questionnaires, these questionnaires were only used as a frame of reference because the interviewees guided the interview by providing some new and enlightening information to the research. The fieldwork was not only comprised of making interviews. Other activities done during the fieldwork period included attending social events such as funerals, church outings, and sporting events, community meetings called and hosted by the traditional authority of the Bapo, as well as peaceful protests that were called by the mining workers located in the area. Being a participant observer in these activities was very helpful in a couple of ways. Firstly it helped to establish contacts with some new informants. Secondly it became a source of gathering some new information about what was going-on in the Bapo area. For example, one of the community meetings that were called by the Bapo traditional authority was to discuss the 'replacement' of the current chief by an acting chief because the chief was deemed to be incapable of handling the affairs of the Bapo due to his age and 'lack of education'. At the same meeting the impending removal of the administrator by the MEC of the Department of Local Government and Traditional Affairs, was announced. The debates around the removal of the chief whilst he is still alive and how this was a violation of custom and others voting favourably was very informative about the contestations over the interpretation of custom. Another meeting

[12] The interview questions are attached as an annexure. Entitled, 'Fieldwork Interview questions'.

I attended, held on the 29th of July 2014, was very informative. This was a very important meeting for the Bapo because it was a meeting that was held to discuss (briefly) and vote on the decision of whether or not to convert the royalty agreement between the mining company, Lonmin, and the Bapo traditional authority into a share equity in the mining company. The events which transpired in this meeting (which will be discussed at length later in the dissertation) illuminated the schisms which existed in the Bapo area on the definitions of the Bapo 'traditional community' and 'citizenship' in the area. They also highlighted the importance of dominant narratives on the contested histories of land in the area and how these are shaping 'movements' of resistance against the traditional authority of the Bapo.

Furthermore, other than conducting interviews and being a participant observant in social activities, I also collected some material passed on to me by various informants. This material was mostly comprised of 'personal archives', that is, preserved documents that helped prove some cases of original purchase of land, or old minutes of community meetings, preserved newspaper articles of the Bapo traditional authority collected over time by some informants, and old receipts that proved the amount of money that one would pay in order to settle in the Bapo area and be granted a piece of land to either settle on or farm.

Challenges encountered during fieldwork

Conducting empirical research in the Bapo area also presented a novice researcher with some difficulties. These difficulties range from managing the expectations of the interviewees, being restricted access to potential informants, ethical considerations, establishing trust with some informants, and methods of data collection such as group interviews.

The first and most notable difficulty that was experienced during the undertaking of fieldwork had to do with the expectations that the participants in the interviews had. Although it was explicitly stated that this was an academic exercise, the participants constantly wanted to know what they would get out of their involvement in the study. As a member of the MARTISA project, it is one of the imperatives of conducting research that the sites where research is done community briefs and a working paper to be published by MARTISA will be distributed to the areas where the research was done. However, the levels of expectations were further complicated by the working relationship that existed between being a member of MARTISA and the partner organizations. For example, on the 19th of January 2014, I had my first encounter with the

Wonderkop Traditional Authority as well as some members of the Wonderkop Land Claiming Committee. The meeting was called by the lawyers representing the Land Claiming Committee and the Wonderkop Traditional Authority, namely the Legal Resources Centre. The agenda of the meeting was to further discuss a submission that was to be made by the two parties to the Marikana Commission of Enquiry. The meeting was very fruitful on two fronts. Firstly it helped to familiarize me with some of the difficulties and concerns that the two representative parties had in the Wonderkop village. Secondly it was a great way to make new contacts to act as informants during the fieldwork and interviewing process. On the other hand however the drawback of those gains was the fact that the contacts and people that I met through the LRC viewed me as a lawyer that was working on their case. Although it was explicitly iterated that I was a research student from Wits University and later on cards were manufactured to notify the informants that I was a research student, the depiction of me as a lawyer working on their case continued. On a personal level this caused some ethical problems as I felt as though I had been misrepresented and was working under a guise.

Another significant challenge that presented itself during the fieldwork period, came right at the beginning, and it had to do with the problem of access as well. In order to conduct research within the Bapo area I had to seek permission from the Bapo traditional authority. At the time, the traditional authority had been place under administration by the North West Provincial Government. Due to the intense sensitivity of the dispute taking place within the traditional authority and its impacts (e.g. being placed under administration) I was made to pass, what I would refer to as, 'security checks', by the administrator. These involved having to print-out a shortened version of my research proposal, a copy of my student card, and a written letter from the university (which was drafted by my supervisor) to prove that I was here to carry out academic research. As the Bapo area has managed to attract a lot of national interest over the years, researchers and print-media professionals are approached with a lot of caution by the traditional authority. In some cases, those that are on the opposing sides of the internal dispute tend to try and use journalists and other researchers in the area for their own benefit (e.g. to relate their account and claims of the dispute for public exposure). With my research interests mainly aimed at looking into the local-level micro-politics in the area, I was faced with the challenge of how to filter what I heard coming from agents of the traditional authority, and secondly, the first couple of interviews I conducted in the area I was referred to by the office of the traditional

authority. As Breman (1985; 9) stated, in fieldwork, participation filters the observation. Ensuring that participation with these members of the Bapo area that are linked with the elite (i.e. traditional authority) was a challenge that I had to deal with and ensure that those views did not encapsulate my world-view on the local-level micro-politics, or the 'hidden struggles' (Beinart; 1987). In order to do this, I followed Breman's (1985; 10) advise that "…elite co-operation is indeed essential from a practical point of view, because as a rule introductions take place through the locally powerful. A measure of their importance is that vested interests or their accomplices function at the same time as gatekeepers for external communication."

Other challenges experienced during this data collection period were related to trust between myself and informants. In some cases potential interviewees did not trust me or wanted to view a written document coming from the traditional authority which granted me permission to speak to them.

Another difficulty came in the form of the process of data collection through the method of conducting group interviews. During these interviews some participants were much more vocal and active than others. Others would simply tag along to an idea, event, or historical fact that was raised by one participant even though they disagreed. This made it difficult to try and establish what the 'facts' were to each point being made. However, as Denzin and Lincoln (2003; 367) point out "…In the social sciences, group interviews developed as reservations concerning the effectiveness of individual information gathering techniques grew. Such reservations focused on the influence of the interviewer on research participants and on the limitations imposed by close-ended questions. Traditional interview techniques, which used highly structured questionnaires, had a major disadvantage-the interviewer's framework, viewpoint, and beliefs, consciously or not, influenced the nature of the questions asked and the choices given to research participants. Less directed methods were based on the premise that they were more appropriate to elicit responses that better reflected the social reality of the interviewee."[13] These group interviews were useful for bringing to light some responses that contained new information and grievances that were shared by the locals of villages on their representative and governance structures.

[13] Denzin, K. N. and Lincoln, S. Y. (2003). Collecting and Interpreting Qualitative Materials. Sage Publications, California.

Other forms of data collection.

The data collection for this research did not only take the form of fieldwork. Other data collection methods included doing some archival research, attending important meetings which were open to the public to discuss matters related to the Bapo, receiving material sources from MARTISA's partner organizations, and further information that was revealed and passed on from presentations that were given on the Bapo research.

Prior to conducting fieldwork in the Bapo area, I first conducted a round of archival research at the national archives centre based in Pretoria, South Africa. The archival research brought to light some of the history of land ownership and formations of rural community in the Bapo area. This archival research helped to shape not only the questions which I wanted to ask in the Bapo area during the fieldwork process, but it also helped with familiarizing me with the genealogical as well as the history written by government officials on the Bapo traditional authority. Amongst some of the challenges which were presented by the archival research experience were the documents which were either missing several important pages or being written in the Afrikaans language which I am not so competent in. Further archival research was done in the North West Province archives centre. These archives illuminated some parts of the history of the Bapo during the Bophuthatswana period. The drawback was that the majority of the documents relating to the Bapo had been taken away by the North West Province's Standing Committee on Public Accounts (SCOPA) to aid them in their investigations into the Bapo matter.

Another method of data collection came in the form of attending the SCOPA meetings which were held on matters regarding the D-Account. These meetings were held to interrogate the causes which have led to the loss of money accrued from the agreements that the Bapo (along with other traditional authorities such as the Bakwena ba Mogopa, and the Bakubung ba Ratheo) have had with the mining companies that are active in their areas. Attending these meetings was useful on two fronts. Firstly, helping to establish more contacts. Secondly, it helped to familiarize one with the impact that platinum mining capital has had on these traditional communities and their administration bodies. These meetings also highlighted the relationships (or lack thereof) which exist and the agreements between the mining companies, the local government departments, as well as the traditional authorities in the platinum belt area. These

meetings were held at the community hall of the local Madibeng municipality. This was useful because it helped me establish contacts that I would soon interview from the local municipality.

Data collection also came from the partner organizations which work with MARTISA in these areas to which I had access to. These organizations, such as the LRC and the Centre for Law and Society from UCT would pass on minutes of meetings that were held with some of these community organizations. They would also pass on some archival material that I would have missed in the archives.

Lastly, whilst presenting some findings of my research to the area where I did the research, points that I missed out on were given to me by some participants in a workshop that was hosted jointly by MARTISA and CLS. Presentations like these served to reaffirm some of the findings of the research and some of the responses served to direct me towards some of the matters, pertinent to the area and some of the organizations, which I may have missed out on.

ii. A note on Methodology

This thesis is based on a single case study focusing on the impact of platinum mining capital on the interrelationships of communal tenure, traditional authority, and notions of rural (or corporate) community in the Bapo ba Mogale area. As a form of qualitative research, the case study method according to Baxter and Jack (2008:550) enables one to explore specific historical events and also helps to support the deconstruction as well as the subsequent reconstruction of various phenomena. Furthermore this method allows us to look at subunits that may be situated within a larger case and it is "powerful when you consider that data can be analysed *within* the subunits separately (within case analysis), between the different subunits (between case analysis), or *across* all of the subunits (across case analysis)" (Baxter and Jack, 2008:550). However, the single case study method also has its shortcomings. Chief amongst these shortcomings, as identified by Yin (2003), is the fact that one may be able to make an analysis at the subunit and fail to return to analysing the global issue that one set out to analyse in the first place. The empirical research of this thesis, as noted, relied heavily on what anthropologists call ethnography, i.e. as Geertz (1973: 22) a 'thick description'. The value of these ethnographies

which lead to detailed studies is that they have the ability to "… provide insight into broader processes from the analysis of specifics." (Geertz; 1973; ibid). However, within these ethnographies, making broader generalizations from the particular may also have its shortfalls. This is recognized by Pauline Peters (2004) who argues that "…part of the problem in how detailed ethnographies of one or few places speak to larger issues, of course, lies in the rigidities of the terms themselves." (Peters; 2004; 279-80)

My methodological approach has taken this into serious consideration. My methodological approach has also been informed by the warning given by the historian Frederick Cooper (2001) who cautioned against "…the widely used distinction between a 'global' that's far more global in talk than it is in actuality and a 'local' that's not nearly as local in reality as it is in the texts of social scientists." (Cooper; 2001; 24)

The Bapo case study, as one mineral-rich traditional authority area in South Africa, may be used to understand the impact of platinum mining capital on the evolving forms and relations of communal tenure, traditional authority, and corporate community.

Focusing on these three elements; corporate community, traditional authority, and communal tenure, the approaches to the interpretation of the material sources was a multi-pronged one. Firstly, for communal tenure, I relied on the in-depth interviews and the archival sources that had been collected on the contested land histories. Looking into communal tenure required a strong background understanding of the literature on the developmental history of land in South Africa. On the other hand, a look into traditional authority and 'rural corporate community' insomuch as it also required strong background of the literature, I relied mostly on the empirical data because of the contextual and local variation which these elements of the case study, which are unique, have. Lastly and most importantly, in analysing the empirical findings and reconciling them with the literature to try and explain what these meant, intertextuality as a method of analysis was extremely important and used. Intertextuality ensured that insomuch as each of these areas (community, land, and authority) each have their own literatures and debates, I would be able to relate them to one another and the issue of how they have shaped and reshaped the local struggles in the Bapo area which in turn has been shaped by the issue of the legitimate representation of diverse group-interests in major decisions involving tribal land and assets.

Thesis Outline

The second chapter of this thesis argues that contemporary struggles in areas such as the Bapo are centred on the contestations of tribal trusteeship and how it fosters chiefly accumulation. These struggles take on the form of competing land histories, rival restitution land claims, and the emergence of competing group representatives. The imposition of platinum mining capital in this area has acted as an impetus for 'oppressed groups' to widen the ever narrowing definitions of belonging in the area. These processes which have led to the narrowing of the definitions of belonging can be traced back to the configurations and reconfigurations of South Africa's distinct communal tenure regime through the various historical periods and contexts.

The third chapter argues that that the Bapo ba Mogale area is not comprised of a single group that is a single entity and has a single set of common interests. It contends that areas such as the Bapo are not comprised of homogenous entities. Instead these are areas that consist of groups that are fractured among many divisions; ethnicity, inequality, 'original inhabitants' and 'informal settlers', the youth, and structures of representation. Showing that these areas are dynamic, have local variations, and cleavages of political difference and socially differentiated debases the assumption that these are areas that are naturally co-operative and are given stability and harmony by the figurehead of the traditional leader and the structures of traditional leadership.

The fourth chapter of this thesis argues that the state reproduces and perpetuates the distinctive political order in rural South Africa that was established by the colonial state. Key to this is misunderstanding the very essence of Tswana indigenous political systems. The political processes of the creation of chiefly legitimacy are much more complex than the state has acknowledged. To demonstrate this argument it makes four key points. Firstly, it looks into the role of social anthropology in the colonial project. It then looks into the conceptual foundations which informed social anthropology that were used by state-appointed ethnologists who worked under the Native Affairs department's ethnological section who used this as a tool to establish new traditional authorities, impose tribal identities on flexible and independent groupings, intervene in matters of dispute over chiefly legitimacy, and maintained chiefdoms that were formalized into a tribal authority. Looking into the Bapo traditional authority dispute, the chapter

then presents the efforts that were made by the North West Provincial Government to try and resolve the dispute. These efforts involved hiring an ethnologist. This practice starkly resembles the old apartheid order's usage of ethnologists. The implemented 'recommendations and solutions' that were arrived at by the state-appointed ethnologist, along with the methodological approach used, undermined the Tswana indigenous political systems which allow for dispute in maintaining chiefly legitimacy. It is here where the state reproduces a political order that was established by the colonial state. Moreover, the impetus to hire a state ethnologist by the state was driven by the need to have the Bapo traditional authority and council legally constituted so as to ensure that it would be able to enter into mining deals.

Lastly, the concluding chapter of this thesis argues that platinum mining capital, by inserting itself into an area that is deeply inflected by its social historical context, has reproduced the distinctive rural political order that was established by the colonial state in the Bapo ba Mogale traditional authority area.

Chapter 2

Tribal trusteeship and social conflict over land

Writing in 1996, Harry Bernstein argued that "…there is much that is not known about the social formation and dynamics of black rural life in South Africa, as well as much that suggests its complex and contradictory features." (Bernstein; 1996; 39) Nearly two decades later, these words still ring true. This chapter will show and argue that contemporary struggles in areas such as the Bapo are centred around the contestations of tribal trusteeship and how it fosters chiefly accumulation.

Any analytical framework aimed at trying to understand South Africa's communal tenure regimes requires one to schematically look at South Africa's historical context. There are key phases through which one can locate this character of communal tenure regime: the pre-colonial period; colonial settlement and expansion, 1652-1860s; the 'mineral revolution' following the discovery of diamonds in 1866 and of gold in 1886; the formation of the Union of South Africa in 1910 and the events that led up to its formation along with those that followed it (industrialization and segregation); and the period of apartheid from 1948 to 1994. Writers such as Delius et al. (1997), Cousins (2007 and 1997), Bernstein (1996), Beinart et al. (1986) and others, have all produced a richly detailed literature on the forms of landholding and communal tenure in South Africa during the abovementioned historical contextual periods.

However, as the site of this study is primarily based in the North West Province region, it will be the former Transvaal area that I will be focusing on mostly. The particular and salient historiography of African state formation in this area, along with the pattern of landholding and the legislations which were passed to regulate this pattern in response to the wider political context within which this was happening and the distinct forms of local landed property relations which this all resulted in, will be discussed. For our purposes, most importantly the 'tribal-title-trust' as captioned by Capps (2012) in his work 'Tribal-landed Property: The Political Economy of the Bafokeng Chieftaincy, South Africa, 1837-1994' will be used as the analytical framework within which to try and understand the competing conceptions of land histories and land claims,

and how tribal trusteeship allows for chiefly accumulation in the Bapo area. The struggles and contestations that emerge as a result of this, in inequality and social conflict over land within this area, as the empirical evidence will demonstrate, will follow as a critical discussion and case-in-point of the argument of this chapter.

The Transvaal and the formation of the 'tribal-title-trust' property regime

In comparison to the other three republics (Orange Free State, the Cape, and Natal) the history of the pattern of landholding within the Transvaal area which has come to shape contemporary rural struggles such as those of the Bapo, is much more complex and convoluted in scope and character.

Describing the period from 1837-1877 as the era of mercantile colonialism, Capps (2010) has pointed out two features which stand out in the Transvaal region during this period as pertaining to cumulative loss of land for the indigenous populations. As he notes, "First was the remarkable speed and extent of formal land expropriation through the imposition of a private property system based on written title deeds that granted their holders absolute rights of exclusion." (Capps; 2010; 153) Elsewhere, Delius (1997; 25) has shown that this system of private property based on a written title deed in the Transvaal came on the back of free burghers that had embarked on the Great Trek and arrived in 'Ohrigstaad' where they negotiated for land with King Swati in 1846 who sold the land to them for 100 head of cattle. During this period land was allocated to the free burghers on the condition of free burgher rights and freely to those that had participated in the trek. However, this practice was stopped between 1868 and 1871. The process of allocating land on the basis of free burgher rights may have been stopped but the process of people registering their land continued well into the 1890s. This registration of land was, at best, arbitrarily carried out with claims of land and their registration being highly imprecise. The registration of this land to free burghers and the later creation of a market in land dispossessed the African population in the Transvaal of their land as the land that was surveyed and registered out to the white settlers was done so on land that belonged to various societies (chiefdoms, African groups, some areas of white settlement).

Secondly, Capps (2010; 155) points out that this was an ambiguous and contradictory system of landed property regime, especially for the African populations. "On the one hand, the political weakness of the colonial state meant that the formal imposition of private landownership far

outpaced its principal social effect: proletarianization of black farmers." (Capps; 2010; ibid) Instead the African population that was found in this Transvaal area was found to be a dynamic commodity-producing group. "On the other hand, many Africans themselves entered the ZAR's emergent property market in order to 'buy back' the farms that had been alienated 'over their heads' and regain access to landed resources free of white landlords and their oppressive demands." (Capps; 2010; ibid)

What followed was to be a plethora of land-buying syndicates in the Transvaal area. This was mostly done by African groups. Capps (2010) elaborates that "…this type of African land-buying, which began in the 1860s, was overwhelmingly conducted on a corporate basis. The necessary resources were typically raised within a land-buying syndicate bound together by some form of communal ideology while a local missionary arranged the transaction on its behalf. Once complete, the transfer of property would be registered in that missionary's name and informally held 'in trust' for the contributing 'community' whose 'owner members' would allocate usufruct rights among themselves." (Capps; 2010; 156). These land-buying syndicates were most prevalent in the Rustenburg, Marico, and Pretoria districts. (Delius; 1997; 28). These African land-buying syndicates were mostly made-up of a complex range of relationships. The composition of these groups that purchased land through the means of "... (re-)-incorporating themselves through revived or invented familial/clan identities" (Capps; 2010; 157) debase the contemporary views on 'traditional communities' and the institution of 'traditional leadership' which generalizes and to an extent homogenizes these land-buying groups as being a part of the 'tribe'. The denial of their dynamism and the processes which led to their formations as land-buying groups is today at the base of their struggles as they are denied of their land rights and rights to ownership. An explanation of the generalizations of these groups as 'tribes' and denying them agency (as discussed in the previous chapter) can perhaps be drawn from the seminal work of Leroy Vail (1989) who argued that "…ethnic identity [the foundation on which traditional communities and contemporary traditional authorities derive legitimacy from] provides a comforting sense of brotherhood in a world tending towards social atomization and rootlessness. Ethnic leaders represent and embody the unity of the cultural group [and] in this view, ethnicity is a kind of romantic rejection of the present." (Vail; 1989; 5-6). Most importantly however, it is how contemporary struggles of these groups are played out on creations of the colonial state such as the 'tribe'. Ascription to the 'tribe' almost acts as a denial of any rights that are claimed which

threaten the very basis of that tribe, in this case, land rights and ownership rights. This is also most starkly articulated by Vail (1989) who argues that "…[ethnicity] categorizes people in accordance with inevitable, largely unselfconscious ascription: people belong to tribe X because they are born in tribe X and are, regardless of personal choice, characterized by the cultural traits of tribe X. Thus one is a member of a 'tribe' not by choice, but by destiny, and one thus partakes of a set of 'proper' customs." (Vail; 1989; 6).

The British annexation of the Transvaal in 1877, in essence, through the new administration of Theophilus Shepstone, sought to change the land tenure regime in the Transvaal. Most significantly, it introduced a new law that the Secretary of Native Affairs would be the trustee of all land that was purchased by African land-buying group syndicates. This was not welcomed by the missionaries and intermediaries under which the African purchasers had bought and registered their land. This resulted in some members registering their land under the Secretary of Native Affairs and others deciding against. The British occupation of the ZAR lasted until 1881.

When the British surrendered the Transvaal back to the Boer self-rule in 1881, attempts were made to clarify the land rights of Africans. Most significant here was the Pretoria Convention of 1881. The Pretoria Convention allowed African land-buying groups to enter the property market based on two conditions: Firstly, the farm had to be purchased through a designated chief of an officially recognised 'tribe', in his presumed role of 'traditional trustee' of its communal property ('tribal trusteeship'); and secondly, this title was in turn registered 'in trust' to a relevant government official on behalf of that chief and his tribe ('state trusteeship'). (Delius; 1997; 29. Capps; 2010; 172. Cousins; 2007; 297. Feinberg; 2009; 39-61. Cornwell; 1974; 29-40. Bergh, J. and Feinberg; 2007; 170-93). According to Capps (2010; 173) these parallel institutions (state and tribal trusteeship) would later become incorporated into the segregationist and apartheid states. "The net effect was to produce an entirely novel and administratively defined form of African private group ownership in the Transvaal, which may be termed the 'tribal-title-trust' regime." (Capps; 2010; ibid) In essence the Pretoria Convention of 1881 and the processes which led up to it layed the basis for the 'tribal-title-trust' property regime.[14]

[14] Delius (1997; 29-32) points out that there were further events and processes which led to the consolidation of the right of African groups to purchase land. For example these include (but are not limited to) one of the provisions made in the Pretoria Convention of 1881 that the grant of land purchased by Africans was to be made and registered in the name of the Native Locations Commission in trust for the Africans. He further goes on to

The ‘tribal-title-trust’ property regime describes two processes in history. Firstly, it makes reference to the systematic methods in which African land-buying groups had to purchase land via an intermediary such as a missionary. The purchasing of land by these groups, as detailed earlier, was conducted on a corporate basis. Resources were collected and consolidated by groups, and the purchased land would be registered and held in ‘trust’ for the group by the intermediary. Secondly, it describes how this systematic method of purchasing land by African groups was altered by the imposition of state and tribal trusteeship. At first, the imposition of state trusteeship was *de jure* ambiguous and not legislated. “The requirement that Africa land purchases should be registered in the name of a state trustee was initiated in the Transvaal by the *Volksraad* executive who were acting on the resolutions of the Pretoria and London Conventions. However, these resolutions were not statute. They were repealed by the incoming Reconstruction Administration in 1901. This left a legal vacuum…” (Capps; 2010; 175). Delius (1997; 31-32) describes how a court judgement (Tsweu v Registrar of Deeds) helped to clarify the *de jure* nature of state trusteeship. In essence, the case showed how state trusteeship was in practice and in law simply a *nomineeship*. This had the effect of increasing the acquisitions of land by African groups. The 1913 Natives Land Act along with the 1936 Natives Land and Trust Act, tried to stop the growth in the purchases of land by African groups, but they did not succeed. Further purchases were recorded by group syndicates, such as those that will be presented shortly in the Bapo traditional authority area. In describing ‘tribal trusteeship’ the ‘tribal-title-trust’ property regime also notes how this new pattern of landholding strengthened the powers of traditional authorities, distorting not only the rural political order, but also acting, as Cousins (2007; 297) notes “…an apparatus of indirect rule.” In imposing tribal trusteeship on African societies and diverse (and some independent) land-buying syndicates, power was given to chiefs to exercise a monopoly over land and its resources. The creation of these new structural relationships by the colonial state with regards to chieftaincies is best understood through the work of Mamdani (1996) who asserted that African traditional authorities were, in essence, configured by the colonial state to address the problem which he termed as the ‘native question’.

mention that the ‘London Convention of 1884’ which superseded the Pretoria Convention reaffirmed the willingness of the ZAR to allow Africans to buy land and to appoint a Commission to demarcate locations. The main change was that land held in trust would therefore be registered in the name-not of the Locations Commission-but in the name of an officer of the South African republic. In 1886 this it was decided that the officer would be the Superintendent of Natives. Here was born the state trusteeship.

Chieftaincies, the 'tribal-title-trust' regime, and accumulation

According to Mamdani (1996) the reconfiguration of the institution of traditional leadership was derived from the need to deal with a 'political question', however, the argument could be made that this reconfiguration also produced ways in which chiefs could accumulate (e.g. landed resources, a market in land), like never before, and this was also facilitated by the imposition of tribal trusteeship on African societies.

There have been scholars that have argued that patterns of chiefly accumulation are evident from the pre-colonial era where chiefs derived their material foundations and political authority from modes of labour control and land allocation. These positions are most evident in the work of Sara Berry (2001; xix), and Boone (2003; 27). However, since their work a substantial body of scholarship has argued against these views, most notably Cousins (2007) through the principles evident in the character of communal tenure regimes as identified above, and earlier by others such as Biebuyck (1963; 52) who argued that the precolonial powers of chiefs were not based on their administrative control of land, but rather they were seen as representatives that maintained peace and mediated in defending territorial integrity. Here, as detailed earlier, access to land during this precolonial period was mostly overseen by social relations that were non-coercive and non-market. With regards to chiefly accumulation, Neocosmos (1993) argues that this was only made possible through the "…control of bride worth within the lineage mode of production." (Neocosmos; 1993; 62). The development of capitalism and its trajectory since the mineral revolution in South Africa, helps to not only locate the periods within which chiefly accumulation was made possible, but the means and modes of that accumulation as well. Writings on the agrarian question in South Africa and the cheap labour thesis (Harold Wolpe, 1972) amidst the mineral revolution would be most informative. As Capps (2010; 94-5) aptly relays it the social relations that organized pre-colonial tribal authority and communal land relations around the African chieftaincy were reorganized by colonial powers to meet the demands of capitalism and the imperial powers and also to subordinate African labour to these demands. This restructuring, gradual as it may have been, was met with resistance by some African societies. Dealing with this resistance became an administrative question which Mamdani (1996) has called the 'native question'. To this end, the colonial state reconfigured the institutional structures of traditional/tribal authorities. It is also in this reconfiguration and

distortion of the political order of African societies that the powers of a chief as a key figure of accumulation appear. This crucial moment in change, is aptly described in Mamdani's words, "…the authority of the chief thus fused in a single person all moments of power: judicial, legislative, executive, and administrative. This authority was like a clenched fist, necessary because the chief stood at the intersection of the market economy and the nonmarket one. The administrative justice and the administrative coercion that were the sum and substance of his authority lay behind a regime of extra-economic coercion, a regime that breathed life into a whole range of compulsions: forced labour, forced crops, forced sales, forced contributions, and forced removals." (Mamdani; 1996; 23)

Resistance by African populations living in chiefdoms to this new rural political order was met by the policy of indirect rule. In essence, indirect rule re-established tribal authorities as ethnic powers that were able to enforce principles of custom on their subject populations. Mamdani argues that this policy endeavoured to "…create a dependent but autonomous system of rule, one that combined accountability to superiors with a flexible response to the subject population and had the capacity to implement central directives with one to absorb the local shocks." (Mamdani; 1996; 60)

Critical to this policy of 'indirect rule' were the concepts of the 'bifurcated state' and 'decentralized despotism'. Mamdani (1996) demonstrates that the colonial state was bifurcated because it had two forms of rule/power under a single hegemony. On the one sphere of this hegemonic authority were the 'subjects' that were under the rule of tribal authorities that had been given administrative powers by the colonial state. These administrative powers enabled the tribal authorities to rule their chiefdoms through codified customary law. This customary law and the chiefs as their custodians claimed to enforce tradition to these African populations. In the last instance, the chiefs, as decentralized despots were "…given powers as a bureaucratic command and control system that was strengthened and made accountable to the central state…" (Mamdani; 1996; 45)

Crucially as well during this moment, land was remanded as a communal or customary possession. However, rights of access to land were reconfigured and no longer found their basis in social relations, but, access to the land was regulated by customary law. Mamdani (1996; 22) also illustrates how these new structural changes to the rural political order (i.e. strengthening of

tribal authorities and codification of customary law) was done so as to establish a common property institution in which private ownership (i.e. land purchased by African group syndicates through intermediaries but registered in the name of chief x of tribe x and held in 'trust' by the state) was not made possible. It is also during this crucial moment of 'tribal trusteeship' strengthened by the newly established administrative powers of the chieftaincy through despotic rule in a bifurcated state that "...The enforcement of tribal trusteeship…would thus also be tantamount to a 'dispossession within the tribe.'" (Capps; 2010; 178) In this instance, the dispossession of land and its resources for the group-syndicates that found themselves in the tribe of Chief X meant the accumulation of that land and its resources for Chief X because tribal trusteeship meant that *de jure*, the land had to be registered in the tribal authority's name. These independent land group syndicates would now only 'enjoy' *de facto* ownership. As Capps (2010) elaborates, "…finally, the evolving institutions and practices of tribal trusteeship were legally complemented in property law by the formal constitution of a 'tribe' as a *universitas personarum*-a corporate entity or 'individual' with the *jural* capacity to acquire property rights , enter contracts and incur obligations via the office of its chief." (Capps; 2010; 179).

It is this-tribal trusteeship and how it has enabled for chiefly accumulation that lies at the heart of contemporary struggles in the Bapo ba Mogale traditional authority area. These struggles, articulated in various forms-competing land histories, rival restitution land claims, competing group representations-have resulted in social conflict over land in the Bapo area. Following will be a detailed presentation of these struggles that will be assessed on the back of the presented history. Following the work of Woodhouse (2003) and Peters (2004), I will argue that these competing land histories and the counter land claims in this area today reveal processes of exclusion, deepening social divisions and class formation in the Bapo area which is caused by chiefly accumulation that is powered by the history of tribal trusteeship within this chiefdom that is explained by the analytical framework of the 'tribal-title-trust' property regime. Invariably this has led to inequality and social conflict over land.

Whose land is it? Contesting land histories and rival restitution land claims in the Bapo area

Wonderkop

The farm Wonderkop 400 JQ is registered in the name of the Republic of South Africa in trust for the Bapo ba Mogale traditional authority who act as the custodians of land on behalf of the tribe. "The farm is recorded in the deed of grant T216 of 1927. 430 morgen of the farm was acquired as part of an exchange under the Hartebeespoort Irrigation Scheme (Crocodile River) Act, 1914, Act No.32 of 1914 as compensation to some of the occupiers who were removed from the irrigation farms Kareepoort and Kafferskraal. 300 morgen were purchased by members of what was to become the Wonderkop community for an amount of 4500 pounds sterling."[15] Similarly to the farm and village of Turffontein 462 JQ and Segwaelane, this area also falls under the jurisdiction of the Bapo ba Mogale traditional authority by virtue of the Traditional Leadership and Governance Framework Act of 2003 and the Bantu Authorities Act of 1951.

