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Access to Land And Basic Services

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# THE 'INVISIBLE' PROPERTY SYSTEM AND REVENUE COLLECTION IN FORMER HOMELANDS IN THE CONTEXT OF HYBRID GOVERNANCE AND ACCESS TO LAND AND BASIC SERVICES

AVHATAKALI SITHAGU

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## ABSTRACT

Municipalities in former homelands situated on land under traditional authorities cannot institute an effective revenue collection system because most of the land is outside the formal property system. The fundamental issue is that customary land rights remain 'invisible' to the cadastral system, which together with other components of the land administration system, connects individuals to the revenue collection system. Through ethnographic interviews conducted in the Thembisile Hani Local Municipality, a former homeland municipality, this article demonstrates how a state institution, Eskom, navigates this complex terrain. In doing so, the article contributes to a broader debate about the dynamics and shape of the municipal revenue crisis that is often said to be an obstacle to service delivery and the smooth functioning of municipalities. While most scholars focus on how communities work with or against the rigid rules of the formal property system to access basic services, this article takes a different approach. It focuses on how state and non-state institutions attempt to deliver basic services by using informal practices to navigate their formal systems: a practice that is often under-researched.

## INTRODUCTION

In 2020, many district and local municipalities were facing an unprecedented revenues crisis – service delivery failures linked to mounting municipal debts, and the inability of municipalities to raise and

manage their own revenues. This is particularly true in rural South Africa where, to take the example of Mpumalanga Province – which includes the former homelands of KaNgwane, KwaNdebele and parts of Lebowa and Gazankulu – 65% of its municipalities received qualified or adverse reports in 2018/19. An Auditor-General report noted that Mpumalanga municipalities had not spent 95% of Regional Bulk Infrastructure Grants (RBIG) and 65% of the Water Services Infrastructure Grants (WSIG) in the 2019–2020 financial year (Mpumalanga Press 2021) – '[a] trend of underspending on conditional grants reflects poor planning by municipalities' (Auditor-General South Africa 2020: 14). A further R1,09 billion was flagged as irregular expenditure. This is part of a worrying trend of audit regression and too few qualifying municipal audits across the country (Auditor-General South Africa 2020).

This article takes a case study of Thembisile Hani Municipality, a poor B4 local municipality in Mpumalanga Province, which is part of the old KwaNdebele Homeland, to offer an intriguing caveat to the general arguments that are often made about the current municipal revenues crisis. In many ways, Thembisile Hani Municipality is a classic example of an under-resourced, B4 (i.e. 'predominantly rural'), local municipality facing a revenues crisis. In effect, the municipality (population 330,331) (Statistics South Africa 2020) is a series of densely settled large villages and low-cost housing settlements, which are historically the product of the region's history of forced removals. The area continues to have an increasing population due to relatively close proximity and good transport links to the Pretoria/Gauteng urban conurbation. Unemployment and poverty rates are high – standing at around 38% (Statistics South Africa 2018).

Overall, the Municipality receives revenue from service charges, rental income, interests and investments, fines, licenses and permits, agency services and property rates (Municipal Money 2023). Property rates and service fees are charged separately. Water and electricity are charged based on consumption, while property rates are charged based on the market value of the property (Delberg Attorneys 2022). However, in 2020/21, just 34% of Thembisile Hani Municipality's revenues were raised internally, of which 18.4% was from service charges (mainly electricity purchases, sanitation and sewerage charges), and 9.7% from hiring municipal properties and equipment. Two-thirds came from inter-governmental grants: notably a R4.3 million Equitable Share grant that accounted for 46.6% of revenues, and various conditional grants that totalled another 13.8% of municipal revenues (Thembisile Hani Local Municipality 2022a).<sup>1</sup> However, because most of the municipality lies on land that falls under the traditional authorities, the municipality levies no property taxes, despite repeated national directives – of great significance to this paper's argument. Indeed, the municipality has a shortage of resources to manage basic functions such as collecting/disposing municipal waste, and does not even have a municipal customer call centre. Recently, the Municipality received 'an unqualified audit' for its 2020–2021 financial year, indicating that there were serious problems with its financial statements (Municipal Money 2023).

