



BAPO BA MOGALE

A Path of Legitimization Patterns
of the Royal Family of the
Bapo Ba Mogale Traditional Community:
Setting the Record Straight

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The primary objective of this research manual is to provide a lucid insight on the legal framework of the Royal Family of the Bapo Ba Mogale community. The traditional structures of the community more especially the Royal Family is enjoined by law to comply with the requirements pertaining to its constitution and membership. There is no gainsaying the fact that the constitution of the Royal Family of the Bapo community is skewed and flawed. The gravamen of the current Royal Family of the Bapo is that it is repugnant to the customs of the community and the relevant legislation. As a consequence, this research manual provides guidelines on how the legitimate structure of the Royal Family should be reconstructed. Most importantly, the status and position of the Mogale(s), the Moerane(s) and the Maimane(s) within the traditional organizational structure of the Royal Family is fully clarified. This manual also provides a wide range of possible solutions and the recommendations tailored to assist the royal elites to resolve their leadership woes and problems.



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FOREWORD

The institution of the traditional leadership of the Bapo Ba Mogale community is an important part of the rich history of South Africa. Without any mention of Chiefs Moerane, Maruatona, Mogale Mogale and the Chief regent Filius Rakgatla, the history of the Bapo community will be incomplete. The traditional leadership of the Bapo community has existed from time immemorial. However, there is no gainsaying the fact that the current Royal Family of the Bapo Ba Mogale is at the crossroads and the reality is that the royal house of the Bapo is in disarray. Equally so, the traditional governance of the community is also chaotic if not disorientated. The big question to be asked is: why did the traditional authority of the Bapo community struggle for many years to organize itself in a manner that promotes efficient and sound governance?

In my view, the answer is not difficult because the traditional structures of the Bapo in general and the system of governance in particular are in shambles. Most probably, there is a general admission that this analogy is correct. Without doubt, the traditional leadership malady and problems of the Bapo must be worked out once and for all. It is for this reason that this research manual represents a gallant effort to provide lasting solutions to the devastating challenges and troubles of the leadership of the Bapo community. As a consequence, this manual and its attendant possible solutions are geared towards delivering a legitimate and rightful institution of the Royal Family which uncompromisingly meets all the legislative and customary law requirements.

It is imperative to highlight the fact that both the Traditional Leadership and Governance Framework Act, 2003 and the North West Traditional Leadership and Governance Act, 2005 enjoin that the traditional communities should have their respective Royal Families which are properly constituted. In view of the present circumstances of the Bapo Ba Mogale community, the most mind-boggling questions are: does the current Royal Family of the Bapo Ba Mogale community comply with the dictates of these two pieces of legislation? If yes, to what extent? and if not, why? These are some of the questions which are posed in this manual and will in all possibilities be answered.

It is against this background that I urge the royal elites of the community to work together for a common vision of building a transformed and rightful institution of the Royal Family. It is prudent that all the concerned royal elites of the Bapo must work together and reconcile their differences for the benefit of the community. Fortunately, this manual provides the most important insights on how the Bapo traditional authority can deliver successful governance in line with its constitutional and legal mandates. I

OBJECT AND OVERVIEW

This research manual represents an effort made by the erstwhile Administrator of the Bapo Ba Mogale community, Mr Thabo Lerefelo in his endeavours to resolve the challenges of the Royal Family of the Bapo. It is therefore imperative to highlight the fact that this manual attempts to clarify a plethora of issues which are closely interwoven with the Achilles' Heel of the Royal Family within a broader organizational structure of the traditional leadership of the community. In order to give a clear perspective to the leadership woes of the Bapo community, this manual presents succinct answers under the following chapters.

Chapter 1: This chapter examines the background situational analysis of this research manual and the issues pertaining to the research methodology and approaches which were adopted in the development of the main research document which culminated into this summative piece of work.

Chapter 2: This chapter gives a detailed historical account of the institution of the traditional leadership of the Bapo Ba Mogale with particular reference to the genealogy of the Chiefs of the community. It is in this context that the family tree of the successive Chiefs of the Bapo is diagrammatically and fully outlined. The origin and the settlements of the community will also be highlighted.

Chapter 3: The primary objective of this chapter is to shed light on the traditional structures of the Bapo Ba Mogale with much emphasis on the institution of the Royal Family. It is for this reason that the customary responsibilities and duties of a traditional structure of the Royal Family will be fully articulated. Attempts will also be made to explain the term "Royal Family" from the perspective of the customary law of the Tswana communities in general and Bapo Ba Mogale in particular.

Chapter 4: This chapter focuses on the fundamental changes brought about by the new constitutional dispensation on the institution of traditional leadership. The provisions of both the Interim and the "Final" Constitutions which impact on the institution of traditional leadership will also be discussed. It will also demonstrate how the new constitutional dispensation and democracy influence the institution of the *bogosi* of Bapo Ba Mogale.

Chapter 5: This chapter deals primarily with the implications of the Traditional Leadership and Governance Framework Act (herein referred to as the "Framework Act")

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Chapter 1

Introduction

1.1 Rationale Behind the Research Project

The chieftainship¹ and the tribal administration of the Bapo Ba Mogale² community date far back in history. Inevitably, the challenges and pitfalls of the current traditional authority of the Bapo community are historically complex. The question which comes to mind is: what are the causes of these problems which seemingly crack the integrity and image of the institution of the traditional leadership of the Bapo Ba Mogale. These menacing troubles of leadership crisis are motivated amongst many others by the illegitimate traditional structures of the community more especially the Royal Family which is legally non-compliant.

