

**DETERMINATION ON MANALA-MBONGO AND NDZUNDZA-
MABHOKO PARAMOUNTCIES**

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INTRODUCTION

1.1 CONSTITUTIONAL PROVISIONS

- (a) Chapter 12 (Sections 211 and 212) of the Constitution of the Republic of South Africa Act 106 of 1996 (“the Constitution”) 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 were imperialism and colonization; repressive laws, in particular, the Black Administration Act 38 of 1927 (“the Black Administration Act”) 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 in terms of section 25(2), investigate

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).

(c) Furthermore, when considering a dispute or claim, the Commission is obliged in terms of section 25(3)(b)(i) to be guided by the criteria set out in section 9(1)(b) 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 the investigation is on the paramountcy of Manala-Mbongo and the paramountcy of Ndzundza-Mabhoko.
- 2.4 The investigation is to determine whether the paramountcies of Ndzundza-Mabhoko and Manala-Mbongo were established in accordance with customary law and customs. The investigation is conducted by the Commission of its own accord.

3.

METHODOLOGY

- 3.1 This determination focuses on the paramountcies of Ndzundza-Mabhoko and Manala-Mbongo as their history and existence is substantially intertwined. They are collectively known as amaNdebele.

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 paramountcies of the Ndzundza-Mabhoko and Manala-Mbongo.

3.2.2 The second stage was held after the Commission had conducted its own research. The purpose of this second stage was to canvas 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 Ndzundza-Mabhoko and Manala-Mbongo 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 versions of the two royal houses 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 BACKGROUND¹

- 4.1 AmaNdebele are Nguni people. Mnguni, the great forefather of the Nguni people, had four sons: Xhosa, Luzumane (Zulu), Swazi and Ndebele. Ndebele broke away about 1550 AD to establish the amaNdebele community.
- 4.2 Along the way Ndebele fought, defeated, conquered and subjugated communities. He welded them together under a common custom, language and culture of isiNdebele. Thus amaNdebele kingship was created.
- 4.3 Ndebele died around the Drakensberg Mountains.
- 4.4 Mhlanga, his successor, eventually settled at Emhlangeni, around present day Randfontein. Mhlanga fathered Musi who came to Wonderboom, (KwaMnyamana). AmaNdebele settled in various areas of the old Transvaal province

¹Information gathered during the amaNdebele kingship hearings and from Indigenous Public Law in KwaNdebele – Prinsloo and Myburgh 1985, (J.L. van Schaik)

spanning present-day Gauteng, North-West, Limpopo and Mpumalanga.

4.5 Musi was the last *ingwenyama* to rule over a united amaNdebele.

4.6 The relevant period for the purpose of this finding is from the reign of Musi.

5.

CUSTOMARY LAW OF SUCCESSION

5.1 Succession to the kingship of amaNdebele

5.1.1 As it is with most African communities, customary succession among amaNdebele is governed by the principle of male primogeniture. A female cannot succeed.

5.1.2 Usually, the successor will be the first-born son of the great wife. The *lobola* of the great wife is derived from contributions made by the community.

- 5.1.3 If the great wife is unable to bear an heir, recourse is had to other measures. A younger sister or a close relative of the great wife (*inhlazi*) is married, to bear an heir². If neither the great wife nor the *inhlazi* wife has sons, the senior among the other wives of *ingwenyama* is resorted to, to bear the successor.
- 5.1.4 Only a legitimate son fathered by *ingwenyama* can succeed to the throne.
- 5.1.5 A successor is eligible to become an *ingwenyama* only after he has been initiated. Generally, physical handicaps are not a bar to succession, except blindness.
- 5.1.6 If an heir apparent has been excluded, the next senior male (for example, the full younger brother of the person excluded) will succeed.
- 5.1.7 Ascension to the throne occurs upon the death of *ingwenyama* (*Ikosi ayibusi enye isaphila*³). At the

²This practise is known as “ukubeletha” sororate

³ A successor does not ascend the throne whilst the king is still alive

burial of *ingwenyama* the successor-in-title is identified by wearing his clothes inside-out (*ukuhlanukela*).

- 5.1.8 He is required to perform various rituals including taking possession of the accessories to the throne, descending into the grave of his predecessor, symbolically receiving the baton and emerge as an *ingwenyama*.
- 5.1.9 A successor is installed immediately after the burial of the deceased *ingwenyama*. The new *ingwenyama* is inaugurated during a small ceremony at the great place attended by the men of the royal family.
- 5.1.10 Following the inauguration “the crier” announces loudly in the presence of the people the name of the new *ingwenyama*, who appears wearing the royal robes and holding the rhinoceros horn sceptre. Cattle are slaughtered and there is beer to celebrate the ascension to the throne of the new *ingwenyama*⁴.