The municipality is responsible for sanitation and water, street and public lighting, waste and stormwater management, and maintenance of cemeteries and roads, amongst other services. The crisis of municipal water service provision is perhaps most illustrative of the broader issues. Whilst 81% of households in the municipality have tap water inside their yard (Statistics South Africa 2018) – a figure that is reflective of the democratic government's expansion of grid infrastructure to the poorest households – there are frequent and prolonged water shortages, such as in the community of Sun City Village which had no water for over a month in 2018 (AfroVoice 2018). This is partly due to rapid, unplanned household growth but is also the fault of the Water Service Providers (notably the City of Tshwane) who have supplied far less bulk water services than promised (Thembisile Hani Local Municipality Draft Annual Report 2019/20: 62). Yet at the same time, the municipality is full of burst pipes - losing 30% of water purchased in 2019–20. The huge customer debt is another indication of a municipal service in crisis (Statistics South Africa 2019). In consequence, like many municipalities across Mpumalanga, intense 'service delivery protests' have become a feature of local politics in recent years (Nyaka 2017; Alexander 2016).

Nonetheless, for all the troubles Thembisile Hani Municipality faces delivering municipal services, Eskom has managed to directly provision electricity to around 81% of households, largely through a system of prepaid meters. As this article thus suggests, differing cost-recovery mechanisms translate into unique dynamics for each method. I will argue that, in the case of Eskom, it was able to successfully extend services on chieftaincy land – 'invisible property' that does not fall under individuated cadastral surveys and therefore is not tied into revenue collection systems – by working with what some scholars have described as a hybrid property system. While, in most cases, for property rates to be collected, full registration of land into the cadastral system is required, in Thembisile Hani municipality these steps have not been followed on land under traditional authorities. It is through navigating this hybrid property system that Eskom has had relative success in managing its cost recovery process.

## **DEBATES – REVENUES, METERS, SERVICE PROVISION, PROTEST**

To understand just why questions of revenue management have become so important in debates about the municipal crisis today, we must return to the years of the democratic transition when expanded municipalities were made engines of service delivery, responsible to varying extents for providing housing, water, (and in some instances) electricity. On the one hand, the Municipal Demarcation Act (No. 27 of 1998) introduced 'wall-to-wall' local democratic government, undoing the fiscal segregation that had been characteristic of apartheid, which had seen privileged white municipalities enjoy far better services than black counterparts. 'One city/municipality, one tax base', was the aim of this legislation. At the same time, the Municipal Systems Act of 2000 made municipalities responsible for managing revenues: collecting rates and services charges from ratepayers who could afford to pay for municipal

services. Municipalities had the responsibility of managing various inter-governmental transfers supposed to cross-subsidise services for indigent households too poor to pay for basic lifeline services. Across the 2000s, the democratic government made massive capital investments that increased access to services – the electrification rate in formal housing, for instance, increasing from 58% in 1996 to 87% in 2013 (Tooze 2023). At the same time, municipalities' inability to manage revenues and make adequate operations and maintenance investments has meant that service infrastructure is often fractured and failing.

South African debates about revenues and service delivery have evolved across the decades. In the early 2000s, radical scholars such as McDonald and Pape (2002) focused on questions of cost recovery – arguing that the incoming neo-liberal ANC government, hoping to corporatise and privatise water and electricity, was forcing South Africa's poorest citizens to pay for lifeline services that should be a basic human right. The townships of Cape Town, Durban and Johannesburg were the key battlegrounds of these anti-privatisation campaigns. Technocratic measures, such as pre-paid electricity meters, were seen as tools of neo-liberal surveillance. In recent years, however, debates have turned 180 degrees to questions of why municipalities are failing to collect and manage revenues, and (more recently) falling into unsustainable debt. For technocrats in the national treasury, the fault lies with municipalities who have failed – because of a range of structural issues such as deficient capacity, skills and personnel – to collect rates, utilise inter-governmental grants, and manage revenues. By contrast, others point to the tangled intricacy of South Africa's revenue management systems: a complex, ever-changing set of subsidies and directives emanating from the centre, which arguably prioritise new capital projects over investments into operating and maintaining established infrastructure (Ledger and Rampedi 2020). Either way, there is broad consensus that many municipalities are operating in an over-complex system, with little administrative support from the legal framework they are expected to administer and enforce.