The Wonderkop Traditional Authority is accepted by Wonderkop residents as the legitimate governance structure in terms of customary law and in practice over the farm and village of Wonderkop. Much like the Turffontein farm, Wonderkop is also a farm that is currently having its ownership contested.

The history of the farm and village Wonderkop

"The earliest date of registration of the property in terms of the Land Transfer Record is 23 July 1906 when the estate of the late G. E. Breet was transferred to Gysbert Breet under Deed No. 5481.

On 12 April 1926, the next entry was by Deed No. 69/1926; the property being portion 3 of Wonderkop 400 JQ (373 morgens 333 rods) was made a Government Grant to the Minister of Native Affairs of the Union of South Africa in trust for the Bakwena ba Mogopa traditional authority under chief Johannes Otto More Mamogale. The land Transfer Record shows that on the 14th of September 1927, portion 1 of Wonderkop 400 JQ measuring 1888 morgens 164 rods was

[15] Legal Resources Centre, *Submission of the Wonderkop Land Claim Committee in Respect of the Farm Wonderkop*, p.5, 2014/07/30. Submitted to the Commission of Inquiry into the tragic incident in Marikana held in Centurion, Gauteng, South Africa. The Legal Resources Centre were acting as Attorneys of the Wonderkop Land Claim Committee.

held in trust for Bapo community trust under Chief Filius Mogale by the Minister of Native Affairs for the union of South Africa."[16]

In stark contrast to the other villages that are under the jurisdiction of the Bapo ba Mogale traditional authority, the village of Wonderkop does not have a Setswana name. For many, the naming of a village is important because it points towards the history of settlement within a village in a farm (as demonstrated by the settlement history on the Turffontein 462 JQ farm). As one respondent pointed out "…When we bought the land from the whites we bought it as Wonderkop. At the time there were still some whites who were resident on the farm and they were resistant to move. After a while they left. We did not give Wonderkop a Setswana name thereafter. The fact that Wonderkop does not have a Setswana name is also indicative of the fact that it was not bought by the Bapo ba Mogale traditional authority. If it were bought by them then just like all of the other villages they would have given it a Setswana name."[17]

Settlement on the Wonderkop 400 JQ farm

The groups of people that settled on the Wonderkop farm came from different areas. The majority of the people that settled on the farm had been previous occupiers of the irrigation farms Kareepoort and Kafferskraal. Due to the government's initiative of the Hartebeespoort Irrigation Scheme (Crocodile River) Act in 1914, they were moved to Wonderkop as an alternative place of residence.

The process of purchasing the farm

The process of the purchasing of the Wonderkop 400 JQ farm first began in 1923. According to some members of the village of Wonderkop that are also claimants "The collections towards the payment of the farm first began in 1923. Our forefathers contributed towards purchasing the farm using either money or cattle. When they contributed money, they would contribute about 12

[16] This information is taken from a report that was compiled by Ms. Lesego Rankokwadi of the Regional Land Claims Commission (Gauteng and North West). This report was compiled on 19 November 2004. The report is entitled "Wonderkop 400 JQ, situated in Bojanala District, North West Province." This report was a result of the investigation which the RLCC made into the claim for the farm Wonderkop 400 JQ. It is also worth noting that this report has come under scrutiny from the lawyers of the respondents in the land claim (Bapo ba Mogale traditional authority represented by the law firm Eiser & Kantor Attorneys at the time of writing).

[17] Fieldwork Interview; 01/14/2014; INT18. Interview conducted in Wonderkop. A village that falls under the Bapo ba Mogale traditional authority area.

pounds per household. This was also the equivalent of one cattle or more for those that could afford to contribute more."[18]

Members that resided on the Wonderkop farm at the time organized themselves into a committee that collected and paid the monies that were needed in order to purchase the farm. The committee was made-up of individuals that represented the families that were residing in Wonderkop and were contributing towards the purchase price of the farm. It also represented those that made contributions towards the farm but were not resident in Wonderkop. Crucially, the committee kept a careful record of the contributions that each member made. These records were kept in the form of a book that has been preserved to this present day. These records reflect the names of the people that contributed towards the purchase of the farm, the amounts that were contributed by the members, as well as the dates in which contribution were made.

Although the collections towards the contribution of the farm only began in 1923, the first payment towards the farm was only made in 1925. Archival records show that the purchase price and the instalments were paid fully and on time. "…The first instalment was paid two years early on 8 August 1925 with a balance of 157 pounds in the bank. By 6 October the community had the second instalment ready. By the 4th of June 1926 the community had the full purchase price to be paid. Full settlement occurred on 2 December 1926."[19] Crucially, during this period of collections towards contributions made for the payment of the farm purchase, the chief of the Bapo ba Mogale Traditional Authority was not involved. This process had been taking place separately from the chief's involvement and his council. One member of the Wonderkop Land Claiming Committee commented that "The chief knew that the people in Wonderkop were making contributions towards purchasing the Wonderkop farm. The committee that had been established here to oversee the operations of purchasing the farm did not need any permission or authorization from the chief to operate. We were doing our own thing."[20]

[18] Ibid.

[19] Legal Resources Centre, *Submission of the Wonderkop Land Claim Committee in Respect of the Farm Wonderkop*, p.9, 2014/07/30. Submitted to the Commission of Inquiry into the tragic incident in Marikana held in Centurion, Gauteng, South Africa. The Legal Resources Centre were acting as Attorneys of the Wonderkop Land Claim Committee.

[20] Fieldwork Interview; 28/03/2014; INT13. Interview conducted in Wonderkop. A village that falls under the Bapo ba Mogale traditional authority area.

Indication that the chief knew what was going on in Wonderkop is expressed in the claims that are made by those that reside in the villages of Segwaelane and Bapong. They claim that their forefathers also contributed towards the purchase of the Wonderkop farm and they use this as a basis for their claim that the farm in question has been purchased by the entire population that had been residing in Bapo ba Mogale at the time. One respondent remarked that "We were told that we need to contribute donations towards the purchase of the Wonderkop farm by the chief. We simply viewed our contribution towards the purchase of the farm as donations and not as contributions towards the purchase price of the farm. That is why you will find that the names of those that contributed towards the farm and were living in Bapong and Wolhuterskop and Segwaelane at the time are not on the records. My parents contributed towards the purchase of the farm but their names do not appear on the records of those that helped to purchase the farm."[21]

These claims that the chief called for the entire Bapo ba Mogale nation to contribute towards the purchase of the Wonderkop farm are challenged when one looks at the entries that were made in the records kept by the committee of the purchase of the farm. These records do not only reflect the contributions of those that were residing in Wonderkop at the time, they also highlight contributions made by people that were not resident on the farm. "Contributions hailed from all over the Transvaal and from as far as Vereeniging and Zeerust."[22]

The extent to which the chief was not involved during the collection and purchasing process of the farm is further demonstrated by the fact that some contributions made towards the payment of the purchase price of the farm were also towards settlement on the farm. "Contributors were eligible for membership of the Wonderkop community and occupation rights on the farm. The membership and tenure arrangements were coordinated and managed internally in the community."[23] This is in stark contrast to the manner in which tenure terms and settlement within the Bapo ba Mogale Traditional Authority area took place. New settlers in the area would seek permission from the Traditional Authority and have to pay a certain sum of monies and undergo the traditional process

[21] Fieldwork Interview; 23/11/2013; INT06. Interview conducted in Bapong, Skoolplaas section. A village that falls under the Bapo ba Mogale traditional authority area.

[22] Legal Resources Centre, *Submission of the Wonderkop Land Claim Committee in Respect of the Farm Wonderkop*, p.9, 2014/07/30. Submitted to the Commission of Inquiry into the tragic incident in Marikana held in Centurion, Gauteng, South Africa. The Legal Resources Centre were acting as Attorneys of the Wonderkop Land Claim Committee.

[23] Ibid.

of belonging to a ward in order to settle in the Bapo ba Mogale area. An elder who is a direct descendant of one of the purchasers of the farm exclaimed that "The people that would come and want to settle here would first approach the committee that was set-up to purchase the farm. They would be required to pay a certain amount of money or cattle in order to be allowed to settle here. Thereafter the committee would allocate a stand and also a grazing area where the individual could graze their cattle and also engage in some subsistence farming. Each household therefore also had an area where they could do some farming. Our farming used to take place where the informal settlement of Nkaneng is located today. That area used to have some really good arable soil which was useful as a farming area for our crops."[24]

How the land was divided amongst the contributors of the purchase price of the farm also adds credence to the claim that the chief was not involved in the purchasing and governance of the Wonderkop farm during this period.

Group representation of the descendants of the original purchasers

The descendants of the original purchasers[25] of the Wonderkop 400 JQ farm are represented by the Wonderkop Land Claims Committee. The Wonderkop Land Claim Committee was first established in 1997. A respondent exclaimed that "I was amongst the people that started it. In actual fact I was the person that led the committee during its initial phases. We started the committee when we heard that it was possible for us to claim our land back that our forefathers had purchased. We also saw other groups that were within the Bapo ba Mogale area such as the Batlhako who were claiming for that farm in Sonop [Kareepoort no. 623]"[26]

The Land Claim Committee is currently comprised of four members. These four members oversee the duties of consulting with the attorneys that are representing and then having to report back to the constituency that they are representing. They are also tasked with having to hold regular meetings with their representative constituency in order to hear and report on their claim. The

[24] Fieldwork Interview; 01/04/2014; INT15. Interview conducted in Wonderkop. A village that falls under the Bapo ba Mogale traditional authority area.

[25] The original purchasers are understood to be those that contributed towards the purchase of the farm using either cattle or monies. This also includes those that contributed towards the purchase price. Together they form the descendants of the original purchasers and they are the beneficiaries.

[26] Fieldwork Interview; 28/03/2014; INT13. Interview conducted in Wonderkop. A village that falls under the Bapo ba Mogale traditional authority area.

Committee also enjoys a lot of support within the Wonderkop village. This has been bolstered by the fact that the committee works very closely with the Wonderkop Traditional Authority's Traditional Council. However, the fact that the committee works closely with the Wonderkop Traditional Authority has also had a detrimental effect on the influence and reputation of the committee. There are members of the Wonderkop village that have confused the workings of the land claim committee with that of the local Traditional Authority. This has led to a belief that there is no separation of powers between the two organizations and thus accusations that are meant for the Wonderkop Traditional Authority also become the same accusations that are thrown at the land claiming committee. "Those people do not represent us. When I say that they do not represent us I mean two things. Firstly, we are supposed to have an election once every five years to elect new members that will head the Traditional Authority. Those people that are currently ruling have been in power for some time close to thirteen years now. We are yet to have an election to elect a new leadership. Secondly, we have so many things that are happening in our village that they should be dealing with but they are not. These things range from dealing with the problem that the people of Nkaneng are causing in our village to the lack of basic services such as water that we are sometimes struggling to receive. They are not dealing with these things. Sometimes we think that these people are working with the people at the Bapo ba Mogale offices and those people are manipulating them."[27]

Due to the fact that the land claiming committee is working so closely with the Traditional Authority in Wonderkop (i.e. the members of the land claiming committee also sit on the traditional council of the Wonderkop Traditional Authority) accusations of a lack of adequate representation have also been levelled against the committee. These complaints have mostly been about the committee not holding regular meetings to update the people that they are representing on the progress of their case. However a greater challenge to the legitimacy of the land claiming committee comes from the differences between the descendants of the purchasers of the land. It is these two factors; differences between the buyers and dissatisfaction with the local Traditional Authority that a group, mostly made-up of elders, within the Wonderkop village have started an

[27] Fieldwork Interview; 01/04/2014; INT15. Interview conducted in Wonderkop. . A village that falls under the Bapo ba Mogale traditional authority area.

alternative representative assembly which is in opposition to the land claiming committee as well as the Traditional Authority.

The Wonderkop Elders group

At the heart of its mission statement, the Wonderkop Elders Group has two points: firstly, they want to ensure that the Wonderkop Traditional Authority engages in fair and transparent governance. Secondly they want to ensure that they are fairly and proportionately represented in the Wonderkop Land Claim Committee. As one of the members remarked "We are very frustrated with the way that the Wonderkop Traditional Authority is doing things. How can you not have elections for new leaders in so long? We have decided to come together as a group of elders and we want to make things right. Surprisingly there are a lot of us who are very frustrated with the manner in which things are being done over here. If we let them continue in this manner and they become successful with the land claim, just imagine how they are going to run things then? They are going to end-up just like the Bapo ba Mogale Traditional Authority."[28]

It is important to point out the fact that the Wonderkop Elders group is not trying to wrest control of the Wonderkop Traditional Authority. Instead, they are trying to ensure transparency and accountability in the governance of the Wonderkop farm and village. It is in their views regarding the land claim committee that a significant shift in ideology is found.

The leader of the Wonderkop Elders group also happens to be the same person that started the Wonderkop Land Claim Committee. Mr Ramaboa founded and served on the committee. He remarked that "I left the committee when I realized that the manner in which we were claiming was very flawed. For example, I raised the point that if there were some purchasers that had contributed more monies or cattle towards the purchase of the farm how would the descendants of those purchasers be compensated? Would they be compensated the same as those that contributed less? Would they have a say in what should be done with the land if the claim were to be successful? When I raised these questions I made a lot of people uncomfortable and they decided to vote me out of the committee."[29]

[28] Ibid
[29] Ibid

As the leading figure of the Elders group, Mr Ramaboa has come to find that a lot of the other elders share his views. Mr Ramaboa believes that his grandfather contributed the most (using cattle and monies) towards the purchase of the Wonderkop 400 JQ farm. Mr Ramaboa's story also has another dimension to it. Currently sitting on the committee is his brother. He admits that his brother holds a different view from the one that he has. This shows how we cannot take the group of the descendants of the original purchasers of the land to be a homogenous group either. This is also a group that has different interests and views although it is unified by the pursuit of claiming the farm back from the Traditional Authority of Bapo ba Mogale.

Differences amongst the beneficiaries

The point that the group of beneficiaries is not a homogenous one is further enhanced by the involvement of the *Tlhapi* family in the land claiming process.

When the Land Claim Committee was established the influential Tlhapi family had representatives who were also a part of the Committee. Soon after the establishment of the committee, complaints about how the Tlhapi family were able to acquire the three portions of land on the farm which they now own, surfaced. The Tlhapi family are said to have purchased the three portions for a sum total of R26 500. These portions were bought from the Bapo ba Mogale Traditional Authority. When the Land Claim Committee learnt that the Tlhapi family owned the three portions (4, 5, and 6) of the farm, they also lodged a claim for those portions as well. The Tlhapi family thus withdrew from the Committee when they learnt that the Committee was also claiming their land. The Committee claims that when the Tlhapi family purchased these three portions of the farm, Mr George Tlhapi was the chairperson of the Bapo ba Mogale tribal council. The Tlhapi family are now regarded as being a part of the opposition in the land claiming process by the committee. "We want to also indicate that the traditional Authority of the Bapo ba Mogale sold portions 4, 5, and 6 of the farm Wonderkop 400 JQ to a business person without the resolution of the owners of the land."[30]

The differences amongst the beneficiaries are also expressed by those that are not a part of the land claiming process. These are the people that believe that they are also the descendants of the original

[30] Letter from the Wonderkop Land Claims Committee to Lingenfelder and Baloyi Attorneys, "Issues raised by the Wonderkop Land Claims Committee for consideration by the chairperson of Marikana Commission of Inquiry." 23 October 2012. Attached as appendix: C

purchasers of the land. One such respondent exclaimed that "We should also be included when they talk about the descendants of the original purchasers of the Wonderkop farm. Our forefathers also contributed towards the purchase of that farm. If you take a close look at that list that they have of the original purchasers, you will find that our surname is there as well. Our grandfather's name is also there. He contributed cattle towards the purchase of that farm. However, we are not claiming that farm because we know that everybody else who was in the Bapo ba Mogale at the time also contributed towards buying that farm."[31]

This sentiment is also shared by a lot of people that believe that the claimants of the farm are only engaging in the restitution exercise because they ultimately want to secede from the administration of the Bapo ba Mogale Traditional Authority and rule themselves. For most of the residents of the Bapo ba Mogale area that hold this sentiment, their reasoning has some historical context attached to it.

When the infighting within the royal family of the Bapo ba Mogale began, the source of the dispute had been the fact that the chief had sold-off the land that belonged to the Bapo ba Mogale. The chief at the time was *Kgosi* Darius Mogale. As one respondent recalled "When Kgosi Darius Mogale sold-off the land to the Boers he caused a lot of commotion. This was because he did not get any tribal resolution for him to do so. He sold-off the land without any approval or consultation. He then left. When he left, the people of Bapo ba Mogale then came together and the land was re-purchased using the contributions from everyone that was in the tribe. The infighting within the royal family only began when Darius Mogale came back from where he was hiding. When he came back the Traditional Council had already put in place Filius Rakgatla Mogale as the new chief. When Darius was claiming the chair of authority as the chief, those that had placed Rakgatla as the new chief asked 'On whose land are you ruling?' This is the point at which the factions within the royal family began to appear and the infighting began."[32]

The people that are claiming to have also contributed towards the purchase of the farm Wonderkop draw most of their rationale from this moment. It is not known whether or not the farm Wonderkop 400 JQ was part of the land that was sold-off by *kgosi* Darius Mogale. If it were a part of the land

[31] Fieldwork Interview; 04/04/2014; INT20. Interview conducted in Segwaelane. A village that falls under the Bapo ba Mogale traditional authority area.
[32] Fieldwork Interview; 21/11/2013; INT05. Interview conducted in Segwaelane. A village that falls under the Bapo ba Mogale traditional authority area.

that was sold-off, the people that are claiming to be beneficiaries of the original purchasers of the Wonderkop farm believe that their forefathers contributed towards the purchase of the farm when they had to re-purchase it after it had been sold-off by *kgosi* Darius Mogale.

The unifying thread between the Land Claiming Committee and the Elders Group

Although there may be differences between the descendants of the original purchasers of the land, there remains one point upon which all are agreed: the eradication of the informal settlement of Nkaneng. All are agreed that Lonmin Platinum mine must account for the growing informal settlement because they believe that it is the mining company that has failed to provide accommodation for the hostel dwellers who were left out in the cold when the mining company converted the hostels into family units. According to the Land Claim Committee, the informal settlement has presented them with the following problems, "…there is no proper governance in Nkaneng. They sell the residential site for R15.00. The local traditional leadership has held meetings with them to try and stop them from selling the tribal land. They have continued to sell-off our land. There are illegal saloons which are operating in Nkaneng. These saloons have resulted in the innocent residents of the village being either raped, mugged, or murdered. There has also been a mushrooming of illegal graves which burial thereof is not monitored or done properly. Mostly, there has been a renting out of rooms for desperate new employees seeking a place of their own for dwelling with either a family member of their spouses."[33]These sentiments are also held by the Wonderkop Elders group.

Both groups also believe that the local Municipality of Madibeng needs to shoulder some responsibility for the growth of the informal settlement of Nkaneng.

[33] Letter from the Wonderkop Land Claims Committee to Lingenfelder and Baloyi Attorneys, "Issues raised by the Wonderkop Land Claims Committee for consideration by the chairperson of Marikana Commission of Inquiry." 23 October 2012. Attached as appendix: C.

Turffontein 462 JQ[34] (Turffontein no. 310 (old no.)

One of the first villages to be formed on the farm of Turffontein 462 JQ was a village that was called *Marulakop*. According to a respondent "My father was the very first person to settle in Marulakop. I was not born yet when my father settled in Marulakop. I was born in 1921, and so I believe that he could have settled there around the early 1900s. Being the very first person to settle there, he had to purchase the land where he settled, *Marulakop*. He purchased *Marulakop* using one cattle. This place had already been purchased by the Bapo ba Mogale, however, they were not using it. In order for my father to settle here, they requested that he pay-up the one cattle in order to settle here."[35]

Mr Makgale[36] had been the very first person to settle in Marulakop after he had purchased the rights to do so from the traditional authority. The village *'Marulakop'* had been given its name because of the abundance of the Marula trees that could be found in the area. Marulakop was also situated on the north-eastern portion of the farm Turffontein 462 JQ. This is important to note because it is also the area that contained the most fertile soil for agricultural purposes. This meant that those who were occupants on *Marulakop* also lived off that land through subsistence farming. A respondent notified that "We were designated a section in our village of Marulakop where we used to farm. We ploughed crops such as maize and corn, beans, potato, and tomatoes to count a few. When harvest came we would collect the harvest with two bags; one was for the household and the other was for selling. We would sell the harvest in Marikana town, which during those days had a vibrant market where we would barter with other sellers. You should also understand that we also used to have a space where our cattle would graze."[37] Soon after Mr

[34] The Deeds Registries Act No. 47 of 1937 introduced a new system of numbering farms for registration purposes in accordance with the method prescribed in regulations 6 and 7. Therefore, one finds that prior to 1937, and thereafter, farms have different numbers which can make it very difficult to track the history of these farms. The new numbering system (introduced in 1937) allocates the suffix JQ after the farm name. In this chapter I have indicated the old number and the new number that is used to identify the farm.

[35] Fieldwork Interview; 05/04/2014; INT21. Interview conducted in Segwaelane. A village that falls under the Bapo ba Mogale traditional authority area.

[36] The names of the informants during fieldwork interviews have been removed to protect the informants and also because of the confidentiality agreements that were agreed upon during the interview process. In this instance I include the Makgale surname because it is very important to the 'land history and contested land claims' that are in the Turffontein 462 JQ farm and to the overall story of the Segwaelane village.

[37] Ibid.

Makgale had settled on the north-eastern portion of the Turffontein 462 JQ farm and named it *Marulakop*, he was joined by others who had sought for a place where they could not only live but also engage in subsistence farming.

A narration of the history of *Marulakop* does two things for us. Firstly, it illustrates how an individual acquired the rights to settle in a farm that was already registered as land that was owned by the Bapo traditional authority. Mr Makgale's early settlement in Marulakop is indicative of the manner through which the political administrative system of the Bapo chieftaincy allowed for individuals that were a part of the Bapo tribe to acquire land systematically. This teases out an account of the ward system of the Bapo and how it functioned with regards to land. This becomes very important when considering the contemporary debates around the 'rightful' manner through which individuals that are within the Bapo traditional authority area, are supposed to acquire land. Secondly, it also highlights the importance of land usage in this area. The *Marulakop* story shows how those that settled there early used the land for subsistence farming and also for cattle grazing. This will later become important when considering the impact that platinum mining has had on land and land usage in this area and how this has shaped the struggles over the contestations of land history and ownership.

Soon after the establishment of the village of *Marulakop*, there was another village that began to grow in the Turffontein 462 JQ farm. This village followed a very different pattern of settlement formation as compared to *Marulakop*. The name of the village was *Thaba'ntsoana*.

Thaba'ntsoana's early settlement pattern takes on a very different route to Marulakop because it started off as an informal settlement. As a respondent recounted "…the people of Thaba'ntsoana started living here because they were working on the railway lines of the train station that was to be situated between Ranteng and Thaba'ntsoana. In order for them to settle here, they had to ask permission from the headman of the village and they also had to contribute 6 pounds each."[38] A recount of the history of Thaba'ntsoana is important for it illustrates a second pattern of settlement that occurred on the Turffontein 462 JQ farm. Thaba'ntsoana was occupied by people who were coming from areas that were outside of the Bapo ba Mogale traditional authority area. These people, through the ward system of the Bapo were incorporated into the Bapo traditional

[38] Fieldwork Interview; 05/04/2014; INT21. Interview conducted in Segwaelane. A village that falls under the Bapo ba Mogale traditional authority area.

authority, and they were also afforded the chance to settle in the area after having paid the necessary monies and gone through the system. Their pattern of settlement also means that they also view themselves as a distinct group within the Bapo ba Mogale area. One respondent pointed out that "…if you go around the village and you ask the people that used to live in Thaba'ntsoana what their surnames are, you will find them to be very different from those of the people that are Bapo. We have surnames such as Khoza, Masinge, and Makhubela to name a few. These are surnames of people that come from people who are Shangaan [Tsonga], and some Pedi. This tells you that we are not Batswana. However, we became Batswana and Bapo when we decided to stay here and we started to get married with the locals."[39]

In contemporary struggles on the contestations of land ownership in the Bapo area, identity has become very important. Identity has become a rallying point for group mobilizations to institute processes of land claiming. Identity has also become important in the struggles for traditional leadership. Recounting these narratives on settlement patterns in this area elucidates not only how the incorporation of different ethnicities into the Bapo took place through the ward system, but, it also demonstrates how the distinctions between different groups based on settlement and ethnicity plays a huge role in claims to ownership of land or rights to access opportunities that are presented by mining capital in the area. This will be further elaborated on later.

There was also another village that was resident on the Turffontein 462 JQ farm and it was known as Ranteng. In 1953 the state-appointed ethnographer, P.L. Breutz published an ethnological report entitled *'The Tribes of Rustenburg and Pilanesberg Districts'*. In it he detailed the tribe of the Bapo ba Mogale. Under the heading 'mode of settlement' the village called Ranteng is mentioned as one of the villages that could be found on the farm. Ranteng was made-up of individuals that were from the Bapo ba Mogale area and had moved to the farm in order to be closer to the employment opportunities that were being offered by the establishment of a railway station that was being built between the village of Thaba'ntsoana and Marulakop.

In the year of 1973 the tenants of these three villages were forcefully relocated to another village that was situated on the Turffontein farm. The rationale behind the relocation was the development of a mine that has today come to be a landmark on the landscape of the Turffontein

[39] Ibid.

farm. A further elaboration on the forced relocations and their significance will be discussed shortly. For now however, a brief recount of the history of how the village of Segwaelane began and what it elucidates will be provided.

According to archival records dated 21 January 1938, a letter from the *secretary of native affairs* to the *controller of native settlements* on the subject of 'allotment of trust land in the Rustenburg district', recorded that the Bapo traditional authority owned the farm Turffontein no. 310 (old no.) wholly and certain portions of other farms[40]. Presently, it is by virtue of the Traditional Leadership and Governance Framework Act of 2003 and the Bantu Authorities Act of 1951 that the farm and village both fall under the jurisdiction of the Bapo ba Mogale traditional authority.

The ownership of the farm of Segwaelane is today being contested by residents of the village of Segwaelane. Central to their claim is their settlement history on the farm and the formation of the Segwaelane village.

A brief historical recount of the village of Segwaelane is very important for our purposes here. It does one of two things for our intentions at this point; firstly, it helps us understand the context of the settling history on this farm of the various groups that came to settle on this farm. Secondly, it helps us to uncover some of the nuances of the contested land history of this farm. As one respondent reflected "…our forefathers used to live in an area that is close to Brits town today. They only came here because they exchanged lands with a group of Boers that used to live here. The Boers wanted to exchange because they realized that where our forefathers were situated was an area that had arable land and the area where they were was barren."[41] In the year of 1920 the Batlhako tribe which at the time comprised of twenty families, chief amongst whom were the Mokomele family, moved from the farm Kareepoort[42] no. 623 (old no.) to Turffontein 462 JQ. When the *Batlhako* group moved to the farm Turffontein 462 JQ and occupied the portion of the farm where the village of Taung used to be allocated, they re-named the area Segwaelane. The *Batlhako* group had self-identified themselves as being the Batlhako tribe. This meant that when they moved from the Kareepoort 623 farm, they were constituted as a tribe that

[40] National Archives of South Africa. Source: NTS, Vol: 10219, File/reference: 10/423 (12). Pretoria.
[41] Fieldwork Interview; 31/03/2014; INT14. Interview conducted in Segwaelane. A village that falls under the Bapo ba Mogale traditional authority area.
[42] The village which was based at the Kareepoort no. 623 farm was called Gotsube, which is where the Batlhako used to reside. Presently, this place is called Sonop.

had a chief and its own political administrative system. As a respondent continued to elaborate "When we arrived here we were only a group of about twenty families. We were told that we were too small a group as a tribe to be living on our own. We were then forced to fall under the leadership of the Bapo ba Mogale. Our chief became the headmen of the village and he was now a subject to the chief of the Bapo ba Mogale."[43]

Although they were now considered to be a part of the chieftaincy of the Bapo, the *Batlhako* continued to recognize and participate in their own political administrative systems. One example of this is demonstrated in how the administration of justice in the village of Segwaelane, was constantly being carried out at the headmen's court and for cases that were supposed to have been moved up to the chief's court, they remained at the headmen's court. However, this all changed in the year of 1973 when those that had been residing in the villages of *Marulakop, Thaba'ntsoana and Ranteng* were forcefully removed from their areas of residence and were moved to Segwaelane. This had two effects; firstly, it meant that there was now a greater population that was living in the village of Segwaelane. Secondly, the people that were now moving to Segwaelane were people that had, as documented already, settled on the farm of Turffontein 462 JQ via different patterns. These patterns of settlement meant that different groups from a variety of places were all going to be living under the political administrative system of the Batlhako. "When those people were forcefully removed from their villages in 1973 and they were being brought here, they outnumbered us who settled here as the 20 families that made-up the Batlhako tribe. The majority of these people considered themselves to be Bapo. Thus my grandfather who was the chief at the time also had to ensure that we as the Batlhako also followed in being under the authority of the chief of the Bapo ba Mogale."[44] The year 1973 proved to be an important year for the people that were living within the Turffontein 462 JQ farm.

<u>Forced relocation to Segwaelane village in 1973</u>.

In October 1973, the people that used to live on the other three villages (*Thaba'ntsoana, Ranteng, and Marulakop)* were forcefully relocated to live in Segwaelane. These villages once

[43] Fieldwork Interview; 20/11/2013; INT04. Interview conducted in Segwaelane. A village that falls under the Bapo ba Mogale traditional authority area.
[44] Ibid.

resided where the Saffy shaft (Eastern Platinum shaft 1-Lonmin)[45] is located today. According to the people that were removed, their removal came as a consequence of the new mine that was going to be developed on the Turffontein farm and in plots of the farm where they resided.

Two important points were always raised when the subject of the 1973 forced removals was raised. The first is that during the forced relocations of 1973 no consultations were held to discuss the move. "I do not remember being called for a consultation for us to be moved. I remember that at the time I was still working in Joburg. When I got back from Joburg in late November, I came to find that our village was no longer in existence, they had erected a fence around the land where we used to stay and they pushed our people away to the hills of Taung [Segwaelane]. If my memory serves me well we still have not seen a tribal resolution that was passed and agreed for us to be moved off our land."[46] The second major point about the forced relocation of 1973 has to deal with the lack of compensation, or inadequate compensation for others. The most that a person or household got for being removed was a sum of R40. Others got compensated about R30 and others R20. One respondent reflected on the removal and the methods used to scale for compensation, "…my child, there was a white man who would come to the house and take a look at your house. If your house was built with clay and resembled a rondavel, you hardly got any compensation. The people that got compensation were the people whose houses were built with bricks. However, with those brick-layered houses they would still look at the cracks in your house, how many rooms your house has and those kinds of things. Based on that, they would then decide how much you were going to be compensated. Either R40 or R30 or less even. That money that they compensated us with was not even enough money for us to go and get help to move to Segwaelane. We used that money for food mostly because we had now lost our farming and grazing land."[47]

Historically, the 1973 forced relocations form a very important part of the contemporary struggles around property rights at the village-level in the Turffontein 462 JQ farm, namely, Segwaelane village. However, before moving onto analysing how these struggles at the village-level of

[45] This mine is also affectionately known as Bob Mine amongst the people that reside in the Bapo ba Mogale traditional authority area. Kgosi Edward Bob' Mogale is the current chief of the Bapo ba Mogale.
[46] Fieldwork Interview; 03/04/2014; INT19. Interview conducted in Segwaelane. A village that falls under the Bapo ba Mogale traditional authority area.
[47] Ibid.

