

## **EXPLANATORY NOTE**

### **REPORT OF THE INVESTIGATION INTO THE CLAIMS OF KINGSHIPS BY THE COMMISSION ON TRADITIONAL LEADERSHIP DISPUTES AND CLAIMS**

#### **1 BACKGROUND**

**1.1** The Commission on Traditional Leadership Disputes and Claims is established in terms of the section 22 of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003)(the Act) to investigate and make recommendations on any traditional leadership disputes and claims.

**1.2** The Commission is required, in terms of section 26(2) of the Act, to convey the report(s) to the Minister of Cooperative Governance and Traditional Affairs and the President of the Republic of South Africa regarding its findings and recommendations on Kingships and Kings.

**1.3** The President of the Republic of South Africa is required in terms of section 26(3) of the Act to take decisions on the

recommendations of the Commission within 60 days from the date he has received the reports.

**1.4** It is on the basis of this background that the Commission seeks to convey its report to the Minister and also to requests him to forward same to the President of the Republic of South Africa to consider.

**1.5** Since the current Commission started to operate, it never recommended any recognition of a kingship/queenship except for the one of Modjadji. The Commission recommended that Modjadji is indeed a Queenship but the provisions of section 9 and 10 of the Traditional leadership and Governance Framework Act must be followed by the royal family before the President of the Republic of South Africa can consider recognizing the incumbent and the community. The claim for the recognition of Modjadji as a Queenship and the incumbent as a Queen is the only recommendation for the recognition done by this Commission. The recognition of the Queenship and Queen will only be done after the royal family has followed the provisions of section 9 and checking if any of the reasons in section 10 do not apply to the incumbent to be recognized by the President.

## **2. DISCUSSION**

**2.1** The Commission investigated 38 claims and disputes of kingships / queen ships in various provinces.

Through its investigative process, the Commission has conducted intensive interviews, research and public hearing regarding the kingship /Queenship claims in various affected provinces. The Commission investigation concluded I the following claims do not qualify for a kingship/queenship restoration because of the reasons articulated in each case.

## **2.2 NORTH WEST**

The Commission attended to eight claims of kingship in North West. It established during interviews that all the claimants were actually disputing and claiming the position of a senior traditional leader but used the wrong title.

The claimants of North West withdrew their kingship claims and translated their disputes to the appropriate level of senior traditional leadership and others withdrew the claims.

One claimant could not prove his royalty and the existence of his traditional community. The Commission could not establish any facts of his royalty historically and in terms of customary law and therefore the Commission had to decline the claim. Each claimant is unpacked as follows:

### **2.2.1 Kgosi Goloatshwene Mogodi Moiloa (Gareolwele)**

Kgosi Goloatshwene Mogodi Moiloa (Gareolwele) lodged a claim for the restoration of the kingship of Bahurutshe. Kgosi Moiloa wrote a letter to the Commission formally withdrawing his claim for the kingship of Bahurutshe on the basis that he had lodged the claim for the entire Bahurutshe and not for him personally. The claim for kingship was formally withdrawn by the said claimant through the letter dated 06 December 2012. The Commission accepted his withdrawal of the claim and subsequently rejected the kingship claim of Bahurutshe.

### **2.2.2 Mr Ntutu Josias Pule**

Mr Ntutu Pule is claiming the kingship of Koena. He alleges that the kingship was destroyed during the war called Yster Oorlog which took place around 1854. He alleges that his kingship was based at Vreedefort. He further confirmed that the only proof of his kingship is the tombstone of his late father that indicates where he is buried. Mr Pule does not have a recognized community, recognized senior traditional leaders who pay allegiance to him as their paramount chief and a recognized area of jurisdiction. The kingship that is being claimed is not traceable in history of Batswana. The claim is rejected on the basis of lack of information. Furthermore, the claimant failed to submit any information that confirms that his ancestors occupied a position of traditional leadership at any given time. The Commission rejected the kingship claim

### **2.2.3 Mr George Pogiso Mosethli Mathlaku**

Mr Matlaku accompanied by his Attorney indicated that he was disputing the current Kgosi Moshoele. Mr Matlaku accepted the fact that the title or position occupied by Kgosi Moshoele was not of a king. Instead, the position in question is that of a senior traditional leader. To this end, he thus accepted that he has issues with the current senior traditional leader. The dispute against the current kgosi will be handled by the provincial committee. The claim for a kingship was thus officially withdrawn by the Attorney on behalf of Mr Matlaku. The Commission dismissed the kingship claim.

### **2.2.4 Mr Seonyatseng Sebe**

The claim was initially tagged for kingship but the claimants requested the Commission to down grade the claim to the position of a senior traditional leadership. The Commission accepted the request from the claimants for the downgrading of the initial claim. To this end, the claim for the position of a senior traditional leadership will be processed by the provincial committee in the North West Province. The claim for kingship is now a closed matter. The Commission dismissed the kingship claim.

### **2.2.5 Omphile Edward Sebe**

The Omphile Edward Sebe claim is based on a new kingship position of Baga-Mothibi Tribal Council. The royal family claims that its

kingship was lost in 1936 when the regent, Jan Mothibi, was appointed in the place of their rightful Chief Sebe Gaolese who was at the time not in good health. Following the death of Gaolese, Jan Mothibi refused to step down and he was later succeeded by his son. This is where the Sebe's chieftaincy got lost. This case was taken to the Provincial House in 2009. Regrettably, the claimant was not informed about the final outcome of the said case.

The claim has been withdrawn on the basis of the fact that the claimant confused the kingship and senior traditional leadership positions. The claimant is disputing the position of the current senior traditional leader. To this end, this is not a kingship claim. The claim was downgraded to the position of senior traditional leader and will henceforth be handled by the provincial committee. The Commission dismissed the kingship claim.