In this article, I engage with another fundamental, less considered aspect of this debate: the fact that for the municipalities located in the former homelands, many households are 'invisible' insofar as they are not recorded on formal property registers, with the consequence that municipal revenue systems and property taxes are rendered non-existent and unenforceable (Kingwill 2020). Cousins and Hornby (2006) note that in some areas, the Permission to Occupy (PTO) system still exists; in other areas, older tenure forms may be "lapsed or semi-lapsed 'freehold' titles"; other settlements are granted formal land rights, following low-cost housing and upgrading projects. Then there are customary land tenure systems dominated by traditional authorities, as well as land tenure systems legally governed by trust deeds or communal property associations. Crucially, these hybrid systems of land tenure (which range from informal, semi-formal, customary, neo-customary, legal, and extra-legal land rights) rarely are incorporated into the cadastral system (Kingwill 2020). The absence of individuated formal property registers is one of the key reasons why many B4 municipalities have very low rates of revenue collection, which contributes to very low levels of service delivery.

At the same time, the argument made by some South Africans that functional revenue systems require formal, individuated systems of property registration can be overdone. Indeed, debates have circled these concerns before. In the 1990s, at a time when the World Bank was arguing that economic growth required individual property rights, Sara Berry (2002) made a landmark argument, suggesting that communal forms of property have allowed for far more 'flexibility' and 'negotiability' than many mainstream policy officials have assumed; and that access to land and related services is heavily shaped by local politics and contingencies, not simply by formal rules and laws governing land and ownership. Though Pauline Peters (2004) and others have warned against papering over the power relations and struggles associated with the fraught issue of land access, Berry's insights remain valuable for scholars trying to understand the multiple ways that states function outside of formal and recognised land systems. Likewise, the more recent literature on 'the everyday state' in urban settings in the global south outlines the multiple ways the poor residents make demands on and access the state, despite their marginalisation and often undocumented status, which are not always legible to policy makers (Bénit-Gbaffou and Oldfield 2011).

In this article, I make a parallel argument about the way in which Eskom has extended electricity provision onto the chieftaincy lands in Thembisile Hani Municipality. This case study – based on intensive ethnographic fieldwork<sup>2</sup> as well as a review of grey literature – makes a number of striking, new observations about the way Eskom has used pre-paid meters to render legible the invisible households/property that are found on chieftaincy land. The first section explains how Eskom's Integrated National Electrification Programme (INEP) brings informal property rights controlled by traditional leaders (specifically the PTO) into its systems. Second, I discuss the reciprocal process by which traditional leaders use their influence over land allocation to engage with Eskom and the municipality to bring services onto their lands, and in turn bolster their status and authority. Third, I discuss the unsuccessful attempts of Thembisile Hani Local Municipality to insert itself into these relationships.

### **EXTENDING STATE NETWORKS – ESKOM, INEP, IRASIT**

Since the early 1990s, Eskom's Integrated National Electrification Programme (INEP), has rapidly rolled-out electricity connections to South Africans, including many of the 18 million people (about 38% of the South African population) who live on traditional authority land (Cousins 2016). In order to provide infrastructure and electricity to areas that have insecure land tenure rights (i.e., informal settlements and rural areas), Eskom merges customary and informal land rights into its bureaucratic system by employing flexibility in its formal systems. It does this by recognising the traditional authority land administration system. It also works together with local traditional leaders and local municipal councillors to assist community members to register for prepaid electricity.