⁴ Indigenous Public Law in KwaNdebele above

5.1.11 According to the Ndzundza-Mabhoko, ascension to the throne could be gained by might. The manner in which access is gained to the accessories is not important. Possession thereof is sufficient. However, the Manala-Mbongo contend that it is not enough to possess the accessories; the successor-in-title must go through all the rituals as mentioned above.

6.

THE SPLIT

6.1 The events immediately prior to the death of Musi are mostly common cause as recounted by Zwelabo Jeremiah Mabena of the Manala-Mbongo and Mbulawa Sovetsheza Mahlangu of the Ndzundza-Mabhoko and are as follows:-

6.1.1 Musi had eight sons, two of whom played a pivotal role in the history of *ubungwenyama* of amaNdebele, Manala and Ndzundza. Manala was

born of the great wife. Ndzundza was born of the second wife.

6.1.2 The other sons of Musi were Masombuka, Dlomo, Skosana, Mhwaduba, Mphaphuli and Mthombeni. After the death of Musi, each of his sons left to settle in various places:-

(a) Masombuka went to the then Southern Transvaal, and later returned to join the supporters of Ndzundza in the Middelburg district.

(b) Dlomo went to Zululand, and became the father of the amaNdebele clan in Zululand.

(c) Skosana joined Ndzundza but later left and eventually settled in Swaziland, where he became the originator of amaNdebele.

(d) Mhwaduba formed a Batswana traditional community, but later joined Ndzundza at

KwaSimkhulu where he became the originator of the Bahwaduba clan.

(e) Mphaphuli left for the then Northern Transvaal, usurped the leadership of the Vhavenda traditional community, but later joined Ndzundza at Mananga.

(f) Mthombeni left and joined Ndzundza but later hived along the Olifants river and established the Gegana (Kekana) traditional community in Zebediela and later the Mthombeni traditional community among Vatsonga.

6.1.3 The first wife of Musi died. Meanwhile Musi had become blind through old age and was sickly. He was nursed by his surviving second wife and mother of Ndzundza. The second wife overheard Musi instructing Manala to come and see him in the morning. She believed that the appointment had to do with the handing over of the accessories of *ubungwenyama* to Manala. She then instructed Manala to go and hunt for the *imbuduma* (wild

buck) for his father. This was a ploy to keep him away from the household in order to orchestrate her plan that Ndzundza impersonate Manala and receive the accessories for the throne.

6.1.4 After Manala had left to hunt for the animal she then called her son Ndzundza to go to Ingwenyama Musi and impersonate Manala by wearing a sheep skin in order to appear hairy like Manala⁵. Musi believing Ndzundza to be Manala, gave him the accessory to the throne, customarily passed on from the incumbent to the successor. This accessory called *namrali* is a mysterious object that cries like a child, used to fortify an *ingwenyama*.

6.1.5 Upon learning that Ndzundza had received the *namrali* the mother advised him to flee from the wrath of Manala. He took the *namrali* and fled with a number of followers.

6.1.6 On his return from the hunting trip Manala then went to see his father. His father informed him that he had already given away the *namrali* to

⁵Similar to the biblical story of Jacob and Isaiah (Genesis 27:1-40)

Ndzundza. It was then that Musi realised that he had been deceived by Ndzundza.

6.1.7 Manala called *imbizo*⁶ and announced that Ndzundza had stolen the *namrali*. Musi then instructed Manala to pursue Ndzundza and bring him back to the royal household and if Ndzundza refuses to come back Manala should kill him.

6.1.8 Manala caught up with Ndzundza who was with Mthombeni and Kekana, his half brothers, at Mashongololo around Cullinan. The two factions fought at Cullinan. Manala and his supporters returned home to replenish their provisions. Upon their return, they caught up with Ndzundza at Bhalule river (Oliphants river). Manala did not kill Ndzundza (as per the instruction of his father) but Mnguni, later known as Msiza, mediated between the two brothers.

6.2 During the second stage, Siphohahlangu, on behalf of the Ndzundza-Mabhoko royal house presented another version which was substantially different from the initial version:

⁶ Public meeting

- 6.2.1 He conceded that Manala was the first-born son. However he insinuated that Manala was not the son of Musi by declaring that in terms of amaNdebele culture and tradition the one who knows the child is the mother.
- 6.2.2 There was no truth to the story of the alleged deception of Musi by Ndzundza. Musi announced Ndzundza as his successor at a traditional ceremony and handed him *intonga yobukhosi* or *namrali*.
- 6.3 There are three versions relating to the events at Bhalule river:-
- 6.3.1 The version of the Manala-Mbongo is as follows:-
- (a) Ndzundza apologised. In terms of custom Ndzundza had to pay a fine but had nothing, he therefore returned the *namrali* to Manala. The two brothers talked, made peace and parted ways. Ndzundza settled across the Bhalule

river at KwaSimkhulu (Roosenekal) and Manala returned home to look after the people who were under his father.