Segwaelane are contested, it's important to consider the thematic significance of re-telling the history of the Segwaelane village.

What the history of Segwaelane village elucidates

There are a number of factors that should be taken away from the history of the village of Segwaelane. These factors are important because they act as an analytical basis upon which we use to understand the contemporary village struggles of the different groups, and/or organizations, in Segwaelane.

Firstly, the history of the village of Segwaelane illustrates the diverse patterns of settlement that have been taking place over the Turffontein 462 JQ farm. These patterns of settlement give an insight into how these different multi-ethnic groups came to live not only in the same farm, but ultimately, after the forced relocations of 1973, in the same village of Segwaelane.

Secondly, this elucidates the process of the formation of a 'tribe'. That is, this history illustrates to us how these diverse-groups came to be considered and fall under the rule of the Bapo ba Mogale traditional authority.

Thirdly, this historical account of the Segwaelane village through the forced relocations of 1973, shows us the status of the relationship that these various ethnic groups that are now considered to be Bapo ba Mogale, had with the traditional authority of the Bapo ba Mogale.

Restitution land claims and contested land histories

Currently, the farm Turffontein 462 JQ is registered in the name of the Republic of South Africa in trust for the Bapo ba Mogale traditional authority. According to archival records dated 21 January 1938, a letter from the *secretary of native affairs* to the *controller of native settlements* on the subject of 'allotment of trust land in the Rustenburg district', recorded that the Bapo ba Mogale traditional authority owned the farm Turffontein no. 310 (old no.) wholly and certain portions of other farms[48].

Upon the time of concluding the empirical research, there were two land restitution claims that were being made for the Turffontein 462 JQ farm. These land claims were being made by groups

[48] National Archives of South Africa. Source: NTS, Vol: 10219, File/reference: 10/423 (12). Pretoria.

that reside in the Segwaelane village. There are two groups that are claiming land from the Bapo ba Mogale traditional authority in the Segwaelane village. The first group have named themselves the Thaba'ntsoana, Marulakop, Ranteng (hereafter TMR) Land Claim Committee, and the other group is the 'Batlhako'.

TMR Land Claim Committee

The origins of the TMR Land Claim Committee and their claims are derived from the forced relocation of 1973. As has been already established, when the forced relocation took place the members of the three villages that were displaced had two main points of complaint against the relocations. Firstly, they stated that they had not been consulted by the traditional authority nor the mining houses about the proposal of moving them. Secondly they pointed out that they had been inadequately compensated for the relocation. These two major points (lack of adequate compensation and consultation) prompted members of the three villages to come together and form a land claim committee. This land claim committee was formed for the purposes of the three village members to claim the pieces of land on which they were resident on before they were relocated. This group refer to themselves as the *'TMR Land Claim Committee'*[49] and they consist of 7 members who represent the three villages which were forcefully relocated. The Committee was first established in 1998, however some members have since passed away.

The members of the committee who are acting on behalf of their constituency of people that were forcefully relocated in 1973, are very clear about the fact that they are not pursuing these claims because they believe that they have purchased this land. As one committee member revealed "…this land was bought by the people of Bapo ba Mogale. Our father however took out cattle and 12 pounds to purchase the portion of the farm Turffontein on which our village, Marulakop, was established. What we are fighting for is that when we were removed we lost our land on which we used to farm and graze our cattle. We used to live-off that land. We used to eat the harvest and go and sell the other harvest in Marikana town and sometimes we used to go to Brits town. Now when we were removed we had no source of income or land on which to farm or graze our cattle. My father's cattle died. We could not farm where we are today in Segwaelane for two reasons. Firstly,

the land here is not arable. Secondly, there is no space or land that we were allocated for farming purposes."[50]

The rationale behind the establishment of the TMR Committee

There are a number of motivations behind the establishment of the committee and the pursuing of a rival land claim. These motivations can only be ascertained and understood when one looks at the lodged restitution rival land claims holistically within the context of the struggles of chieftaincy within the Bapo ba Mogale traditional authority. There are a couple of reasons why it is important to look into the motivations behind the establishment of the TMR Committee. Firstly, it helps to elucidate what these rival restitution land claims are based on, what these respective claimants have done to pursue these claims and their strategies of mobilization within their groups/constituencies, and it also shows us what level of legitimacy in terms of support do these committees enjoy in their respective areas.

One of the first obvious impetuses behind the establishment of the TMR Land Claim Committee can be found in the expression that the people that reside in these areas want the mine to negotiate directly with them. Their rationale is the fact that they are the ones that are directly affected by the mining operations that are taking place in their villages and not the traditional authorities. One respondent pointed out that "…there is a lot of blasting that takes place at the mine area here. This blasting happens about 3 times a week when it is really busy at the mine. When the blasting takes place it shakes our houses, and as you can see over the years our houses have been slowly cracking. It is also not just the physical damage that we are affected by, it is also the influx of people that settle near our village and start their own places [informal settlements] without seeking the proper authorization to do so that is affecting us."[51]

The traditional authority of the Bapo ba Mogale stands accused by many within the Segwaelane village of not prioritizing any developmental projects that are aimed at the village. The local residents believe that this is due to the infighting that is taking place within the leadership of the traditional authority. Others have pointed towards the role of the headmen, claiming that the

[50] Fieldwork Interview; 03/04/2014; INT19. Interview conducted in Segwaelane. A village that falls under the Bapo ba Mogale traditional authority area.
[51] Fieldwork Interview; 31/03/2014; INT14. Interview conducted in Segwaelane. A village that falls under the Bapo ba Mogale traditional authority area.

headman of Segwaelane is also embroiled in a succession dispute for his position, thus the medium for a proper consultative process between the leadership of the traditional authority and the local headman is almost non-existent. The lack of a consultative process and the disjuncture and levels of trust between the traditional authority and the residents of Segwaelane village is an issue that has some historical context to it. This also brings us into another reason why the TMR Committee was established, the 1973 forced relocations.

The 1973 forced relocations of the Thaba'ntsoana, Marulakop, and Ranteng villages into Segwaelane was a watershed moment in the history of the Segwaelane village. This moment brought three villages, each with a different pattern of settlement on the Turffontein 462 JQ farm together. When the three villages were still living independently from each other, they did not have a headman. They engaged directly with the traditional authority of the Bapo ba Mogale through selected members of the villages. This arrangement later became a detriment to these villages when they were to be moved to Segwaelane village during the 1973 forced relocations. As has already been stated, there was no consultation process or protocol regarding the relocation that was observed. Those who were removed claim that to this day they have never seen the tribal resolution that was passed to agree to them being relocated. This lack of a consultative process and the inadequate compensation that those who were removed were given, formed the bases for an establishment of the TMR Committee. This second reason for the establishment of the TMR Committee highlights the historical and perpetual lack of proper consultative processes that has come to characterize the relationship between the traditional authority of the Bapo ba Mogale and the local residents of Segwaelane village. The struggles of chieftaincy within the Bapo ba Mogale traditional authority have had an adverse effect at the local-level of the villages. This is mainly demonstrated through the residents and members of the TMR Committee blaming the lack of developmental projects, proper consultation processes, and adverse effects of the mining operations on the lack of leadership within the traditional authority.

The struggles of chieftaincy within the Bapo ba Mogale traditional authority, have also led to the third reason behind the establishment of the TMR Committee. At the forefront of the leadership of the TMR Committee are the Makgale family. The Makgale family are the direct descendants of the first family to have settled in Marulakop.

The Makgale family are claiming to be a part of the Bapo royal family. They claim to be the fourth and last house of the royal family. Currently there are only 3 clans which are recognized as being a part of the royal family; the Mogale, Moerane, and Maimane clan. They use the P.L. Breutz (1953) book commonly referred to as the 'blue book' as their evidence to show that they are a part of the royal family. They pointed out that "…we want to use our land claim as a way of also showing that we also belong in the royal family. Ours is supposed to be the fourth and last house of the Bapo ba Mogale royal family. Now when the mines came and they started receiving these royalties they wrote us out of history. Now we are rightfully claiming what belongs to us and our identity as being a part of the royal family."[52] The Makgale's claim to the royal family of the Bapo ba Mogale is indicative of how the feud within the royal family has made it easy for groups and individuals to try and stake a claim in the royal family. The land claim by the TMR Land Claim Committee is also a means to ensuring that the Makgale's also become recognized as being a part of the Bapo ba Mogale royal family.

Strategies of mobilization

According to the *TMR Land Claim Committee* members, the committee convenes a meeting with their constituency once every three months. The timing of their meetings perhaps gives an indication of the kind of support and legitimacy that the committee enjoys in the village. There are those who were victims of the forced relocation who have come to terms with their situation; no compensation and loss of arable land which they used for subsistence farming. Others have decided to throw in their lot of support behind the Wonderkop Land Claim, believing that they are also direct descendants of the original purchasers of the farm. Then there is another group which was a part of the *TMR Land Claim Committee* when it began, but broke away from the group to form its own land claiming committee. This break-away group is the Batlhako clan.

In the year of 1920 the Batlhako clan which at the time comprised of three families, chief amongst whom was the Mokomele family, moved from the farm Kareepoort[53] no. 623 (old no.) to Turffontein 462 JQ. Their move to Segwaelane had been facilitated through an agreement that they made with the previous inhabitants of the farm. Their settlement on the Turffontein farm was

[52] Fieldwork Interview; 04/04/2014; INT20. Interview conducted in Segwaelane. A village that falls under the Bapo ba Mogale traditional authority area.

[53] The village which was based at the Kareepoort no. 623 farm was called Gotsube, which is where the Batlhako used to reside. Presently, this place is called Sonop.

different from that of the inhabitants that made-up the *TMR* villages. It is because of their different pattern of settlement and the fact that they do not consider themselves to be Bapo ba Mogale that the Batlhako broke away from the *TMR Land Claiming Committee*. They broke away from the committee and instituted their very own rival restitution land claim on the Turffontein 462 JQ farm.

The differences and similarities between the TMR and Batlhako land claiming committee groups

The glaring similarity between these two groups that are trying to wrestle control of the Turffontein 462 JQ farm can be found in their leadership. At the forefront of both groups are families that are using their settlement histories on the farm to make ownership claims of the farm. The TMR committee are being led by the Makgale family that are using the land claim as a vehicle to try and prove that they are a part of the Bapo ba Mogale royal family. On the other hand, the Batlhako group which is comprised of the twenty families that moved to the Turffontein farm in 1920, are being led by the Mokomele family. The Mokomele family (from whom the headmanship of the Segwaelane village is drawn) are believed to have been the royal family of the Batlhako clan before they moved to the Turffontein farm. In stark contrast to their counterparts, the Batlhako want to use the land claiming process (should they be successful in their claim) to secede from the rule of the Bapo ba Mogale traditional authority. As one respondent pointed out that "…No, we are not Bapo, we are Batlhako. They use the totem of the Elephant, *tlou*, we use that of the lion, tau. Thus should we be successful in our land claim we want to move [secede] from the Bapo and rule ourselves and have the mines negotiate with us."[54]

Although the two groups may be similar in their leadership structures, they differ starkly in their intentions. Whilst the one group is sought after inclusion into the Bapo royal family, the other group desires to secede from the Bapo traditional authority. The desire to secede from the Bapo by the Batlhako is not one that is only informed by the need to have the mines negotiate directly with them. The Batlhako still maintain that they are a separate political administrative unit from the Bapo ba Mogale. They are using the rival restitution claim as a vehicle to not only as a means to claim the land but to also claim back their identity and political autonomy.

[54] Fieldwork Interview; 20/11/2013; INT04. Interview conducted in Segwaelane. A village that falls under the Bapo ba Mogale traditional authority area.

Another significant difference between the two groups can be found in the organizational strength and mobilization abilities of both groups. The Batlhako group are significantly a much stronger group as opposed to their counterparts. The organizational strength of the Batlhako group is derived from the fact that they already have a history of a successful land claim. As the group member of the Batlhako commented that "…you see, in those days when the government started the land restitution process back in 1994 we organized ourselves together as the 20 families that used to live in Sonop [Kareepoort no. 623] because that land used to belong to our grandfather and we had the papers to prove that he had bought that land. Now, the government wanted to give that land to the Bapo ba Mogale and we had to contest that. So we formed a CPA (Communal Property Association) which was formed in 1996 and was made-up of the members of the 20 families. Thereafter we gathered our documents and we went to the department of rural development and we claimed Sonop."[55]

The structures of the Kareepoort CPA of the Batlhako are still in place. They still meet on a regular basis to discuss matters that are relating to the Kareepoort farm[56]. They are also knowledgeable about the process of land claiming. They also enjoy a considerable amount of support and legitimacy from their constituency that they represent, which is mainly the descendants of the twenty families that are considered to be the Batlhako clan.

On the other hand, the *TMR Land Claiming Committee* is comparatively weaker than its counterpart organizationally. The TMR Committee is comprised of seven members who are all representative of the three villages that made-up *TMR*. The most glaring indication of the structural weakness of the *TMR* came when the members who were at the forefront of the committee enquired about what were the possible routes that they could take in order to pursue their land claim from me. The committee members also revealed that they had approached the Public Protector of South Africa to help them with their case. They were awaiting a response from the office of the Public Protector. However, this was not their first attempt at pursuing their land claim, they had engaged other means as well. On the 4th of May 2012 the land claim committee had a land claim lodged on their behalf by the Legal Resources Centre. However, the department of Rural Development and

[55] Ibid.

[56] The Kareepoort farm no. 623 has commercial farming that is taking place on it, on a big scale. Thus when the CPA meets they meet to discuss matters relating to the farming that is taking place on their property, e.g. revenues from rent.

Land Reform found the claim to be non-compliant in terms of section 2 of the Restitution of Land Rights Act, 1994.[57] Even though the TMR Committee may be organizationally weak, they do enjoy a lot of support from the constituencies that they are representing. These constituencies are made-up of groups of people that were removed from their places of residence by force in 1973. These groups are also made-up of people that are frustrated by the lack of developmental projects that are taking place within the area of the Segwaelane village. The blame for this is placed squarely at the feet of the traditional authority. The rationale behind doing so is to be found in how these groups believe that the root cause of these problems begins with the constant infighting within the royal family of the Bapo ba Mogale which adversely affects the leadership and consequently the ability to govern and rule of the traditional authority. It is in this relative deprivation that the frustrations of the groups within the Segwaelane village are being tackled by these committees. The TMR enjoys support and legitimacy within the village because it is seen as a means to also challenge the inadequacies of the leadership of the traditional authority.

What land restitution claims and contested land histories in Segwaelane reveal

The most important point that can be taken away from the case of Segwaelane village is that group identity is important. The construction of this group identity is closely tied with the land history of the Turffontein 462 JQ farm. That is, the different patterns of settlement that the different groups underwent in settling on the Turffontein 462 JQ farm have come to inform how these groups identify themselves and how the struggles in which they are engaged in at the village level take on the form of group identity. Group identity, at the village level, becomes very important when claims to communal property are being made.

A critical assessment

Contemporary scholarship on land tenure regimes in Africa reveal that there is increasing and intensifying competition and conflict over land. Earlier positions on land tenure regimes in Africa, according to Phil Woodhouse (2003) argued that "…the negotiability and ambiguity of customary rights [were] a positive feature that ensure[d] continuing access for the poor and [did] not necessarily provide insecurities or increasing inequality." (Woodhouse; 2003; 1705-6). At the

[57] Letter attached as an appendix: D.

forefront of the proponents of these arguments, was the work of Sara Berry (1993 and 2001) who emphasized the flexibility of land rights and their social and political negotiability. In so much as these positions realized that land tenure was in essence a social relationship and that any understanding of the land rights which underpin this tenure regime need to be analysed within broader social relations, Pauline Peters (2004) has argued that the analytical approach of this argument still falls short and undercuts significant processes that are shaping contemporary land tenure regimes on the continent. Instead, Peters (2004; 278) argues that research needs to go beyond this formulation of relations over land being socially embedded to ask more precise questions about the type of social and political relations in which land is situated, particularly with reference to relations of inequality, class, ethnicity, gender, and age. Drawing on the work of Kojo Amanor (1999; 44) she insists that the analytical frameworks used to understand the characteristics of land tenure regimes on the continent (i.e. flexible property rights and deeply steeped in processes of negotiation) need to be rooted in structures of social differentiation and class.

Key to understanding Peters (2004) thesis is that increased competition over land that is caused by, amongst a number of reasons, following Ruth Hall (2011; 194) land grabbing (or farms race) in Africa that she describes as a new neo-colonial push by foreign companies and governments to annex key natural resources, has displaced small farm producers. This process of *depeasantization* (i.e. the process by which peasant farmers lose access to the means to reproduce themselves as farmers) has resulted in a squeeze on the threshold of and for rural commodity production (i.e. a downturn/shortfall in the rural market economy). In a response to this the independent small farmers thus become subject to the dynamics of the market and its compulsions (i.e. commodification of small independent farmers). The dynamics of the market and its compulsions invariably lead to these small independent farmers trying to find several ways in which to obtain income. This process of evolution from small commodity farmer living off the land to finding new and different income strategies, is a process commonly referred to as diversification. That is, the process of finding new strategies of income. During this process there will be those that are able to find accumulation strategies that are much more effective and therefore successful to their counterparts. This is also evidenced by Ruth Hall (2011; 206) who argues that this process incorporates smallholder producers in new social relations and patterns of accumulation.

It is this process of diversification and its impacts (new social relations and patterns of accumulation) that subsequently leads to socio-economic differentiation. Drawing on the work of Amanor (2001), Pauline Peters (2004) asserts that it is this diversification that results in a decreased dependence on agricultural production and acts as a part of "…structural transformation in which commodification of land and labour relations produce fragmentation of family and wider kin-based groups as well as conflict between generations and genders." (Peters; 2004; 282)

The impact of social differentiation on structural rural transformation leads to class formation which results in intense social conflict over land. Social differentiation creates a "…huge variety of different types…of households and the tendency for any one extended family to include farmers, wage labourers, professionals, and politicians that makes distinctions such as 'rich', 'middle', and 'poor' peasants/families necessarily arbitrary." (Peters; 2004; 283). It is in these murky waters, these 'arbitrary' distinctions where those that are much more fortunate than others in accumulation of profit or production during the diversification stage, that the differences between the wealthy and poor become pronounced, where those with political power and those without become differentiated, that classes become formed. These fissions become very central to claims of resources. Where the spatial scale of land on which small independent farmers/families has been reduced (brought about by the 'investor rush' and 'land grabs' by governments and foreign companies) competition over common property resources increases. It is here where identification with a certain social group (defined by age, ethnicity, gender, lineage, village, etc.) becomes important in ensuring those common property rights that allow for access to the landed resources. As a safety net for access, definitions of belonging in a certain group or class are narrowed. It is in this moment, therefore, that social conflict over land arises. As Peters (2004) points out "…social conflict over land takes the form of stricter definitions of those who have legitimate claims to resources, or, in other words, group boundaries are more exclusively defined." (Peters; 2004; 302). Elsewhere, Phil Woodhouse (2003) has argued that these group boundaries act as 'enclosures' (subordination of landed common property resources and the rights of access to those resources to only a select few or even to the interests of a single landowner) for those that fall outside of these strict definitions of belonging. Those that do not fit into the narrowed definitions of belonging and are enclosed find other means to try and access these resources. These means range from restitution land claims and counter-claims, competing land histories, disputes over the legitimacy of authorities (in traditional authority areas) to name a few.

These processes are also evident in the Bapo traditional authority area. In this area the 'land grab' (or farms race) has come in the form of various multinational mining companies and the state. As mining in its very nature is an extractive industry, spatially the scope of land on which historically the independent small scale farmers engaged in subsistence farming has diminished. The beginning of this process, *depeasantization*, was evident in two areas/villages as presented in the Bapo, namely, Wonderkop village and Segwaelane village. Large scale mining in the Turffontein farm displaced three villages by way of forced removals between 1971 and 1972. As recorded, the members of these displaced villages engaged in small scale farming for produce. Elsewhere in the Bapo area, this process of depeasantization began in the latter parts of the year 1969 when the Bapo traditional authority entered into a mineral lease agreement with Lonmin mining company. The subsequent establishment of these mines and their operations took place in areas of the farms that were used by residents of the displaced villages and of Wonderkop village where they not only used to live, but where they used to graze their cattle and their crop fields. These areas of the farms were the most arable.

The loss of this land has resulted in increased competition for land (i.e. arable areas for cattle grazing and farming) and a turn to new strategies for income in cash or in kind, *diversification*. Invariably engaging in different forms of diversification for income has meant that some have been much more successful than others, creating markers of socio-economic differentiation within the Bapo traditional authority area. In a place where natural resource endowments have been reduced by the impact of the expansion of the extractive industry, the shortened supply of common property resources becomes a trigger for social conflict. Access to these common property resources becomes restricted and group boundaries become pronounced, resulting in 'enclosure'. Those that are defined outside of these group boundaries resort to 'other' strategies to ensure access to these resources. These strategies range from restitution land claims, questioning the legitimacy of the traditional authority, establishing rival group representation structures, etc. These inevitably become the fermenters of and forms within which these social conflicts over land are fought. This is also the same trajectory that the social conflict over land and the competing land histories and their claims have taken in the Bapo area.

In essence there has been a great deal of the privatization and individuation of land in the Bapo area. This privatization and individuation, I argue, has been fostered by the 'tribal-title-trust'

regime (Capps; 2010). As Mamdani (1996) has argued, when the colonial state restructured African traditional authorities as a solution to the 'native question' through strategies of indirect rule and decentralized despotism, they essentially vested in the single figure of the chief and his administration, 'all moments of power'. Central to this was, as Neocosmos (1993) argued, the transformation of the powers of the chieftaincy to ones based on land. These transformations took place through the colonial state's various legislations (as discussed earlier) which inhibited African group syndicates or private individuals from purchasing land without either going through the missionary as the intermediary or through identity with a tribal authority and registering land under the name of the Secretary of Native Affairs and having it held in 'trust' by the traditional authority. Essentially this moment in history also imposed tribal identities on groups and syndicates that were much more complex and fluid. Concentrating custodianship of land under a single traditional authority figure, I argue, was a default mode of individuation and privatization of land. Individuation in the sense that it concentrated the powers of the chief to ones based on land. Privatization because, in empowering the traditional authority, through customary law, land became de jure a communal or customary possession, however, de facto access to this land was regulated by customary law behind whom its interpretation and meting out was done by a single traditional authority figure. More so, this privatization of land ensured that land that was historically purchased by independent African groups but was registered in the name of the Secretary of Native Affairs and held in 'trust' by the chieftaincy, meant that the chief could enter into lucrative mineral deals on behalf of these land-buying groups as he was the registered custodian of the land.

These are the conceptual foundations, and the historical framework, within which the competing land histories, claims and counter claims, are to be understood. It is the distortion of the powers of the chief and basing them on land which ensured that the chief became the sole custodian of land. It is these powers that allowed for the chieftaincy to enter into the lucrative mineral lease agreements with mining companies beginning in 1969 in the village of Wonderkop. The lack of consultation with the residents of Wonderkop, and later the forced removals of 1971-3 in Segwaelane village to make way for the expansion of the extractive industry of mining, demonstrates two things. Firstly, it demonstrates the shift of the changing characteristics of communal land tenure from the pre-colonial era (as discussed earlier, Cousins; 2007) and how the colonial period reconfigured, greatly, the fourth principle which is identified by Cousins (2007;

293) that access to land was distinct from control of land (through systems of authority an administration). Secondly, and most significantly, following Woodhouse (2003) argument, competition over land and the wresting of the control of land in the traditional authority of the Bapo has led to efforts to exclude some users and members of the area to the land through various types of enclosure. This is a point that requires further elaboration.

The imposition of mining capital in the Bapo ba Mogale area has served to strengthen and weaken the traditional authority at once and the same time. It has strengthened the traditional authority via ensuring that it is the members of the traditional authority that benefit from the revenues which come from the natural resources. It has weakened the traditional authority through the emergence of groups and former land-buying syndicates such as those of the Wonderkop farm that have now began to stake a claim for their rights of ownership of the land. The emergence of competing land claims in the area is indicative of the competition over the land between those that claim the land on the basis of being descendants of the original purchasers and the traditional authority that claims at as the custodian of the land. In this area conflicts over land have taken on the shape and form of legal disputes via land claims, protests, and with some groups moving for secession from the traditional authority (e.g. the Batlhako of Segwaelane village, the Wonderkop Land Claiming Committee). The creation and the manifestos of the land claiming group representative forums and how the traditional authority has diametrically opposed these groups along with the formation of different governing bodies/structures that operate outside of the authority of the chieftaincy, indicate signs of new boundaries and new definitions of in/exclusion in the Bapo ba Mogale area. Following Peters (2004) the argument may be made that the proliferating tensions and struggles between the different groups (groups within the Wonderkop and Segwaelane area and the traditional authority as well) are closely bound up with the dynamics of division and exclusion, and newly formed alliances which constitute class formation. This is most especially evident in how the claims of the Wonderkop Land Claiming Group, the TMR Committee, the Batlhako group, and the other representative groups are all making claims to the land and its resources on the bases of 'group identities'. These identities are derived from the diverse modes of settlement histories that each village and farm in the area has. The history of these settlement patterns on the farms and the history of land-buying in the area has now become a marker of the definite signs of new boundaries and the new definitions of division and exclusion, alliance and inclusion.

The competing land histories, along with the claims and counter claims to the land do not only show how competition over land in this area has risen, but also, how it has resulted in social conflict over land. Key here has been the shifting significance in the characteristics of communal tenure regimes, as pointed out earlier, but also how the reconfiguration of the powers of control of the traditional authority has resulted in the contemporary struggles which are evident in the Bapo area. This is starkly encapsulated in the words of Peters (2004) who points out that "…the research shows that as land becomes a property or a commodity, so we see developing a very different sense of belonging-from someone belonging to a place to a property belonging to someone; in short, a shift from inclusion to exclusion." (Peters; 2004; 305). The tribal-title-trust regime aptly describes how this shift in a sense of belonging historically took place. It also illustrates, as Mamdani (1996) argued, how this shift in a sense of belonging empowered chiefly accumulation. This shift is today also central to the contemporary struggles of the land claiming committees and the competing notions of the land history of this area which illustrate how the imposition of mining capital in the area has brought about the shift from inclusion to exclusion in the land and its resources. Mining capital in this area has resulted in the land becoming a commodity. As such the shift in the sense of people/groups belonging to a place/the land to a property belonging to someone, has resulted in the detailed social conflict over land in the area, whose struggles are articulated via various forms of competing land histories, rival restitution land claims, and the competing group representations.

Conclusion

At the heart of the contemporary struggles that are taking place within the Bapo ba Mogale traditional authority area is how tribal trusteeship fosters chiefly accumulation. These struggles take on the form of competing land histories, rival restitution land claims, and the emergence of competing group representatives. The imposition of platinum mining capital in this area has acted as an impetus for 'oppressed groups' to widen the ever narrowing definitions of belonging in the area. These processes which have led to the narrowing of the definitions of belonging can be traced back to the configurations and reconfigurations of South Africa's distinct communal tenure regime through the various historical periods and contexts which were detailed in this chapter.

At the same time however, whilst these groups are trying to widen the definitions of belonging in this area, their struggles are taking on the form and shape which is doing the exact opposite. Their

struggles and how they are contesting these (land claims and the establishment of representative committees and competing land histories and various alternative governing structures) are only serving to further narrow the definitions of belonging. That is, claims to the land and resources is based on group identities and these group identities are taken from the particular patterns of settlement histories of each farm and/or village. These groups thus exclude those that may not be descendants of the original purchasers of the land or those who may not form a part of the settlement histories. This, as demonstrated earlier, has become critically important when we consider how when land becomes a property or a commodity (as it has in the Bapo area due to the mining in the area) we see a shift in the definitions and sense of 'belonging'. The shift is the move from someone belonging to a place, to a property belonging to someone. In essence this is a shift from inclusion to exclusion. Here group boundaries become much more exclusively defined.

This chapter has made the case that this is the result of the rising competition over land.

Another conclusion to be taken away from this chapter is the demystifying of rural society in South Africa, which was also dealt with at length in the first chapter. These struggles that are presented here can also be viewed as struggles for popular democratic demands. The competing land histories and the claims and counter-claims to land along with the strategies of mobilization and action demonstrate that there is a mass democratic politics of land and authority reform in rural society today. The presented case of the struggles that are taking place in the Bapo area, also go a long way in contesting the popular held beliefs that rural 'civil society' does not have any capacity to formulate and contest for popular democratic demands. The different claims in the Bapo area demonstrate, following Bernstein (1996) argument, the ways in which "…the ubiquitous (if not uniform) class differentiation of black rural society and pervasive contradictions amongst the people combine to generate profound ambiguities of social experience, ideology, and action." (Bernstein; 1996; 37).

The following chapter will discuss at length how these claims and struggles that are taking place within the Bapo area give particular weight to the discussions of 'rural community'.

Chapter 3

Rural Community

A key argument of this chapter is that the Bapo ba Mogale area is not comprised of a single group that is a single entity and has a single set of common interests. It contends that areas such as the Bapo are not comprised of homogenous entities. Instead these are areas that consist of groups that are fractured among many divisions; ethnicity, inequality, 'original inhabitants' and 'informal settlers', the youth, and structures of representation. Showing that these areas are dynamic, have local variations, and cleavages of political difference and socially differentiated debases the assumption that these are areas that are naturally co-operative and are given stability and harmony by the figurehead of the traditional leader and the structures of traditional leadership.

There are many prisms within which one may analyse the distinctive rural political order in African societies. Discourses of community in rural South Africa need to be drawn from the variant experiences of settlement and dispossession, as well as the overall functioning and make-up of the former Bantustans. According to Bernstein (1996), "…rural community is a kind of corporate status, whether imposed (under the system of tribal authorities) and/or claimed. The claim is that of a common identity and inheritance in relation to specific land." The previous chapter illustrated how this 'corporate status' of 'community' is claimed by various groupings of people that mobilize and come together on the basis of their identity that is grounded in their patterns of settlement and the histories which they share in relation to the land. This 'corporate status' is also claimed through the processes of claiming land and during the reconstructions of the contested land histories. The presented cases of the current claims and counter claims of land and the competing histories of land in the Bapo area also demonstrated how difficult it is for heterogeneous groupings that have been historically labelled as homogenous tribes to dislodge the imposed tribal identities that they have been given. For some, the land claiming process was/is a struggle to dislodge these imposed tribal authority structures.

However, the identity of rural African societies in South Africa still reflects the static, stereotypical, and imposed position which was a creation of the state and has been reproduced by the post-colonial successors. There is a lot of literature[58] that exists which explicates how independent identities of diverse groupings of people were incorporated within the boundaries of traditional authorities in the past.

According to Claassens and Gilfillan (2008), "Intrinsic to apartheid's denial of political rights for African people was the rationale that they would have 'separate but equal' political rights within ethnically delineated Bantustans. Acknowledging that many rural African people do not live as 'tribal subjects' threatened the mythical stereotypes used to justify indirect rule and grand apartheid." (Claassens and Gilfillan; 2008; 299). In the first chapter, it was recounted at length how the state, through the ethnological section of the Native Affairs Department, used ethnologists that operated in a 'network' that functioned to create new traditional authorities where none existed before, intervened in matters of dispute over chiefly legitimacy, and maintained chiefdoms that were formalized into a tribal authority. Using the Bapo case study the first chapter also illustrated how these ethnologists are still being appointed by the state to perform the same functions which they did under the colonial administration. Essentially, as the second chapter illustrated through the case of the Wonderkop Land Claimants, the word 'tribe' in the Bapo area in the past functioned and continues to do so, as a synonym for 'African purchasers of land in the area' where the independent land claiming groups as well as the syndicates/groups that do not identify themselves as the Bapo (e.g. the Batlhako group from the Segwaelane village, Turffontein farm) are still subjected to an ascribed tribal identity.