Inevitably, the current institution of the Royal Family has lost credibility and direction in all respects. For example, the infightings, perennial incompetence and inefficiencies reflect the decline of traditional governance. The rightness and moral esteem of the chieftainship of the Bapo has lapsed in all its manifestations. It is therefore beyond doubt that members of the Royal Family and the present *kgosi*³ of the Bapo are at crossroads of a royal crisis because of the negative trends of the "politics of the palace."⁴ The truth of the matter is that the Bapo traditional leadership is devoid of the proper and legitimate Royal Family to conduct its affairs in the most acceptable and credible way.

¹ The word "chieftainship" is used interchangeably in this research manual to refer to the words "traditional authority" and "traditional leadership."

² The Bapo community resides in the land west of the Brits district and north of Rustenburg, along the N4 route in the North West Province. The Bapo community has a rich cultural and historical background. The area of the Bapo community is rich in minerals. A greater part of the Bapo community has mineral deposits of the platinum group; metals, chrome and granite. Throughout this research document, the word "Bapo" is used to refer to the Bapo traditional community. The Bapo community is also called the Bapo No.1 to distinguish it (them) from another group of the Bapo, which is called the Bapo No. 2. The word "tribe" is used interchangeably to refer to the traditional community of the Bapo depending on the historical context. However, after 1994 constitutional settlement, the words "traditional community" were recognised in the 1996 Constitution and the subsequent relevant legislation. This means that the word "tribe" is no longer in the statute book.

³ The word *kgosi* is a Tswana term, which is used differently to refer to a leader of a traditional community. During both the colonial and apartheid era, *kgosi* was also known as Chief, *Kaptein* or a leader of a traditional authority. These names will be used interchangeably according to their historical context throughout this research document. For the discussion on the post-apartheid era, the term senior traditional leaders is used to refer to *kgosi*.

⁴ The word "palace" refers to the royal residence or house of the ruling class of the Bapo. It is therefore, used in this context to refer to the institution of the Royal Family and the office of *kgosi*. The politics of the palace refers to the infightings and conspiracies embedded on the landscape of the chieftainship of the Bapo community.

reconstruction of the history of the Bapo community with regards to their successive Chiefs and traditional structures.

1.3 Situational Analysis and Perspectives

This research manual discusses mainly the fundamentals of the Royal Family, both customary and statutory obligations and powers of *kgosi*, the role and functions of the Royal Family of Bapo community, the implications of the new constitutional dispensation on the landscape of the *bogosi* of the Bapo Ba Mogale community, the impact of statutory provisions of both the Traditional Leadership and Governance Framework Act, 2003 and the North West Traditional Leadership and Governance Act, 2005 on the composition and membership of the Royal Family of the Bapo Ba Mogale community.

It is in this context that this research manual will enable the royal elites of the Bapo Ba Mogale to have a broad understanding of the dynamics of traditional governance and the Royal Family from both theoretical and practical points of view. This research manual provides a proper perspective on issues, challenges and opportunities inherent in the terrain of traditional leadership of the Bapo Ba Mogale and it is assumed that the royal elites already know these relatable issues.

Therefore, this research manual is aimed at supporting members of the Royal Family (i.e. *Borarangwane-ba-Kgosi*, *Bo-monna-kgosi*, *Borarangwane-ba-Bogosi*, *Borakgadi-ba-Kgosi*) to develop a broader framework of knowledge of both customary and statutory provisions which impact on the landscape of traditional leadership in general and the *bogosi* of the Bapo Ba Mogale in particular. It is for this reason that this research manual is amongst other things designed to bring attention of the royal elites of the Bapo Ba Mogale more especially members of the Mogale, Moerane and the Maimane families to the legislative realities pertaining to the proper constitution and functioning of the Royal Family.

example, Breutz noted that the oldest tradition of the Bapo community points to the Zululand.

Even so, Massie held a different view on the question of the origin of the Bapo. According to Massie, it is not by any means certain or even probable that the Bapo community are of Zulu extraction.⁸ On the other hand, Ngwako⁹ held a view that Bapo people are Tswana migrants from the fringes of the Kalahari Desert. However, the views held by Massie, Breutz and Ngwako seemed to be off the beam because the migration of the black people of southern Africa is traced from north Africa to the present day South Africa where for various reasons some tribes migrated to the present Botswana and Lesotho.

It is also submitted that the Bapo are more likely to be of the Basotho race. This submission is in all possibility supported by the overwhelming historical evidence on the origin of the Sotho-Tswana groups. The current tribal groups of Lesotho are the descendants of the Kwena lineage or what can be conveniently called the "Malope tribe." The Kwena group also migrated from the Great Lakes of Africa or what is commonly known amongst the Tswana as *Nokadifatshe*. Therefore, it is possible that the Bapo Ba Mogale might have been the breakaway group from the original Kwena lineage which migrated to the present Lesotho with other groups such as the Bamonaheng, Bamohorosi and the Batsotetsi which are still in Lesotho even today.