(b) Upon arrival Manala reported to his father Musi that he did not kill Ndzundza. He recounted the events that occurred at Bhalule river.

(c) In 1630 Ingwenyama Musi died. Manala participated in the burial of his father and ascended the throne accordingly.

(d) The current incumbent Ingwenyama Makhosonke II of Manala-Mbongo is a descendent of Manala.

6.3.2 On the other hand, Mbulawa Sovetsheza Mahlangu, a “praise singer” (the crier), presented the version of the Ndzundza-Mabhoko as follows:-

(a) Ndzundza had already crossed the river when Manala caught up with him at the Bhalule

river. Manala could not cross the river as Ndzundza had cast a magical spell, over the river which caused the river to flood immediately. Both parties shouted across the river. Ndzundza threw a spear at Manala across the river. Manala cowered. As a peace offering, Ndzundza handed his sister Mtise in marriage to Manala.

- (b) An agreement was reached whereby Manala surrendered *ubungwenyama* to Ndzundza. It was further agreed that henceforth their daughters would inter-marry, a practice which later died out.
- (c) Ndzundza never returned to the royal household but settled across the Bhalule river with his followers. Manala returned home without the *namrali* or *ubungwenyama*. Ndzundza settled across the Bhalule river whilst Manala returned to KwaMnyamana and each ruled separately. There was stability for many centuries.

(d) The late Ingwenyama Mayitjha III is the descendant of Ndzundza.

6.3.3 The version of the Ndzundza-Mabhoko royal house, changed yet again in respect of the events at the Bhalule river. Siphohahlangu stated that:-

(a) There was no fighting at Cullinan prior to the encounter at Bhalule river.

(b) Ndzundza left the great place following his inauguration as *ingwenyama* by his father.

(c) Manala and his followers pursued Ndzundza, caught-up with him at Bhalule river and wanted to fight Ndzundza and his followers.

(d) Ndzundza noticed that his followers would annihilate those of Manala as the followers of Ndzundza far outnumbered those of Manala.

- (e) In order to avoid bloodshed, Ndzundza offered two girls, daughters of Mtise, as wives to Manala, who accepted them.
- (f) Manala returned to KwaMnyamana and Ndzundza went on his way as the King of all amaNdebele.

7.

DISPERSAL

7.1 A combination of factors caused amaNdebele to be scattered all over Southern Africa including, the wars of turmoil (Mfecane), particularly the invasion by Mzilikazi, the quest for land and the Great Trek, as well as disputes over succession to kingship.

7.1.1 After the wars of turmoil, amaNdzundza were able to regroup and built a fortress on Nomtshagela. The hegemony of Ndzundza was short-lived. With the re-establishment of the Zuid Afrikaansche Republiek (ZAR) in 1881, conflicts between the Ndzundza and the

Boers around land, labour and taxes re-emerged. Matters came to a head in 1882 when the Ndzundza gave shelter to Mampuru, a member of the Bapedi royal house, who was wanted by the ZAR for the murder of his brother, Sekhukhune. A war of attrition followed with the Boers adopting a siege strategy.

(a) By July 1883 Nyabela, Litho Mahlangu, Mgibe, Mampuru and other leaders and subordinate chiefs were taken captive to Pretoria. The land of amaNdebele was distributed among the Boer commandos involved in the war. AmaNdebele subjects were allocated to Boers throughout the ZAR for a five year indenture period. In return, farmers had to pay the state a tax of five pounds on behalf of each household head.

(b) The Squatter Law of 1887 prevented amaNdebele from settling on unoccupied land in large numbers. However, despite the constraints, there is evidence to suggest that there was a significant movement of

amaNdzundza between farms both during, and especially after, the formal period of indenture. They attempted to migrate to bigger farms where there would be fewer labour demands.

(c) Movement between farms was aimed at regrouping homesteads and the re-establishment of kingship networks. There were also attempts to return to farms in the Middelburg and Pretoria districts in order to revive wider social networks.

(d) This is the context within which initiatives by the Ndzundza royalty to re-establish themselves in the late 19th century and throughout the 20th century should be understood. Matsitsi, the brother of Nyabela escaped from prison. He went to Kafferskraal where his family was living and managed to convince White farmers to allow him to rule in place of Nyabela. He then called a meeting of the Ndzundza-Mabhoko and informed them

that Nyabela had given him a mandate to rule. This was accepted.