The creation of tribal identity in Bophuthatswana

In their work "The dog of the Boers: the rise and fall of Mangope in Bophuthatswana" Lawrence and Manson (1994) trace the tactics and the policies which were used by Lucas Mangope (President of Bophuthatswana) to maintain and legitimate 'his' Homeland. Central to these tactics was the reformulation of the ideas of ethnicity. They argue that "…an elite, powerholding group in Bophuthatswana restructured earlier apartheid ethnic discourse in the light of political and economic changes in South Africa." (Lawrence and Manson; 1994; 448). Ethnicity and the

[58] The literature includes the works of Feinberg (1997), Harries (1989: 94), Shula Marks (1989: 222), Capps (2010), etc.

referral to 'Tswana' unity and nationalism became the bedrock and the ideological basis of the creation and maintenance of the Bophuthatswana Homeland. The writers go on to further note how discourses of ethnicity as a tool for nation-building were used in Bophuthatswana and how the message of, and the purpose of ethnos was constantly being redefined and reflected the changing political developments and the material conditions of the 'independent' state. In the beginning of the formation of the Homeland in 1977, the writers note that "…the ethnic origins of the Tswana nation were given mythical justification." (Lawrence and Manson; 1994; 449). They also go on to further note that the foundation of this discourse on ethnicity was a great stress laid on calls of a common history, and traditions. They argue that "…the point of using these traditions was to place the Tswana within an enclosed and identifiable space from the origin of time."[59] Mangope and his elite alliances engaged in a selective and shallow reading and appropriation of history. Historically, for writers such as Comaroff and Comaroff (1997) "…local relations among the peoples of the region, not to mention the distinctions and conflicts among them, were always much messier, more inchoate…less black and white, less sharply dualistic, less recalcitrant and clear-cut." (Comaroff and Comaroff; 1997; 406).

The experiences of the Bapo as evidenced from the empirical data corresponds with the observations of Comaroff and Comaroff (1997). However, following Bernstein (1996; 37-8) argument that rural community is a kind of corporate status whether imposed or claimed, the empirical data that will be presented here suggests that there are instances and groupings which claim this identity, a common identity, and the foundation of that claim is two-pronged: inheritance to land and ethnic difference.

Furthermore, as the empirical data will show (especially the section on informal settlements and settlers) the arguments made by Peters (2004) are validated. Pauline Peters argues that "…a key socio-economic dynamic of differentiation…turns on divisions within significant social units…or ethnically defined groups." (Peters; 2004; 302). Ethnicity becomes a tool that is used during the process of narrowing the definition of belonging. Group boundaries become more exclusively defined (as evidenced in the previous chapter). The empirical case on the dynamics of 'rural community' in the Bapo area to be presented also speak strongly to the empirical findings which were made by Peters (2004). Her findings suggested that "…the metaphors of

[59] Ibid

difference include ‘stranger’ and ’squatter’. In Gokwe, north-western Zimbabwe, families denied legitimate status as members of the landholding community are called ‘squatters’ by those claiming ‘original’ settlement.” (Peters; 2004; 302). The dynamics of rural community in the Bapo area also speak strongly to the contentions of an ascribed tribal identity to a group of peoples that historically had independent identities. The empirical data also goes a long way in showing how inasmuch as attempts are made to try and dislodge the imposed tribal authority structures and their ascribed identities (e.g. via land claiming and competing versions of land history as detailed in the previous chapter) as in the Bophuthatswana era, ethnicity is gaining momentum in becoming the ideological basis for building a ‘Bapo ba Mogale nation’ and has also become a marker of difference, especially for informal settlers.

In their work “Ethnography and the Historical Imagination’ Comaroff and Comaroff (1992) argue that Tswana ethnic identity is a colonial construct. It was constructed by agents of colonialism that constructed this form of ‘nationalism’ on the back of slanted views of African society. The process of the creation of this ‘ethnicity’ also involved some indigenous members of the African societies. The appropriation of ethnicity as a tool, a rhetoric for building the Bophuthatswana Bantustan and how it has grown can also be further explicated by the work of Vail (1989). Vail argues that one of the interpretations of the growth of ethnicity is that “…it resulted from uneven development within African colonial territories.” (Vail; 1989; 5). This uneven development came as a result of some benefitting from the exploits of colonial capitalism and the opportunities that it presented. These petty bourgeoisie groups mobilized support for themselves along ethnic lines when the period of colonialism was coming to an end along with their base of income from colonial capitalism. The mobilization of these groups was to ensure that they would gain maximum access and opportunities to resources and power after independence. Vail further goes on to argue that “…from this perspective, ethnicity tends to be seen instrumentally, as little more than an ideological mask employed by ambitious members of upwardly-aspiring groups as a way of papering over growing class divisions within their ethnic group so as to secure their own narrow interests through demagoguery and mystification. (Vail; 1989; 5). This interpretation of the growth and the instrumental usage of the rhetoric of ‘ethnicity’ strongly resembles the argument of Lawrence and Manson (1994) about how Mangope and his elite alliances used the ethno-national identity of ‘Tswana’ to legitimate and sustain the Bophuthatswana regime. The instrumentalization of ‘ethnos’ in Bophuthatswana is

further demonstrated by the work of Roger Southall (1977) who identified the beneficiaries of the independence of Bophuthatswana as being the 'emerging bourgeoisie' which was comprised of teachers, farmers, bureaucrats, etc. who were most likely to benefit from the ideological bases of the Bophuthatswana regime and ensuring that Bophuthatswana remained an independent state.

The account of 'rural community' in the Bapo area is in stark contrast to the homogenized social formations of the former Bantustans such as Bophuthatswana. The Bapo experience, drawn from the empirical data, illustrates social differentiation, local variation, and the politics of difference. However, any analysis that is aimed at trying to understand the fractured nature and the many different contours of 'rural community' in the Bapo needs to take into consideration the legacy of the Bantustan within which these 'communities' were located and how problematic the re-incorporation of these entities within a post-apartheid South African nation-state has been.

Writing in 1992, scholars such as Roger Southall argued that a much more dynamic approach to the study of the changing territory of the Bantustans was necessary. Contemporary scholarly work on the vastly different changing nature of these countryside's has fallen short of explicating the fragmented nature and the local variations of 'rural communities' in post-apartheid South Africa. According to Jones (1995), writing on modernization and nation-building in Bophuthatswana, "…in order to provide a fuller account [of 'rural community'] Bophuthatswana's shifting strategies and local discourses must also be seen in conjunction with the implantation of the modern façade of a 'nation-state'. This…was more bound up with ambiguously asserting both Tswana identity and emphasizing the urgency of escape from the abnormality of being 'undeveloped'." (Jones; 1995; 580) Once again it is demonstrated as to how ethnos is used as a political and economic tool.

The ethnic state idea in Bophuthatswana was poorly realized. According to Cowley and Lemon (1986) "…Only 42 percent of the de jure Tswana population of 2.4 million lived in Bophuthatswana in 1980, whilst at least one-third of the de facto population were non-Tswana. Census figures indicate an annual increase of 5.7 percent in de facto population between 1970 and 1980, yet the 1980 figure 1,328,000 is almost certainly too low; a 1983 estimate of 1, 630, 000 is probably more accurate. Such rapid growth in de facto population reflects large-scale immigration of non-Tswana, primarily in parts of Odi 1 and Moretele 1." (Cowley and Lemon; 1986; 252). The history of the informal settlements and settlers in the Bapo area that will be

presented also speaks to the large scale migration into the former Bophuthatswana area due to the perceived opportunities of employment that were presented by the mining operations that were taking place in the area. The informal settlements changed the landscape of the Bapo area and they also presented a challenge to the 'traditional' way in which outsiders (bafaladi) were welcomed into the Bapo ba Mogale nation. Most pertinent for our purposes here, however, is the way in which these figures as presented by Cowley and Lemon (1986) show how the ideological bases of collective action, ethnicity, was a discourse that was only articulated by the leaders of the state (and to an extent by the local-level chiefs), but it was not a corresponding reality of what was taking place on the ground. The dynamic approaches which were advocated for by writers such as Roger Southall (1992) were/are crucial to the understanding of the local variations and the political difference which characterize the dynamism of 'rural community' in these areas. This is the contribution that this chapter and the empirical findings that it presents on the notions of 'rural community' in the Bapo area hope to make to this critically important discourse.

Whereas in the past, in the Bophuthatswana area, those that used ethnos and the politics of identity as a tool were the politicians and the petty bourgeoisie, the empirical data coming from the Bapo area points towards this being used as a tool and as a marker of difference by not only the traditional authority but also by those that are vying for a share of the land-based resources and are mobilizing on the bases of a common interest that is grounded in a commonality of history and ethnicity.

Jeff Grischow (2008) has argued that due to the distorted view of history that many social capitalists and development organizations have (e.g. the World Bank) they remain blind to the differentiation and conflicts that take place at the 'community 'level. He points out that "…In Africa, 'community' is often attached to 'tradition', which prominent World Bank scholars identify as natural and organic." (Grischow; 2008; 67). He goes on to further note how some writers have argued that "…associations based on primordial attachments are a natural consequence of the ways in which African societies have been structured in the past. As 'natural' structures, primordial associations represent an organic form of social capital, which should be harnessed in the name of development."[60] In the first chapter we dealt with the dispelling of

[60] I*bid*

these distorted views of African societies. Of most importance for our purposes here is the manner within which notions of 'community' in the African sense are associated with and given qualities of a 'tribal identity'. That is, African rural communities are conceived to be founded upon notions of a 'tribe'. It is in this intersection of analysis where, as Bernstein (1996; 37-8) has argued, discourses of 'community' connect with ambiguities of and about the chieftaincy. Independent groupings of people and 'communities' cannot be conceived outside of these imposed tribal authority structures. Grischow (2008; 68) also argues that and contends against the portrayal of chiefs as trustees of group harmony. He goes on to point out that those who see chiefs as the trustees of group harmony are mostly those that see traditional communities as being naturally co-operative

The impact of platinum mining in the Bapo area has set in motion the process of social differentiation in the area. This process challenges the grand narrative that there exists a homogenous Bapo traditional community or tribe. This is demonstrated by the various ways in which mining capital has affected the Bapo area. In the first instance, the influx of migrant workers into the Bapo area has resulted in the creation of informal settlements. These informal settlements have reconfigured the understandings of traditional community. This is demonstrated by how the informal settlers (migrant workers) have settled in the Bapo area without going through the political administrative units of the ward system. Historically the ward system was very central to the creation of a Bapo tribe. The ward system allowed for outsiders/foreigners to become Bapo and settle in the Bapo area through a particular process. This process has been bypassed by the informal settlers. The importance of the ward system in the Bapo area today is demonstrated by the hostility that the locals have towards the informal settlers. While on the one hand The bypassing of the ward system has relegated the informal settlers to a status of 'foreigner/outsider' which has its shortcomings as will be demonstrated, on the other hand the informal settlers are considered to be citizens of the Bapo area when it comes to representing interests of certain groups. The assertion here is that informal settlers have their identity appropriated to suit certain group interests in the Bapo area which challenges and to an extent reconfigures the understandings of what a traditional community or tribe is.

To further demonstrate that the ward system, key to the understandings of a Bapo traditional community, is not only being bypassed by the informal settlers and thus losing its influence, a

case study of the headmanship disputes further supports this argument. Also born out of the impact of platinum mining capital, these disputes demonstrate that a decline in the usage of the ward system as a political administrative unit and key governance structure is also being bypassed by the Bapo locals.

Another impact of platinum mining in the Bapo area is demonstrated by the creation of particular groups that advocate for a varied causes in the area. These groups mobilize not only on the basis of the causes for which they were established and are contesting, but, they also assemble/convene on the bases of ethnicity, common histories of land ownership or movement, etc. Essentially this is a process of social differentiation and this process reconfigures the understandings of a homogenous Bapo traditional community or tribe because these instances of organizing are not taking place on the basis of a Bapo identity.

The informal settlers and settlements

Amongst those that identify themselves as being Bapo, there is a belief that the biggest problem in their area is the growth of the informal settlements. Over the years the growth of the informal settlements has also spiked the population growth of the 'foreigners' and 'outsiders' that have come to inhabit, albeit by their customary laws, their land illegally. The people that are characterized as being informal settlers in the area are mostly made-up of migrants that have come from far-reaching areas such as the Eastern Cape, Lesotho, Mozambique and places such as Malawi.

According to many of the residents that are living in the Bapo area, the 'foreigners' and 'outsiders' are responsible for 'disturbing' and nearly 'ruining' the basic political and administrative unit of the Bapo which is the *kgoro* system (or the ward system).

How do these informal settlements challenge the traditional understandings of what a 'traditional community' is and deconstruct/destabilize the ward system?

It was only through the ward system that an outsider or a foreigner could become a part of the Bapo tribe historically. This is still held as the manner in which one should 'rightfully' become a member of the Bapo tribe or traditional community. The process through which one became a member of the Bapo was one in which "…Firstly, you would have to approach the headman of the village where you wanted to settle. The headman would tell you that there was a certain

amount of money that you would need to pay in order for you to join the tribe. Sometimes instead of money people would contribute their livestock or labour in order to be able to settle on the village. The headman would not just make the decision all by himself of whether or not you would be welcome to settle here. After you approach him he would alert the rest of the village in a lekgotlana about your desire to settle here. If the rest of the village and *lekgotlana* agreed to you settling here they would allocate you to a certain group. This would be the group where you would be able to participate in activities of the tribe such as digging graves, or making contributions for collections towards purchasing land or tools to till the land. It was also here where you would be able to make your first port of call towards seeking help with troubling matters before you would take them to the headman's council or ultimately the chief's court. This was your clan. This was where you would be integrated into the *morafe*."[61]

The informal settlers have not followed this due process. They are accused of not going the traditional route of consulting with the traditional administrative structures to ensure that they are 'customarily' welcomed into the Bapo.

In order for one to understand the manner through which the proliferation of informal settlements and their inhabitants have changed and challenged our understanding of what a 'traditional community' is or a 'tribe', we have to look into the history of informal settlements in this area. One of the earliest informal settlements that was first formed in the Bapo area was called *Thaba'ntsoana*. This informal settlement was situated on the farm Turffontein 462 JQ on the village that is today better known as Segwaelane. "Thaba'ntsoana was made-up of people that came from all over the place. Most of the people that were residing on Thaba'ntsoana came from far-away places such as Mozambique, Malawi, Lesotho, the Eastern Cape and some from Johannesburg. These people came to live here because of the work opportunity that was provided by residing in Ranteng."[62] The work opportunities that were presented by the prospects of settling in Thaba'ntsoana came in the form of the construction of a train station in the area. "This

[61] Fieldwork Interview; 18/11/2013; INT03. Interview conducted in Nommer 1 section, Bapong. A village in the Bapo ba Mogale traditional authority area. There were many variations on how one would become a part of the Bapo ba Mogale morafe through the ward system (di*kgoro*). I have chosen this quotation out of the many interviews conducted because it illustrates and encapsulates some of the missing points which were not made in the other interviews.

[62] Fieldwork Interview; 04/04/2014; INT20. Interview conducted in Segwaelane. A village in the Bapo ba Mogale traditional authority area.

train station was being built to accommodate the trains that would pass here to places such as the gold mines because it was carrying workers and some tools that would be going down to the Witwatersrand. This was all taking place at around about the early 1900s."[63] Gradually through time and the growth in the number of people that settled on the farm that was under the jurisdiction of the Bapo authority, Thaba'ntsoana became the very first informal settlement that was established within the Bapo traditional authority's area

In order to settle into a farm that was under the jurisdiction of the Bapo, the migrant workers that had formed the Thaba'ntsoana informal settlement had to ensure that they followed the due process of consulting with the headman and his council and also pay an affiliation fee. Following this process meant that they could be welcomed into the Bapo area. Subsequently Thaba'ntsoana soon became an established village of the Bapo traditional authority area. The people that came to reside in Ranteng were soon assimilated into the ward system of the Bapo ba Mogale, thereby making them not only residents that lived within the Bapo traditional authority area, but also members of the Bapo traditional authority, or tribe. Becoming a member of the Bapo did not only mean the ascription of a tribal identity, it also came with the roles and responsibilities that one had to undertake as a Bapo. As one respondent pointed out "…they partook in the activities of the *morafe*. These included making contributions for collections towards projects that were geared for the whole tribe or tiling the land when required and grave digging. In return it also meant that they were offered protection, given land to not only live but also to plough. Becoming a member also meant that they were able to take their matters of dispute to the headman's court if the family tribunal proved otherwise unsuccessful."[64]

Recounting the history of the first informal settlement in the Bapo traditional authority does several things for us here. Firstly, it shows us how 'outsiders' were welcomed into the Bapo traditional authority area and the process which they had to undergo in order to become a member of the tribe. Secondly, it demonstrates the trajectory through which an informal settlement became an established village of the Bapo traditional authority. The importance of this will be highlighted later when we consider the contemporary discussions around inclusion and exclusion, entry and exit, of the 'outsider' within the Bapo area. This will be very important for

[63] Ibid.
[64] Ibid.

underlining how the modern Bapo 'traditional community' is being built and whose interest is the definition of 'traditional community' serving in the area. Thirdly, the brief background history of Thaba'ntsoana illustrates how the ward system operated and how 'outsiders' became members through this system.

Currently, informal settlements play a symbolic role in the contemporary struggles for authority and land ownership in the Bapo area. Informal settlements are viewed as a symbolic demonstration of the manner in which the basic political administrative unit of the Bapo is being challenged and deconstructed. They perform a dual function when it comes to struggles for land ownership. In the first instance, they provide an impetus for the establishment of land claiming committees because of the land which the 'original purchasers and owners' of the land have lost to the migrant workers that are attracted to the Bapo area because of the employment opportunities that are afforded by the mines. To those that are considered to be the rightful occupants of the land, the loss of land has a multi-pronged effect on their livelihoods. For starters, this loss of land has meant that they have been unable to engage in subsistence farming because the growth of the informal settlements has taken over their farming areas. It has also meant that their livestock have no fields on which they may graze. Moreover the growth of the informal settlements have also had the effect of highlighting the impact that the infighting within the Bapo traditional authority has had on the governance structures at the local village level. The inability to 'deal' with the informal settlements has only served to be one of the motivations behind the establishment of alternative governance structures at the local-village level which endeavour to 'fix' the problems that are being posed by the growth of the informal settlements.

On the other hand, for local businesses the growth in size and the population of these informal settlements provides a great opportunity for greater business growth of the local economy. The population growth has brought along with it greater demands for transportation, accommodation, retail and foodstuffs, pharmacies (mostly traditional medicine and traditional healers), printing and internet providing shops, and telephone calling facilities. This has had the effect of creating calls for assimilation and integration into the village campaigns. These campaigns are aimed at creating harmony between the local residents and the informal settlers. The proponents for such campaigns have not only been the local business actors, but, they have also been called by some

members of the local alternative governing structures that operate outside of the Bapo traditional authority.

Central to understanding the significance of the growth of these informal settlements and their multi-pronged impact on the ward-system of the Bapo, and their effect on local-village governance structures and 'rural community' is an analysis of the informal settlement called *Nkaneng*.

The informal settlement of Nkaneng is based on the farm and village of Wonderkop 400 JQ. Similar to Thaba'ntsoana, Nkaneng residents were drawn to the area because of the promise of economic opportunity that was brought about by the establishment of Western Platinum Limited mine, owned by Lonmin Mining Company. The mine was established at around 1969 when the Bapo ba Mogale traditional authority got into a mineral lease agreement deal with the then Transvaal Jade mining company. According to members of the Wonderkop village, the very first person to settle on their ploughing fields and established what is today called the Nkaneng informal settlement, settled their in 1971[65]. The name of the informal settlement is very revealing of the tensions and contemporary struggle regarding the impact of migration in the area due to the mining activities and how these have led to the growth of the informal settlements which are slowly eroding the ward system of the Bapo. This informal settlement, as one respondent proclaimed "…was given the name that it has because the people that came to settle here took it by force. The name Nkaneng means to 'take forcefully'. The very first person that settled here came and erected a shack where we were ploughing without our permission. At first we thought that it was only just one person so it is not a big deal. Soon after him people started coming in their numbers and erecting their corrugated iron shacks here. Now Nkaneng is bigger than the village of Wonderkop itself."[66]

Informal settlements such as Nkaneng have had a huge role to play in defining and re-defining, through time, the concept of 'tribe' and 'community' in the Bapo area. Central to this reconfiguration has been the change and decline in the usage of the Bapo ward system. Historically, the ward system was at the heart of the creation of a Bapo 'tribe'. It was only

[65] Fieldwork Interview; 01/04/2014; INT15. Group Interview conducted in Wonderkop. A farm and village in the Bapo ba Mogale traditional authority area. This group interview was conducted with 7 elders from the village of Wonderkop.
[66] Ibid

through the ward system that *bafaladi* (outsiders/foreigners) would be allowed into the Bapo after having gone through the necessary process of approaching the headman of a village and paying the affiliation fee and thereby being assigned to a particular Bapo ward. This process was evident in the brief recounting of the history of the first informal settlement to be formed in the Bapo area, Thaba'ntsoana. However, with the contemporary influences and pressures that are presented by the impact of platinum mining in the Bapo area, informal settlements that have sprung-up on the backhand of the growth of mine worker migrants moving into the area, the ward-system's usage and influence as a cultural and administrative tool has declined.

Nkaneng is still considered to be an informal settlement. Defining an area to be an informal settlement that sits within the jurisdiction of a traditional authority is of vital importance. There are several reasons why this is so. The prime reason for establishing the 'declaration' of an area as an informal settlement is to ensure that the aforesaid area receives basic municipal services from the municipality under whose jurisdiction it falls under. A respondent from the local Madibeng Municipality, where the informal settlement of Nkaneng is located stated that "…if an area is declared as an informal settlement and it is within our jurisdiction of Madibeng, then it becomes the responsibility of the local Municipality to ensure that basic services are delivered to that area. These basic services range from water and electricity, to building infrastructure such as roads, schools and recreational facilities to name a few."[67] The importance of the ward system in the Bapo area is emphasized through a case study of the local Municipality's inability to deliver these services to the informal settlement of Nkaneng.

Central to the local Municipality's inability to deliver services to Nkaneng has been the reluctance of the Bapo traditional authority. The reluctance of the Bapo traditional authority is rooted in the fact that the occupants of Nkaneng have not been welcomed into the area through the ward system. Recognized as the custodians of the land on which the informal settlement is located, the local municipality needs to be granted permission from the Bapo traditional authority before it can go ahead with implementing any services that would be deemed as essential for the informal settlement. "On a yearly basis we have meetings with the Bapo traditional authority and its constituencies. The purpose of these meetings is to ensure that we draw-up the Integrated

[67] Fieldwork Interview; 24/04/2014; INT25. Interview was conducted at the local municipal offices of the Madibeng Municipality in Brits, North West Province, South Africa.

Development Plans (IDP). When we draw up these plans it becomes very difficult to include a conversation about the informal settlements because the residents of Bapo and the traditional authority are very reluctant to seeing development projects being done in those areas."[68] The IDP is an approach to town planning that involves all of the areas that are under the jurisdiction of a municipality and its citizens to ensure that the best solutions to long-term development are found. The reluctance to include a conversation about the informal settlements in these meetings does not only come from the traditional authority, but, it also comes from the locals of the Bapo.

The growth of these informal settlements is squarely a by-product of the growth of the mining activity taking place in these areas. As a consequence, the mining company (Lonmin) has reportedly made some attempts to try and alleviate some of the problems that are brought about by the influx and growth of the informal settlement. An official of the mining company pointed out that "…we have had had numerous meetings with representatives from the informal settlements, the locals of the villages of Wonderkop and Segwaelane, as well as the Bapo traditional authority. In these meetings we propose plans of building facilities and also helping out with basic services such as water retention services as well as those relating to sanitation."[69] However, these plans have also been blocked from implementation, not only by the Bapo traditional authority but also by the outcry that has come from the locals of the villages in which these informal settlements are located.

The rationale for impeding these plans from the locals is rooted in two explanations. In the first place, although it is not overtly cited as such, the bypassing of the ward system by the informal settlers has resulted in a great sense of animosity from the locals towards the informal settlers. This stems from the fact that "…they are not compensating us for using our land without our permission. Don't get me wrong, it is still a serious matter that they decided to settle where we had our ploughing land because the consequence of that has been that we stopped farming and our cattle had smaller patches of land to graze on. More important is the fact that these people

[68] Fieldwork Interview; 25/04/2014; INT26. Interview was conducted at the local municipal offices of the Madibeng Municipality in Brits, North West Province, South Africa.

[69] Fieldwork Interview; 01/05/2014; INT29. Interview conducted in Marikana Town with a Community Liaison Officer of Lonmin Mining Company. North West Province, South Africa.

are eroding our culture."[70] These cultural practices are those which are observed when one becomes a member of the Bapo through the ward system. In a submission to the Marikana Commission, the Wonderkop Lands Claim Committee which works alongside the governing structure of the village and farm on which Nkaneng falls under, stated that the growth of the informal settlements had also resulted in a growth in the criminal and violent activities that were being experienced in the area. In the submission, the Wonderkop Lands Claim Committee listed several points which expressed their concerns and feelings towards the informal settlement.

Amongst others the main concerns listed which indicate the animosity which the locals have towards the informal settlement were that "…there is no proper governance in Nkaneng. They sell the residential site which they have occupied illegally for R15.00 per plot. The local traditional leadership held meetings with them to stop selling the tribal land but they refused. There is also an operation of illegal shebeens which results in innocent citizens being either raped, robbed, or murdered. There is also a mushrooming of illegal graves which burial thereof is not monitored or done properly as even illegal immigrants are buried there."[71] These cited problems that have been brought about by the informal settlements have led to the animosity that locals of the village of Wonderkop have towards the informal settlers. This in turn has shaped the local authority and the local residents' views on the municipality or the mining company engaging in developmental projects for the informal settlement. As one respondent elaborated on the matter "…Lonmin suggested doing some work to improve the living conditions in the village and Nkaneng. They wanted to do this under a project that they call GLC (Greater Lonmin Community). We refused. How do they allocate areas such as Nkaneng and Wonderkop the same resources? How do you develop Nkaneng when the locals of this area are still living in terrible conditions that have been caused by the impact of the mining?" The bypassing of the ward system by the mineworker migrants and the impact of the growth of the informal settlements has led to the lack of developmental projects taking place in the area.

[70] Fieldwork Interview; 01/04/2014; INT15. Group Interview conducted in Wonderkop. A farm and village in the Bapo ba Mogale traditional authority area. This group interview was conducted with 7 elders from the village of Wonderkop.

[71] Letter from the Wonderkop Land Claims Committee to Lingenfelder and Baloyi Attorneys. Subject: Issues raised by the Wonderkop Land Claims Committee for consideration by the chairperson of Marikana commission of inquiry. Dated: 23 October 2012. Attached as appendix: C

Conversely the informal settlements and the migrant mineworkers signify another function within the Bapo area. Where on the one hand they are viewed as illegal inhabitants of land and outsiders/foreigners to the Bapo traditional community, by contrast they are also viewed as citizens of the Bapo area when it comes to performing particular roles that suit certain groups. One of these groups is the business chambers that benefit from the local trade and industry growth that is provided by the growth of the informal settlements. As a taxi owner in the area proclaimed "…essentially as a businessman I view these people as customers. As such, I know that the rest of the people here in Bapo did not want them but there is nothing that we can do because they are here now and they are here to stay until the mines stop which will not be anytime soon. As such I and others approached the traditional authority and we asked them to allow us to make taxi routes that go to these different informal settlements because it was a great business opportunity. Now the taxi industry here in the Bapo area is doing well." These actions went a long way in having the traditional authority of the Bapo and its locals acknowledging and to an extent legitimating the existence of the informal settlements in the area. This is illustrated in how one of the newer informal settlements in the Bapo area that is located in the village of Segwaelane has been able to be included in some of the developmental projects that have been aimed at the village of Segwaelane. In a sense one could argue that this is a new way of assimilation into the Bapo. An assimilation that moves away from the traditional way of the ward system. Through the interests of the business actors, informal settlements are at once and the same time challenging the traditional understandings of what a 'traditional community' is and are deconstructing the ward system by creating new ways through which outsiders and 'foreigners' are being assimilated into the Bapo traditional authority area.

This new way of assimilation into the Bapo is not only happening at the village level.

A most illuminating example of how the informal settlers are at times viewed as citizens of the Bapo by certain groups is demonstrated by the interests of the Bapo traditional authority.

On the 29th of July 2014, the Bapo traditional authority convened a *kgotha kgothe*[72] (meeting). The purpose of the meeting was twofold. Firstly, the meeting was convened to inform the community about the negotiations that had been going on between Lonmin mining company and

[72] A *Kgotha Kgothe means* 'meeting' in the language of Setswana. Refer to the attached glossary for a further explanation on this term and other terms that will be used in this thesis which are Setswana.

the Bapo traditional authority over the possible conversion of future royalties into shares and cash. The second aim of the meeting was to reach a community resolution on the equity swap transaction: members of the community had to vote on whether or not they wanted the transaction to go ahead.

The 'members of the community' that were present at the meeting also included the residents of the informal settlements who are deemed to be 'outsiders'. These 'outsiders' also partook in the decision-making process of voting for or against the equity swap transaction. They had been deemed to be a part of the 'traditional community' when it was time to reach a 'community' resolution on the deal.

It seems as though these residents of the informal settlements find themselves in a position where they are considered to be a part of the 'traditional community' when they are representative of the diverse group interests that exist within the Bapo traditional authority area. These interests exist not only at the village level coming from the various business chambers but they also exist at the traditional authority level as well. On the other hand, these residents are considered to be 'outsiders' when appeals to custom and tradition are made by the residents that are considered to be Bapo. Entry and exit, inclusion and exclusion into gaining a membership of the Bapo 'traditional community,' from the informal settlers view, is conditioned upon whose group interests the informal settler represents, or threatens.

The contention could be made that in so much as the informal settlements have reconfigured the traditional understandings of 'tribe' and 'traditional community' in the Bapo area, their impact on the ward system has been minimal. This minimal impact has not greatly affected the homogenous Bapo traditional community that has historically been built on and through the ward system. Central to this argument would be the fact that the Bapo populace is far greater than that of the informal settlements.

A counterargument to this contention would be an analysis of the headmanship disputes within the Bapo area and what they symbolize. These disputes have resulted in the creation of alternative governance structures that operate outside of the authority of the Bapo traditional governance structures which are primarily based on the functioning of the ward system. Moreover there has been an increase in the creation of a plethora of groups in the Bapo area that mobilize on the basis of either claiming land ownership, youth structures, a commonality of

history, the need to contest against issues of representations, and opposition to the current state of affairs in the Bapo traditional authority. These groups demonstrate how the Bapo are divided and fragmented along lines of not only the contestations of land histories, battles of and for representation, but also and essentially identity. The importance of these different groups and their interests, and how these challenge the conventional understandings of a homogenous Bapo traditional community that was historically built through the ward system as a tribe, is indispensable to demonstrating that the impact of platinum mining capital has set in motion a process of social differentiation which challenges and reconfigures the understandings of what a traditional community or tribe is. To further emphasize these claims the disputes of headmanship taking place in the Bapo area and what they illuminate will be discussed first.

Headmanship disputes, the ward system, and the reconfiguration of the Bapo traditional community.