#### **2.2.6 Mr Olebogeng Kau**

Mr Olebogeng Kau is disputing the position of the current senior traditional leader, Kgosi M.E Mabe. The latter is currently representing the traditional authority of Batlhako ba Matutu in Bojanala District. The claimant acknowledges the mistake he made when he completed the claim forms. He is thus not claiming for the kingship position. To this end, the claim for a kingship position is withdrawn in favour of the position of senior traditional leadership. The latter claim will thus be dealt with by the provincial committee. The Commission dismissed the kingship claim.

### **2.2.7 Mr Nthoesane David Pheto**

Mr Pheto is claiming a kingship of Bakgatla ba Kgafela. During the engagement with the Commission, the claimant indicated that he was disputing the current recognized senior traditional leader of Bakgatla Ba Kgafela. To this end, he is not making a kingship claim. He has thus withdrawn his initial kingship claim. What he is disputing is the current leadership of Bakgatla Ba Kgafela.

The Commission informed the claimant that his claim for the position of senior traditional leadership for the Bakgatla Ba Kgafela will be handled by the provincial committee. As a consequence of this, the claim for the restoration of the kingship of Bakgatla Ba Kgafela is dismissed.



### **2.2.8 Abner Mmusi Letlogile**

Abner Mmusi Letlogile claimed erred by claiming a kingship position instead of a senior traditional leadership position. The claimant withdrew his kingship claim and opted for a senior traditional leadership claim. His claim is now dealt with by the Provincial Committee. Based on the information provided by the claimant the Commission dismissed the restoration of the kingship.

### 2.2.9 Morwagaabuse Samuel Mankoroane

Morwagaabuse Samuel Mankoroane lodged a claim for a kingship position. The claimant later on withdrew his kingship claim. On the bases of that, the Commission rejected his kingship claim.

## 2.3 MPUMALANGA

The Commission investigated eight claims of kingship in the Mpumalanga Province. During its investigation, it conducted public hearings, interviews and read historical books. It further analyzed the disputes and claims and the information obtained from the claimants against the requirements of the Act.

The Commission was unable to establish any facts to enable it to recommend any of the claimants in the Mpumalanga Province for consideration by government to be recognized in any position claimed.

It was established that most claimants did not understand the difference between a king and a senior traditional leader; and some were claiming positions their families never occupied. One claimant has passed on and members of the family are not traceable because the house wherein the claimant was staying is occupied by a different person who does not know the claimant.

Some claimants downgraded their claims from a kingship to a principal traditional leadership and others to senior traditional



leadership. The position of a principal traditional leadership is a transitional arrangement, acquired after the passing on of a deemed king and kingship. This is only applicable to the paramount chiefs who did not qualify to be kings and kingships. According to the Governance and Framework Act, as amended in 2010, they remain deemed kings until they die. Their successors become principal traditional leaders.

Some claimants are alleged that their grandparents were recognized to a status of a king by the King of Swaziland but later, their status was downgraded by the successive Kings.

On the basis of the above, the Commission finalized the kingship level and referred those lower than the kingship to the Provincial Committee of Mpumalanga for further processing. Each claimant is unpacked as follows:

### **2.3.1 Mr Mandala Louis Mogane**

Mr Mandla Louis Mogane lodged a claim for a kingship of the P Mogane Tali Kingdom. The Commission investigated the claim for the kingship of Mogane as lodged. It arranged a public hearing wherein it established with the affirmation of the claimant that this was not a claim for a kingship but a dispute on the existing senior traditional leadership of Kgarudi.

The Commission after engaging with the claimant, resolved to refer the dispute of senior traditional leadership to the provincial committee

of Mpumalanga to handle. The claim for kingship of P Mogane Tali Kingdom was closed. The Commission dismissed the kingship claim.

### **2.3.2 Mr Mogane**

Mr Mogane is claiming a kingship of Batau (Mapulane). During the engagement with the Commission, the claimant indicated that he was disputing the senior traditional leadership of Kgarudi. He acknowledged that he does not know the positions of traditional leadership well. The Commission informed him that his claim will be handled by the provincial committee and will be removed as a kingship claim. He accepted the advice and as such, the kingship claim of Mogane was dismissed on the basis that the claimant confused the title of a position he is disputing.



### **2.3.4 Mr Duma Joseph Nkosi**

Mr Nkosi explained to the Commission that he is born from the senior house of the Swazi royal family. The current lineage in Swaziland is from the left hand side and not from the ruling house. He explained that his forefather called Nyamayenja was burnt on his right hand. To the extent that this is so, he is disqualified to rule because he is left handed. Nyamayenja left Swaziland living King Somhlolo behind to rule the Swazi community. He left in order to avoid conflict with King Somhlolo regarding leadership. The name Ndlhela started there because he chose to live and get on the road instead of staying with Somhlolo.

The Commission acknowledged that Mr. Nkosi is indeed from royalty; however, he does not have a kingship because he left Swaziland where he was supposed to rule and came to South Africa during the reign of Somhlolo. In other words, Nyamayenja left Swaziland and acknowledged Somhlolo as his superior. Despite this, in terms of genealogy, Nyamayenja is born from the fifth house. This fact disqualifies him to rule.

The Commission is unable to recommend a Kingship of amaSwati in the Republic of South Africa where all of them recognize King Mswati as their only king. The descendants of Nyamayenja wanted to establish their own kingship in the Republic of South Africa that is separate from amaSwati in Swaziland.

The claimant does not have senior traditional leaders who pay allegiance to him. Furthermore, he does not have an area of jurisdiction as the claimant resides in Johannesburg. His history does not indicate any existence of a kingship associated with him. To this end, the Commission is unable to establish a kingship that never existed in history. The Commission dismissed the kingship claim.

### **2.3.5 Mr Abuti Lackson Chiloane**

Mr Chiloane is applying for the recognition as the King of Mapulane. Mr Chiloane conceded during the public hearing that they never had a kingship as Mapulane before. They were always under the kingship of Bapeli. This was confirmed by Abuti Lackson who indicated that

they were not claiming for a high level position but they were claiming for a position lower than that of a king.

