# A FRAMEWORK FOR A SUSTAINABLE LAND USE MANAGEMENT SYSTEM IN TRADITIONAL XHOSA CULTURAL GEO-SOCIAL ZONE OF THE RURAL EASTERN CAPE SOUTH AFRICA

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Submitted in fulfilment of the requirements in respect of the Degree Philosophiae Doctor in the Department of Urban and Regional Planning in the Faculty of Natural and Agricultural Sciences at the University of the Free State

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July 2015
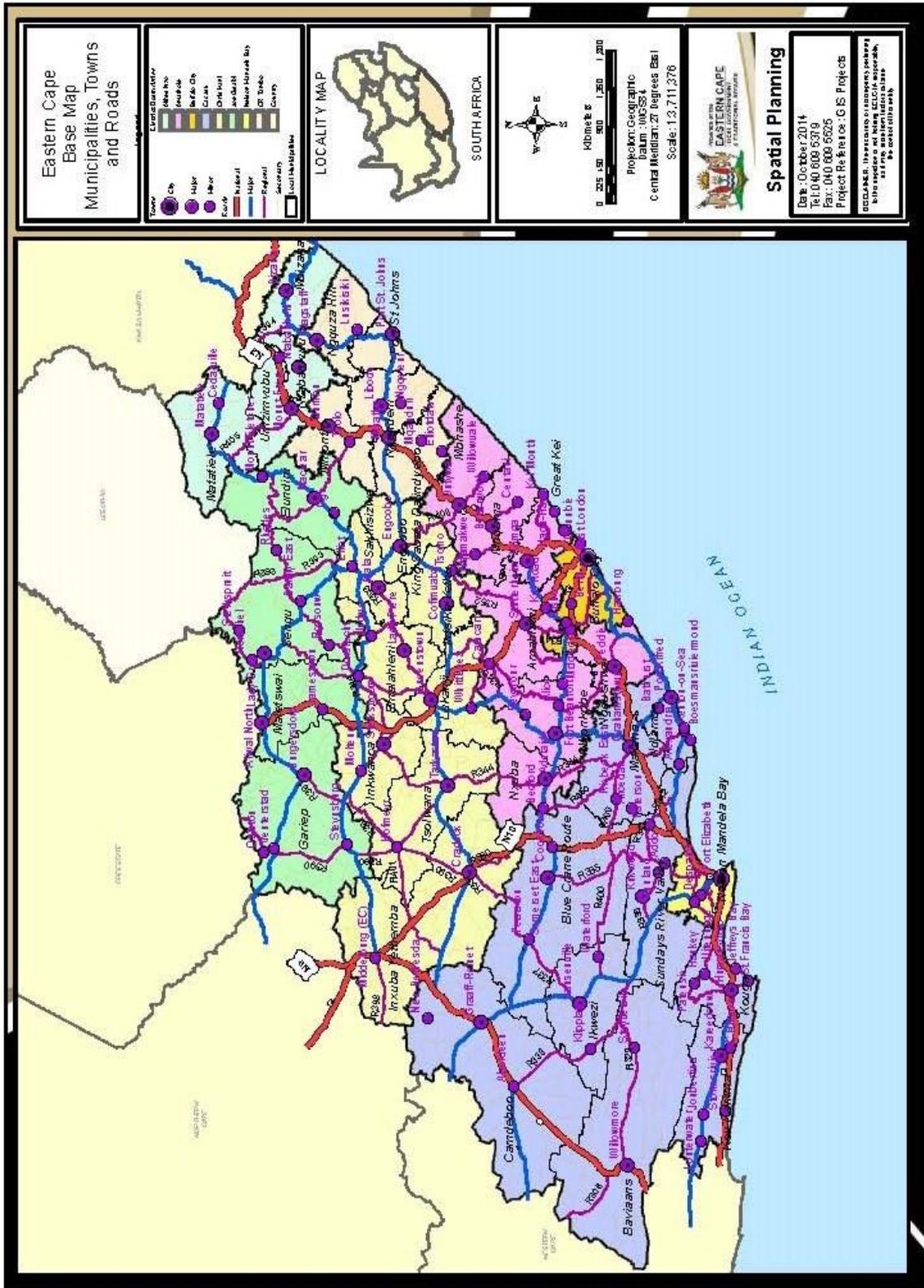
Fig.1: Locality Map. Source: Eastern Cape Dept. Local Government & Traditional Affairs

## Abstract

Spatial planning in the Eastern Cape has generally pursued an ethos or set of rationalities that were founded in the colonial and apartheid eras. These rationalities were also embedded in the pursuit of modernity and a specific development trajectory which favoured the white community. In line with these ideological pursuits Xhosa culture and the geographic space it occupied were systematically reduced to serve a very distinct set of activities involving fulfilling the racially prejudiced demands for cheap and unskilled labour for the mines, industry and commercial farming sectors of the country. In spite of the unbelievable hardship and inhuman manipulation associated with these eras, Xhosa culture has survived. The heart of this culture is bound up in the dictum "I am because you are" and the journey of "becoming human" and nurturing "relationship" to achieve this. Relationship spans the living, the unborn and the departed. The geographic space that resonates with this dictum has been shaped by it: space then in the context of the Xhosa culture is a social construct and land is one medium through which this is realised. Access to land and the pursuit of Xhosa culture is a birth right.

The drive to establish one spatial planning land use management system across the Province has raised concerns in that is this actually possible given the existence of such diverse rationalities between those pursued by traditional customary Xhosa culture and the modernist driven culture of spatial planning? This explores this complex web of cultural ideologies within the history and context of this Province in order to establish an answer to what is a critical question. Implicated too are notions of justice and international best practice. The prospect of the top down imposition of a state driven set of foreign developmental concepts that undermines or does not promote Xhosa culture may be regarded as unconstitutional. Notwithstanding, any culturally unacceptable imposition has within it the potential to undermine social cohesion and any real prospect for sustainable development. Spatial planning should seek to transform and enable in line with cultural norms and standards. Spatial planning should seek to serve.

# Acknowledgements

To my Father in Heaven who gave me wisdom, the love for this profession and the will and courage to take a stand in the face of adversity, to think differently and face long hours of research and deliberation;

To my precious wife, Welmay, who has prayed for me, stood with me, encouraged me and typed this document, may you be eternally blessed for your generosity of spirit;

To my departed parents: it started with you. May this fulfil some of your hopes and dreams as I am sure you have both witnessed this journey and more importantly how this has shaped me?

To my Professor, Verna Nel, for having to plough through long chapters and still retain enough sanity to bring out the best in what has turned out to be a difficult subject, may you be blessed for your honesty and caring;

To Barry Evans (1974-1976), thank you for all your words of encouragement, support and mentorship. You said to me, then: Planning is about people. I have not forgotten that evening;

To Professor John Muller (Wits 1980), I remember our discussion of the time. This is in memory of you and those moments;

To Mark Murch, for your assistance with the technicalities;

To Sharon Nell for doing the proof reading;

To all my staff and colleagues who added value to this discourse by providing insight, information and clarity whenever I sought it;

To all of you:

I am because you are!

## Abbreviations

| | |
|---|---|
| AU | African Union |
| BAD | Bantu Administration Board |
| BCP | Bio-cultural Community Protocols |
| CBD | Convention on Bio-Diversity |
| CCD | Convention Combating Desertification |
| CM | Chamber of Mines |
| DRD&LR | Department of Rural Development and Land Reform |
| DRPNERLM | Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities |
| Ed. | Editor |
| Eds. | Editors |
| ed. | Edition |
| ECCOGTA | East Cape Co-operative Governance and Traditional Affairs |
| ECLGTA | East Cape Department of Local Government and Traditional Affairs |
| ECSECC | Eastern Cape Socio-Economic Consultative Council |
| ECPSDP | Eastern Cape Provincial Spatial Development Plan |
| EDM | Endogenous Development Magazine |
| ERMIS | Africa (Environmental) Research Mapping and Information Systems |
| FAO | Food and Agriculture Organisation |
| FAR | Floor Area Ratio |
| FCCC | Framework Convention on Climate Change |
| FPIC | Free, Prior and Informed Consent |

| | |
|---|---|
| ICCPR | International Covenant on Civil and Political Rights |
| ICESPR | International Covenant on Economic, Social and Cultural Rights |
| ILO | International Labour Organisation |
| LUMS | Land Use Management System |
| MURP | Masters Urban and Regional Planning |
| NEC | Native Economic Commission |
| NRMB | Natural Resources Management Board |
| P3DM | Participatory 3-Dimensional |
| PAJA | Promotion of Administrative Justice |
| PHTL | Provincial House of Traditional Leaders |
| PSDP | Provincial Spatial Development Plan |
| SALGA | South African Local Government Association |
| SDF | Spatial Development Framework |
| SPLUMA | Spatial Planning Land Use Management Act |
| TLGFA | Traditional Leadership Governance Framework Act |
| UCLG | United Cities and Local Government |
| UN | United Nations |
| UNFII | United Nations Forum for Indigenous Issues |
| UNDRIP | United Nations Declaration of the Rights of Indigenous Peoples |
| UNESCO | United Nations Educational, Scientific and Cultural Organisation |
| WCRSDP | Wild Coast Regional Spatial Development Project |

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CHAPTER 1

# 1. A Framework for a Sustainable Land Use Management System in the Traditional Xhosa Cultural Geo-socio Zone of Rural Eastern Cape South Africa

## 1.1 Introduction

In the past few years, 2009-2015, (coinciding with the review of the Eastern Cape Provincial Spatial Development Plan (PSDP)), there has been an ever increasing concern expressed in the Eastern Cape Department of Co-operative Governance and Traditional Affairs (ECCOGTA), about how to approach, develop and operationalize a spatial planning land use management system (LUMS) that embraces a very distinctive set of cultural activities, centred upon customary Xhosa pursuits. These cultural activities, involving the use of land, are at their very heart driven and maintained by compellingly different sets of ethos to that of the urban zone, so much so that at face value, it is difficult to imagine how such can be combined into one system without embarking on a direct or even indirect process of forced cultural assimilation and domination. Knowledge, concerning culture and more especially, Xhosa culture or even the lack of appropriate knowledge, concerning culture, more especially Xhosa culture, becomes a central concern.

The matter is further complicated by the ever changing dynamics of the global arena and debates concerning modernism and post-modernism and precisely where and what rationalities of spatial planning may finally, if at all, take a hold. Perhaps too this work is a part of that debate: how do two distinct cultures, namely western and indigenous (Xhosa) co-exist in such a way to become mutually supportive as opposed to one reducing the other and in so doing, engaging in various forms of exploitation, marginalisation and cultural imperialism (Young, 2004:1-4). Oomen, cited in Ntsebeza (2005:18-19), describes the three key features of the post-modern world as:

- The fragmentation of the nation state

- The embracing of culture and

- The applauding of group rights.

The idea of subservience (one culture over another) is an uncomfortable one, in that in this day and age of rights, cultural rights and collective rights such would appear to be inconsistent with the Constitutional imperative of respecting and supporting culture (Section 30, 31, 211, 212 and 235) not to mention recent developments and interpretations concerning culture at an international level e.g. within the United Nations Educational, Scientific and Cultural Organisation (UNESCO) and the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP), as approved by the United Nations General Assembly, on 13 September 2007, couple of instances. South Africa was one of the 144 states that voted in favour of UNDRIP which must be regarded as a watershed document. This provides a basis for recognising difference and the value of embracing such differences in our development discourse.

Notwithstanding the activities of the United Nations, the African Commission on Human and Peoples' Rights, at its 28th ordinary session in 2005, adopted a report of the African Commission's Working Group of Experts on Indigenous Populations/Communities which contains important provisions that must also impact on the spirit, form and content of any land use management system developed for this Province going forward. In this instance, for example direct reference is made to the International Labour Organisation (ILO) Convention 107 of 1957, as well as ILO Convention 169 of 1989, concerning the rights of indigenous peoples. Such conventions, together with UNDRIP, provide an important benchmark around which a provincial land use management system should be framed. Not only are these important benchmarks, they are also critical sources of knowledge which will assist in guiding our approach to the creation of a new form of land use management.

Notwithstanding the global context regarding compelling international law and best practice, 2013 saw the emergence of the Spatial Planning Land Use Management Act 2013 (16 of 2013) (SPLUMA) which as a framework for the provincial spheres of governance and the planning endeavour also has important features and omissions that both directly and indirectly, embrace and impact on culture more especially traditional Xhosa culture and the ethos contained and pursued therein. The relationship between cultural diversity and a more traditional spatial planning ethos

(urban bias) has however not been clearly articulated or even defined. There is scope for potential conflict, and hence administrative breakdown. The overriding sentiment in SPLUMA however, primarily evolve around the three spheres of governance (national, provincial and local) and the perceived need to develop a uniform approach to planning activities and rationale in matters concerning land use management for the entire country. The other critical concern in SPLUMA is enforcement within a very specific legal framework: a Western one primarily framed around private property and the market.

The reference, in SPLUMA, to Traditional Leadership and Governance Framework Act, 2003 (41 of 2003) (TLGF) is regarded as tenuous, in that local government is merely compelled to allow participation of a traditional council (Section 23(2)), but is not obliged in any way to incorporate any concern regarding traditional culture or customary law. There is also an Eastern Cape provincial law, namely the Traditional Leaders and Governance Framework Act of 2005.

In the context of the sustainable agenda, social justice and spatial justice, the relationship of planning practice and land use management to traditional culture becomes a critical one. If this relationship fails, then huge areas of the Eastern Cape geographic zone will in effect become another 'grey zone' much like the informal settlement areas of the current age in urban areas. Effective and efficient governance underpinned by a sustainable ethos not to mention a learning ethos will not be the order of the day, on the contrary, there will be a very real possibility of social unrest and the emergence of all the attendant negative outcomes associated with such an unfortunate and even unnecessary turn of events. Critical thinking is therefore necessary. Hereto another form of knowledge is necessary and that is, we need to understand the potential forms that resistance may take when we attempt to apply the provisions of SPLUMA to a distinctly different cultural zone.

Regretfully the present Minister of Rural Development and Land Reform (DRD&LR) announced at a Wild Coast Development Summit, dated 14-15 November 2013, that the State has now, through SPLUMA, assumed the authority and responsibility for all land use management. The reaction from the traditional leadership to this announcement was far from complimentary, made even more so by the complete lack of involvement of traditional leadership in the formulation of SPLUMA in the first

instance. ECCOGTA has been involved in the SPLUMA deliberations from the onset and it was repeatedly requested by this Department that the traditional leadership be involved. DRD&LR continually refused to do so. It is fair to say that there now exist a state of tension between the State and Traditional Leadership. In effect what the Minister announced was the separation of land and land use from Xhosa identity. This is inevitable when rationality confines itself to a certain perspective which has no regard to the limitations of knowledge. Ignorance can have many unintended consequences. It follows that it is extremely important that we embrace ignorance if we are to succeed in achieving something of a sustainable future.

As if to emphasise the point, in a meeting with the Tshesi Traditional Council held in early December 2013 concerning the preparation of the Wild Coast Provincial Spatial Development Plan (WCRSDP), the extremely negative sentiment was made very clear: government cannot be trusted and SPLUMA was summarily rejected in its entirety. Stakeholder knowledge of the past as well as its context has come into play. The proverbial Presidential ink has barely dried and already this geographic space is experiencing renewed and deeper contestation. Is this then the way forward more especially if sustainability and learning are a foundational prerequisite to a vital and prosperous future, not to mention the realisation of social and spatial justice as specified in the national framework? Wolf-Powers (2011:162) suggests that this question begins to demonstrate that, at the very core of planning lies a conflict ridden heart that has yet to somehow be shaped to meet the interests of justice and the communities this ideal must serve. It would appear that old solutions remain as obstinate as ever. The objectification rationality of spatial planning is but one problematic. Perhaps what it more important, is the fact that land use management is actually a social construct.

In order to assist in aligning the cultural and spatial planning ideologies, a specific approach is being adopted and that is the prescribed land use management system is first and foremost a social construct. Such a reduction assists in enabling some form of comparison between this and its cultural (social) counterpart. In the current context the existing urban land use management system may be described as one that embraces functionalism, consumerism, aesthetics, materialism, legalism and protectionism. It is deeply embedded in the concepts of 'private space' and the

market, more specifically a land use market. The knowledge base too is found in these rationalities.

The emphasis on the social construct also assists in engaging in the realm of rights implicit in the idea or concept of "the right to the city". "The right to the city", Lefebvre (1993:435) writes, "cannot be considered a simple visiting right or return to the traditional city. It can only be formulated as the right to urban life, in a transformed and renewed form" (Dikec, 2011:74). In effect this idea of the right to the city is consistent with the existing traditional rural ethos. In other words the knowledge implicit in the language of rights is consistent with the knowledge contained in the language of traditional culture. It is argued that the imposition of a typical urban centred land use management system is in fact the very source of many of the problems and anti-social, rights limiting outcomes being experienced in the urban zone. Why then impose this knowledge and its language in the traditional rural zone? In the context of the above, it must be again emphasised that in the planning project has now entered the arena of human rights and more especially the interconnected world of collective cultural rights. It follows that planning can either advance or retard these efforts. There are consequences involved here.

It is however important to note that the issue of the validity of traditional leadership is a highly contested one, with authors such as Ntsebeza (2005) questioning the validity of their existence more especially in the context of democracy. The debate it would seem, has not subsided and nor it would seem, is it likely to. According to Van Rouveroy van Nieuwaal and Ray, cited in Ntsebeza (2005:19), post independent countries in Africa have failed to present a better alternative to the rule of traditional authorities. Togo, along with other unnamed African States, is cited as an example of a state that has failed to bring about democracy and development, as a consequence of the existence of "greedy and violent political elites within and without Africa". The work of Alexander J. (1995) is cited by Ntsebeza (2005:19-20), as another source that validates such concerns, only in this instance, reference is made to the rural areas of Zimbabwe.

Ntsebeza (2005) himself devotes the remainder of his work, to making a case for the evolution of democracy within community structures, as well as promoting the necessity of the demise of traditional leadership. The merit or demerit is not however

the issue. What is important to appreciate is the fact that traditional leadership and traditional culture exists. This then begs the question: does one then wait for the day when traditional leadership is ultimately shunned by all communities before doing anything or does one attempt to do something positive, in line with the prescripts of the Constitution or as required by SPLUMA? Awaiting the outright rejection of traditional leadership may take years, or as it appears to be happening in other countries, traditional leadership is actually gaining ascendancy. If this is so, then that day is not very likely going to dawn, at least not in the foreseeable future. The Constitution affords both recognition and protection of this leadership. This is the basis for moving forward.

The Constitution recognises and protects customary law (Section 211), which provides that "the courts must apply customary law when the law is applicable, subject to the Constitution and any legislation that specifically deals with customary law" (Claassens, 2011:359). In similar vain traditional leadership is also recognised by Section 212 of the Constitution. The Constitutional Court has described the importance and benefits of customary law:

> *"The positive aspects of customary law have long been neglected. The inherent flexibility of the system is but one of its constructive facets. Customary law places much store in consensus-seeking and naturally provides for family and clan meetings which offer excellent opportunities for the prevention and resolution of disputes and disagreements. Nor are these aspects useful only in the area of disputes. They provide a setting which contributes to the unity of the family structures and the fostering of co-operation, a sense of responsibility in and of belonging to its members, as well as the nurturing of healthy communication traditions such as ubuntu. These valuable aspects of customary law more than justify its protection by the Constitution" (Bhe and others v Magistrate Khayelitsha and others 2005(1) SA580 (cc), 2005 (1) (BCLR) in Para 45) cited in Claassens (2011:360).*

In the Richtersveld land restitution judgement (Alexander Ltd and another v Richtersveld Community and others 2003 (12) (BCLR 130) (cc), paragraph 52 states that:

> *"It is important to note that indigenous law is not a fixed body of formally classified and easily ascertainable rules. By its very nature it evolves as the people who live by its norms change their patterns of life" (Claassens 2005:360).*

The challenge then is to establish the content of the "living" law in the context of widespread regional variety and competing versions within particular localities. The Constitutional Court judgements then reflect a perception of "living law" as flexible, adaptive and solution orientated. There is the implication of an appreciation of the utility of customary law outside the court setting as it is applied and changed in practice by ordinary people in different settings, including the level of family meetings (Claassens, 2011:360-361). The difficulty is how to reconcile this processual, flexible and persistently renegotiated legal culture with the absolutist, binary system of state law with its emphasis on legal certainty (Oomen 2005:218, cited in Claassens, 2011:362). Planning is bound up in this latter context, as well as with determinism: it is critical then to interrogate the formalist assumptions of the spatial planning venture, if these are to have relevance in the flexible system of customary law.

Perhaps, as Flyvbjerg (1998:326-327) suggests, one could argue that in the long term it is more appropriate to face mechanisms of power and the practices of class and privilege more directly, even head on. This includes traditional leadership. The Constitution, it is submitted, is doing exactly that by facing this constituency head on in so doing is attempting to regulate power and domination. This then is part of the challenge for planning. One approach is to take spatial planning out of the centre and in its place substitute culture. How then does spatial planning serve culture? An attempt to focus this discourse on traditional leaders per se is it is submitted, is of no value. An important rationale for having this institution is to protect and maintain culture. What is customary law? One interpretation is that it is nothing more than the operationalisation and maintenance of culture. It follows then that culture becomes the important focus and so a critical question arises: how does planning, in the form of land use management systems assist in the processes of operationalisation and maintenance of culture, more specifically, Xhosa culture. This then is the central thrust of this research document.

## 1.2    Research Aim

The aim of this research is to firstly establish whether or not, only one system of land use management can be created and applied, more especially to one space embedded in a particular form of knowledge naturally that of customary Xhosa culture.  Put another way, can a land use management system founded by a

modernist/urban rationale be applied to a constituency that pursues its own distinct cultural rationalities? In order to answer this question it will mean having to deliberate on a number of inter-related issues embracing the intent of SPLUMA and its development principles, the Constitution, international conventions and protocols (source of which this country has endorsed) the provisions of the National and Provincial Traditional Leadership and Governance Framework Acts, the provisions of the Municipal Systems Act, 32 of 2000 (MSA), not to mention the prescripts of customary Xhosa culture itself.   The five development principles are:

- Spatial justice

- Spatial sustainability

- Efficiency

- Spatial resilience and

- Good administration

Each of these development principles are in their own right complex ideas and concepts.  In the context of spatial planning in South Africa these ideas of spatial justice, spatial sustainability and spatial resilience are 'new' additions to the professional and legal jargon concerning planning.  Such imperatives too embrace the very heart of culture and social production and control of space.  Not only do these concerns engage in the epistemology of uneven development and the inequalities derived from this, but also the social production of space embracing race, ethnicity, gender, sexuality and other social groupings who bear the brunt of uneven processes and outputs stemming from the prejudiced distribution of power and resources.   There is a vital need to recognise claims being asserted from the specificity of social group positions in order to challenge structural inequalities (Connolly and Steil 2011:5).  There are risks involved in ignoring difference.  Justice then requires not simple formal inclusion or equality, but also attending to the social relations that differently position people and conditions their experiences, opportunities and knowledge of society (Young 2000:83).  People have the right to lead the lives that they choose which means people have the right to their culture, values and ways of doing things (Sections 30 and 31, the Constitution of South

Africa).  Any administrative action that would deliberately undermine or impede these collective rights must be regarded as repugnant (UNDRIP).  Justice requires the application of an endogenous approach to development, alongside other conventionally acceptable approaches that foster social cohesion, peace and sustainability.  The pursuit of, justice or injustice becomes a critical question that demand an answer.  Is SPLUMA as well as Spatial Planning a problem in this regard?  If so, what needs to be done to overcome any problems so identified?  At first glance it would seem then that the pursuit and application of a one size fits all solution in the context of this Province, is inappropriate.

The second aim of this research then is to provide a framework for deriving a new Provincial spatial planning land use management regime that is applicable to the Xhosa constituency and is consistent with the research findings.

We require a planning system that is validated by the people who occupy this geographic area.


## 1.3    Problem Statement

The problem essentially arises from the fact that this rural zone is occupied by a people where culture is significantly different to that which underpins spatial planning.


Essentially any planning activity which includes a land use management system must be relevant to the constituency such activities and systems serve.   If this is not the case, any system, even one prescribed in law, is doomed to failure.  It is a risky and expensive venture.

Historically a typical land use management system framed in an entirely urban context has not been successfully applied in the cultural rural context of the Eastern Cape Province.   In the case of the erstwhile Ciskei, the attempt to apply a scheme across the, entire spectrum of this rural entity has for all intense and purpose failed.  In the case of the former Transkei the attempt to apply a scheme were confined to certain designated urban areas.    No scheme covered the traditional cultural geographic areas outside of the designated urban zones.

Within this rural zone the Province has 240 demarcated traditional council constituencies and these co-exist with the relatively new democratic structures referred to as local government. Co-operation is not a given and where it may exist, this can and does change, sometimes dramatically and when such occurs, it is within short time frames. The interface then is one of potential tension. Such volatility and instability has the potential to seriously undermine and frustrate the land use management effort, which in turn will impact on development and the realisation of developmental local government objectives. Sound relationship between the traditional and progressive governance realms then is critical.

The ideas of continuously pursuing recognition and respect (social justice and equality) between stakeholders, is also essential. In reality communication is difficult. This makes matters extremely complicated.

Traditional culture is framed and underpinned by a logic (values) and language that is not found in the dialect of modern spatial planning. This being the case, there will be a real need to embrace both a dialectical and discursive agenda which may necessitate the use of substantial time frames, well outside the five year agenda set by SPLUMA.

The processes leading up to SPLUMA, as well as SPLUMA itself, makes no attempt to determine just how these traditional councils are to be incorporated or engage with the municipal space concerning land use management. SPLUMA too, does not formally attribute any specific role or function, let alone expectation, from these traditional councils. This will have to be clarified. One would expect that the two governance regimes should be mutually supportive. It must be appreciated that the traditional councils are able to raise funding and direct such funding to those projects each may deem fit. The WCRSDP project has exposed the fact that these traditional entities are preparing their own spatial development plans, in spite of the existence of municipal spatial development frameworks (SDF's). This, points to the existence of a number of potentially dysfunctional processes and systems which if left unresolved will ultimately heighten tensions between the traditional and democratic realms. Clearly this is not in the best interest of this Province.

Municipalities, in terms of SPLUMA, are not compelled to incorporate the legitimate concerns, plans and programmes of traditional governance. This situation then raises concerns regarding integrity and recognition, let alone the pursuit of any notion of social or spatial justice.

SPLUMA has been framed without reference to international standards concerning culture, not to mention best practices concerning the latest developments involving policy instruments such as bio-cultural community protocols (BCP) and the concept of 'Free, Prior, Informed, Consent' (FPIC) as contained in UNDRIP (endorsed by South Africa in September 2007, along with 143 other countries in the UN General Assembly), the Nagoya Protocol (signed by South Africa in January 2013) and the Convention of Bio-diversity, commonly referred to in the literature as, CBD. Article 8(j) in this latter document makes specific reference to indigenous rights, indigenous knowledge, beneficiation and access to these. FPIC and BCP's are regarded as having considerable potential and significance to positively respond to the concerns listed above. The spirit and provisions of these various conventions and protocols whether they originate from the UN or AU should find expression in the Provincial and hence local planning regime. To fail to do so renders these as meaningless and irrelevant. Such an ill-conceived approach would make a mockery of the international and national discourse, of which South Africa is a part. Surely too, policy imperatives deemed desirable in these, international discourses must find expression in the national, provincial and local sphere of activity. Omission in this regard must be considered to be contrary to the application of justice, not to mention a violation of this country's obligation concerning these agreements.

SPLUMA raises a serious problematic. It has within its discourse the idea of justice and yet despite this, this very Act is intended to disentangle traditional culture from its very heart namely the promotion and management of land, use, identity and human relationship.

Put another way, does not the act of the exclusion of traditional culture from its very core constitute an act of social injustice? Dikec (Ed: Marcuse et al: 2011:82) would argue that such action constitutes a "negation of humanity" and a contribution to the deliberate "subversion of an existing order". The right to the city must be complimented by the right to difference. This goes beyond an administrative entity.

It engages in the realm of relationship and such relationship between the state, society and its space should be negotiated. Clearly too such negotiation creates a legitimacy for challenging existing planning practices (Marcuse, 2011:98) by affected stakeholders. A community meeting held on 12 February 2014 involving approximately 120 people at the Peelton Village hall (former Ciskei) brought to light that the traditional communal structures and land allocation procedures were preferable to any other system as these are consistent with the community values and practice.

Space may be conceived as a social creation – as a structure created by society, in this case a specific society to suit a specific purpose. Why must this be infringed upon by an outsider and any system that comes with this package? Such must be described as the "spatiality of injustice" in that within the traditional communal space, an injustice is being shaped (Dikec, 2011:79) and executed. A reduction in rights cannot be easily justified.

Culture is undervalued, at least in the South African context. Europe and the UK on the other hand now regard culture as a major policy imperative for providing solutions to combating the decline of former industrialised zones. Activities associated with culture e.g. knowledge and creative industries are providing substantial benefit to those governments that pursue these ideas (Kunzmann, 2004:395). For example exports by creative industries contributed £11,4 billion to the balance of trade of the UK in 2001 and 9 million jobs were created in this sector involving 122 000 companies. South Africa needs to critically re-evaluate its position on the issue of culture and spatial planning has an important role in this regard, more especially because the provisions of the MSA (Section 16, 17 and 23) implore the planning effort to engage communities in a manner that respects customary values as well as promotes these.

Culture has an important role to play in the sustainable agenda going forward. This research has uncovered the fact that sustainability is not simply a technical exercise. It is about people and the way they live and the values that they subscribe to. This being the case, culture becomes an important feature of this agenda.

A critical characteristic of the current practice of spatial planning is the idea that all activities can be reduced to many parts. This tendency to fractionalise has unintended outcomes in that it impacts on both perception and reason. In the context of the social construction of much of our traditional rural space, there is no definitive distinction between the home and the field (pasture or cropping), the home and the burial site, the living and the deceased. There is also no definitive, absolute boundary between persons. Personhood (identity) is bound up in a collective whole, including context. For the African to remove oneself emotionally from something or someone is to view that thing or person instrumentally, as something that one can use and exploit (Du Toit, 2005: 855). To separate oneself from the phenomenal world is to objectify the world something African rejects (Ntuli, 2002:54).

In line with the sentiments expressed in 3.9 above, the current application of SPLUMA amounts to cultural assimilation. This being the case, then the profession of spatial planning, is wittingly or unwittingly being immersed in the murky waters of this country's past. The provisions of UNDRIP (Preamble) to which this country appended its endorsement has some very harsh and exacting words concerning such an action, not to mention Constitutional provisions (Sections 24, 25, 26, 27, 29, 30, 31, 211, 212, and 235) that require the progressive realisation of rights. This is also linked to the provisions of Section 23 of the MSA.

## 1.4   Study Relevance

It is clear from all the above that this study is vitally important for the reasons set out below:

1.4.1  All stakeholders that make up this Province, in that an ill-conceived and ill-considered approach to the preparation of the Provincial land use management legislation, which is currently in the early stages of preparation, would have undesirable consequences for social, cultural, economic and environmental sustainability.

1.4.2  Create a better prospect for a sustainable future. Consistent with this idea is need for learning. A sustainable city must be a learning city. The same may be said

for a rural entity (Kunzmann, 2004:300). We urgently need to access new knowledge in order to assist us in realising sustainable communities.

1.4.3  Contribute to nation building. This means that the activities and outcomes of spatial planning must not alienate communities. Planning as an administrative action must add value to the prescripts of our Constitution.

1.4.4 Promote spatial justice, social justice and resilience, which is now a prerequisite of SPLUMA. This needs to be framed in any given context and be applicable to as many people as possible. We need to avoid, wherever possible exclusionary practices.

1.4.5  Promote a national, an all Africa and ultimately global agenda concerning a multi-cultural existence embracing cultural difference, co-operation, human dignity and human worth.   This needs to be framed in an African context, and it is suggested that, 'Ubuntu' is the near perfect underpinning or logic of social justice and the pursuit of human rights in the context of spatial planning in our rural constituency. This project has the important prospect of embracing and bringing to life the discourse of indigenous rights and the value of culture, not to mention indigenous development.   Spatial planning needs to overcome its materialistic bias (anti- social) (Mabin and Smit, 2010:196) and embrace difference, not to mention presenting a social and cultural rationality that is equal to or prevails over market rationality, more especially where such does not exist.   The rise and hegemony of the neo-liberal agenda as a guide for state policy and action still appears to loom large not to mention the persistence of a spatial planning logic which is intimately bound up in a technical and technocratic ethos embedded in an urban (economic) context.

1.4.6 The Hangzhou Congress on culture and development, held in May 2013, involving 500 delegates from 82 countries, hosted by UNESCO and the People's Republic of China, concluded that culture must be regarded as a self-standing pillar of the sustainable development agenda.    No development initiative can be sustainable without becoming embedded in local culture.   The converse must also be true.

1.4.7 Create a basis for developing a dynamic interpretation of the concept of African cultural tradition, and

1.4.8 Create a basis for norm setting and enforcement mechanisms that embrace customary values and law and prevent or minimise the divergence of the quality of the application of justice and planning administration across the Province. Any norm must be bound up in a normative framework embracing human and cultural rights. Implicit in this is the idea that it is the State's responsibility to protect and encourage the development of culture and not contribute to its demise (See Section 24, 25, 26, 27, 29, 30, 31, 211, 212 and 235 of the Constitution). This idea is the antithesis of induced cultural assimilation. This idea of promoting and maintaining culture is not embedded in the current planning legislation. It is however embedded in our Constitution and the international protocols and conventions previously described and which will be further elaborated on in this thesis.

1.4.9 The current construct of SPLUMA is being based on several assumptions which most probably include:

- An immediate acceptance of its provisions

- An immediate ability to apply its provisions

- A minimally contested or even uncontested zone into which these provisions are going to be applied

- The planning concept contained in these provisions have universal acceptance and hence legitimacy: local context is not a serious matter.