Despite what different historians speculated about the origins of the Bapo, the community became the Tswana in language and customs.¹⁰ Therefore, there is no dispute that the Bapo Ba Mogale are the Tswana group of the North West Province of South Africa. As a result, the divergent views on the origins of the Bapo become so irrelevant and immaterial. Nonetheless, it is important to highlight the fact that while Bapo were on their settlement, they were attacked by Mzilikazi who disintegrated the community.

Be that as it may, the Bapo community also owned the surrounding areas of Magaliesberg. The name "Magalie"¹¹ is a bastardization of the name Mogale. The Boers

⁸ Massie R *The Native Tribes of the Transvaal* (London 1905): Anon <http://www.achive.org>.

⁹ Ngwako M "The Return of King Mogale" 14 October 2004 *Drum* 89.

¹⁰ Whether the Bapo are of the Zulu or Sotho origin, it is immaterial for the purpose of the current discussion. What matters most is the fact that the Bapo are the Tswana community and even so regarded and recognized by the government.

¹¹ The name "Magalie" appears to be a corruption of the family name Mogale. Both the colonial and apartheid governments deliberately sought to negate the cultural heritage of the Bapo so as to deny them their sense of identity and continuity. In the process, the white authorities tried to take away people's names. Hence, Mogale became Magalie.

Mogale were ruled by the successive Chiefs long before Mogale Mogale could take over the reigns of the community. The Bapo community was also ruled by both the regents and the acting Chiefs respectively. However, some of the acting Chiefs were wrongly appointed because a proper procedure in terms of the customs of the community was not followed.

It is important to highlight that from the reigns of Chief Lotsane to Kgosi Bob Mogale, the chieftainship of the Bapo was interrupted by different historical phases which ranged from the pre-colonial era to the new democratic South Africa. The *bogosi* of Bapo Ba Mogale commenced during the reign of Chief Lotsane. Lotsane was the son of Mogale Monyane, Monyane was regarded by many historians as the founding father of the community. Although Mogale Monyane does not appear in the family tree drafted by Breutz, it is a common cause that as the founder of the community he was obviously a first natural leader or Chief of the community. The following diagram depicts a general family tree of the Bapo Ba Mogale:

2.2.1 *Historical Perspectives and Chronological Order of Chiefs*

As highlighted and depicted in the above diagram, the Bapo Ba Mogale were ruled by the successive Chiefs in different historical epoch. The role of these Chiefs differed in terms of historical times and contexts. Some of the Bapo Chiefs were men of forceful character and remarkable personality while others were devoid of good leadership qualities. For example, Chief Mogale Mogale is one of the Bapo Chiefs who fought gallantly to protect and defend the sovereignty and dignity of the chieftainship of the Bapo.

Besides the Chiefs of the Bapo Ba Mogale, some of the regents and acting Chiefs of the community also demonstrated quality leadership and enhanced the integrity and the chieftainship of the community. For example, the acting Chief Filius Mogale played a very important role in ensuring that the *bogosi* of Bapo is respected and protected. Equally so, the leadership of some of these regents and acting Chiefs leaves much to be desired. As a consequence, the success and downfall of the Royal Family of the Bapo Ba Mogale was incumbent upon the leadership style of the ruling Chief. It is in this context that the history of the Bapo Ba Mogale must be understood.

In other words, the more the ruling Chief was powerful, the more the Royal Family became strong and organized. For instance, the Royal Family of the Bapo was so organized and legitimized during the reign of Chief Mogale Mogale. Chief Mogale Mogale was an embodiment of the integrity of the Royal Family and the *bogosi* in general. The following diagram depicts a summary of the historical chain of the Chiefs of the Bapo reflecting their status, dates of birth, appointments and death (if known) as follows:

Chapter 3

Customary Morphology of the Royal Family

Objective

The objective of this Chapter is to discuss the dynamics of the royal house with particular reference to the definition of the Royal Family in terms of customary law. The customary functions of the Royal Family will also be highlighted.

Scope

The institution of the Royal Family

Definitional Analysis of Royal Family

Customary Functions of the Royal Family

3.1 Definitional Analysis of the Royal Family: From Customary Law Perspective

The Royal Family of the Bapo Ba Mogale is a customary body which is required to be made up of the royal elites who are closely related to the *Kgosi*. In other words, it is important to note that its membership is limited only to the immediate relatives of the ruling family. This implies that the distant relatives of the *kgosi* or the ruling family are not qualified members of the Royal Family. The Royal Family always meet in secret and the *kgosi* himself is required to summon the members to meetings.

The Royal Family may be described as a body that rules from behind the scenes.¹⁸ The nucleus of the typical Bapo Ba Mogale chieftainship is the ruling family whose influence is entrenched by customary rules and practices ensuring authority for its members. The principal or representative of the Royal Family is the *kgosi*. The *kgosi* is in a way, the constitutional head of the Royal Family and the community.