However at the said hearing, they requested to caucus amongst themselves and when they returned, they indicated to the Commission that they are applying for a new kingship separate from the one of Bapedi. In explaining their history, the Chiloanes had difficulties to explain the three houses namely Mashile, Mogane and them. They conceded during the public hearing that King Sekhukhune is the one who inaugurated them as their King. The Chiloanes acknowledge the fact that they were defeated and subjected themselves to white rule. Since their defeat in 1864, they never recuperated as an independent community.

Mr Mashego informed the Commission that they lost their land and kingship when they were defeated during the war of 1864. They further conceded that their "king" Maletela was not equivalent to Sekhukhune in stature as he was always under Sekhukhune's authority and leadership. The claim by Chiloane is actually an application for recognition as the new kingship. The said claim or application lacks evidence of the historical existence of a kingship of Mapulane. The claimant does not enjoy the support of other recognized senior traditional leaders of Mapulane. The claim by Mr. Chiloane does not have historical support and amaPulane are part of the broader Bapedi community under the recognised king of Bapedi. The claim for a kingship is therefore rejected.

### **2.3.5 Mr Luhleko Paul Maseko**

Mr Luhleko Paul Maseko claimed the kingship of amaNgcamane in the Republic of South Africa. The Ngcamane's are alleged to be the first to occupy Swaziland under the Maseko kingship. It is said that when Sobhuza I arrived in Swaziland, he was welcomed by the traditional leader of amaNgcamane called Kabangobe. According to information obtained, the son of Sobhuza I called Mswati conspired against amaNgcamane and murdered Mngadi son of Kabangobe their traditional leader in 1840.

The Ngcamane's were then easily subjugated by the Swazi's. The Nhlapho Commission met with the delegation of AmaNgcamane with the intention to verify their claim. During the engagement with them, the amaNgcamane could not provide any convincing reason that could compel the then Commission to investigate the claim. The reason was that the amaNgcamane did not and still do not have a history of existence as a kingship.

Furthermore, they do not have recognised senior traditional leaders who recognise them as their seniors; and they do not have a recognised area of jurisdiction. They lost their kingship in Swaziland by voluntarily subjecting themselves to King Sobhuza I. Their kingship never existed in South Africa. The AmaNgcamane claim is thus dismissed.

### **2.3.6 Mr Siphon Venanzio Mthembu**

Mr Mthembu lodged a claim for the restoration of Thonga-Ngwane Kingship. The kingdom which existed was the Tembe-Thonga/Mabudu Kingdom in Mozambique. Their land stretched from around Delagoa Bay (Maputo) to Northern Parts of Kwazulu Natal (Ngwavuma area). The Thonga-Ngwane kingdom as claimed by the claimant is not traceable in history. This Kingdom of Thonga split into two during the 1700s. Both the senior and the junior branches of the Kingdom fell under the British Protectorate as both signed treaties with Captain Owen. Later the Northern part of the Kingdom fell under the Portuguese while the junior side of the kingdom remained under the British.

The allegation that there was a Tembe Kingdom in Mpumalanga (Transvaal) is not supported by historical and sociological/anthropological facts. The Tembe people who found themselves in the Transvaal came not as an organized community. The claimant Siphon Mthembu does not have a traditional community that is under him. He has no land that he can say belongs to his Kingdom.

During the public hearings, representatives from the Swazi Kingdom were surprised that he claims to be a King when in fact he asked the Swazi royal family to be a liaison between the Kingdom and Swazi's in South Africa. There is a Tembe senior traditional leadership recognized by Government in KwaZulu Natal. The claimant alleged that in 1986 there was an agreement with Government that he would

be a King in a new Homeland. He was given the opportunity at the public hearing to provide proof for his statement. To date, he has not forwarded any documentary proof to that effect. The representatives from Swaziland disputed his claim that he was at some stage appointed to be a liaison officer of King Mswati and he never occupied any position of traditional leadership.

The Commission rejects his claim on the basis that the claimant does not have a history of traditional leadership; there was no promise made to create a new homeland during the year 1986 because the last homeland created (KwaNdebele) was being opposed flatly, and that the claimant failed to justify his traditional leadership position. The people that he had brought with him to the public hearing indicated that they have only met him in Piet Retief where he lives and work as a school principal. The Commission dismissed the kingship claim.

### **2.3.7 Inkhosi Tinkhontele Dlamini**

The Mekemeki people are Swazi by origin. They were established during the reign of Mswati II in Swaziland around the mid-1800s. King Mswati II had a plan to separate Lanyandza (Inkosikati) from the whole royal kraal because he was criticized by both his brother Magongo and the Queen mother who vowed that Mswati II would not build a home nearby in the land that belonged to her late husband Sobhuza I for his new wife. Mswati II went on to fight wars against Bapedi, Mambai and Mapulana. He was victorious in these wars and

as a result of these victories, he acquired new territories outside his original area of jurisdiction. He therefore established his new homestead in the area across the Nkomazi River.

Mswati victories over the Pedis were not permanent. As soon as the Swati warriors retreated back home, the Pedi's went back to reoccupy their earlier positions. This prompted Mswati to build a line of military outpost along the Crocodile River to prevent the reoccupation of the land by Pedi's. In each outpost he deployed some military regiments to stop the Pedi's from returning. In each of these outposts he also deployed chieftainness (Inkosikati) and Indunas to be the eyes of the king. The following are some of the outposts:

- Mekemeke:-It was situated between Barbeton and Komatipoort. He positioned his wife Lanyandza to the area. He also deployed an Induna.
- Mjindini:-The outpost was where Barberton town is today. He deployed his Inkosikati Yongase Shongwe and Sicaphuna Simelane. He also deployed an Induna.
- Mbhulene:-It was situated near the present town of Badplaas. Inkosikati Nandzi was deployed there. Ngcini Mathebula was Induna in the said area.