For a resident living on land under traditional authorities in Thembisile Hani to receive electricity, Eskom requires three conditions to be fulfilled. One, a resident must have *iRasit* (directly translated as 'the receipt') from a legitimate headman.<sup>3</sup> In Thembisile Hani Municipality this is an A5 piece of paper given by a local headman to a new landholder upon land occupation. It gives the landholder occupation rights and serves as proof of residence, much like how the Permission to Occupy (PTO) system operates. It is a printed receipt with space for the headman to fill in the name and contact details of the new occupier, the date of transaction, the occupier's identity number, the land allocation fee, the stand number and where the land is located. Second, Eskom requires a letter from the ward councillor confirming the residence of the landholder. Third, the settlement must be densely occupied. In other words, one applicant is not enough to propel electrification; the entire settlement or a sizeable number of people need to apply for electricity at the same time, as it does not make financial sense to install electricity in low-density areas.

This 'unwritten rule' – that Eskom only supplies electricity to densely occupied settlements – is often used by headmen to justify their rapid land allocation because there is the hope of electricity with the proliferation of settlers. In turn, headmen use the promise of electrification to attract new occupiers. Interviews with community members revealed that there would be tension among residents who have occupied their land and absent 'land owners' – i.e. those that have been allocated land and have not built on it and are not occupying the land. Those occupying their land would blame the absent 'land owners' for delaying their electrification because of Eskom's electrification upon densification rule.

The absence of either one or a combination of the three conditions may prevent a resident from having electricity. For example, an elderly couple in Magodongo Village was allocated land by an illegitimate headman, and they did not pay the allocation fee because they promised to do so later. Consequentially, they did not receive a legitimate receipt. After several years of occupying their land, they still do not have electricity, while their neighbours and even those that came after them have electricity. This is how the wife explained her despair:

I want electricity [she says this abruptly]. All these people have electricity. I don't have electricity because I am an elderly person. Is that possible? It's not possible. My groceries are getting rotten; I don't have a fridge. I have a fridge, but it is sitting in someone else's house. When I must cook meat, I have to go and collect it from that house. All these people came after me. All these people, even those people down there, but I do not have electricity. (Interview 30, 2022).

These systems, *iRasit*, the headmen, the ward councillor, the Municipality and Eskom, must cooperate in order for electricity to be provided. Essentially, Eskom can provide electricity to 'invisible' properties by combining customary and municipal administrative practices. Because INEP is a conditional grant (i.e. not



one automatically given to a local municipality), the release of the grant from National Treasury to Eskom requires coordination of these three key actors.

## **TRADITIONAL LEADERS – SERVICE PROVIDERS OF POST-APARTHEID NEO-LIBERALISM**

The Municipality of Thembisile Hani has 74 settlements, most of which are state-owned. Traditional leaders allocate land, record land rights, demarcate boundaries and consequently control land use and the spatial pattern of these settlements. They are also responsible for dispute resolution in social and land-related matters. Both adapted customary systems in which there are remnants of apartheid homeland practices, such as issuing *iRasit* and 'democratic' systems, such as allowing women and single mothers to become landholders are employed. They have also become part of the modern era of neoliberalism and capitalism in which customary land has gradually become part of the commoditisation machinery. Customary land is no longer freely available; it is allocated through the exchange of money – and the provision of electricity has become one key means by which traditional leaders attract settlers onto their land. The irony here is that (unlike the apartheid state, which gave the chiefs power over almost all aspects of village life), the democratic state officially stripped their role in development and basic services provision; nonetheless, even with these constraints, they have found ways to access basic services for their communities, as I explain below.

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In interviews with the Ndzundza Fene Traditional Authority Council (TAC), they revealed that the TAC reviews its land allocation waiting list before a new village is established. A waiting list is a database that records community members that request land. In one of the tribal ward offices in Moloto, the secretary of the Ndzundza Fene TAC has a stack of books piled up behind her desk; this is the waiting list. It is a hand-written register written in A4 hardcover notebooks. It has the details of people seeking land, such as their names and contact details, and she registers them as they come into her office. Once the register has a set number of waiting people, enough to form a settlement, the secretary, together with the designated headmen within her tribal ward, submits the register to the main headquarters, the Ndzundza Fene TAC, as an indication that there are enough people on the waiting list to form a new settlement. The TAC will deliberate on the location of the potential new settlement and decide to approach the Municipality for land.