The symbolism of the headman and his function within the ward system of a traditional community is of vital importance. Essentially they act as the authoritative figures of leadership within their villages. Their responsibilities range from presiding over cases that have been brought forward to the headman's court from the family-level dispute resolution arena to making decisions regarding the distribution of resources such as residential and arable land. Within the Bapo traditional authority area there are eight villages and each village has a headman that is the leading authoritative figure. These headmen do not only play an important role within their respective villages, but they also have a vital role to play within the administration of the Bapo traditional authority. The headmen of the eight villages also constitute a part of the Bapo traditional council.[73] In practice, traditional councils are considered to be, and dealt with as body politic representatives in respect of development initiatives, service delivery agreements with local municipalities, and mining deals in this case. Thus the importance of the headman stretches beyond the village and into the entire greater public of the Bapo traditional authority. As a consequence, when the legitimacy of a headman to rule is challenged, this not only raises

[73] Traditional councils are recognized by the Traditional Leadership and Governance Framework Act 41 of 2003 ('Framework Act'). Section 43 of the North West Traditional Leadership and Governance Act 2 of 2005 also recognizes the status of traditional councils. At a later stage I will discuss the problematics of traditional councils pertaining to the 'conceptions of the construction of communities' and on 'who has the authority to decide' in areas such as the Bapo ba Mogale.

disputes surrounding the headmanship but it also summons to contest our understanding of the conceptions on the structure of 'community' as well as the ward system in these areas. This is so because in cases such as the Bapo when these disputes occur over a protracted period of time they greatly affect the village populace under which the dispute is taking place. This later results in the governing structures that are supposed to be presided over by the headman being ineffective and unable to cater to their constituencies. In a response to this the affected constituencies form rival structures which form into groups. These groups mobilize not on the basis of being Bapo, but on the causes for which they advocate.

Headmanship disputes in the Bapo traditional authority area

There are eight villages which fall under the jurisdiction of the Bapo traditional authority. Out of these eight[74], four villages are experiencing disputes over the legitimacy of their headmen.

The dispute over the headmanship of the village of Wonderkop is closely related to the internal conflict that is taking place within the royal family of the Bapo traditional authority. The conflict within the royal family of the Bapo, has rendered many village-level governance structures inoperable. This has had the impact of providing an impetus for locals of the villages to create their own local traditional authorities that operate outside of the authority of the Bapo. In essence these village local level authorities operate outside of the ward system. They operate outside of the ward system because the functions of the ward system dictate that at the centre of the authority of the local-level village should be the authoritative figure of the headman. This notion is key to the functioning and imagery of a unified and homogenous Bapo traditional community under the leadership of a traditional authority. The struggles of headmanship in the village of Wonderkop illustrate this point.

The village of Wonderkop has been without a headman for about a decade. "The last headman we had passed away in 2005. They [Bapo traditional authority] were supposed to replace him with another headman who comes from the lineage of the royal family, but, because of their infighting and inability to agree on anything, they haven't replaced him with another

[74] The villages that make-up and fall under the jurisdiction of the Bapo ba Mogale traditional authority are: Oudstad, Nommer 1, Leokeng, Newtown, Legalaopeng, Modderspruit Segwaelane, and Wonderkop.

candidate."[75] Upon further enquiry into the subject matter of why there had not yet been a replacement for the deceased, it was revealed by not only some members of the Bapo traditional authority and local villagers, but also by an elected successor to the deceased that there had been contingency plans made to replace the deceased headman. However, speaking candidly, the candidate-elect that was supposed to succeed the deceased revealed that "…you see when I came here and I was supposed to take over the headmanship in Wonderkop, the people of Wonderkop stopped my induction. At the time they stopped it because the traditional authority had not informed them prior to my installation. They then requested that the matter should be postponed for fourteen days so that they could prepare all the necessary ceremonial activities that were needed for the celebrations. Two weeks came and passed into a few years now. I believe that I was never installed as the rightful headman in Wonderkop because when I came here I was speaking out against the rampant corruption and misuse of funds that belong to the people of Bapo ba Mogale. This corruption was being carried out by influential people who were in the traditional council at the time and some of them are still there. These people blocked my installation as the headman of Wonderkop and subsequently I was also kicked out of the Traditional Council of the Bapo ba Mogale traditional authority." [76] In this instance it was not only the matter of replacing the headman that was left in abeyance, but, it was also the structures that help govern the village through the functions and customs of the ward system that were also left in abeyance.

This had an adverse effect on the village of Wonderkop. In a response to this the locals of the Wonderkop village took over the governance structures of the village. "We do not have a headman here in Wonderkop. We have a chairperson of the Wonderkop Traditional Authority. Our council is made-up of members of our village and we liaise with the Bapo traditional authority on some matters, however, we are now solely responsible for our own affairs."[77] The impetus to establish their own governance structures can also be founded in the impact that mining capital has in the Wonderkop village. As one respondent pointed out "…we are the

[75] Fieldwork Interview; 18/11/2013; INT02. Interview conducted in Wonderkop. A village that is a part of the Bapo traditional authority.
[76] Fieldwork Interview; 07/04/2014; INT23. Interview conducted in Wonderkop. A village that forms a part of the Bapo ba Mogale traditional authority.
[77] Fieldwork Interview; 01/04/2014; INT15. Interview conducted in Wonderkop. A village that forms a part of the Bapo ba Mogale traditional authority.

descendants of the people that purchased this farm of Wonderkop. We have a Land Claiming Committee that is in the process of claiming our land back. Once our claim is successful we want the mining companies that mine on our farm to negotiate directly with us and not the Bapo traditional authority who are not the owners of this land. We are already administering our own affairs through the Wonderkop Traditional Authority. When our claim is successful we will be able to maintain our own administration."[78]

In the village of Wonderkop the impact of platinum mining capital along with the infighting within the Bapo traditional authority has resulted in the creation of groups that are mobilizing not on the bases of being 'Bapo' but on the basis of socio-historical (land ownership) and creating alternatives to the current governance structures. This has had an indelible impact on the understandings that there exists a Bapo traditional community. As the case of Wonderkop reveals that the latter does not hold true.

The same factors (impact of platinum mining capital, and Bapo traditional authority instability/infighting) can also be attributed to the headmanship dispute in the village of Segwaelane. This case also illustrates how one cannot speak of a unified and homogenous Bapo traditional authority that is/was built through the ward system.

The village of Segwaelane is located on the farm Turffontein 462 JQ. The Bapo traditional authority are also considered to be the custodians of this farm. The role of headmanship on this farm is being contested by members of a family that moved to this farm between 1920 and 1922. "When we moved here we were a group of about 20 families. We were already a traditional authority, my grandfather was the chief. Because we were small in numbers and we were settling in an area that was close to the Bapo the government at the time told us that we should fall under the authority of the Bapo. Now because my father was a chief, he became the headman of this area under the traditional authority of the Bapo."[79] The families that settled on this farm still do not consider themselves to be Bapo. "We are Batlhako, not Bapo."[80] This statement has become very important in the context of defining and trying to resolve disputes over succession. The

[78] Ibid.

[79] Fieldwork Interview; 20/11/2013; INT04. Interview conducted in Segwaelane. A village that forms a part of the Bapo ba Mogale traditional authority.

[80] Ibid.

Batlhako who were incorporated into the Bapo traditional authority through the ward system, are not trying to resolve their headmanship dispute through the processes which the ward system of the Bapo would facilitate. Moreover the ward system dictates that the headman should come from the male genealogical seniority of the Bapo and not the Batlhako. However this has not been the case here.

More importantly however ethnic identity has become extremely important in the Segwaelane village in the context of the impact of platinum mining capital. The Batlhako have filed for a restitution land claim on the farm on which they settled against the Bapo traditional authority. The 'we are Batlhako, not Bapo' narrative has become the basis on which they have mobilized themselves in the process of claiming the farm which is registered in the name of the Bapo traditional authority.

The case of the dispute within the Segwaelane area also reveals how the impact of platinum mining capital has also resulted in the reclaiming of identities outside of the ascribed identities of the Bapo which were given to groups through the ward system and also by the authority of the state. This challenges and also points towards the reconfiguration of what is considered to be a Bapo traditional community.

These two variables (impact of platinum mining capital and the infighting within the royal family) are also visible within the other headmanship disputes in the area of the Bapo and how this has led to a deterioration in the usage of the ward system.

In a further two villages of the Bapo, there are struggles for headmanship succession as well. These struggles can be directly linked to the struggles that are taking place at the level of the traditional authority. The infighting within the royal family of the Bapo has resulted in there being factions that are fighting over leadership. These factions also exist at the level of village leadership. To illustrate, the Nommer 1 section village, the headmanship dispute had been taking place between two brothers that come from the lineage of the chief. They were members of the Bapo royal family. The stand-off in the matter was that the one party accused the other of being made the headman because he was being favoured by a section of the royal family that was trying to wrest control of the Traditional Authority and its assets, illegally.

The same situation existed in the village of Newtown section. In both cases the governance structures were also compromised and the residents of the villages began the process of building alternatives. The alternatives came in the form of Community Based Organizations (CBO's). Essentially the purpose of these CBO's is to hold the Bapo traditional authority to account for obligations that they have set-out. As one respondent proclaimed "…we are organizing ourselves on the basis of the issues that are affecting us. For example, the Samancor Chrome mining company promised to deal with the cracks that the blasting of the open-cast mine has been damaging our houses. They only come to plaster over the crack. After a month the crack opens-up again and the continuous blasting only serves to worsen the cracks. When we want to take this to the headman's council we can't because they are fighting amongst themselves."[81]

The crux of the matter in the villages of Nommer one and Newtown section's headmanship dispute is how an alternative group to the headman's council managed to gain legitimacy with the locals. Not only did they provide an alternative to the governing system that was taking place in their village, they also show how when there is no visible symbol of cohesion (the headman) and solidarity (the headman's council and his advisors) alternative groups spring-up which form their own systems of governance. Moreover groups like these are not constituted according to the norms and standards of the ward system. These are members of the village that were elected by the residents of the village democratically. Groups like these also do not represent the entire Bapo ba Mogale residents, they merely represent a small constituency that is in their village. This is almost the same trajectory into self-rule style that was taken by the Wonderkop Traditional Authority which also only represents their residents and not the entire Bapo ba Mogale. These styles of collective organization and mobilization in these areas are leading to the emergence of groups that are acting as an alternative governing system to that of the Bapo ba Mogale Traditional Authority's ward system that is led by the headman at the village-level.

A further example of how the lack of cohesion and solidarity at the level of the Traditional Authority in the Bapo area has had a detrimental effect at the village-level can be found in the youth structures. This also demonstrates the impact that platinum mining capital has had in the

[81] Fieldwork Interview; 18/11/2013; INT03. Interview conducted in Nommer 1 section. A village that falls under the Bapo ba Mogale traditional authority area.

area. Moreover this also highlights the reconfigurations of the construct of a unified and homogenous Bapo traditional community.

Partitions amongst the youth

There are a number of forums which the youth of the Bapo ba Mogale can use to engage in the governance of their villages and to voice out their concerns. Over the years, one such outlet has been the Bapo Youth Organization. The Organization was responsible for mobilizing the youth and creating awareness campaigns regarding matters such as health and safety, education and opportunities for further study after secondary schooling, drug and alcohol abuse, as well as sports and recreation to name a few. However, due to the divisions that have been taking place at the levels of the royal family of the Bapo ba Mogale and the Traditional Authority, the Bapo youth have now also found themselves in a crises of legitimate group-representation.

Acting on the recommendations of a state-appointed ethnographer, the Bapo Traditional Authority introduced another outlet that the youth could use to engage in the current affairs of their area. They introduced the Bapo Youth Agency. The newly created Youth Agency brought along with it many problems of youth leadership and exposed the underlying current of youth divisions that had been well hidden by the previous forum.

One respondent recounted the period when the new youth portal was introduced. "They called us into a meeting to tell us that they have introduced this new agency which is called the Bapo Youth Agency. The problem is that this youth agency will now be operating alongside the old Bapo Youth Organization. When we asked them what the youth agency will be doing that is different, they basically mentioned the same objectives that the old organization is trying to achieve. This has also confused us now because the people who were the leaders of the old youth organization also want to be the leaders of this newly created youth agency. They want to do this without their having been any elections for new candidates. This is wrong."[82] The scale of the problem that this presented was only realized a couple of weeks after the youth agency had been formed. The Bapo Youth Organization had a branch within its organization that dealt with youth unemployment (the Bapo ba Mogale Youth Unemployment Forum). As normal practice, the

[82] Fieldwork Interview; 01/03/2014; INT11. Interview conducted in Nommer 1 section. A village that falls under the Bapo ba Mogale traditional authority area.

members of the unemployment forum would often go to the Lonmin Plc mines that are operating in their area to find out what new openings are available for their people. Matters came to a head when the newly organized youth agency members went to the mine to look for employment at the same time that the members of the old youth organization had also gone to the mine for the same purposes. This not only resulted in the straining of the relationship that the youth unemployment forum has with the mining house, but, it also further enhanced the existing animosity between the youth organization as well as the youth agency.

The crises of youth representation does not only end at the youth leadership level. Members of the other villages such as Wonderkop and Segwaelane are constantly complaining about being alienated from the organization. The meetings that are held by the organization take place at the tribal offices of the Bapo ba Mogale. For members that live in places such as Wonderkop and Segwaelane (a distance of 5-15kilometres respectively from the traditional offices) some of them complain that the meetings take place at a time when they cannot attend, and they also do not have the funds to take transport to the venue. This has led to some members of the youth either not engaging in the structures of youth or trying to form their own village-level organizations to deal with the matters that are affecting them and their villages directly. There have also been accusations against the youth leaders that they do not represent the youth of the other villages fairly. This has been expressed in how it has only been the youth that live in Bapong that are constantly getting employment on the mines. This has had the effect of further acting as an impetus for groups that want to secede from the Bapo ba Mogale Traditional Authority's administration. "Those people over there at the Traditional Authority are very corrupt. They do not even provide our youth with opportunities to go and work at the mines. They prefer to give those opportunities to their own children and those that live near Bapong. For those that live here in Segwaelane they do not care about us. We have houses with no water here while they are building a new palace for the royal family that is worth millions."[83]

These divisions amongst the youth organization have also had the effect of acting as a motivational force behind the rationale that some land claiming committees have in the area. "We are the descendants of the original purchasers of this land, therefore we should be the ones

[83] Fieldwork Interview; 20/11/2013; INT04. Interview conducted in Nommer 1 section. A village that falls under the Bapo ba Mogale traditional authority area.

that are governing our land and having the mines negotiating with us. Our youth can't even get jobs working in the mines because the mines want to negotiate directly with the people in Bapong. There is a Bapong Unemployment Forum which our kids sign-up for. They are supposed to call our kids when opportunities to work at the mine open. However, they do not do that. They instead call the people that are not even on the waiting-list and tell them to go to the mine and start working. We will fix this should when we get our land back."[84]

What the crises of legitimate representation amongst the youth reveals

There are a couple of important points that can be taken away from the divisions amongst the youth in the Bapo ba Mogale area. Firstly, the process of the mobilization of the youth has resulted in, or accelerated, the social and political differentiation of the youth based on their local village location. That is, the alienation of the other members of the youth that are based in the villages that are much further from the Bapo ba Mogale traditional offices has resulted in these youths resorting to either not engaging in the youth structures or forming their own ones in their respective villages. When they formed these villages, they identified themselves more as the residents of their respective villages much more than as the youth of the Bapo ba Mogale Traditional Authority. This was exemplified in how some of the youth from areas such as Segwaelane and Wonderkop village could not attend the meetings that were held at the traditional offices due to a lack of finances. Secondly, the duplication of youth forums in which the youth could participate in revealed two things. For starters, it revealed the leadership squabbles that are also prevalent at the level of the youth structures. This is demonstrated in how those who were leaders of the Bapo Youth Organization also want to become leaders of the newly-created Bapo Youth Agency without having an election take place. On the other hand, the duplication of youth forums revealed the effects that the lack of cohesion and solidarity at the level of the Traditional Authority has at the local-level once again. This was demonstrated by how those who were mandated to start with the newly-formed youth agency could not articulate to their constituencies what the new organization would do that the older one could not. This was further enhanced by the dual job-hunting by members of both organizations going to the same

[84] Fieldwork Interview; 01/04/2014; INT18. Interview conducted in Wonderkop. A village that falls under the Bapo ba Mogale traditional authority area.

mine and enquiring about work at the same time. Here too we find that there is now no cohesion or solidarity.

Lastly, the crises of legitimate representation amongst the youth also revealed that the divisions amongst the youth are starting to act as an impetus for organizations that want to secede from the administration of the Bapo ba Mogale. This is demonstrated by the Wonderkop Land Claiming Committee who believe that the youth that are based in Wonderkop are being overlooked for employment opportunities in the mines due to the actions of the Unemployment Forum which favours those that live in the villages that are closer to Bapong.

A critical assessment

In her seminal book, 'The Fractured Community: Landscapes of Power and Gender in Rural Zambia' Kate Crehan (1997) also grapples with and calls into question the very definition of the term 'community' and she interrogates what is it that makes a community a community. She deliberately uses a broad understanding of the term itself in order to look into what kind of links between people create these communities. She argues that in order to try and reach an understanding of how the many different networks which make-up these relationships and the many different collectivises which comprise the overall 'community' we need to look into how these communities are fractured. Using the case study of Kibala and Bukama in rural Chizela, Zambia in the 1980s, she points out that "…part of the baggage carried by the term community is a sense of homogeneity and an assumption that those who belong to a 'community' are bounded together by a set of common interests." (Crehan; 1997; 226) She contends against the usage of 'community' as being a single entity with a single set of interests. Instead of romanticizing the concept of 'community', which is arrived at by treating 'community' as a single entity bounded by common interests, she implores us to "…analyse the particular lines of fracture of particular communities-whether these are cleavages of gender, of economic inequality, ethnicity, or whatever-and then trace out the implications of these in specific contexts." (Crehan; 1997; 227). Furthermore she warns against the danger of veering towards the extreme of either position, i.e. privileging and romanticizing the notion of 'community' and in reaction to not romanticizing it, to see it as being too fractured as to make any collective identity impossible to locate.

There are broad fractures that one may identify coming out of the Bapo area. These fractures run along the lines and divisions of those that claim to be 'original settlers' in the Bapo area and those that are considered to be informal settlers. Central to the understanding of who is an informal settler and who is not is the ward system. Where historically the ward system was used to incorporate disparate groups and individuals into the Bapo nation, this is currently being bypassed by the migrant workers that are settled in Nkaneng and Khalamuntwana areas. I contend that this is also another marker of how insomuch as tribal authority structures are imposed and are difficult to dislodge, such as tribal identity, those that are vying for claims to resources in the area and are mobilizing on the bases of common interests and commonality of history, also do so by mobilizing on the ideological bases of ethnicity and thereby revive and strengthen these 'tribal identities'. Where community is a kind of corporate status, whether it is imposed or claimed (following Bernstein's argument) it is clear to see in areas such as the Bapo area that it can also function to exclude 'the other' (i.e. the informal settlers and settlements) when it is imposed, and at the same time it can also function to include 'the other' when it is claimed (i.e. when the informal settlers were used by the Bapo traditional authority as added signatories to the Bapo-Lonmin equity transaction).

On the other hand, where one finds fractures along the youth in the Bapo it demonstrates the impact that the imposition of platinum mining has had on these ongoing events/occurrences in the Bapo area. For example, one can clearly identify a single entity (the youth of the Bapo) and how this entity is differentiated by the varied interests that each organization representing these constituencies has. These local variations in interest and the crises of representation that they have brought about can be linked to the impact that the insertion of mining capital and the opportunities that it presents (youth unemployment, bursary schemes, training programmes, etc.) has had in the area.

Perhaps of most importance for analytical purposes here is the infighting within the royal family of the Bapo ba Mogale traditional authority and how this has affected and reconfigured the village-level governance structures as well as the 'notions' of community in this area. As Bernstein (1996; op.cit.) argued, the discourses of 'community' in rural areas such as the Bapo connect with ambiguities about the chieftaincy. Where the traditional authority has been unable to reach and has had its own internal fighting affect its administrative capabilities, new and

organic alternative governance structures have been established. A case in point is the Wonderkop Traditional Authority as well as organizations such as the Community Based Organizations (CBO's) that have emerged. Other than providing services and being a variant experience of governance structures for the locals, they have also performed the function of being the enforcers of difference at the village level. That is, these organizations also mobilize support on the bases of being an exclusive entity that seeks to service those that are Bapo only. In doing so they define who the Bapo are by way of a common settlement history and the common interests that they have (e.g. for the Wonderkop Traditional Authority, they work hand-in-hand with the Land Claiming Committee in the area and they have a common interest of not only land restitution but of also 'eradicating' the informal settlement in their area, Nkaneng).

On the other hand, we should guard against, as Crehan (1997; op.cit.) has warned, the romanticization of 'community'. In this instance, the romanticization would be arguing that these fractures and divisions that are evident in the Bapo area are due to the infighting and malfunction of the structures of the traditional authority. Arguing for this would be to validate what Grischow (2008; op.cit.) has contended against which is to say that chiefs are the trustees of group harmony and that traditional communities are naturally co-operative. Insomuch as some of these fractures may exist due to the infighting within the traditional authority of the Bapo (e.g. the alternative governing structures) the claim cannot be made that fractures along the lines of ethnicity, inequality, informal settlers and settlements and the 'original inhabitants', and the generational ones (the youth) exist due to this. They exist independently and this illustrates the dynamism and the local variations, as well as the way in which a narrow definition of 'community' here which treats these specific groups and people and their links as being a single entity with common interests, is unfounded and problematic. These are clearly not homogenous entities.

Conclusion

As Crehan (1997) has pointed out earlier, it is only through a broad definition the word 'community' itself where we may arrive at an understanding of what kinds of links between people create a community. In the Bapo area where the 'community' is fractured among so many divisions such as informal settler and original inhabitant, ethnicity, inequality, the youth, and structures of representation, there are many links between the locals that work together to create

a community. Most notably these links include common interests such as land restitution, local variations of governance structures, youth representation, etc. In the specific context of the Bapo and the Wonderkop area one can see that when mobilizing for a claim to resources the ideological bases of these mobilizations is ethnicity and a common history and interest. This has a two-pronged function. In the first place it brings together those that are considered to be the 'original inhabitants' of the farm and village. On the other hand it functions to exclude and create further animosity towards those that are considered to be 'outsiders', the informal settlers.

On the other hand, the informal settlers are also used and included in the definitions of belonging and they acquire tribal identity when these identities are imposed through the traditional authority structures when the traditional authority is making a claim to resources.

Moreover, where discourses of 'community' connect with ambiguities about the chieftaincy, this chapter has argued that the many fractures that may be found within this community exist outside of the imposed structures of the traditional authority. This is an important point to consider because it demonstrates the fact that places such as the Bapo are not comprised of homogenous enclaves that are somehow held together and given harmony by the figurehead of the traditional authority. They are not a single entity with a single set of common interests.

Chapter 4

Continuation or rupture: Rural South Africa's political order

Central to the argument of this chapter is that the state reproduces and perpetuates the distinctive political order in rural South Africa that was established by the colonial state. Key to this is misunderstanding the very essence of Tswana indigenous political systems. The political processes of the creation of chiefly legitimacy are much more complex than the state has acknowledged. To this end, four key arguments will be advanced. The first will be that the role of the state in interfering in African political systems and processes such as those of the Tswana can be traced back to the role of social anthropology in the construction and maintenance of the colonial state in South Africa. Secondly, ethnologists trained in the discipline of social anthropology were appointed by the state under the Ethnological section of the Department of Native Affairs. Their function in this department ranged from operating in a 'network' where new traditional authorities were established where none existed before, intervened in matters of dispute over chiefly legitimacy, and maintained chiefdoms that were formalized into a tribal authority. The methodological approaches that were employed by these ethnologists had a grave impact on the 'reconfiguring' of African political systems. Essentially they applied static, reified, and fixed-in-time concepts to political systems and societies that were much more dynamic and complex. The conceptual foundations which informed these methodological approaches are traced back to the work of Durkheim's (1895) 'The Rules of Sociological Method' in which he argued that any scientific study of man and his lived environment can only be ascertained by establishing 'social facts'. The crux of his thesis argued that one of these 'social facts' was that institutions regulate the behaviour and set the normative repertoire of man in society and he denied the individual any agency in influencing these institutions. This concept became the bedrock of social anthropology which used a structural-functionalist paradigm to study and assess African societies.

Thirdly, drawing on the work of Comaroff and Roberts (1981) this chapter advances the argument that the 'social universe' of these African societies are enigmatic, dynamic, and

individualistic. Debasing the arguments brought forth by structural-functionalist approaches that privilege institutions and deny the individual any agency. These characteristics underline the dynamic political systems of the Tswana. Focusing on disputes and their settlement processes, Comaroff and Roberts further argue that any efforts geared towards an understanding of disputes that take place in African societies should locate these disputes in the greater sociocultural systems which make-up these polities.

Lastly, this chapter presents the Bapo dispute and the subsequent methods that have been employed by the state to settle this dispute in the Bapo traditional authority. The appointment of an ethnologist who used the same methodological approaches that were used by the ethnologists working for the Native Affairs Department, and arriving at 'recommendations and solutions' that are based on a genealogical argument has only served to further deepen the crises of legitimate rule within the Bapo. These methodological approaches are grounded in the structural-functionalist paradigm that denies individuals within the Bapo area any agency. Furthermore, this is demonstrated by the state-ethnologist not locating the Bapo dispute within the greater sociocultural system of the area. Essentially this intervention by the state in the Bapo dispute not only reflects the practices of the old apartheid regime, but in doing so it also misunderstands the very essence of Tswana political processes and the dynamic system in which they are located, perpetuating the rural political order that was, essentially, established by the colonial state.

Social anthropology and the colonial project

Africanist scholars and public intellectuals alike have for many years debated, polemically, the role of social anthropology in the construction and maintenance of the colonial state in South Africa. Lekgoathi (2009; 61) points out that "…the major point of contention has been whether anthropology as a specialist field of study of non-Western societies has been implicated in the colonial project, that is, whether, by imposing the notion of 'tribe' on much more fluid pre-colonial African identities, anthropologists employed by the state have contributed to perfecting 'divide-and-rule' policies." Coming out of this debate has been a body of literature that on the one hand, has been apologetic about anthropology's complicity in aiding colonial conquest in South Africa, and on the other hand has provided a critique of the discipline and the colonial project.

Scholars such as Gordon (1990) have traced the early beginnings of the institutionalization of social anthropology in South Africa to figures such as A.R. Radcliffe-Brown. According to Gordon (1990; 16) "…Radcliffe-Brown was personally invited by General Smuts to establish the social anthropology course at the University of Cape Town." During his tenure at the University of Cape Town, Radcliffe-Brown's students included Schapera (who went on to be an influential figure in the ethnographic corpus detailing the sociocultural systems and institutions of the Tswana) and P.A.W. Cook. Cook later went on to become an influential figure in the formation of 'Bantu Education'. "…he served on the influential (Eiselen) Bantu Education Commission which drew up the Afrikaner Nationalist blueprint for black education, and he became the first rector of the University of Zululand." (Gordon; 1990; 23) Gordon goes on to further make the claim that it is here where a case may be made of Radcliffe-Brown's ideas offering validation for the neo-colonial discourse of the South African government at the time. Elsewhere, Gordon (1988) has exclaimed that "…no person's career better illustrates the interconnections between *volkekunde* and apartheid than…Werner Willi Max Eiselen." (Gordon; 1988; 540) Eiselen, trained as an anthropologist in Hamburg, Germany, alongside later anthropologists that would later play a pivotal role in the operations of the Native Affairs Department as ethnologists such as P-L. Breutz, was dubbed the intellectual "…architect of apartheid" (Moodie, D; 1975. quoted in Gordon 1988, p540)

Eiselen, the social anthropologist that wrote extensively on 'bantu languages' and on dealing with the 'native question'[85] later went on to become the Chief Inspector of native education in the Transvaal. After the National Party came into power in 1948, Eiselen was later appointed to chair the powerful Native Education Commission which in effect was the leading think-tank for the establishment of 'bantu education'. However, his most important appointment came a year later (1950) when he was appointed as the Secretary of Native Affairs.

The relationship between the colonial state and social anthropologists that went on to take-up influential positions within the machinery of the state is further illustrated by the work and life of N.J. Van Warmelo. According to Hammond-Tooke (1995; 120) Van Warmelo was the leading

[85] For further reading on his writings regarding the justifications of 'separate development' and 'native policy' see, "The meaning of apartheid. Race Relations 15(3): 69-86". Also, his paper on "Work paper on native policy" (1935) which according to Gordon (1988; 541) was instrumental in developing the secretive Afrikaner Broederbonds viewpoints on the matter."

figure in the ethnological section of the Department of Native Affairs. Having served in the section for thirty-nine years, he was its only member for the first fifteen years. Later on, other figures joined him in the department including A.C. Myburgh, P-L. Breutz, and P.J.G Koornhof. These figures, under the tutelage of Van Warmelo would later go on to carry out ethnological research on 'tribal societies' which proved to be an invaluable tool for the apartheid state's policies which included amongst others, the Bantu Authorities Act No. 68 of 1951.

Social anthropologists in South Africa have come to displace the blame of the discipline's complicity in aiding the colonial project onto some of the particular strands within the discipline. Namely, the strand that has come to be blamed for aiding the colonial project has been Afrikaner ethnology or *Volkekundige*. A body of scholarly literature has been produced which demonstrates that the purpose of these volkekunde was to ensure that the ethnographic study of the 'Other', 'tribal societies', was to establish categories of inclusion and exclusion which aided the establishment of a system of power that systematically precluded alternative classification schemas. This later became the basis for any rationale aimed at the maintenance and perpetuation of the 'apartheid system' based on an intellectual discourse that was supported by the *Volkekundige* strand of social anthropology.[86] Gordon and Spiegel (1993; 86-87) further elaborate on the purpose and function of the *Volkekundige* by pointing out that "…thus was born a form of domination through social scientific discourse that saw its apogee in work associated with the South African Bureau of Racial Affairs-an apartheid think tank-and embedded at many Afrikaans-language universities among *volkekunde* (cultural ethnologists) who saw their primary task as translating static reified abstractions they called cultures." Although a further note on the

[86] For a further discussion of the body of literature that analyses and critiques the Volkekunde, see, S. Pugach "Carl Meinhoff and the German influence on Nicholas van Warmelo's ethnological and linguistic writing, 1927-1935", journal of Southern African Studies, 30 (2004), p827. Pugach focuses on the tale of Meinhoff who was a German expert in African languages and a pastor that greatly influenced the later generation of volkekunde such as W.M. Eiselen and G.P. Lestrade (who was Van Warmelo's predecessor in the ethnological section of the Department of Native Affairs). Meinhoff and his German colleagues shaped and founded the discipline of African Language and cultural studies-*Afrikanistik*, according to Pugach. Understanding their story is critical for understanding the history of racial thought in Germany and how that thought contributed to segregationist and apartheid ideology in South Africa according to Pugach.
Other key readings on the volkekunde include, I. Evans (1997). "Bureaucracy and Race: Native Administration in South Africa" Berkley, esp. pp168-170. Also, S. Dubow (1992). "Afrikaner Nationalism, apartheid and the conceptualization of 'race'", in Journal of African History, 33 (2). Lastly, R. Gordon (1991). "Serving the Volk with Volkekundiges", in J. Jansen (ed), Knowledge and Power in South Africa. Johannesburg, 1991.

intellectual origins of the *Volkekundige* and the identification of the political organizations that they belonged to warrants a greater and interesting analysis, it is not the focus of this chapter. More pertinent for our purposes here is the impact that these *Volkekundige* and their work had on the conceptualizations and material formulations of the tribal societies which they studied. It is where these cultural ethnologists worked, the methodological approaches that they employed to carry out their ethnological research and the conceptual foundations which informed these methodologies and the impact that their work had on the societies which they researched and reported on that will be discussed further.