(e) AmaNdzundza also re-established a system of headmanship on any farm where there were a significant number of amaNdzundza households. Although this move met with initial resistance from farmers, a compromise was reached whereby workers would elect a headman who had the dual role of acting as a foreman for the farmer and traditional official for the workers. Headmen were to communicate any problems their subjects were facing to royalty. They also had to officiate over 'traditional' proceedings and settle inter-household disputes. If parties were dissatisfied with a judgement of a headman they could take the issue to the royal court for a final ruling.

(f) By the end of the 1950s the Ndzundza were faced with a situation where life on the farms had become intolerable. Cash payments were

replaced with payments in mealie meal. Influx control was tightened, making access to the cities almost impossible. The youth were resisting farm-work and demanding access to education, a right that was stringently denied to them on the farms. As a result there were constant desertions by youths, placing great strain on the relationship between household heads and farmers.

- (g) Poni (the grandson of Matsitsi resident at Nebo) accepted some land near Nebo and tribal authority status within Lebowa in 1959. This led to a split between Poni and Mapoch (Mabhoko) the then Ndzundza principal leader at Weltevrede, who continued to insist the only land that would be acceptable to amaNdebele was Mapochsgronden, the site of the 1883 battle.

- (h) In 1967 Mabhoko, the then Ndzundza paramount chief, accepted tribal authority status under Lebowa at Weltevrede. In 1969

there was a meeting of both northern and southern Ndebele chiefs to discuss the establishment of a Ndebele Bantustan. Chief Kekana, who hosted the meeting, was involved in constant conflicts with the Bophuthatswana authorities under whose jurisdiction the tribal authority fell. The creation of the Territorial Authorities by the Self Governing Authorities Act of 1973 paved the way for the regrouping of the hitherto scattered amaNdebele.

- (i) By July 1974, the Ndzundza Tribal Authority had been excised from Lebowa, and under the paramount chief, had received the status and functions of regional authority. Skosana, the future chief minister of the homeland, was chair of the Ndzundza regional authority. Those who arrived in KwaNdebele came from White farming areas, Bophuthatswana and Lebowa. Thus a foundation was laid for the creation of the KwaNdebele homeland.

7.1.2 After the death of Musi aManala were ruled by Ntshela, Magutshona, Mrawu, Ncagu, Buyambo, Mabhena, Mdibane and Sibindi.

(a) During the reign of Sibindi, Mzilikazi attacked Sibindi at Klipkop. In 1860 Sibindi and some of his followers were killed in that battle. He was the last ruler of the undivided aManala. The Manala traditional leadership barely recovered and by the 1870s its remnants were living on the Wallmansthal mission station and surrounding Boer farms.

(b) The attack by Mzilikazi led into a three way split of aManala.

(i) Silamba, the brother of Sibindi, left for Roodekoppies.

(ii) Makerana who was the son of Sontikwane (Mvula), another brother of Sibindi (nephew to Sibindi), left for Enkeldoog.

(iii) Mgibe left to join the Ndzundza-Mabhoko. He was accepted as Manala of Mgibe.

(c) It is for this reason that the groups, are known as Manala of Silamba (Mbongo), Manala of Makerana, and Manala of Mgibe.

(d) Silamba ruled the greatly depleted Manala group. He relocated to Wallmaanskral (Komjekejeke) in 1873; and passed away in 1892.

(e) He was succeeded by his son Mbedlengane II, who was succeeded by his younger brother, Libangeni, who was in turn succeeded by Mbongo II in 1905.

(f) Mbongo II and his people sojourned to Jakkalsdans. They relocated further to Klipspruit and eventually bought a farm back at Roodekoppies in 1926. The whole

traditional community including the section on Wallmanskraal moved to Roodekoppies (Lodini) where Mbongo II died in 1933.

(g) Mbongo II was succeeded by Mbulawa Makhosonke Enock, who was succeeded by his son Makhosonke II Enock in 1986, the present incumbent.

7.2 Between 1969 and 1977 amaNdzundza persuaded amaManala to join KwaNdebele. However, when the issue of independence emerged in the early 1980s, members of the cabinet promised to make the present Manala supreme paramount of amaNdebele on the basis that the land where KwaNdebele was created originally belonged to the Manala kingdom.

7.3 In 1977 three tribal authorities in the Hammanskraal district in Bophuthatswana, the Litho under Lazarus Mahlangu, the Pungutsha under Isaac Mahlangu and the Manala under Alfred Mabena - seceded from Bophuthatswana with the land and people under their jurisdiction, and joined KwaNdebele. These three tribal authorities combined to form Mnyamana Regional

Authority, and the Ndzundza Regional Authority formed the South Ndebele Territorial Authority.