The TAC submits a letter to the Municipality describing the need for a new settlement based on the waiting list as justification. The letter will also indicate reasons, such as the growth of their 'children'. The TAC refers to their subjects as *abatwana be Kosi* ('children of the King') and the need for the 'children' to move out of their family homes and establish their homesteads. This letter will move through the Municipality's bureaucratic and administrative systems. Its first stop is at the mayor's office, and its last stop is at the town



planning section. In most cases, the decision to establish a new settlement is political. The executive mayor and his council would need to approve the TAC's request.

The negotiations take place as formal meetings between the TAC and municipal officials. These can take place in the Municipality or the TAC offices. During my interview with the TAC, they explained that the success of the negotiations depends on who is in the political seat of the Municipality. If the political head is pro-chieftaincy, the negotiations between the TAC and municipal officials are easier than when a political head is against the chieftaincy for whatever reason. In other words, the entity that has the upper hand during the negotiations depends on the relationship between the political head and the TAC at that time.

Once there is approval to form a new settlement, sector departments, such as town planning, start negotiating the technical requirements of the new settlement. The town planning unit drafts a layout plan for the new settlement and ensures that all planning regulations and by-laws are reflected in the layout plan. The layout plan remains 'unofficial' but is approved by the Municipality until it is submitted to the Surveyor General. One of the town planners indicated that most layout plans are not submitted to the Surveyor General since the process is too costly for the Municipality. In essence, the layout plan remains a non-legal document with only formal municipal recognition. The limitation of this is that the layout plan is not connected to enforcement processes governed by zoning schemes, municipal by-laws, land use and management systems, and the formal property system. Its role is merely to guide traditional leaders and how land allocation should take place.

The advantage of the layout plan is its municipal recognition status. Municipal recognition of a new settlement unlocks a variety of activities. For the Municipality, the new settlement can now be included in the Integrated Development Plan (IDP) for planning and budgetary purposes. This then unlocks funds and triggers the installation of infrastructure and the provision of services. Should a TAC form a new settlement without consent from the Municipality, that settlement will not receive municipal recognition, nor will it receive municipal services. In fact, the Municipality refers to communities of such settlements as 'invaders' and 'illegal' occupiers, thus falling outside the municipal system. Falling out of the municipal system consequentially means a settlement will not receive services; if it does, they will be rudimentary.

Ward councillors can also advocate and bargain for the provision of basic services. In fact, some also become part of the land allocation process and work hand-in-hand with the headmen to ensure the appropriate land allocation. For instance, a new land-seeker may approach a ward councillor to assist him in finding land. Without hesitation, most ward councillors would direct the land-seeker to his ward headman. The headman would accompany the land-seeker to the site he would be allocated. The ward councillor witnesses this process to ensure that the land allocated by the headman is appropriate. For

instance, the land allocated should not be on a sports field or other land reserved for future use, such as a school, or it should not be under a powerline or on a servitude. In other words, the ward councillor represents the Municipality's interest. Once the price of land is agreed between the headman and the land-seeker, the land-seeker pays the allocation fee and is issued *iRasit*. The allocation fee is usually set by the TAC, although interviews revealed that pricing varies depending on several factors, such as the location of the site and the negotiations that take place between headmen and land-seekers. Ward councillors are not involved in setting the allocation fee, nor are they allowed to take money from land-seekers.

For the traditional authority, municipal recognition does not have to be represented by a layout plan. The mere agreement by the Municipality to demarcate land for a new settlement already triggers activities within the settlement. Once the TAC receives the go-ahead to allocate land in the new settlement, the headmen can start allocating land. The 'go-ahead' need not be formally written; sometimes, a gentlemen's handshake in the municipal corridors or offices is enough for the TAC and its headmen to start allocating land. An agreement can also be between the political head or his Council and the TAC through a formal meeting. Sometimes, the ward councillors may mediate between the TAC and the Municipality. The Municipality may inform the ward councillor of their approval; in turn, he will pass on the message to his ward headman. The TAC expressed that they usually cannot wait for formal processes, such as the inclusion of the new settlement into the IDP, as these take too long. Even rumours that the Municipality has approved land for a settlement attracts many land seekers, propelling the headmen to allocate land because of increased demand.