3.1.1 Customary Composition of the Royal Family

As highlighted above, members of the Royal Family are *kgosi*'s most trusted immediate relatives and advisers who meet in secret to consider in advance matters that are to be put before the *kgotla*'s (community assembly) full meeting. The Royal Family serves the *kgosi* in secret and in advisory capacity and decides upon definite proposals for

¹⁸ Mbenga B and Manson A People of the Dew: History of the Bafokeng of Phokeng, Rustenburg Region, South Africa. From Early Times to 2000 (Jacana 2010) 21.

lead to civil war, they split the tribe into factions whose continual disagreements greatly disturb the general peace and prosperity. It is common knowledge that the Bapo Ba Mogale are no exception to these disturbing trends.

The Interim Constitution guaranteed the existence of traditional leadership and protection of the institution of traditional leadership. It also recognised the application of customary laws subject to the Constitution. For the Bapo Ba Mogale, it meant that the Interim Constitution recognized its traditional authority and structures. However, such recognition was subject to the supremacy of the Constitution. This meant that the traditional structures of the Bapo Ba Mogale such as the Royal Family were required to comply with the constitutional imperatives.

4.2 1996 Constitutional Imperatives

The 1996 Constitution of the Republic of South Africa came into force and effect on the 4th of February 1997. The 1996 Constitution is the supreme law of the country. Section 2 of the Constitution provides that the Constitution is the supreme law of the Republic, law or conduct inconsistent with it is invalid and the obligation imposed by it must be fulfilled. Section 2 must be read with section 1 of the Constitution, which also pronounces the supremacy of the Constitution and the rule of law. If all these sections are read together, one principle is indisputable: the Constitution is supreme and therefore everything and everybody is subject to it.

The 1996 Constitutional Provisions

The 1996 Constitution provides *inter alia* for the following:

- Entrenchment of the principle of constitutional supremacy;
- Provision for the right to equality and non-discrimination clause;
- Recognition of the institution, status and the role of traditional leadership;
- Traditional authority to function subject to any applicable legislation and customs which includes amendments to, or repeal of, that legislation or those customs; and
- The courts must apply customary law when that law is applicable subject to the Constitution and any legislation that specifically deals with customary law.

4.3 General Implications of the Constitution on the Bapo Traditional Authority

The post-apartheid era and the emergence of democracy in South Africa gave rise to the need for constitutional change. The traditional community of the Bapo community is enjoined to undergo constitutional and legislative changes. Some of these changes are at

Chapter 5

Legislative Governance and Policy

Objective

The primary objective of this Chapter is to discuss the implications of the Traditional Leadership and Governance Framework Act 41 of 2003 on the landscape of the institution of traditional leadership with particular reference to the traditional structure of the Royal Family of the Bapo Ba Mogale.

Scope

Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003)

5.1 Core Provisions of the Traditional Leadership and Governance Framework Act, 2003

As already observed, the Framework Act took its cue from section 212(1) of the 1996 Constitution. This section provides that national legislation must be enacted to give effect to the transformation of the traditional structures of the traditional communities such as the Bapo Ba Mogale. The "Framework Act"²⁴ is one of the major pieces of legislation in South Africa, which is framed to create an institution of traditional leaders that has to perform its traditional duties in a manner that embraces democracy.

²⁴ Act 41 of 2003. Herein referred to as the "Framework Act". See Traditional Leadership and Governance Framework Amendment Act, 2003 (Act 41 of 2003) This Amendment Act recognises traditional communities and makes provisions for the establishment and recognition of traditional Councils. It provides a framework for leadership position within the institutions of traditional leadership.

- Does the current Royal Family of the community comply with the statutory definition of the Framework Act?
- If yes, how? and if not, why?

It is an indisputable fact that the proper and genuine answers to the above questions will provide answers to the problems of the Bapo Ba Mogale pertaining to the composition and membership of their Royal Family. Both the Framework Act and the North West legislation are the most important benchmark which should be used to “measure” or “gauge” the legitimacy of the current Royal Family of the Bapo Ba Mogale. If the current royal family failed the test of these two pieces of legislation and the Constitution, then obviously it is illegitimate and not properly constituted.

5.3 Is Bapo Ba Mogale a Traditional Community?

A traditional community may be recognised as a traditional community if it: (a) is subject to a system of traditional leadership;(b) observes a system of customary law. The Premier of a province may after consultation with the relevant Provincial House of Traditional Leaders recognize a traditional community through a Government Gazette in terms of provincial legislation. The Bapo Ba Mogale community is as such recognised as a traditional community. In other words, the Bapo Ba Mogale community has satisfied the statutory requirements as contemplated in the Framework Act and the North West Traditional Leadership and Governance Act, 2005.

Royal Family. This message is so unambiguous to an extent that it is expected to be easily comprehensible. The North West legislation simply requires direct and the close relatives of *kgosi* or the ruling family to be admitted in the royal house. The main qualification required here is evidently the proof of immediate or close relationship with the ruling family. This means that the distant or extended relatives are automatically disqualified.

Another important consideration here is the words "ruling family." This means that community cannot have the Royal Family without the ruling family. Put differently, it means that the community cannot have the ruling family without the Royal Family. It should be emphasised that both the Framework Act and the North West legislation do not make mention of the words "Royal Families" rather these two pieces of legislation make mention of the words "Royal Family." This means that a proper constituted Royal Family cannot be made up by the Royal Families. Put differently, different Royal Families cannot constitute a single Royal Family.