It would be amiss to inherently imply that the ethnological section of the Native Affairs department was only filled with *Volkekundige*. In his work 'Imperfect Interpreters: South Africa's anthropologists, 1920-1990' Hammond-Tooke (1997; 11) enlightens us to the fact that the ethnological section of the Native Affairs department was also comprised of social anthropologists that were trained in the traditionally English-speaking and liberal institutions (namely Wits University and the University of Cape Town). The writer was himself appointed as an 'Assistant Ethnologist' to the Ethnological Section. Recounting his experiences as a state-appointed ethnologist working in the Ethnological Section of the Department of Native Affairs under the auspices of N.J. Van Warmelo, Hammond-Tooke points out that "…the departmental ethnologists were instructed to assist the district magistrates in defining the boundaries of the new authorities, based on political affiliation to local chiefs. Where there were no officially recognized chiefs, as among the so-called Mfengu, they had to be 'found' and appointed…" (Hammond-Tooke; 1997; 12) This admittance by Hammond-Tooke of the role that social anthropologists appointed as ethnologists by the state under the Native Affairs Department played, supports the thesis made by Lang (2005) that state-appointed ethnographers played a pivotal role in a 'network' that consisted of magistrates/commissioners, the state, traditional leaders/chiefs, and themselves in the particular constructions of 'culture'. This 'culture' served to legitimize the new authorities and their boundaries. Within the functioning of this 'network' Lang (2005; 38) further describes how the state was the 'guarantor/financier' of this particular construction of 'culture', the magistrates/commissioners through the force of law were the 'keepers' and preserving agents of this 'culture', the traditional leaders/chiefs were the 'users' of this culture, and the ethnographers were the researchers/definers of this static, reified normative

order called culture. Lang further goes on to argue that this 'network' has continued to exist under the new democratic dispensation, a point which I will return to at a later stage.

Although writers such as Hammond-Tooke (1997) are apologetic about the role that ethnologists played in creating schematic classification systems for tribal societies, others have tended to be more scathing in their analysis of the usage of the work that these ethnologists carried out. Lekgoathi (2009; 72) has highlighted the fact that a Department of Native Affairs Report (1950-1957) spelled out the fact that one of the primary functions of the department had been to aid the union state in the control of the tribes which had been identified in the work of the leading state-ethnologist, Van Warmelo, in his 1952 publication *Language Map of South Africa*. In this pursuit of controlling the 'tribes', government ethnologists played a crucial role because they were the ones to whom "…many inquiries about the rights of chiefs, questions of succession, and tribal disputes are referred…" (Department of Native Affairs, Report, 1950-1957, 15. Extracted from Lekgoathi, 2009, 72-73).

We have established the fact that social anthropologists were hired by the union state to work under the Ethnological Section of the Department of Native Affairs, and whom some of these ethnologists were (Volkekundige and some from the white liberal academic institutions, namely Wits University and the University of Cape Town). I now turn to analysing the methodological approaches that were employed by these ethnologists in their work and the conceptual foundations which informed these methodologies.

State-appointed ethnologists' methodological approaches and the conceptual foundations of those approaches.

Many scholars have written on the methodological approaches that were used by the Native Affairs Department's ethnologists in their work on trying to understand African political systems.[87] Perhaps most notable, for our purposes here, is the work of Lekgoathi (2009) who

[87] Most notable here is the work of Comaroff, J.L. (1974). "Chiefship in a South African Homeland: A case study of the Tshidi Chiefdom of Bophuthatswana", and Dugmore, H. (1987). "The rise to power of the Monnakgotla family of the Bakubung, 1830-1896", both these key texts (which are discussed extensively later in this chapter) provide a key insight into the methodological approaches used by the state in intervening in 'chieftainship disputes, judicial processes,' and the impact that their approaches have had on systems of African political processes.

looks at the way in which knowledge was constructed through a relationship between the 'colonial' expert and the 'native informant'. He explores the complex dialogical relationship between N.J. Van Warmelo (chief ethnologist in South Africa's Native Affairs Department from 1930-1969) and his local informants (mostly elderly men from ruling lineages, considered as experts or repositories of their culture and history) who enabled him to pursue the political enterprise of mapping out the 'Transvaal Ndebele'. Lekgoathi suggests that Van Warmelo's writings and interpretations of Ndebele history and society were fundamentally shaped by the local informants' perspectives, which were themselves products of old traditions that had been recast in the context of contemporary struggles and changes occurring in early twentieth century South Africa.

Lekgoathi's suggestions present us with a new perspective on the methodological approaches that were used by the state-appointed ethnologists. The body of literature that exists on this matter is one which only considers the ethnological approaches from a power relationship dynamic; a master-servant relationship. More importantly however, Lekgoathi illuminates the influence of the subjects of study on the actual reports that were used for compiling the ethnological publications that were used to classify and 'fix' otherwise fluid identities of 'tribes'. In conducting their fieldwork research on the various 'tribes' of the Transvaal, ethnologists consulted with the leaders of the 'tribes'. In doing so, the legitimacy of chiefs to rule or the establishment of new boundaries for new tribal authorities which were 'created' by the state, involved approaches of using genealogical trees of the ruling elite lineages to ascertain 'tribal identities' and chieftainship. This approach had, and continues to have, the impact of reflecting the perspectives of the selected senior members of the ruling elites of the African societies much to the exclusion of the wider polity of the society. More pertinent for our purposes however, is the fact that approaches such as these have resulted in the 'fixation' and 'oversimplification' of complex and ever-changing African social and political institutions. The complex nature of these African political systems and their changing characteristic, and how their 'oversimplification' has resulted in disputes and the creation of identities and particular notions of 'culture' that only serve the interests of certain groups (i.e. the state, or mining capital in this case, traditional

Although not focusing on African societies, 'tribes', other key texts which discuss further these methodological approaches include: S. Dubow (1992). "Afrikaner Nationalism, apartheid and the conceptualization of 'race'", C. Kros (1993). "Eiselen: Idealist and Idealism Revisited".

authorities and groups aligned with the interests of these constituencies) will be the subject of further discussion later in this chapter. For now however, it is the conceptual foundations which informed, and as will be evident through the case-study of the Bapo dispute, continue to inform these approaches, which will be discussed.

The conceptual foundations of the methodological approaches that were (and still are) adopted by state-appointed ethnologists lay in the structural-functional paradigm, which informed much of not only social anthropology in the early twentieth century, but disciplines such as political theory as well.[88] This structural-functionalism approach within British anthropology needs to be grounded in its early contextual birth which was the colonial situation. Anthropological studies during this period were concerned with "…see[ing] colonial peoples in terms of a primitive concept, denying in effect their colonized status." (Goddard; 1961; 79) The structural approach in the study of tribal societies was based on a positivist model that was derived from the reading of Durkheim (1858-1917). Having been the first figure to lead a social anthropology course at the University of Cape Town, Radcliffe-Brown is often associated with having pioneered the usage of this structuralist approach. This approach advocated for the study of societies and cultures as being best undertaken by the methods of the natural sciences. The attribution of social anthropology as a 'science' would later come to be very important as a rationale for justifying its appropriation and usage by politicians and the union state in South Africa when they were attempting to deal with the 'native problem/question'. Hammond-Tooke (1997; 24) has pointed out that the origins of this 'structural approach' based on the readings of Durkheim, lie in the early nineteenth century work of the French scholar, Comte.

August Comte (1798-1857) often acknowledged as the founder of sociology argued that the development of human knowledge passed through three distinct phases (called the 'Law of the Three Stages'). The first phase was a religious stage, followed by a metaphysical stage, and lastly there came a positive (scientific) stage. Comte further argued that the study of man and his lived-in experience/environment, should occur in the final (scientific) stage. This call to study man scientifically later informed the work of Durkheim. Comte's influence on the work and later

[88] Hobbes' *Leviathan* (1651) for example, advocated for structuralism and the functioning of social institutions because without their presence societies do not cohere effectively. These institutions were the ones which created rules and ensured that they were followed.

studies of Durkheim is demonstrated in his *The Rules of Sociological Method* (1895) book. This book became a seminal piece of work for modern sociological and anthropological thought. According to Hammond-Tooke (1997; 25) in his book, Durkheim introduced the basic concept of 'social facts'. He argued that "…without 'facts' there could be no possibility of a true science. He identified a social fact as 'every way of acting, fixed or not, capable of exercising on the individual an external constraint; or again, every way of acting which is general throughout a given society, while at the same time existing in its own right independent of its individual manifestations." (Hammond-Tooke; 1997; 25) Durkheim conceived of a social fact as having the power to act upon individuals so as to coerce them to conform to a pattern. These 'social facts' had two characteristics. Firstly, they are the product of a given collective, a group, or the institutions and practices of those institutions. Secondly, these social facts are independent of the consciousness of the individuals within the given collective or group, although they do influence that consciousness. The second point, I argue, was important because it highlighted the inherently flawed assumption that individuals living in given collectives, or 'tribal societies' in this instance, were devoid of any agency and that their social institutions and their structure ultimately informed and regulated their behaviour, without acknowledging that the reciprocal was also true.

Durkheim's concepts in his work (1895) would later go on to influence Radcliffe-Brown and bring about the eventual birth of the sub-discipline of social anthropology within anthropological studies.[89] One of his earliest criticisms about ethnology was that it attempted to explicate the 'social facts' (Durkheim's term) about 'culture' through two methods that were flawed. The first of these was the historical method and the other was the inductive method. Hammond-Tooke (1997; 26-28) relates the fact that Radcliffe-Brown found the problem with the historical method to the study of 'culture' to be that unlike the inductive method it was incapable of 'producing general laws'. Instead, it relied on the actual temporal relationships between particular institutions or events to try and account for the essence of culture. The problem of dealing with-in a historical framework when studying culture was that the ethnologist had no historical data to work from and was unable to extract it from the participants of the study due to barriers such as

[89] This is reflected in a paper that Radcliffe-Brown read before the South African Association for the Advancement of Science, 9 July 1924, and printed in the South African Journal of Science 21, pp.542-55. This is also extensively quoted and remarked on in Hammond-Tooke (1997; 26-27).

language and a lack of access to recorded material detailing the culture itself. This theoretical framework that ethnologists were working with was named 'conjectural history', and it was dismissed as a method by later proponents of the study of cultural anthropology and later social anthropology. In contrast to these conceptual foundations which informed the study of 'tribal societies' at the time such as conjectural history, Radcliffe-Brown wrote seminal papers on concepts such as 'social structure', 'function', and the need for a usage of the 'comparative method' when undertaking a study of 'tribal societies'.

Adam Kuper (1977; 4) has noted that the crux of Radcliffe-Brown's argument in advocating for a usage of the 'comparative method' was that "…the aim of sociological analysis is to relate the various institutions of a society to each other, exhibiting both their formal inter-relationships (structural relationships) and the mutual impact of their activities (or functional relationships). To proceed further demands comparative research."[90] In so much as further studies conducted by ethnologists into 'tribal societies' used these comparative methods that were espoused by Radcliffe-Brown and others, I contend that they were still limited by the very conceptual foundation which informed the establishment of the sub-discipline itself, that is, the Durkhemian concept of 'social facts' which were conceived as existing independently of the individual (thereby denying them any agency within their social systems) and privileging a structural approach. Writing in 1969, nearly 40 years after the establishment of the sub-discipline and after its acknowledgement as a 'scientific' study had been used to rationalize political ideas about segregation by the National Party administration of the state, who implemented their ideas through the work of the Volkekundige and other state-appointed ethnologists that used social anthropology methodologies to 'solve' the 'native question', Goddard (1969) provided an apt critique of the structural approach that I agree with. He noted that "…structure has been identified with the totality of empirically given social relationships in tribal societies. To all intents and purposes it is therefore coterminous with the totality, a closed, stable system tending towards equilibrium…structure is therefore a simple, and not a complex notion because it relates directly and virtually without mediation to the empirical reality of social life." (Goddard; 1969;

[90] Also quoted much more extensively in Hammond-Tooke (1997; 30). Essentially, Radcliffe-Brown argued that functional relationships could only properly be established by a series of comparisons, which would enable the analyst to determine which relationships are necessary and which are contingent.

80) There has been a paradigmatic shift from using the structural approach to analyse 'tribal societies'.

Paul Cocks (2010) has identified Max Gluckman's essay entitled *'Analysis of a Social Situation in Modern Zululand'* first published in 1940 (written in 1938), as being a classic both in terms of its methodological contribution to social anthropology and also in terms of its analysis of modern South African society. The major contribution that the paper made to social science methodology, charges Cocks (2010), was that it first developed the approach that has come to be known as 'situational analyses or the 'extended case method'. According to Cocks (2010; 739) "…the key feature of Gluckman's critique lay in this methodological innovation that enabled him to break out of the intellectual cul-de-sac of the conventional structural-functionalist paradigm." Briefly, the 1938 essay by Gluckman gave a detailed description of a 'social situation' where the opening of a bridge in Zululand in 1938 by the Native Commissioner, and also attended by the Zulu regent, Mshiyeni and others and he shows the differences which divided these groups. He also notes the cross-cutting ties that brought them together in the ceremony through the different positions which each group held in the greater administration of the area and the social structure which ensured that they were able to work together for the greater good of the region. According to Hammond-Tooke (1997; 96-97) it was from this fieldwork observation that Gluckman remarked that it was important to acknowledge the importance of cleavages, counterpoised by cross-cutting ties which resulted in the temporary suppression of conflict and helped to ensure the continuation of the society in a precarious equilibrium. The influence of Gluckman's essay was also evident in the work of Rob Thornton (1994 and 1996) who used this theory to try and explain the negotiated revolution in South Africa.[91] Needless to say however, in so much as Gluckman's essay was seminal in that it was a breakaway from the conventional structural-approach of studies based on 'tribal societies', I

[91] Thornton, R. (1994). "South Africa: Countries, boundaries, enemies, and friends". *Anthropology Today* 10 (6), pp.7-14. Also in Webner, R. (ed) 1996. Postcolonial Identities. London. Chapter entitled, 'The Potential of Boundaries: Steps towards a Theory of the Social Edge'. Briefly, Thornton's argument was that "…the South African population is so divided that the dominant cleavage of black-white is blurred by a host of other cleavages-language, religion, culture, differential Westernization, economic differentials, and so on-that undermine the homogeneity of the various groups and unite members of different groups in cross-cutting ties of association to such an extent that a workable equilibrium (and accommodation) seems to have been enforced on the political role-players." (Extracted from Hammond-Tooke; 1997; 97).

contend that an analysis of a 'social situation' based on a single event is not enough to debase the principal concern of a social anthropology that was based on a Durkhemian notion that privileged structure and its functions within a society and denying the agency that individuals had within that social system.

Recounting these theoretical frameworks within which 'tribal societies' were studied and new tribal authorities were conceived of as a result, is very important because it helps us to contextualize the positivist rationale that was used to justify methods of dealing with the 'native question' by the state. The interpretation of African political systems (in tribal societies) using these conceptual foundations has had, and continues to have, unintended consequences whose repercussions are still felt today in African societies. The rhetoric of the sub-discipline that is social anthropology as a 'scientific' method and therefore justification of 'dealing with the native question' was in the past used as a political tool by the state. Shockingly, in a post-democratic South Africa this practice has continued. One of the primary concerns of social anthropology operating through the structural approach was to give an account of the organization of the social institutions which made-up tribal societies. In attempting to do so, the focus was placed on systems of norms and how they related to each other to ensure that social life in these African societies was ordered. These social institutions ranged from kinship systems, economic systems, juridical systems, and political systems. These social institutions were broadly regarded as the social structure of African societies, and an inherent belief was held that a study into these institutions and how they functioned to order social life would illuminate the social and political systems in which African societies and the individuals living/belonging to them thrive in. Essentially it is this same belief that fuelled the need for the creation of a 'separate' social system (i.e. tribe) in which the 'native question' could be dealt with. As Goddard (1969) has remarked "…ultimately [it is] this conceptual approach [which] focused on the control mechanisms that function to ensure conformity with the normative order. It led directly to a perception of social life as approximating to a seamless web of highly integrated institutionalized relationships enclosing and regulating the lives of primitives in all their manifest activities." (Goddard; 1969; 81)

For our purposes here, it is important to note that the analysis of social life in African societies rested on focusing on the rules of conduct which were conceived of as mechanisms of social

control. Here, the fabric of society was discovered not in 'culture' but in the institutions which were considered to be the regulators of social relationships. One of the more important of these institutions in African societies was the one which dealt with internal dispute. Studies into dispute in an African context had only focused on the structures which regulated behaviours and ensured uniformity with norms until the work of Comaroff and Roberts (1981). Their work 'Rules and Processes: The Cultural Logic of Dispute in an African Context' employed the research methodologies of Malinowski (pioneered in-depth methods and established the functional approach to the analysis of culture) and it also moved away from the conventional cul-de-sac structural-functionalism approach to the study of dispute.

Rules and Processes, a critical assessment

The most significant contribution of 'Rules and Processes', I contend, is that it acknowledges and gives agency to the individual in African societies. This provides a breakaway from the commonly held misconceptions which informed the sub-discipline of social anthropology, and which were drawn from the work of Durkheim's concepts of 'social facts' that argue that it is the social institutions which regulate behaviour and uniformity with norms (social life) and not the individual. 'Rules and Processes' demonstrates that the reciprocal is also true. Conventional thought on African societies and their political systems and how disputes were dealt with in these societies have tended to veer towards using a structural approach in order to explicate dispute and its settlement processes. This is reflected in the rule-centred paradigm which conceived of social life as rule-governed. Here social conduct was considered to be governed by habitual, customary, and some judicial norms and as Goddard (1969; 81) has explained, covert or overt sanctions were attached to these governing systems to ensure conformity, and these also structured the social life of individuals in their orientation to others in a regular and predictable fashion. Ultimately this view meant that African societies and their inhabitants were viewed in terms of a 'primitive concept' who lived in a society that was stable, orderly, and repetitive. It is this epistemological standpoint which gave rationale to the justifications of interfering in African political systems which dealt with dispute processes when disputes over matters such as the legitimacy of chiefly authority by the state. In interfering in these processes of dispute settlement, the state (operating through ethnologists) used theoretical frameworks that were informed by the structural approach to try and resolve these disputes. It is also, I contend, the

same vantage point from which the establishment of new traditional authorities were created as the work of Andrea Lang (2005) has demonstrated as we've discussed earlier.

'Rules and Processes' was also a seminal piece of work in that it argued for a different conceptualization of the social universe of African societies. Although previous viewpoints by scholars stressed the highly differentiated nature of the African population, they still considered these societies (i.e. tribes) to be a single social system that was not internally differentiated because of the institutional systems and the norms which regulated their behaviour (in the tribe) and ultimately their social life and universe.[92] Differentiation was only acknowledged across African societies and not internally between themselves. In arguing that the social universe of the Tswana chiefdom was enigmatic, competitive, and highly individualistic, Comaroff and Roberts (1981) stressed not only the importance of agency within African political systems but also that these systems were not bounded, static, and fixed-in-time. The importance of this is that it illuminates that internal disputes and their settlement processes within African societies were part of a larger sociocultural system that was much more dynamic and highly differentiated than was previously thought. This has great implications for any solutions that are geared towards settling disputes in traditional authority areas. Many of these solutions are unknowing of the internal dynamism of the sociocultural system which allows for conflict. These conflicts play a very important part in ensuring that traditional authorities are held accountable to the larger polity. Moreover, in concluding that "…for the Tswana, the dispute process represents a microcosm of everyday life…this process appears to bear a metonymic relationship to the social processes at large…" (Comaroff and Roberts; Op.cit) the writers have demonstrated that the disputes and conflicts which occur in African societies can only be understood by being located in the total fabric of the sociocultural systems that make-up these polities. It is in light of this that I will now turn to presenting the dispute that had been taking place within the Bapo ba Mogale

[92] Here I especially note the work of Schapera, I. (1928). "Economic changes in South African Native Life." *Africa*, 1, pp.170-188. In the wake of polemical debates about segregation, Schapera argued that South Africa formed a single social system and that the African population was highly differentiated in its nature. He argued against segregationist ideology and insisted that (at the time) the future well-being of the country was dependent upon the finding of a social and political system in which the entire population (all races) would live together in 'close contact'. On African societies, he argued that "…any attempt to deal with all these different classes as a single unity is doomed to failure. We must recognize their differences, and approach the particular problems they each represent, with no illusion about the uniformity of the native question." (Schapera; 1928; 188)

traditional authority and the measures that were taken to settle the dispute. These measures, as will be demonstrated, were unknowing of the internal dynamism of the sociocultural system which makes-up the Bapo polity. Moreover, the approaches used to settle this dispute reflect the practices of the old apartheid regime of hiring ethnologists to resolve disputes. Drawing from the work of Comaroff (1974) and Dugmore (1987) I will argue that these approaches are ignorant of the dynamism of African political systems where dispute and conflict reflect a democratic process which ultimately serves to hold the traditional authority accountable to the greater polity.

The Bapo dispute

The conflict that had been going-on within the Bapo ba Mogale traditional authority culminated in the traditional authority being placed under administration in 2009 by the Premier of the North-West provincial government. "…In October 2010, the Premier of the North West provincial government initiated the process of mediation and restoration of order and harmony amongst the royal elites of the Bapo community."[93] (Khunou, F.; 2014; 2). In light of this task of initiating 'mediation and restoration of order' the North West provincial government appointed an administrator to take care of the affairs of the Bapo traditional authority. In April 2011, the administrator that had been appointed to handle the transactions of the traditional authority appointed a teaching professor from the University of the North West in Mafikeng, South Africa, to conduct research that would aid in resolving the on-going conflict within the traditional authority. In essence, the appointed professor was being hired as a state-ethnologist to "…conduct an extensive research on; the Bapo ba Mogale at the crossroads: a review and validation of traditional structures and succession patterns, and make recommendations accordingly." (Khunou, F.; 2014; 1).

[93] Khunou, F. (2014). A path of legitimization patterns of the royal family of the Bapo ba Mogale: setting the record straight. Executive summary. Executive summary on the research project of the Bapo ba Mogale community titled: "The Bapo ba Mogale at the crossroads: A review and validation of traditional structures and succession patterns", North- West University (Mafikeng campus), South Africa, Law Faculty, Mahikeng, North West Province, South Africa. Retrieved 2014. The main objective of this executive summary is to provide the succinct understanding of the issues that are highlighted on the research main document, whose content is the main subject of this chapter.

It is important to first qualify the statement that the appointed consultant is in effect a state-appointed ethnologist. Ascertaining whether or not the consultant is in actual fact a state-appointed ethnologist is important because it places this practice of hiring and funding ethnologists by the state along a problematic historical trajectory that has continued into South Africa's democratic dispensation. The consultant was appointed by the administrator of the Bapo traditional authority in his capacity as an administrator employed by the North West provincial government. His appointment of the consultant was in line with the local provincial government's task of 'initiating the process of mediation and restoration of order' in the Bapo ba Mogale traditional authority. This process was instigated by the Premier of the North West. It is thus evident that the consultant was hired by the state. The hired consultant had vast experience in conducting ethnological research that has in the past aided traditional authorities to resolve matters relating to internal disputes. He had been involved in a considerable number of research projects on traditional leadership programmes, local government, communal land rights and ownership disputes.[94] The call to appoint the consultant by the state places the work of the consultant in a long line of ethnologists that were used to either resolve traditional authority disputes or to establish new traditional authorities where none existed as pointed out earlier.

Methodological approach used by the state-appointed ethnologist resolving the Bapo conflict.

The methodological approach that was used by the state-appointed ethnologist in trying to resolve the dispute within the Bapo traditional authority has come under scrutiny from members of the Bapo traditional authority area. The critiques have come from members of the royal

[94] The consultants previous research activities included inter alia: "(a) development of policy document on 'Democratization and Transformation of Traditional Leadership' at the request of the National House of Traditional Leaders. (b) Development of a research document on 'The Land Ownership of Mayeyane village (Makgobistad), North West-Province' at the request of the State Attorney, Pretoria." (Khunou, F.; 2014; 4) Presenter's guide of the research manual. Some of his research findings have also been used as expert affidavits which have been filed in the Gauteng High Court and the Constitutional Court of South Africa respectively in respect of the case of Tongoane and Others v Department of Agriculture and Land Affairs and Others (Cases No.s 11678/06 and CCT.100/2099).
To further prove that he has ethnological experience in this field, the consultant has also "…developed a toolkit manual on 'Legislation Impacting on the Institution of Traditional Leadership in South Africa', 2009 in tandem with Lethabo Consultants at the request of the Department of Co-operative Governance and Traditional Leaders. He also crafted a research document titled 'The Ownership and Administration of Tribal Property of Bakgatla-ba-Kgafela' at the request of his Majesty Kgosi Pilane, Saulspoort, August 2007." (Khunou, F.; 2014; 4)-Presenter's guide of the research manual.

family, the village leadership and concerned residents of the Bapo area alike. It is also worth noting that the people that have been so highly critical of the methodological approach and the findings of the research, were also the same people that held the anticipation of the report and its possible outcomes in high-esteem. As one interviewee exclaimed, "…It is okay, the research is being done now which will reveal the truth about who the rightful chief is and most importantly about who belongs in the royal family. There are many people that are claiming to be Maimane, Moerane, and Mogale: the report that is coming will clarify all of these issues that have prolonged our struggles."[95] The main criticism that has been directed towards the consultant and his work has been regarding the methodological approach that he used to produce the report. "…he did not even come to us and do any interviews with anyone that is affected by this infighting issue. He started his work a couple of years ago now, back then we still had some elders that he could have interviewed who do not have any material interest in fabricating the truth. They could have given him information to help him with his research."[96] The decision to not approach the interested parties of the research was a pre-emptive move made by the state-ethnologist. The ethnologist based his research on archival records, literature, and other written sources. His rationale behind doing so was because he wanted to maintain objectivity and impartiality.

In his quest to remain objective whilst conducting the research the ethnologist decided that "… [The] research method of interviews was completely disregarded. In other words, interviews were not conducted with the relevant stakeholders and interested parties (or any person whatsoever) who had a vested interest in the issue of the Bapo community." (Khunou, F.; 2014; 2). The stakeholders that the ethnologist speaks of span from people that are members of the Bapo community, the royal family members, the chief of the Bapo ba Mogale, government officials, and members of the Provincial House of Traditional Leaders. In his report he further goes on to note that "…the main document was based on the legal, historical and anthropological methods with specific emphasis on the external and internal history of the Bapo community. Most importantly, archival records (National Archives of South Africa and UNISA Archives

[95] Fieldwork Interview; 07/04/2014; INT23. Interview conducted in Bapong village, nommer 1 section.

[96] Fieldwork Interview; 08/04/2014; INT24. Interview conducted in Wonderkop village.

Collection) and the North West Provincial Archives and Library have made the most reliable historical reconstruction of the history of the Bapo community…" (Khunou, F.; 2014; pp2-3).

The dispute within the royal family of the Bapo and subsequently its traditional authority has a historical context to it. The historical context of the dispute highlights how complex and convoluted the problem of leadership quarrel is in the Bapo traditional authority area. Understanding the historical roots of this dispute also helps to show how the current struggles over the traditional authority are being expressed. Most importantly however this historical context illustrates the point that the state-appointed ethnologist in this case has used simplistic methodological approaches to try and resolve a complex problem. The use of such methodological approaches towards resolving disputes within traditional authority areas by state-ethnologists, falls within the ambit of the same approaches that were used by state-funded or appointed ethnologists that were producing ethnological publications for the Department of Native Affairs during the apartheid period. The implications of these methodological approaches have in the past had far-reaching consequences for the institution of traditional leadership, the remnants of which are still being witnessed today through disputes within traditional authorities such as the Bapo case. It may be argued that the dispute within the Bapo ba Mogale traditional authority area is the direct result of the historical legacy of appointing state-ethnologists to resolve and/or interfere with the institution of leadership in the area. Using the Bapo traditional authority case, following will be an illustration of how the instrumental usage of state-appointed ethnologists to resolve traditional leadership disputes does not yield long-lasting solutions but only serves to further perpetuate the struggles of authority in areas such as the Bapo.

A historical account of the dispute within the Bapo ba Mogale traditional authority.

The roots of the dispute within the Bapo traditional authority can be traced as far back as 1908. During this period the Bapo chieftaincy was under the leadership of Chief Darius Mogale. Darius Mogale had been the 13th chief of the Bapo ba Mogale with his tenure of rule beginning in 1893 and abruptly ending in 1908.[97] It is during his rule that the conflicts within the royal family of the Bapo began. The conflicts within the traditional authority began when "…a number of

[97] Dates retrieved from the report done by the state-ethnologist on the Bapo ba Mogale. The report is entitled "A path of legitimization patterns of the royal family of the Bapo ba Mogale traditional community: setting the record straight." 2014. p 10.

councillors of the Bapo lekgotla petitioned the Native Commissioner requesting the removal of Darius from the office of chief."[98] The investigations of the Native Commissioner which are recorded in archival material revealed that the chief, Darius Mogale, had repeatedly assaulted members of the Bapo ba Mogale and that he was also an alcoholic. For these reasons the "…affairs of the tribe [were] practically at a standstill owing to the strained relations between the chief and his council."[99] It was also established that the financial accounts of the Bapo ba Mogale were in arrears and the blame for this was placed squarely at the feet of the chief. These findings by the Native Commissioner led to the chief being deposed. As Simpson, G. (1986; 159) notes that "…the councillors petition was upheld and Darius Mogale was deposed as chief by the Governor-General acting in his capacity as Paramount Chief under law number 4 of 1885." When Darius Mogale was deposed he was also banished from the area.

What followed was to be a battle of succession. This battle was fought by Darius Mogale and the groups that supported his reinstatement into the chieftaincy against the majority of the traditional council members that were against his reinstatement. The important actors in this battle emerged to be the agents of the state, the Native Commissioners, who were working for the Department of Native Affairs. The key tool which the Native Commissioners had at their disposal was their interpretation of 'native law and custom'. As will be presented, the interpretation of this law by the Native commissioners had a twofold function and impact. Firstly, in the beginning of the dispute, the Native Commissioner's interpretation of 'native law and custom' functioned to remove the then unpopular chief of the Bapo ba Mogale and replace him with a candidate that enjoyed support in the area thereby restoring some order. Secondly, when the deposed chief made attempts to be reinstated as the rightful chief of the Bapo ba Mogale with the support of some members of the traditional authority in support of the motion, the Native Commissioner's interpretation of 'native law and custom' prevented this from happening. The impact that this had on the dispute was very detrimental to the restoration of order in the Bapo ba Mogale traditional authority. In essence it served to further sow divisions between those that favoured the return of Darius Mogale as the rightful chief and those that did not. More importantly however

[98] Simpson, G.N. (1986). Peasants and Politics in the Western Transvaal, 1920-1940. An unpublished MA thesis submitted to the University of the Witwatersrand, Johannesburg. p 158.

[99] National Archives of South Africa. Source: N.T.S., Vol: 318, File/Ref: 16/55. Pretoria. Native Commissioner's report on the conduct of Darius Mogale, July 1908.

"…the subsequent defence by the Native Affairs Department of the acting chief, Filius, foreshadowed the department's later strategy of bolstering chiefly authority whilst maintaining tight control over the rule of 'acceptable' or 'well-behaved' chiefs." (Simpson, G.N; 1986; 163). The later strategy of bolstering chiefly authority by maintaining tight control over chiefs that were 'well-behaved' was in accord with the colonial states policy of maintaining indirect-rule through traditional structures of power such as the institution of traditional leadership.