The TAC or headman can hold a community meeting to announce the start of land allocation, particularly for those registered on the waiting list. A gentleman from Buhlebesizwe Village explained that he had missed several of these meetings because he was away at work, causing him to be downgraded on the waiting list. In his opinion, if he had been physically present, he would have received his land earlier. The secretary of the TAC can also telephone people on the waiting list, particularly those that do not live in the area. Such was the case of a Mamelodi (a township in Pretoria) couple who explained that they received a phone call from the secretary to inform them that the allocation process had started. They were registered on the waiting list for two years before they were called. Another way to inform people of the start of land allocation is by word of mouth. Once rumours of the allocation process start, the community, family members, friends and neighbours start informing each other and those that do not live in the area, thus causing an influx of new land-seekers and those on the waiting list.

For this entire process to be a success, some requirements need to be met. Firstly, the TAC and the Municipality need to have good relations. Secondly, the TAC and Municipality must be open to negotiations where one listens to the other. The Municipality will attempt to impose town

planning regulations, such as not allocating land on servitudes or under power lines, reserving areas for recreational facilities, etc. Some headmen driven by money may see these regulations as unnecessary, especially when the demand for land is high and alternative land is scarce. In most cases, town planning regulations are respected by the headman when there is a good relationship between him and his ward councillor. This is because the ward councillor acts as a 'watchdog' for these 'rules' not to be broken. Once there is an understanding of these 'rules' between a headman and his ward councillor, there is cooperation.

The third requirement is that the headmen have to be legitimate members of a TAC. A legitimate headman is formally recognised by the Department of Cooperative Governance and Traditional Affairs and will therefore be recognised by the Municipality. He is regulated by the standard practices and rules of the TAC. Should he breach any agreement, the Municipality can hold the TAC to account. For instance, if a legitimate headman is found guilty of misconduct by the TAC, he may be removed from his position. However, if it is an illegitimate headman, the TAC has little power to hold him to account because he is not a legitimate member.

This process is not without challenges. For instance, the Municipality may delay its response or consent to allocate land. The Municipality can also reject the request citing environmental concerns or other planned projects for the identified site. In addition, even with municipal recognition, there is often a delay in the provision of services, which creates uncertainty and impatience in the community. Sometimes, opportunistic individuals pose as headmen and allocate land to make quick money during this process. The case of Magodongo Village is one example. Community members revealed during the interviews that Magodongo had recently been added to the IDP for electrification. They heard rumours, and some indicated that the ward councillor informed them that portions of Magodongo would be electrified in February 2022. Such rumours within the community had given rise to numerous opportunistic individuals who posed as headmen. The main reason was that the legitimate headmen died, leaving a gap in authority, and illegitimate headmen extorted money from newcomers and allocated them land in 'unapproved' locations. There may also be competing interests between the chieftaincy and the Municipality, as well as between headmen, whether legitimate or illegitimate. Political agendas within the Municipality or province and ward councillors may infiltrate the process. There may be other structural issues, such as limited municipal personnel and other challenges in the TAC.

Despite these challenges, the central argument is that the Municipality and the chieftaincy have found ways to incorporate their institutional agendas, one formal and the other customary, all in the name of providing land and services. In the end, both institutions do what they are mandated, even though their processes are outside the formal processes. Even though traditional leaders have complete control over

the customary land allocation process, they too, like Eskom, have managed to insert themselves into the municipal bureaucracy, allowing municipal systems to dictate, to some extent, some of their practices.

### **THE THEMBISILE HANI LOCAL MUNICIPALITY: ON A CONSTANT DRIVE TO IMPLEMENT REVENUE COLLECTION AMID HYBRID LAND GOVERNANCE**

Yet whilst Thembisile Hani Local Municipality has cooperated with Eskom and traditional leaders when it comes to rolling-out electricity connections onto traditional authority lands, it has also pushed-back against this system of invisible property. Since 2017, the municipality has attempted to implement a revenue collection system into the customary land administration system, unsuccessfully calling on traditional leaders to sign a MOU that would give it a share of *iRasit* revenues and exhorting community members to pay for municipal services through a publicity campaign known as Operation Hlasela (directly translated as 'Operation Attack').