The Commission could not find any evidence that Lanyandza (Inkosikati) was a kingship. The position that was occupied by LaNyandza was done away with by the successor to the kingship that is King Mbandzeni (1875-1889). The latter declared himself as the only king of amaSwati and never allowed anybody to occupy any



position that could undermine his authority. The Mekemeke acknowledged this fact that they lost their authority during Mbhadzeni's reign. Therefore, there is nothing to restore as they are part of amaSwati. The Commission declined the kingship claim.

### **2.3.8 Inkosikati Evah Mkhathshwa**

Inkosikati Evah Mkhathshwa lodged a claim of restoration of Kingship of Mawewe of Mkhathshwa. The kingship being claimed emanates from the lineage of Soshangane. Mawewe was the first born son of the principal wife and in terms of the Zulu customary law of succession; he was to take over the leadership of the community after the death of Nghunghunyane/Soshangane. Mzila was the elder son of the family and therefore in terms of the customary law of succession of Machangana at the time, he was the correct person to succeed to the throne. The war broke out between the two siblings. Mawewe was defeated and driven out.

He asked Mswati for assistance to regain his position. Mzila anticipating the assistance of Mswati, he tracked further north taking everything with him. He (Mzila) sought assistance from South African Government which never came forth. He then approached the Portuguese who helped him to fight the Swazi regiments. Mzila returned and defeated Mawewe. Mawewe fled to Swaziland and subjected himself to King Mswati leaving Mzila to rule his people.

The previous Commission attended to this claim: The said Commission finalized the claim by Hosi Nxumalo who is a

descendant of Mzila. The previous Commission established that the Kingship of Nghunghunyane was lost in Gaza province of Mozambique and can therefore not be restored in South Africa. The North Gauteng High Court confirmed the decision of the Commission by saying that the Kingship of Nghunghunyane was lost following the latter's defeat by the Portuguese in Mozambique.

The Commission having considered the decision of the previous Commission and the confirmation by the North Gauteng High Court, resolved not to consider the claim by Inkosikati Mkhathwa for the restoration of the kingship of Mawewe. The Commission as the successor in law to the previous Commission and as per the decision of the High Court, refused to consider the claim further. The royal family of Mkhathwa was accordingly informed of the decision by the Commission. The matter is closed. The Commission dismissed the kingship claim.

### **2.3.9 Ngomane**

The founder of Ngomane rulers was Simkhulu. He did this by defeating several Basotho, Mambhai and other communities and put them under his rule. Simkhulu's principal village was on the banks of Crocodile River. He was succeeded by his eldest son Ntulini. Simkhulu's two younger sons Mfufana and Mdumane became principal chiefs under Ntulini. Ntulini was succeeded by his eldest son Kongwane. Ntulini's younger brother Malale was made a principal

chief because of his bravery. These principal chiefs were also succeeded by their own sons.

During the reign of Kongwane the community was attacked by Soshangane who was fleeing from Shaka. This was after Shaka had defeated the Ndwandwe community in 1819. Not long after the defeat by Soshangane, the Ngomane's were attacked by Dingaan. This left the community weakened and almost crushed. As if this was not enough, the weak Ngomane community was attacked and further defeated by the Swazi's under King Somhlolo.

This was the final nail on the coffin that destroyed the Ngomane kingship. After this defeat, the Ngomanes became the Swazi subjects but under their own chiefs in the early 1800s. They never recuperated since then because they were always under the King of Swaziland even now they are still paying allegiance to the King of Swaziland. The Commission declined the kingship claim.

### **2.3.9 Nongqayi Johan Dlamini**

The Commission was unable to locate Mr Dlamini. All the contacts he has listed in his claim form did not yield any results. The file of Mr. Nongqayi Dlamini was closed. The Commission rejected the kingship claim.

## **2.4 LIMPOPO**

The Commission attended to ten claims of kingship in Limpopo. During the interviews and public hearings, it was established that some claimants did not understand the difference between the hierarchies of traditional leadership.

Some claimants are basically applying to be recognized as kings without an established community and area of jurisdiction. Others did not even understand that the kingship they were claiming for had already been finalized by the Nhlapho Commission.

The Commission established that in one claim of Modjadji lodged by Dr. Motshega and Mr. Mampewule that she satisfied the requirements of the Traditional Leadership and Governance Framework Act, 2003. She does have an area of jurisdiction. Furthermore, she also has recognized senior traditional leaders within her area of jurisdiction with well-established traditional leadership history. The Commission therefore, recommends that Bolobedu be considered as a queenship and that the processes outlined in sections 2, 2A, 9 and 10 of the aforementioned Act be followed. Each claimant is unpacked as follows:

### **2.4.1 Hosi Shilungwa Cedrick Mhinga**

The Malulekes form part of the Vatsonga and belong to a sub-group of Tsonga commonly known as VaN'wanati. Like other Tsongas, they migrated from Mozambique centuries ago to settle in the Eastern

Transvaal. The Maluleke kingship was “never lost”, but it diminished in status as a result of being undermined and marginalized through a number of incidences that transpired over decades under the hefty draconian laws of the colonialists.

The Maluleke community wants their kingship to be restored. The Malulekes do not want to be regarded as the Shangaans but as the Tsongas. The Malulekes are VaTsonga and they would like to restore their kingdom and promote culture and the language of all the Vatsonga people. The claim is based on the notion of uniting all the Vatsonga under the leadership of the claimant. The Commission established that the Vatshonga originate from Mozambique, they were refuges in the Republic of South Africa fleeing from Soshangane. They arrived in groups in the Republic of South Africa as opposed to a community and settled in various parts of the present Limpopo Province.

They never had a traditional leadership structure. Instead they subjected themselves under a Mr. Albasin whom they recognize as their leader. There was at no stage that a kingdom or a kingship was established by the different groups of Vatsonga. This means that there was no kingdom that was lost because it never existed. The recognized traditional leaders of Machangana do not support the claim by Mhinga to an extent that they even question his senior traditional leadership status. The Commission declined the kingship claim by Hosi Mhinga.