6.3 Statutory Functions of the Royal Family

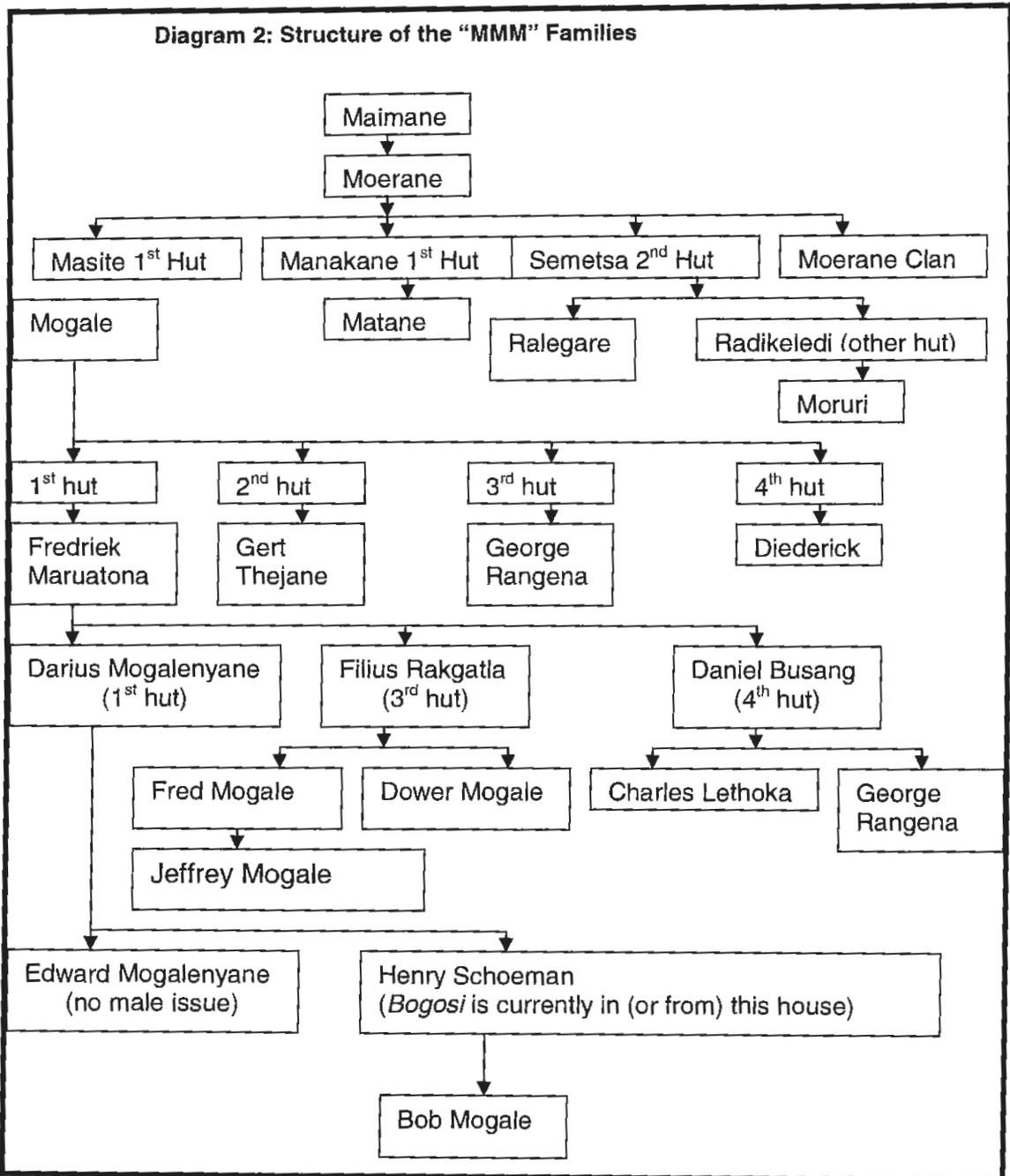
Both the Framework Act and the North West Traditional Leadership and Governance Act enjoin the Royal Family to perform certain functions. For example, in terms of the Framework Act,²⁶ when the position of a senior traditional leader, headman or headwoman is to be filled, the Royal Family concerned must identify a qualified person. The person so identified must qualify in terms of customary law to assume the position. The Royal Family must also inform the Premier of the particulars of the person so identified and the reason for identification.

The North West Traditional Leadership and Governance Act, 2005 does not only provide for the role of the Royal Family but it also makes provision for the procedures relating to its meetings.²⁷ The Royal Family must also take lawful steps that may be necessary to protect the *bogosi* of the traditional community and designate a person who is the rightful incumbent or successor to the *bogosi* in terms of customary law and customs.

²⁶ Section 11(1)(a) of Act 41 of 2003.