Thembisile Hani Local Municipality attempted to 'formalize co-operation between the municipality and traditional authorities' through a MOU drafted in 2017 (Thembisile Hani Local Municipality 2022a: 62). This MOU calls on both the Municipality and TACs to develop layout plans for ease of formalisation, and requires that TACs must confirm compliance with the layout plan (Thembisile Hani Local Municipality 2022a). In the absence of an effective cadastral revenue collection system, one of the conditions in the MOU was that the Municipality must be paid for the services they provide by splitting the *iRasit* land allocation fees with the local headmen. In an interview with a municipal official, he indicated that the MOU proposed that a fee of R100 should be charged during land allocation by the headmen. He indicated that '[i]n that, out of that R100, *kgoshi* (traditional leader) will get R10, and we as the municipality, we are going to get R90' (Interview 40 2023). When I asked his opinion on the legislative requirement for rural citizens to pay municipal taxes, his response was that

Nothing is for *mahala* (free). I think we as a country, unfortunately, allow me to be controversial a bit. Unfortunately, these politicians are going out there and they want to be voted for but are not honest with our people. To say that look man, as much as I am saying that vote for me, just know that you have the responsibility to pay for what you get. They go out there saying that we are going to provide four, five, six, seven, eight, you understand?

Unfortunately, communities buy that ideology to say that no man, if so and so wins we are going to get this. They don't tell them the truth that as much as there is tap water in your home, you are expected to pay... That is why I am saying that unfortunately those that are saying vote for me are not telling people that no, ehmm, you get the service you pay for. Of which at the end of

the day, it comes back to the municipality... Maybe it's because they think that we (politicians) as a municipality have a way of generating our own revenue. That budget is not enough. It's not going to respond to challenges on the ground... There should be a campaign that no man, even you that live in the deepest rural area, must know that for you to put on the light you need to buy electricity. You need to know that you must pay for water. Collection of the dustbin, you need to pay for that. You, see? No. So, I am saying the wall-wall system, I support it (Interview 40 2023).

Yet to date, the MOU has not been signed because the chieftaincy is reluctant, and no revenue collection system has been implemented on land under their control. Even after several workshops and meetings between the Municipality and the seven TACs, the chieftaincies refuse to sign the MOU. One of the headmen explained his opinion of the MOU:

It's like now the Municipality is taking power from the chiefs, and you cannot allocate land, you are just a chief. You must just sit there and do nothing. Whatever you want to do, you must come and beg us, you must come and ask us and if we say no, then you must sit back and do nothing. [Do] [y]ou understand? It's that. So, I am saying to you that the document is one-sided (Interview 3 2022).

Lacking an effective revenue collection system, the Municipality is on a constant drive to remind community members of their obligation to pay for municipal services. Operation *Hlasela* is the slogan used on the Municipal Facebook page to encourage residents to pay for municipal services (Thembisile Hani Local Municipality 2022b). The Facebook poster is regularly posted on the social media platform and boldly announces residents to '[d]o the right thing and pay for municipal services'. It also makes mention of the indigent register for those that cannot afford to pay. For those that have municipal debt, there is a 90% amnesty write-off period from 10 July 2022 to 30 June 2023. The poster also states that community members should ensure that their residential details are captured correctly on the municipal billing system.

For all these policy plans and publicity campaigns, the fact of the matter is that the local state has little it can do either in the way of 'carrot and stick' policies that might on the one hand offer support for indigents, and incentives and rate rebates to pensioners and those living with disabilities, whilst at the same time threatening that failure to pay for services will result in debt collection and legal processes (Thembisile Hani Local Municipality 2013). A number of linked factors help explain the low bureaucratic and revenue raising capacity of the municipality.