#### **2.4.2 Reverend Cyril Sekgopo Mokoto**

Cyril Sekgopo Mokoto claims the position of kingship that was lost in the 1600s. He claims that he is the direct descendent of king Mokoto 1, and the direct heir to the throne of the Balobedu tribe. According to the claimant, the Mokoto (male line of succession) kingship was lost in the 1600s. This is a claim to patriarchal traditional leadership that was literally changed and accepted by the Balobedu community before the 1800s. The Commission declined a kingship claim by Rev. Mokoto who is the resident of Johannesburg on the basis that the patriarchal leadership of Bolobedu ceased to exist around the 1800s.

#### **2.4.3 Mr PJ Mampeule and Dr. Mathole Motshega**

The queenship claim for Modjadji was lodged by Mr PJ Mampeule and Dr. Mathole Motshega. The claimant, Mampeule maintains that Phedule ruled from the mountain of Lebjene, South of Daja, where he built a kraal made of stone. This conveys the impression of Zimbabwean pre-colonial architectural splendor. He confirms that Lebjene became the new capital of Balobedu kingdom. The research conducted by the Commission regarding the Modjadji queenship claim established that, the following: Khiali was succeeded by his younger son Mugodo (1750-1800). Khashane, who was the King Khiali's eldest son, was supposed to be the rightful heir to the throne; but Khiale secretly taught his younger son, Mugodo, the rain charms.

Mugodo decided that the line of succession should be transferred through female lines of succession for the following reasons:

- The infightings for leadership position amongst males;
- The warning from ancestors that his sons were planning to kill him;
- The prophesy about the coming of red ants from beyond the horizon; whose wrath would be softened by the hand of a woman; and
- That the succession lineage would be simpler as the successor would be born from a woman (Queen)-not from the King.

The Commission also found that, Mugodo decided to teach his daughter Maselekwane Modjadji who became Modjadji 1, the rain charm, knowing that he had already decided that she would be his successor. It was during the time of Mugodo that the line of succession changed from the patriarchal system to female queenships. Maselekwane begot a child by his father. Maselekwane became the ruler of the Balobedu community from 1800 to 1854, succeeding her father, King Mugodo. The claimant, Mampeule confirmed that Maselekwane (Queen Modjadji 1) went through the Balobedu traditional practice of the hut opening ceremony, before she could ascend the throne.

The Commission has established that the Bolobedu traditional leadership evolved over time to the extent where there are senior traditional leaders who recognize Modjadji as their paramount chief. Furthermore, the Commissions have established that the history of

Balobedu does indicate that at some stage there was a kingship of Modjadji.

The Commission therefore recommends that the claim by Bolobedu should be processed through sections 2A and 9 of the Traditional Leadership and Governance Framework Act, 2003. The Bolobedu should follow the processes contemplated in sections 2A and 9 of the said Act to process their claim through to the President of the Republic of South Africa for consideration.

Sections 2A , 9 and 10 as quoted above are now explained:

Section 2A deals with the recognition of kingships or queenships: In terms of section 2A (2) number of traditional leadership may be recognised as a kingship or queenship if they:

- a) if they are recognised as such in terms of applicable provincial legislation;
- b) each have a recognised traditional council with a defined area of jurisdiction in terms of applicable provincial legislation;
- c) each have a senior traditional leader recognised in terms of the applicable provincial legislation
- d) recognise a recognised senior traditional leader, who is of higher status than the other senior traditional leaders in terms of custom and customary law, as a king or queen;
- e) recognised themselves as a distinct group of traditional communities separate from principal traditional communities; and
- f) have a system of traditional leadership at a kingship or queenship level.



In addition to that, the traditional communities applying for recognition as a kingship or queenship must have proven history of existence, with a recognised senior traditional leader of higher status as a king or queen in terms of the customary law of succession.

In addition to the above section 9(1) enjoins that whenever the position of a king or a queen is to be filled, the following processes must be followed:

- a) the royal family must, within a reasonable time after the need arises for the position of a king or a queen to be filled, and with due regard to applicable customary law:
  - (i) identify a person who qualifies in terms of customary law to assume the position of a king or queen, as the case maybe, after taking into account whether any of the grounds referred to in section 10 (1) (a), (b) and (d) apply to that person; and
  - (ii) through the relevant customary structures –
    - (aa) inform the president, the Premier of the province concerned and the Minister of particulars of the person so identified to fill the position of a king or a queen;
    - (bb) provide the President and the Minister with reasons for the identification of that person as a king or queen;
    - (cc) give written confirmation to the President that the premier of the province concerned and the Minister have been informed accordingly; and

- b) The president must, on the recommendation of the Minister and subject to subsection (3), recognise a person so identified in terms of paragraph (a) (i) as king or queen, taking into account-
  - i) the need to establish uniformity in the Republic in respect of the status afforded to king or queen;
  - ii) whether a kingship or queenship has been recognised in terms of section 2A.

Section 10 of the Traditional leadership and Governance Framework Act, Act 41 of 2003 as amended deals with the removal of kings or queens. In terms of section 10 (1) a king or queen may be removed from office on the grounds of –

- a) conviction of an offence with a sentence of imprisonment for more than 12 months without an option of a fine
- b) physical incapacity or mental infirmity which based on acceptable medical evidence, makes it impossible for the king or queen to function as such.
- c) wrongful appointment or recognition; or
- d) a transgression of a customary rule or principle that warrants removal.

#### **2.4.4 Thupana Alpheus Makgoba**

The Makgoba community originates from Bokgalaka, now known as Zimbabwe. They came to South Africa as part of the Babina Tlou and settled at Tshakuma area in Venda. They later settled between Kgatla Mountains near Sovenga, not far from where the University of

Limpopo is located. The Babina Tlou community split into smaller groups at the foothill of Kgatla Mountains. The Makgoba community under the leadership of Kgoshi Mamphokhu Makgoba went to stay in the area known as Makgoebaskloof at Woodbush, situated West of Tzaneen in the Limpopo Province.