The policy of indirect-rule in this case can be recognized in the efforts of Chief Darius Mogale to be reinstated and the state's role in denying him access back into the Bapo ba Mogale area. At the time of his removal in 1908, Darius Mogale had a son that was recognized as the 'legitimate customary heir' by the officials of the Department of Native Affairs. With his son still a minor, the Native Commissioner appointed a regent that would be the acting chief until Darius' son reached his maturity. Between 1908 and 1917 Darius Mogale had made various attempts to be reinstated as the chief of the Bapo ba Mogale. These attempts included making appeals to the Department of Native Affairs through writing letters and also lobbying for support from members of the traditional council that supported his reinstatement. One of the recorded attempts made by Darius Mogale is a meeting that was held in 1917 by the Bapo traditional council to deliberate on the matter. During the meeting a vote was taken and the majority of those that were present voted against the reinstatement of Darius Mogale. They did however vote in favour of Darius' son taking over as he was the legitimate customary heir to the chieftaincy. According to the report of the Native Commissioner on the meeting, "…the support of Edward [Darius Mogale's son] was based on a loyalty to customary practices irrespective of the consequences for the tribe."[100] The Native Commissioner however recommended that the Acting Chief continue with his tenure. The rationale for this motivation was the claim that the continuation of the acting chief was in the best interest of the Bapo. The Commissioner further went on to elaborate that "…it would be contrary to native law and custom for Edward to become chief during the lifetime of his father."[101] Darius Mogale continued to make attempts to be reinstated. In one instance he lobbied some of the outlying groups of the Bapo ba Mogale in the Southern Transvaal and Orange Free State. These groups in turn wrote to the Native Commissioner pleading in favour of

[100] National Archives of South Africa. Source: N.T.S., Vol: 319., Ref/File: 16/55. Pretoria. Native Commissioner's report on the conduct and meeting regarding Darius Mogale.
[101] Ibid.

Darius' case. The Department of Native Affairs however, acting on the recommendations of the Native Commissioner and his interpretation of 'native law and custom', turned down the requests that were being made by these groups. The department believed that the Acting Chief had 'stabilized' the Bapo traditional authority and thus favoured his continuation.[102]

Although further meetings were held by the Bapo traditional council on this matter as they continued to vote in favour of Darius' son taking over, the matter was left in abeyance by the Department of Native Affairs. In 1936 the Acting Chief of the Bapo passed away. Even then the Native Commissioner did not appoint Darius' son as the chief of the Bapo. Instead they opted to go with another regent who came from the royal family of the Bapo. This only served to create a greater divide between those that wanted to see Darius Mogale return and those that opposed the motion, further intensifying and prolonging the internal dispute. "…When my father was called to come back and be the Acting Chief there were a lot of people that did not want him to take over. They were fighting between themselves just like they are now. His first term as an Acting chief did not last long because of the tension between the royal family members and those that were a part of the traditional council."[103] When Darius' son took over later that year from the regent, differences between the royal family members and members of the traditional council had already deepened and intensified.

In late 1936 when the legitimate heir to the chieftaincy finally went into office the dispute within the traditional authority of the Bapo ba Mogale had already taken on another dimension. The deepening of the conflict had been caused by the decisions of the Department of Native Affairs to support the Acting Chief when the majority of the traditional council members had voted otherwise. This further deepened the lack of trust between the traditional council members because some believed that those who were voting for the regent to continue to rule over the legitimate customary heir, were doing so because they wanted to keep the matter of leadership unresolved and in abeyance. The conflict within the royal families and between the traditional council members was further complicated by the accusations that were brought against Darius Mogale when he was deposed as the chief of the Bapo ba Mogale by the state in 1908. Besides

[102] National Archives of South Africa. Source: N.T.S., Vol: 319., Ref/File: 16/55 (II). Pretoria. Application for the reinstatement of Darius Mogale as chief of the Bapo tribe. A letter dated on the 13th of August 1918.

[103] Fieldwork Interview; 21/11/2013; INT05. Interview conducted in Skoolplaas section of the Bapong village in the Bapo ba Mogale traditional authority area.

being frequently drunk, repeatedly assaulting members of the chiefdom and abusing his power which led to the strained relationship between the chief and his council, there was another complication which further severed and deepened the conflict not only between the chief and his council, but, between the council members themselves and the royal family members and the greater Bapo ba Mogale nation.

For many that reside in the Bapo ba Mogale area, the root cause of the conflict that has long characterized the administration of the Bapo ba Mogale traditional authority lies in the question of land. It is believed that Darius Mogale sold-off the land of the Bapo ba Mogale without notifying the traditional council. "A *kgotha kgothe* (meeting) was called and we were informed that *kgosi* Darius Mogale had sold-off the land. We were told that we have a short period in which to re-purchase the land that he had sold-off. We were all asked to make contributions towards the re-purchase. Each household took out one cattle or the equivalent of two pounds."[104] Much of the tension and struggles over the leadership of the Bapo traditional authority today are centred on the question of 'on whose land is he ruling?' This question is asked of the descendent of Darius Mogale that is regarded as the chief of the Bapo ba Mogale. This has caused divisions amongst the families that make-up the Bapo royal elite. There are those that are claiming the chieftaincy on the basis that when the customary chief sold the land, they re-purchased it and thus they have a right to rule over their land. Their counterparts on the other hand believe that the customary heir of Darius Mogale and his descendants should be the chief of the Bapo according to the dictates of custom. The claim that Darius Mogale had sold-off the land is further validated by the evidence of financial mismanagement that also contributed towards his unseating as chief. The Native Commissioner's initial report on Darius Mogale's removal as chief also established that "…the chiefdom was 2000 pounds in debt on farms mortgaged to the Hermannsburg Mission Society, largely as a result of the costs of two legal actions regarding the land, which were lost in the Supreme Court." (Simpson, G.; 1986; 159). The report further goes on to elaborate that the chief was unable to account for large sums of money that were raised from the members of the Bapo through levies of between 10 and 6 pounds which were supposed to serve the purpose of paying-off the debt.

[104] Fieldwork Interview; 23/11/2013; INT06. Interview conducted in Skoolplaas section in the village of Bapong in the Bap ba Mogale traditional authority area.

The current attempts by the ethnologist that has been appointed by the state to try and resolve the dispute between the royal family members of the Bapo traditional authority has not factored in some of these historical problems that have perpetuated this struggle. The reluctance to use the oral interviews in his methodological approach and only rely on written text has resulted in missing crucial historical information that shapes the understanding of how and why this struggle is shaped and is being perpetuated. A case-in-point is the narrative of how Darius Mogale is alleged to have sold-off the land of the Bapo nation without informing the traditional council and without their consent either. Today when one considers the claims that are being made by rival groups within the royal family elites and the traditional council, the question of 'on whose land is he ruling' is central to their claim. I will return to the question of the current struggles over the traditional authority and how they have been shaped by their historical trajectory at a later stage. For now however the focus will be on what the basis of claims such as 'on whose land is he ruling' reveal about the conflict within the Bapo ba Mogale traditional authority, the forms that it has taken on over the years and the consequences that the interpretation of 'native customary law' by the Native Commissioners and the Department of Native Affairs have had and continue to have on the struggles of authority in the Bapo ba Mogale area.

The 'land question' that has been, and continues to be, central to the dispute within the Bapo traditional authority reveals two points about the dispute. Firstly, it shows that the dispute has been a tussle on the contestations over what the interpretations of 'native law and custom' are. This is evident in the claims that are being made by the rival groups within the royal family and the traditional council. The claims made by each of these groups have their legitimacy hinging on the understandings and interpretations of 'custom'. The one group's claim to the chieftaincy is based on the customary hereditary rule of the chief being derived from genealogical seniority. On the other hand, the other group's claim is based on one of the basic tenets of traditional authority; the chief is the custodian of the land in which the chiefdom is situated. The ethnological report that was produced by the state-appointed ethnologist neglected to take into account this dynamic of the dispute and how essentially this dispute and the subsequent internal efforts to settle it were reflective of the greater sociocultural system of the Bapo.

The recommendations and solutions made by the ethnologist working on the Bapo case.

In the report that the ethnologist produced of his research on the Bapo, he provides a chapter that proposes "possible solutions and a way forward"[105]. The recommendations that were put forth in the ethnological report have been adopted by the Bapo traditional authority. The implementation of these recommended solutions have had a dualistic impact on the Bapo. In the first instance they have strengthened the traditional council by way of having it legitimately recognized by the state and having the traditional authority being removed out of the status of being under administration thereby allowing the Bapo to run their own affairs. However, this process of establishing who the royal members of the traditional authority are has also led to the marginalization of those that believe that they have a customary right, a traditional claim to being a part of the royal family of the Bapo. This has had the result of further deepening some of the historical legacies of the conflict within the traditional authority. On the other hand, the recommendations that were made by the ethnologist have also resulted in a deeper crises of governance in the area. This is highlighted in the two legal cases that have been brought against the Bapo administration by two formerly democratically-elected members of the traditional council. These two members were given notices which stated that they were "…suspended without pay from… [Their] duties as elected members that form 40 per cent of the traditional council…"[106] As it will be later shown these suspensions have come as a direct result of the 'reconstituting' of the Bapo royal family into a General Royal Council and a Supreme Council that have limited the role of the community-elected councillor on the traditional council of the Bapo. These newly formed forums come as a part of the recommendations of the work of the state-appointed ethnologist. A further elaboration on the impact of the recommendations and solutions made by the ethnologist will be detailed later. For now however, a careful

[105] This is the title of the 8th chapter of the report that the ethnologist produced in his study into the possible causes of the Bapo conflict. The aim of this chapter, he states, is to "…discuss possible means of resolving the problems and leadership woes of the Bapo ba Mogale. Apart from the proposed possible solutions and recommendations, this chapter outlines methods of the implementation of the recommendations." (Khunou, F; 2014; 31)

[106] Letter from the Bapo traditional council to Mr Mafate. "Subject: notice of suspension from your position as community elected councillor in *Kgosi*'s traditional council." 11 August 2014. The letter is attached as an appendix: E

consideration of the 'solutions and recommendations' that were made in the report of the ethnologist will be detailed and discussed.

There are three recommendations that are set-out in the report of the ethnologist as remedies for the conflict within the royal family of the Bapo. The first recommendation grapples with a possible solution to the "overcrowded or densely populated royal family of the Bapo."[107] In an attempt to make a sizeable reduction in the number of members of the royal family the recommendation is made that "…the Provincial Government should reconfigure the royal family of the Bapo in line with the dictates of the North West legislation and the Framework Act."[108] This recommendation is made in light of the fact that there are apparently members of the royal family are not 'qualified' to be royal members of the Bapo in terms of the legislation. The ethnologist goes on to further note that the troubles that have in the past plagued the Bapo have been due to the overcrowding of the royal family by members who are not immediate relatives of the ruling elite.

The second recommendation deals with the possibility of 'reconstructing' the royal family. "…It is recommended that the constitution of the royal family should be drafted and adopted accordingly… [The] constitution must be consistent with the relevant legislation and the customs of the Bapo community as well as the Constitution of the Republic of South Africa."[109] The report goes on to further note that it should be the responsibility of the Office of the Administrator of the Bapo community and the government to monitor members of the Mogale family who qualify in terms of the customs and the rule of genealogical seniority of the Bapo community. Thereafter it is suggested that the newly formed constitution of the royal family of the Bapo should be drafted in accordance with the relevant legislation and the customs of the community.

The third recommendation follows that of the newly reconstructed royal family. In the efforts to reduce the size of the memberships of the royal family, the ethnologist recommended that the families of the Moerane and Maimane (who are the descendants of the former chiefs of the Bapo

[107] Khunou, F. (2014). A path of legitimization patterns of the royal family of the Bapo ba Mogale: setting the record straight. p31
[108] *Ibid.* p31
[109] Khunou, F. (2014). A path of legitimization patterns of the royal family of the Bapo ba Mogale: setting the record straight .p32

ba Mogale) should not be considered as the royal family. The only family that should be considered as the royal family should be the Mogale. Fully aware that this would be an impractical recommendation and one that would also serve to only cause more conflict and disruption, the ethnologist "…strongly recommended that a special royal body to be called the General Royal Council (GRC) should be established to accommodate members of the extended royal families."[110] The report also proposes that the GRC's functions and responsibilities should be limited to 'traditional matters' because it is a body that is not recognized in terms of the relevant legislation. However the fact that its role has been reduced to an advisory capacity and to dealing only with 'traditional matters' this is a governing body whose influence should not be underestimated. The traditional matters that are mentioned in the report could span from dealing with traditional courts to developmental projects which are funded by the locals.

The recommendations that were made by the ethnologist have already been implemented by the Bapo traditional authority as well as the North West Provincial Local Government. Their adoption however, has been met with varying views from different sectors of society, including members of the Bapo area.

Endorsements and critiques of the solutions and recommendations

The ethnologist working on the case of the Bapo ba Mogale had been commissioned to do this work by the Member of the Executive Council (MEC) for Local Government and Traditional Affairs in the North West Local Provincial Government. It was only fitting that the first signs of the endorsements of the report and its recommended solutions were given by the Local Government and Traditional Affairs department. This endorsement came in a letter from the MEC's office dated the 24th March 2014. In The letter the MEC stated that "I have noted that [the] Bapo ba Mogale has been under Administrators from 2009 to 2014. However, as a result of Professor F Khunou's involvement through his presentation to the entire Royal Family consisting of Mogale, Maimane, and Moerane houses and myself, I am satisfied that there is stability in the Royal Family. It is as a result of the above that I decided not to appoint an administrator for Bapo ba Mogale."[111] This decision effectively gave the Bapo traditional authority the legal right to

[110] *Ibid.* p33

[111] Letter from the Office of the MEC from the department of Local Government and Traditional Affairs (Mr M. Tlhape) to Kgosi B.E. Mogale and the Bapo ba Mogale Traditional Council. RE: "Bapo ba Mogale community

manage their own affairs. This stamp of approval also validated the work of the ethnologist as producing a 'factual' report that had finally resolved the conflicts within the Bapo Royal Family.

Some members of the Bapo have also welcomed the ethnologists report with great enthusiasm. "…Professor Khunou has written a report on the Royal Family and about the conflict that is taking place over there. We will finally know who is a part of the royal family and who is not. The fighting will stop because that report has established the truth."[112] The same sentiments about the report were reflected in the manner in which comparisons would be made between the report and the 'blue/green book'. "If you want to know the truth about the Bapo ba Mogale, you must go and read the blue book. The blue book will show you who the rightful chief of the Bapo is and it also shows you the farms that belong to the Bapo."[113] The blue/green book that would so-often be referred to is the ethnological publication that was produced by the sate-appointed ethnologist P.L. Breutz. The book entitled 'The tribes of Rustenburg and Pilanesberg' which was produced in 1953 was a product of the then Department of Native Affairs which produced ethnological publications that detailed the history, land, populations and genealogical leadership of African chiefdoms. As observed during the research this book has come to be accepted as the dominant and legitimate version of the history of the Bapo. In interview sessions and informal conversations and at times during public events in the Bapo area, the book and its contents were always used as a frame of reference for detailing a particular version of the histories of the Bapo (land history, traditional authority's history, settlement history, etc.) that had come to be accepted as the legitimate narrative. The production of these ethnological publications by the Native Affairs Department and their impact will be discussed and problematized later in this chapter, for now however, the comparisons made about the legitimacy that these reports carry in the eyes of the members of the Bapo between the two publications, has been revealing of the expectations and endorsement that the Bapo have for the report.

administration: section 10 of the North West Traditional Leadership Act No. 2 of 2005." Dated: 24 March 2014. Letter is attached as appendix: F

[112] Fieldwork Interview; 07/04/2014; INT23. Interview conducted in Newtown section in the village of Bapong in the Bap ba Mogale traditional authority area.

[113] Fieldwork Interview; 04/04/2014; INT20. Interview conducted in Segwaelane village in the Bap ba Mogale traditional authority area.

In stark contrast to their Bapo counterparts, other members have met the ethnologists report with some scathing critiques. These critiques have been mostly directed towards the recommendations and solutions provided in the report. The recommendation that has received the most criticism has been the proposal that because of the huge number of the royal family members, only those that are the direct descendants of the Mogale family were to be considered as the core make-up of the royal family. In acknowledging the fact that the Maimane and Moerane families were also "…royal blooded relatives of the ruling family"[114] the ethnologist proposed that an alternative forum be created for these families so that they may still be within the chieftainship of the Bapo, but, they would have less powers and privileges. The bone of contention regarding this recommendation was not necessarily about the creation of the alternative forum (which was named as the General Royal Council) but, the fact that "membership of the GRC must be determined in accordance with the principles of genealogical seniority. Furthermore, the composition of the GRC must be formal and limited to a reasonable number of the relatives who unconditionally qualify in terms of their royal birth and seniority. It is important that cautionary measures should be taken to avoid the overcrowding in the GRC so that the unfortunate history of the current Royal Family is not repeated."[115] The main critique pitted against this recommendation was that it was impractical to implement, should implementation be a fair and transparent process. "How are they going to ensure that overcrowding does not take place? If there is a considerable number of us that qualify in terms of genealogical seniority and we tick all the other boxes, under what conditions then would you tell me that I cannot be a royal family member or be a part of the GRC?"[116] Others questioned the lack of defining how much or what 'overcrowding' meant, "…how many people are we talking about when we say that this new thing should not be overcrowding? My amount and my definition of 'overcrowding' is very different from yours."[117]

[114] Khunou, F. (2014). A path of legitimization patterns of the royal family of the Bapo ba Mogale: setting the record straight .p33

[115] Ibid.

[116] Fieldwork Interview; 05/04/2014; INT22. Interview conducted in Nommer 1 section, Bapong. A village in the Bapo ba Mogale traditional authority area.

[117] Fieldwork Interview; 08/04/2014; INT24. A Group Interview conducted in Wonderkop. A village in the Bapo ba Mogale traditional authority area.

Similarly, others were worried about the possibility of overlaps in the responsibilities that would be given to the proposed forums. "They now have a supreme royal council, a general royal council, and a traditional council that will be made-up of the sixty percent elected community members. Do you mean to tell me that all of these will be functioning harmoniously without an overlap of both members and functions? How will these new forums affect the functions and influence of the sixty percent of the traditional council?"[118]

Despite these fears that some members of the Bapo had about the recommendations and solutions provided by in the ethnological report, these proposals were implemented. These recommendations were "…facilitated and implemented by an advisory company appointed by the Kgosi and the Royal Family called Nthontho Business Solution. Today…the General Royal Council is in full operation. A traditional council has also been constituted and published in the gazette."[119] There also has not been unanimous agreement as to how these recommendations have worked thus far in their implementation.

Impacts of the implemented proposals from the ethnological report.

In analysing the impact of the implemented recommendations made by the state-appointed ethnologist, the first point of scrutiny has to be understanding the purpose of the report in the first place. Essentially, the ethnologist was hired to investigate the leading causes of the conflict within the Bapo royal family and recommend possible solutions. The royal family of a 'traditional community' is very important because it forms the basic building-block of the traditional authority's council. Traditional Councils are given national law recognition through the Traditional Leadership and Governance Framework Act 41 of 2003 ('Framework Act'). In the North West Province, the provincial law that is currently governing traditional councils is the North West Traditional Leadership Governance Act 2 of 2005. Owing to their historical legacies, these laws are problematic. This issue will be discussed in detail at a later stage. For now however it is the consideration of why having these traditional councils constituted as legal that is important.

[118] Ibid.

[119] Current Status of the Royal Family, 2015. Available from : http://www.Bapo.co.za/royal_family.html> 5/09/2015

Knowing whether or not a traditional council has legal status is important for various reasons. Foremost amongst these reasons is the fact that these councils are often touted as democratic institutions that represent their communities by the government and by private actors as well. As representatives of their constituencies, traditional councils often act on behalf of their communities when it comes to engaging with potential businesses, development initiatives, local municipalities, and in areas such as the Bapo, in engaging in mining deals. "If traditional councils have no legal status they cannot act on a community's behalf in this way-their actions would be unlawful and legally unenforceable. They would also not have the legal basis to continue with the day-to-day administrative functions that they currently perform in some areas."[120] Furthermore the duties of traditional councils also cover important institutions that are in their areas of jurisdiction such as dispute resolution through traditional courts and being authorities in land management. These reasons provide an explanation for the interest which the local North West Provincial Government would have on the traditional council of the Bapo. This interest was expressed in the appointment of the ethnologist who worked to produce the report that has had its recommendations implemented in the Bapo area.

In essence, the state-appointed ethnologist had been tasked with the responsibility of creating conditions that would allow for the Bapo traditional council to be legally constituted and recognized by the state. This has been the most noteworthy impact of the implementations of the recommendations that were made in the ethnological report. The Bapo traditional council has been legally constituted and published in the official Provincial Gazette. The chain-reaction of this has been the reconstruction of the Bapo's governing structures which have facilitated their engagement capacity as an institution that represents its constituency. The importance of the traditional council in the Bapo is further emphasized by the amount of responsibilities that it has been given in relation to the other structures in the newly-reconstructed Bapo administration. The Bapo traditional council is now described as "…a statutory body consisting of Kgosi selected 60% traditional council and 40% councillors elected by the community consisting of different committees. [These committees are] Mining, Finance, Projects and Procurement, Land

[120] Centre for Law and Society. Rural Women's Action Research Programme. Questioning the legal status of traditional councils in South Africa. August 2013.

Administration, Security, Assets and Protocol, Social economic, development and research."[121] In contrast to the other governance structures[122] it is evident that the traditional council is the most vital of the lot.

The implemented recommendations have not all been met with the same buoyancy however. Those that have been contesting the implementation of the proposals have argued that these have only served to further perpetuate the internal conflict. "…how do you resolve a conflict such as the one within the royal family by further dividing them through recommendations that are using a particular version of custom and tradition to favour one group over another? The Mogale family might have some unity because of the proposed supreme council, however, the trouble will start again with this GRC."[123] The cracks within the newly-reconstructed traditional authority governance structure have also been highlighted by the opposition that the traditional council has been met with in their business ventures which they have entered into as the community representatives and the custodians of land management in the Bapo area. At this point however, it is worth noting that the newly reconstructed governance structures within the Bapo and the elected traditional council find themselves mired in a crisis of illegitimacy and a continuing struggle for authority in the eyes of some groups within their Bapo constituency that they represent. Evidence of this is further expressed in the court cases that have been brought against the Bapo traditional council for unfairly dismissing members that were elected by the community.

On the 11th of August 2014, only a couple of days after the Bapo supreme council and the GRC had notified all of the sub-councils of the Bapo about the dissolution of their council duties and

[121] Bapo ba Mogale governance structure, 2015. Available from: http://www.Bapo.co.za/governance.html 5/09/2015.

[122] The other governing structures listed are the 'Office of the Kgosi', the 'Supreme Council', the 'Local Economic Development Trust', the 'Bapo ba Mogale Investment (NPC)', and the 'administration and social development' structure. Each of these governance structures has a sub-structure which contain various portfolios. For example, the 'Office of the Kgosi' has the General Royal Council (GRC), the Protocol and Security, as well as the Stakeholder Relations sub-structures underneath it.

[123] Fieldwork Interview; 08/04/2014; INT24. A Group Interview conducted in Wonderkop. A village in the Bapo ba Mogale traditional authority area.

issued dates for the re-constituting of new sub-councils[124], the traditional council suspended, without pay, some of its community elected members. The merits of the suspensions had their arguments based on various reasons. The one member's suspension came as a result of two transgressions. The first offence which resulted in his suspension was that "…during a meeting at Wonderkop held on the 1st of July 2014, where you teamed up with people who were blocking *Rangwane*[125] and Traditional Council access to Wonderkop Community Hall is seen as a bridge of the OATH of AFFIRMATION you took and signed on 15 May 2014 in your appointment as a Councillor."[126] As a point of analysis, and for our purposes here, this transgression is mostly revealing when questions about why the Acting Chief and the Traditional Council members of the Bapo were not allowed to enter a town hall meeting in one of the villages that is under their jurisdiction. It is vital to point out the fact that these events were transpiring after the work of the state-appointed ethnologist and the recommendations that he gave in his report were implemented. This transgression illustrates how deep the crises of leadership runs in the Bapo area. In so much as the work of the ethnologist may have gone some way in remedying the conflict within the royal family, the differences and struggles of authority are still persistent at the village level. More so, if members of the traditional council were involved as the charges against this particular member suggest, this is also indicative of the fact that the troubles of leadership at the traditional council level are also still persisting even after the implementations of the ethnologists report. Most importantly however, this further emphasizes the struggles of the Bapo traditional authority to gain 'legitimacy' in the eyes of some of its members.

The second accusation that led to the suspension of the traditional council member is also very revealing of the deepening and persisting crises of authority in the area. The second charge read that "…It has also been noted that you have constantly disclosed information of the Traditional Council in your illegal meetings with the same grouping that destabilize Traditional Authority

[124] A notice given out to all Bapo ba Mogale sub-councils about the dissolution of their council duties was given out on the 6th of August 2014. The notice came from the Bapo ba Mogale Supreme Council and the General Royal Council. The letter is attached as an appendix: G

[125] At the time of writing, Rangwane was the Acting Chief of the Bapo ba Mogale traditional authority. He attained the position according to genealogical superiority when the Chief Bob Edward Mogale was deemed to be unfit to fulfil his duties as the Chief.

[126] Letter from the Bapo Traditional Council, Office of the Kgosi to Mr A. Mafate. Subject of the letter: Notice of suspension from your position as community elected councillor in *Kgosi*'s traditional council. 11 August 2014.

governance. This is seen as a bridge of the non-compete and non-disclosure that you took and signed."[127] This charge also only serves to further prompt more questions which illuminate the crises of authority in the area. In essence this charge is an admission by the Bapo traditional council that there are rival groups in the Bapo area that do not recognize the authority of the current Bapo council. These groups that are apparently hosting 'illegal meetings' and are 'destabilizing traditional authority governance' are groups that are made-up of people that "…organizing ourselves to ensure that we can do things for ourselves. The people over there at the Kgosi's Office have been fighting amongst themselves for many years. That infighting has affected us here and as you can see we are lagging behind in terms of developmental projects. We are struggling for basics such as water."[128] In most cases these rival groups that are projected as 'groupings that destabilize traditional authority' and hold 'illegal meetings' are groups such as the land claiming committees of villages such as Wonderkop as well that which can be found in the village of Segwaelane. These groups have also doubled-up as groups that are not only claiming land because of its historical significance to their definitions of custom and dignity, and the land's current mineral wealth, they are also functioning as alternatives to the current governance structures of the Bapo traditional authority which they deem to be unfit to meet their needs.

The report of the state-ethnologist did not take these local-village dimensions into account when it was making its recommendations. This is partly due to the fact that the ethnologist had only been mandated to investigate the conflict within the royal family of the Bapo only. However, the royal family does not exist in isolation of the rest of its constituency. The many years of infighting which rendered the Bapo administration almost ineffectual in running its affairs severely affected the local villages of the Bapo. The impact of this was not only witnessed in the delivery of administrative and developmental functions, but, it was also felt in the deterioration of governance structures at the village level. This has resulted in the proliferation of groups[129]

[127] Ibid.

[128] Fieldwork Interview; 04/04/2014; INT20. Interview conducted in Segwaelane. A village in the Bapo ba Mogale traditional authority area.

[129] There are a number of groups that are now acting as alternative governance structures. Namely they are the land claiming committees that are also functioning as administrative units in some village. They are also the Community Based Organizations (CBO's) that are performing functions which would otherwise be performed by organs of the Bapo authority such as the headman's councils in their respective villages. Other groups are those

that are acting as alternatives to the governance structures of the Bapo. A methodological approach that would have considered these dimensions would probably have yielded recommendations that had a holistic approach to the crises of authority in the Bapo area.

The dualistic impact of the state-ethnologists implemented recommendations is also witnessed in these court cases that have been brought against the Bapo traditional council. The impact has been dual because on the one hand the recommendations have led to the traditional council being legally constituted, allowing the Bapo to run their own affairs whilst at the same time they have led to a deepening of the crises of leadership and authority in the Bapo area. This crises of authority is further illustrated by the role that the recommended General Royal Council has to play in the Bapo area. According to the report of the state-ethnologist the "…GRC is obviously not recognized in terms of the relevant legislation, it is prudent that its functions and responsibilities should be strictly limited to traditional matters. Other than that, the GRC may act in an advisory capacity to the traditional structures of the *bogosi [*chieftainship*]* in general"[130] The court case that has been brought against the Bapo traditional council shows that these functions and responsibilities have either been misunderstood by those that were implementing them in the Bapo area, or they were an open-ended suggestion. In a response to the allegations, one of the suspended traditional council members sought the representation of an attorney that has taken on his case. In their rebuttal of the alleged charges for suspension, the attorneys of the accused have noted that "…the General Royal Council which has charged Mr. Mafate and called him to a disciplinary hearing is not a legally and constitutionally mandated body to deal with disciplinary issues regarding councillors."[131] The limitation of 'traditional matters' to the GRC has resulted in a possibility of the GRC being found in legal trouble for engaging in a matter where it does not have any jurisdiction. This matter can be considered to be indicative of the problems which may arise due to the overlapping of responsibilities between the newly-formed and old governance structures of the Bapo. These fears of overlapping responsibilities have also been acknowledged by the community-elected traditional council members that fear that their

which have become traditional authorities in their own villages, independent of the Bapo such as the Wonderkop Traditional Authority.

[130] Khunou, F. (2014). A path of legitimization patterns of the royal family of the Bapo ba Mogale: setting the record straight .p33

[131] Letter from Gaborone Inc. Attorneys to Royal Mogale, Office of the Kgosi. Subject: Hearing date for Mr. A Mafate: Newtown section traditional councillor. Dated 11 August 2014. Letter is attached as an appendix: H

influence in the council may be under threat. These problems are only serving to further deepen the crises of authority in the Bapo area.

The Bapo dispute: a critical assessment

The conceptualization of dispute and conflict within Tswana chiefdoms such as the Bapo, have often been informed by notions which are based on the rule-centred paradigm and the assumption that the social universe of these African societies are homogenous and not internally differentiated. These, I contend, have been the direct result of the application of theoretical frameworks such as the structural-functionalism approach to the study of African societies by social anthropologists and later appropriated by political scientists in order to justify segregation. These approaches have resulted in a devastating misunderstanding of the African political systems that are central to these societies.

The methodological approaches that have been employed by the state-appointed ethnologist that was working on the Bapo dispute, reflect this misunderstanding of these African political systems. There is an inherent assumption in the work of the ethnologist that the social universe of the Bapo is static, bound, and fixed-in-time. This assumption informs the methodological approach that he has used to resolve the Bapo dispute, which starkly reflects the same approaches that were used by the ethnologists that were hired by the Department of Native Affairs. Essentially this approach denies the individual living within the Bapo polity any sense of agency. This is problematic because it conceptualizes the conflict that has been taking place within the traditional authority of the Bapo in terms of the tenets of the rule-centred paradigm. That is, that the dispute is a malfunction of character and as such it can only be dealt with by the control institutions of a society. Here, as witnessed through the Bapo case, the control institutions of this society are a closed, stable system in which structure is seen to be a simple and not a complex notion because it relates directly to the empirical reality of African social life which is fixed and predictable. Here the actions of the individual are bound and defined by the repertoire of customary norms to which the individual is attached to and conforms to in a regular and predictable fashion. Historically these assumptions informed the methodological approaches of state ethnologists that resolved disputes in African chiefdoms and established new traditional authorities. The same assumptions underpin the methodological approaches and the

recommendations that have been made by the state-appointed ethnologist to resolve the Bapo dispute.

Using the processual paradigm, Comaroff and Roberts (1981; 240) have demonstrated that disputes such as those that are taking place in the Bapo traditional authority represent a microcosm of everyday life and that these dispute processes bear a metonymic relationship to the social processes at large. Therefore such conflicts need to be located in the greater sociocultural systems which make-up polities such as the Bapo. Having chosen to only consult with archival material and other written texts, and neglected the sociological changes that have been brought about by the impact of platinum mining and mining capital in the area (this will be extensively dealt with in another chapter) the ethnologist has failed to locate this dispute within the greater sociocultural system of the Bapo. More importantly however has been the misunderstanding that such disputes and their settlement processes embody a system that is the very essence of Tswana politics.