7.4 With the establishment of a legislative assembly in 1979, tensions in the agendas of some of the Ndzundza-Mabhoko traditional leaders and their councillors began to emerge. The legislative assembly involved a 46-member body with a six-member cabinet appointed by the chief minister. All forty six (46) members were nominated by the four tribal authorities. However, once nominated, a tribal authority could not recall a Member of Parliament. Only the assembly itself could remove a Member of Parliament. The chief minister also had the right to appoint or remove traditional leaders.

7.5 The creation of the legislative assembly resulted in a shift in the balance of power from the traditional authorities to the legislative authorities made up of appointees. By early 1985, the split between 'traditionalist' chiefs and the legislature became apparent when Lazarus Mahlangu of the Litho Tribal Authority wrote a letter in which the tribal authority stated that it wished to excise itself from KwaNdebele and rejoin Bophuthatswana. Mahlangu was a Ndzundza traditionalist who had seceded from Bophuthatswana in 1977.

7.6 The reasons given were that the administration of Skosana interfered in 'traditional affairs' and dictated to, rather than consulted with, the tribal authority. A symptom of this subordinate relationship was the desire of the tribal authority to replace its nominated member of parliament with other nominees, as the present Member of Parliament was not carrying out the instructions of the tribal authority. However, once nominated, Members of Parliament could only be removed by the assembly. The tribal authority also complained that it was being ignored by the magistrate and the Commissioner General. In July 1985, Skosana withdrew recognition of Mahlangu as chief.

7.7 AmaNdebele Traditional Authorities Act 8 of 1984 provided for the recognition of two *iingwenyama* that is Manala-Mbongo and Ndzundza-Mabhoko who are the subjects of these findings.

8.

IMPACT OF LEGISLATION

8.1 Colonial Era

- 8.1.1 Before the advent of colonisation the basic political unit in African life was a traditional community. The institution of traditional leadership was regulated mainly by the customary law and practices of a traditional community. The king ruled by popular mandate, he took decisions with his councillors who were normally members of the extended royal family.
- 8.1.2 With the introduction of the Black Administration Act, 38 of 1927 (the Black Administration Act) the African system of governance and administration was changed and the colonial government took control of the Africans.
- 8.1.3 In terms of the Black Administration Act the Governor-General became a supreme chief of all Africans in the union. He was empowered amongst others, to recognise or appoint any person as a chief of a Black tribe and could make regulations prescribing the duties, powers, privileges and conditions of service of chiefs so recognised or appointed and of headmen, acting chiefs and acting

headmen appointed. The Governor-General could depose any chief so recognised or appointed.

8.1.4 During both the colonial and apartheid eras the Black Administration Act did not recognise the institution of *ubuNgwenyama* as such. However, the traditional leadership institution was recognised. All African traditional leaders were referred to as chiefs.

8.1.5 With regard to amaNdebele the Black Administration Act was promulgated long after the Zuid Afrikaanse Republiek had crushed the institution of traditional leadership.

8.1.6 Many amaNdebele people drifted away from their communal roots. There was no designated homeland. In general, amaNdebele of the former Transvaal consist of a southern and a northern communal group. They are spread all over the present North West, Limpopo and Mpumalanga provinces.

8.2 **Apartheid Era**

- 8.2.1 The Black Authorities Act, 68 of 1951 was the blueprint for the creation of homelands in South Africa.
- 8.2.2 New structures were established to replace the customary structures of governance in the form of tribal, community, regional and territorial authorities.
- 8.2.3 The manner in which the structures were constituted was determined by the State President. Their functions were mainly the general administration of the affairs of the tribes, communities, regions and territories over which they exercised authority.
- 8.2.4 The tribal authority was to render assistance and guidance to its chief or headman in connection with the performance of his functions. It could exercise such powers and perform such functions and duties, of chief or headman or under any law as, or in terms of any regulations required to be exercised or performed by such tribal authority.

- 8.2.5 The definition of “chief” in section 35 of the Black Administration Act, read with section 4 of Act 42 of 1958, implied that from there on, the Governor-General could also appoint paramount chief.
- 8.2.6 As far as amaNdebele were concerned, four tribal authorities were established namely AmaNdebele a-ka-Manala, Ndzundza- Mabhoko, Ndzundza-Litho and Ndzundza-Phungutshe in 1967, 1968, 1961 and 1979 respectively. A territorial authority constituted of Ndzundza Regional Authority and of Mnyamana Regional Authority was established on 7 October 1977. (Section 4 (1)(b)) of the Black Authorities Act).
- 8.2.7 The traditional leaders of each tribal authority were appointed as “chiefs”. These tribal authorities formed a regional authority and a number of regional authorities in turn formed a territorial authority. A territorial authority that constituted twenty one (21) representative members from the Ndzundza regional authorities and seven (7) from the KwaMnyamana (Manala) regional authorities was established on the 7 October 1977. Thus a national state was born.