- That language and hence cultural ethos present no barrier. Phonocentrism therefore has no particular relevance in this context and that there are no human behaviour dynamics concerning the specific interplay of environmental stimuli, biographical stimuli and the role of psycho-cultural processes which include a reciprocal relationship of complex issues

- That there could be a uniform application of these provisions across this geographical zone

- That the application of these provisions would contribute to the sustainable agenda and hence benefit all this Province's inhabitants

- That the application of these provisions would contribute to peace and security

- That local government would be better positioned to conduct its affairs as a consequence of assuming these duties and obligations, even in a contested space.

- That a legalistic approach would be enough to ensure compliance and

- That there are no rights issues.

One would argue that all of the above points to a level of determinism, if not presumption. This study will show that many of these were either not anticipated or if so will, become questionable. Such questioning is important. A critical perspective is needed so as to further the planning endeavour in this and similar geographic zones. The blind acceptance of SPLUMA is entirely inappropriate as the cost of failure is just too high. Social resilience cannot be left to chance.

That despite ones civilisation or belief system, certain values, human rights, including collective rights, freedom and equality are universal and these may not be transgressed by any government or code of law (Touraine 2000:167-168, cited in Du Toit, 2005:858). This endeavour may well point to some boundaries that planning will need to respect and the universality of its application may well be limited, and appropriately so. It is entirely possible that because the planning project in the past could "easily" fit into the "wall to wall" boundaries of the town or city, it could now and in the future also easily fit into a "wall to wall" boundary of a newly formed municipality that stretches way beyond the confines of town or city. The dynamics of space however are entirely different in that zone outside the city "walls".

## 1.5 Significance

Clearly from the above this research work is attempting to understand and hence embrace and appreciate a new set of dynamics brought about by an application to a new dispensation in the planning regime. Concepts of justice, equality, culture, diversity, difference, rights, recognition, relationships, identity, politics distribution (spatial, power and resources), resilience and sustainability are, in my view, relatively "new" arrivals to the existing spatial planning mind set. ECCOGTA has to deal with

planning appeals and in all the years of practice in these matters, few if any, of these concepts have not been raised in any motivation.  The traditional planning pursuits of efficiency, welfare and order remain, but in the South African context so too does prejudice, not to mention the reliance on functionalism and materialism which can result in undesirable outcomes such as undermining the cultural foundations of communities.   The national engagement with this Province concerning SPLUMA was not an uncontested one and even though this Bill has become an un-operationalised Act, such contestation has not subsided. ECCOGTA has had several disagreements with DRD&LR concerning both context and process.  On the contrary as cited earlier the prospect of polarisation and effectively zero collaboration going forward is looming large in this Province's discourse concerning the implementation and sustained application of the spatial planning regime in our customary rural areas. This research will attempt to make a contribution to overcoming the dilemmas contained in the real and impending fragmentation briefly described above, by highlighting the need for the application of new knowledge, which is already embedded in the mind set of our communities.

Implicit too is the application of the spiritual dimension.   This does not solely refer to one's relationship to a higher being e.g. God, but also to the inter-human connection as well as our connection to the environment and future generations.   Xhosa culture also maintains a spiritual connection to the family ancestry and to everything that makes up a reality.   African value systems see the world as an interconnected system where the boundaries, if there are any, are opaque.  African peoples are wary of any system or policy that would make them dependent again (Du Toit, 2005:856)). In typical materialistic fashion, the spiritual dimension is so often overlooked and yet this is a key concept of traditional indigenous existence.  Nothing is distinct from it e.g. disease is both a physical condition and a spiritual matter.

In reference to the question posed above regarding a debate about justice, it could be argued that the debates were always in existence.  The colonial expansion into Africa witnessed brutal confrontation as one culture assumed domination by various means.   Those cultures on the receiving end must have wondered, even debated, what was happening to their ideas and lifestyle centred around, identity, dignity and humanness.   The act of naming has power:  both to conquer (oppress and suppress)

and to resist (DeFilippis, 2011:144). It is therefore necessary to be clear about how we understand and name the processes by which social, cultural, economic and environmental justice or even injustice is perpetuated in this geographic space. Not only do we need to prepare an appropriate framework of foundational and procedural building blocks, we also require the mandate. SPLUMA, for all its legality in the conventional legal sense, does not have the mandate of this rural communal constituency to be operationalised. In short this National spatial planning framework was formulated without the free, prior, informed consent (FPIC) of the people it intends to engage. The dialogue leading up to this event was, in the final analysis, bound up in an injustice, perpetuated by avoidance, ignorance, prejudice and domination. Confining this discourse to substantially the three spheres of governance has evoked an outrage from the cultural leadership. Such marginalisation must be rectified in the Provincial effort going forward, if we are indeed to witness planning add value to the lives of the people who reside in this rural space.

The engagement of the various municipalities in the realisation of SPLUMA is not an event that will necessarily wait for the issues concerning culture to be addressed and where engagement has occurred this has been largely driven by the Department of Rural Development and Land Reform. On the contrary, some movement has been made. The Eastern Cape Branch of the South African Local Government Association (SALGA) did however make it clear late in 2013, that without the traditional and cultural leadership on board, this attempt at making SPLUMA a reality will falter. (Certainly there are a host of other issues concerning capacity, budget and materials etc. that have yet to be resolved).

In a meeting dated 5 February 2014, concerning the WCRSDP (Wild Coast Regional Spatial Development Project) held at Qunu, the planning professionals who are currently active in this region made very revealing statements which need to be seriously considered. Such utterances underpin SALGA's sentiments, in that they provide insight into the complexities indeed near impossibilities attached to the application of planning tools and concepts framed in a distinct form of knowledge to the traditional rural zone. A recently generated SDF for Libode, in Nyandeni, for example, has come to mean nothing to this constituency. Not surprisingly the young

planners involved, have almost given up out of sheer frustration. Such frustrations need to be critically examined in order to determine an appropriate course of action or alternative outcome. This study will assist in this regard. It cannot be about trying to either coerce or persuade this traditional cultural constituency into accepting SPLUMA. This constitutes a one way flow, an imposition that has violated an important principle of Xhosa life and that is the failure of primary authors of this Act to engage, collaborate and achieve consensus. Consensus and consensus building is at the very heart of Ubuntu. It is at the core of Xhosa existence. Such an omission is disrespectful and degrading. The failure to engage is an insult as the worth and value of the other has been reduced to nothing. Simply put "I am because you are" has no relevance or meaning: the act of objectification resonates with a tragic history of the past. It follows then that in the hearts and minds of this deep rural constituency an act of injustice is being perpetrated. This is significant, very significant. Ignorance will never be 'bliss', on the contrary, such ignorance as stated previously, could be extremely costly. It must follow then that such a prospect is unacceptable.

## 1.6  Research Method and Theoretical Framework

The theoretical framework will be based on a number of research approaches which will comprise:

(1) A literature review

(2) A constructionist approach, a number of  informal interviews and/or observations stemming from the interactive processes of daily departmental activity within its own ranks and other Departments and organisations e.g. Department of Rural Development and Land Reform and SALGA and

(3) A reference to relevant projects that are currently being undertaken in the Eastern Cape. There are, at the time of writing, two such projects: the one is the preparation of the Wild Coast Regional Spatial Development Plan (WCRSDP) and the other is the creation of a "new town" at Coffee Bay in the former Transkei. There is a third one and that is the preparation of the Provincial Spatial Planning legislation. An issues paper has been prepared

and during the course of 2014-2015 the formulation of the green paper detailing policy will be commenced. The analysis stage is now complete. In terms of Provincial legislative processes, there are a number of stages, including a rigorous participation exercise before this may become a white paper. This paper will ultimately serve as the basis for the Provincial planning legislation. It is anticipated that these processes will not be without controversy, made even more so by the fact that SPLUMA has been approved without the appropriate engagement with the affected parties, more especially the traditional councils. Our engagements with the Wild Coast Regional SDF have validated this.

Customary law is largely unwritten and unrecorded. Its existence then is found within the people who elect to live by this ethos. Where literature exists this will be used to assist in, not only gaining on insight and understanding, but also to where possible corroborate such research. There are difficulties though. Not all concepts are easily captured or conveyed in the English language. The principle language is Xhosa and hence meaning is bound up in its use.

To overcome some of the potential shortfalls concerning this and related matters, a number of informal interviews and conversations have been conducted with Xhosa people, who are planners, involved in the spatial planning endeavour. This has been done in order to improve, not only an understanding of the various Xhosa concepts concerning for example, humanity, identity and land, but also various community practices associated with these ideas. The enquiry is not exhaustive, but it does seek to answer the two questions that have been mentioned. This then has taken on an approach that could be described as participatory action research.

Notwithstanding any of the lines of enquiry described above, this work is also impacted on by the day to day work engagements normally associated with the Spatial Planning Directorate: East Cape Department of Co-operative Governance and Traditional Affairs.

It follows that as this research combines theoretical, practical and lived experience, it constitutes a phenomenological study. There are a number of phenomena being examined which include:

- The current traditional cultural system of Xhosa culture and its relationship to land, land use and land allocation;

- Historical and contextual zones of resistance involving domination, marginalisation and the perpetuation of injustice;

- The current rationalities being applied to the application and practice of planning;

- The application of the concept of social and spatial justice;

- The roles and responsibilities of traditional leaders as described in the Traditional Leaders and Governance Framework Act;

- The international discourse on culture, difference and diversity and how such outcomes may assist in preparing an appropriate system of land use management.

The institution of Traditional leadership exists in the form of the Kingdoms, the Provincial House of Traditional Leaders (PHTL), the various traditional councils (240 of them) and finally the traditional community (village) structures, which must be in the order of between 7000-10 000 across this Provincial space.  This configuration must be respected, not only in terms of the sheer volume across space, but also the depth this has within the cultural milieu of the Xhosa people who reside here.  These have been shaped by pre-colonial history, colonial history (plus/minus 300 years), fifty years of apartheid and finally the post-apartheid period leading up to the present day.  If not anything else, these institutions have demonstrated remarkable resilience and it follows that any assumption concerning their immediate demise is entirely optimistic.  Notwithstanding such a pessimistic view must surely close down the prospects of creative thinking and capacity building.

The above then points to engaging in a pursuit that identifies what is real and the consciousness that gives these realities an existence.  This discourse has revealed the existence of multiple realities, realities of difference and plurality formed and framed by different threads of rationality, each with its own claim to credibility.

The research question concerning whether or not it is possible to create one generic land use management system in this Province then involves the questioning of whether or not there is the distinct possibility of being able to combine these realities of differences together with their respective threads of rationality in order to do so. This study then fundamentally explores whether or not this is possible or for that matter desirable.

## 1.7    Scope of Limitations

This study is limited to the extent of the realistic availability of documentation from which to research. Reference has already been made concerning the availability of literature concerning traditional African Xhosa culture. A variety of sources has had to be explored ranging from culture, more especially African and Xhosa culture to the pursuit of African philosophy and African personhood. Anthropology and critical psychology have also provided some useful information and insight.

Land use management and more especially references to development control have also proved elusive, more especially in the context of South Africa. The various current Acts, Ordinance and Schemes must also assist in that these provide an insight into the ethos that principally drives these activities. The current practice of planning may also provide important building blocks in this regard.

The recently approved SPLUMA has provided yet another layering to the debate in that the idea of justice is implicit in the five development objectives stipulated in this legislation. From a South African perspective these are, as previously stated, new additions to the planning dialogue. Being the critical development objectives, one may assume that these are then positioned at the heart of the new planning regime and as such warrant considerable attention. There is absolutely no doubt that the inclusion of these will have important implications for the application of planning going forward. It is not impossible to conceive that in future these may present some important contradictions. This study may articulate some, one of which has already been mentioned and that is, does the 'carte blanche' application of the existing planning ethos constitute an application of injustice. If such limits the cultural rights of the Xhosa community, then the answer is unavoidably affirmative.

This study is confining itself to the rural bio-geographical zone of the Eastern Cape and more especially the eastern half that is home to indigenous culture, referred to as traditional Xhosa culture.

## 1.8    Chapter Overview

This research discourse comprises seven chapters and these are:

1. Introduction

2. Traditional Xhosa Culture and its social construct of space

3. Zones of resistance: Domination, Marginalisation and the creation and perpetuation of injustice.

4. Rationalities of Spatial Planning

5. Social justice or injustice?

6. International discourse concerning Conventions, Declarations, Protocols, Human and Cultural Rights

7. Recommendations: A Framework for a Sustainable Land Use Management System in the Traditional Xhosa Cultural Geo-Socio Zone of Rural Eastern Cape

### 1.8.1   Re: Introduction

The introduction provides an overview of this study as well as a brief explanation for each chapter, as well as how each links with the other.

Implicit in this chapter has been the formulation and noting of the two critical questions which are:

1. Can only one system of land use management be applied in our Xhosa geographic space and

2. If not, what might a new framework embrace if we are to apply a land use management system to this customary zone?

It is submitted that local cultural knowledge is critical if we wish to answer such questions.

The introduction will also provide a rationale for the study, not to mention its necessity and hence importance to the development of the Provincial equivalent of SPLUMA.

### 1.8.2  Re: Traditional Xhosa Culture and its Social Construct of Space

This has been a venture into the world of a specific culture, namely Xhosa culture. This is the realm of new knowledge.  Due to certain limitations concerning access to specific information about this culture, there has been a need to articulate salient features of African culture and very especially the concept of Ubuntu.  This concept forms the "heart and soul" of the rationality of personhood, identity, values, humanity, group (communal) dynamics, moral code (communal law) and the creation of space. As has been stated previously there is a specific relationship between land and identity, not only in an individual context, but the community as a whole.  A critical feature of these dynamics is that Xhosa culture is multi-dimensional with each dimension seamlessly linked and even integrated with the other.  Land use is not fragmented or separate, it is a part of an interwoven connectivity with everything else, physical and meta-physical.  Xhosa culture has a pre-occupation with harmony, accord and consensus.  This being the case, this culture does not easily accept any impositions that will adversely affect such harmony, accord and consensus.

Xhosa culture is also about a very specific journey and that is to become human. There are definitive milestones on that journey.  A human identity is continually evolving and so does the meaning of space: the greater the generations of family the greater the attachments to land a very specific land.  Land and its uses are defined and framed in the language of the evolution of becoming 'human'.

Access to land is a birth right.  Access to the resources on the land is also a birth right. Access to land for specific purpose is also a communal/cultural right e.g. cropping or livestock.  Multiple access, exist for other uses such as the spiritual.

Death too has no finality.  Death is the passage to the realm of the ancestors and these ancestors are very much a part of traditional life, in that these constitute

guardians as well as givers of blessings or misfortune. The ancestors inhabit this space, whilst certain spaces are accorded greater spiritual significance than others. Waterways and rivers are of particular importance in this regard. The realm of the unborn, the living and the departed are in constant interplay and this regulates the community in its day to day activities, including the allocation and use of land.

It follows that this is a space that is maintained by communal governance systems, the application of customary law and the values and worldviews that support these activities. Committees exist for each of the villages and through the "imbizo" management takes place. Sometimes sub committees are activated and sanctioned by a community. It is a well-known fact, as determined in the various discussions with Xhosa speaking planners, that municipalities do not venture into these spaces without consulting the local communal structures.

The question then arises as to just how an urban derived land use management system can fit into this ethos? Should it, and if it must legally speaking using a Western frame of reference, then does this not actually constitute an act of injustice?

### 1.8.3 Re: Zones of Resistance: Domination, Marginalisation and the creation and the perpetuation of Injustice.

Having ventured into the world of traditional Xhosa culture it also becomes important to anticipate and hence appreciate the dynamics of resistance, more especially given the tragic history of this land and its people. SPLUMA anticipates implementation of its provisions and through this mechanism so too must the provisions of spatial planning also be applied. Can in fact this be so easily accomplished? What other gaps in our knowledge exist concerning the acceptance and application of the current ethos of spatial planning in these customary spaces?

History and context does matter (Cilliers 1998:4 cited in Geyer and Rihani 2010:30) even more so, if one can appreciate a particular cultural geographic zone, must constitute a 'gateway event' (Geyer and Rihani 2010:45). This gateway event intersects with the arrow of time and depth (Geyer and Rihani 2010:36-52). The arrow of time moves in one direction from the past through the present into the future and such a progression is not simplistic and nor is it bound. Terreblanche (2005:11-15) and Makgoba (1999:10-36) for example, point to the fact that the effects of the

slave trade are still in the conscious mind set of many of Africa's people. Traditional culture also continues to evolve and adapt depending on the impact of a variety of variables that emerge over time. It follows then that there are strict limits on prediction (Williams 2013:25).

The application of modernist philosophy, colonial concept and policy together with those underpinning apartheid, have left their mark in the hearts and minds of the resident Xhosa community. Their perceptions and even desires have been influenced by the tragic social experiments of our yester year. These need to be understood if we are not to undermine our efforts to create an appropriate land use management system in this region. Transformation is not a given. There is also the distinct possibility that an even better (more appropriate) system can emerge if we begin by recognising and respecting the values maintained by others, more especially those of a distinct culture.

This chapter briefly examines the possible injustices stemming from modernity, rationalisation, domination, colonialism, forced cultural assimilation, the perpetuation of the 'other', and dispossessed cultural identities. There are also varying levels of violence attached to these concerns. The intention here is to point out that resistance can be expected to the point of a categorical dismissal of the application of SPLUMA. Such a lack of co-operation will merely compound the problems of legitimising a spatial planning governance regime in this Xhosa space. The chapter concludes after having briefly addressed the expectations of our Constitution. This knowledge is essential because without it, there is every prospect that the attempts to achieve credibility and acceptance will fail. I believe that all administrative actions going forward are critical. If these are applied in a manner that resonates with the horrific experiences of our past, then not only is there a real prospect of failure to enact SPLUMA, there is also a real possibility that spatial planning itself will also lose all credibility going forward. One may argue that the processes created to introduce spatial planning into this cultural zone could well be regarded as a litmus test of the profession's ability to deal with the dynamics of multiculturalism, difference, cultural identity and human dignity.

### 1.8.4  Re:  Rationalities of Spatial Planning and culture

Land use management systems have a historical development trajectory.  There are differing perspectives in different countries.  The focus here will be South Africa, although in discussion the similarities with the United States appear to be quite stark, more so in the context of the previous racial dispensation and how a planning rationale was used to protect various interests, more especially the elite.  Also in the United States there appears to be a fundamental pre-occupation with the preservation of suburbia (single residential land use) above all else.  What is more important however is to acknowledge and come to terms with the historic exclusions concerning culture that planning embraced?  Ethnic diversity (Sandercock 1998:14) becomes a starting point.

This begins to raise questions about just how a land use management system is perceived (by whom) and how it is applied (to whom).   It is important to understand that development control (schemes), for example, in particular have specific significance that needs to be teased out so that its impact of the rural zone can more fully be understood.   One immediate problem concerns language and the non-existence of the ideas listed below is Xhosa language.  There is no meaning.

Schemes (zoning) are embedded in law (western law) and as such these enjoy a particular status which can be totally inconsistent with customary law.  Schemes too are construed from a certain baseline which is bound up in an urban framework.  Schemes have become distinctly separated from their social origins.  Schemes are the outcome of a process of objectification and fragmentation of human activity in the urban zone.  The term "use" is elevated and framed in a "box of conditionality" linked to a host of sources.   These sources are located in functionalism, materialism, aesthetics, consumerism, protectionism and determinism.   Underpinning these is primarily the economic rationale and conformity.   The conditionality provides the framework for administrative decision making and hence application in the public arena.  This conditionality is further refined in terms of use, density, design, height, coverage, floor area ratios, parking, off-loading and building lines, all of which can be directly linked to the sources described above.

In a traditional cultural space there is the concern that little, if any, of these ideas are actually implementable. Traditional space is not bound up in absolute boundaries, class, quality of construction, investment, views, noise, amenity (in a conventional sense) etc.: if there is a conditionality it exists in the pursuit of Ubuntu, and the promotion of humanity and the journey to becoming more human. There is no market and there is no individual interest, such that is found in the conventional urban zone wherein the individual's interest, fears and anxieties reign supreme. The rise of the hegemony of the neo-liberal ideology has not helped either.

It becomes important to understand just what needs to be achieved in this rural zone, more especially if for the most part the application of conventional zoning provisions actually has no meaning. At what point does the application of these controls really become necessary? Linked to this is the concern as to when a technical and technocratic ethos also becomes necessary. The idea exists too that this not necessarily an all or nothing situation. This rural zone is experiencing the dynamics of change in that certain villages are now becoming more consistent with traditional urban areas. It would certainly seem appropriate to identify these and lift them out for due attention. This means that these should cease to be regarded as a part of the communal zone. Such spaces need to be identified. The use of protocols becomes an important idea in this regard.

Planning theory in more recent decades has expanded to begin to include both social and cultural dimensions in its deliberations. Significant contributors from for example, Sandercock (2009:20), Fainstein (2005:5, 2010:34), Watson (2009:2263-2273), Harrison, Todes and Watson (2008-253), Porter (2010), Healey (1992), Forrester (1994:153-154), Oranje (2003, cited in Harrison 2006:326), Harrison (2006:376), Watson (2003:396), Pieri (1997:223) in conjunction with others outside of planning, such as Habernas (cited in Innes and Booher 2010:24-26), Lefebrve (1993:435), Verwey (2011:108), Innes and Booher (2010:210), Ellis (2011:155), Bekker (2006:18), Bennett (1994:141, 2004:82), Devinish (2005:436) and Rautenbach and Malherbe (2009:12) provide a platform around which to build an appropriate response.

The reality on the ground may however be very different in that instrumental rationality may persist (Harrison 2006:332). The fact that SPLUMA can be regarded

as a policy shift away from political decision making (developmental ethos) to that of the technical, it is not regarded as helpful. Municipal tribunals, as official decision making entities within the municipal space are to be driven by technocrats. The political representation has been excluded. The concept of exclusion then still appears to have predominance. This does not auger well for customary community structures and the dialogue discourse these structures have pursued for centuries.

It is therefore not too difficult to concede that there exists a distinct possibility for the perpetuation of domination as a central feature of spatial planning in its application via the prescripts of SPLUMA. This is but one problematic. The continual application of the paradigm of order (Geyer and Rihani 2010:13) may present a host more.

## 1.8.5 Re: In Pursuit of Social Justice or Social Injustice?

This idea is a complex one. First and foremost there is the need to understand the dynamics of the construction of space. Implicit in this then are the notion of time and the history of spatial development: who did what and when. Linked to this is the application of a rationale which may or may not be regarded as motivated by an idea or ideas consistent with justice.

The city more especially the workings of the capitalist city, were seen to give rise to uneven geographies of capitalism (Harvey 1973:1996, cited in Dikec, 2011:72). These un-even geographies can be found in a regional context as well and the Eastern Cape must be a classic example of, not only the lack of investment, but also as a result of deliberately reducing livelihood capacity to ensure a steady supply of labour for the mines and industry elsewhere in the country. Stringent laws were applied to force people of this region to seek financial relief elsewhere. The consequences of this state of affairs are still being felt to this day.

This space is definitely a social creation spanning the pre-colonial period, the colonial period and apartheid. The eastern portion of the Eastern Cape then is a classic example of the application of social and spatial justices, in that the spatial arrangement is a consequence of both dialogue and custom.

Space then, is conceived as a social creation (Pirie, 1983:471-2, cited in Dikec, 2011:73). It is a space then that has witnessed the application of successive layers

of varying social activities ranging from the traditional cultural to the apartheid agendas: from equality to inequality, from freedom to subservience and servitude. There is therefore a close relationship between socio-spatial specificities and conception of justice.

The objectification of the city and its activities through functionalism reduced the social dimension of urban existence. Such action has resulted in the counter movement that is focusing on an emancipatory agenda to suppress domination and oppression in and through space. "The right to the City", Lefebvre (1993:435) writes, "cannot be considered a simple visiting right or a return to urban life, in a transformed and renewed form" (Dikec, 2011:74). It is not simply the right of the property owners, but of all who live in the city. There is, according to Dikec, a double agenda contained in these sentiments and that is, there is an appeal and critique.

The appeal points to the idea of reclaiming the right to the city, whilst the critique points to Lefebvre's denouncement of the welfare capitalist society as the "bureaucratic society of organised consumption" where needs are created and institutionalised, where exchange value of urban space is prioritised over its use value and indeed the value of the opinion and concerns of the urban citizenry. This critique is bound up in a context of the 1960's and 1970's when functionalist and technocratic urbanisation processes were under severe critique for eradicating urbanity and depriving urban dwellers of places of social encounter through the rational ordering of urban space. This is a critique of the abstraction of rights (Dikec, 2011:74).

The right to the city implies not only the participation of the urban citizens in urban social life, but more importantly, their active participation in the political life, management and administration of the city. What of our rural counterpart whose traditional cultural practices consists of precisely these ideals and practices? The right to the city is not simply a participatory right it is also an enabling right. This has legal and political dimensions.

There is also the right of recognition and the right of difference. The right to be different, Lefebvre wrote is the right not to be classified forcibly into categories which

have been determined by the necessary homogenizing powers. Differentialism is about living: not thinking but "being" differently (Dikec, 2011:76).

Rights then that Lefebvre conceptualises are established through lived experience and social relationships and once established they would lead to new ways of life, new social relations and the possibility to continue to differ. What of that space where the social ordering of space is a primary activity, such as found in our rural areas? Social relationship in these geographic zones, are intimately bound up in "Ubuntu", as is the ordering of that space. Is this rationale now to be superseded by another foreign rational? Does this not constitute domination and imposition of identity? In so doing does this space not become one giving rise to a "spatiality of justice"? In other words by reducing the rural space to conform to a "foreign" (to the people residing in this space) form of interactive dynamics, this space becomes monopolised and dominated by an act or acts of injustice. The use of the term "injustice" means that people are being separated from their traditional rights and in so doing impact on both spatial form and community processes involved in creating space. These acts of domination must be regarded as perpetrating an "injustice of spatiality" (Dikec, 2011:79).

> "(Social) space is not a thing among other things, or a product among other products…
> It is an outcome of a sequence and set of operations, and thus cannot be reduced to the
> rank of a simple object…Itself the outcome of past actions, social space is what permits
> fresh actions to occur, while suggesting others and prohibiting yet others" (Lefebvre,
> 1991:73 cited in Dikec 2011:79).

This implies that the emphasis is not on space per se, but rather the processes that produce space and at the same time the implication of the produced spaces on the dynamic processes of social, economic and political relations. In this sense the notion of spatial justice is bound up in exclusion, domination and oppression.

How do the ideas of spatial justice, the right to the city and the right to difference emerge to create a basis for the rationalisation of space, more especially a traditional rural space? This is a complex issue made even more so by the idea that the planning venture could well be supporting the negation of humanity and the negation of identity.

"The limits of just and unjust", Voltaire once wrote, "are very difficult to set down; like the middle state between health and illness, between appropriateness and inappropriateness of things between false and true, is difficult to mark" (Dikec, 2011:81).

Dikec suggests that as a consequence of the above it is perhaps best to conceive the notion of spatial justice, with the rights to the city and difference in relation to a "universality of an ideal and that this ideal may be grounded in the concepts of equality and freedom. Equality implies non-discrimination and freedom implies non-repression. The spatial planning endeavour must respond to this: does it promote justice or injustice?

### 1.8.6 Re: International Discourse Concerning Conventions, Declarations, Protocols, Human and Cultural Rights.

Sustainability is underpinned by a number of important concerns which inter alia includes a rationale that seeks to reconcile, integrate and promote social, cultural, ecological, and the economic dimensions of existence.

The idea of domination (power) is particularly relevant in the context of the Eastern Cape. The history of this space is immersed in the fight for the right to be recognised, not only as a people, but also as a specific culture and within this framework etch out a certain standard of living consistent with social values derived from that culture. This is not to say that culture is coherent or homogenous, it is continually contested and renewed. The dynamic of change are not the critical issue. What is at stake is the fact that culture as an idea, ethos and dynamic in its own right is not being implicitly recognised by SPLUMA. This could be construed as a realm of absolutism and a colonising (i.e. forced homogeneity) of norms and values (Louw, 2001:16). Louw continues to suggest that the other is assumed to be nothing but an extension of the assessor's self, more of the same. By definition, absolutism is a violation of the self- understanding of the other.

In modernistic development terms the dominant nationality has been the economic argument and clearly in this context, this argument will always, in the final analysis, favour capitalism. The neo-liberal agenda continues to underscore the national and regional development discourse and this has unfortunately created a number of

issues concerning the realisation of any idea of justice, equality and freedom in terms of any other salient rationality e.g. the social or ecological. In the context of an African culture this may be more accurately described as socio-ecological in that in the domain of Ubuntu the two are linked in its everyday context.

Ubuntu is not just a description of an interactive process between persons that make up a community. Implicit in Ubuntu are certain rights, for without these, the concept could not actually work. These rights include:

(a) the right to recognition

(b) the right to engage and be engaged

(c) the right to belong

(d) the right to respect

(e) the right to dignity

(f) the right to pursue one's destiny of becoming more human and hence a worthy ancestor

(g) the right to be heard

(h) the right to pursue one's cultural preference

(i) the right to speak (for many this is a phonological setting)

(j) the right to pursue consensus

(k) the right to compassion

(l) the right to engage in community events and practises

(m) the right to access land and its resources and

(n) the right to shape this space in accordance with customary law and cultural pursuits

This list is not necessarily exhaustive, but there is enough here to suggest that a continual referencing to members of Xhosa culture as some form of objectivised other is entirely, inappropriate. True Ubuntu takes plurality seriously. While it constitutes personhood through other persons, it appreciates the fact that "other persons" are so called, precisely because we can ultimately never quite stand in their shoes or completely "see through their eyes".

When the Ubuntuist reads "solidarity" and "consensus", s/he, therefore also reads "alterity", "autonomy" and "co-operation" (note: not "co-optation") (Louw, 2001:21). SPLUMA speaks to this idea of co-optation and as if this is not enough, such co-optation is being sought through legalism in a pursuit to achieve compliance (forced assimilation).

Notwithstanding Ubuntu there are other concerns regarding rights that stem from the Constitution (Chapter 1, Sections 30 and 31: Chapter 12: Sections 211 and 212 and Chapter 14: Section 235 concerning self-determination), and this country's engagement as a member of the United Nations and the African Union. South Africa has been party to some important human rights instruments that have emerged from these quarters. In this regard the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP), the International Labour Organisation (ILO) Convention 169, the Nagoya Protocol, the Convention of Biodiversity, the UN Charter, the International Covenant on Economic, Social and Cultural Rights and the Vienna Declaration and Programme of Action which affirms the fundamental importance of the right to self-determination of all peoples have reference. The above also compel the State to do all that it can to fulfil its obligation in this regard i.e. maintain culture.

In the context of the African Union, the African Charter on Human and Peoples Rights (Banjul Charter: 1981) and its report dated 2005 concerning human right abuse in respect of indigenous populations, provides yet another layer to pursuing a decidedly different developmental path as prescribed in SPLUMA. It must at all times be born in mind that the United Nations has spent over five decades debating and establishing and achieving appropriate human rights standards. This body is uniquely placed to advance the protection and promotion of human rights and as

such then provides a certain benchmark in as much as these activities are concerned. A dismissive posture is hardly recommended.

This chapter then serves to highlight concerns regarding rights and more especially cultural rights in the light of the international discourse and its application in the context of not only South Africa, but also the Eastern Cape.

In the context of the current construction of SPLUMA, there are enormous disparities, made even more so when one begins to apply the concept of socio-spatial justice.

### 1.8.7 Re: A Framework for a Sustainable Land Use Management System in Customary Rural Eastern Cape

This final chapter, documents an appropriate response to all of the above. And more especially answers the two questions posed at the beginning. The aim is to incorporate all the concerns that will assist in directing just what a future framework for this Province should be, more especially in the context of SPLUMA's own development principle, with a specific focus on social and spatial justice.

What has emerged in the research is that SPLUMA makes no provision for context. SPLUMA also makes no provision for difference let alone recognises the full impact of the rights that difference enjoys. This difference has the right to claim its own legitimacy, not only in law, but also from the people of this region as well. It is also appropriate that when considering these matters a distinction is made between the idea of a traditional leader and the idea of culture. Naturally the two ideas are integrated but the sole focus on the former tends to cloud the significance and hence importance of the latter. When all is said and done, this Province is a multicultural entity and there are different rationalities.

The development principles by their very nature, drives this debate into the realm of human and hence cultural rights. The history of the "right to the city" is premised on achieving equality, dignity, respect and freedom: the freedom to pursue one's culture and furthermore, that this culture enjoys equal status as to any other. It is in this context that those who pursue such culture can enjoy dignity and respect. SPLUMA provides no such assurance however, more especially if we fail to recognise the injustices of the past. These need to be dealt with before any attempt to introduce

SPLUMA is engaged in. These must be dealt with in a way that is consistent with community processes, dialogue and customary law.

A new planning dispensation must then recognise the realities described above. A new planning system must recognise international practices from elsewhere, more especially where this country has appended its endorsement. It needs to assume its responsibilities. Rights, FPIC and bio-cultural protocols are deemed part of the language of the endeavour going forward.

Implicit in all of this is the idea that planning in this Province must commence with formally recognising the existence of difference; it must name it and give this difference due respect. Any new planning legislation must then be framed in an ethos that naturally follows out of this act of formally recognising difference and the identity due to it. With an identity in place, the issue of land and its management can proceed, for the one will inform the other and vice versa: land and identity are one.

## 1.9    Ethical Research

This research is largely conceptual but it flows from the premise that all people deserve to be treated with respect and dignity. This informed all encounters with Traditional Leaders, local communities and co-workers that have contributed to this document in the course of my work.

