

DETERMINATION ON BAPEDI PARAMOUNTCY

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1.

INTRODUCTION

1.1 CONSTITUTIONAL PROVISIONS

- (a) Chapter 12 (sections 211 and 212) of the Constitution of the Republic of South Africa provides for the recognition of the institution of traditional leadership, its status and role according to customary law, subject to democratic principles. It is common cause, however, that over the years the institution of traditional leadership has been undermined, distorted and eroded.

- (b) Some of the main causes of this distortion are imperialism and colonization; repressive laws, in particular, the Black Administration Act, 38 of 1927 and Apartheid laws which provided for the creation of territorial authorities, self-governing states and pseudo-independent enclaves.

1.2 **ESTABLISHMENT OF THE COMMISSION**

- (a) In order to restore the dignity of this institution, the State President of the Republic of South Africa appointed a Commission on Traditional Leadership Disputes and Claims.
- (b) The Commission is established in terms of section 22(1) of the Traditional Leadership and Governance Framework Act, 41 of 2003 (the Framework Act)

1.3 **FUNCTIONS OF THE COMMISSION**

- (a) In terms of section 25(1) the Commission operates nationally and has authority to decide on any traditional leadership disputes and claims contemplated in subsection (2) and arising from any province. Accordingly in terms of section 25(2)(a) of the Framework Act, the Commission has authority to investigate, either on request or of its own accord the following:

- (i) a case where there is doubt as to whether a kingship, senior traditional leadership or headmanship was established in accordance with customary law and customs;
- (ii) a traditional leadership position where the title or right of the incumbent is contested;
- (iii) claims by communities to be recognised as traditional communities;
- (iv) the legitimacy of the establishment or disestablishment of "tribes";
- (v) disputes resulting from the determination of traditional authority boundaries and the merging or division of "tribes".
- (vi) where good grounds exist, any other matters relevant to the matters listed in this paragraph, including the consideration of events that may have arisen before 1 September, 1927.

- (b) In terms of section 28(7) of the Framework Act, the Commission must investigate in terms of section 25(2), the position of the paramountcies and paramount chiefs that had been established and recognised, and which were still in existence and recognised, before the commencement of this Act, before the Commission commences with any other investigation in terms of section 25(2).
- (c) Furthermore, when considering a dispute or claim the Commission is obliged in terms of section 25(3)(b) of the Framework Act to be guided by the criteria set out in section 9(1)(b) of the same Act, and such other customary norms and criteria relevant to the establishment of a kingship.
- (d) In order to satisfy itself whether a kingship exists, the Commission has to take into cognisance the following considerations:-
- (i) the need to establish uniformity in the Republic in respect of the status afforded to a king or queen;

- (ii) whether a recognised kingship exists:-
 - (aa) that comprises the areas of jurisdiction of a substantial number of senior traditional leaders that fall under the authority of such a king or queen;
 - (bb) in terms of which the king or queen is regarded and recognised in terms of customary law and customs as a traditional leader of higher status than the senior traditional leaders referred to in subparagraph (aa); and
 - (cc) where the king or queen has a customary structure to represent the traditional councils and senior traditional leaders that fall under the authority of the king or queen; and
- (iii) the functions that will be performed by the king or queen.

2.

FOCUS

- 2.1 Having defined the functions of the Commission in general under paragraph 1.3 herein above this investigation is limited to section 25(2)(a)(i).
- 2.2 Section 28(7) of the Framework Act enjoins the Commission to investigate, in terms of section 25(2), the position of paramountcies and paramount chiefs that had been established and recognised, and which were still in existence and recognised, before the commencement of this Act, before the Commission commences with any other investigation in terms of section 25(2).
- 2.3 The focus of this investigation is the paramountcy of Bapedi.
- 2.4 The investigation is to determine whether the paramountcy of Bapedi was established in accordance with customary law and customs. This investigation is conducted by the Commission of its own accord.

3.

METHODOLOGY

3.1 This determination focuses on the paramountcy of Bapedi.

3.2 In the process of its investigation, the Commission conducted public hearings in two stages:-

3.2.1 The first stage was used to gather evidence and information. The Commission conducted separate hearings for the royalties of Kgagudi Sekhukhune, Rhyne Thulare Sekhukhune and Mampuru.

3.2.2 The second stage was held after the Commission had conducted its own research. The purpose of this second stage was to canvass information gathered during the research of the Commission.

3.2.3 The parties had been furnished with a set of questions arising from the research of the Commission. They were expected to respond specifically to the said

questions at the hearing. During this stage the hearing was held jointly.