8.2.8 In terms of sections 1, 2 and 5 of the National States Constitution Act 21 of 1971 a legislative assembly was established on 1 July 1979 (GN R 205 of 1 July 1979). Self-governing status was conferred on KwaNdebele on 1 April 1984 (GN R60 of April 1984) in terms of section 20 of the same Act.

8.3 **Homeland Era**

8.3.1 Subsequent to the legislation that created territorial authorities, an Act known as National States Constitution Act 21 of 1971 was passed. This is the Act that created homelands based on ethnic grouping of the Black population in South Africa. In sections 11 and 13 it provided for the constitution of KwaNdebele chieftanship, and disestablishment of the territorial authorities concerned.

8.3.2 Section 2(1) of the KwaNdebele Traditional Authorities Act 8 of 1984, like the Black Authorities Act 68 of 1951, recognised four existing tribes or

communities namely, Ndzundza-Mabhoko, Manala-Mbongo, Ndzudza-Litho and Ndzundza-Pungutsha.

8.3.3 Section 6 of the Traditional Authorities Act, created *ubungwenyama* for the Ndzundza-Mabhoko and Manala-Mbongo tribes. Section 7 (1) recognised the head of the Ndzundza-Mabhoko tribe as an Ingwenyama yamaNdzundza and section 7(2) recognised the head of the Manala-Mbongo tribe as an Ingwenyama yaManala.

8.3.4 *Ingwenyama* is defined in section 1 as a paramount chief, thus recognising the incumbent heads of both tribes as *iingwenyama*.

8.3.5 The other *amakhosi* are recognised under sections 3, 4 and 8(1) of the same Act.

8.4 **Post-Apartheid Era**

8.4.1 Section 211(1) of the Constitution provides for the recognition of the institution of traditional leadership:-

“The institution status and role of traditional leadership according to customary law are recognised, subject to the Constitution.”

8.4.2 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).

8.4.3 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.”

8.4.4 The Commission on Traditional Leadership Disputes and Claims in particular, is mandated to regularise and restore the dignity of the institution of traditional leadership.

8.4.5 The Framework Act enjoins the government of the provinces (including of Mpumalanga province) to enact legislation to provide for matters peculiar to the provinces. The legislature of Mpumalanga province has accordingly enacted the Traditional Leadership and Governance Act, 3 of 2006.

9.

CURRENT STATUS

9.1 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.

9.2 Officially, the institution of *ubungwenyama* for amaNdebele was created by section 6 and recognised under section 7 of the KwaNdebele Authorities Act.

9.3 AmaNdebele have two officially recognised paramountcies namely:-

9.3.1 The Ndzundza-Mabhoko paramountcy. The late Cornelius Nyumbako Mahlangu was appointed paramount chief on 11 July 1992. At the time of writing the determination, the Commission was advised that no one has been appointed in an acting capacity.

9.3.2 The Manala-Mbongo paramountcy. Mbulawa Enoch Mabena is the paramount chief appointed on 24 July 1986.

9.4 Under the authority of Ndzundza-Mabhoko:-

9.4.1 There are seven officially recognised senior traditional leaders.

9.5 Under the authority of Manala-Mbongo:-

9.5.1 There are three officially recognised senior traditional leaders.

10.

DETERMINATION

10.1 Issues to be Determined

10.1.1 The issues are:-

- (a) whether in the course of the history of amaNdebele, a kingship of amaNdebele 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 AmaNdebele;
- (d) whether at the split and after the death of Musi:-
 - (i) Manala ascended the throne and retained the kingship;
 - (ii) Ndzundza left to establish his own kingship independent of Manala;
- (e) whether the positions of the two chiefs were established in terms of customary law and customs.

10.1.2 If it is found that the two kingships exist independently, whether the two kingships should continue to exist as such.

10.2 **Analysis of Issues**

10.2.1 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.

10.3 **Analysis of Evidence**

10.3.1 Mnguni had four sons, Xhosa, Luzumane (Zulu), Swazi and Ndebele. Ndebele broke away to establish amaNdebele, hence the name. Along the way Ndebele (subsequently Mhlanga) fought, defeated, conquered, and subjugated communities and eventually settled at Emhlangeni.