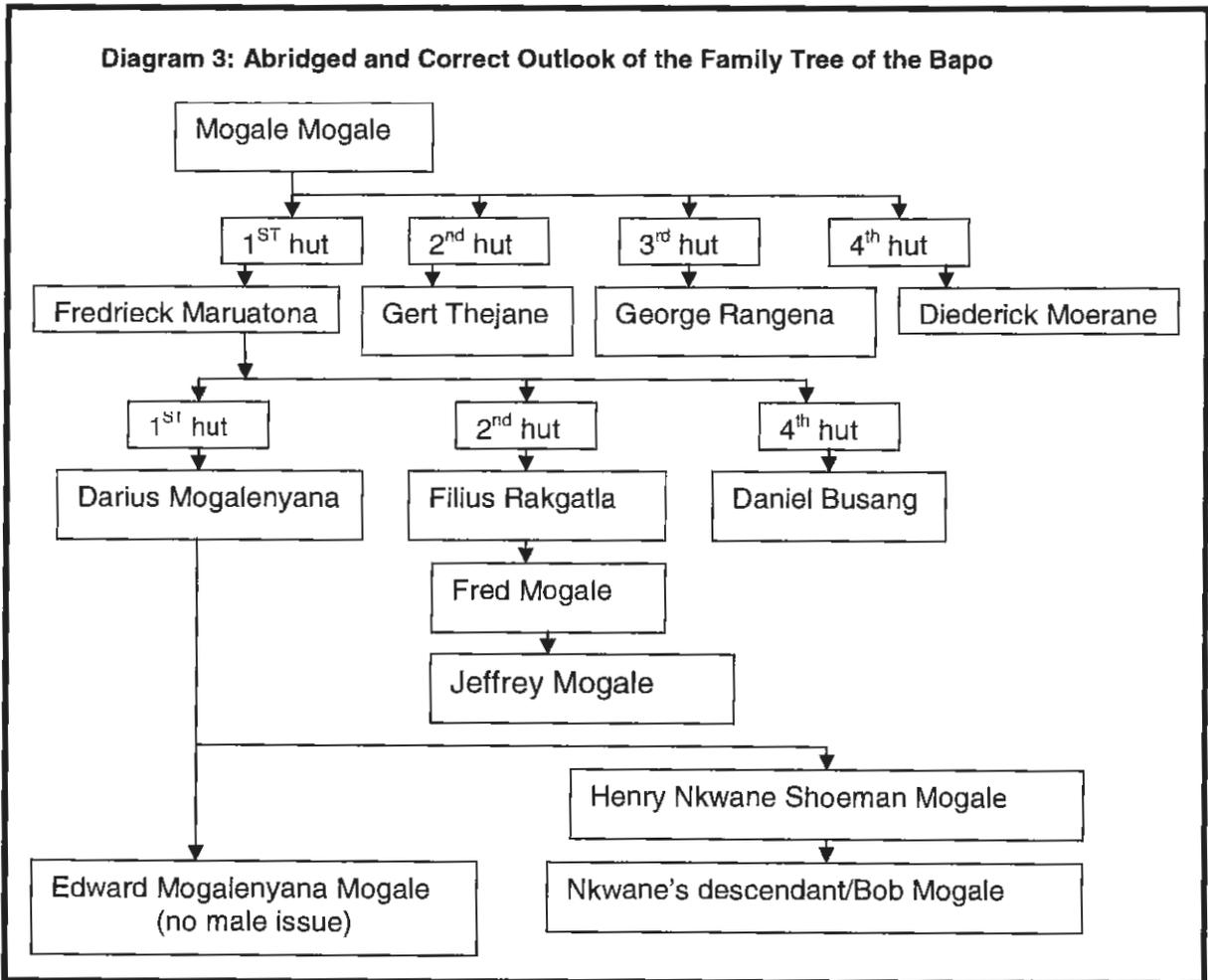
²⁷ Sections 24 and 25 of Act 5 of 2005.

history of the genealogy of hereditary rulers of the Bapo describes the “MMM” families as the relatives. Fourthly, it is important to explain the outlook of the Royal Family in line with the statutory definition alluded to in the North West legislation and the Framework Act respectively. The following diagram illustrates the distance amongst the Mogale(s), Moerane(s) and the Maimane(s):



have half-brothers, his Royal Family members were drawn from his father's half-brother(s).

The most important reality to be noted about the *bogosi* is that the more the Royal Family becomes bigger, the more some of the relatives become distant and secluded. It is in this context that the closeness of the Moerane and the Maimane to the present Royal Family became thinner, over a period. In other words, the more *bogosi* moves from one house to another, the more some relatives take steps backwards. It should be noted that the membership of the Royal Family is not stagnant or permanent. There is a Tswana adage which says: "*bogosi bo fatela kwa morago. Ka mantswe a mangwe, bogosi bo kgaphela masika a kgakala kwa morago mme bona bo e pele. Fa boya kwa pele bo eta bo tlogela ba bangwe kwa morago. Ke bogosi joo!*" The following diagram illustrates the family tree of the Mogale family:



7.3.1 *Different and Contradictory Versions: Names of the Sons and Grandsons of Moerane I*

It is beyond doubt that Moerane I had the sons namely; Masite and Manakana from the first house. In the second house he had Semetsa. However, Breutz is uncertain about other houses of Moerane I. For example, Breutz has put a question mark on a house which followed the second house of Moerane. It means that Breutz acknowledged confusion around the sons of Moerane from other houses. As already observed, Breutz is certain on the sons of Moerane from the first and the second houses.