According to the claimant, Thupana Alpheus Makgoba, kgoshi Mamphokhu died on the 9th June 1895 during the Veldbush war. At the time of his death, kgoshi Mamphokhu Makgoba had no male successor. However, he had a daughter by the name of Rarane (Matema). Sembororo acted as kgoshi of Babina Tlou Ba Makgoba from 1933 -1996. In 1996 Sembororo, together with the Bakgoma appointed Mokopa Karbos to act on behalf of Thupana Alpheus Mamphoku Makgoba. The current level of Babina Tlou Ba Makgoba is that of a senior traditional leadership position. Mokopa Karbos Makgoba is the acting senior traditional leader of Ba Makgoba and not a king. The claim for a kingship is declined but the dispute on senior traditional leadership is referred to the provincial committee of Limpopo for further processing.

#### **2.4.5 Mr Donald Thamaga Mathabatha**

Mr Donald Mathabatha approached the Commission with an application for recognition of a new kingship. Mr Mathabatha is basing his history from articles published in various newspapers that his grandfather was a king. Mr. Mathabatha could not articulate his historical background as he is basing it on hearsay from the elders.

He informed the Commission that Makgobo, Molepo and Mathabatha are siblings and that he is born from a third house. Mathabatha conceded that he was actually claiming a senior traditional leadership position just like the other siblings who are occupying such.

The commission found that, Mr Mathabatha is disputing a traditional leadership position occupied by Mafadi Mathabatha of Moleke Traditional Council. The Commission agreed that the matter of kingship of Mathabatha is closed and he will pursue his senior traditional leadership with the Committee of the Commission of Limpopo. The Commission dismissed the kingship claim.

#### **2.4.6 Mr Wilson Peeha Madibana**

Mr Madibana claimed the kingship of Bahanana in Blouberg in the province of Limpopo. He is basing his claim on the fact that as the family, they met and agreed that he is the relevant person to claim and lead the Bahanana in the Limpopo Province. Mr. Madibane was unable to respond adequately to questions and to articulate his historical background.

The Commission requested the claimant to gather information and submit within thirty days of which he was unable to meet the said deadline. The Commission informed Mr Madibana that it will proceed and conclude his claim if the information is not received within the time allocated. The Commission finalized the kingship claim of Madibana by recommending its rejection based on lack of information

and historical background that proves that the Madibane family was once a kingship. The Commission rejected the kingship claim.

#### **2.4.7 Mr Resenga John Nhangwana**

Mr Resenga John Nhangwana claims the kingship position of Amandebele Abaka Mguambane Hlangwana that was lost between 1880 and 1885. The kingship was lost as a result of the colonial and apartheid administration that interfered with the structures of traditional leadership and governance at the time. According to the claimant, AmaNdebele Baka Mguambane Hlangwana is the descendants of Dlovu Clan which emerged from Mnyamana, Mzilikazi and NMyabele Mabena of the Zulu kingdom. He alleges that Matiko Nhangwana and Mzilikazi emerged from Umbutho wa Maholi from the Zulu Community. The claimant is mentioning Amandebele and Zulus as one community. It is not clear whether the Nhangwanas are Tsongas, Zulus or Ndebeles. He further says that Nhangwana fought the same war with Mzilikazi from Pietermaritzburg, until they stopped at Tshwane where Matiko left Nyabela Mabena.

The claimant alleges that Matiko is the founder of Modimolle (Nylstroom) area and that he remained there for the rest of his life. He claims that Matiko became the Paramount Chief of this land (Modimolle). The history of the Nhangwana kingship was related to the claimant by his father in 1960. In 1962 he heard the story about their kingship from the conversation between his father and his friend's father BLACKY. The history presented by the claimant is new

and cannot be linked to any source except him. The Ndebele kingship was determined by the previous Commission and can therefore not be re-opened. The claim for the restoration of a kingship that never existed and the Commission declined the kingship claim.

#### **2.4.8 Mr Ratshalingwa Wilson Sigwavhulimu**

Mr Sigwavhulimu is claiming Paramountcies of Vhadzanani community which is part of Vhangona Kingdom. The matter of Vhangona is currently in the High Court. The Commission informed the claimant that the matter of Vhangona is in the High Court and can therefore not be discussed by the Commission. The other aspect of this claim is that the position of Paramountcy does not exist in the statute of South Africa. The matter is closed. The Commission dismissed the kingship claim.

#### **2.5 KWAZULU-NATAL**

The Commission attended to ten claims for kingships in KwaZulu-Natal Province. It established that all the claimants never had a kingship before. Some are claiming the kingship which is historically linked to Swaziland royalty. The linkage to Swaziland is through birth; some claimants are indeed born from the royal family of Swaziland and are currently recognized as senior traditional leaders but are not eligible to be kings.

Some claimants falsely traced their history from the origin of the world and they want to be recognised as such.

The Commission further established that some of the claimants have passed on and their families are not willing to continue with their claims, while others are not traceable even through the physical addresses they have provided. Therefore, the Commission closed the files. The following is the breakdown of each claimant:

#### **2.5.1 Inkosi Mboneni Absalom Mavuso**

Inkosi Mavuso is a recognized senior traditional leader in the Province of KwaZulu-Natal. He is located at the boundary of Mpumalanga and KwaZulu-Natal. He is basing his claim on the fact that Mavuso was once a King of amaSwati and therefore he is claiming the said kingship of Mavuso. The lineage of Mavuso is that of the current House in Swaziland. Prince Dlamini of Swaziland indicated before the Commission that Inkosi Mavuso was allocated senior traditional leadership position by the King of Swaziland and recognised by KwaZulu-Natal government and therefore he is not in any position senior than other senior traditional leaders or equivalent to King Mswati.