3.3 During both stages the procedure adopted at the hearings was as follows:-

3.3.1 Public hearings in which selected members of the Kgagudi Sekhukhune, Rhyne Thulare Sekhukhune and Mampuru royal houses and others appointed by them testified under oath and referred the Commission to supplementary research material;

3.3.2 This was followed by an opportunity for commissioners to raise questions and seek clarity from the presenters;

3.3.3 Interested parties were afforded an opportunity to challenge the version of the royal house and state their case;

3.3.4 Members of the public were permitted to pose questions to the presenters and make comments. (This was only applicable to the first stage).

4.

HISTORICAL BACKGROUND

- 4.1.1 The Bapedi community originates from Bakgatla ba Makau, a Batswana clan, which resided near the Vaal river during the sixteenth century. They were led by Tabane who had five sons namely, Diale, Kgwadi, Kgetsi, Matsibolo and Mosia.
- 4.1.2 Diale was the heir and successor to Tabane.
- 4.1.3 Diale had a wife, Mmathobela. According to legend the child cried whilst in her womb. The community wanted to kill both mother and child, as they perceived this incident to be a bad omen.
- 4.1.4 Diale left with his wife and followers. He eventually settled at Fateng, close to the present Fort Weeber.
- 4.1.5 The Bakgatla who left with Diale were later to constitute the core of Bapedi.

- 4.1.6 Thobela, the son of Diale, founded the Bapedi traditional community round about 1650. He settled at Mohlake, at the foot of Leolo Mountain. His royal palace was at Tšate.
- 4.1.7 Thobela was succeeded by his son Kabu. Kabu had two sons, Thobejane and Thobela. Thobejane succeeded Kabu and he in turn was succeeded by Moukangwe.
- 4.1.8 The eldest son of Moukangwe, Leseilane, predeceased him. Moukangwe in his old age became blind, and Mohube his younger son, became regent.
- 4.1.9 When Mohube died his younger brother Mampuru I became regent for Morwamotshe I, the son and heir of Mohube.
- 4.1.10 A succession struggle ensued between Mampuru I and Morwamotshe I. Mampuru I was defeated and fled with his followers.

- 4.1.11 Morwamotshe I rebuilt his village along the Steelport River, where he died.
- 4.1.12 He was succeeded by his son, Dikotope. Thulare I, the younger brother to Dikotope assisted by Mampuru I fought and killed Dikotope. Thus Thulare I usurped the kingship.
- 4.1.13 Thulare I fought, conquered and subjugated several neighbouring communities, including amaNdebele of Moletlane.
- 4.1.14 Thulare I was succeeded by Malekutu who ruled for two years. Malekutu I was poisoned by his brother, Matsebe, and died without an heir. Matsebe in turn was killed by his brother Phetedi, who subsequently succeeded him as *kgoš'i*¹.
- 4.1.15 Phetedi, together with his followers and other sons of Thulare I, were killed by Matebele of Mzilikazi. Sekwati I was the only surviving son of Thulare I after the Mzilikazi invasion. He hid in the Leolo Mountains with a number of his followers.

¹the traditional leader

- 4.1.16 Sekwati I later established himself at Phiring, in the north eastern part of the present Nebo district. He fought and ambushed Marangarang, a *kgoši* of Bakone who had asserted his authority over Sekhukhuneland. He also defeated the communities of Phaala and Makgala. He successfully defended himself against attacks by amaSwazi. He also conquered the traditional community of amaZulu, who were under the leadership of Mpande. Mpande posed a serious threat to Sekwati. He later made peace with AmaZulu by sending the latter gifts.
- 4.1.17 Sekwati I thereby expanded and consolidated the efforts initiated by Thulare I of establishing the Bapedi kingship. He died in 1861, and was buried at Mosegokop.
- 4.1.18 After the death of Sekwati I, his son, Sekhukhune I, made his intention clear to succeed him. Sekhukhune I challenged his half-brother and claimant to the title, Mampuru II, to a fight, by throwing a spear towards him. Mampuru II declined

the challenge. Instead he cowered and fled, taking the royal accessories with him.

4.1.19 Sekhukhune I went on to bury his father Sekwati I. He forcefully claimed the kingship. He killed all the supporters of Mampuru II. He gathered all the various traditional leaders who were under his father and challenged them. They all cowered. He then ascended the throne.

4.1.20 Sekhukhune I immediately started attacking communities that refused to pay allegiance to him.

4.1.21 He further consolidated the Bapedi kingship initially established by Thulare and Sekwati. He welded together several communities which had existed as separate entities.