In a study of the Tshidi chiefdom in Bophuthatswana (now the North West Province in South Africa), John Comaroff (1974) argued that disputes and conflicts over the chieftaincy within chiefdoms such as the Tshidi (or in this instance, the Bapo) were not unusual or anomalous. In fact, he stated that "…they are the very essence of Tswana politics, and underpin a dynamic system in which the distribution of power is the object of a constant competitive process." (Comaroff; 1974; 37-8) Central to John Comaroff's argument is that the state, through the work of ethnologists, have interfered in the indigenous political processes of African societies and ascribed institutional arrangements that treat genealogical trees as a historical document that is used to determine who the rightful office-holder of the chieftaincy should be in these societies. The same approach is evident in the Bapo case where the state-appointed ethnologist has used genealogical trees as a historical document that validates certain groups within the Bapo chiefdom to be the rightful bearers of office. As argued in different sections of this chapter, these approaches have been derived from the structural-functionalism approaches that have been the theoretical framework within which the state-appointed ethnologists operated in when dealing with African societies. Re-calling a conversation with one of these state ethnologists (P.L. Breutz) John Comaroff points out that "…the usual procedure is for the ethnologist to consult the

genealogies which have been collected for each ruling dynasty and decide, in terms of the formal rules of succession, who the rightful office-holder should be…" (Comaroff; 1974; 45-6)

Comaroff also went further to provide an analysis for the 'social universe' within which these disputes occur and the terrain within which they are fought out. In this 'social universe' that is, following the work of Comaroff and Roberts (1981) enigmatic, competitive, and highly individualistic "…genealogical argument may provide the terms in which rival claims are debated, but actual outcomes depend upon the processes of competition for support and on the ability of politicians to mobilize followers." (Comaroff; 1974; 40) Here, the dynamic political systems allow for individuals to aspire for the political office of the chieftainship. The campaigning is rationalized and explained by the culturally derived genealogical ascriptions. These observations led Comaroff (1974) to conclude that the state has misunderstood the very essence of Tswana political systems which are characterized by internally competitive processes in which genealogies are manipulated to legitimize one's right to rule in office.

Comaroff's thesis was to be later upheld and validated by the work of Harry Dugmore (1987). In a study of the Monnakgotla family and their rise to power in the Bakubung chiefdom (1830-1896) Harry Dugmore also argued that the "…creation and maintenance of chiefly legitimacy in Tswana society was a process shaped more by the ability of individuals to attract and mobilize followers than by any abstract set of genealogical rules." (Dugmore; 1987; 93) Fundamentally Harry Dugmore also argued that Tswana political processes and the creation of chiefly legitimacy were vastly more complex processes than the state had been prepared to acknowledge.

Essentially both John Comaroff (1974) and Harry Dugmore (1987)'s studies placed dispute and conflict within the greater sociocultural system of the societies within which they were occurring. Locating these disputes within these sociocultural systems allowed them to identify the complex and dynamic political processes within which these struggles are shaped, occur, and 'resolved'. The Bapo dispute and the subsequent settlement processes which have followed it have not placed the conflict within the greater sociocultural system of the Bapo. This has resulted in the manufacturing of 'recommendations and solutions' by the state-appointed ethnologist that are based on treating the genealogical trees as a historical document which legitimizes one faction's right to rule instead of treating the genealogies as a culturally derived tool that is

manipulated during the complex political process of ascription to office. The empirical evidence coming out of the Bapo area suggests that these 'recommendations and solutions' are only operating to further sow divisions within the Bapo traditional authority (as evidenced in the impending court cases and rival groupings). Ultimately, once again, the state has failed to acknowledge that Tswana political processes and the creation of chiefly legitimacy are much more complex processes than it has been prepared to acknowledge.

Once where the state's interference in the dynamic political processes of African societies was driven by 'political interests' (i.e. the creation of the Homelands system and thus the creation of new chiefly authorities where none existed and the bolstering and consolidation of those that did) in a democratic dispensation, what can the state's interference be attributed to this time around. In the case of the Bapo, these interferences are driven by capital, mining capital. One of the forthcoming chapters will detail and argue this extensively.

Conclusion

This chapter has argued that the state has once again misunderstood the very essence of Tswana political systems. It has presented the fact that Tswana political processes and the creation of chiefly legitimacy are vastly much more complex processes than the state has acknowledged. In so doing, four key arguments have been advanced. Firstly, the role of the state in interfering in African political systems and processes such as those of the Tswana can be traced back to the role of social anthropology in the construction and maintenance of the colonial state in South Africa. Social anthropology in South Africa was first institutionalized (taught at) the University of Cape Town during the 1920s by Radcliffe-Brown. Fundamentally, the institutionalizing of social anthropology was driven by the need to arrive at a 'scientific' rationale for segregation which the studies of social anthropology offered. A strand within social anthropology in South Africa called Afrikaner ethnology (*Volkekundige*) later developed and bred a group of ethnologists that would later go on to work for the Ethnological Section of the Department of Native Affairs. It should be noted however, that it was not only the Volkekunde who were appointed by the state to work in the Native Affairs Department, but scholars of social anthropology that came from other 'liberal English' institutions. Secondly, the state-appointed ethnologists operated in a 'network' that established new traditional authorities where none

existed before, intervened in matters of dispute over chiefly legitimacy, and maintained chiefdoms that were formalized into a tribal authority. For our purposes however, it was the methodological approaches and the conceptual foundations which informed these approaches that was pertinent.

The methodological approaches used by these state-appointed ethnologists was informed by the structural-functional paradigm which had become the intellectual cul-de-sac of the discipline of social anthropology. This was a paradigm that was advanced by Radcliffe-Brown in his teachings. However, this structural-functional approach has its roots in the interpretations of the teachings of Durkheim's (1895) *The Rules of Sociological Method*. Durkheim's conceptualizations in his book were informed by a reading of earlier works such as August Comte's *Law of the Three Stages* where he argued that the development of human knowledge passes through three phases; religious, metaphysical, and scientific. Durkheim believed that a 'scientific' study of man and his lived-experience and environment could only be ascertained by finding out 'social facts'. In his postulations of 'social facts' he argued that it is social institutions and their functions which regulate behaviour on individuals without the individuals having the same impact on the institutions. This structural-functionalist paradigm became the bedrock of the establishment of social anthropology in South Africa through the teachings of Radcliffe-Brown and later others. It is these conceptual foundations which informed the methodological approaches that state-appointed ethnologists used for their work on African societies. This structural approach misunderstood the very essence of African political systems, because, I argued, it did not afford any agency to the individual within the dynamic political systems.

Thirdly, in a paradigmatic shift away from the usage of the structural-approach, scholars such as Comaroff and Roberts (1981) showed that African societies, although they may have rules in place, there are processes which allow for a dynamic political system in which matters such as disputes over chiefly legitimacy are the object of a constant competitive process. The writers showed that disputes and conflicts within African societies can only be understood when they are placed in the greater sociocultural system of the society. Scholars such as John Comaroff (1974) and Harry Dugmore (1987) located the disputes over chiefly legitimacy which were taking place within the respective chiefdoms that they were studying in the greater sociocultural systems of

those societies. Their conclusions showed that disputes are not unusual or anomalous and a deviation from the normative repertoire. Rather, they are the very essence of Tswana politics and they underpin a dynamic system in which the 'distribution of power is the object of a constant competitive process'.

Lastly, the presentation of the Bapo dispute demonstrated that the state was still oblivious to these processes and misunderstood the very essence of Tswana politics. Through the appointment of an ethnologist that used methodological approaches that starkly resembled those of the ethnologists that were appointed by the Ethnological Section of the Department of Native Affairs, the state has essentially emphasized the static administrative features of traditional authorities and ignored their complex and dynamic political systems. The empirical evidence also further highlighted the fact that not locating the Bapo dispute in the greater sociocultural system of the area has only served to further deepen the crises of legitimate rule in the area.

Conclusion

Using the case study of the Bapo ba Mogale, this thesis has looked into the impact of platinum mining capital on the interrelationships between traditional authority, customary land tenure, and rural community. Drawing from the empirical data, it has found that mining capital has inserted itself into an area that is deeply inflected by its social historical context and its colonial experience. It has thus argued that the insertion of platinum mining capital in areas such as the Bapo ba Mogale, has only served to reproduce the distinctive political order in rural Africa that was established by the colonial state. To demonstrate this argument, four key points were made.

Firstly, through the appointment of a state-ethnologist to resolve the 'infighting' within the Bapo traditional authority and resolve to have the traditional council of the Bapo legally constituted and gazetted in order to have the Bapo enter into a royalty-equity conversion transaction agreement with the mining company Lonmin Plc, the state (post-colonial successors) reproduced the distinctive political order that was established by the colonial state for the purposes of ensuring maximum surplus appropriation from the mining industry. Through 'tribal trusteeship' this surplus appropriation mostly benefits chiefly accumulation to the detriment of the independent groups and syndicates that claim 'ownership' of the land within which these mining activities are taking place. To that the appointment of the state-ethnologist was an act which resembled the old apartheid practice of appointing ethnologists that worked under the Department of Native Affair's ethnological section, whose work was influential in the formation of and imposition of tribal structures and tribal identities to otherwise flexible societies and social groups in rural African areas such as the Bapo, a couple of observations were made. To start with (a), the argument was made that the role of the state in interfering in African political systems and processes such as those of the Tswana could be traced back to the role of social anthropology in the construction and maintenance of the colonial state in South Africa. Moreover (b), ethnologists trained in the discipline of social anthropology were appointed by the state under the Ethnological section of the Department of Native Affairs. Their function in this department ranged from operating in a 'network' where new traditional authorities were established where none existed before, intervened in matters of dispute over chiefly legitimacy, and maintained chiefdoms that were formalized into a tribal authority. The methodological

approaches that were employed by these ethnologists had a grave impact on the 'reconfiguring' of African political systems. Essentially they applied static, reified, and fixed-in-time concepts to political systems and societies that were much more dynamic and complex. The conceptual foundations which informed these methodological approaches are traced back to the work of Durkheim's (1895) 'The Rules of Sociological Method' in which he argued that any scientific study of man and his lived environment can only be ascertained by establishing 'social facts'. The crux of his thesis argued that one of these 'social facts' was that institutions regulate the behaviour and set the normative repertoire of man in society and he denied the individual any agency in influencing these institutions. This concept became the bedrock of social anthropology which used a structural-functionalist paradigm to study and assess African societies. Furthermore (c), drawing on the work of Comaroff and Roberts (1981) the point was made that the 'social universe' of these African societies is enigmatic, dynamic, and individualistic. Debasing the arguments brought forth by structural-functionalist approaches that privilege institutions and deny the individual any agency. These characteristics underline the dynamic political systems of the Tswana. Focusing on disputes and their settlement processes, Comaroff and Roberts further argue that any efforts geared towards an understanding of disputes that take place in African societies should locate these disputes in the greater sociocultural systems which make-up these polities. Lastly (d), presenting the Bapo case and the dispute in the royal family, and the methodological approach that was used by the state-appointed ethnologist to arrive at the implemented 'recommendations and solutions' the first chapter argued that this was not a practice which resembled the old apartheid order's practices, but that the impetus to turn to these approaches in a post-colonial state was driven by the insertion and introduction of mining capital.

Secondly, the argument was made that at the heart of the contemporary struggles that are taking place within the Bapo ba Mogale traditional authority area is how tribal trusteeship fosters chiefly accumulation. These struggles take on the form of competing land histories, rival restitution land claims, and the emergence of competing group representatives. The imposition of platinum mining capital in this area has acted as an impetus for 'oppressed groups' to widen the ever narrowing definitions of belonging in the area. These processes which have led to the narrowing of the definitions of belonging can be traced back to the configurations and reconfigurations of South Africa's distinct communal tenure regime through various historical

periods and contexts. The ‘old order’ mining rights conceived of traditional authorities as the custodians and owners of land that was within their jurisdiction. As the perceived custodians of land, traditional authorities enjoyed, and still do, the privilege of having mining companies’ deal and negotiate directly with them. The rights of individual groups and syndicates that are living within these areas and are under the jurisdictional area of traditional authorities still have their ‘ownership status of land denied because the ‘new order’ mining rights as conceived under the MPRDA still privilege the role of the traditional authority as the rightful custodian of land. The insertion of mining capital in this area has only served to perpetuate this assumption and it has led to traditional authorities accumulating wealth from the brokered mining deals to the detriment of the individual groups and communities living in the mining affected areas.

Thirdly, this thesis pointed out that the Bapo ba Mogale area is not comprised of a single group that is a single entity and has a single set of common interests. It argued that areas such as the Bapo are not comprised of homogenous entities. Instead these are areas that consist of groups that are fractured among many divisions; ethnicity, inequality, ‘original inhabitants’ and ‘informal settlers’, the youth, and structures of representation. Illustrating this was important because it debased the assumption that these are areas that are naturally co-operative and are given stability and harmony by the figurehead of the traditional leader and the structures of traditional leadership. This assumption is also the same assumption that is inherent in how legislation that regulates and facilitates participation in, and the consultation of mining affected communities, such as the MPRDA, view the constitution of ‘rural community’. Claims to ‘community participation’ by the state and by the mining companies are typically articulated through chiefs as the bearers and the representatives of the community’s interests. Furthermore, when entering into deals and concessions with the mining affected communities, mining companies engage with traditional leaders, as the Bapo case has shown, mostly as BEE partners. Here, community assets are traded for BEE shares that devolve into the hands of individuals and are not subject to community oversight.

Lastly, this thesis argued that platinum mining capital, by inserting itself into an area that is deeply inflected by its social historical context, has reproduced the distinctive rural political order that was established by the colonial state

Bibliography

Ally, S. and Lissoni, A. (2012). "Let's talk about Bantustans". *South African Historical Journal*. Vol. 64, No. 1, pp. 1-4.

Amanor, Kojo S., 1999. Global Restructuring and Land Rights in Ghana: Forest Food Chains, Timber and Rural Livelihoods. Uppsala: Nordiska Afrikainstitutet Research Report no. 108.

Baxter and Jack (2008) "Qualitative Case Study Methodology: Study Design and Implementation for Novice Researchers". *The Qualitative Report*, Volume 13 (4), 544-599.

Beinart, W. (1986). Settler Accumulation in East Griqualand. In Putting a Plough to the Ground: Accumulation and Dispossession in Rural South Africa, 1850-1930. Beinart, W. Delius, P. and Trapido, S. (eds.). Johannesburg: Ravan Press.

Berry, S. (1993). No Condition is Permanent. The Social Dynamics of Agrarian Change in sub-Saharan Africa. Madison, WI: University of Wisconsin Press.

Berry, S. (2001). Chiefs Know Their Boundaries: Essays on Property Power, and the Past in Asante, 1896-1996. Oxford: James Curry.

Bergh, J and Feinberg, H. M (2007) "Trusteeship and Black land ownership in the Transvaal During the nineteenth and twentieth Century's", *Keio*, Vol. 36 (1), 170-193.

Bernstein, H. (1996). South Africa's Agrarian Question: Extreme and Exceptional? In, *The Agrarian Question in South Africa*, Bernstein, H. (ed).

Bernstein, H. (2010). Class formation in the Countryside (chapter 7). In *Class Dynamics of Agrarian Change.* Halifax and Winnipeg: Fernwood Publishing.

Biebuyck (1963) 'Introduction' in Biebuyck (ed) African Agrarian Systems, Oxford University Press, 1-64.

Boone, C (2003). Political Topographies of the African state: Territorial Authority and Institutional Choice. Cambridge University Press.

Breman, J. (1985). 'Between Accumulation and Immiseration: The Partiality of Fieldwork in Rural India'. *Journal of Peasant Studies*. 13 (1), pp. 5-36.

Breutz, P-L. (1953). The tribes of Rustenburg and Pilanesberg districts. Department of Native Affairs Ethnographical Publications No. 28. Pretoria: Government Printers.

Breutz, P-L. (1989). A history of the Batswana and Origin of Bophuthatswana: A handbook of a survey of the tribes of the Batswana, Southern Ndebele, Qwa Qwa, and Botswana. Margate, South Africa: Thumbprint.

Capps, G. (2012a). 'Victim of its own Success? The Platinum Mining Industry and the Apartheid Mineral Property System in South Africa's Political Transition'. *Review of African Political Economy*. 39 (131), pp. 63-84.

Capps, G. 92012b). 'A Bourgeois Reform with Social Justice? The Contradictions of the Mineral Development Bill and Black Economic Empowerment in the South African Platinum Mining Industry'. *Review of African Political Economy*. 39 (132), pp. 315-333.

Capps, G. (2010). Tribal-Landed Property: The Political Economy of the Bafokeng Chieftaincy, South Africa, 1837-1994. Unpublished PhD thesis. London School of Economics and Political Science, UK.

Centre for Law and Society. Rural Women's Action Research Programme. Questioning the legal status of traditional councils in South Africa. August 2013.

Claassens, A. and Gilfillan, D. (2008). The Kalkfontein Land Purchases: Eighty Years on and still Struggling for Ownership. In *Land, Power, and Custom: Controversies Generated by South Africa's Communal Land Rights Act*. Eds. A Claassens and B. Cousins. Cape Town: UCT.

Claassens, A. and Matlala, B. (2014). Platinum, poverty, and princes in post-apartheid South Africa: new laws, old repertoires. In Pillay, D. (et al) (eds.) *New South Africa Review 4, 'A fragile Democracy-twenty years on'.*

Cobbing, J. (1988). 'The Mfecane as Alibi: Thoughts on Dithakong and Mbolompo'. *The Journal of African History*, Vol. 29, No. 3, pp. 487-519.

Cocks, P. (2010). "Max Gluckman and the Critique of Segregation in South African Anthropology, 1921–1940", *Journal of Southern African Studies*, 27:4, 739-756.

Coker, C. (1983). "Bophuthatswana and the South African Homelands". *The World Today*. Vol. 39, No. 6. pp. 231-240.

Cooper, F. (2001). 'Networks, Moral Discourse, and History'. In Intervention and Transnationalism in Africa. Global–Local Networks of Power, (eds) Thomas Callaghy, Ronald Kassimir and Robert Latham, 23–46. Cambridge: Cambridge University Press.

Comaroff, J.L. (1974). 'Chiefship in a South African Homeland: A case study'. *Journal of Southern African Studies*, 1, pp. 36-51.

Comaroff, J.L. and Roberts, S. (1981). Rules and Processes: The Cultural Logic of Dispute in an African Context. London: University of Chicago Press.

Comaroff, J.L. and Comaroff, J. (1997). Of Revelation and Revolution: the Dialectics of Modernity on a South African Frontier, vol. 2. University of Chicago Press, Chicago.

Comaroff, J. and Comaroff, J.L. (1992). Ethnography and the Historical Imagination. Colorado.

Cousins, B. (2008), More than Socially Embedded: The Distinctive Character of Communal Tenure Regimes in South Africa and its implications for Land Policy, *Journal of Agrarian Change*, and Vol.7 (3), 281-315.

Cowley, J. and Lemon, A. (1986). "Bophuthatswana: dependent development in a black homeland". *Geography*. Vol. 71, No. 3. pp 252-255.

Crehan, K. (1997). The fractured Community: Landscapes of Power and Gender in Rural Zambia. London: University of California Press.

Denzin, K. N. and Lincoln, S. Y. (2003). Collecting and Interpreting Qualitative Materials. Sage Publications, California.

Delius, P. (2008). Contested terrain: land rights and chiefly power in historical perspective. In *Land, Power and Custom: Controversies generated by South Africa's Communal Land Rights Act.* Eds. Classens, A. and Cousins, B.

Delius, P. (1986). Abel Erasmus: Power and Profit in the Eastern Transvaal. In *Putting a Plough to the Ground: Accumulation and Dispossession in Rural South Africa, 1850-1930.* Eds. W Beinart, P. Delius and S. Trapido. Johannesburg: Ravan.

Delius, P. Kingwill, R. and Chaskalson, M. (1997). A Historical Investigation of Underlying Rights to Land Registered as State Owned. Unpublished Report for the Tenure Reform Core Group. Pretoria: Department of Land Affairs.

Drummond, J. (1991). "Reincorporating the Bantustans into South Africa: the question of Bophuthatswana". *Geography*. Vol. 76, No. 4. pp. 369-373.

Dubow, S. (1992). "Afrikaner Nationalism, apartheid and the conceptualization of 'race'", in Journal of African History, 33 (2).

Dugmore, H. (1987). 'The Rise to power of the Monnakgotla Family of the Bakubung, 1830-1896'. *Africa Perspective*, Vol. 1, Nos. 3 and 4, pp.93-117.

Durkheim, E. (1895). English Translation (1938). The Rules of Sociological Method. Glencoe: Free Press.

Etherington, N. (2004) 'A tempest in a teapot? Nineteenth- century contests for land IN South Africa's Caledon Valley and the invention of the Mfecane', Journal of African History, 45, pp. 203-19.

Feinberg, H.M. (1997). Challenging the Natives Land Act: African land acquisitions between 1913 and 1936. Paper presented at the South African Historical Society, 16th Biennial Conference (6-9 July, 1997).

Fine, B. (1982), Landed property and the distinction between Royalty and Rent. *Land Economics.* Vol. 58 (3): 338-350.

Geertz, C. (1973). The Interpretation of Cultures. New York: Basic Books.

Gluckman, M. (1947). Malinowski's 'functional' analysis of social change. *African Studies*, 6. Reprinted in Gluckman (1963), Order and Rebellion in Tribal Africa. London: Cohen and West.

Gluckman, M. (1958). Analysis of a Social Situation in Modern Zululand. *Rhodes-Livingston Papers*, No. 28.

Gluckman, M. (1975). Anthropology and Apartheid: The work of South African Anthropologists. In Studies in African Social Anthropology [Essays in honour of I. Schapera]. London: Academic Press. Fortes, M and Patterson, S. (eds).

Goddard, D. (1969) 'Limits of British anthropology', *New Left Review*, 58, pp.79–89.

Gordon, R. (1988). 'Apartheid's Anthropologists: Notes on the genealogy of Afrikaner Volkekundiges'. *American Ethnologist,* 15 (3), pp.535-53.

Gordon, R. (1990). 'Early Social Anthropology in South Africa'. *African Studies*, 49 (1), pp.15-48.

Gordon, R. (1991). Serving the Volk with Volkekunde. In J. Jansen (ed.), Knowledge and Power in South Africa. Johannesburg: Skotaville.

Gordon, R. and Spiegel, A.D. (1993). 'South Africa revisited'. *Annual Review of Anthropology*, 22, pp. 83-105.

Grischow, J. (2008). Rural Community, Chiefs and Social Capital: The Case of Southern Ghana. *Journal of Agrarian Change*, 8(1). pp. 64-93.

Hall, R. (2001). 'Land Grabbing in Southern Africa: The many faces of the Investor Rush'. *Review of African Political Economy*, 38 (128), pp. 193-214.

Hamilton, C.A. (1992). 'The Character and objects of Chaka: A Reconsideration of the Making of Shaka as Mfecane Motor'. *The Journal of African History*, Vol. 33, No. 1.

Hammond-Tooke, W.D. (1995). 'N.J. Van Warmelo and the Ethnological Section. A Memoir'. *African Studies*, 54 (1), pp. 119-128.

Hammond-Tooke, W.D. (2001). Imperfect Interpreters: South Africa's Anthropologists, 1920-1990. Johannesburg: Wits University Press.

Harvey, D (1982). Land Rent and the Transition to the Capitalist Mode of Production. *Antipode.* Volume 14 (3).

James, D. (2000). After Years in the Wilderness: The Discourse of Land Claims in the new South Africa. *Journal of Peasant Studies*. 27(3) pp. 142-161.

Jones, P.S. (1999). "To come together for progress: Modernization and Nation-building in South Africa's Bantustan periphery-the case of Bophuthatswana". *Journal of Southern African Studies*. Vol. 25, No. 4. pp. 579-605.

Keegan, T. (1988). Facing the Storm: Portraits of Black Lives in Rural South Africa. London: Zed.

Kessel, I. and Oomen, B. (1997). 'One Chief, One Vote': The Revival of Traditional Authorities in Post-Apartheid South Africa. *African Affairs*, Vol. 96, No. 385. pp. 561-585.

Khunou, F. (2014). A path of legitimization patterns of the royal family of the Bapo ba Mogale: setting the record straight. Executive summary. Executive summary on the research project of the Bapo ba Mogale community titled: "The Bapo ba Mogale at the crossroads: A review and validation of traditional structures and succession patterns", North- West University (Mafikeng campus), South Africa, Law Faculty, Mahikeng, North West Province, South Africa. Retrieved 2014.

Kuper, A. (ed.). (1977). The Social Anthropology of Radcliffe-Brown. London. Routledge and Kegan Paul.

Lang, A.M. (2005). 'Picking up the relay baton: translating traditions in apartheid and democratic South Africa.' *Focaal-European Journal of Anthropology*, No 46. 36-53.

Lawrence, M. and Manson, A. (1994). "The Dog of the Boers: The rise and fall of Mangope in Bophuthatswana". Journal of Southern Africa Studies, Vol. 20, No. 3. Special Issue: Ethnicity and Identity in Southern Africa. pp. 447-461.

Lekgoathi, S.P. (2009). 'Colonial Experts, Local Interlocutors, Informants, and the making of an archive on the Transvaal Ndebele', 1930-1989. *Journal of African History*, 50. UK: Cambridge University Press. pp. 61–80

Manson, A (2013) Mining and 'Traditional Communities' in South Africa's 'Platinum Belt': Contestations over Land, Leadership and Asserts in North West Province c. 1996-2012, *Journal of Southern African Studies*, Volume 39:2, 409-423.

Mamdani, M. (1996). Citizen and Subject: Contemporary Africa and the legacy of late colonialism. Princeton University Press.

Marks,S. (1989). 'Patriotism, patriarchy, and purity: Natal and the politics of Zulu ethnic consciousness' in Vail (ed) The Creation of Tribalism in Southern Africa. (James Curry, 1989). 215-40.

Negi, R. (2000). 'The Mining Boom, Capital, and Chiefs in the 'New Copperbelt'' in *Zambia, Mining, and Neoliberalism: Boom and Bust on the Globalized Copperbelt*. Eds. Fraser, A. and Larmer, M. New York: Palgrave Macmillan.

Neocosmos, M (1986) Marx's third class: Capitalist Landed Property and Capitalist development, *Journal of Peasant Studies,* Vol. 13 (3), 5-44.

Neocosmos, M (1993). *The Agrarian Question in Southern Africa and Accumulation from Below: Economics and Politics in the Struggle for Democracy*. Research Report No. 93. Uppsala; Scandinavian Institute of African Studies.

Ntshabele, D. (2002). The History of the Bafokeng from 1948-1998. Unpublished M.A. Thesis. Mmabatho. University of the North West.

Okechukwu, O.G. (2005). The role of quantitative data on informal settlement policy formulation. An Unpublished MSc thesis submitted to the University of the Witwatersrand, Johannesburg.

Peters, P. (2004). "Inequality and Conflict Over Land in Africa". *Journal of Agrarian Change*. 4(3) pp. 269-394.

Pugach, S. (2004). 'Carl Meinhoff and the German influence on Nicholas van Warmelo's Ethnological and Linguistic Writing, 1927-1935'. *Journal of Southern African Studies*, 30.

Radcliffe-Brown, A.R. (1923). 'The Methods of Ethnology and Social Anthropology'. South African Journal of Science, 22, pp. 124-147. Reprinted in Srinivas, M. N. (ed). (1958). Methods in Social Anthropology: Selected Essays by A.R. Radcliffe-Brown. Chicago University Press.

Schapera, I. (1928). Economic changes in South African Native Life. *Africa*, 1 (2), 170-188.

Schapera, I. (ed.). (1934). Western Civilization and the Natives of South Africa: Studies in Culture Contact. London: Routledge and Kegan Paul.

Schapera, I. (1938). A Handbook of Tswana Law and Custom. London: Oxford University Press.

Schapera, I. and Comaroff, J.L. (1991). The Tswana (revised edition).London: Keegan Paul International.

Siliga, N.R. (2003). The role of quantitative data and expert knowledge in informal settlement policy making: Lessons from India, Kenya, and Brazil. An unpublished MSc thesis submitted to the University of the Witwatersrand, Johannesburg.

Simpson, G.N. (1986). Peasants and Politics in the Western Transvaal, 1920-1940. An unpublished MA thesis submitted to the University of the Witwatersrand, Johannesburg.

Southall, R. (1977). The Beneficiaries of Transkeian Independence. *Journal of Modern African Studies*, 15 (1). pp 1-23.

Southall, R. Segar, J. and Donaldson, A. (eds). (1992). Undoing Independence: Regionalism and Reincorporation of Transkei into South Africa. *JCAS*, Grahamstown, South Africa.

Thornton, R. (1994). South Africa: Countries, boundaries, enemies, and friends. *Anthropology Today*, 10 (6), pp.7-14.

Vail, L. ed. (1989a). The Creation of Tribalism in Southern Africa. London: James Curry.

Vail, L. (1989b). 'Introduction: Ethnicity in Southern Africa'. In The Creation of Tribalism in Southern Africa. Ed. Vail, L. London: James Curry.

Van Warmelo, N.J. (1935). A Preliminary Survey of the Bantu Tribes of South Africa. Pretoria: Government Printer.

Williams, J. M. (2009). "Legislating tradition in South Africa", *Journal of Southern African Studies*, 35:1, pp. 191-209.

Woodhouse, P. (2003). 'African Enclosures: A Default Mode of Development'. *World Development*, 31 (10), pp. 1705-1720.

Wolpe, H. (1972). Capitalism and Cheap Labour power: From Segregation to apartheid. *Economy and Society*, 1 (4), pp.425-56.

Yin, R. K. (2003). Case Study Research: Design and Methods (3rd ed.). Thousand Oaks, CA: Sage.

Website sources

Stone, S. (2013). Not feasible to completely freeze controversial D-account. September 26, 2013. http://www.bdlive.co.za/national/2013/09/26/not-feasible-to-completely-freeze-controversial-d-account-says-premier.

South African government, allAfrica. (2013). "South Africa: Mining Companies Presents to SCOPA Royalties Paid to the D-account." 7 August, 2013. http://www.gov.za/mining-companies-presents-scopa-royalties-paid-d-account.

List of Fieldwork Interviews (cited)

Code	Place	Date
INT05.	Bapong (Skoolplaas section)	21.11.2013
INT06.	Bapong (Skoolplaas section).	23.11.2013
INT07.	Bapong (Number1section).	23.11.2013
INT08.	Bapong (Number1section).	24.02.2014
INT09.	Bapong (Sunnyside Section).	24.02.2014
INT10	.Bapong (Number1section).	26.02.2014
INT11.	Bapong (Number1section).	28.02.2014
INT12.	Bapong (Newtown Section).	01.03.2014
INT13.	Wonderkop.	28.03.2014
INT14.	Segwaelane.	31.03.2014
INT15.	Wonderkop.	01.04.2014
INT16.	Wonderkop.	01.04.2014

INT17.	Wonderkop.	01.04.2014
INT18.	Wonderkop.	01.04.2014
INT19.	Segwaelane.	03.042014
INT20.	Segwaelane.	04.04.2014
INT21.	Segwaelane.	05.04.2014
INT22.	Bapong.	05.04.2014
INT23.	Bapong (Newtown section).	07.04.2014
INT24.	Wonderkop.	08.04.2014
INT25.	Madibeng Municipality.	24.04.2014
INT26.	Madibeng Municipality.	25.04.2014
INT27.	Segwaelane.	27.04.2014
INT28.	Wonderkop.	28.04.2014