Nonetheless, it is also an indisputable fact that Masite was the father of Mogale Mogale. However, confusion arises in respect of the sons of Manakana and Semetsa. For example, some of the records reveal that Matane was the son of Manakana while others assert that he was the son of Semetsa. Other historians argue that Ralegare was the son of Moerane while others mention that he was the son of Semetsa (see diagrams 2 and 3). It is important to appreciate the fact that the two diagrams which were depicted in the main document shed light on the Moerane clan in general terms. Despite all these divergent historical versions, what matters most is the fact that Masite, Manakana, Semetsa, Ralegare, Radikeledi, Moruri, Matane and others were members of the Moerane clan.

Whether the names of these descendants of Moerane are arranged in chronological order or their birth status is confusing is a subject of its own kind. Most importantly, the question is: whether the current descendants of these men are the immediate relatives of the ruling family of Bob Mogale? Truly, the sons of Moerane I were the close relatives of the ruling family of Mogale Mogale. Therefore, the current descendants of the sons of Moerane cannot be the immediate relatives of Bob Mogale's ruling family. Still, it is also impossible and impracticable for the current descendants of Moerane I to qualify as the immediate relatives of the sons of Moerane or Moerane himself.

7.4 *The Moerane's Clan Through the Lens of Scrutiny*

The Moerane(s) are the clan within the Bapo community. In other words, the Moerane(s) are not the ruling family. Nevertheless, the eldest son of Chief Moerane was Masite from the first house of Chief Moerane. Another son of Moerane was Manakana from the first house. Both Semetsa and Ralegare were also sons of Chief Moerane. On the other hand, the eldest son of Masite was Mogale Mogale.

The most important question which immediately arises is: where are the core descendants of Maimane? It is indisputable fact that his core descendants are amongst the Bafokeng. In all possibility, some of his descendants might be amongst the Bakwena Ba Mogopa and the Bakgatla Ba Kgafela. Given the circumstances which surrounded the history of the Maimane family, the question is: Did the Maimane(s) have a legitimate claim over the Royal Family of the Bapo community? Did they still belong to the Bapo if indeed Maimane's expulsion by Moerane is to be considered more especially in the light of the offer of 100 heads of cattle? The offer of 100 heads of cattle was accepted by Maimane hence he left the Bapo territory.

One is therefore persuaded to contend that the expulsion of Maimane by Moerane coupled with the offer of cattle may be interpreted as an agreement. There are various reasons which may be advanced to support this factual analysis. Firstly, the fact that Maimane accepted the offer meant that he agreed to expulsion. Secondly, Maimane never returned to the Bapo community and ultimately he died in Phokeng. This historical truth which is somehow painful is important to define and locate the status of the Maimane(s) within the *bogosi* of the Bapo community.

Nonetheless, besides the lessons of the history of Maimane and Moerane, the current descendants of Maimane are distant relatives of the current ruling house of Kgosi Bob Mogale. Inevitably, the Maimane(s) are not qualified to be the members of the current Royal Family of the Bapo. This fact must be acknowledged.

7.5.1 Special Historical Truth About Maimane

As highlighted above, Maimane was the regent for Moerane. It is also noticeable that Maimane was the biological father of Moerane. As a result, it should be appreciated that although Maimane was in reality not a Chief but he gave birth to a Chief namely Chief Moerane. *Ka mantswe a mangwe, Maimane o tsholetse Bapo Kgosi e bong Kgosi Moerane. Se se totobatsa sentle kgang e ke e umakileng gore go kgaphela ba losika la ga jaana la Maimane kwa ntle gotlhelele go ka bakela bogosi le morafe khumanego ka badimo ba tlabe ba sa rate seo. Ka jalo re umaka gore ba ga Maimane le ba ga Moerane ba tshwanetswe ke go batlelwa bonno mo bogosing e bong go tsenngwa mo General Royal Council e tshitshintsweng mo bukaneng e.*

7.6 Retrospective Amendment of Genealogy is Unjustifiable

As already observed, both the Moerane(s) and the Maimane(s) are distant blood relatives to Kgosi Bob Mogale and their status is accordingly diluted over the passage of

Chapter 8

Possible Solutions and Way Forward

Objective

The aim of this chapter is to discuss the ways and possible means of resolving the problems and leadership woes of the Bapo Ba Mogale. Apart from the proposed possible solutions and recommendations, this chapter outlines methods of the implementation of the recommendations.

Scope

Possible solutions and Recommendations
Monitoring and Implementation

8.1 Thinking around the Recommendations

8.1.1 The Overcrowded or "Densely Populated" Royal Family of the Bapo

It has been highlighted that the Mogale, the Moerane and the Maimane descended from one male side of the Mogale Monyane. It is also not disputed that both the Moerane and the Maimane are hereditary headmen and the second and third clans of the Bapo respectively. However, it has been established that the Moerane and the Maimane do not qualify to be the members of the Royal Family in terms of the relevant legislation. They are disqualified by their distant status or relationship with the current generation of the ruling class.

It is therefore recommended that the Provincial Government should reconfigure the Royal Family of the Bapo in line with the dictates of the North West legislation and the Framework Act. There is no gainsaying the fact that the present Royal Family of the Bapo is made up of members who are not qualified in terms of the relevant legislation. The continual disagreements and troubles among the Royal Family are among many others due to the fact that the Royal Family of the Bapo is overcrowded by some members who are not immediate relatives of the ruling family as required by the law.