4.1.22 Mampuru II later returned and killed Sekhukhune I on 13 August 1882, at his Great Place, Manoge. However, Mampuru could not rule as he was hanged for the murder of Sekhukhune I.

- 4.1.23 After the death of Sekhukhune I, the history of Bapedi kingship is characterized by successive regencies.
- 4.1.24 Kgoloko, the half-brother of Sekhukhune became regent as Sekhukhune II was still a minor, When Sekhukhune II became of age he ascended the throne.
- 4.1.25 Sekhukhune II was predeceased by his son and heir, Thulare II. The latter had no heir from his *timamollo*², Legolane. Sekhukhune II died.
- 4.1.26 After his death, Morwamotshe III, a brother to Thulare II, was appointed as regent until his death in 1965.
- 4.2 There are different versions in relation to the status of Mampuru II and Sekhukhune I following the deaths of Malekutu I and the rest of his brothers.
- 4.2.1 According to the Mampuru royal family:-

² literally "the one who extinguishes the fire"

- (a) Thulare I was the first *kgoši* of Marota a Mamone and was succeeded by Malekutu I. Malekutu I died without issue therefore, Sekwati I became regent.
- (b) Sekwati I was a regent and as such he was expected to raise seed for Malekutu I.
- (c) Sekwati I had a wife called Thorometšane who gave birth to a son, Sekhukhune I.
- (d) Sekwati I later married Kgomomakatane (Lekgolane), as a *timamollo* to the late Malekutu I. She gave birth to a son, Mampuru II, who was to succeed Malekutu I.
- (e) According to the custom of Bapedi it is irrelevant who fathers the heir, so long as he is born of *timamollo*.
- (f) The power to decide on the marriage of *timamollo* for a deceased *kgoši* rests with

Bakgoma and *Bakgomana*³ not the regent.

- (g) Sekwati I recognised Mampuru II and gave him the royal insignia including *sefoka* (royal emblem) and *pheta ya thaga* (royal beads).
- (h) When Sekwati I died, Sekhukhune I usurped the kingship. Mampuru II fled with his followers.
- (i) Later Mampuru II returned to kill Sekhukhune I. Mampuru II was hanged in Pretoria in 1885 for the murder of Sekhukhune I.
- (j) Malekutu II succeeded Mampuru II. He died in 1905 and was succeeded by his son Malekutu III, who died in 1958. He was succeeded by Mampuru III the current *kgoši* of Marota a Mamone.

4.2.2 On the other hand, Kenneth Kgagudi Sekhukhune and Rhyne Thulare Sekhukhune state the following:-

³ the king's council

- (a) They do not dispute that Malekutu I died without issue and was followed by Sekwati I as regent,
- (b) However, they maintain that:-
- (i) When Sekwati I became regent he already had a wife Thorometšane, the mother of Sekhukhune I.
- (ii) When *Bakgoma* and *Bakgomana* suggested that Sekwati I should marry a candle wife to raise seed for Malekutu I, he refused and pointed out that he already had a son Sekhukhune I, whom he had identified as his successor.
- (iii) *Bakgoma* and *Bakgomana* went on to marry a *timamollo*, Kgomomakatane, the mother of Mampuru II, despite the refusal of Sekwati I.

- (iv) According to the Sekhukhune royal family, Sekwati I could not have fathered Mampuru as he was too old at the time Mampuru was conceived.

- (v) Upon the death of Sekwati I, a succession war ensued between Sekhukhune I and Mampuru II, until the latter fled. Sekhukhune I succeeded Sekwati I.

5.

CUSTOMARY LAW OF SUCCESSION

5.1 Succession to the Kingship of Bapedi

5.1.1 The rules of succession discussed in this section are based on the information presented during the hearings and from Monnig⁴ and are mostly common cause between the parties:-

⁴H.O Monnig, *The Pedi* (1967)

- (a) Customary succession is based on a system of male primogeniture. A female cannot succeed. The status of a wife within a polygamous marriage determines succession to kingship;
- (b) Amongst the wives of a kgoši, there is *timamollo* or candle wife. The *magadi (lobola)* of the candle wife (great wife) is derived from contributions made by the community.
- (c) The name *timamollo* is derived from the ceremony that takes place upon her arrival at the royal house. All fires in the village are extinguished. Then her candle is lit first and all other fires are lit from the candle of *timamollo*.
- (d) *Timamollo* is married in order to bear an heir to the throne;

- (e) The heir to the throne is the first born son of *timamollo*. He assumes traditional leadership at the death of his father, unless he is disqualified because of misconduct.