The Commission is convinced that Inkosi Mavuso is not senior than other senior traditional leaders. He does not officiate in any recognition or installation of other senior traditional leaders; he is part of the amaSwazi who are in South Africa paying allegiance to King Mswati in terms of culture and customary practices. His claim is based on the fact that a certain King of AmaSwati was called Mavuso

but did not check the genealogy of the said King. His claim is baseless and lacks all the required historical and customary support. His claim for the restoration of a Kingship of amaNgwane which never existed in the Republic of South Africa is rejected.

### **2.5.2 Mr Thulani Actor Xaba**

The claimant does not hold any traditional leadership position. He is of the view that the entire African continent must have one king and in terms of his understanding of the customary law of succession plan, he must be recognized as the next in line for the position of King of Africa.

Independent analysis shows that the Xaba Isizwe had always been a senior traditional leadership structure in KwaZulu-Natal and not a kingship. At the level of senior traditional leadership, another family has approached the Commission for restoration and evidence has been supplied in support of the claim. With regards to the historical background of the AmaNkayishane nation, the claimant was unable to provide any information. The claimant's genealogy is not in dispute in this regard.

However, there is a link between the genealogy given by the claimant and that of Christ. The claimant maintains that AmaNkayishane refers to all African people. He further argues that AmaNkayishane originated from somewhere in Israel. The rightful Nkayishane royal family taught the rest of the world the Lord's Prayer. The first Nkayishane king died and was resurrected after three (3) days. The



information submitted by the claimant is not sufficient to cover the kingship determination requirements for kingships as set out in the legislation. The information submitted by the claimant cannot be reconciled with archival and scientifically researched information. His allegation that he is the direct descendant of God cannot be proven. His claim is based on illusion and therefore rejected.

### **2.5.3 Mr Micheal Mfanafuthi Miya Amazizi: Loskop**

The claim for the Zizi kingship is based on the fact that the current senior traditional leadership position held by Inkosi Miya should have been a kingship. Secondly, it is argued that by the claimant that he should be a king because his ancestor was detained by previous governments and was released when he was very old and at the time, the kingship position had been allocated to another house. There seems to be reluctance to dispute the current senior traditional leader. The request is clearly for the assistance of the family of Amazizi amahle to meet and to resolve this issue on their own. The claimant is now deceased and family has declined to take the matter further. The Commission dismissed the kingship claim.

### **2.5.4 Silverster Bonginlanhla Zulu, No community specified: St. Wendolins**

The claimant is not a traditional leader. He is a grandchild of Ntalibomvu Ndida Zulu who was a brother to the late King Cyprian kaBhekuzulu, the father to the present king. The basis of the claim is

that King Cyprian obtained the kingship position fraudulently (no clarification or evidence for this is provided). The claimant is troubled by the late Ntalibomvu in his dreams. The late Ntalibomvu wants his grandchild to be installed in the Zulu kingship now. The claimant and his family are not part of the Royal family. They reside in the Pinetown area as commoners. The claimant cannot be traced. Therefore this claim is dismissed.

**2.5.5 Mfuneni Jeffrey Maphumulo, No community specified: Bothershill**

The applicant seeks answers to the question; “how come, an area that has a history of Maphumulo traditional leadership is under the Ngcobo traditional leadership?” The applicant has not indicated who the claimant will be. This is an enquiry by a family that is troubled by visions and dreams of ancestors. This is an enquiry (neither a claim nor a dispute). The claimant cannot be traced. The claim is therefore dismissed.

**2.5.6 Mbalekwa Dlamini, No community specified: Ixopo**

The Commission found that there was no community specified in Ixopo. The claimant states that his nation led by Nomagwala Dlamini was defeated by King Shaka near Mooi River and his nation then fled to settle in the Highflats/Richmond area.

The chieftaincy was granted to his forebears at some stage by Inkosi Fodo kaNombewu. This position was later taken away by “Whites”

but no date is provided. The claimant does not hold any traditional leadership position at the moment. A land claim has also been lodged. The claimant has submitted a sworn statement withdrawing the kingship claim. The Commission dismissed the kingship claim.

#### **2.5.7 S'thunzi-kaNsele Radebe, Amahlubi: KZN Midlands**

This is a claim for AmaHlubi kingship. It has been dealt with substantially by the Nhlapho Commission. In the main, the argument is that this group was at no stage incorporated into the Zulu kingdom. The AmaHlubi matter is in court and cannot be entertained further. The Commission dismissed the kingship claim.

#### **2.5.8 M.A Hlongwane**



The Commission found that there was no community specified in Bergville. This is a claim for the Amangwane kingship. The basis of the claim is that Amangwane were never incorporated into the Zulu nation. It is claimed that the kingdom existed before the time of king Shaka. The claimant has provided a list of Amangwane rulers from the 10th century with each king ruling for about 100 years up to the 17th century. The claimant was not a King on 1 September 1927 and therefore no kingship can be restored. The claim is rejected.

#### **2.5.9 Prince Melizwe Dlamini**

The claimant is Prince Melizwe Dlamini of the Nhlanguwini Traditional Community in the South Coast. The claim has served before the

then Nhlapo Commission during the phase 1 process which in the main focused on the determination of Paramount Chiefs who qualified to be deemed as Kings in terms of the new order legislation (Act 41 of 2003). The Nhlangwini kingship claim is motivated on the basis of the following rationale;

- a) Autonomy of the Nhlangwini nation in the early 19th century in spite of the military and political upheavals of 1810- 1828 (page 2 of the submission).
- b) Historically proven ancestry of the Nhlangwini nation which is an off-shoot of the eMbo-Nguni group which originated from the present day DRC/ Burundi/ Tanzania region.
- c) The miraculous metamorphosis of Nhlangwini (most junior of the four houses of King Dlamini II) into an independent nation and kingdom through determination and successes in various wars in which other traditional communities were incorporated into the Nhlangwini kingdom.
- d) Longstanding history of allegiance to Nhlanguwini iNkosi yamaKhosi by other traditional leaders.
- e) The historical allocation of land to other traditional communities and their leaders by iNhlanguwini iNkosi yamaKhosi.
- f) The independence of the Nhlanguwini nation from any other nation since the 1800's.
- g) The survival of the claimant nation throughout the Shaka era.
- h) The fact that the claimant nation was at no stage defeated by King Shaka.