10.3.2 Ndebele therefore, can be said to have been the first King of amaNdebele. He died around Drakensberg Mountain. Mhlanga, his successor, eventually settled at Emhlangeni around present-day Randfontein. Mhlanga fathered Musi who settled at Wonderboom (KwaMnyamana).

10.3.3 Musi was the last *ingwenyama* to reign over an undivided amaNdebele.

10.3.4 Before the split, the intention of the ailing Musi was to pass the kingship on to the next successor in terms of customary law.

10.3.5 It is common cause that Manala was the first-born son of the great wife and therefore the successor-in-title to the kingship of amaNdebele as a whole.

10.3.6 The Ndzundza-Mabhoko royal house claims that:-

- (a) Ndzundza was appointed as king by the ailing Musi through deception and given the accessories to kingship;
- (b) Manala surrendered the kingship to Ndzundza at Bhalule river;
- (c) whereafter, Ndzundza ruled independently as king over his followers;

- (d) Sipho Mahlangu alleged that Ndzundza reigned over amaNdebele as a whole.
- (e) Sipho Mahlangu disputed the partentiy of Manala.

10.3.7 The Manala-Mbongo royal house on the other hand contends that:-

- (a) It was never the intention of Musi to anoint Ndzundza as his successor;
- (b) It was Ndzundza who made a peace-offering at Bhalule river and never returned to the Great Place;
- (c) At the time that Ndzundza left, his father, Musi, was still alive and therefore reigned as king over his people;
- (d) Manala participated in the burial rituals of his father.

10.3.8 A close examination of the versions reveals that:

- (a) The Ndzundza-Mabhoko allege that Ndzundza cast a magical spell which flooded the Bhalule river. Manala was therefore unable to cross the river to reach Ndzundza. According to the Ndzundza-Mabhoko, in fear, Manala surrendered his kingship. It is further alleged that Ndzundza gave his sister Mtise as a peace offering to Manala. They then went their separate ways.
- (b) The Manala-Mbongo version is that there were two encounters after Ndzundza ran away. The first occurred at Cullinan where they fought and Manala and followers ran out of provisions.
- (c) The second encounter was at Bhalule river where Msiza mediated peace between the two brothers. The Manala-Mbongo also alleged that Ndzundza apologised, returned the

namrali and also offered his sister Mtise as a peace offering. Ndzundza went to settle across Bhalule river, at KwaSimkhulu.

- (d) Manala returned to the royal household and reported to Musi the events that took place at Bhalule river.

10.3.9 The Commission finds that:-

- (a) It is improbable that Manala could have cowered upon catching up with Ndzundza at Bhalule river as claimed by the Ndzundza-Mabhoko in that;
 - (i) he pursued Ndzundza with the clear intention to take him back alive to Musi or kill him if he resisted;
 - (ii) Ndzundza never returned home but settled across the Bhalule river.

(b) Manala had no kingship to surrender as Musi was still alive. Therefore, Ndzundza could not receive *ubungwenyama* as it is common cause that a successor cannot reign whilst the incumbent is still alive.

(c) Having considered the evidence of amaNdzundza in its entirety, the Commission finds that the version espoused by Siphohlele Mahlangu is highly improbable for the following reasons:-

(i) The paternity of Manala, which is the single most important factor in determining succession, would not have been overlooked by the oral historian Sovetsheza who narrated the historical background of amaNdebele in the presence of the late Ingwenyama Mayitjha III.

(ii) The deception of Musi by Ndzundza and his mother was never challenged by

amaNdzundza at the first stage of the hearings. To the contrary, the story was confirmed, but amaNdzundza contended that there could not be a second anointing and therefore, as it was the case in the Bible, the kingship remained with Ndzundza.

- (iii) Equally important to the case of amaNdzundza, would have been the assertion that Musi purposefully anointed Ndzundza as his successor at a traditional ceremony. However, this claim was never made at the first stage.
- (iv) Similarly, the version of aManala with regard to the two encounters between Manala and Ndzundza, the first being at Cullinan and the second at Bhalule river was never disputed by amaNdzundza during the first stage. Thus the assertion by Siphohle Mahlangu that there

was no physical fight between the two camps is rejected.

(v) Siphoh Mahlangu claimed that Ndzundza reigned as king of amaNdebele as a whole whereas the initial claim had been for the kingship of amaNdzundza only. At some stage, during a heated debate, at the initial hearing, a speaker on behalf of amaNdzundza urged the people not to fight as they were all amaNdzundza (*“SingamaNdzundza sonke”*).

(vi) In any event, both oral and written history, accord more with the first version of amaNdzundza than the latter version presented by Siphoh Mahlangu.