**CHAPTER 2**

# 2. Traditional Xhosa Culture and its Social Construct of Space

## 2.1 Introduction

This chapter provides some background to what customary Xhosa culture is and in so doing provide some idea as to how this has shaped the Xhosa landscape. It is important to note that spatial planning using a different rationality seeks to do the same thing. What is particularly important to appreciate is that this chapter seeks to provide an insight to new knowledge concerning culture and more especially Xhosa culture and its relationship to land, resources and use. There are however limited references in this regard.

Space, according to Pirie (1983 cited in Dikec, 2011:27), may also be viewed as a social creation, as a structure created by society and not merely as a context for society. In line with this there is also the idea that one should begin to approach such social creation as "space and process". This implies that space and space making result from deliberate human thought, and the application of norms and values that guide this thought. If space then is not some form of backdrop, but rather contrived then it becomes important to engage in a discourse with a particular "space maker", which in this context, would be Xhosa culture and its peculiar constituency.

I believe such an engagement is necessary as: A substantive portion of the geographic zone known as the Eastern Cape is home to the Xhosa people and its distinctive culture (this does not suggest that this is necessarily a homogeneous grouping; there can be numerous sub-groupings). This home has been existence for more than 400 years (pre-colonial, 300 years of colonialism, 50 years of apartheid and now 20 years under a democratic dispensation) and this predates any urban centre underpinned by the ethos of modernity in present day South Africa.

This home has had to endure extremes of imposition, discrimination and hence marginalisation and yet in spite of all these injustices, it has demonstrated considerable resilience in terms of an ethos, social and spatial construction. Such resilience demands respect in that this would not have been possible had it not been

for the usefulness and hence development, acceptance and maintenance of traditional Xhosa culture by its people over all this time.

There is a Constitutional imperative to engage in the realms of culture and cultural rights, human dignity, difference, personhood, humanity, group (communal) dynamics and moral code (customary law) in order to understand the dynamics and implications therein. Bound up too, in this constitutional imperative, is the idea that an administrative action, of which spatial planning is a part, may not reduce a reasonable cultural idea or pursuit. The state has an obligation to sustain cultural rights and hence it follows that there is a need to recognise and respect the fact that these rights constitute the basis for existence and place making. The failure to recognise any of the above will undermine any notion or prospect of sustainability. Domination and with this the onset of the processes of assimilation are inappropriate.

> *"(Social) space is not a thing among other things, or a product among other products…*
> *It is an outcome of a sequence and set of operations, and thus cannot be reduced to the*
> *rank of a simple object… if the outcome of past actions, social space is what permits*
> *fresh actions to occur while suggesting others and prohibiting yet others" (Lefebvre*
> *1991, cited in Dikec 2011:79).*

This implies that the emphasis is not on space per se, but rather the processes that produce space and at the same time points to the dynamics of space and its interaction with social, economic and political realities and all ideas about life. If these are either negated or reduced; the outcome must surely be alienation, as witnessed by the sentiments expressed by traditional leadership in the WCRSDP project. Traditional leaders did not want to have anything to do with government. Traditional Xhosa processes bear little if any resemblance to the dominant Western form of urban culture.

There is now an internationally recognised imperative concerning indigenous culture, of which this country is a signatory to. This endorsement places certain obligations, on this country to adherence to the spirit, context, content and purpose contained therein. Such declarations (e.g. United Nations Declaration of Rights of Indigenous People (UNDRIP), ILO Conventions 107 and 169) are now regarded as the internationally accepted minimum standards on the rights and freedoms of the

Indigenous peoples of the world (Permanent Forum on Indigenous Issues, 2009:9). This will be discussed more fully in chapter 6.

According to Cousins (2011:4), in 2001 our South African communal areas are home to approximately 16.5 million people.  This is then a significant constituency.  All of the above must create a persuasive and pervasive argument for critically examining the concept of culture and more especially African culture in order to understand how culture has shaped space and ultimately continues to do so.  Space then is not passive and its shaping and reshaping is not confined to the practice of spatial planning.  However Xhosa culture is not a stand-alone dynamic. It is a value system that has to engage with the likes of modernity and its rationalisation (even including brutality), structures, politics and a variety of consequences emanating from these encounters. This idea of rationalisation may include how power and authority are used, the promotion of individualism, reductionism, determinism, order, production, consumption, protectionism, legalism etc.

Latour (cited in Porter 2010:13), names what he sees as a second "Great Divide" in the world (the first is between nature and culture), that between Westerners and all others:

> *"Whatever they do, Westerners bring history along with them in the hulls of their caravels and their gumboots, in the cylinders of their telescopes and the pistons of their immunizing syringes.  They bear this white man's burden sometimes as an exalting challenge, sometimes as a tragedy, but always as a destiny.  They do not claim merely that they differ from others as the Sioux differ from Algonquin's, or the Boulez from the Lapps, but that they differ radically, absolutely, to the extent that Westerners can be lined up on one side and all the cultures on the other, since the latter all have in common the fact that they are precisely cultures among others.  In Westerners' eyes the West and the West alone, is not a culture, not merely a culture" (Latour 1999:97, cited in Porter 2010:13.*

There is content and history.  Some consequences would appear to persist, e.g. the logic of capitalism and its impact on spatial arrangements. This chapter will explore some of these dynamics in order to create a more appropriate, yet sensitised perspective concerning Xhosa culture.  In so doing the chapter also aims to identify a variety of sources of injustice that will need to be considered in the context of pursuing spatial justice, in the planning project going forward.

In line with all of the above, South Africa then must be regarded as a settler state, alongside the United States, Canada, Australia and New Zealand. The history and context of planning is bound up in the colonial venture, more specifically that of the British settler colony: the Eastern Cape even more so. Planning has its own culturally specific positionality. Spatial Planning is embedded in the production of space or at the very least, a particular encoded form of it.

Forgetting to understand planning's own cultural position can render the "exclusion" of Indigenous people in land management decisions resulting in a new form of colonial oppression. Planning is located in a number of centres: the centre of a dominant culture, the centre of an authoritative system of government involving all three spheres and a privileged position of power, has been built on Indigenous dispossession. Half of the Eastern Cape is what remains of an Indigenous home of the Xhosa people before the arrival of the settler, with his/her Western culture.

## 2.2 Introduction to Culture and some Anthropological Ideas and Terminology

### 2.2.1 Culture

Culture, according to Mokwena (2009:67), is a particularly difficult concept to define. She suggests that Mkhize (2004) offers an in appropriate interpretation when he comments that culture refers to the ways in which different societies understand their systems of meaning and meaning making as well as their collective ways of valuing and understanding the world (and the space) they inhabit. Mokwena (2009:67) concurs with this idea. There is of course the idea of reciprocity in that not only is there an understanding of space (including a worldview), but there is also the impact of the continuous shaping and reshaping of space.

E.B. Taylor (1871:1, cited in Scupin and De Corse, (2012:212) and Mokwena (2009:68) defined culture as something that embraces all human experience: culture is that complex whole which includes knowledge, belief, arts, morals, law, custom and any other capability and habits acquired by man as a member of society. Clearly all of these shape the manner in which man interacts with space. The above too provides a rationale for shaping that space. Where such space does not conform to

the cultural pursuits deemed to be fundamental to existence and the social relationships that underpin existence then space is reshaped to conform accordingly. Culture then is not a standalone, neutral set of activities. Culture impacts on space, it shapes space. Culture gives space meaning and this meaning influences identity. Culture defines relationship with space.

In the past anthropologists (Scupin and De Corse 2012:213; Visser 2009:23) attempted to make simple distinctions between society and culture where society was said to consist of patterns of relationships among people within a specific territory and culture was viewed as the by-product of these activities. In more recent times this view has been regarded as simplistic and crude as such descriptions resulted in the creation of vague generalisations and gross stereotypical outcomes concerning people and their behaviour. In reality societies are complex and even within one geographic zone it is possible to encounter distinctive groups that maintain similar yet different cultural traditions. This is important to note, in that from a spatial planning perspective this uniqueness requires paying close attention to detail (context) and at the same time creating within itself a propensity for learning. For the spatial planner this then is the realm of acquiring new knowledge. Most anthropologists (Scupin and De Corse 2012:212; Visser 2009:23-30) have now adopted the hybrid term "socio-cultural system" as a conceptual framework for analysing ethnographic research. The urban socio-cultural system may be distinctly different from the rural socio-cultural system, depending on the context.

### 2.2.2  Learned Systems

A socio-cultural system is a learned system and this is done through the process of enculturation. Enculturation then is the process of social interaction through which the members of a particular social group learn and acquire their culture. This is typically done through both, conscious means (formal learning) and unconscious means, through informal interaction (Scupin and De Corse, 2012:212-213; Hummel 2010:959; Wermter, Ritloff and Scheler 1996:1; Wenger 2010:1; Berry 1997:5).

Learning then has a number of variants. One type is referred to as "situational learning" or "trial and error learning" in which an organism adjusts its knowledge base

and behaviour on the basis of direct experience.  This is an on-going activity, in that in an ever changing world there will always be new experiences.

Another type is referred to as "social learning".  This, (Scupin and De Corse (2012:213; Meister and Wiliyerd 2010:37; Muhshi 2003:185-186)), occurs when one organism observes another organism respond to a stimulating experience and then embraces that response as one of its own.  So direct experience is not always necessary, it may be about imitating the behaviour of others, even in matters of avoidance.

"Symbolic learning" is based on linguistic capacity and ability to use and understand symbols, which are arbitrary meaningful units or models that are used to represent reality.  An example of arbitrary symbolism would be colours, red, yellow and green for traffic lights in this country and the United States of America.  Sounds, such as, "cat", "dog", "free" or "one", "two", "three" in English are symbolic and these sounds symbolise words in English.  In another language these terms sound completely different.  Symbolic communication and language is used to represent abstract ideas and values.  Symbols then, are the conceptual devices that we use to communicate abstract ideas to one another.  Symbols too do not stand in isolation from one another they are interconnected within linguistic symbol systems that enable us to provide rules and meanings for objects, actions and abstract thought processes. Symbolic learning is the most common means of learning behaviours and concepts (Scupin and De Corse 2012:214; Hummer 2010:959).

### 2.2.3  Linguistic and Cognitive Ability

The human capacity for culture is based on our linguistic and cognitive ability to symbolise and culture is transmitted from generation to generation through symbolic learning and language.  Through the transmission of culture we learn how to subsist, how to socialise, how to govern and what to worship.  Culture is the historical accumulation of symbolic knowledge that is shared by a distinct cultural group. Planning needs to embrace this symbolic knowledge, in order to identify, with a distinct cultural group.  Not only is there a need to embrace a specific form of knowledge, there is also the need to understand that any external activity (to that

culture), but internal to the planning profession, that is applied either maintains or reduces the knowledge base.

### 2.2.4  Shared Meaning and Practices

Culture consists of shared practices and understanding within society.  Culture is to some extent based on shared meanings and some of this culture (shared meaning) exists before the birth of a child into society and it may continue beyond the death of an individual.  Xhosa culture is one such culture.  Chains of communication propagate belief systems and these may or may not be maintained.  When these no longer resonate with a particular community, then these become extinct (Bennett, 1999:1-10).

Customary law is made up of the various belief systems and practices that the community concerned accept as obligatory at least for a period of time.  Normative systems of this nature are never directly accessible to the outsider: they must be discovered by questioning informants and on the spot observation or consulting authoritative texts (Bennett, 2000:1), where these exist.  This discourse has engaged in such an experience, with dialogues taking place between the author and community members, traditional leaders and even community members who are themselves trained and registered spatial planners.  These outcomes will be discussed throughout the chapters.

### 2.2.5  Material and Non Material Culture

Anthropologists also refer to material culture and non-material culture.  The former, according to Scupin and De Corse (2012:215; Mbakogu 2004:37), consists of the physical products of human society e.g. weapons and clothing styles whilst the latter refers to the more intangible product of human society and these include values, beliefs and norms.

From a spatial perspective what is of particular interest then is investigating the relationship between the material and non-material cultures and how these give rise to a specific spatial organisation or patterns. These relationships are used in managing or controlling the use of land or space as well as inform people how to relate to such space as well as how space relates to them.  Space and use are

intimately bound up in the values, beliefs and norms of any given community and hence an ethnocentric approach to understanding this phenomenon is entirely inappropriate.

## 2.3   Values, Beliefs and Norms

These are the standards by which members of a community define what is good or bad, holy or unholy, beautiful or ugly.  Values are a central aspect of the non-material culture of society and these are important because these influence the behaviour of the members of that society (UNESCO 2003:14).

What is critical to note is, that a set of values, such as individual achievement and success, efficiency, material comfort, equality, freedom, rationality, science and democracy may be upheld in the United States or even parts of South Africa, but in other societies these may not be the accepted norm, in fact some may even be frowned upon e.g. individualism.  This will be discussed more fully later.

Beliefs are another aspect of non-material culture (De Corse, 2012:218).  Beliefs, according to UNESCO (2004:14) are "cultural inventions that concern true or false assumptions, specific descriptions of the nature of the universe and humanity's place in it.  Values are generalised notions of what is good or bad:  beliefs are more specific and in form at least have more content."  Most people in a given society assume that their beliefs are rational and firmly grounded in common sense.

A worldview comprises various beliefs about the nature of reality that provide a people with a more or less consistent orientation toward the world. Some beliefs may combine to form an ideology.  An ideology consists of cultural symbols and beliefs that reflect and support the interest of specific groups within society (Scupin and De Corse, 2012:218; Mbakogu, 2004:37).  Particular groups may promote these ideological creations to suit their own ends and if powerful (dominant) enough these ideologies can produce cultural hegemony through the imposition of dominant control over a host of values, beliefs and norms.  Examples of this may be the domination of one ethnic group over another or the domination of one gender over another or even the urban over the rural.

A society's rules of right and wrong behaviour are another aspect of non-material culture. Norms are shared rules or guidelines that define how people ought to conduct them in certain circumstances. Norms are connected to values, beliefs and ideologies. For example, in the Unites States culture, individualism is a basic value and hence in that part of the world, many norms have been derived or based upon the concept of individual initiative and responsibility. Individuals are admonished to work for their own self-interest and not to become a burden to their families and community (Scupin and De Corse, 2012:218). These ideas bear resonance for many in South African society as well.

In many agricultural societies, it would be considered immoral to allow aging parents to live outside the family. In these societies the family is a moral community that should not be separated. Rather than individualism these community norms emphasise communal responsibility within the family unit (Scupin and De Corse 2012:219; Narvaez and Lapsley 2009:238-240). The idea of a moral community is an important one in that there is an imperative to use dialogue to find each other. Ideas and the person must be one (Du Toit 2005:834).

Thus to a great extent, culture consists of a network of symbolic codes that enhance values, beliefs, worldviews, norms and ideologies within a society. Humans go to great lengths to create symbols that provide meaning for individuals and groups. The symbolic meanings are a powerful source of cultural diversity.

People have recognised differences in values, norms and life practices everywhere. Societies then differentiate themselves from one another based on variations of cultural patterns. Writings on the diversity of cultures have often been based on ethnocentric attitudes. Ethnocentrism is the practice of judging another society by the values and standards of one's own society (Scupin and De Corse 2012:220; Berry 1997:11) and to some degree ethnocentrism is a universal phenomenon. Members of a society may be so committed and embedded in their own cultural traditional that they cannot conceive of any other way of life and such deeply ingrained perceptions are difficult to escape. Planning is bound up in its own sense of norms, values and beliefs and these have important implications in this discourse. This will be elaborated on in chapter 4. Suffice to say that planning is facing its own

dynamics of change as borne out by Sandercock (1998:1-30) when she points out the need to embrace multiculturalism and diversity.

According to Scupin and De Corse (2012:13) nineteen century anthropologists often reinforced ethnocentric beliefs about other societies. The twentieth century saw the co-opting of anthropological data to serve specific political and social ends. They were not alone however. Others, such as the coloniser, pursued very specific political and economic objectives (Berry 1997:9-12; Maathai 2009:22; Bhabha 2004: X-X1; Luthuli 2006:78-79).

For the moment however it is important to engage deeper into African culture itself and in this study. Reference is being made to the Nguni people of whom the Xhosa are a part. There will be regional differences and where these are known, such will be pointed out. References are stipulated below.

This journey into the realm of African culture is by no manner of means intended to be the last or final word on the subject: that could never be. The aim of this discourse is to present to and thereby sensitise any reader to the numerous differences that exist in culture. In a sense this recognises that there exists an "insider-outsider" relationship and dynamic between different cultures as well as between the planning project, its historical and contextual development and those cultural processes which have for centuries defined, constructed and occupied space.

## 2.4    Toward an Appreciation of African Culture

Traditional Africans believe that all things in the universe are connected ontologically to each other. Beings and objects in the universe are organised hierarchically (Mbiti 1991; Ngubane 1977; Ruch and Anyanwu 1981, cited in Mkhize 2012:39). Intricate webs of relationships exist between organism and objects in the hierarchy (Figure 1). Each object or organism is dependent upon and capable of influencing and being influenced by others. The nature and direction of influence is determined by the amount of life force (energy and power) possessed by each object or organism.

## 2.4.1 Different Levels of Being

Inanimate objects and plants occupy the lowest level on the hierarchy. According to Mkhize (2004:39), these in African culture have very little life force of their own and as a result do not have a direct influence on superior beings such as human beings. Animals occupy the next level above that of objects and plants. It is in the next level, namely that of the intermediate world, that consist of human beings. Mbiti (1995) cited in Mokwena (2009:69), concurs with this idea. Human beings can communicate directly or indirectly with the living deceased (ancestors). These occupy the next level on the hierarchy. According to Ngubane (1977, cited in Mkhize 2012:40), the world of ancestors is divided into two: the first being the world of the recently deceased and the second is the world of integrated ancestors. The recently deceased do not proceed directly into ancestorhood until their relatives have performed certain rituals of integration on their behalf. Integrated ancestors are capable of communicating with both God and relatives. Ancestors, whose world is both analogous and contiguous to that of human beings, continue to interact with and remain interested in the affairs of their relatives. Human beings maintain a link with their ancestors through acts of libation and sacrifices. It is through the ancestors that human beings communicate with God, who is rarely invoked directly.

Only those who have lived a life characterised by high moral standards can be elevated to the status of an *"inyanya".* These standards include promoting interdependence and harmony within one's family and community. Once rituals of integration – *"inyanya"*, literally, to return the spirit of the ancestor home, have been performed (Mkhize 2012:41), the deceased who were good moral exemplars join the community of *"iinyanya",* which is a spiritual community of other family members who also lived exemplary lives (Mtuze 2004:91-91).

Sometimes a person may be referred to as an *"inyanya"* before he or she dies. These are usually older members of a community who have led praise worthy lives and who are therefore considered worthy of emulation.

The relationship between the living and *"iinyanya"* is one of interdependence. The latter need the former to perform rituals on their behalf. This, according to Mkhize (2012:41), elevates them to an influential status, thus giving them an audience with

God. This means that they can negotiate with God on behalf of their descendants and hence connection with God through *"iinyanya"* is considered essential for family unity and prosperity (Ngubane 1977, cited in Mkhize 2012:41; Mtuze 2004:155).

As the *"iinyanya"* are moral paragons or exemplars of exceptional conduct their moral values and principles continue to be cherished by community members. These in turn are adopted as normative standards of conduct. As guardians of morality, *"iinyanya"* sanction bad conduct by withdrawing their interest in family matters and this action is regarded as undesirable as it breaks the chain of communication between the living relative and God. This effectively means that the family is cut off from God, the source of all life. Rituals and acts of libation are not ancestor worship. They ensure that through the *"iinyanya"* one remains connected to God, the highest source of life.

### 2.4.2  An African Holistic Worldview

God is the apex of the hierarchy. Although at the apex, God is not apart from the world. Together with the world God constitutes the spatio-temporal totality of existence (Teffo and Roux 1998:140; Mokwena 2009:70), cited in Mkhize 2012:42). That is God does not rule the world from a distance, but permeates everything in it. For example the fact that human beings participate in the Divine is captured by the Sotho saying *"motho ke Modimo"* which means "the person is (the) Divine". God's omnipresence is consistent with the holistic worldview; an account of the world in which everything is interconnected in such a way that elements of the whole are contained in each part.

### 2.4.3  The Notion of Vitality or Life Force

According to Mkhize (2004:42) and Mokwena (2009:70), beings and objects in the previously mentioned hierarchy are endowed with life force. According to Myers (1988, cited in Mkhize 2012:42), life force refers to the energy or power that is the essence of all phenomena, material and immaterial. Everything is endowed with energy, spirit or creative force. The idea of life force as "spirit" does not apply ghost like, inner power of an occult nature, but rather refers to dynamic creativity which in turn is regarded as being the most precious gift from God. This creativity descends hierarchically from God *"iinyanya",* elders, human beings and all that is created

(Kasenene 1992, cited in Mkhize 2012:42). The creativity of God's power is manifest in the changing seasons, birth, cycles of nature and in human achievements. It is extended to *iinyanya,* human beings and other creatures and creations lower in the hierarchy in descending order. The Basotho/Tswana refer to as person's life force as *"seriti"*, while the Nguni refer to it as *"isithunzi"* and quite literally both mean "the shadow". Ideally then it is quite literally expected that a member of a traditional community will always use life force to maintain vital connections and inter-dependence between family members, the community and the rest of nature.

Fig 2.1   Relationships between elements in the hierarchy of beings (Source: Mkhize 2012:40)
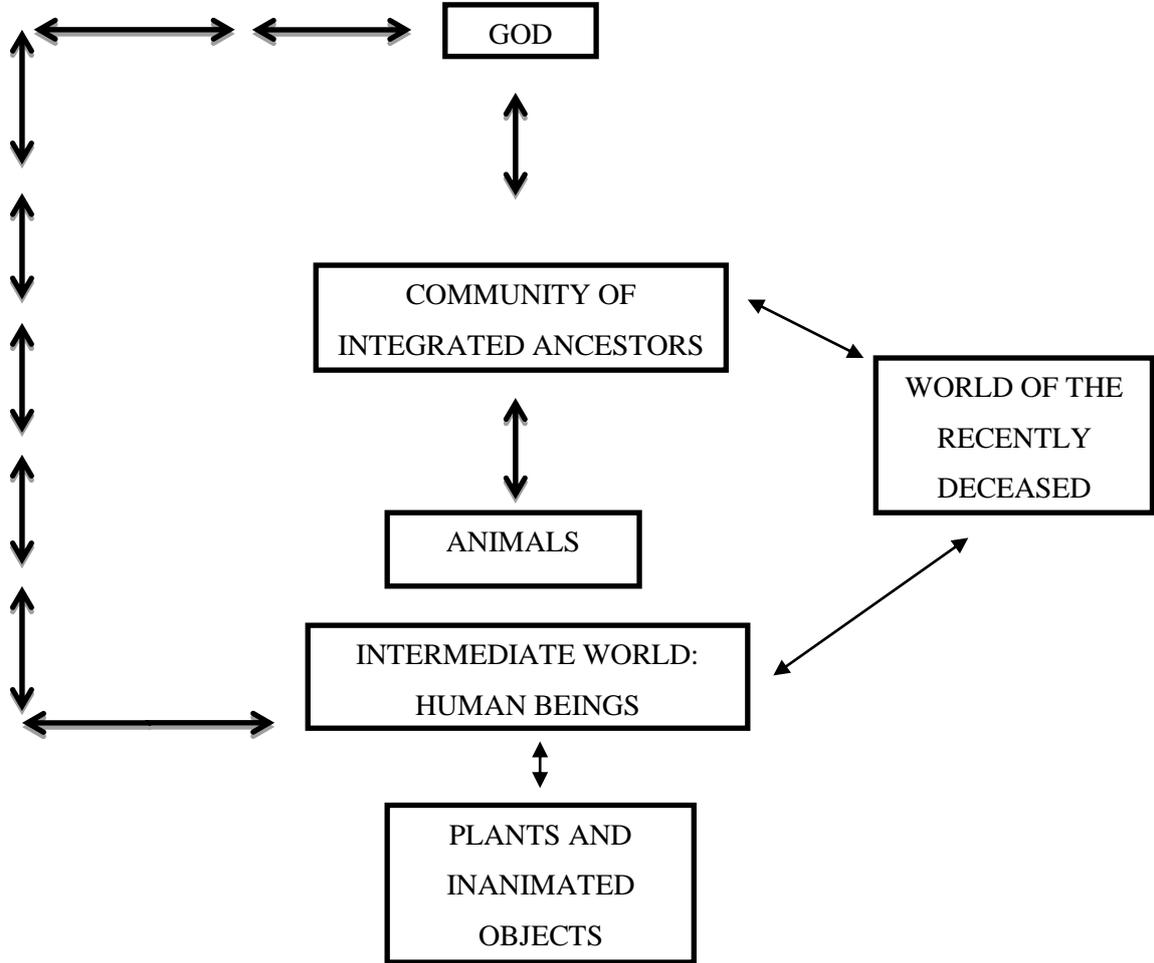


Legend:

⟷  Indicated bi-directional communication;

⟶ ⟶  Proceed to integrated state, once rituals performed;

⟷ ⟷  Direct communication between God and human beings, although very rare, may be invoked

A critical distinction needs to be made between the principle of life force, the principle of life (as in living organism) and being full of energy (liveliness). The principle of life force cannot be reduced to the quality of being alive, given that both the living and the deceased participate in this vital union. When the Nguni and Sotho say a person *"uyaphila / o ea pkela"* (he or she as life), they are not referring to biological life, on the contrary, they refer to the relationship between individuals and their milieu. It is their lived experience, as evidenced in the day to day relationships with others that is at stake. This again emphasises the point that what is critical is that one is expected to live harmoniously and inter-dependently with others. From an African cultural point of view then life is a never ending spiral of human and communal relationships and it is defined in terms of reciprocal obligations. All members of a specific community are expected to promote vitality in that community by fulfilling their duties and responsibilities according to their positions or roles (Dzobo 1992; Mbiti 1991; Kasenene 1992, cited in Mkhize 2012:43; Mtuze 2004:85).

### 2.4.4  An Organic View of the Universe (Worldview)

Indigenous societies generally consider a harmonious existence between man, animals and nature to be critical and therefore there is no distinction between nature and culture (Howard 1994; Maffi 1998, cited in Mkhize 2012:43). Living harmoniously with the natural environment requires that it be harvested to the extent that it is necessary to support human needs. This has to be done respectfully and religiously. Plants have great significance in Xhosa culture and according to Dold and Cocks (2012:8); culture and nature have co-evolved over time to become intertwined and mutually dependant. We lose one, we lose the other. Plants, animals and landscapes are profoundly reflected in Xhosa language, stories, poetry, religion rituals, healing practice and everyday customs that define Xhosa culture. This being the case affirms the inter-dependence between the natural and human environment. This can be abused however as a consequence of, for example, greed.

The tendency between Africans to prefer teleologically inclined explanations stems from the view that life force can be manipulated. Teleological orientations assume that "reality hangs together because of aims and is driven by aims" (Teffo and Roux 1998:134, cited in Mkhize 2012:44). Consequently questions are directed not only toward why events happen, but also as to why they happen to someone at a

particular point in time in a particular locality (Makinde 1988, cited in Mokwena 2009:73.

It has been stated that the principle of life force requires co-existence with and strengthening of vital relationships in the community and the universe (Kasenene 1992; Ruch and Anyanwu 1981, cited in Mkhize 2012:44; Du Toit 2005:851; Mtuze 2004:108-110). Severance of vital relationship constitutes the opposite of the "Good" and is therefore undesirable. Whether or not life force actually exists or not is irrelevant. What is important is that this is what is believed and hence this belief (worldview) continues to influence the perception of the world.

> *"African metaphysical thinking is holistic and cannot be severed from what Africans think about knowledge, values, science and common sense. African ontology can be considered to be pan psychic. In this sense, everything that exists has a spiritual cause. And these spiritual causes are ultimately manifestations and servants of God… it is important for the African to live in harmony with the forces that control all spheres of reality. This is one of the reasons why the African person places high value on a harmonious relationship with his or her social and natural environment…many Africans doubt whether technology makes the ultimate difference to human life: in their view fellow humans do" (du Toit 2005:851-852)*

This then points to the all-important concept of connection.

### 2.4.5 The Principle of Cosmic Unity and Knowing through Participation

There are separate and connected ways of knowing. These two terms were popularised by Belenky et al (1986 cited in Mkhize 2012:43). Separate knowing is characterised by a sceptical, distanced and impartial stance toward the object of knowledge. It takes an adversarial, argumentative stance to new ideas, even if they make intuitive sense. Connected knowing on the other hand tries to accommodate new ideas, searching for what is "right" even if that right initially may appear wrong.

Cosmic unity is closely related to the notion of vitality (Anyanwu 1981; Kasenene 1992; Kinoti 1992; Verhoef and Michel 1997, cited in Mkhize 2012: 44). It is sometimes referred to as a holistic conception of life. Cosmic unity means that there exists a connection between God, *iinyanya*, animals, plants and inanimate objects. Within this system everything is in perpetual motion, influencing and being influenced by something else. Indigenous societies, for the most part do not view the world in a

mechanical, cause effect manner (Howard 1994; Maffi 1998 cited in Mkhize 2012:44; Mokwena 2009:71-72).  They tend to subscribe to a holistic view of the world.  This means that units of analysis are not abstracts from their context.

What has evolved from this point of view is the idea that knowledge through participation, rather than separation and abstraction is to be prized.  One does not know by standing and observing from a distance.  To know is to participate in the dynamic process involving interaction between parts and the whole.  To know is to connect and hence to remain connected is vitally important (UNESCO 2003:10). Knowledge of the other is critical.  However from a Western perspective, the knower stands apart from the object of his or her knowledge (Mkhize 2012:44).

The dynamism between parts and the whole, characteristic of the African worldview is illustrated in the following quotation from Senghor (1966).  Senghor draws contrasts between traditional European and African worldviews:

> *"The African has always and everywhere presented a concept of the world which is diametrically opposed to the traditional philosophy of Europe.  The latter is essentially static, objective and dichotomous; it is in fact dualistic in that it makes an absolute distinction between body and soul, matter and spirit.  It is founded on separation and opposition, on analysis and conflict.  The African on the other hand, conceives the world, beyond the diversity of its forms, as a fundamentally mobile yet unique reality that seeks synthesis" (Senegalese poet and Africanist scholar, Leopold S. Senghor quoted in Mkhize 2012:45).*

The holistic conception of life means that one cannot look at individual units in isolation from their context.  This has great significance for the planning project in that this set of activities is rooted in Western ideology, (culture) worldviews and isolation (separate) from the rigours and nuances of Xhosa culture.  Its roots are also bound up in colonialism.  This will be discussed more fully in subsequent sections of this discourse.

### 2.4.6  Communal Life and Personhood: a Prelude to Identity

Communal life and personhood could be described as an organic relationship between component individuals.  Personhood in African thought is defined in relation to its context, namely spirit, environment and community.  Community does not mean "mere collection of individuals, each with his (sic) private set of preferences, but all of

whom get together non-the less because they realise… that in association they can accomplish things which they are not able to accomplish otherwise" (Menkiti, 1984: 179 cited in Mkhize 2012:46).

What this does not do then is refer to a collection of atomistic individuals who gather together to pursue common goals. The term atomistic implies consisting of many separate, diverse or disparate elements. Coetzee (1998, cited in Mkhize 2012:46) defines community as "an on-going association of men and women who have a special commitment to one another and a developed (distinct) sense of their common life".

A sense of community exists if people mutually recognise the obligation to be responsive to one another's needs. Du Toit (2005:852) describes African culture as being socio-centric and not self-centric. African personhood can be described as "ensemble individualism" which includes more fluid boundaries between self and other, locates control in a field of forces inclusive of the individual and conceives of a self which includes relationship with others. There is a tendency among traditional societies to regard a number of people as members of one's family, irrespective of the actual genetic relationship (Nsamenang 1992, cited in Mkhize 2012:46).

Extension of terms such as mother and father to others goes hand in hand with obligation to act responsively, in a manner that is befitting of these terms. For example, parental responsibilities may be assumed by any adult member of the community through the collective practice of child rearing. This is informed by an understanding that the child will grow and develop leadership and/or other qualities that will enhance the life of the community as a whole. The entire community is thus expected to play a vital role in raising children (Mkhize (1999), cited in Mkhize 2012:46).

### 2.4.7  Personhood Rationally Defined

Menkiti (1984, cited in Mkhize 2012:47) states that because of the inter-dependence between individuals and the community, personhood cannot be defined solely in terms of physical and psychological attributes. It is through active participation in a community that a person finds meaning in life (Mbakogu 2004:37). Ubuntu is the core feature/system that best explains this idea: "I am because you are and since we

are therefore I am" (Mbiti 1969, cited in Mkhize 2012:47).  The rootedness of the self in community is reflected in the saying: "*Ubuntu Ngumuntu ngabantu*" (Nguni) or *"Motho ke motho ka batho babang"* (Sotho), which roughly translates as "one becomes a human being through other human beings".  The Xhivenda equivalent *"Muthu u bebelwa munwe"* translates to mean "a person is born for the other".  Personhood then is defined relationally.  A person does not exist alone.

Du Toit (2005:853) states that Ubuntu is African humanism.  Ubuntu limits individualism and stresses that social inter-relations and responsibilities are a pre-condition for human life:  these ideas then stand in opposition to the Western approach to nature which is essentially rational, pragmatic, fragmented and instrumental.  The traditional African world view is not solely pre-occupied with economic harmony and communal dependency.  Relationship then is more important than individualistic properties.

Mkhize (2012:47) states that belonging carries with it a dynamic or "dance of harmony (because) everyone who belongs is continually moving, adjusting to the rhythm of life within the community".  This occurs as individuals attend to their responsibilities to both the community and nature.  *"Ilimo"* is a practice by which neighbours join together to help till one another's fields or house building.  *"Ukusisa"* refers to the act of loaning someone cattle.  African society emphasises solidarity rather than activity and the communion of persons rather than their autonomy (Du Toit 2005:853).  According to Shuttle (1993:48-51), cited in Du Toit 2005:853) Africa rejects Western socialism and capitalism because they produce a society in which the individual is alienated from others.