- i) The fact that the nation consolidated itself as a kingdom from the south of the Uthukela River up to the Eastern Cape.
- j) The reality of at least 45 senior traditional leaders and independent traditional communities that pay allegiance to Prince Melizwe Dlamini in his status as King.
- k) The Nhlungwini nation has a distinct language, distinct cultural practice and enjoys geographical space without interference from the Zulus or any other kingdom.
- l) The independence of the Nhlungwini kingdom as indicated by the distinction that its Monarch is independent and is not installed by the Zulu King.
- m) The Nhlungwini kingship claim was lost in 1847 but the claim was lodged with the Nhlapho Commission before the amendment of the legislation in 2009. The requirement of the principle of administrative justice compels the Commission to entertain the claim and not to apply the provisions in respect of the 1 September 1927 cut-off date.
- n) The Nhlungwini kingdom was destroyed by the British colonial army which invaded the Nhlungwini community under the then leadership of Fodo in 1847.

The meeting of senior traditional leaders in 2009 shows a distinct opposition to the claim by the most senior houses in the royal family. The Ekunene and Isiphahla houses are particularly against the view that there was a kingship status as alleged by the claimant. The leaders whose names appear in the list are currently recognized by the government of KwaZulu-Natal. It has accordingly been found that

the allegiance by other senior traditional leaders as claimed by the claimant cannot be confirmed and it is in fact denied.

The claimant's submission argues that the "kingship" was lost in 1847. The reasons for the loss of the kingship are not clear. Archival information has confirmed that this leadership was regarded way back in 1921 as a Chieftainship which has been retained over the years to be recognized as a position of senior traditional leader under the present dispensation. It is recommended that the Kingship claim by Prince Dlamini of Nhlanguwini be declined.

## **2.6 FREE STATE**

The Commission attended to three kingship claims. It established that all three claims did not warrant a kingship because there was no evidence to prove that their families held such positions.

Some claimants from Free State wanted the Commission to review the decision of the Nhlapho Commission. The other claimant is alleging to be from the senior house of BaSotho which is even senior than King Letsie III.

In all the claims from Free State, the Commission is unable to review the decision of the previous Commission and as well as the results of the Difaqane. The following is the breakdown of each claimant:

### **2.6.1 Makausi David Moloji and Morena Paulos Jan Moloji**

The claimants are Mr M Moloji and Morena Paulus Jani Moloji. The additional claimant, Mr T E Moloji has since informed the Commission that he is not claiming kingship but Principal Traditional Leadership. Makgolokwe were amongst those who submitted claims for kingship to the Commission after the closing date of 30 August 2010. The first public hearing organized by the Commission was held in the Old Parliament Building at Qwa Qwa, Free State Province on 06 June 2011.

The following claimants were afforded an opportunity to present their claims to the commission:

- Mr T E Moloji ;
- Mr M Moloji and ;
- Morena P Moloji



There is indication throughout history as to the move of chieftainship customarily from the house of Tshuisi I to the lower house of Seeka. Even if there was evidence to confirm the takeover of chieftainship by the lower house, Makausi II is junior (genealogical assessment) and cannot claim the senior traditional leadership.

The requirement is that traditional leadership positions must enjoy sufficient recognition through custom. The claimant (Makausi II) does not enjoy the recognition in terms of custom and customary law at the level or status at which he is claiming. Paulos Moloji is considered as per custom of Makgolokwe to be their “king” but he is a senior

traditional leader. The Commission conducted research, public hearings and reviewed literature. It established that:

- a) The Bakgolokwe are not a kingship or kingdom
- b) The two claimants do not have a historical background of kingship.
- c) The Bakgolokwe traditional leadership was at no stage at the level of kingship.
- d) There was no kingship that was lost in a manner envisaged in the mandate of the Commission.
- e) There is no kingship to be restored (keeping in mind the restorative nature of the work of the Commission).
- f) There are no senior traditional leaders that historically pay allegiance to the claimants.
- g) There are no sub-ordinate traditional communities that are affiliate to "main communities" under the leadership of the claimants.
- h) There is no evidence of a historically higher status than that of a senior traditional leader (which includes kingship and or Principal traditional leadership;

The claim by Mr T.E Moloi represented by Daphney Dlamini withdrew the claim in support of Morena Paulous Moloi. Despite the support, the Commission was unable to find any proof that a kingship existed within the community of Makgolokwe. On the basis of the above



findings, the Commission recommended that all claims for the restoration of a kingship that never existed be dismissed.

### **2.6.2      Lebina David Mofokeng**

Mr Mofokeng lodged a claim of restoration of the kingship of BaSotho ba Mmutla o jeo o Tala. The claimant prepared well for his presentation to the Commission. However, he indicated before the Commission that he was the senior house than King Moshoeshoe of LeSotho. The Commission considered his claim on the basis that he argued that King Moshoeshoe I took the kingship from his lineage, the Commission came to one conclusion that the founder of BaSotho community did so during the times of Difaqane as such the family of Mofokeng could have challenged him at the time. The Commission could not reverse the results of Difaqane. The claim by Mr. Mofokeng is rejected on the basis that the Kingship of BaSotho exists in LeSotho and because he alleges to be from the senior house, he should approach King Letsie III to request for his kingship in LeSotho and not in South Africa. The matter is closed. The Commission dismissed the kingship claim.

### **2.6.3      Lebaka David Tsotetsi**

Mr Tsotetsi lodged a claim for the restoration of the Kingship of Batlokwa. He alleges that he is from the senior house of Batlokwa. The Commission could not establish any reason for reviewing the decision of the Previous Commission and that of the President in

terms of the kingship of Batlokwa. The claim of Mr Tsotetsi was therefore closed on the basis that the kingship of Batlokwa was finalized by the Nhlapho commission. The Commission dismissed the kingship claim.