10.3.10 In determining whether a kingship exists, the Framework Act enjoins the Commission to consider the need to establish uniformity in the Republic, in respect of the status afforded to a king;

- (a) It is clear from the historical records that after the split Manala and Ndzundza ruled independently of each other.
- (b) There is no evidence of aManala exercising authority over amaNdzundza. From the time of the split, the two groups emerged and developed separately.
- (c) The Commission finds that the two groups continued to exist independently. However, it cannot be concluded that the said independence constituted two separate kingdoms in that although the two groups developed separately neither of them established a traditional community with a new identity, through conquering and subjugation similar to that of amaNdebele as created by Ndebele.
- (d) AmaNdebele as a nation, with only 10 senior traditional leaders between them, are too few to constitute two separate kingships.

- (e) This may attract claims from other amaNdebele senior traditional leaders who have been independent of both Manala and Ndzundza kingships, for example Ndzundza-Sokhulumi, Ndzundza-Pungutsha and Ndzundza-Litho.

10.3.11 The Commission finds that the kingship of amaNdebele was destroyed by the Zuid Afrikaansche Republiek in about 1884. However, the Commission is of the view that good grounds exist for the restoration of the kingship of amaNdebele in that:-

- (a) Amandebele as a traditional community suffered the most severe form of persecution at the hands of the Zuid Afrikaansche Republiek. They were forbidden to settle in any area as a large group. This together with the indenture system was designed to rob amaNdebele of their identity and nationhood.

- (b) In pursuance of the need to restore the integrity and legitimacy of the institution of traditional leadership in line with customary law practices, it is imperative that the kingship of amaNdebele is restored.
- (c) Uniformity in the Republic, with regard to the status of king or queen, should be achieved, and amaNdebele are no exception.

10.3.12 It is the view of the Commission that if the kingship of amaNdebele is to be restored, this can only be done under one king. However, this should not be seen as another form of social- engineering in that:-

- (a) From the time the creation of the KwaNdebele Homeland was mooted in 1969, there was a clear move by amaNdebele towards the unification of amaNdebele as a whole.
- (b) The late Ingwenyama Cornelius Mayitjha III and Enoch Makhosonke II reiterated their

wish before this Commission to see amaNdebele united under one king.

- (c) Such unification therefore, can only be determined by custom. In terms of custom the Manala is the senior house.

10.3.13 After the split between Ndzundza and Manala, the forces of Mzilikazi depleted both groups, however, amaNdzundza were able to regroup. AManala were further depleted by the three-way split of Silamba, Makerane and Mgibe.

- (a) The ZAR system of indenture around 1884 placed amaNdebele on farms and did not permit them to settle in large groups.
- (b) AmaNdzundza managed to regroup and re-establish a system of headmanship by appointing the foreman of the farm as a traditional official for the workers, reporting to royalty.

- (c) With the introduction of the homeland system, amaNdzundza, assisted by the apartheid government became stronger. AManala on the other hand, were not in favour of the homeland system. The effect of this was that the number of amaNdzundza senior traditional leaders increased whilst those of aManala decreased.
- (d) As a result, when the legislative assembly was created in 1979, amaNdzundza far outnumbered aManala. There was a shift in the balance of power from the traditional authorities to the legislative authorities. The Chief Minister, J.J. Skosana, who was a Ndzundza, wielded his political power to swell the ranks of amaNdzundza.

11.

CONCLUSION

11.1 Whilst official recognition of the institution of *ubungwenyama* was laudable and in line with the historical and customary evidence presented, the creation of dual kingship was irregular. This was because it was not in line with the customary law and customs of the traditional community of amaNdebele in that:-

11.1.1 The status of a traditional leader should be determined by the rank that he occupies within the traditional community as a whole.

11.1.2 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.

11.1.3 In this case, the areas of jurisdiction will be those populated by the amaNdebele traditional communities and headed by senior traditional leaders who owe allegiance to *ubungwenyama*.

11.2 In conclusion, the Commission finds that:-

- 11.2.1 The kingship of amaNdebele was established by Ndebele through conquest and subjugation.
- 11.2.2 Since Ndebele, the kingship has been passed on from one generation to another, according to the custom of amaNdebele.
- 11.2.3 At the split, Musi was still a king of amaNdebele as a whole. After the death of Musi, Manala ascended the throne, Manala therefore retained the kingship of amaNdebele as a whole.
- 11.2.4 In the circumstances, amaNdebele kingship exists and resorts under the lineage of Manala.
- 11.2.5 In terms of customary law and the Framework Act, Ndzundza-Mabhoko paramountcy is not a kingship.