5.1.2 If customary laws of succession discussed above fail to provide an heir, the following customary practices are resorted to:-

- (a) If a *timamollo* is unable to bear an heir, *hlatswadirope* acts as a surrogate mother;
- (b) where a candle wife dies without issue, one of her sisters, or close relatives is provided as *seantlo*⁵, to bear children on her behalf. The same ritual of marrying a *timamollo* is followed in marrying the *seantlo*;
- (c) in the event of the death of a *kgoši* without issue, the royal family appoints

⁵Seantlo – the one who bears an heir for the deceased elder sister

someone to raise seed on behalf of the deceased;

(d) if the *kgoši* dies while his successor is still a minor, a younger brother of the deceased becomes a regent.

(e) where an heir dies before marriage, *timamollo* is married on behalf of the deceased to bear an heir. The royal family appoints someone to father the heir, often the regent.

6.

IMPACT OF LEGISLATION

6.1 Colonial Era

6.1.1 Before the advent of colonization the basic political unit of the Bapedi was the traditional community. The institution of traditional leadership was regulated mainly by customary law and practices of a traditional community. The king ruled by popular

mandate. He took decisions with his councilors, who were usually the extended royal family. The essence of the system was aptly described by Monnig as follows:-

“The functions of the chief are wide and varied. He is considered to be the father of his tribe, its legislator and supreme judge, it’s supreme priest and ritual head.... All the functions and duties of the chief are united as a single whole in the chieftainship. The various duties in unison described the office of the chief.”

6.1.2 One cannot say that the traditional authorities played a significant role during the colonial era. They were either ignored or recognised to play a marginal role. Colonization and later apartheid had a profound impact on traditional leadership institutions. The following is a brief outline on how it affected Bapedi:-

(a) The period of the Zuid Afrikaanse
Republik (1852-1877) was

characterized by its policy of non-interference in the internal matters of Africans. For instance, The Volkraad issued an instruction on 28 November 1853 to all commandants of the Republic to allot, where necessary, ground for occupation by the African communities on which chiefs could continue to exercise full traditional powers over members of the traditional communities⁶;

- (b) During the first brief annexation of the Transvaal (1877 – 1881) the British authorities instituted a separate Department of Native Affairs. It was deemed necessary that the Africans be;

“Governed by and under their own laws and customs and that the Governor or Administrator should be appointed Supreme Chief with the power of appointing

⁶ Brookes, EH History of Native Policy in South Africa (1924) p. 125

Administrators of Native Law in accordance with their laws and customs, subject to appeal to him as Supreme Chief.”

- (c) Law No. 11 of 1881 was promulgated in terms of which the Administrator of the Transvaal was declared Supreme Chief over all the African tribes in the Transvaal and the landdrosts (magistrates) were appointed as Administrators;

- (d) When the Transvaal Republic regained independence it passed Act 4 of 1885. Section 13 provided that the President, who had been declared supreme chief would exercise the same powers as had the senior traditional leader or *hoofkaptein*. He could depose African chiefs, he could remove them, place them in custody or replace them with others⁷;

⁷ Brookes *op cit* 130

- (e) During the second annexation of the Transvaal (1899 – 1910) the status quo was maintained.

6.2 **Apartheid Era**

6.2.1 The Black Administration Act, re-affirmed the colonial “recognition” of chiefs and headmen. In terms of section 1, the Governor-General (later the State President) was declared the Supreme Chief of all Blacks in the country. Other chiefs had to be officially appointed. Provision was made for the appointment of paramount chiefs. In addition tribes could be established or disestablished (sections 3 to 12);

6.2.2 From 1927 to 1951, traditional leaders and their councils played a minor role in district administration. They were only assigned some functions, mainly aimed at maintaining law and order; for which they were paid a quarterly stipend. These functions were eventually legislated by Regulations Prescribing the Duties, Powers,

Privileges and Conditions of service of chiefs and headmen, Proclamation No. 110 of 1957.

6.3 **Homeland Era**

6.3.1 The National Party re-designed tribal authorities to form the building blocks of its homeland constitutional structures. With that end in view, the Black Authorities Act, 68 of 1951 was adopted. It provided for:-

- (a) The recreation and activation of tribal authorities, consisting of a group of administrative areas (formerly called locations) owing allegiance to a senior traditional leader;
- (b) Where there was no coherent traditional leadership, contiguous administrative areas were grouped together into community authorities;

- (c) Authorities belonging to the same district were grouped together into regional authorities;
- (d) The regional authorities in turn were grouped together in a territorial authority for the homeland concerned;
- (e) The regional authority was granted legislative powers;
- (f) Then self-government was conferred on the homeland.