8.1.2 Inevitability of the Reconstruction of the Royal Family

There is no dispute that both the Framework Act and the North West legislation give a clear direction on how the Royal Family should be constituted. This cannot be denied. The customs of the community also stipulate how the Royal Family should be constituted. In fact, the current pieces of legislation are the codification of the customs

deal *inter alia* with matters pertaining to the responsibilities and duties, meetings, allowances (if any), Code of Conduct, special sittings and the issues of protocol of the Royal Family.

8.1.6 *Understanding the Doctrine of Genealogical Seniority*

It is imperative to highlight that the traditional leadership positions are determined in terms of birth and the doctrine of genealogical seniority. Both birth and seniority are key important issues to determine whether a person qualifies for the position or not. For this reason the membership of the Royal Family must be determined in accordance with the rules of succession and genealogical seniority of the Bapo Ba Mogale community. It is therefore strongly recommended that the procedure which would be adopted to reconstruct the Royal Family should take into account the dictates of the law of genealogical seniority of the Bapo community. This procedure must not be compromised.

8.1.7 *What should be done with the Extended Royal Elites (i.e the Moerane(s) and the Maimane(s))?*

To answer this question, one needs to bear in mind the fundamental issue of compromise intended to inspire a high sense of reconciliation amongst the members of the "MMM" families. It must be emphasized that the Moerane(s) and Maimane(s) are the descendants of the former Chiefs of the Bapo community. Therefore, it is indisputable fact that they are the royal blooded relatives of the ruling family. As a result, it is impossible and impracticable to completely remove the Moerane(s) and the Maimane(s) from the arena of the chieftainship of the Bapo Ba Mogale. In that respect, it is strongly recommended that a special royal body to be called the General Royal Council (GRC) should be established to accommodate members of the extended royal families.

However, this should not be done haphazardly. Membership of the GRC must be determined in accordance with the principle of genealogical seniority. Furthermore, the composition of the GRC must be formal and limited to a reasonable number of the relatives who unconditionally qualify in terms of their "royal birth" and seniority. It is important that cautionary measures should be taken to avoid the overcrowding in the GRC so that the unfortunate history of the current Royal Family is not repeated. Since the GRC is obviously not recognized in terms of the relevant legislation, it is prudent that its functions and responsibilities should be strictly limited to traditional matters. Other than that, the GRC may act in advisory capacity to the traditional structures of the *bogosi* in general.

8.1.10 Conflict Resolution Mechanisms and Reconciliation

It is evident that the system of governance of the Bapo community is devoid of clear and enforceable conflict resolution mechanisms. These mechanisms must be put in place as a matter of urgency. The criterion or revival of the traditional structures such as the office of the *kgosi*, Council of Headmen, Royal Family and customary court is important for not only conflict resolution but also for the long term functioning of the community. Customary law mechanisms of conflict resolution can play a major role in the processes of mediation and reconciliation.

The trust among the royal elites can only be attained and retained if they can remain above petty "palace politics" and by being impartial in solving disputes in a consistent, fair and open manner especially when dealing with the conflicts of the chieftainship. The life of the *bogosi* of the Bapo community needs an urgent rehabilitation. Therefore, reconciliatory measures must be prioritized.

8.1.11 The Imperatives of Reconciliation

In view of the magnitude and nature of the troubles of traditional leadership of the Bapo, the royal elites have no choice but to reconcile. Denial of this truth will not assist and lead the Bapo to peace and prosperity. It should be recalled that in 1896 Diedrick Mogale fought with Darius Mogale and that led to the secession and the establishment of Bapo 2. The Bapo must avoid the ugly history which might lead to the creation of Bapo 3. In respect of that, it is time for the royal elites of the Bapo community to reconcile. Certainly, the reconciliation will bear fruits for the community and the *bogosi*.

8.1.12 Taking and Adopting Resolutions

It is imperative that all the pertinent issues pertaining to the constitution of the Royal Family must be resolved. It is profusely recommended that at the end of the presentation meeting by the researcher, resolutions must be taken and adopted accordingly. Monitoring and Implementation

8.2 Monitoring and Implementation

8.2.1 Raising Cautionary Flags

One of the most debilitating pitfalls of the Bapo Ba Mogale traditional authority is their noticeable inability to implement the strategic plans and policies designed specifically to

8.2.4 Taking the GRC Forward

The Administrator and the government must see to it that the extended members of the Royal Family particularly the Moerane(s) and the Maimane(s) are placed in their rightful positions i.e in the General Royal Council (GRC). This process must be monitored.

8.2.5 Timeframes and Deadlines

It is imperative that timeframes and deadlines should be clearly set out to provide direction on how the above proposals and recommendations should be undertaken. The stakeholders must commit themselves to this undertaking and more importantly adhere to the timelines. The bureaucratic (red tape) approaches and the unnecessary delays must be avoided at all costs. The implementation guidelines and timeframes must be set and strictly adhered to.

Hence, the establishment of the GRC is proposed and again (if accepted), this structure must be properly established in line with the dictates of genealogical seniority. Clearly, the establishment of the GRC is undeniably a matter of compromise and should be understood in this context. In conclusion, it is hoped that this compromise will "breath" peace and reconciliation amongst the royal elites of the Bapo community.

10.3 List of Articles

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