The African worldview then rejects the instrumentalism embedded in the separation between subject and object and emphasises inter-connectedness, harmony and balance rather than dualism.  In this regard Ntuli (2002:53, cited in Du Toit 2005:854), remarks that the Newtonian worldview typifies these opposites par excellence by offering a world of "positive-negative", "either - or" and "yes – no" options.  It completed the separation between thought and feeling and between privileging and thought over feeling as guiding principle.  For the African, to remove oneself from the phenomenal world is to objectify that world; something that Africa

rejects (Ntuli 2002:54 cited in Du Toit 2005:855). Identity is bound up in connectivity and integration.  Identity is premised on relationship.

## 2.4.8  The Family Community and Personhood as a Process

The family and community are not two distinct entities.  The one is an essential part of the other and vice versa.  The family-community forms an essential element of an individual's social reality and hence identity.  It should be noted that "family" is not restricted to the Western notion of a nuclear family.  It constitutes a closely knit community of relatives, including both the living (on earth) and the deceased (spiritual existence) formerly introduced as the *"iinyanya"*.  To be disowned by family is to cease to exist.

The family hierarchically organised from the oldest to the youngest and each member is bound together through a reciprocal understanding of their roles and responsibilities.  The elder has the responsibility to ensure that the family remains a thriving, cohesive unit.  Older members too have the most complete memory of the family lineage and are considered to be much closer to the *"iinyanya"* (Mbiti 1991, cited in Mkhize 2012:49).  The injunction to respect elders, common in traditional societies emanates from an understanding that a person with an elder's status/position will act in a dignified and responsible manner.  Elders earn their status by virtue of the richness of their knowledge and experiences.  They are expected to bring wisdom to bear on decision making (Ikuenobe 1998; Paris 1995, cited in Mkhize 2012:49).  Failure to act responsibly would diminish an elder's status. Irresponsible elders may in turn be censured by *"iinyanya"* who it is believed, do not look kindly upon family members who neglect their responsibilities (Moyo 1992, cited in Mkhize 2012:49).

The attainment of personhood is not confined to physical or psychological attributes: personhood does not follow automatically simply because one is born of human seed.  On the contrary, it must be pursued and earned.  Personhood is an on-going process attained through constant interaction with others and one's family and community.  This process requires one to affirm ideals and standards recognised as being constitutive of the life of the community in order to become a human being. These are standards such as generosity, benevolence, respect and dignity (Gyekye

1992, cited in Mkhize 2012:50). Life's journey in the context of personhood can be regarded as always "becoming". The notion of dialogue, which is an interchange of ideas between two equally responsive subjects, is of critical importance in this regard. Meaning is actively and dialogically constructed in our encounter with the other (Bandlamudi 1994 cited in Mkhize 2012:59).

### 2.4.9 The Dialogical Self: An African Approach

According to Mkhize (2012:59), the view of a multiple, dialogically constituted self is not new to African scholarship. The self in traditional African thought is by definition, dialogical and hence the view that self emerges from relationship is consistent with African conceptions of personhood (Oyeneye and Shoremi 1985:3 cited in Mbakogu 2004). From an African perspective, the human being is never alone: he or she is always in dialogue with the surrounding environment. From a traditional African point of view "the human being lives in close contact with the universe; he [sic] lives in symbiosis with it and does not artificially separate himself from it at any moment of his existence (Zahan 1979:20, cited in Mkhize 2012:76).

Dialogism in African thought incorporates relationships between people. The saying *"Umuntu Ngumuntu ngabantu"* can be interpreted as "a human being is a human being because of human beings". In other words, it points to the fact that selfhood emerges dialogically through participation in a community of other human beings. The Tshivenda equivalent, *"muthu ubebelwa munwe"*, translates as "a person is (already) born for the other". Both sayings then highlight that the self cannot be conceived independently of social relationships. This is in stark contrast to the Cartesian view of the self as espoused by Western thinking. This view basically defines the person in terms of his or her thoughts or psychological attributes. It draws sharp distinctions between the self (inside) and the non-self (the outside). The Cartesian self is unitary: it proclaims only one centralised thinker. The Cartesian self exists "prior" to society which is inconsistent with a dialogical, socially immersed self.

Van der Merwe (1996, cited in Mkhize 2012:76), interprets *"Umuntu Ngumuntu ngabantu"* as follows: "To be a human being is to affirm one's humanity by recognising the humanity of the others in its variety of content or form". Alternatively the saying could be envisaged to mean "a human being is a human being through

(the otherness of) other human beings". Thus it is only through our encounter with another fully voiced consciousness that we gain self-understanding. To deny others the right to mean (voice) is to deny their existence. Selfhood in traditional African thought is also conceptualised in space and time. The person in African thought is never a finished product: he or she is perpetually in the making (Sow 1980, cited in Mkhize 2012:77). This means that human beings can be defined only in terms of "becoming" as previously stated. People achieve full selfhood once they have undergone "certain physical transformations or… performed… rites designed to admit (them) into adult society as a new member" (Zahan 1979:10, cited in Mkhize 2012:77).

Sow (1980, cited in Mkhize 2012:77), captures this view of self in the following paragraph:

> *"The human person/personality is not a "completed" system (already at three to five years of age); the human being, as such, is perpetually "in the making". From the psychological and psychopathological point of view, difficulties and conflicts are always present, seen in a context of ceaseless development, for the personality is continually evolving in a life that is felt to unfold in an orderly fashion, dominated, at its highest point, by the ideas of seniority and ancestry. The basic ideas of phases of life (codified through rituals and traditional practices, including initiation) permit progressive integration into a well ordered universe… The status of full person is really acquired only with age, which takes on an ancestral quality".*

Conception and birth are not enough to ensure human-hood, instead it is through participation in the community of others, which in some societies includes rituals of transformation such as *"imbeleko",* a sacrificial offering performed by the Nguni people which includes the Xhosa, to introduce a new born child to the family, the community of integrated ancestors (*iinyanya)* and by extension to God. Similar offerings are made during various stages culminating in the rituals of burial which mark the person's transition from the world of the living to the spiritual world (Mkhize 2012:78).

### 2.4.10    Pluralism: the African Self and a Community of Selves

According to Ogbonnaya (1994), Sow (1980) and Zahan (1979), cited in Mkhize 2012:79, the traditional African worldview also conceptualises the self in pluralistic terms. Sow (1980) wrote:

> *"Inseparable from his [sic] social dimension, the individual in Africa… appears composite in space, multiple in time, extending and testifying to a culture of rich complexity… Only an anthropological perspective that views the person as a living system of social relations and a system of interaction with the realm of the symbolic will enable one to grasp the way in which Africans experience the self".*

Thomas and Luneau (1975), cited in Mkhize 2012:80, further illustrates the multiple nature of self when they wrote:

> *"The concept of person sums up and brings together ideas and principles of traditional Negro-African thought.  Indeed one finds there the necessity of pluralism, the networks of participation and correspondence that bind the subject to the group and the cosmos, the verbal dimensions, the dynamic and unfinished quality, the richness and fragility, the important role assigned to the milieu and the inevitable reference to the sacred".*

Like the dialogical self, personhood in African thought is pluralistic.  It is extended in space and time.

If the self in African thought is multiple, what is the nature of that multiplicity?  Zahan (1979), cited in Mkhize (2012:80), argues that self cannot be separate because physiologically and psychically human beings always carry within themselves their own genitors and ascendants.  That is, human beings carry within them the ancestral (spiritual) component, the present self, as well as selves that are yet to be born.

Ogbonnaya (1994) cited in Mkhize (2012:80), expresses the same view when he states that "the human person must be seen as a community in and of itself including a plurality of selves".  He does not refer to a community outside the person.

> *"The person in African worldview should be visualised as a centrifugal force capable of emanating other complex selves that can inter-permeate each other as well as other selves generated from other into all directions and touches all events that contribute to the full person – the mythical past, the generational past, the ever present nature and the self in the process of being born" (Ogbonnaya 1994:79).*

The plurality of selves envisaged in African thought is expressed differently depending on one's cultural group.  The Balong of Cameroon believe that a person is born with different souls, some representing the parents, the ancestors, God and other spiritual beings.  Most traditional societies in South Africa believe that over and above unique "individual selves" people are born with a spiritual self, representing their *"iinyanya"*.  Tension or rivalry can arise between people and this quite naturally

threatens to destabilise the community of selves. Rituals will be performed to bring about healing and hence restore harmony in such instances. The principle of dialogism always recognises the other. It emphasises connection and the paramount importance of relationships and ultimately the journey to becoming human.

As a part of the above complex social and cultural processes it enables a progression to be made beyond the individual-society dichotomy or what Wertsch (1995) cited in Mkhize (2012:82), calls methodological individualism and methodological collectivism. Methodological individualism reduces social and individual phenomena to fact about the individual. Methodological collectivism on the other hand explains human behaviour in terms of societal factors. Everything depends on society. Dialogism breaches this dichotomy through the use of the concept of "mediated activity". A truly dialogical account of knowledge then should take into account the "other's" worldviews and perspectives.

Spatial planning needs to generate "inter-cultural dialogue" between the indigenous and the urban, the local and the international. The indigenous cultural debate is taking place on an international level with United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) being an important outcome. If there is no international dialogue then there is the real risk of perpetuating a monologue not too dissimilar to that of the colonial and even modernistic (urban) venture, with its emphasis on formal and instrumental rationality, individualism, bureaucracy, legalism and the domination of the market place, all of which bear little if no resemblance to the concepts discussed thus far. It is important to examine in the light of African culture, its relationship to land and its occupation. This is critical in that occupation, the form that this takes and cultural rights, together with social expectations, are intimately bound up in what is referred to as culture and the expression thereof.

## 2.5   Land and Customary Occupation

Cousins (2012:3-12) does not hesitate to point out that a key ingredient in South Africa's bitter history is land dispossession i.e. the taking of the land of the indigenous populations by a dominant white settler minority. Control over land meant not only control over productive resources, but also power over people.

Dispossession meant the loss of many freedoms and according to Cousins, it is for this reason "land" for many South Africans signifies much more than simply a productive resource; it is a potent symbol of many of the oppressions of the past and it is therefore hardly surprising that land, access to land and the control over its use loom large in the post-apartheid discourse.

Disposition too had a major impact on the African worldview. Separation from land also meant separation from the spiritual, the history, the context, culture and personhood. This is the antithesis of inter-connectedness, harmony and balance such then is the imposition of methodological individualism and ethnocentricity.

The term "communal tenure" has always been contentious in the African context because it seems to imply collective ownership and use of all land and natural resources whereas most indigenous property systems include clearly defined individual or family rights to some type of land e.g. areas set aside for residence or family cropping as well as common property resources such as grazing, water courses and forests that are shared with others. These systems also almost all involve rights of access and use on the basis of accepted group membership and a degree of group control or supervision over how rights are exercised. This is also referred to as a moral economy (Scupin and De Corse, 2012:392).

According to Cousins (2011:6), African land tenure comprises mixed tenure regimes comprising various bundles of individual, family, sub-group (clan) or larger group rights and duties in relation to a variety of natural resources in what Bennett (2011:138-153) usefully describes as a system of complimentary interest held simultaneously. These complimentary interests are bound up in relationship and the quest for realising one's humanity as outlined in the proceeding sections of this discourse.

> *"Research into customary law has always been bedevilled by a lack of agreement on how to translate its rules into terms that will be comprehensible to Western lawyers. In the case of land tenure this problem is complicated by the fact that customary law has no distinct category of property law.*
>
> *Rules that common law might regard as contract or property, customary law subsumes under status, a categorization that reflects its overriding interest with long term personal relationships. Unlike Western legal systems, African law stresses not so much rights of*

*a person over things, but as obligation owed between persons in respect of things"*
*(Bennett 1999:129-130).*

According to Cousins (2011:15), the most common approach to tenure reform in Africa today is one based on the notion of adapting systems of customary land rights to contemporary realities and needs rather than attempting to replace them with Western forms of private ownership such as individual freehold title.  Land titling programmes in developing countries, such as Kenya have a chequered history in that there have been many unintended consequences such as the loss of land by poor households.  At the same time many of the anticipated positive impacts of titling (such as increasing investment in land) have failed to materialize.  Even the World Bank no longer prescribes individual title as the only solution to tenure insecurity, but acknowledges that "in many circumstances more simple measure to enhance tenure security can make a big difference at much lower cost than formal titles (Deininger 2003:39, cited in Cousins 2011:15).  These alternatives tend to focus on the recognition in law of indigenous or customary land rights, as in Mozambique's innovative 1997 land law.

Hernando De Soto in his influential book "The Mystery of Capital" (2000) argues that the poor of the Third World are excluded from the modern economy and its productive potential by a continued lack of formal rights to land, buildings (improvements) and business.  Without these there was no opportunity to obtain collateral for bank loans.  His remedy is "formalisation" of property rights, which effectively amounts to land titling.  These proposals according to Cousins have been embraced by the free market ideologies in South Africa.

According to Abdulai (2011:165) the ideas postulated by De Soto were put to the test in Ghana.  A survey of eighteen banks randomly selected from 26, was carried out in April-May 2009.  Sixteen of the eighteen responded and all demonstrated that they accepted both unregistered and registered title deeds for mortgage purposes.  It was concluded then that land registration is not a constraint.  In short the banks were interested in two primary concerns: (a) to make money and (b) to recover the loan in the event of non-payment.  Land owned by the poor, even with registered title deeds was not considered acceptable due to their poor quality and location, their poor saleability in case of default and un-insurability.  In the case of the poor zone, not

many would be interested in purchasing this land in the case of default and secondly it would take too long to sell. Simply put the poor and their locality were too much of a risk.

The key determinant then was financial capability and ability to repay the loan and interest that was of primary concern. Using De Soto's argument then is highly risky and the benefit accruing to the end user after the enormous costs that titling entails makes this a dubious option.

### 2.5.1 Land Rights and Indigenous Law: an Intellectual Framework

Okoth-Ogendo (2011:96) identifies what he regards as five juridical fallacies concerning customary or indigenous law and these persist to this day. The first is that so called "indigenous law" was not "law" at all. This fallacy lay in the belief that law, properly so called, always issued from sovereign commands and that since many African societies were deemed acephalous (headless) they could have no legal system. The Kingwellway to order such societies was to impose foreign law, usually that of the customary norms of the coloniser.

The second juridical fallacy was that indigenous law conferred no property in land. In other words, this fallacy lay in the assertion that the way in which indigenous communities occupied and used land did not constitute a system of property worthy of recognition under state law. Indeed, it was often asserted that indigenous people themselves "acknowledged" that land was not held as property, that is, as an asset exclusive to identifiable individuals or groups. The basis of this assertion was the notion that property rights are constituted only when individuals or other "juristic" persons exercise jurisdiction coupled with exclusive control over corporeal phenomena, that is, concrete things. In this view, therefore, property existed only if exclusive rights of use, abuse and disposition were vested in individuals. Since communities used and controlled land in common, indigenous land relations conferred not property rights but mere privileges.

The third fallacy was that radical (ultimate) title to land could only vest in the colonial sovereign. This was held to be the case whether the land was occupied or unoccupied. In many jurisdictions, colonial courts went so far as to declare that indigenous communities were mere tenants at will of the colonial state (Okoth-

Ogendo, 1991). This is the position that led to the designation of vast tracks of land or entire territories as government or state land, and which gave the state considerable power in the allocation of rights based on imposed property law.

The fourth fallacy was the belief that indigenous communities had no juridical persona. According to this view, Africans, as individuals and communities, could therefore not hold land (and indeed any property) directly. It was this belief that was used to justify the notion that any land "reserved" for Africans must be placed in trust for them. This belief was duly legislated in Kenya, Malawi, Zimbabwe, South Africa and Namibia, among other British colonial possessions. At independence, denial of juridical persona to communities remained and important rationale in the interpretation of the nature of African land rights even as the scope of individual ownership was expanded. Thus the trusteeship system continued.

The fifth fallacy lay in the assumption that indigenous social and governance institutions were incapable of, or unsuitable as, agents for the allocation of land and the management and resolution of disputes relating to land. Consequently, these institutions were not only suppressed but were often by-passed or replaced in the ordinary process if land administration. Instead, new and parallel state institutions exercising a wide range of powers over indigenous land and associated resources were promulgated – without consultation with communities or their presumed "trustees".

The planning project is intimately bound up in all of the above as will be more fully explored in this research. The planning project is not only primarily bound up in the urban zone it is also bound up in the colonial (external and internal) venture. South Africa is a "settler state" and the Eastern Cape continues to be subjected to a "settler mentality", as alluded to earlier. Indigenous people, according to Porter (2010:24-26), contend that their rights pre-exist modern settler states and in so doing reference their status as original inhabitants of contested territory.

It is not only cultural conceptualisations of space and place that constitute potentially gulf-like differences between Indigenous and non-Indigenous parties in territorial disputes. How the parties conceptualise the nature and purpose of the struggle is also different.

*"land claims… tend to be viewed by corporations and government as issues involving control of access to valuable commodities, whereas for indigenous peoples these claims stand not only for a different set of economic interests, but also for the protection of their culture and community" (Dyck 1985:7-8, cited in Porter 2010:24).*

In the global context indigenous people represent approximately five percent of the population (300-350 million people) and, according to Porter (2010), in more contemporary times, there exist an essential tension around which settler states manage their territory – "that between Indigenous people advocating their rights to survive as Indigenous peoples and that of the nation states seeking to reconcile demands for special aboriginal status and rights with the existing institutional arrangements and ideological foundations of Western-nation states" (Dyck 1985:2, cited in Porter 2010:24).

### 2.5.2  Use, Tenure, Rights and a Local System of Land Use Management

The social being (core) of Xhosa culture, values and belief systems is what rationalises and hence drives an approach to the use of land, and access to it.   The concept of "ownership" in a customary setting has its own meaning.  African systems do display principles of property, but these are not based on land rights coinciding with exclusive control (Okoth-Ogendo, 1989:8, cited by Kingwell, 2008:206). Property is not so much a relationship between an owner and land (a community or thing), but rather a relationship between people in respect of things (Moore, 1998:33; Lund, 2001:158, Hann, 1998:8, cited by Kingwell in Claassens and Cousins, 2008:206).  What this suggests then is the need to develop a different legal and conceptual model using a customary prospective as an appropriate point of departure.

Local property management is premised on an important assumption and that is property is regarded a family property.  Kingwell (2008:185) states that ownership of land does not imply the conferral of exclusive propriety powers on any one person or set of persons within the family.  The aim of freeholds is to precisely confer exclusive powers to a very distinct legal entity.   This exclusivity of ownership confers certain responsibilities and entitlements e.g. in the context of private/individual tenure, an owner of land has the authority to apply for a rezoning. How does this work in the context of a family which is not defined in typical "Western" terms?   Who has the

authority to apply for a rezoning, should such a regime be imposed over communal land parcels?  Typical planning processes are reliant on the formal status of property ownership.  This being the case, tensions is going too exacerbated when a disparate land use management regime is applied in a municipal area, such as that being demanded by SPLUMA (Act 16 of 2013).

Kingwell (2008:188) suggests that the neoliberal hypothesis of promoting individual title regimes becomes problematic in that in African and Latin America this has encountered resistance and as a consequence has been re-shaped by surviving customary practices.   She suggests that closer attention should be paid to existing norms and practices and rather built on these than ignore and attempt to replace them.

The above is however, according to Kingwell (2008:190), not the end of the issues that have to be faced by municipalities.  Where title has been introduced e.g. Fingo Village (near Grahamstown in the Eastern Cape), the system of transfers has failed in that owners have neglected to attend to appropriate transfer procedures.  This neglect has over the years had important consequences.  For example, in the case of municipal billing, the owner of the property is expected to honour any service provision account submitted by the municipality.  In many instances the registered owners of properties are deceased.  This creates enormous problems for the municipality as simply put a deceased person cannot pay the bills.

In the case of Rabula (a rural area in the Keiskammahoek District of the former Ciskei) family ownership is prevalent and there is little sign of the emergence of an active property market in the surveyed areas.  While alienation of land by a family member is theoretically possible, there would be severe social sanctions curtailing such action.

Subdivision of land has and continued to take place outside of legal prescripts.  These, according to Kingwell (2008:190), have taken place and were formalised during the course of ceremonial occasions.  These were public events and as such new ownership arrangements were witnessed locally.   Headmen often acted as masters of ceremonies and boundaries were framed in terms of trees, furrows and

grass verges. In the hearts and minds of the local constituency therefore there is not only relevance, but also legitimacy concerning both leadership and ownership.

The above too suggests an indifference to imposed legal procedures. Officials and lawyers may regard this as a result of ignorance, poverty, lack of education or indiscipline, but on a closer look into the world of property as seen through the local inhabitant's eyes, a different picture emerges. The problems of indifference are over shadowed by family histories that present a more complex social reality. According to Kingwell (2008:191), the stories emerging from these two case studies (Fingo and Rabula) mesh to show a collective pattern of disjuncture between local community norms and practices and the official system. In traditional culture the family is the core unit.

> *"In Africa, the family is the focus of social concern and loyalty to this unit is a cardinal value. As a result individual interests tend to be submerged in the common meal and duties are stressed rather than rights. This unlike other bills of rights, the African Charter on Human and People's Rights (1982) devotes a section to the duties owed by the individual to the family, the community and the nation at large. It rejects the conception of a person who is utterly irresponsible and opposed to society."* (Bennett, 2008:82)

Respondents in both Rabula and Fingo articulated an understanding of property as essentially "family property" subject to a range of family obligations as opposed to property that can be alienated by a single owner with dominion over the property. In the context of freehold, the "first generation" purchaser of a property is relatively free to behave as a "proprietor", once property passes to the next generation it becomes subject to family obligations and moves towards the concept of "family property" which then is regarded as a non-marketable asset.

"Family property helps to keep the family together" states Letitia Siziwe Mnyareana of Fingo Village (Kingwell (2008: 191) and she goes on, "because this is their home, bought by their fathers, who passed away. They were born here and grew up here… We call it family property because sometimes someone is disabled or unemployed. They can come back to that home. If a son or daughter falls on hard times you will take them in, even my grandchildren…" Bongani Makuzeni of Rabula states, "…land will never be sold. That is the convention in Rabula…. It will carry on like forever. It is eternal."

Family property, whether formally titled or not, is sustained by various institutional layers. At a village level there is the moral imperative and the tribal authority. Headmen play an important role in mediation between the community and government, between community and outsiders and between community members with regard to common property. A village in the traditional sense is an entire clan: family members and it is this collective consciousness that creates the social bonds (ties) as well as provide a strong sense of place that cannot be traded on the market.

Okoth-Ogendo (2008:100) suggests that an appropriate way of understanding indigenous land rights systems could be to clarify what it is that constitutes property in land in the African social order. To arrive at such a clarification enquiry should be directed into "how individuals on their own or in community with others, relate not simply to the physical solum but to each other, in respect of that solum and its associated resources. My argument then was that what the social order creates is not property rights per se, but rather a set of reciprocal rights and obligations that bind together and vest power in community members over land. It is the continuous performance of these rights and obligations that determines who may have access to, or exercise control over, the land and associated resources that specific communities occupy." (Okoth-Ogendo, 2008:100). It is then essentially a community driven venture and as such is extremely important to note.

Flowing out of the above Okoth-Ogendo poses two questions. The first concerns how societies determine who may have rights of access to particular categories of land and the range of functions "conferred" by that access and secondly who controls and manages those resources on behalf of those who have access to land? Control and management in this context includes allocation, re-allocation, adjustment and transmission of access rights between and across generations.

Access to land is essentially a function of membership in the family, lineage or community and is available to any family member on account of the membership. Access to be maintained through, active participation in the processes of production and reproduction at particular stages and levels of social organisation. Membership categories vary by birth, marriage, adoption, co-optation or association and hence it follows that the quality of rights conferred to individuals by virtue of membership in a family or community may in terms of quantum, duration and function vary.

If understood in this manner then according to Okoth-Ogendo, the rights of access are a multiple phenomenon. It is therefore, in any given community possible for its members (individuals, families or lineages) to simultaneously hold a right or bundle of access rights expressing a specific range or variety of functions. (Okoth-Ogendo, 2008:101).

In respect of the second issue concerning the control and management of land resources, this, is essentially a reflection of a community's sovereign power (in its jurisdictional and non-proprietary sense). These functions are vested in and exercised by the traditional political authority of such society. This authority is not monolithic but rather segmented, vertically and horizontally so as to according to Okoth-Ogendo supervise specific functions at different levels of social organisation.

The control and management of resources then is exercised in terms of a social hierarchy in the nature of an inverted pyramid. The tip then represents the authority of the family unit over cultivation and residence; the middle the clan or lineage unit over grazing, hunting or redistribution of resources in space and time and between generations; and the base the authority of the community or traditional structure over a wide range of cross-cutting functions including territorial expansion and defence, dispute settlement and the maintenance of transit facilities. The point to note is that control and management of land and the other resources attached to this are not functions exercised by a single authority. The primary purpose of this control structure is to guarantee the rights of individuals entitled to access to land and other resources by virtue of membership.

> *"The principle underlying land allocation – that all members of a community must have enough land to support themselves – helps to preserve the integrity of family units. And the customary bar on alienation prevents impoverished families cashing in on their most valuable asset for what may prove to be only short term financial benefits." (Bennett, 1999:152)*

Above all, it is now appreciated that:

> *"The land represents the link between the past and the future; ancestors lie buried there, children will be born there. Farming is more than just a productive activity it is an act of culture, the centre of social existence and the place where personal identity is forged.*
>
> *An indigenous mode of land tenure is of course, essential to the protection of cultural identity and on this ground and argument to protect customary law may be based. Apart*

*from this, African modes of tenure have closed ties with the constitutional position of traditional rulers. To individualize tenure would be to strip these leaders of one of their most important functions - allotment and control of land – which would be contrary to the constitutional guarantee of their customary-law powers." (Bennett, 1999:152)*

The above mentioned concept of using an inverted triangle was developed further as a consequence of interviews held with various community members of a couple of villages in both the former Ciskei and Transkei region.

Clearly from the above neither the right of access nor the power of control and management can be equated to "ownership of the physical solum" Okoth-Ogendo (2008:101). Similarly no person or group of persons has the exclusive domination over both access to and control over land resources. Tenure under indigenous law is a complex process that relates rights to access and their functional equivalents to the governance system at all levels of social organisation. Land tenure in the context of indigenous law, balances access rights, the functional equivalents and control. The right of access, under such a system is, according to Okoth-Ogendo (2008:102), secure as long as they are being asserted (respected); individuals have real rights under those systems and indigenous social structures are able to manage land resources sustainably. "Social organisation" is a critical idea going forward. Any system must ensure:

(1) access to land resources will always be available as long as membership in a  community and equivalent use functions are maintained;

(2) the land resources of the community will always be preserved for the sole enjoyment of its members;

(3) land resources also remain available to future generations and

(4) Community land resources are generally not alienated outside the social group unless this is in the interests of its members. This is the exception and not the rule.

Fig. 2.2: Spheres of Management in a Cultural Context. Source: Social organisation dynamics A.D. Williams 2013: Based on Okoth-Ogendo (2008) and Gengqe and Mgxotyeni Villages member interviews (2013).
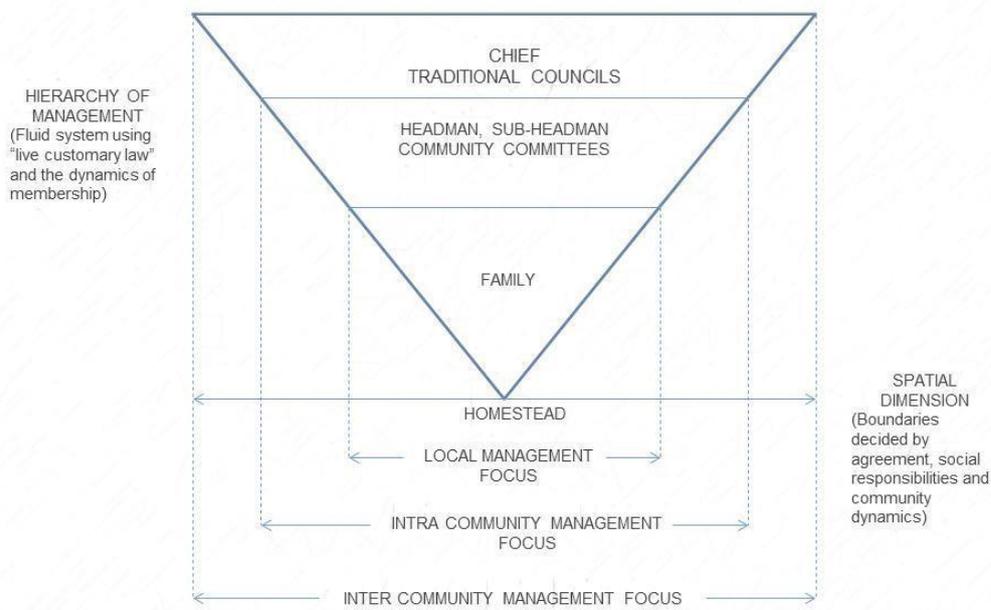


In practice, decisions concerning land use and allocation are taken on the advice of elders, traditional councillors, community or committee at an "imbizo". Once a decision has been taken, in respect of allocation, the National Department of Rural Development and Agrarian Reform measures out these allotments in the allocated area (previously identified by the community) and generally these allotments is more recent times measure 50m x 25m. In days past it was the men (usually of marriageable age) that benefited from this allocation process. Today females belonging to the clan are also recipients, especially if there are children born out of wedlock and/or the female is the head of household. (Bekker et al, 2007:57).

Interviews with community members of Gengqe Village in the former Transkei and Mgxotyeni Village in the former Ciskei confirm the internal social dynamics of land and use management. Any intervention, no matter how desirable such is deemed by local government, such is carried out through the community structures. Failure to

secure community support renders such intervention as undesirable and hence unsustainable. These are the facts on the ground. Respect for social organisation and all its ramifications constitute a fundamental building block.

The Traditional Leaders and Governance Framework Act, 41 of 2003 lays down in terms of Chapter 5, Sections 19 and 20 the roles and functions of traditional leadership and what is contained in these provisions covers the entire system of land use management and related concerns. This will be discussed more fully in chapter 6. The above mentioned Act is supported by an Eastern Cape Traditional Leaders and Governance Framework Act of 2005, which mirrors the powers and functions of the National Act.

## 2.6    Concluding Remarks

Xhosa culture is premised or underpinned by a number of norms and values which forms on human relationship and becoming human. These continue to evolve: 'I am because you are' (Ubuntu) has important implications for not only a community, but also how space is understood. The use of land is not distinctly separated from the purpose of improving relationship between people and ultimately when applied to the member himself or herself, becoming more human. In a sense the boundary line between what could be loosely framed as 'exclusive' use and relationship with the remainder of the community members is a transparent one.

The boundaries of use are not strictly private, unlike those boundaries purposed and hence framed in the realm of private property. Communal obligation and resultant human linkages transcend exclusion. Community is a holistic idea or concept brought about by both conscious and unconscious means of learning. Language has been the primary means by which this culture has been transmitted from one generation to the next and such shared practices and understanding will continue to evolve.

Dialogue and the various platforms created to conduct such are the critical zones where norms, values and beliefs are either reduced or reinforced to become embedded in customary law or practice. The platform or structures for collective dialogue and consensus building are vital zones of information gathering and

dissemination.  Dignity, respect and identity (recognition) are bound up in the 'im bizo'.  This is the critical gateway into a community.  If is this by passed, such action represents a mark of disrespect or even insult.  The failure to accord recognition to another person in traditional Xhosa culture is the absolute antithesis of being human.  The relationship between 'I' and 'You' is therefore paramount.  This being the case, all actions are measured by this yard stick.  Clearly the extreme of having no dialogue is totally unacceptable as this approach fails to recognise, not only the other, but also his or her value as both a person and member of the community.  In a sense, from an 'outsider' point of view (one who subscribes on individualism) this knowledge accords with Sandercock's (1998) idea of making the invisible visible.

'I' and 'You' must always remain visible and any administrative action, for such to gain acceptance, must engage in a consensus building ethos central to Xhosa culture.  It follows then that any imposition is an action of brutality and hence is anti-human.  Knowledge then about Xhosa culture becomes critical, because without it the likelihood of furthering the aims of sustainability, let alone social justice, must be seriously reduced.  Notwithstanding these concerns, such an appropriate action would seriously undermine the credibility of the appropriateness of applying any spatial planning system, even one contained in law.

The arrangement of space in the Xhosa cultural zone is as a direct consequence of the application of its values.  It is not shaped by the land market.  It is not shaped by a need to maintain a monetary value.  On the contrary, it is built upon birth right: being a member of a community entitles that member to reside and hence live in both the light and shadow of his/her fellow Xhosa citizen.  This right too is not limited by generations.  For a person to become human he/she must be able to practice its mandate.  The space he/she is born into provides the platform from which to proceed on such a life's journey.  Recognition of each other is the starting point.  Recognition of where one will be placed in the future is equally critical.

CHAPTER 3

# 3. Zones of Resistance: Domination, Marginalisation and the Creation and Perpetuation of Social Injustice

## 3.1 Introduction

This chapter examines the tragic history of the Eastern Cape which, as this unfolded, gave rise to various forms of resistance on the part of the Xhosa constituency. The previous chapter concluded that Xhosa existence hinged upon the concept of becoming more human and that access to and the use of land were critical issues in this context. Central to this pursuit, is the notion of dialogue and consensus building. Belonging too is bound up in, consensus which in turn, nurture the idea of identity. These reciprocal interactive dynamics feed off each other and it follows that should any of these be disrupted, there must be consequences for the affected communities.