6.3.2 In order to legitimise its homeland policy, the apartheid government manipulated the institutions of paramountcy and chieftainships and distorted the definition of “tribe”.

6.3.3 A tribe or traditional community, is a well-known African constitutional entity and described by Samson as follows:-

“Inhabitants of an independent chiefdom make up a tribe. And ‘tribe’ is a Southern Bantu concept of a people properly joined in common political association. A tribe is also an ethnic idea, its members sharing in a language and a culture. Ethnic identity is always coupled with ideas about a people’s common origin and their collective ethnic history.

6.3.4 The apartheid government distorted the definition of tribe in the following manner:-

- (a) in certain instances paramountcies were created where none existed;
- (b) A “white” head of state was imposed as Supreme Chief of all Africans;
- (c) Tribes were cast into statutory entities which were foreign to them;
 - (i) Under a defined area of jurisdiction they were given

specific powers and functions to be exercised through new administrative machinery;

(ii) furthermore, new tribes were established and recognised;

(iii) the grouping of tribes into regional and territorial authorities was previously unheard of.

6.4 **Post-Apartheid Era**

6.4.1 Section 211(1) of the Constitution provides for the status role and recognition of the institution of traditional leadership according to customary law and subject to the constitution.

6.4.2 To this end, national legislation may provide for the status and role of traditional leadership as an institution at local level on matters affecting local communities. This culminated in the promulgation of the Traditional Leadership and Governance Framework Act 41 of 2003 (The Framework Act)

6.4.3 The objective of the Framework Act is:-

“To provide for the recognition of traditional communities; to provide for the establishment and recognition of traditional councils; to provide a statutory framework for leadership positions within the institution of traditional leadership, the recognition of traditional leaders and the removal from office of traditional leaders; to provide for houses of traditional leaders; to provide for the functions and roles of traditional leaders; to provide for dispute resolution and the establishment of the Commission on Traditional Leadership, Disputes and Claims; to provide for a code of conduct; to provide for amendments to the Remuneration of Public Office Bearers Act, 1998; and to provide for matters connected therewith.”

6.4.5 The Commission on Traditional Leadership Disputes and Claims in a nutshell, is mandated to

regularize and restore the dignity of the institution of traditional leadership.

6.4.6 The Framework Act, requires the governments of the provinces (including Limpopo) to enact legislation to provide for matters peculiar to provinces. The legislature of Limpopo has accordingly enacted the Traditional Leadership Legislation Act, 2005, that was in evidence at the time when the Act, came into operation.

7.

CURRENT STATUS

7.1 In terms of section 28(1) any traditional leader who was appointed as such in terms of applicable provincial legislation and was still recognised as a traditional leader immediately before the commencement of this Act, is deemed to have been recognised as such in terms of section 9 or 11, subject to a decision of the Commission in terms of section 26.

7.2 Bapedi have an officially recognised paramountcy.

- 7.3 Kgagudi Kenneth Sekhukhune is the acting paramount chief.
- 7.4 There are seventy officially recognised senior traditional leaders, within his area of jurisdiction.
- 7.5 His area of jurisdiction is Sekhukhune district: Greater Tubatse, Makhuduthamaga, Fetakgomo and Marble Hall.

8.

DETERMINATION

8.1 Issues to be Determined

8.1.1 The issues are:-

- (a) Whether in the course of the history of Bapedi, a kingship was established;
- (b) if it was established, by whom, how and when;
- (c) whether the kingship has since been passed on from one generation to another according to the custom of Bapedi;

- (d) whether after the death of Sekwati I, the kingship was legitimately claimed by Sekhukhune I.
- (e) whether the position of the Bapedi paramountcy was established in terms of customary law and customs.

8.2 **Analysis of Issues**

8.2.1 In pursuit of uniformity in the Republic in terms of the Framework Act the Commission takes cognisance of the following principles:

- (a) The establishment of an independent traditional community under one leader,
- (b) Welding together diverse cultural and linguistic elements or communities each with its own recognisable traditional leader under one principal traditional leader;
- (c) The traditional community should not have lost its independence through indigenous

political processes which resolved themselves during the centuries before colonial intrusion.

- (d) The principal traditional leader should rule over the entire traditional community with linguistic and cultural affinities rather than a section thereof.