First, out of 76 villages, only two are proclaimed townships, meaning that only those residents are liable to pay for their municipal services since their properties are linked to the revenue collection system. The 74 remaining villages on TAC land are on 'invisible' properties. Second, there is a large infrastructure backlog in the former homeland of KwaNdebele. Sewerage tariffs are paid by just a fragment of the population, while a large majority are not connected to the sewerage system both physically and administratively. This is the same issue with refuse collection; a large proportion of households receive no refuse removal service (Statistics South Africa 2020). Likewise, most households do not have prepaid water meters: they receive water for free. This ultimately means that large amounts of money are spent on buying water with no system to recover the supply costs. Thirdly, the Municipality has deficient capacity and personnel to take on an effective revenue collection system (Thembisile Hani Local Municipality 2022a). This is also because the revenue collection system is part of a collective municipal administrative system dependent on other sector departments to make it effective. For Thembisile Hani Local Municipality, most of these components are not functioning adequately, thus compromising the revenue collection system. Lastly, regulatory frameworks such as the Spatial Land Use Management Act 16 of 2013 (SPLUMA) requires all municipalities (rural and urban) to adopt the 'wall-wall' system of governance and have a single land use scheme. It confirms that the municipality is the sole authority on land use and management (Dullar Omar Institute, 2019). However, the legal cadastral system is almost non-operational in communal areas. Essentially, SPLUMA treats all municipalities the same without taking into account the added complexity that traditional leaders and customary land rights have on land in former homelands, thus adding to the inability to collect revenue.

Most fundamentally, the most practical way to generate revenues from a population that is very poor – (and here, Thembisile Hani Local Municipality has some of the highest rates of unemployment and indigence in Mpumalanga Province) – is to get households onto indigent registers that would qualify them to receive transfers from the National Treasury. Yet whilst the municipality has an indigent register for households earning less than R1100 per month, only 467 applications to the indigent register were approved in the 2021–22 financial year (Thembisile Hani Local Municipality 2023). This is because a poor typical low-income household depends on social grants and intra-family grant pooling as a livelihood strategy (Geyer et al. 2018). Such a household would not qualify to register for Free Basic Electricity because it will most likely exceed the limit. Additionally, households headed by pensioners would also not qualify since the government pension fund is currently R1,980 per month, thus exceeding the limit of the indigent policy (South African Government 2022).

A municipal official summarised the futility of government directives to collect revenues when he told me: '[t]here are triple challenges that we all know that the government has adopted, unemployment, inequality and poverty. So, you are expected again to collect revenue from unemployed people. Will you get that?' (Interview 40 2023).

## CONCLUSION

Scholars such as Bénit-Gbaffou and Oldfield (2011), Chatterjee (2004), Berry (2002) and Peters (2004) primarily examine how communities work within the rigid rules of formal systems to access government services in the context of informality. This article takes a different approach. Instead of focusing on how poor residents attempt to access government services, this article focuses on state and non-state institutions and how they attempt to provide services using informal systems to navigate the formal systems that govern them. Eskom is one state institution that has successfully allowed its bureaucratic systems to be incorporated into the day-to-day customary land process. It has also indirectly facilitated cooperation between the community, Municipality and traditional leaders, all in the name of providing electricity. On the other hand, traditional leaders of former KwaNdebele infiltrate the municipal administration system to bargain for services for their communities, strengthening their relevance within the settlements. As for the Municipality, even though it attempts to enforce rigid municipal systems, they are irrelevant in the context of hybrid land governance, and it too submits to the requests of the traditional leaders. For traditional leaders who do not recognise the Municipality's authority, their settlements are 'left in the dark', literally so.

## NOTES

1. This compares to the wealthy "Category A, metropolitan municipalities" – i.e. the largest South African cities – which generate more like 70% of their own revenue. (Statistics South Africa, 2021).
2. I conducted thirty-five door-to-door interviews through purposeful sampling with community members from the two villages, Buhlebesizwe and Magodonga. From the municipality, two officials and two ward councillors were interviewed. From the Ndzundza Tribal Council, two interviews and one focus group interview (with eight local headmen and the Nkosana or senior traditional leader) were conducted.
3. A legitimate headman is one that is registered and recognised by the Department of Cooperative Governance and Traditional Affairs (COGTA). Additionally, the names of the headmen are gazetted. COGTA is the official state department that manages the relationship between the three spheres of National Government and the traditional authorities.

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