It is important to understand both history and context of a people and the geographic space they occupy. In the context of complexity theory the history of a system matters (Cilliers. 1998:4 cited in Geyer and Rihani, 2010:30). Events and outcomes may be frozen in time and yet given an appropriate stimulus going forward an unexpected or unanticipated eruption may occur. The pattern of a system at any point in time is the product of past events leading up to the present (Williams 2013:24)

If we do not understand our past, then our ability to move forward comes under threat, in that at any time resistance can set in. This geographic zone, along with its people, has had to endure many crippling inhuman events brought about by various acts of imposition, reductionism and domination. What has this to do with land use administration? There exists a dearth of anger and sensitivities in these communities, stemming from memory, which can be ignited at any time. If this should happen then the prospects for any form of land use administration being realised will be reduced to nothing. There are already signs of resistance amongst members of traditional leadership. In the traditional Xhosa culture, land is not distinct from people. It becomes important to understand what our past has done, not only so that we can avoid making unnecessary errors of judgement going forward, but that we also

understand what drove people of this region to have done what they did, resulting in either imprisonment or death. The African concept of human rights is actually a concept of human dignity (Bennett, 1998:4). The imposition of a land use management system can negatively impact on human dignity, the very thing the Constitution seeks to restore.

In the context of both colonialism and apartheid, these consequences were extremely significant. The dispossession of land, either through armed conflict or law, can only be regarded as a most extreme form of violence against Xhosa culture. In the context of South Africa, the same was applied to a host of other cultures, as well as e.g. Zulu of neighbouring Kwa Zulu Natal, or the San of the Northern and Western Cape (Giliomee and Mbenga 2007).

The Constitution of South Africa 1996 explicitly recognises the devastation brought about from the actions of our past. This is made intensely clear as it focuses on normalising South African society, including the Eastern Cape, in the hope that, as a people, we will be able to secure a sustainable future for both ourselves and the generations to come. At its very core, our Constitution seeks to recognise all our people together with their cultures, by acknowledging both individual and cultural rights. In the latter context, reference is made to Sections 30, 31,211,212, and 235 of the Constitution. The normalisation of our society means amongst other things, engaging in various processes of transformation, which must commence with having to deal with our past.

It is absolutely essential to grasp the point that, our history and context, matters. A land use management system that emanates from a distinct set of urban based rationalities must ultimately conflict with a set of rationalities that underpins its Xhosa cultural counterpart as highlighted in the previous chapter. In effect the urban variety will be nothing more than an imposition.

## 3.2   Dealing with the Past to Apprehend a Future

*"The process of transformation to normalise South Africa has at its core the laying to rest of those lingering ghosts lest they continue to haunt our future. The most stubborn ghosts are those whose names we are too afraid to mention: racism, ethnic chauvinism, sexism and authoritarianism. Yet effective transformation is predicated on*

*acknowledgement of each ghost by calling it by name, engaging with it to transact unfinished business and bidding it to make peace with bygones"* (Mamphela Ramphele 2008:10).

Transformation of a society, for Ramphele, entails a complete change in both form and substance and the scale and scope, of the transformation South Africa project embarked on after apartheid is without precedence. The term "transformation" is used to denote fundamental changes in the structures, institutional arrangements, policies, modes of operation and relationships within South African society.

Transformation too calls for the country's past to be re-orientated from the dominant values and practices defined by racism, sexism, inequality and lack of respect for human rights towards the values reflected in the national Constitution. Ramphele (2008:13) suggests that a successfully transformed South Africa would be characterised by the antithesis of the apartheid system: non-racialism, non-sexism, and social relationships consistent with the observance of human rights and greater equity and the leap of faith required to fully embrace our ugly past in order to transform it is often underestimated. This in part is because the wounds are still raw and because we have difficulty acknowledging the depth of the trauma. Past wounds have a long history as will be indicated in the first part of this chapter. Furthermore we should not underestimate the psychological legacy of three centuries of colonial rule, followed by apartheid. Both black and white South Africans have work to do to lay the ghost of racist stereotyping to rest (Ramphele, 2008:15).

Transcendence (Ramphele 2008:17) requires openness to a radically different frame of reference, such that it takes one beyond the known into the unknown, demanding courage and a willingness to take risks. Planning as an activity is not exempt from such introspective "soul searching", not if it, as an activity, wishes to remain relevant. This is not as far-fetched as it may at first seem. Consider for a moment migration to the urban zone and ask a seemingly simple question and that is just how many of these people actually benefit from the planning endeavour or is it more of the case of how many do not? Consider for a moment the hundreds of thousands, if not millions, of people who are bound to live in crowded and cramped localities in both the formal and so called informal areas of the urban zone.

Spatial planning has its own history and if one has regard to both the content of the Spatial Planning Land Use Management Act (SPLUMA) and the Traditional Leaders and Governance Framework Act (TL&GFA), it is clear that the former is principally focussed on land and property, whilst the latter is focussed on cultural rights and the socio-cultural structures that underpin or give effect to those rights. These two ideas are not necessarily inclusive: on the contrary exclusivity has been an integral part of the liberal agenda as will also be highlighted in this chapter.

SPLUMA is attempting to bridge some of the divide by recognising that there is a dire need for appropriating spatial justice. Such an acknowledgement must also presuppose the acknowledgement of the creation of injustices, whether these, be social or even spatial. Transcendence then, if we are to realise the admirable aims of our Constitution, becomes a moral and ethical imperative. The idea of the pursuit of justice would support such a statement. In any event it would be prudent if not honest to immerse ourselves in some of Ramphele's wisdom when she makes the claim that it is important to name the ghosts of the past, if we are indeed to heal.

## 3.3    A Legacy of Injustice

This section of this chapter sets out to explore the ideas/concepts of both social and spatial justice within the ambit of spatial planning as an activity. The reason for this is that the Spatial Planning and Land Use Management Act, 16 of 2013 (SPLUMA) refers to these ideas or concepts as the basis or rationale that must underpin the development agenda. In chapter 2, section 7 of SPLUMA five principles are tabled as development principles and these are:

(1) Spatial justice

(2) Spatial sustainability

(3) Spatial resilience

(4) Efficiency and

(5) Good administration

The above is a significant departure from any previous planning law in that SPLUMA sets out to recognise the injustices perpetuated in this country in the name of development, more especially the systematic and state sponsored prejudice applied in both policy and law concerning people of different races and perhaps more importantly the blatant attempt to favour one specific racial entity over another. Embedded in these attempts of social engineering as well was also the application of a very particular set of values which resulted in a very particular form of privileging or put another way inclusion or exclusion as the case may be.

Dispossession and domination were critical features of the application of state policy, both in the colonial and apartheid eras.  The Natives Land and Trust Act of 1913 (Luthuli, 2007:84), confined the majority of the population (Black) to thirteen percent of South Africa's land surface whilst prior to this period, for over 100 years, a number of wars of land dispossession took place (Mangcu 2012:79) which systematically witnessed the reduction of the land mass under the control of the Xhosa people.  In the period between1779-1851, as far as the Eastern Cape is concerned, eight such wars were fought (Giliomee and Mbenga 2007:76-77).

> *"Between approximately, 1770-1812 whites and blacks lived together in the Zuurveld region of the Eastern Cape.  Neither side was able to establish ascending over the other.  It was however an unstable order.  In 1810 Anders Stockenstrom, landdrost of Graaff-Reinet, said: "Neither peace nor friendship can subsist between the inhabitants and the Kaffirs while both inhabit the same country."  The cause, he said, was "interwoven in the character of the Kaffir, in that of the colonist and in the nature of the country"[1].  (Giliomee Herman 2012:130)*

This epitomises the tone and consequences of what was to come in the Eastern Cape.

One of the turning points in the defeat of the Xhosa was the cattle killings of 1857 when a young girl named Nongqause called on the Xhosa people to sacrifice their crops and cattle in anticipation and as prelude to the expulsion of the whites from the Eastern Cape.   Tragically this left the Xhosa people decimated (Mangcu 2012:81; Giliomee and Mbenga 2007: 123, 175-177; Robson and Oranje, 2012:50).   What perhaps is important to note, is the extent of desperation that the Xhosa people felt at the time.  From this point on, the Xhosa through the likes of the Native Reserves Act of 1902 were systematically confined to a location, primarily intended as labour

reservoirs. According to Giliomee and Mbenga (2007:1), by the period 1879 some 70 000 black men were working on the mines on the Witwatersrand, many of them, underground. The mines' great demand for cheap and docile African labour necessitated not only a refinement of existing methods, but also the design and promotion of additional methods of control and repression (Terreblanche 2005: 9). The late 1800's are regarded by many historians as the most formative one in South Africa's history when a racial and colonial hegemonic order was created that lasted with some modifications, for more than a century (Terreblanche 2005:195; Wright, 2011:21; Maylan, 1995:22).

In this tense period too, even the most effective spokespersons for the humanitarian movement, namely John Phillip and John Fairbain, regarded enforced "civilisation" of the Xhosa as a pre-condition for their conversion to Christianity. "Civilisation" now, according to Terreblanche (2005: 201) basically means, for missionaries as well, the openings of Western Xhosaland to land speculators and wool farmers and the return of the D'urban system' (expansion) in addition to the implementation of policies that would successfully control and discipline Xhosa and Khoisan labour. For the sake of civilisation and economic prosperity the state imposed both its will and form of discipline. Sir Benjamin D'urban (governor of the Cape Colony 1834-1838) referred to the Xhosa as "irreclaimable savages" (Giliomee and Mbenga 2007:110, 258-259).

When slavery was abolished, some 15% of all slaves, almost 6000 in number, were owned by Eastern Cape farmers. Emancipation, when it came, meant little in that the influential British settler elite succeeded in convincing the colonial authorities to issue the "Masters and Servants" Ordinances of 1841 and 1856. These Ordinances too were aimed directly at the Khoisan, former slaves and Xhosas. These ordinances bound workers to their employers and imposed severe sanctions for any breach of contract, including subjectively determined crimes of disobedience, defiance and resistance. The slightest breach of contract by employees became a criminal offence (Worden and Crais 1994 and Ross 1993, cited in Terreblanche 2005:196). These Ordinances were the first in a series of masters and servants laws that remained on the South African statute books until 1974. Masters and servants laws and the deliberate proletarianisation of blacks were indeed two cornerstones on which the

impressive edifice of black labour repression was built and maintained for 133 years, from 1841 until 1974.

Xhosa society and its structures was the object of assault during this period.  In the early 1840's the then governor, Sir Peregrine Maitland, allowed settlers in the Eastern Cape to encroach into the area east of the Keiskamma River which was the direct cause of the Seventh Xhosa War (1846-7).

In 1847 Sir Harry Smith was appointed governor of the Cape and he proceeded to restructure Xhosa society as thoroughly as possible (Giliomee and Mbenga, 2007:139).  To this end he considered his first task was to destroy the power of the chiefs and subject them to the control and discipline of the colonial authorities. Within this same period Smith annexed the land between the Fish and Keiskamma rivers as the district of Victoria East and the area between the Keiskamma and Kei rivers as the crown colony of British Kaffraria.  This, according to Terreblanche (2005:197) and Giliomee and Mbenga (2007:146), began as new frontier policy of annexation and direct rule by white magistrates.

Sir George Grey was governor of the Cape from 1851-1861 and he, despite being perhaps the most able and sophisticated British governor of the Cape, represented the "Janus face" of the liberalism of the day.  He explicitly believed that only direct rule over non-European people could rid them of their "barbarian" customs and "save" them for "civilisation".  He, according to Terreblanche (2005:199) and Giliomee and Mbenga (2007:177) went out of his way to curtail the authority of the chiefs by intervening directly in the structures of chieftainship and by undermining the social and material basis of their authority and power.  He attempted to inculcate a western work ethic through his public works programme. His road building projects represented the most systematic effort yet made to entice the Xhosa people into cheap labour.

In line with Victorian liberation of the mid-19th Century the Cape installed a representative parliament in 1854.  Both houses of a two chamber parliament were elected by males who earned R100 a year and owned property with a rental value of R50.  This effectively enabled the dominant white minority, both English and Afrikaans speaking, to capture political power in the colony.

In 1857 the Cape Parliament introduced the "Kaffir Employment Bill" to prevent the "disgorging of Kaffir land" and enforced long term (five year) compulsory contracts of indentureship on Xhosa work seekers (Terreblanche 2005:200-201). These contracts were drawn up by magistrates, while the destitute, desperate for relief had no say where they were to be employed or what the terms of the contract would be. This must have been compounded further by the fact that the vast majority of these contracts were written and communicated in a foreign language. By the end of 1857 nearly 30000 Xhosa people had been registered as labourers in the Cape colony. The vacuum left by the cattle killing episode as well as an outbreak of bovine pneumonia known as lung sickness amongst the Xhosa cattle (estimated 5 000 animals a month) struck at the heart of Xhosa culture which Grey exploited to the full. He told London that the situation in Xhosa land was a "most favourable opportunity" to lure the Xhosa into wage labour and to destroy the "Kaffir system of politics". Grey's intention was to break down Xhosa society and to restructure it in a way that suited the coloniser. Grey also used the opportunity to bring a large number of chiefs before the courts. They were found guilty on charges relating to their behaviour during the period of cattle killing and sentenced to "transportation" i.e. incarceration on Robben Island (Terreblanche 2005:200; Giliomee and Mbenga 2007:103, 176).

## 3.4    Failure of the Humanitarian Movement

*"It remains one of the great riddles of South African history that a racially based repressive labour economy was introduced at the Cape immediately after the abolition of slavery. According to Nancy Stephan, a fundamental question about the history of racism in the first half of the 19th Century is why it was that, just as the battle against slavery was being won by the abolitionists, the war against racism was being lost. The Negro was legally freed by the Emancipation Act of 1833, but in the British mind he was still mentally, morally and physically a slave (1982:1)" cited in Terreblanche (2005:201).*

The formally mentioned Masters and Servants Ordinances of 1841 and subsequently that of 1856 were the first of many repressive measures introduced by the Cape colonial authority to create a system of racial domination and racial capitalism that applied to not only former slaves, but also to Xhosas.

According to Terreblanche (2005:201) and Giliomee and Mbenga (2007:179-181) implicit in the dynamics mentioned above was the issue concerning the failure of

evangelical humanitarianism. The inability of the humanitarian movement to prevent the institutionalisation of racial domination at the Cape from 1840 onwards prompted Keegan (1996, cited in Terreblanche 2005:202), to claim that in the end, "liberal humanitarianism turned out to be a shallow, tawdry, deceptive thing".

In the 1820's and 1830's, the London Missionary Society was the very seed bed of humanitarian thought, but during the period of the 1840's and 1850's there was a significant shift as the humanitarian movement became infected with racial sentiment. Missionaries, especially those in Xhosa land after the Sixth Frontier War played a rather dubious role as agents of British colonialism and especially as frontline "troops" of imperial penetration. They corrupted the chiefs, consciously used policies of "divide and rule" and were convenient instruments of domination (Jaffe 1994:60-2, cited in Terreblanche 2005:202).

When D'Urban described the Xhosa as "treacherous and irreclaimable savages", the dynamics of the colonial endeavour set about re-evaluating the Xhosa and their "primitive culture". Humanitarian optimism about the potential of indigenous people for moral development and the assimilation of Africans into Western culture were replaced by the obverse and the need for prolonged domination to force them into disciplined and useful labour.

In his book, "The Struggle for the Eastern Cape", Martin Legassick describes missionaries as "the main mediators of colonial politics and culture among the Khoisan and the Xhosa (Mangcu 2012:59). There were exceptions though and early missionaries such as Van der Kemp were opposed to the racist and "murderous policies of the colonial government". Van der Kemp believed that God would intervene on behalf of the oppressed. He himself immersed his life in the life of the Khoisan – he ate their food, wore their clothes and married a slave girl. He established his mission in Bethalsdorp (in the Port Elizabeth area) as an "imperium in imperio" – a place with its own moral code and proceeded to set an example of non-racial co-existence among the different races. He continually protested the evil among the Boers and the British who enslaved them. He warned the colonial powers of the day – a warning that would fall on deaf ears for the better part of the next two centuries – that "there is no way of governing this country other than by government doing justice to the natives. In no other way would the Boers escape the hand of

Providence than by acknowledging their guilt" (Mangcu 2012:59). After Van der Kemp's death, his contemporary James Read – called Ngconqolo (a reed, implying a tall man) continued to insist on humane treatment of the natives.

As noted earlier, the racism that emerged in the Cape in the mid-19th Century was bound up in the contradictions of liberalism. Watson blames the failure of South African liberalism on its inability to develop a "systematic and comprehensive ideology of human rights, or a coherent movement to oppose the steady diminution of the rights of coloureds and Africans" (Terreblanche 2005:203). For Watson and this must be an extremely interesting, if not poignant point, the weakness of the anti-slavery movement lies "in the conflict within classical liberalism between two ideals, that of human freedom and that of property rights… the liberals had valued property more highly than liberty" (Watson 1990:5, cited in Terreblanche 2005:203). According to Terreblanche, as soon as property was valued more highly than liberty, it was only a small step towards enslaving the indigenous population groups in order to boost the wealth of the white property class. Crais (cited in Terreblanche 2005:204), regarded the transition from slavery to racial capitalism in the ambiguous nature of liberalism itself.

The racial forms of domination in the 19th Century Cape grew out of its contradictory discourse. Craig poses an important question and that is, "What was this world which spoke of freedom and at the same time invented race" (Legassick 1993, cited in Terreblanche 2005:204)? This question may be uncomfortably relevant in the current discourse. The "culture of SPLUMA" whilst not necessarily racist, depending on interpretation, may however fall very short of the expectation (based on rights) of the cultural domain of the Xhosa people in that cultural rights could be overlooked in the planning rationalities being applied to SPLUMA.

Notwithstanding any legitimate expectations that must arise from this quarter, there is also the matter concerning the duties of the current State to uphold constitutional rights as laid down in the South African Constitution, 1996. For the purpose of understanding the journey to this point it is still poignant to prolong the endeavour into our tragic Eastern Cape history and context. This is especially so if we want to give social and spatial justice a real prospect of being realised in the form of realising the cultural rights of the Xhosa constituency which exists in the Eastern Cape.

It would however be appropriate to give some attention to the other side of the missionary/humanitarian endeavour in that these as far as the Xhosa were concerned produced the very seeds that lay the foundation for the resistance that demanded an end to a racist society as well as an insistence on a pursuit of human rights.   The Eastern Cape rapidly became the central geographic space in which resistance strengthened.

Initially however Xhosa politicians/elite, such as John Tengo Jabavu, (who started the first Xhosa language newspaper "Imvo Zabantsundu"), Reverend Sirion Sihali of Cala, who was elected president of the South Africa's first black political party "Imbumba ya Manyama" and Dr. W.B. Rubusana, a Congregational minister turned newspaper editor amongst others, continued to look to the Queen to save black South Africans from settler oppression (Giliomee and Mbenga 2007:180).

Tiyo Soga's (1829-1871) life exemplifies the painful paradoxes associated with being a Xhosa in a white dominated world.  Soga was the first black minister ordained into a church in Europe (Giliomee and Mbenga 2007:181; Rev. J.H. Soga 1930, cited in Provincial Green Paper Analysis 2015:13).  Born in 1829 as the son of one of the Great Councillors of the Xhosa Chief Ngqika, he came under the influence of Scottish missionaries and was educated at Lovedale, which is located adjacent to Alice in central Eastern Cape.  In 1856 whilst in Scotland, during the period of the War of the Axe, he married a Scots-woman, Janet Burnside and this reportedly happy marriage produced children who were also educated in Scotland.  Tiyo Soga was steeped in British culture, but despite this seemingly complete immersion in such European culture he was often forcibly reminded of his inferior status as a black person, in the Eastern Cape of South Africa, that is.  Whilst walking the streets of Port Elizabeth with his Scottish born wife, he and Scotland were mocked and according to Giliomee and Mbenga (2007:181), white intellectuals, influenced by Social Darwinism engaged him in debate concerning the inevitable extinction of the black race by their white superiors.

Tragically Tiyo Soga died of tuberculosis at a young age. He did however leave this letter to his sons, under the title of: "The Inheritance of My Children": "If you wish to gain credit for yourselves – if you do not wish to feel the taunt of men, which you may sometimes well feel – take your place in the world as coloured, not as white men; as

Xhosas not as Englishmen… for your own sakes never appear ashamed that your father was a Xhosa and that you inherited some African blood.  It is every bit as good as that which flows in the veins of my fairer brethren." (Giliomee and Mbenga 2007:181)

The few words above contain great sadness, even tragedy.  Black ministers of the next generation were even more forceful in their rejection of white hegemony.  They found themselves, in the words of Bishop Dwane, members of a "church that practiced discrimination in salaries, in its denial of equal opportunities and its show of paternalism and overt racism." It was only after the Imperial government blessed the unification of South Africa under a racist constitution in 1910 that the stage was set for a new organisation and a new approach.  The monarchy was no longer viewed as the saviour of black South Africans in the Eastern Cape.  Tiyo Soga's letter to his children is one of the earliest expressions of black (Xhosa) consciousness in South African history and hence he is often referred to as the father of black consciousness (Mangcu 2012:64).

## 3.5    The Rise of African Peasantry in the Cape Colony

When D'Urban implemented his policy of "total exclusion" after the Sixth Frontier War, not all Africans on the colonial side of the Kei River were expelled.  The Mfengu who did not participate in the War were "liberated" and 16000 together with 22000 head of cattle were re-settled near Grahamstown.  The idea was that they should help defend the colonists against Xhosa attacks.  The Mfengu adopted Western modes of production and their communal organisations and pastoralism made way for independent tillage farming.  Colin Bundy (cited in Terreblanche 2005:205) distinguished three different types of peasants at that time: individual peasants who farmed communally own land, but produced and sold their own produce; squatter peasants living on leased land from mainly absentee proprietors; and peasants with individual land tenure who farmed as relatively independent small scale commercial farmers.  This continued up to the discovery of gold.  From the early 1890's onwards a combined offensive by white land owners, the mercantile elite and the gold mining industry resulted in legislation that in due course destroyed the African peasant class and forced them to join the wage earning proletariat (Bundy 1987 and Davenport 1987, cited in the Provincial Green Paper Analysis 2015:16).

From 1860-1890 the process of modernisation and detribalisation was always a double-barrelled and contradictory one. Both traders and missionaries regarded peasantisation as an effective method of detribalising the Xhosa and drawing them into the sphere of influence of the Western economy, whilst on the other hand, the discovery of gold and diamonds prompted a paradigm shift to proletarianisation and the enforcement of thousands of Xhosas into the labour market as cheap wage labourers (Terreblanche 2005:207). This transformation was dramatic. Not only was there a shift in the internal dynamics of the four colonial states, Britain re-asserted its dominance through a variety of means including war (Giliomee and Mbenga 2007: 185; Wright, 2011:21).

## 3.6    From an Agrarian to an Industrial Society and the Rise of Racist and Segregation Ideologies

After the discovery of gold and the advent of New Imperialism the mercantile and financial elite re-aligned their financial interests from the Cape to the Northern Cape (Kimberley) and the Witwatersrand. Profitability depended on minimal costs and this included labour. This mining revolution transformed the Cape economy and undermined the peasant economy of the Eastern Cape. Acts like Cecil John Rhodes's Anti-squatting Act (1892), his Franchise and Ballot Act (1892) and his Glen Grey Act (1894) hastened the de-proletarianisation process in the Eastern Cape. At the same time mining companies discovered that tribal chiefs and headman could be manipulated in order to supply such labour requirements, not to mention provide the necessary social control in order to ensure minimum disruptions in labour supply.

The Glen Grey Act of 1894 was born out of the laboratory "ideas" of both Rhodes and Hofmeyer (leader of the Afrikaner Bond) concerning a Xhosa reserve near Queenstown in the Eastern Cape (Giliomee and Mbenga 2007:187). This location was originally called "Tambookie Location", but was later renamed Glen Grey. This Act entrenched white supremacy by creating a separate and distinct title that allowed the prosperous members of this Xhosa community to hold land as well as enable such to have political representation in their own local councils rather than in the government of the Cape itself.

This law provided for farms of four morgan which the eldest son would inherit. The intention was that the other sons would be "forced to learn the dignity of labour" and to seek work in the Colony. A tax of ten shillings a head was also imposed to press the younger sons to find work in order to pay this tax.

The Glen Grey plan was meant to provide for productive black peasants to influence and focus on politics at a local level, where they lived, but it did not work out this way. There was fierce resistance. The most significant aspect of this Act, according to Giliomee and Mbenga (2007:187) was its displacement of political rights of the Xhosa living in communal areas, away from the seat of power in Parliament and into Local Councils which by their very nature were precluded from dealing with national issues.

The outbreak of the New Imperialism and the decline of liberalism were closely associated with the advent of Social Darwinism (Terreblanche 2005:252). The British sociologist of the day, Herbert Spencer, re-interpreted and vulgarised Charles Darwin's work of survival of the animal species and applied such thinking (Darwinism) to the economic and social life of humans. Spencer (in)-famously coined the phrase "struggle for life and survival of the fittest", and he argued that the fittest must be "selected" in order to enhance their "generation". These ideas soon translated into the discourse on cultural and racial issues of the day. In Britain and America Spencer's ideas were regarded as divine revelations and used by the wealthy to justify their prosperity in the face of poverty (Terreblanche 2005:252).

The individualistic nature of Spencer's theories, in which the strong survived and the weak fell by the wayside was quickly broadened to include the struggle between the rich and the poor. In turn such ideas were applied to nations i.e. strong and weak nations which further translated into an ideology articulating the alleged superiority of white races and the alleged inferiority of non-white races. In this way Social Darwinism became the ideological justification for one of the worst forms of racism in recent history. It is important to note that in the late 19th and early 20th centuries, Britain and large parts of the English speaking world were the pioneers of ideas of racial superiority and such was premised on divine destiny. British superiority was regarded as a self-evident truth and this together with Victorian self-righteousness played a dominant role in the aggressive and ruthless expansion of the colonial empire as far as South Africa and more specifically the Eastern Cape is concerned.

Terreblanche (2005:253) suggests that although British imperialism in South Africa should be credited with several important accomplishments, the greatest negative legacy was to entrench racism as a structural element in mining capitalism for about 100 years.

The ideology of segregation or segregationism was formulated during the first decade of the 20th century.  Legassick (cited in Terreblanche 2005:254) claims that the crucial formative period for the policy of segregation was that period between the Anglo-Boer War and World War I.

In a South African context, Milner and his "Kindergarten" (his inner, but predominantly young Oxford graduate circle of officials) created and refined segregationist measures as well as provided an elaborate ideological rationalisation for new practices.  These first appeared in the South African Native Affairs Commission (SANAC) report of 1905.  This report introduced new rigidities into South African thinking about race relations and it envisaged territorial separation of black and white as a permanent, mandatory principle of land ownership.  This report also envisaged the creation of native reserves which were too small to sustain their African populations and these would then serve as ideal "reservoirs" for migrant labour.  This report approved the systematic establishment of segregated locations for urban and rural Africans.  The then Native Affairs Department (NAD) played a strategic role in rationalising and applying segregation during the first 14 years after unification (Beinart and Dubow 1995:153-7, cited in Terreblanche 2005:255).

The Smuts government passed the Native (Urban Areas) Act in 1925 in response to a perceived threat of African urbanisation.  This was based on a dictum enshrined in the 1921 Transvaal Local Government Commission, chaired by Colonel Fredrick Stallard, which read:  "The Native should only be allowed to enter urban areas, which are essentially the white man's creation, when he is willing to minister to the needs of the white man, and should depart therefore when he ceases to minister" (Terreblanche 2005:255).  For several decades the Urban Areas Act, based on "Stallardism" was the principle vehicle for administering influx control and urbanisation.

Terreblanche (2005:255) suggests that the underlying rational for segregation should be analysed primarily in economic terms.  The racial beliefs on which segregation was based should therefore be understood as a product or rationalisation of economic and capitalist imperatives.

The government's actions against Africans early in the 20$^{th}$ century, was so aggressive that it sparked the Bambatha rebellion in 1906.  In 1905 the Delimitation Commission set aside 2,6 million acres of land for white settlement in Zululand.  Furthermore to counteract "squatting" the government imposed a poll tax of R2-00 on every male not liable for, hut tax in 1906.  The Bambatha unrest continued until 1907, claiming the lives of almost 4000 Africans.  This conflict became known as the last Anglo-African War brought about by white land grabbing and the enforced attempts at creating cheap African labour (Terreblanche 2005:288; Giliomee and Mbenga 2007:169).  Clearly, although this did not occur in the Eastern Cape, it served as an example of what was in store should there be any resistance to the application of the segregationist policy of the day.  Apart from the 4000 deaths, a further 5000 faced trial.

## 3.7    The Land Act of 1913

The Native Land Act of 1913 was primarily brought into existence to feed the demand for wage earning labour and land for the mines, commercial agriculture and associated industry.  The restrictive measures employed against the indigenous population were primarily to allay the fears of white farmers, especially in the Transvaal and the Orange Free State (OFS), concerning African occupation and competition.

In 1905, SANAC concluded after extensive investigation that South Africa's mines, farms and industries were short about 300 000 workers (Terreblanche 2005:261; Giliomee and Mbenga 2007:226, 2330).  To explain the lack of labour, the commission gave specific attention to the anthropological and/or cultural peculiarities of Africans.  It assumed that because of their traditional attitudes, their supposed undisciplined nature and their attachment to extended families, Africans would always remain marginal participants in the economy.  SANAC proceeded to recommend that the African's access to land in tribal and white areas should be

drastically curtailed, thereby forming or indirectly compelling them to join the ranks of wage labour. SANAC realised that in order to secure the labour required to, satisfy the demand of mining, agriculture and industry a "delicate equation" would have to be maintained between land and labour. SANAC rationalised that if land and farming opportunities granted to Africans were generous enough for them to be self-sufficient, they would not come to work. If the land granted on the other hand was too little and farming opportunities too restricted, the native reserves would not be in a position to support migrant workers partially while they were employed, and fully when they returned to their families. This meant that if not enough land was granted, wages would have to be set at higher levels than employers in the white economy were prepared to pay. This "delicate equation" was to prove hopelessly inadequate even after a longer allocation of land was granted in 1936 (Terreblanche 2005:289; Giliomee and Mbenga, 2007:226). To compound matters further the Chamber of Mines (CM) substantially benefitted from this Act. The CM could recruit labour directly from "native areas and in high commission areas" (other countries) which in turn entrenched the principle of migrant labour based on subsistence in the rural areas. This effectively meant that these sources of labour bore part of the cost of gold production whilst this system successfully plundered not, only African humanity (men and their families), but also undermined direct investment in African land.

The labour system was complimented by two other features, namely the labour compound system and segregated residential areas known as "locations". The compound was designed to maximise control and impact forceful discipline (Giliomee and Mbenga 2007:204).

Throughout their working lives, black miners were never given an understanding of the industry as a whole much less a sense of ownership in the challenges and opportunities in mining. They were told just enough to enable them to function underground. The mining industry therefore bequeathed a short sighted, inefficient, unskilled and very easily replaced black labour force (Giliomee and Mbenga 2007:202).

Black townships or locations remained a neglected stepchild of the urban administration. To add insult to injury, the Native Urban Areas Act of 1923, accepted the formula first developed by the Municipality of Durban for funding the townships:

its main source of revenue were the proceeds from the sale of sorghum beer to the captive market. The more the residents drank the more funds there would be for housing and other necessities: funds emanating from poor wage levels.

Under the Land Act more than one million Africans were abruptly proletarianised. At that stage there were approximately five million Africans in South Africa. This structural domination of whites over blacks created by the Land Act is clearly demonstrated by the fact that real wages of African workers in mining and agriculture did not increase between 1910 and 1972. African wages as a percentage of white wages for the period 1911-1971 declined from eight point six percent to four point eight percent (Terreblanche 2005:262). This Act also laid down that all African tenants, and not only contracted wage earners in the Orange Free State (OFS), would be defined as servants under the Masters and Servants Act and therefore guilty of criminal offence if they broke their contracts.

In the ensuing fifty years after the promulgation of the Land Act, the support given by the Union government, to agriculture, particularly maize farmers should not be underestimated. The government attempted to strengthen the economic position of maize farmers by adopting a series of "farm" acts and large scale subsidies, mainly financed with tax revenue from the goldmines. According to Legassick (cited in Terreblanche 2005:263), the parliament of the day enacted 87 bills relating to land between 1910 and 1935.

The Land Bank was established in 1912 to provide white farmers with both short term loans for crops and long term loans for capital improvements. This policy culminated in the Marketing Act of 1937, whereby the marketing of the bulk of South Africa's farm produce were brought under the control of the various control boards. Although subsidies declined during the war years, these did however increase sharply during the first 30 years of National Party (NP) rule i.e. from 1948-1978 (Legassick 1975, cited in Terreblanche 2005:289). This impacted on land availability and the need to secure more labour from the reserves (Bantustans).

The deprivation of African farmers of much of their land, the ending of share cropping and tenant farming on white owned land (Pityana 2013:48) destroyed an important agricultural and entrepreneurial tradition as well as a store of indigenous farming

knowledge. According to Davenport and Saunders (2000, cited in Terreblanche 2005:289), "the story of independent African entrepreneurship had been short and unhappy. Those who succeeded in the late 19th and early 20th century succumbed partly from plagues (e.g. the runderpest of 1896-7), or drought, or lack of access to loans or easy transport to goods markets – but most decisively from legal restrictions". The African peasantry dwindled from 2.5 million in 1936 to 832 000 in 1946 (Marais 2001, cited in Terreblanche 2005:289).

Terreblanche (2005:264) suggests that it is difficult to determine the value of this tradition, but it was probably of high value because it was well adapted to the peculiarities of the South African climate, land and labour. If this African agricultural tradition had not been destroyed, but given more or less the same government support in both financial and technological terms, as white farmers, then South Africa's agricultural and economic history could have been radically different.