8.3 **Analysis of Evidence**

8.3.1 Tabane had five sons, Diale, Kgwoali, Kgetsi, Matsibolo and Mosia. Diale left and settled at present-day Fort Weeber. The Bakgatla who left with Diale later constituted the core of Bapedi.

8.3.2 Thobela, the son of Diale, established the Bapedi nation.

8.3.3 Thobela was succeeded by Kabu, Thobejane, Moukangwe, Mohube, Mampuru I, Morwamotshe and Dikotope, respectively.

- 8.3.4 The younger brother of Dikotope, Thulare I assisted Mampuru I fight and kill Dikotope. Thulare I then usurped *bokgoši*.
- 8.3.5 Thulare I laid the foundation for the establishment of the Bapedi kingship, through conquering, and subjugating several neighbouring communities, including amaNdebele of Moletlane.
- 8.3.6 Thulare I was succeeded by Malekutu, Matsebe and Phetedi, respectively, who were all assassinated. Sekwati I was the only surviving son of Thulare I.
- 8.3.7 Sekwati I later established himself at Phiring, in the north eastern part of the present Nebo district. He fought and conquered surrounding communities such as Bakone and Makgakala. He successfully defended himself against attacks by amaSwazi and amaZulu of Mpande;
- 8.3.8 Sekwati I expanded and consolidated the Bapedi kingship established by Thulare I.

8.3.9 It is common cause that:-

- (a) Malekutu I as the son of *timamollo* was the rightful heir and successor in title to the kingship of Bapedi after the death of Thulare I,
- (b) Sekwati I became the only surviving son of Thulare I after the fratricide and the attack by Mzilikazi,
- (c) Sekwati I was a regent for the successor of Malekutu.

8.3.10 The Mampuru Royal Family claims that Mampuru II as the son of *timamollo* Kgomomakatane was the rightful successor to Malekutu I. However, the Sekhukhune royal family contends that, Mampuru II was not the rightful heir as he was not born of *timamollo* recognised by Sekwati I, furthermore, Mampuru II was not fathered by Sekwati I.

8.4 The Commission finds that:-

8.4.1 Where a *kgoši* dies without having married *timamollo Bakgoma* and *Bakgomana* are responsible for:-

(a) Identifying and marrying a *timamollo* on behalf of the deceased *kgoši*; and

(b) Appointing someone to raise seed on behalf of the deceased *kgoši*.

8.4.2 Sekwati I as regent had no kingship to pass on to Sekhukhune I;

8.4.3 The version of the Mampuru royal family that maternity and not paternity is the overriding consideration in determining succession to *bokgoši* is correct, as this is the case in many African communities.

8.4.4 The possession of royal insignia alone does not bestow kingship.

8.4.5 Mampuru II fled with his followers, without the kingship. Even after returning to kill Sekhukhune I, Mampuru did not ascend the throne. Malekutu III succeeded Mampuru II as leader of the followers of Mampuru II and not as king of Bapedi.

8.4.6 It was not unusual for the kingship to be obtained through might and bloodshed and therefore the usurpation of kingship by Sekhukhune I was in line with common practice at that time.

9.

CONCLUSION

9.1 The official recognition of the institution of *bogoši bjo bogolo* was in line with customary law and customs of the traditional community of Bapedi in that:-

- 9.1.1 The status of a traditional leader should be determined by the rank that he occupies within the traditional community as a whole.
- 9.1.2 The rank is determined by well established customary laws common to most of the indigenous people of South Africa, being the status of the mother, male primogeniture and the performance of specific rituals.
- 9.1.3 In this case, the areas of jurisdiction will be those populated by Bapedi traditional communities and headed by senior traditional leaders who owe allegiance to *bogoši bjo bogolo*.
- 9.2 In the course of the history of Bapedi a kingship was established by Thulare I through subjugating and conquering neighbouring communities (1790-1820).
- 9.3 From the reign of Thulare I the kingship passed on from one generation to the next through custom and sometimes through bloodshed.

- 9.4 Sekwati I virtually recreated the kingship, after the wars of Mfecane Sekwati re-established and extended the kingship of Bapedi started by Thulare I. After the death of Sekwati I in 1861, the kingship was claimed by Mampuru II and Sekhukhune I.
- 9.5 Sekhukhune I won the succession battle against Mampuru II upon the death of Sekwati I in 1861, and ascended the throne.
- 9.6 The paramountcy of Bapedi is a kingship.
- 9.7 The kingship resorts under the lineage of Sekhukhune.