The South African Native National Congress (SANNC later the ANC) was founded in 1912 to protest against the disenfranchisement of Africans by the Act of Westminster and soon after the Land Act of 1913 (Giliomee and Mbenga, 2007:231). Sol Plaatjie (the first secretary if the SANNC) wrote that the Act made the South African black, "not actually a slave, but a pariah in the land of his birth." In 1916, in testimony before the Beaumont Commission on the Act, the leader of the Congress in Transvaal, S.M. Makgaltha, described it as "fraught with the most momentous issues, as it infringes upon the common rights of the people which were recognised as resting upon the elementary principle of justice and humanity which are the heritage of a free people" (Quoted in Rich 1996, cited in Terreblanche 2005:264; Giliomee and Mbenga, 2007:238).

## 3.8    English Political Hegemony 1933-1948

According to Terreblanche (2005:275), the years 1933 and 1934 were watershed years in South Africa's political and economic history; in that this period witnessed substantive shifts in power relations concerning politics and economic structuring. The context of power created by the events of 1933-1934 and its ramifications in white and especially Afrikaans society was exceptionally detrimental to Africans. It not only prolonged their subjugation, but also he argues, intensified it.

Effectively as a consequence of the great depression a certain amount of "horse trading" took place between Hertzog and Smuts concerning the gold mining industry, taxation, adherence to the gold standard and the boosting of revenues associated with the dynamics of the day. The mining houses were able to boost income by some 45 percent and the government of the day saw this as an opportunity to boost tax revenues in order to develop various sectors of the economy, more especially the farming sector and the serious unemployment problem among Afrikaners. In the final analysis the African franchise in the Cape was abolished in exchange for reducing taxes and gold revenues.

What this set of activities demonstrates was the ease with which the entrenchment political rights of the African was sacrificed on the altar of economic and political expediency. The Chamber of Mines (CM) was also involved in these arrangements. A mining house historian later acknowledged that after 1933, it had made "profits beyond the dreams of avarice (Potts, quoted in Yudelman 1938, cited in Terreblanche 2005:276).

In 1934 the "fusion" policies of Hertzog and Smuts realised the launch of the United Party. This outcome gave rise to a breakaway section of Afrikaners led by Malan, who then established the "Gesuiwerde" (purified) National Party (NP). These events, according to Terreblanche (2005:276) and Giliomee and Mbenga (2007:285) had extremely important impacts on South Africa's economic and political history. The first heightened the symbiosis of State and capital, which created conditions highly conducive to growth, whilst the second i.e. the formation of the purified National Party presaged the upsurge of a radical version of Afrikaner Nationalism, which after 1948 was to have even more profound implications for the African and hence the Xhosa of the Eastern Cape. The heightened symbiosis between state and capital under the "Fusion" government was a huge setback for Africans. Both the state and capital regarded themselves as strong enough to proceed with the final consolidation of segregationist legislation.

The relative cheapness of African labour was sustained by the persistence of such "extra-economic coercion as the prohibition of African strikes, the control of labour through NAD, the modified pass laws, the migrant system as well as the perpetuation of institutions that separated white and black workers. In 1934 the CM rejected the

Mine Native Wages Commission's recommendations that the wages of Africans be raised by 4 cents a shift.  The real wages of Africans and the goldmines remained exceptionally low until 1960.

In addition to maintaining very low wages, it was in this period that the government provided the gold mining industry with all the help needed to establish the monopsonistic migrant labour system that covers almost half of Africa south of the Sahara.

In 1931 migrant workers constituted 50 percent of the mining workforce.  In the period 1950-1973 this rose from 60 percent to 80 percent (Terreblanche 2005:293), thereby further reducing the flow of wages into the reserves as well as creating the prospect for tensions between those born of South Africa soil and those born elsewhere.  Before the 1946 strike the African Mine Workers Union (AMWU) demanded that this system of labour recruitment be brought to an end (O'Meara 1983, cited in Terreblanche 2005:293).

In the midst of all these political and economic dynamics, it needs to be continually born in mind that those left to exist   in the reserves were facing a crisis in that, the Native Economic Commission (NEC), warned that the pressure on land in these reserves was too severe to provide a home subsistence base for most migrant workers.  Although half of the black population lived in the reserves only a very small portion were not connected to the "white" economy, mostly through migrant remittances.  A prominent liberal historian, W. M. Macmillan, wrote in "Complex South Africa" that the inhabitants of the reserves were dragging along at the very lowest level of subsistence, blighted by ill health and starvation.  There was an appalling infant mortality rate and families were more and more dependent on wage earning to relieve a dead level of poverty inside (Giliomee and Mbenga 2007:263).

By the 1930's the migration to the cities of the black and white poor had become a major social phenomenon. Addressing white and black students in 1930, Dr. A. B. Xuma referred to "the spirit of fear, of unrest, of uncertainty" (Giliomee and Mbenga, 2007:262).  The mines and farms demanded more labour, the municipalities wanted more power to deal with the unemployed and "redundant natives" and the government adopted even more laws.  More than half of the black adult male

population of working age were employed as migrants and this had significant implications, in both social and economic terms. This not only eroded the subsistence farming in the reserves, but also weakened the ability of migrant workers in the city to organise. This, in the words of Giliomee and Mbenga (2007:263), "impacted very negatively on African family life and the prospects for a settled black society."

Often the women bore the brunt of the simmering rage of the men, who felt a deep sense of deprivation of their rightful traditional status. Qcbula commented:

> *"That is how they used to be. (My Father) used to explode on us and hold us responsible for this harsh life, of which we knew nothing. He and my mother would never stop quarrelling, but my father never beat her" (Giliomee and Mbenga 2007:205).*

Segregationist legislation reached a high water mark with the Representation of Black (Native) Act (1936), the Development Trust and Land Act (1936) and the Black (Native) Laws Amendment Act (1937). The first removed African voters in the Cape from the common roll. This obviously included what we know today as the Eastern Cape. The second authorised the expansion of the "native reserves" to a total of 13.6 percent of South African land, whilst the third prohibited Africans from acquiring land in urban areas (Terreblanche 2005:278; Mabin and Smit, 1997:198).

## 3.9    The Political Hegemony of the Afrikaner Establishment (1948-1994)

Terreblanche (2005:297) makes the point that South African history is marked by three ideological paradigm shifts, each of which had important implications for the hardening of racial attitudes towards blacks, including the Xhosa. The first was when evangelical humanitarianism gave way to Benthamite liberal utilitarianism and associated notions of racial superiority. The second occurred during the last quarter of the 19th Century with the upsurge of British imperialism, legitimised by the racial ideologies of social Darwinism and white superiority. Within this period activities involving segregationism and liberal capitalism increased. The third paradigm shift involved the rise of an aggressive and religiously orientated Afrikaner Christian Nationalism and the hardening of racist ideologies during the National Party's implementation of apartheid after 1948.

The ideology of Afrikaner nationalism was really a means to an end and that was the mobilisation of ethnic power to attain political power and flowing out this greater wealth (Terreblanche 2005:299; Giliomee and Mbenga, 2007:308). The racism that flowed from this was also a means to an end, namely maintaining the subordination of allegedly interior indigenous races in order to create a space for the Afrikaner to realise their political and economic aims and their promised land. To this end a plethora of discriminatory laws were passed to entrench this inferiority, which in early Nationalist Party (NP) years of power took its cue from the rapid black urbanisation that was taking place at the time as a consequence of the appalling conditions in the reserves. The Fagan Commission of 1948 recognised the inevitability of African urbanisation and in line with these sentiments recommended a policy of "facilitating the stabilisation of (African) labour" in urban areas (Terreblanche 2005:300; Giliomee and Mbenga, 2007:309). This at the time provoked a strong reaction from the National Party (NP).

The National Party's agenda before 1948 was to create a new socio-economic order in line with this agenda focussed on three critical elements. The first was to restructure the economy so as to free the Afrikaner from "foreign" (English) capitalism, thereby creating a system of Afrikaner "volkskapitalisme" (National capitalism). The second was to solve the problem of the poor white (Afrikaner) and remedy the alleged injustices of the past (English domination) by implementing a comprehensive welfare policy for uplifting the Afrikaners. The third involved dealing with the "native problem". This took on a number of dimensions, ranging from ensuring that the Afrikaner maintained his/her purity and to defuse the potential conflict inherent in the process of racial integration. Another factor was to ensure privileged access to knowledge, resources and any other support social infrastructure needed to maintain Afrikaner prosperity, not to mention Afrikaner culture.

Afrikaners then were taken to their "promised" land in two vehicles namely, a dynamic and growing system of racial capitalism (controlled by the English corporate sector and growing Afrikaner corporate sector) and an ever expanding Afrikaner state bureaucracy.

In the course of implementing its apartheid policies the National Party (NP) built a mammoth organisational structure to not only control the movement of Africans, but

also their living and working patterns, including their intellectual lives (Terreblanche 2005:303, Giliomee and Mbenga 2007:314-324).

The system of apartheid was further developed to suit the needs of not only the mining and agriculture sectors, but also the interests of large scale industrial development. A plethora of discriminatory and segregationist laws were put on the statute books, including comprehensive control over access to urban areas. Apartheid was also built on the foundation laid by the English establishment's segregationist regimes of the proceeding 50 or more years. The practice of apartheid intensified both the repressive and the discriminatory character of segregation. Terreblanche (2005:313) suggests that the differences between the Afrikaner and English regimes probably only constitute a difference in degree and not a qualitative one, initially at any rate. During the period 1964-1994 a draconian security system was used to perpetuate white political domination and this did assume qualitative proportions.

All of the repressive measures were challenged by both organised and unorganised black "struggle" groups over a period of over 40 years and it is important to remember and understand that apartheid was not only shaped by government from above, but also by popular struggle from below. The Eastern Cape was an important geographic zone and source of this resistance.

In the period 1948 until 1986 "influx control" became the core focus of the National Party's "native policy". The primary aim was to limit African urbanisation to a stream that allowed for sufficient cheap labour, nothing less and nothing more. In reality though an important concession was made to the business lobby of the early 1950's that "section 10" (Native Laws Amendment Act (1952) Africans (Giliomee and Mbenga, 2007:321), could remain in urban areas even when unemployed. According to Terreblanche (2005:317), this concession had the unintended effect of creating a, small urbanised African elite with considerable bargaining power.

Tribal Africans could enter urban areas to seek work as migrant workers – with the permission of their local labour bureau – but were only given 72 hours to do so (Giliomee and Mbenga, 2007:321). Exceeding this limit was a criminal offence and thousands of pass law offenders were sent to prison.

This situation made those Africans and their dependents extremely vulnerable on a number of counts. Firstly as they only had 72 hours, their ability to negotiate with a potential employer was completely curtailed: it was in many instances a "take it or leave it" situation. Driven by the poverty of the rural zone, many simply had little choice, but to remain in the urban areas illegally. These dynamics perpetuated the lowering of wages, which clearly meant there was even less to remit back to dependents.

The crushing of African rural resistance in the early 1960's and the banning of the liberation organisations in 1961 enabled the National Party (NP) government to put in place their own "tribal authorities" who were prepared to help administer the NP governments influx and migrant policies. The homelands policy (Giliomee and Mbenga, 2007:323) provided for different levels of authority – tribal and regional and territorial or national. All black Africans, even those living in the urban areas, could exercise their rights only through their respective homeland governments. When an ethnic group like the Xhosa received their "independence" a Xhosa would lose any claim to South African citizenship and was automatically a citizen of his/her respective "homeland", even if he or she had never lived there.

A constitution was draughted for the Transkei in November 1963, whilst Ciskei received a legislative assembly in 1971. Only 54 percent of the Xhosa lived in the two Xhosa homelands (Giliomee and Mbenga 2007:350; Terreblanche 2005:322). Influx control deprived millions of Africans of the barest minimum of social citizenship. Government spending on education, health, housing and social security for urban Africans was deliberately minimised so as not to attract more Africans to the urban areas.

The Tomlinson Commission of Enquiry of 1956 (Copelyn 1974:5; Giliomee and Mbenga 2007:323-324, 351; Terreblanche 2005:325) confirmed the appalling socio-economic conditions in the reserves citing rampant malnutrition, stark poverty, overstocking and denudation of land being the order of the day. The Commission estimated that 46 percent of the income earned in the reserves, were concentrated in the hands of the elite, comprising only twelve point seven percent of the population. The core finding of the Commission was that in order to make these geographic spaces viable, some one hundred and four million pounds (R10 billion in 1998

values) should be spent in the ensuing ten years. If these steps were taken the Commission estimated that 50 000 new jobs would be created and in so doing the reserves could carry a population of ten million. The then Prime Minister, Verwoerd, rejected the majority of the Commission's findings.

In 1964 there was some reversal to the original denial and the government proceeded to embark on a process of industrial decentralisation and by the end of 1966 fewer than 45 000 jobs had been created. The Commission required this number per year. Clearly by this time, almost ten years later the socio-economic conditions were even more severe.

In the early 1960's the government introduced a labour quota system in the urban areas and the principle mechanism for doing so was the Physical Planning and Utilisation of Reserves Act, which gave the minister of planning the authority to restrict the use of land in designated controlled areas for industrial purposes. This planning act also deprived local authorities of their responsibilities for regulating the rate of industrial development. According to Terreblanche (2005:363), the task of administering the Physical Planning Act was given to the Bantu Administration Board (BAD). During the 1970's BAD used this legislation (power) to prohibited industrial expansion and turn down applications for the employment of thousands of Africans. The maximum ratio of white to African industrial workers on the Witwatersrand was to be 1:25 until 1973 and thereafter only 1:2. Any industry exceeding this quota would be compelled to decentralise to a border area or Bantustan. It may be argued that there may be some advantage to this, but being premised solely of a quota rationality any form of socio-economic normalisation, as happened in the era post 1994, witnessed the dramatic collapse of these hubs of economic activity. The Eastern Cape is literally littered with empty run down industrial areas such as that found in Dimbaza and Butterworth.

In a 1967 circular (Terreblanche 2005:362), BAD defined "surplus people" (to the white area) as the aged, unfit, widows and women with dependent children and promised to leave no stone unturned in making the Bantustans rural receptacles of the nations unemployed. In the period 1960-1970 forced removals increased from four million to seven point four million people (Hindson 1987, cited in Terreblanche 2005:362). These administrative actions represented "some of the most dismaying

pages in the entire history of South Africa… in them may be learned the details of broken promises, naked force, shattered communities, desolated camps and shallow graves" (Schrire 1992, cited in Terreblanche 2005:363).

The period 1978-1989 witnessed seemingly contradictory policy initiatives in that on the one hand, as a direct result of collusion between the government and the corporate sector, greater freedom of movement of Africans was granted whilst on the other, the "outsiders" were kept out of the "white" areas with even stricter influx control measures. This was the era of the Rickert and Wiehahn Commissions. The permanency of an urban constituency was acknowledged. This period witnesses the emergence of black local authorities. Taken together the Wiehahn and Rickert reforms institutionalised production on a more capital intensive basis (O'Meara 1996, cited in Terreblanche 2005:332, Giliomee and Mbenga 2007:356-358). It should also be noted that such "concessions" were also brought about by a stagnating economy which not only impacted on the well- being of the "white" South African, but also those resident in the homelands. This period witnessed the systematic rise of informal settlements adjacent to the primary urban areas, no doubt brought about by the terrible living conditions in an overcrowded so called homeland. The Crossroads saga received the most attention as a battle of protracted wills witnessed the removal of Xhosas back to the Transkei, who were only to return two weeks later. In 1985 the government finally accepted the permanence of large informal settlements. In 1986 influx control was abolished and thus government began to acknowledge the failure of territorial apartheid (Hindson 1987 and Cobbett et al 1986, cited in Terreblanche 2005:332; Giliomee and Mbenga 2007:346-348). By the end of the 1970's and early 1980's Mdantsane, near East London, witnessed an estimated influx of 100 000 people (Giliomee and Mbenga 2007:348).

## 3.10  Betterment and Rural Development in the Eastern Cape

The brief history of both South African and Eastern Cape dispossession and segregation highlighted above inevitably points to a lengthy period of trauma and anguish. The brutality of various governance regimes is clearly evident. In the context of justice it would seem inappropriate to become forgetful of this powerful and dynamic history and context that has shaped this geographic space.

Xhosaland was systematically reduced over a period of 150 years. Thereafter the remaining remnants were transformed into bantustans primarily required by an "outsider" (white South Africa) to support a social and economic regime described by the United Nations (UN) in 1973 as a "crime against humanity" (Giliomee and Mbenga 2007:359). The descriptions given above concerning the conditions of existence of the people of this region defy any and all possible descriptions of decency and dignity.

There is however another form of apartheid dispossession that needs to be recognised and that is dispossession stemming from betterment. Betterment, according to Westaway (2008:135), was the flagship policy of the rural development programme. Betterment plans were devised and implemented in the reserves/bantustans from the 1930 onwards.

The term "betterment" implies that the applications of such plans constituted an improvement to the actual conditions at village level, on the ground. Distinct land use zones divided up areas of land that were for example, to be used as residence, cropping and grazing.

Betterment entailed the imposition and implementation, through both legal (power) and forceful (actual use of force) means of a development concept that was inconsistent with both way people lived (ethos) and their approval (consensus). There was no consultation. The spatial outcomes, according to Westaway (2008:137) suited the grand apartheid project by making the geographic zone known as the Bantustans (reserves) easier to govern, as well as absorbing many thousands of Xhosa people into both Ciskei and Transkei.

The most authorative text, according to Westaway, on forced removals in South Africa is the "Surplus People Project" published in 1983. According to this record "betterment has forcibly removed more people in more places with greater social consequences and provoking more resistance than any other category of forced removal in South Africa" (Surplus Peoples Project (SPP), Forced Removals in South Africa: The Eastern Cape 1983, cited in Westaway 2008:137). In the Eastern Cape alone some 1.2 million people were dispossessed through the implementation of

betterment. Betterment practices were then a direct assault on communities, their livelihood and political and social practices.

An example of the political arena would be the imposition of indirect rule through the use and abuse of traditional leadership structures. The chieftainship for example, was quite literally doubled in the period 1955-1963. In other words, a form of pseudo leadership structure, were imposed to ensure compliance. The customary values and practices were the target of manipulation and the introduction of Native Authorities underpinned by the existence of white officials, who ensured that there was no disruption to the application of the racist policies of the day. This was then part of an overall strategy of placing authority "on the front line of the state's new policies" (Crais 2002:156, cited in Westaway 2008:141; Ntsebeza 2011:77-78).

Betterment embraced a variety of forms of dispossession: the demolition of homes, dispossession of community members of their right to use and enjoy the residential and communal commonages, the dispossession of arable rights and the reduction of the size of arable land holdings and the collective right as a community to manage their ancestral land through the application of rules of customary law and values. Govan Mbeki sums up betterment and communities response to it using these powerful words:

> *"Those who were being pushed off the land were bitterly resentful. They forfeited the right to graze stock and had to abandon the one form of security to which they clung – the occupation of an arable plot with the right for share the common pasturage" (Mbeki G: South Africa: The Peasants Revolt 1964:95, cited in Westaway 2008:141).*

In numerous instances affected communities resorted to oppose this form of indirect rule and crass imposition. Resistance was widespread and varied and struggles in places such as the Zoutpansberg, Witzieshoek, Zeerust, Sekhuhuneland, Thembuland and Pondoland are examples of such rural resistance.

The Mpondo of Eastern Pondoland argued firstly that the cure to poverty was not a reduction in stock, but rather the allocation of more land. The core issue was the people: land ratios (Copelyn 1974:6). The average allocation of land in Bizana (Pondoland) was one third of what was recommended by the Tomlinson Commission.

Another offensive feature of the betterment system was the fact that when the state imposed the new system of governance on the local people, it was not a matter of engagement characteristic of a typical "*imbizo*", but rather it was very much a top down approach consisting nothing more than a series of "administrative lectures" (Copelyn 2008:8-9).  The traditional functions of a chief and the manner in which dialogue and consensus were arrived at were completely disregarded and hence violated.  The actions of the state, imposition of its interest over the norms of communal practice (dignity), was to set in motion a violent confrontation.  This may be seen in at least two ways, in that firstly the communities of Pondoland regarded the arrogance displayed by the imposed authorities as an act of violence against cultural norms and values (embracing recognition, respect and dignity), personhood and other related traditional practices and beliefs and secondly violence that dispossessed the Xhosa of this region of land, livestock and even life itself.  "In a direct sense, the cause of the revolt lies in a change in the consciousness of the villagers.  The growth of militancy involves: the development of consciousness whereby the bankruptcy of the social regime (imposed) is in some sense conclusively revealed" (Copelyn 1974:14).

In March 1960 various meetings were held in Bizana District to discuss ways and means of dealing with the impositions of both the newly imposed authorities and the outcomes of betterment itself.  Small groups soon became large groups embracing the geographic areas of Lusikisiki and Flagstaff.  The central organisation became known as "the 'Hill' (a prominent feature of the area) and this systematically came to reach the lives of approximately 180 000 people spread over an area of 4000 square kilometres (Copelyn 1974:16).

On 6 June 1960 the police struck at Ngquza Hill.  Soon after midday a helicopter and two Havard aircraft dropped teargas into the crowd of approximately 400 people.  An Mpondo described the ensuing encounter as follows:

> "The spot was in flames.  Over 200 police well-armed combed the bush, shooting everyone they came across. Those who tried to surrender were without mercy shot. The women who made war cries were thrashed, kicked and assaulted in the huts.  The arrested were taken to the charge office".

Official reports only cite eleven Mpondo dead and thirteen seriously wounded (Copelyn 1974:23). Tragically, this incident merely compounded the resistance and in the present day the impact of this resistance is still being felt. One local municipality now bears the name Ngquza in commemoration of these acts of resistance.

The consolidation and structuring of Mpondo grievances altered the distribution of power markedly in Eastern Pondoland, to the extent that certain aspects of chieftainship are still sceptically regarded, not to mention the imposition of policy stemming from process inconsistent with cultural norms and standards. The consultation processes involved in formulating the Wild Coast Regional Spatial Development Framework (WCRSDF) 2014 have uncovered various nuances that have their roots in the dispensation under scrutiny.

Referring back to the Eastern Cape as a whole, resistance to the Bantu Authorities Act was widespread. This 1951 Act provided for the three tiers of authority in the reserves, all under the control of the Department of Native Affairs (NAD) (Giliomee and Mbenga 2007:316). Not only does this report refer to authority, but according to Crais (Westaway 2008:143), when people condemned the Bantu Authorities system they also denounced and condemned taxes, passes and the State's new betterment and rehabilitation policies. Women too were not unaffected. The apartheid decision to extend passes to women in the rural areas resulted in women playing a central role in rural resistance. Mager, cited in Westaway (2008:143) writes that the resistance of women at Ngwabeni in Peddie in the former Ciskei was "typical of countless others engaged in intense struggles against the State's betterment schemes." The apartheid state, with all its capacity, confronted the rural masses, community by community and thus this rural constituency responded community by community.

In 2005 a land claim in terms of the Restitution of Land Rights Act was entered into between the State and the communities of Gwili-Gwili, Gxulu, Mnyameni, Mtwaku, Ndlovini, Ngobozana and Upper Ngqumeya in the Keiskammahoek region. This claim was for R94 681 056-00 opened with the following:

"WHEREAS:

*The Act has been promulgated to provide for restitution to persons or communities dispossessed of rights in land, after 19 June 1913 as a result of past racially discriminatory laws or practices;*

*The Village communities of Gwili-Gwili, Gxulu, Mnyameni, Mtwaku, Ndlovini, Ngobozana and Upper Ngqumeya were forcibly removed from land previously occupied by them or their ancestors through the implementation of the policy of betterment planning from the early 1950's onwards. The policy was implemented under the provisions of sections of the Native Administration Act 38 of 1927 and the Native Trust and Land Act 18 of 1936 and various proclamations made in terms of these statues. The application of these statues and proclamations constituted racially discriminatory practices. The implementation of the betterment policy resulted in the communities and its members being individually and collectively dispossessed of their rights in land.*

*The right to manage and allocate land was taken over by the State and resulted in the following consequences amongst others:*

*(a)     Families were moved from one piece of land to another and in the process of doing so lost an average of three and a half dwellings per family.*

*(b)     Individual residential sites were reduced by at least 7244 square metres each.*

*(c)     Each family's allotment of arable land was reduced by an average of 0.90 hectares.*

*(d)     Arable fields were demarcated some distance away from residential sites.*

*(e)     The community's social structure was disrupted by the forced removal and the allocation of   sites on a first come, first served basis*

*(f)     The community lost the right of control of the commonage.*

*1.3     The parties have agreed that whilst the claim has been lodged by the communities the rights held and lost (the rights to arable fields and residential sites) were primarily of an individual and/or family nature consisting of exclusive use areas and were akin to ownership rights capable of being passed from one generation to the next.*

*The parties have also agreed that the community lost control of and lost grazing rights as a result of the implementation of the betterment policy.*

*1.4     The State has accepted the validity of the claim.*

*The claim had been lodged with the Commission before 31December 1998.*

*The parties wish to record the manner in which the claim will be settled and the Development will be undertaken."*

What is clearly evident from the above is the recognition that betterment caused untold hardship as a result of the application of both discriminatory laws and administrative practices associated with these. Spatial planning is implicated here as well in that it is equated with betterment. Older colleagues in ECCOGTA have on many occasions made such references to me personally. Such then is the state of mind with the memory still very much intact. The other significant thing about this claim is that this amounts to a claim of R55 600-00 per family. It was previously stated that some 1.2 million people were dispossessed of both rights and land in the former Transkei and Ciskei of the Eastern Cape. If an average family constituted two parents and four children (6) then it is not beyond the realms of possibility that some 600 000 families could claim, in the region of an amount of R3 336 000 000-00. This is a staggering figure and the impact on the Province, let alone the country would be equally staggering, in that this money could have been used for other developmental purposes.

Customary law and practices is also recognised by the State as the loss of ancestral land. The right to control the commonage is also recognised. It would be well to consider these matters going forward in that any inappropriate application of a non-negotiated land use management system (no free, prior and informed consent) may well result in a new round of claims against the State.

## 3.11   A Legacy of Colonialism, Segregation and Apartheid

This section is merely an attempt to summarise the dismal socio-economic legacy that remains to be recognised and hence confronted. Social disruption and creating abject poverty embedded in various deliberate processes of demeaning and brutal subjugation were the predominant objectives and means of the day; in fact many days spanning almost two centuries. The first was to inflict from the time of the war in 1812 "serious damage upon the balance of Xhosa society with nature… historians, writes Crais, have in the past danced around the period, chanting praise for the enlightenment and exalting the arrival of liberalism, forgetting how the former was enormously paradoxical and the latter profoundly by Janus-faced" (Legassick 2010:105).

Even the missionary endeavour was substantially "high jacked" in that the idea of "civilising" in fact served to create the "other", the barbarian. Evangelical humanitarianism soon displayed its limits when it required that "native peoples abandon not only their independence and their political systems, but all aspects of their social and cultural lives that did not accord with the liberal's definition of civilised standards and values and that they submit to the tolerant paternalism of white patrons" (Legassick 2010:106).

Post 1830's the settler (Cape) legal system became, progressively an instrument of racial subjugation whilst by mid-century a new term became popularised and that was one of extermination. Commenting on Bowker's notorious "springbok" speech, the utilitarian liberal attorney General Porter said in the Legislative Council in 1845 that Bowker was not alone. "A member of the British House of Commons… has lately said that the brown man is destined everywhere to disappear before the white man and that such is the law of nature. It is true that… the history of colonisation is the record of the dark man's disappearance. But… while it is indisputable, that the contact of civilisation… with men uncivilised has been and must always be destruction to the latter…" (Legassick 2010:107).

The Special Commissioner Hoggs, sent by Grey, to South Africa in 1852 saw the issue of subjugation and even extinction in the following way:

> "The history of the Cape is already written in that of America and the gradual increase in the white race must eventually though (slowly) ensure the disappearance of the Black. Providence vindicates this, its unalterable law by rendering all the philanthropic efforts that have been made to avert such a destiny subservient to its fulfilment" (Legassick 2010:108).

The mid to late 1800's saw the systematic consolidation of settler capitalism and white supremacy and the great bulk of the Xhosa population in the Eastern Cape were effectively excluded (marginalised), from political participation. The late 1800's early 1900's, witnessed the drive to establish a cheap and hence exploitive labour pool/reserve. The urban zones growing out of agriculture and minerals elsewhere in South Africa demanded cheap labour and to achieve this virtually every facet of Xhosa cultural life was systematically bastardised, even the extent of the space he/she was permitted to occupy. The residue of land left in the hands of the Xhosa

was ultimately manipulated to suit the ends of white owned capitalism. Even traditional cultural governance was not spared the indignation and undignified trampling underfoot by those who considered themselves superior. Racism and authoritarianism have remained two dominant features of South African history for centuries and the Eastern Cape has had to endure the full brunt of the application of such human atrocities or injustices. The cost to life and family, have been profound.

In a nutshell, the urban zone profited and indeed prospered at the expense of the Xhosa rural zone. Those Xhosa who were forced to reside in these spaces had to endure all manner of policy, law and entrenchment that promoted the prosperity of the urban in many different ways. Low wages and various taxes imposed on the Xhosa of this region meant that the rural zone was in effect subsidising the urban zone. Notwithstanding those dynamics, the urban space designated for occupation by the Xhosa working on the mines and in industry had to be developed from funds generated from the Xhosa people themselves (e.g. beer hall monies) which meant that even less was able to be remitted back to the Xhosa home to support families which included the young, sickly and the old and frail. The Xhosa, working on the mines, had difficult conditions under which they worked and lived as well.

At the same time the Xhosa home, including culture and customary space was being manipulated by both the colonial and apartheid regimes to ensure a steady supply of cheap, docile and controlled labour, not to mention a certain level of skills. The only really decent education for the Xhosa was coming from missionary schools, but this was only reaching a small number of children. In 1948 only 24 percent of children of school going age were enrolled in schools. Verwoerd got the National Party caucus to accept the introduction of mass education with the promise that there would be "no place of Africans above the level of certain forms of labour" (Giliomee and Mbenga 2007:320). In 1953 the government took control of black education and it proceeded to eliminate church and mission schools. Funding for education was pegged for nearly two decades and very little attention was paid to secondary schooling until the 1970's. In short, the education system was blatantly constructed to achieve a very particular outcome and that was to ensure that Blacks, including the Xhosas, could not compete with whites in the labour market, more especially as the majority of the employment opportunities were to be found in the choicest localities, inevitably

placed in the white areas. Effectively this education programme placed severe limitations on the development of this region, as a consequence of ensuring only nominal capacitation of its inhabitants.

Notwithstanding development prospects, the Natives Land Act of 1913 ensured that the best land was retained in settler hands although these processes were preceded by such measures as the Glen Grey Act and other anti-squatting mechanisms enacted in the period 1850-1909. Life for the Xhosa became increasingly criminalised. The Natives Land Act must not only be regarded as a major milestone for institutionalised or systemic violence, it also degraded and reduced the Xhosa population to an ultra-exploitable proletariat (Terreblanche 2005:404).

The "voice" of the urban zone both praised and pursued its own rationale. It legitimised such logic through the statute books (power) and proceeded to provide both structure (administration) and people, skills and finance (resources) to back the resolutions emanating from this self-centred domain. Subjugation, domination, arrogance and the absolute indifference associated with such ideologies relentlessly chiselled away at Xhosa existence and the resources it had at its disposal. This was a constituency of communities in distress, anxiety, fear and anger. The spatial condition reflected this in that it remained undeveloped, even deteriorating, as a consequence of the ever persistence interference and application of the unwanted and harmful dictates of policy. One could argue that this regime had become a space of tension.

On 12 October 1961 Chief Luthuli, when learning of his being awarded the Nobel Peace Prize, made a public statement, which suggested that the award was being given not only to himself, "but also to my country and its people – especially those who have fought and suffered in the struggle to achieve the emancipation of all South Africans from the bounds of fear and injustice" (Luthuli 2006: xvii).

> *"We Africans are depersonalised by the white, our humanity and dignity reduced in their imagination to a minimum. Such a reduction of human dignity, beginning in the imagination, has produced tragic consequences for everyone in South Africa" (Luthuli 2006: xx).*

This new land, this new South Africa, he (Luthuli) for saw, "will not necessarily be all black; but it will be African. In such an inclusive, expansive vision of what it means to

be African in South Africa.   Albert Luthuli imagined this new land to be home for all."
(Asmal, cited in Luthuli 2006: xxiii).  When all is said and done does not the idea of
social and spatial justice centre around such a simple, yet critical idea, referred to as
"home" and the right to be who I/we choose to be?  Freedom is a profound concept:
freedom to choose and freedom from the imposition of the agenda of government, of
business and any other interest that would reduce the value of a particular worldview
and the customary values contained therein.

> *"Men make their own history, but not their own free will, not under circumstances that*
> *they themselves have chosen, but under the given and inherited circumstances with*
> *which they are directly  confronted" (Karl Marx, cited in Peires 2011:42).*

What is also important to note from this section is the reference to the idea that
property in land usurped the notion of human rights.  In effect the colonial and
apartheid periods developed this idea to an extreme, very especially in matters that
had any reference to the Xhosa people.  Do rights in land continue to enjoy such
dominance? The extent of the fine grain (detail) embodied in land use management
would appear to support such notion.

The policies of Smuts (1925) reduced human rights when a distinct form of
rationalisation, concerning racism, even authoritarianism was embedded in the
economic and capitalistic imperative.   The human condition (rights) was
systematically reduced for the purpose of exploitation and the Land Act (1913) gave
real and lasting effect to the above mentioned dynamics.

The 1916 testimony of Makgaltha is worth repeating when he described this Land Act
as "fraught with the most momentous issues, as it infringes upon the common rights
of the people which were recognised as resting upon the elementary principle of
justice and humanity which are the heritage of a free people."  This statement
embraces the idea that there exists a history of marginalisation, domination and the
perpetuation of injustice.  There exist therefore many triggers that will bring on
resistance.

## 3.12  Concluding Remarks

Embedded in Xhosa culture then is the idea of freedom, choice and respect for
human dignity and the human and cultural rights that are attached to this.  Xhosa life

and existence is premised in the human condition and the realisation of 'humanness'. Land, although very important, is not the primary concern. Land is not two or even three dimensional, it is multidimensional layered in multiple cultural and social rights e.g. access and meanings. To compound matters even more, it is a space that contains the past (deceased), present (living) and the unborn. The use of the term deceased, not only refers to burial, but also to the space that the spiritual domain occupies. Hereto it is important to appreciate that this is not a passive zone either. It is active as there is interaction between God and the deceased, the deceased themselves and the deceased and the living. Obviously in line with the prescripts of Xhosa culture, there is the pursuit of relationship amongst the living and all of these processes of connectivity link the past, present and future. This space is the home of those yet to be born. Connectivity is maintained through the appreciation and application of the principles of Ubuntu, cultural norms and standards and dialogue.

Consensus or agreement is vital to the maintenance of space and social security. This too is premised on the importance of recognising each community member. Imposition as previously stated is a violation of every idea and concept contained herein.

The history and context of this Xhosa zone is framed, not only in what is beautiful about this culture, but also by a deep seated sensitivity and even anger toward those who seek to impose on this lifestyle. The interactive processes used to put together the WCRSDP, made this very clear. The application of knowledge that is inconsistent with recognised cultural values, norms and standards, is most unwelcome. The logical starting point is a dialogue framed in respect, dignity, integrity and a desire to build consensus. The reality from a professional point of view is to acknowledge our ignorance. The detail provided in this chapter is necessary as it provides a useful platform for understanding the extent of the injustices perpetuated against this people. These processes were long and deep, so much so, that this part of the Province is still experiencing both intended and unintended consequences. The recent Marikana disaster was a stark reminder of just how many Xhosa speaking people of this Province seek employment on the mines of Johannesburg and adjoining provinces. The demise of these family

members merely adds to the anguish of our past. This tragic event is also a reminder of how policies of so long ago continue to retain their influence.

CHAPTER 4

# 4.  Rationalities of Spatial Planning and Culture

## 4.1    Introduction

The period 2009-2015 has witnessed various attempts to frame an analysis of this
Province in as much as future spatial planning legislation is concerned.  This task
has not been made any easier by the fact that current planning practice as an activity
has not ever been seriously challenged.  This has not been so because such
activities do not need to be challenged, but more so because there appears to be a
reluctance on the part of practitioners to do so.  Any suggestions concerning
challenge has for the most part been met with both surprise and what Sandercock
(1998:2) refers to as the belief in the rationality of modernist planning.  It has in the
course of these engagements become increasingly obvious that any deviation from
our belief in our current activities is almost taboo: seemingly then it is certainly very
inconvenient and perhaps best left for another time.  When that may be is actually
very hard to say: such challenges must not stand in the way of formally activating
SPLUMA.  The Department of Rural Development and Land Reform (DRD&LR) has
persistently reminded all involved of this highly prized end.

Planning in South Africa via the prescripts of SPLUMA, as presented by DRD&LR, is
being standardised (homogenised), to fit every geographic zone within the country.  It
is to find expression through the typical rational planning approaches and tools of the
current age namely, the spatial development plan and the zoning scheme.  SPLUMA
too makes provision for certain procedures and instruments of decision, whether this
is a municipal council or a municipal tribunal or delegated official.   Regulations and
by-laws underpin the entire structure.  Planning is the hero (Sandercock 1998:3) and
as such has no fatal flaws, at least none really worth mentioning.  This has been the
"as lived" experience of this author as we have journeyed, through the legislative
process of both the national and provincial spheres of governance concerning the
planning project.  The provincial efforts have produced no less than three attempts to
analytically capture planning history and its meaning as it has evolved since 1934
(this date signifies the oldest planning ordinance in the Province).  It is very evident
that the history of our planning efforts in this Province are being represented as a

description of a progressive narrative of enlightenment, liberal democracy and a continued faith in seeking progress through science and technology, not to mention the pursuit of ideal social orders (Sandercock 1998:3). There, is no actual admission or formal recognition of a dark side (Watson 2009:176) or noir side (Sandercock 1998:7). This then is a huge problematic in that the unbridled assumption that all is well forgoes the distinct possibility of the existence of not just one, but even several insurgent histories (Holston 1998:37; Sandercock 1998:6) depending on how planning and its history is defined. The lack of recognition of any other dynamic via any selective inclusion or exclusion (Forester 1993:3) will also ensure that, over time, we will as practitioners undermine our own efforts to be effective. This, it is submitted, will be particularly true in this customary cultural constituency.

During the course of May 2015, a joint programme (Department of Rural Development and Land Reform (DRD&LR), SALGA and ECCOGTA) was designed to engage traditional leaders on this critical matter. However this was summarily amended by the first two organisations to deliberately omit an agenda item prepared by ECCOGTA. This item was to inform traditional leadership of the progress made in the preparation of a provincial green paper which pursues an inclusionary approach to the planning endeavour. The aim was then to demonstrate the formal recognition of this Xhosa cultural constituency and from there embrace them in order to establish an inclusionary and complimentary effort going forward. The other critical aim was to lay a platform for the development of trust, respect and dignity (Harrison, 2005:331). Clearly the deliberate exclusion has now created problems, in that such omission not only represents the "colonisation of the life world" (Forester 1993:4), but also presents a distinct and clear example of the development of a particular form of bounded rationality as a consequence of this highly selective approach to framing issues (Forester 1993:10) by DRD&LR. Needless to say any idea of pursuing a joint collaborative effort has also been undermined. There are some important lessons however.

## 4.2    Planning Rationalities

The abovementioned manipulation of rationalisation raises extremely important concerns. When we speak of planning rationalities, or more to the point, commonly accepted planning rationalities, what do we mean? Firstly it has to be acknowledged

that there exists considerable complexity and, that in ethical terms, no approach is fundamentally neutral, is necessarily linked to promoting legitimacy or is devoid of the prospect of mobilising bias (Forester 1998:73).  The notion of commonality is also suspect when presented with the conditions presented above.  It would appear then that, rationalities then, are amongst other things an interpretation and hence stem from some form of judgement call (Harrison, 2005:322).  Forester (1993:7-9) refers to the need to make meaning, reduce uncertainty and ambiguity.  We need authoritative judgment, which amongst other things, means developing an understanding of social relations and what sustains the organisations that produce these.  Power too is a social relationship.

Traditional planning rationalities in South Africa are, according to Watson (2009:165-175; Harrison, 2005:319; Friedman, 1993:482), bound up in the emergence of urban planning in the global north.  Modern town planning developed as a direct response to the emergence of industrialised settlement which embraces rapid migration (urbanisation), unhealthy and polluted living conditions for the poor, vanishing green open space and threatening political upheaval.  Visions of a better urban future gave rise to constructions of 'truths' (governmental rationalities) about how these settlements and the processes that gave rise to them could be managed and achieved.  Examples of these include the Model Town of Victoria (James Buckingham in 1849) a fore runner of Howard's Garden City, descriptions of the model form of 'Hygeia (Richardson 1876) and Patrick Geddes ideas at the end of the 19th Century (Watson 2009:165).  In a nutshell the debate was about developing a rationality that would bring about an urban population that inhabited an orderly space in a healthy environment.  This environment was concerned with both the physical and spiritual.  British town planning was evolving around the radical and utopian socialist ideas of the period, not to mention a nostalgic longing for village life.  Ebenezer Howard's Garden City was an attempt to reintroduce 'green' back into the dirty and chaotic industrialised zone.  Separate residences, through strict separation of land use embraced a twofold rationality one being social - the recreation of a traditional way of life and two creating an aesthetic – bringing back the beauty into these settlements (Watson 2009:166; Taylor 2010:29).  These developments in planning theory were the beginnings of the development of a rationality dubbed 'physical determination' (Taylor 2010:42).  This was an important development in that

this rationalisation undermined the need to understand the social environment for which planning was criticised. The shape of the physical environment does not determine the social environment. The political agenda however, underlying the ideas of the City Beautiful movement should not be lost: for the middle classes…'the planners first aim was to eliminate the breeding places of disease, moral depravity, discontent and socialism' (Hall, 1998:76 cited in Watson 2009:166). The planning system was essentially seen as a technical activity, exercised by government (Mabin and Smit, 1997:208).

The history of planning in South Africa is embedded in the abovementioned political agenda. Beauregard (1998:190) cites Parnell (1993), when he identifies Charles Porter, Johannesburg's first full time medical officer of health, to a central role in this regard (Mabin and Smit, 1997:197). Others, such as Bowling, Floyd and Van Eck are given certain credits (Beauregard 1998:191), but as a generalisation planning history in South Africa, prior to 1994 were deeply embedded in the State and the law and the politics of racial separation. In sum planners are, presented as having been wholly reactive, to the State. Notwithstanding, planning history in this country, must look quite different from the vantage point of different races. Beauregard (1998:193) suggests that, planners in this country became nothing more than puppets of either legislation or 'context' and in doing so assumed a role that was disempowering. There was a distinct lack of imagination or creativity. The state and its policies were the be all and end all.

This idea of disempowerment then is a critical one. Is this a legacy that needs to continue? The general tone of SPLUMA cannot be considered very encouraging as its content is bound up in politics of subordination (the State yet again) and that the town planners possesses some specialist skill that cities and our environment generally can be made better by planned action (determinism), more especially by national planning action (Taylor, 2010:164). Such action is once again bound up in the domain of government and within this sphere the technocrat, whose risk appetite must be considered low, whilst still enjoying a high appetite for control. The limits of knowledge then will limit the action. Friedman (1987) cited in Beauregard (1998:187) stated that the primary purpose of planning is to guide collective action by linking knowledge to action. Clearly if knowledge is limited or framed in a reductionist

manner, then the planning outcome must also remain limited. The contribution of planners, are either predetermined or serendipitous. If planners are to consider themselves as doing more than serving pabulum to power or going with the flow, planning histories must be written to empower (Beauregard 1998:188). This must surely mean that as planners we desperately need to engage a reality that is experienced by real people living in real space in line with their hopes and aspirations: such hopes and aspirations being driven and informed by amongst other things different culture, worldviews, values and custom.

The period for the research of this document has uncovered some very disturbing features or characteristics concerning planning which need to be noted or even emphasised as these may impact on the expected outcomes going forward. It has been stated that the processes of formulating SPLUMA in this Province were in effect captured by officials of DRD&LR. The consultation processes were actually nothing more than information sessions. Any debate was quickly terminated and even more so concerning matters of traditional authorities, custom or culture. Not only was debate rapidly closed down, it also became very obvious that the planners who attended these sessions were very shy on the latest developments of both planning theory involving collaboration, multiculturalism and the just city and the theorists who contributed to these endeavours. Clearly this had a huge impact on any prospect of debate on the existence of any rationality embracing culture, difference and diversity.

As the head of the Spatial Planning Directorate of this Province, I have in the course of my duties had to engage in a wide spectrum of planning and planning related activities which included the preparation of SPLUMA, the preparation of a green paper for the Provincial equivalent, the preparation of the Wild Coast Regional Spatial Development Plan, the preparation of the Provincial Spatial Development Plan, the preparation of environmental policy for the Wild Coast (erstwhile Transkei and Ciskei) and many other municipal SDFs as well as attending to a host of development applications. Upon reflection in all of these activities, the issues of culture, customary law, difference and diversity have very seldom been raised. If it has been raised, it has been done so by ECCOGTA. It has been mentioned above that as a Province, we have attempted to finalise the analysis that is needed to underpin policy (green paper) leading to the white paper and subsequent planning

legislation. This process has taken more than five years and has proven very difficult to satisfactorily complete. This analysis process has been an interactive one involving a host of planning professionals in both the public and private sectors, engaging in the debate. The years of experience of these professionals in the field of planning range from a mere handful (2-3 years) to over thirty years and yet the only rationality that was acceded to was that consistent with modernity and the established role of the technocrat. This is a worrying matter in that there quite clearly exists, a huge gap between what is being applied at an academic level and what is actually being applied on the ground, all in the name of spatial planning. This is serious in that SPLUMA and its implementation do engage in a host of rationalities that definitely do not share much in common with the traditional norms and standards of the spatial planning venture. There is in effect the real prospect of conflict, even rejection by the customary constituency. Unfortunately the lack of prior consultation with cultural leadership has begun to bear such fruit. With traditional leadership in very recent months threatening a Constitutional Court challenge.

Such a situation begins to raise a host of questions about the preparedness of planning professionals to actually deal with the emerging issues of the 21$^{st}$ Century in this Province. The real existence of gaps in theoretical knowledge has to be regarded as unacceptable. Given the fact that younger planners have no knowledge of multiculturalism may mean only a few planning schools are engaging in similar exposures, or are even contemplating the emergence of pluralism, difference and diversity. This could mean that only a few students are in fact exposed to such theories. If this is so, then the implementation of such theories will be limited. Any given geographic area could in fact not benefit from this knowledge. There is a need to begin to apprehend a form of "double vision" or "double consciousness" (Mignolo, 2000 cited in Harrison, 2006:325) which means engaging in the post-colonial project of border crossing, or transcending the rationalities of culture (Harrison 2006:325). This will be discussed more fully later in this chapter.

## 4.3   Multiculturalism

*"I look into my crystal globe and I dream of the carnival of the multicultural city:  I don't*
*want a city where everything stays the same and everyone is afraid of change; I don't*
*want a city where African Americans have to sell drugs to make a living, or Thai women*

*are imprisoned in sweat shops in the garment district where they work sixteen hours a day six days a week; where boys carry guns to make them feel like men and suspicion oozes from plaster walls… where the media teach us to fear one another and to value violence in the name of 'patriotism' and 'community'… I don't want a city where I am afraid to go out alone at night or to visit certain neighbourhoods even in broad daylight; when pedestrians are immediately suspect and the homeless harassed. I don't want a city where the elderly are irrelevant and 'youth' is a problem to be solved by more control. I don't want a city where my profession – urban planning – contributes to all of the above, acting as spatial policing regulating bodies in space…*

*I dream of a city in which action grown out of knowledge and understanding… where social justice is more prized than a balanced budget… where society does not build a barbed wire fence around our carefully guarded inequalities… I want a city where the community values and rewards those who are different; where a community becomes more developed as it becomes more diverse; where 'community' is earning and sharing responsibilities for the physical and spiritual condition of the living space…*

*I want a city where my profession contributes to all of the above, where city planning is a war of liberation fought against dumb, featureless public space against STARchitecture, spectators and benchmarkers; against the multiple sources of oppression, domination and violence; where citizens wrest from space new possibilities and immerse themselves in their culture whilst respecting those of their neighbours, collectively forging new hybrid cultures and spaces… I want a city which is run differently from an accounting firm; where planners 'plan' by negotiating desires and fears, mediating memories and hopes, facilitating change and transformation. Is there such a future, such a city, such a profession? (Sandercock 2000: 201-202)*

The abovementioned vision statement has within it a multitude of rationalities, tensions and expectations that engage both fears and desires. Entangled in this too, are a host of social and cultural dynamics which have increasingly shaped both cities and regions, and continue to do so. These dynamics are not necessarily value free. Different interest groups may well resort to the mobilisation of bias in an effort to manipulate anticipated situated rational actions (Forester 1993:73). In the context of the Eastern Cape, there are ongoing inter and intra-national migrations, the social and economic disentanglement from colonialism, contending with the dynamic of globalisation and climate change, as well as the reclaiming of both urban and regional space by indigenous and other displaced populations. Attached to this is a desire to apply alternative existing forms of governance e.g. community based structures. These dynamics are and will continue into the future. Cities and regions

will become progressively multi ethic, multi-racial and multi-cultural. (Sandercock, 2000:203)

Sandercock goes on to say that these migrants are not just 'hands' or strong bodies, on the contrary, these are whole people with hopes and dreams of engaging in the very human activities of forming or extending families, taking care of loved ones both in the immediate vicinity or elsewhere (remissions), practising their cultural beliefs and having an expectation of being treated decently, with respect.

> *"Recent studies indicate that these foreign populations are not being accommodated in an equitable manner, but rather being kept as marginal, disenfranchised, spatially confined non-citizens" (Khakee et al, 1999; Douglas, 1999 cited in Sandercock, 2011:204).*

Accordingly fear meets desire in Johannesburg, in Stockholm, Rotterdam and Tokyo. The interface between those two sets of powerful human emotions/forces can only be regarded as a prospect for either disaster or failure depending on which will most likely occur. This can be regarded as a critical interface for social transformation, social cohesion and hence social security. Culture is intrinsically embedded in all of these concerns as culture provides the 'bedrock' upon which the 'new building' (a planning rationality incorporating the views of the stranger) needs to be built, assuming of course that there exists a desire on the part of planners to pursue a discourse that challenges its own value laden rationalities and assumptions.

Sandercock (2000:205) makes an extremely interesting, yet unsettling, point when she writes:

> *"The history of planning could be rewritten as the obsession with managing fear in the city: fear of disorder, fear of disease, fear of women, of the working class, of gays, of immigrants. The attempted solutions have been twofold: both exclusion – spatial policing and segregation, keeping certain bodies out of certain areas; and moral reform – the attempt to produce certain kinds of citizen and subjectivities by providing parks and playgrounds, settlement houses and other 'civilising' urban facilities".*

She asks an important question and that is, does management always imply containment, control or manipulation? Perhaps one could add to this by also asking how a preoccupation with fear contributes to a paradigm shift towards transformation

and the creative problem solving mind set needed to achieve this. Certainly the current efforts involving SPLUMA point to the exclusion of a 'local foreign culture'.

What happens then when the strangers/outsiders become neighbours?  What happens when a contained planning rationale built primarily on the fears of a dominant culture are superimposed on a region that shares very little (values, norms and worldviews) if anything with that planning ethos.  In the Eastern Cape there are at least four broad sets of cultural dynamics at play and these are:

1. The cultural dynamic in the established urban zone (e.g. acculturation, hybridisation, diversity, difference etc.)

2. the dynamics in the culturally established rural zone (mono cultural)

3. the dynamics of exchange between these two locales: the degree of influence that either constituency may or may not have and

4. Any other dynamics stemming from the global or national discourse that is brought about by, for example, information technologies and education.

Clearly the above is rather simplistic, but it does serve to highlight an increasing complexity when one seeks to merge a planning endeavour built around largely urban specifics with that of another culture with its own rationality in a completely different context.  Beck (1998, cited in Sandercock, 2000:204) makes the point:

> *"Strangers are… a living refutation of the apparently clear borders and natural foundations through which affiliations and identities are expressed in the nation state…*
> *the strangeness of strangers appears frightening and enticing.*

Notwithstanding the sentiments expressed about boundaries, there is also the matter of history and context which has been alluded to in the context of fear and imposition. This needs to be examined more closely.

Chapter 2 provides for some history and context relating to Xhosa culture, whilst chapter 3 explores the history and context of the geographic space that has for centuries been the home of the Xhosa people in the Eastern Cape.  Planning too has a distinct history and legacy which Sandercock has eluded to in her various descriptions of this profession and its practices.  This needs to be expanded upon in

order to provide some form of rationalisation for the question posed in this research and that is, is it possible for the existing planning system to be applied in the Xhosa cultural constituency? This chapter, along with the others, seeks to assist in answering this important question.

## 4.4    The rationalisation of Colonialism and Spatial Planning and Culture

South African spatial planning in the 19<sup>th</sup> Century had its origins in at least two sources of dynamics and these were to address the racial issue (segregation) and to regulate the private subdivision of land (Mabin and Smit 1997:194; Maylan, 1995:22; Gilliomee and Mbenga, 2007:186-188). Chapter 3 provides considerable detail concerning the State's efforts to create separate racially defined geographic spaces, not to mention the impact of this on the Xhosa people who were forced to endure such confinement. The latter part of the 20<sup>th</sup> Century has not only witnessed the demise of both colonialism and the apartheid regimes, but it also is witnessing the exposure of a wealth of "new knowledge" arising from learning of the perceptions of the "other", those who were contained.

Porter (2010:1-5) makes the point that indigenous claims for land justice, self-determination and sovereignty are unsettling the certainties and central tenets of modern land use planning across the world. Dodson (1994b 4, cited in Porter 2010:1) points to the indigenous struggle against colonisers when he says:

> *"…nearly suffocated with imposed labels and structures, Aboriginal peoples have had no other choice than to insist on our right to speak back, to do as the old man said: to build and represent our own world of meaning and significance."*

This quote offers an insight into the diverse ways that the struggle continues to be waged, and across many fronts (dismissive, political and institutional) that indigenous people must work for justice. According to Porter, this speaking back was mounted and directed as a specific challenge in a specific field: land use planning. The Tribal Park Declaration made by the hereditary chiefs of the Clayoquot people in Canada's Pacific North West region from which it emanates not only invoked a continuing domain of Indigenous sovereignty and law, but prioritised that domain in a subversion of colonial power relations. It challenged the authority of modern institutions and

laws, and in particular, reference was directed to the practice of modern planning in a particular place (Porter 2010:1).

The colonial and post-colonial endeavour has according to Porter, in the context of the British colonies, had a significant impact on, how planning is practiced. She goes further to suggest that, not only is this practice complicit in, but actively produces social injustice for Indigenous peoples. Chapter 3 bears testimony to this, more especially if planning is regarded as a social practice of spatial ordering (Porter, 2010:2). The ontological philosophies and dismissive rationalities that have underpinned, the social justice of spatial ordering, needs to come under the spotlight. Planning is a cultural positioned subject (Porter, 2010:3; Healy, 2003:103-112; Gorgens and Denoon-Stassen, 2012:86-90; Watson, 2010:396; Campbell, 2012:1-2). Rationality (cultural, technical power-neutral) is intensely immersed in the idea of power (Healey 2003:114). This idea of power is viewed as the application of strategic action by knowledgeable, self-centred, goal seeking power accumulating actors. Healey goes on to suggest that power is a relation, not a thing. All social relations have a power dimension. The colonial endeavour as well as the early history of planning in the United Stated has been subjected to the application of science to nature and society in the form of idealism and master planning (Fainstein, 2005:7). All this is inherently a power position. Fainstein (2005:7), citing James C. Scott (1998) goes further by stating that planners and other professionals 'envisioned a sweeping rational engineering of all aspects of social life in order to improve the human condition'.

Seen from below, at a community (cultural) level this effort to alleviate the ills of human condition through the city building and shaping programmes and projects respected an "undemocratic imposition of a particularistic vision masquerading as the public interest… Instead twentieth century planners typically presented one best solution that would separate different physical uses and social strata, embrace efficiency rather than equity and for the most part aim at bland uniformity" (Fainstein 2005:7). Sandercock (2004:136) concurs when she states, "that the essence of the 20th Century planning was regulatory, rule bound, procedure driven, obsessed with order and certainty: in a word inflexible."

All of the above were to a greater or lesser extent bound up in the historical context, circumstances and local conditions, views and ideologies of the British Settler colony. These are the states of Australia, Aoteoroa-New Zealand, the USA, Canada and Southern African sometimes referred to as the "new world" (Porter 2005:3-4).

Prior to the arrival of the colonisers this 'new world' was an occupied world by multiple nations of Indigenous peoples each with distinct cultures and languages, who were responsible to territorial districts, both land and waters. Colonisation brought about not only occupation, but also administration. The prevailing colonial ethos or culture was brought to bear on the indigenous peoples and the space they occupied. Dispossession of the indigenous populations involved a suite of mechanisms.

> *"Lands were sometimes bought or bartered, but rarely fairly. Forced removal to obtain land was widespread, enacted through violent battles with Indigenous groups, destruction or disruption of economic and subsistence sites, murder, poisoning, starvation and exploitation. Introduced diseases took their toll. Systems of government and religions reserves were established to begin a civilising and assimilatory process"* (Porter 2010:5)

The upshot of all these dynamics of imposition is that there has been and there remains a reaction to this state of affairs. These first nation states have persisted in their struggle against marginalisation and racial oppression and continue to agitate for justice, not to mention, seek to regain their land and secure recognition of their rights and self-determination. Porter has undertaken research work in Nyah and Gariwerd (Australia) with a view to examining how conceived planning has produced space and place, by what mechanisms and spatial practices and through what dismissive tones. Hers was the study of the 'practices of everyday life' (Agar 1996:10 cited in Porter 2010:5) of those people performing spatial cultural production. She focuses on two distinct geographic spaces, namely Nyah and Gariwerd.

Nyah is a place of the Wadi-Wadi people, an interconnected landscape of 'living sentient beings, significant due to it being the home of ancestral spirits, important places of significance and social and economic sustenance" (Porter 2010:8). This land is considered by the Wadi-Wadi as a 'Dreaming area', (Baxter et al 1990 cited in

Porter 2010:9) and as such is a vital space embracing the social and cultural history of the Wadi-Wadi people.

Gariwerd, on the other hand, is a place significant to the Wotjobaluk, Tjapwurrung, Jarwadjali, Gunditjmara and Kirrae Wurrung peoples. The word 'Gariwerd' means 'nose like' or 'pointed' mountains in the languages of these people. Gariwerd is the source of economic and social practices, cultural responsibility and the 'presence of significant cultural places'.

Planning as mentioned previously, has a cultural position. Sanyal (2005) cited in Porter 2010:12 makes the point that planning has responded to different challenges, change and context in relation to its historical, geographic and culturally specific settings. Sanyal asserts that planning as an activity of social and spatial ordering cannot possibly be divorced – as a rational, technical exercise – from the general traditions that inform it.

> *"Culture never stands alone, but always participates in a conflictual economy acting out the tensions between sameness and difference, comparison and differentiation, unity and diversity, cohesion and dispersion, containment and subversion" (Young R C, 1995:53 cited in Porter 2010:12).*

The colonial endeavour is also premised on two important divides, these being firstly, between, nature and culture and secondly between the 'westerners' and others.

> *"Whatever they do Westerners being history along with them in the hulls of their caravels and their gunboats, in the cylinders of their telescopes and the pistons of their immunising syringes. They bear this white man's burden sometimes as an exalting challenge, sometimes as a tragedy, but always as a destiny. They do not claim merely that they differ from others as the Sioux differ from the Algonquins, or the Baoules from the Lapps, but that they differ radically, absolutely, to the extent that Westerners can be lined up on one side and all the cultures on the other, since the latter all have in common the fact that they are precisely cultures among others. In Westerners' eyes, the West and the West alone is not a culture, not merely a culture." (Latour 1999:97 cited in Porter, 2010:14)*

The above mentioned isolation both, of nature and others, provides a rationale that enables space to be conceived. Conceived space for Lefebvre (1991:38), is the space of the scientists, planners, urbanists, technocratic sub-dividers and social engineers, which is in thrall to both knowledge and power. Healey (2007:204, cited

in Porter 2010:15) raises a concern and that is the extent to which conceived space has come to penetrate and dominate the way we live today and in so doing reduce space as an analytical category to be explained rather than a lived phenomenon. Much of the work of the colonial era, it could then be interpreted, is to impose (even violently) a conceived space upon the lives of Indigenous peoples. It is submitted by Porter (2010:18), that it is conceived space that constitutes the dominant space of society tied to its relations of production and its production of knowledge.

Conceived space is coded within planning. Indigenous space on the other hand could be regarded as 'lived space' or the 'life story of space' (Soja 2000:11) that encapsulates and embraces the everyday lived experience and expression of the social space. Lefebvre (1991:26) postulates the notion that 'social space is a social product'.

Space becomes, because it becomes something in social terms. It attains names, uses, meanings, structure, activity and value. Space becomes quite literally and figuratively drawn into relations. "Once one begins to describe land to talk about space one is involved in a cultural reality" (Ryan 1996:4 cited in Porter 2010:46). The meaning of space can be very different depending who is doing the naming and what rationality is being applied, not to mention the motives for doing so.

The colonial processes of producing space was done then to suit certain ends, to favour certain people (their cultural lifestyles and economic systems) and planning as a spatial rendering activity developed its own cultural materiality that established and/or reinforced the relations and practices by which the colonial space was produced. Ryan (1996:4 cited in Porter 2010:46) makes the point that the Empire's space is regarded as 'universal, Euclidean and Cartesian' and it is so because producing notions of space in this way allows imperialism to hierarchize the use of space to its own advantage. The colonial spatial way of life – spatial cultures – clashed, coalesced, dissolved and fragmented space to suit particular ends (Maylan, 1995:22; Watson, 2003:396; Mabin and Smit, 1997:195-196). According to Porter (2010:47), spatial cultures are the activities, readings, desires, philosophies, technologies and regulatory methods that the historical record shows actively and materially constructed these colonies. Included in this idea of spatial culture are the

various means and technologies of space production by which Indigenous peoples were encountered and dispossessed (Robson and Oranje, 2012:48-49).

Like all social practices, colonialism should be seen as an interweaving of textual, ideological, semiotic and practical/material work. Land reserved for Indigenous peoples was a form of dispossession and containment that was certainly figuratively constructed as a final solution to the Indigenous problem. People came to live their lives out in them: they became 'spaces' and 'places' (Porter 2010:48).

Dirks (1992) and Stoler (1995) cited in Porter (2010:51), reinforce all of the above by stating that, whilst European sensibilities, theories and perspectives did fundamentally shape the development of the colonial state these also impacted on the allocation of land, land use and the spatial arrangement of activity. Underpinning these activities was the application of a whole raft of economic, cultural (dominant) and political aspirations. According to Dirks and Stoler, colonies were not merely 'sites of exploitation', but they were also 'laboratories of modernity'. The operations of modern land control are embedded in the functioning of territorial and colonial power. (Yiftachel 1996; Yiftachel and Fenster 1997; Alexander and Yiftachel 1997; Jackson 1997 and 1998; Roy 2006; Jacobs 1996 and Porter 2006 as cited in Porter, 2010:51). There is a critical nexus between planning and Indigenous dispossession. Land use planning was the principal instrument of state control of land and therefore of state rule and economic growth. This profound statement has significance in this very day. In 2013 the Minister of Rural Development and Land Reform, at a public meeting held at Dan's Place some twenty kilometres north of Mthatha, unequivocally announced that SPLUMA was the very mechanism that would quite literally, once and for all wrest the land from communal ownership to that of the State. The silence that followed was quite deafening: you could hear the proverbial 'pin drop'. Clearly those present representing the customary constituency were aghast. The comments from the floor were intensely direct and even threatening. It would be fair to state that the nexus referred to earlier remains valid.

The colonial powers regarded the local geography of the colony as a 'blank slate', a 'tabula rasa', a terra nullius over which could be laid a 'new canvas' of settlement and use. The colonies became laboratories (unadulterated primitive lands) where one could carry out controlled tests (Wright 1991, cited in Porter 2010:52; Robson and

Oranje 2012:47). Wachs (1995, cited in Campbell 2012:2) acknowledges that in more recent times, planners have begun to recognise that every act of planning pursues certain human values and that planning is in many ways a series of statements about what we take to be right or wrong and what we take to represent priorities of the society in which the planning is undertaken.

> *"She is referring to the profound changes to the underlying prescriptions about theory and practice of the planning activity which ultimately has a connection to history and context, even a colonial context. The colonial planning venture is bound up in determinism, reductionism, order and predictability (Williams 2013:45)*

Sovereignty in and over territory is also the aspiration of colonialism. Embedded in this pursuit is the concept of property. Private rights in property become so when someone invests labour, thus transforming common property into something else. It is 'labour' that makes a distinction between private property and the common. Locke's theory of property (rights) or theory of rights is rooted in his understanding of the relations between God and man and 'workmanship'. The labourer is making the object into an object; the raw material is provided by God, it becomes an object through labour and thus becomes an object known as property. Thus labour transforms the earthly provision provided for use into manmade objects of use (Tully 1980, cited in Porter 2010:55). According to Locke, who in 1680 wrote, 'Two Treatises on Government', applied logic to the question of property in land as one whereby God gave land to the 'industrious and rational' to be worked for the fulfilment of humanity's self-preservation.

> *"As much land as a man tills, plants, improves, cultivates and can use the product of, so much is his property. He by his labour does, as it were enclose it from the commons"* (Locke1988, cited in Porter 2010:55).

Locke continues by stating that land that was not cultivated was regarded as waste or pure nature. The distinguishing feature then centres around, labour and when labour is applied it becomes private property or rights. Van Wyk (1999:77) describes property as the relationship between a legal subject and the object of his or her right – a thing, particularly a thin which is immovable, namely land. Relationship becomes the critical concern in the form of either ownership of possession or control.

This notion of waste land 'out there' or 'over there' (Robson and Oranje, 2012:47) is a way of seeing space and ultimately forms a basis for a particular rationalisation or

bounded rationality (Forester 1993:74), namely this land out there is 'empty' and waiting to be filled. Emptiness is also the legal fiction upon which colonialism depends. Porter (2010:57) provides an extract of an Act of British Parliament that established the colony of South Australia which reads:

> *"Whereas that part of Australia which lies between the meridians of the 132nd and 141st degrees of east longitude and between the Southern Ocean and 26 degrees of south latitude, together with the Islands adjacent thereto, consists of waste and unoccupied lands which are supposed to be fit for the purpose of colonisation" (Bell and Morell 1928:205).*

Ryan (1996:160) states that James Cook saw Australia as a continent existing in a pure state of nature. Empty land then was waiting for the kind of European labour that could make it productive and yield its value. The colonist attention was drawn to those particular kinds of natural elements and proximities: vegetation becomes free fodder; water-courses become the water supply as well as a means for transportation and grassy plateaus become pasturelands. Those lands then that are seen as lacking in cultivation are waiting for European improvement. This 'improvement' of land then was the hallmark of progress in a colony. Improvement of land was the material expression of imperial authority and cultural sensibility in the colonies and was considered a 'moral duty' as this extract from the New Zealand Parliamentary Debates of 1862 attests:

> *"It is our duty to bring the waste places of the earth into cultivation, to improve and people them. It was the law laid upon our first parents – to be fruitful and multiply, and replenish the earth and subdue it – to restore the wilderness to its original gardenlike condition. In doing this work we are fulfilling our mission." (Banner1999:837 cited in Porter 2010:64).*

Clearly if land was deemed empty then what was the description given to those that inhabited these 'empty' lands? One convenient answer to this rather thorny question was that Indigenous people were too primitive to own land. The writings of the colonist explorers and governors reveals tension between individuals themselves, one moment expressing recognition of, sometimes even respect for Indigenous systems of law, whilst other moments in these same accounts, writing about an empty land.

The contingent and shifting rationalities of colonial moral order-pastoralist, governor, savage, half-cast, squatter, convict, entrepreneur were intensively spatialised (Porter 2010:66-68). There is an intensely similarity here in that the roll out processes of SPLUMA in 2015 in this Province witnessed the denial of the existence of our Xhosa cultural group as a serious stakeholder in their own right. The focus has primarily been on empowering the third sphere of government, namely the local municipal level. Such then must be regarded as a deliberate dispossessory activity by the State whose agent in this instance is the Development of Rural Development and Land Reform.

Cadastral survey was a powerful instrument in land allocation and as a social practice this activity performed two functions. First it enclosed territory as European space and secondly it produced a particular set of knowledge about land. In other words, surveying was the first part of the work of producing abstract space in colonies. This was a culturally constructed act on the part of the coloniser. The construction of maps performed the 're-inscription, enclosure and hierarchisation of space' (Huggan 1989:115 cited in Porter 2010:70) and this became a representation of territorial control, of conquest.

> "Critical re-reading of maps exposes how maps are instead a technique of power, of the power/knowledge nexus, where the authority to represent the world resides in the (colonial) power of producing the map and claiming its truth. Maps helped perform discovery and in doing so helped perform dispossession" (Ryan 1996:102 cited in Porter 2010:70).

Through maps, 'emptiness' is converted into a landscape populated by the kinds of things European spatial cultures can see and hence use. Maps then had meaning only when they were themselves employed within a web of other spatial practices.

## 4.5    Reserving Land for Indigenous Peoples

Reserving land for Indigenous peoples became one of the mainstays of policy practices. Successfully implementing land policy whether by grant or sale, quite literally depended on freeing land of indigenous interests and presence. Land reservation, apart from mass slaughter and frontier violence, provided the most suitable approach. This was a form of social ordering of racialised bodies in a most extreme form which effectively cleared more desirable land of the encumbrance of

Indigenous rights.  One manifestation of this idea was the mission station, staffed by missionaries, funded by churches, implementing the assimilation policies of colonial government.  Assimilation, differently from other practices of dispossession was based in universalist Western Liberal thinking.  It sought to obliterate the cultural differences that Indigeneity represented in the Eurocentric view (Critchett 1980; Clarke and Chance 2003; Hibberd 2006 cited in Porter 2010:74).  Reserves then were a spatial mechanism for containment and regulation of the native problem. In South Africa this took on the form of the Bantustans or homelands (Giliomee and Mbenga, 2007:316-318).

Producing space in settler colonies was the enactment of a politics of dispossession.  Dispossessory activities were the work of erasing the lived space of Indigenous peoples.  Spatial cultures, the knowing, categorisation, seeing and naming of space helped establish a more systematic though always contingent geography of knowledge about a colony (Carter 1987; During 1991; Jackson 1998 cited in Porter 2010:76).  Such spatial cultures in settler colonies were shaped and articulated through these early practices of spatial ordering, or spatial planning, surveying and selection, mapping, renaming, town building and other intricacies of land policy.  Planning is constitutively and culturally colonial (Porter 2010:76; Watson 2009:166; Maylan 1995:22-29) in both the rural and urban setting.

## 4.6   Urban Modernism

According to Watson (2009:174-175), urban modernism involves some or all of the following urban characteristics. Firstly the aesthetic appearance of the modern city is one of spaciousness, uncluttered, efficient, ordered with green spaces offering grand views of state and civic buildings.  Such are clean and do not contain informal activities or the poor.  Secondly there is a tendency to follow a super block concept, with tall buildings, large settlements and low coverage's.  Thirdly there is a dominance of vehicular routes organised into a spatial hierarchy distinctly separate from pedestrian routes.  Attached to this is the assumption that this urban space will experience high car ownership.  These motor vehicle routes, particularly the high ordered ones, are very wide, with large road reserves and setbacks for future expansion.  Intersections and access to such routes are controlled in order to ensure an efficient flow of transport.  Fourthly there is a distinct separation of land use

functions (using zoning regulations) into distinct areas for residence (low – high density), business use, community facilities, commerce and industry.  There are distinct shopping (retail) malls surrounded by acres of parking.  The place of work is quite distinct from the place of residence.  Fifthly spatial organisations, is generally divided up into cells, taking access off higher order transport routes, surrounded by 'buffers' of green space.  Lastly there are different residential densities and distinctly different residential areas largely conforming to affordability levels: the wealthier the family the lower the density, usually organised as one house per erf provided with all the infrastructural engineering and social services.

The spatial arrangement of the modern city is bound up in a legal network of Acts, Ordinances, by-laws, zoning schemes (use rights), building plans, title deeds, lease agreements and bonds to name but a few.  A highly significant aspect of zoning through the control of land use rights is based on a very particular model of land tenure and that is the private ownership of land.  It is therefore also important to note that private ownership is not an indigenous form of land tenure.

These planned urban spaces are the product of a particular spatial design logic seeking to maximise ordered healthy and efficient societies.   Underpinning this concept there exist a land or even land use value to be used by the owner to either profit from speculation or raise capital in order to achieve some other goal in life that requires such financing.  This value also serves another purpose and that is to raise funding for municipal budgeting purposes. The zoning regime helps to protect land owners from devaluation (Fischel, 2004:317).

## 4.7    Recognition of Difference

All of the above is bound up in a dominant discourse which largely has its roots in the colonial endeavour.  The motherland provided the framework and hence planning in settler states is a distinct cultural form.  The domain of planning is one area of many where injustices against indigenous peoples remain.  Planning has produced division in that it is an active cultural agent in space: cultural in the sense that it inhabits particular explanatory schemes, structures of meaning (Porter 2010:151; Watson 2009:173).  Planning, as the ordering and management of space, was the work of the coloniser. Consequently any kind of contemporary planning activity in settler states

must be analytically cognisant of and ethically orientated toward that history – as – present.  A significant part of that spatial rationality we can now see in planning is a separation of natures and cultures, of the realms of material and mental, of the 'raw' to the 'cooked' (Porter 2010:152).   At some point the work of fighting injustice requires a moment of 'rough social equity' (Fraser 1995:90 cited in Porter 2010:154). Without that, if we work for a moment from inside the perspective of state based planning, it is difficult to see how and where the first movement toward a more ethical (post-colonial) practice can be located.  A necessary pre-condition for that to happen must commence with the recognition of the existence of multiple realities which includes in its own right the indigenous domain.

## 4.8    The Rationalities of planning, the State and the law

If planning as an activity is viewed as being largely an action of the State, then such activities must carried out in such a way that is consistent with the law as well as the promotion of it. SPLUMA cannot be viewed as the 'be all and end all'.  How does planning interface with the Constitution, more especially in matters concerning the recognition of past injustices and precisely what this may actually mean?  How does planning add value to the idea that South Africa belongs to all that live in it, united in diversity?  Connected to these important concerns, what about an application to the phrase, 'heal the division of the past and establish a society based on democratic values, social justice and fundamental human rights'?  In terms of rationalities, is there scope for the application of a selective bias?  The Constitution mandates both equality and the promotion of human dignity (Section 9 and 10) whilst Section 30 and 31 refers to the rights of use of language and pursuit of a particular cultural life. Sections 211 and 212, formally recognises the institution of traditional (cultural) leadership and Section 235 refers to the right of self-determination.

In respect of the last point, it becomes important to consider the provisions of the Municipal Systems Act 32 of 2000 (MSA), in which Section 23, in line with Sections 152 and 153 of the Constitution, stipulates that Municipal planning must be developmentally orientated and pursue the systematic and progressive realisation of rights, which must include cultural rights (Section 30 and 31 of the Constitution). Section 16 insists on municipal governance, of which planning is a part, to foster a culture of community participation and create conditions for local communities to

participate. How can this happen if the value systems that the ordinary people subscribe to are deliberately side lined? Section 5 states that communities must contribute to any decision making process. Surely this can only meaningfully be done if peoples' values and elected ways of life are indeed permitted to inform opinion and the decision making processes. Section 17(2) d of the MSA makes it obligatory for municipalities to engage with Traditional authorities. On what basis is this going to happen if those involved in spatial planning either elect to remain uninformed or deliberately avoid such discussions and proceed with the application of knowledge gained outside of the context one is dealing with? Such a stance must constitute a huge breach of trust and undermine the ethical underpinning of this profession.

Matters are made worse when the provisions of the national and provincial TLFGFA's are also side lined by DRD&LR. Does this not constitute an act of prejudice? Such action also impacts on the provisions of the Promotion of Administrative Justice Act (PAJA), wherein any administrative decision/resolution must be arrived at in a fair and equitable manner. It is through the provision of this Act that any would be appellant, can demand access to and obtain copies of all documentation, reports etc. relating to any administrative process or outcome. ECCOGTA has had to do so, on a number of occasions. Clearly the intention is to uncover any omission on the part of the governance body. This Act then demands the application of ethical and moral standards in keeping with provisions of the Constitution or any other relevant legal instrument that underpins all governance processes. Clearly issues of trust, dignity and equality loom large as does the progressive realisation of rights, including cultural rights. It is submitted then that the formulation and application of any policy or rationalisation applied to any application must conform to standards other than those contained in SPLUMA, its regulations and by laws.

## 4.9   The need to unlearn Privilege

Sandercock (1998:4) continues from her statement that in modernist portraits of planning, the hero planning has no fatal flaws. The role of planning and planners is unproblematic and hence it is assumed that planning is a 'good thing', a progressive practice and that its opponents are reactionary, irrational or just plain greedy. It is assumed that planners know or can divine the 'public interest' and it is seen as

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natural and right that planning should be 'solution driven', rather than be attentative to the social construction of space and what are defined as 'urban problems'. There is no application of theories of power/knowledge/control to the domain of planning and there is no scrutiny of the ideology, class, gender or ethnic origins or biases of planners or of the class, gender or ethnic origin of their work. The rise of the profession is rather a cause for celebration rather than critical scrutiny. The urban underclass is still with us and the numbers keep on steadily growing, with migration from our customary rural zone being a 'culprit' (source) in this regard: it would appear that our past exclusionary planning practices had nothing to do with this state of affairs

Planning, according to Sandercock (1998), sits squarely in the modernist tradition – a tradition that equates planning with progress, not just in terms of subject matter, but also in terms of historical method. These histories, she goes on to say, are straight forward chronological accounts, with authors' allegedly impersonal, objective voice being the sole point of view. Mostly these accounts are written from inside the profession and she goes on to say that there is an obvious collective self-justification motive at work. What then of the community building tradition (planning from below) that is essentially a description of the Xhosa cultural pursuit? Could it be that the story of community building is not one that glorifies the roles of the planning profession? On the contrary, it is a story that demonstrates the capacities of ordinary people to plan on their own behalf in spite of the forces of exclusion, discrimination and marginalisation that has characterised professional planning practice and urban politics for most of the 20th Century (Sandercock 1998:10). The mainstream accounts of planning history have systematically excluded or reduced probable alternatives. In the context of culture, the resurgence of cultural dynamics, mentioned in this thesis, is an example of processes of recovery, what Joan Kelly 1987 (Sandercock 1998:3) has called, compensatory histories.

Given the theoretical starting point, that planning is a function of the State (SPLUMA), that the State is a capitalist one and that in the end every aspect of planning inevitably serves the needs of capital, then every idea and action of planners must be interpreted as 'system maintaining'. How we define planning then will determine our history or is it actually going to systematically be how others begin

to define our ineffectiveness for us?  There are serious credibility issues at stake. If the activities of planning effectively serve the interests of less and less people e.g. only the elite then I believe we have major problems going into the future, more especially if we are to assume critical roles in the sustainability agenda. I concur with Sandercock (1998:20) when she makes the claim that we need to be ever vigilant at how we as planners make sense of the world and more especially when formulating a trajectory in the future.  She insists that we need a range of theories at our disposal and an open mind concerning their usefulness.

> *"We need theories of space and of place; theories of the State and the role of planning within the state apparatus; theories of power and knowledge; theories of gender and race equalities; theories of bodies as social constructions and so on.  The list can never be complete, or completed for two reasons.  First because each new generation rewrites history according to its own interests and issues, choosing the lens or lenses that seem most appropriate at the time.  Second, because the boundaries we draw around the object of planning history are determined in the first place by how we define planning"* *(Sandercock 1998:20).*

In the light of this, is the first logical step then to pursue a discourse of homogenisation and exclusion? Coupled to this is it appropriate to continue to separate the social rationalities from the physical domain, even in situations where the social rationality does not agree with our particular perspective?  In short, it makes no sense at all and stemming from this, we need to have the honesty and integrity to acknowledge our shortcomings.  Pretence will sooner or later catch us up.

> *"If modernist planning relies on and builds up the state, then it's necessary counteragent is a mode of planning that addresses the formations of insurgent citizenship"* *(Holston 1998 cited in Sandercock 1998:21).*

In this context, I refer to the last bastions of Xhosa cultural land, its specific rationalities of occupation and the multi-dimensional space these communities refer to as home. It is indeed high time that we as planners begin to make the invisible visible.

This Province is a multicultural space and such cannot be imagined without a belief in inclusive democracy and the continual application of the principles of social and spatial justice. This, according to Sandercock (1998:30), presupposes a good understanding of the exclusionary effects of both past and even current planning

practices and ideologies. We as planners require a knowledge of multiple histories of our communities, especially those that intersect with struggles over space, space retention and time. This requires a very particularly knowledge of the planning policies that have and continue to reduce the alternative prospects of living, belonging and identity. Planning as an activity needs to accept difference. Planning too must begin to earnestly pursue a development trajectory that demonstrates integrity. Such a pursuit can only be reasonably conceived if it seriously embraces justice, social and spatial. The application of the rationality of the Xhosa people is the only starting point. In order to realise this objective, we need to pursue a knowledge and history, embedded in that culture. Without this, there will be no discourse in sustainability, more especially if we share the view expressed in this thesis that culture is the fourth pillar of sustainability: social cohesion is therefore a critical condition. The rationality of planning needs to be consistent with all these concerns. Culture is the principle informant. All cultures have the right to be pursued and it is therefore inappropriate to continue to privilege one over another.

## 4.10 Culturally sensitive planning rationalities

Much of this section does begin to address a number of issues raised by Porter in her references to the colonial endeavours and the impact this had on the practice of planning. Sandercock's work is framed on the recognition and celebration of diversity in a way that proffers a politics of difference in which identity is a critical component. She has, as alluded to in the previous sections, challenged planning theory by insisting that there is more than one, rationality out there that has validity. Diversity and difference means precisely that. She goes on further to suggest that this starts by expanding the political horizons of planning (Sandercock, 2004:134). She is extremely critical of the idea that planning is merely a technical activity able to stand outside politics. She regards such a divide as a dangerous one in that it allows the myths of objectivity, value neutrality and technical reason to persist, which creates certain delusions of planning. In her view such a state is not useful. The planning culture, that arises from these ideas of neutrality, and the reliance on technical reasoning need to change (Sandercock, 2004:141). The challenges posed by multicultural, multi-ethnic cities and regions force us to see ourselves from outside, to realise that what we thought was acceptable are in fact highly particular and socially

learned modes of thought that have accumulated over time (Healey, 2003:245 as cited in Sandercock, 2004:141). It follows that we need to develop a new imagination, a new planning culture that comfortably embraces difference and the journey to finding ways of bridging these differences (Sandercock, 2004:141). Put another way, planning as an activity must serve and no longer be served. Planning must support or give effect to other rationalities.

Oranje (2003) and Harrison (2006:39) both point out that over the last two decades there have been significant shifts in the planning debate involving various strands of critical social theory.  The emphasis has been an intellectual shift away from the idea that planning is the product of the technical reasoning of the expert, to a product which embraces multiple actors and is the outcome of dialogue.  Oranje (2003) emphasises the rise of a perceived need for greater sensitivity toward diversity, a respect for difference and an appreciation for local ways of knowing and doing.

Communicative action theory posits the view that planning decisions should be reached through collaborative processes directly involving the stakeholders in a manner that is fair, equal and empowering (Watson, 2003:397). Notwithstanding embracing these principles, Healey (1992:152, cited in Watson, 2003:398), also acknowledges that communicating groups will operate within different systems of meaning which means that we see things differently because word, phrases, expressions, objects are interpreted according to different frames of reference.

Culture is a continually re-shaped product of the social processes through which systems of meaning and modes of thought are generated.  Cultures provide vocabularies through which we express what we think and feel. They shape our thoughts and feelings and our sense of ourselves and our identities (Healey, 2006:64).  Healey (2006:64) goes on to say that culture provides the symbolic structures, in metaphors and rules of rights and responsibilities which arrange relationships within a social group.  Culture provides a store of discursive resources, myths, story lines, rituals and routines.  Culture provides ways of thinking which influences the way of acting. We are constituted through our culture. Culture embeds all of social life.  The challenge is also to appreciate the cultural situatedness of our knowledge and actions that stem from this baseline. The challenge then is to make sense of all the different claims that arise from different relational webs or networks.

In this context the mobilisation of meaning is a critical activity (Healey, 2006:67). The second and third chapters of this thesis are an attempt to embrace this process of mobilisation of meaning in that we need, as planners, to understand a different frame of reference.

These new meanings must inform the policy imperatives for any land use management system. Relevance can only be found in the actual "as lived" or situatedness of the specific context. Anything outside of this is strange, even foreign and hence anything that falls into this description is most likely to be rejected. Thus this act of activities are referred to as collaborative planning which seeks to identify and understand the relational nature of planning and place making. This involves consensus building, mediated negotiations, constructing a new shared discourse and generally engaging in the networks of human interaction within formal and informal contexts (Healey, 1997, 1998, 2000, 2003; Innes, 1995, as cited in Harrison 2006:321).

Linked to Healey's work is that of Forester, whose contribution, Harrison (2006:321), describes as being a more pragmatic brand of communicative planning theory. According to Harrison, Forester directs attention to the deliberative nature of policy making and planning which emphasises practical wisdom, political judgement, moral vision and emotional sensitivity in the context of social diversity.

The just city approach builds on the above by insisting that planning rationalities pursue an explicit moral agenda (Harrison, 2006:321). This concept is developed further in the next chapter as SPLUMA has identified spatial justice as one of its development objectives. Notwithstanding, the concept of justice is in my view particularly relevant given the context and history of this rural part of the Province. I believe too, such a stand point is consistent with the ideas of moral visioning as expressed above. Fainstein (2005:5) links diversity with justice. This is premised on the notion that space, particularly urban space, is occupied by many communities, groups and interest groups, which must be allowed equal rights to city space and in so doing, the city and its development provides joy.

> *"Rational planners have been obsessed with controlling how and when and which people use public as well as private space. Meanwhile ordinary people continue to find creative ways of appropriating spaces and creating places in spite of planning, to fulfil*

*their desires as well as their needs, to tend the spirits as well as take care of the rent"*
*(Sandercock, 2003:406, cited in Fainstein, 2005:5).*

The above is not without its critics in that for instance, the above does not address the issues of power when it comes to matters of relationships. Foucault's concept of real – life rationality shows how choices are actually constructed and defended within certain constructs of power and in so doing undermines the prospect of pursuing an idealised normative rationality (Harrison, 2006:322). Power and resistance cannot be separated (Massey, 2014:1). Flyvbjerg (1998:228) cited in Harrison (2006:322) works to expose the real life dynamics of use of strategies in situations of conflict and struggle. Such has in turn provoked a reaction from communicative theorists with Forester (2004:243, cited in Harrison, 2006:322) insisting that there should be no analysis of power without an analysis of hope.

Planning theory then is a contested and dynamic arena which has moved from the application of science to nature and society. The embrace of modernism with its implicit idealism is systematically been eroded as when viewed from below, the application of such is nothing more than the imposition of a particularised vision masquerading as the public interest (Fainstein, 2005:7). She goes on to suggest any mention of justice requires the nurturing of multiple capacities (Fainstein, 2005:9). In line with these sentiments, Watson (cited in Harrison, 2006:322), warns of the limitations of the application of planning theory in a world that is bound up in informalisation, kinship and other networks, survival strategies, where state authority is weak, fragmented civil society (along ethnic lines) and there are complex interests between modernity and traditional society. Interestingly she also argues that these theories assume levels of state control that simply do not exist in Africa and nor do these theories connect with survival strategies of poor households, which often require spatial mobility which in turn may be seriously constrained by the spatial fix desired by planners (Harrison, 2006:323). Rather then, than seeing Africa as a failure concerning the prescripts of modernity or even incomplete in this regard, there is now an important opportunity to develop something new, that is distinct from Western modernity. We have the opportunity to develop a new imagination by constructing a new image and discovering new ways of knowing the other and the space the other occupies.

Oranje (2003:2) regards the dynamics of these potential changes as something positive in that such changes present an ideal opportunity for a planning system to be developed that actually has meaning to the people of this country. It follows then that this will involve the pursuit of multiple rationalities, embracing different standards and modes of reasoning that will be derived from various cultural traditions. Hanchard (2001, cited in Harrison, 2006:324) defines Afro-modernity as a:

> *"…selective incorporation of, technologies, discourses and institutions of the modern West within the cultural and political practices of African derived peoples to create a form of relatively autonomous modernity distinct from its counterparts of Western Europe and North America."*

Such, according to Hanchard (2001:274 cited in Harrison 2006:324), is built in innovation, something similar to that which Sandercock refers to as embracing an ethos of audacious planning practice, one that is prepared to break the rules, expand the creative capacities and develop a more therapeutic approach to urban development (Sandercock, 2004:136-141). Such then would involve the deliberate activity of discovering unheard and unexpected forms of knowledge which in turn would make possible another form of thinking (Mignolo, 2000, cited in Harrison 2006:324). Harrison goes on to state that the rationalities of planning have, since the colonial period, overruled many logics of place making, leaving many socio-spatial practices either hidden or labelled as illegal or informal. At the same time the application of these rationalities have suppressed or denigrated forms of knowledge that were inconsistent with the logic of technical modes of thinking. The challenge is to engage in activities that cross borders and in so doing create connections and new awareness of another logic or reasoning that is capable of creating place or even labelling space. Harrison, (2006:331-332), describes this border, thinking as transversal rationality. This assumes a capacity to not only learn of alternative ways of seeing and thinking, but also fosters a capacity to produce new and creative fusions. What is also of critical importance is the idea that throughout these processes one engages in a process of reconciliation. Dialogue then is critical and implicit in this concept, is developing the art of hearing and enquiring, asking the right questions. These actions, according to Harrison (2006:333), form a part of an ethical deliberation, bound up in context.

## 4.11 Concluding Remarks

Planning rationalities then have, at least in a theoretical sense, developed to embrace the realities of the 21$^{st}$ Century. There is still a long way to go, more especially in the context of this Province and its customary rural domain. Much of the theory provides principle, the how is yet to be worked through. Knowing and understanding other rationalities as opposed to clinging to existing normative theory is a very useful starting point. It is also submitted that understanding the logic that underpins such rationalities is of equal importance, as is learning of the outcomes as experienced over time by the local constituency. A central point of departure should always be one that insists on adding value to these rationalities without infringing on other cultural sensitivities. This however is only one part of the equation, so to speak.

It was stated in an earlier part of this chapter that there is a real possibility that there may be serious limitations concerning the actual theoretical knowledge that planners have. Different planning schools have different approaches and prepare their students accordingly. This has implications on the ground. I have, as previously stated, engaged planners across the length and breadth of this Province spanning a host of different situations. I have certainly engaged many in the SPLUMA development processes and it is clear that in matters of culture, custom and alternative ways of doing things, there are barriers. Planners are simply unaware. Put another way, we now face unintended consequences stemming from this theoretical knowledge gap. It is one thing to note the existence of theory that encourages and indeed promotes the discovery of alternative rationalities, it is quite another to realise that those who have been exposed to such knowledge are almost non-existent. This realisation has been reinforced in our provincial deliberations concerning the future of our provincial planning legislation. What has not diminished in all these discourses is the reliance on the traditional technical approach to the application of the planning project. This matter is being raised because it may have a bearing on the answer to the question that I am attempting to answer in this thesis, concerning the type and hence application of a land use management system to our customary rural zone.

CHAPTER 5

## 5. In Pursuit of Social Justice or Social Injustice

### 5.1 Introduction

The sojourn into the history and context of the Eastern Cape is a critical component of the exploratory journey into the idea of spatial justice. Certainly such history embracing policy, law, human activity, ideas and ideologies have in a diffuse way left their mark on the geographic landscape we refer to as the Eastern Cape. A critical spatial perspective of some sort is becoming increasing relevant to understanding the contemporary condition of this local space.

From a local to a regional urban or rural context, a new spatial consciousness is entering the debate involving many key issues such as human rights, social inclusion and exclusion, democracy, citizenship, poverty, racism, culture, economic growth or deprivation and environmental policy (Soja 2010:15).

> *"It is over time that we… create our collective selves, construct the societies and cultures, polities and economies within which our individual experiences are expressed and inscribed. Time and its socially produced outcome, history, almost self-evidently define human development and change, create problems and solutions, motivate, complicate, expand and eventually extinguish our being. Although only under conditions given to us from the past, we make our histories, transform society, move from tradition to modernity, produce justice and injustice as social attributes and so much more" (Soja 2010:15-16).*

Space then is a product of human activity which is embedded in some or another form of culture and more especially what that culture regards as important. Resources and power are also important facets of this idea, as are the negative counter parts i.e. the lack of resources and the lack of power brought about by, for example, the wilful and deliberate manipulation of law and even its application.

### 5.2 In Search of a Just City: an Interpretation

The search for a just city begins by understanding the dynamics that have shaped space. It may begin by extrapolating the existence of injustices and such injustices may hinge around violence, insecurity, exploitation, poverty as well as the unequal

access to social, cultural, political and economic capital that emerge from both contested and seemingly uncontested origins. The idea of spatial justice is by its very nature a contested one (Connolly and Steil 2011:1) and so this begs the question as to what then is justice?

Socrates, in Plato's "The Republic" argues that the qualities of justice are more easily discernible in the actions of the State and the distribution of power used to enable citizenry to realise a just life (Connolly and Steil 2011:2)

Rawls' "A Theory of Justice" (1971) and his idea of the "original position" in which individuals choose principles of justice from behind a "veil of ignorance" on the other hand emphasizes the value of equality and liberty. He argues that everyone has an equal right to basic liberties and that these should be distributed to benefit the least advantaged. Rawls also refers to the classical analysis of "primary goods" and these include not only income, but also other general purpose means, apart from rights and liberties, but also opportunity, income, wealth and the social basis of self-respect (Sen 2001:72). A person, Rawls argues, has to take responsibility for his or her own preferences.

Sen, on the other hand, builds on the idea of a "social contract theory" of liberal philosophy to emphasis certain capabilities and the precursor to this then is embedded in both freedom and the dynamics of development. The greater the possibility of the development of the individual and the society in which he or she finds him or herself, the greater the prospect for freedom and hence prospect of further development and so the cycle continues. Society then lays the framework around which the individual may prosper (2001:73).

> "An alternative to focussing on means of good living is to concentrate on the "actual living" that people manage to achieve (or going beyond that); on the "freedom" to achieve actual livings that one can have reason to value" (Sen 2001:73).

Sen is however criticised in that the capabilities approach largely treats individuals as abstract, universal, atomistic actors dis-embedded from their social relations and historical and spatial specificities. (Connolly and Steil 2011:3).

Rawls is also criticised for paying inefficient attention to social differences resulting from non-material causes as well as society itself in that this is not just about the

individual, but also about community and relationship nurtured in such communities (Fainstein 2011:25).  Such as may be found in our deep customary rural zone of the Eastern Cape (Bennett 1999:1-8).

The Habermasian approach of communicative rationality cannot operate in a situation where people are ignorant of their interests.  The ideal speech situation and concepts of deliberative democracy, according to Fainstein (2011:27), have resonated with both the concept of justice as well as planning theory.  Habermas's thought brings into play the concepts of truth telling, democracy and rationality and is so doing the discourse that embraces these ideas will enable any participants to arrive at a "just decision", presumably through a consensus driven process.

Some writers, disturbed by the deracinated universalism of theories of justice, argue for local ideals of justice, sensitive to cultural and geographic differences or peculiarities (Harvey and Potter 2011:40).  There appear to be no easy all-encompassing answer.

Harvey and Potter go on to say that perhaps we stare frustratingly into a mirror and ask the question, "which is the most just theory of justice of all?"  They go on to suggest that perhaps "Thrasymachus might be right, justice is simply whatever the ruling class want it to be." A look at the history of juris-prudence and of judicial decision and how these have evolved in relation to political power, it becomes difficult to deny that such ideals of justice and practices of political power have marched along very much hand in hand (Harvey and Potter 2011:41).

Given the real possibility of engaging in the realm of hopelessness i.e. continuing in ever decreasing or increasing circles, a way through the impasse is to perhaps shift away from abstract universals and rather focus on the relationship of the concept of rights and of justice to social processes.  According to Harvey and Potter, the dominant social process at work is the world clusters around two dominant logics of power:  that of the territorial state and that of capital.  Certainly in the context of the social history of the Eastern Cape, there was a definitive collusion between these two logics of power.

In a constitutional, human rights context, the State would be bound to uphold the integrity of the rights as enshrined in the preamble and provisions of the constitution

of that territory. In such instances it would be reasonable to assume that a measure of justice was indeed being administered. Where the State has no universal rights based constitution, as was the case of South Africa at the time of the colonial, union and apartheid eras, then the idea of justice being served becomes defunct. The constitution and related legislation then is an important feature of any possibility of rendering justice: having said that however the State, with its monopoly over legitimate forms of violence, can define its own bundle of rights and interpretations of rights, and be only loosely bound by international agreements and conventions. Such practices could well continue until appropriate resources could be accessed in order to discontinue or reverse such processes.

Urban and rural rights and justice then are mediated by the spatial organisation of political powers and the will to give effect to the dictates of justice.

> *"Patterns of urban administration, policing and regulation are all embedded in a system of governance that allows for the playing out of multiple interests in the murky corridors of urban politics and through the labyrinthine channels of urban bureaucracy and administration. Certain rights are coded within these systems, but other are simply denied, or more likely, rendered so opaque by bureaucratic fudging as to be meaningless" (Harvey and Potter 2011:42).*

Urban citizenship (the right of immigrants, transients and strangers to participate in local politics) is in this day and age of mass migration becoming an even murkier zone. In the context of this Province, there is always the important dynamics of in and out migration and informal settlement.

The capitalistic logic of power on the other hand is based on private property, individual ownership and the market. To live in a capitalist society is to accept or submit to a bundle of rights designed to accumulate goods (property) and market exchange. The State is supposed to act as guarantor of these rights. In reality the right to property and profit tend to trump most other rights. This in turn has potentially disastrous consequences in that unbridled capital accumulation and so called economic growth (beneficiating fewer and fewer members of society) can have disastrous social, ecological and political consequences. Margret Thatcher is reputedly have said when asked to comment on neoliberal values, "there is no such thing as society, only individuals and their families" (Harvey and Potter 2011:44).

Fainstein (2001:884) also reminds us that much of the existing literature on urban economic development and competitiveness finds a tendency toward greater segmentation, social exclusions and inequality as a consequence of economic growth and urban competition. Clement (2013:10) concurs when he states that social policy is being subordinated to economic policy in the context of spatial injustice and the crisis driven neoliberal restructuring of Detroit in the USA.

Clearly both centres of power i.e. the State and the market have limitations. Today's cities are marked and marred by increasing levels of inequality, alienation and injustice. The bundle of rights and freedoms available to us and the social processes by which these are being embedded need to be challenged and carefully considered. In the context of the Eastern Cape rural area, provisions need to be made and policy formulated to guard against the excesses of either end of the power arena in as much as these may be impact on prevailing social processes. In this regard then there is an obligation from both centres of power to uphold the legitimate concerns of difference, more especially difference of culture and identity. Neither centre of power has the right to imposition, domination or subjugation.

The bundle of rights and freedoms that stem from the Constitution needs to be reflected in other law and policy which includes provincial planning policy and planning law. Suffice to say there is always the inherent possibility that the "trickle down" of principles pertaining to rights can get lost in the final layering of application in the space on the ground.

## 5.3 Spatiality and Justice: The Right to the City and the Right to the Customary Rural Zone

The city and rural region can be judged and understood only in relation to what I, you, me and they desire. If those spaces do not accord with those desires then such must be changed. The right to the city: "cannot be conceived of as a simple visiting right… it can only be formulated as a transformed and renewed right to urban life" (Lefebvre et al 1996:158, cited in Harvey and Potter 2011:45). It is not simply the right of property owners, but all who live in the city. The right to the city: "does not imply a clean and quaint city where the good citizens mingle on the streets, crowding its beautiful parks and living happily ever after" (Dikec 2011:74). On the contrary, as

Lefebvre (1996:195, cited in Dikec 2011:74) argues, "It does not abolish confrontations and struggles."  In this context Lefebvre is merely raising an important concern in that these confrontations are really about the need to articulate specific urban needs and associated exchanges of ideas.  Freedom to the city then is more than the right of access to what already exists:  it is a right to change it more after our hearts desire.  The same may be said of the rural zone.  Harvey and Potter (2011:45) suggest that the freedom to make and re-make ourselves and our cities is one of the most precious of all human rights.  If we find ourselves living lives that are too stressful, alienating or just plain uncomfortable and unrewarding then we have the right to change course and seek to re-make ourselves in another image by constructing a different kind of city, one that is more consistent with these prevailing desires, including customary worldviews.

Dikec (2011:74) suggests that in all of the above there is both an appeal and critique.  The appeal points to the need to reclaim the right to the city.  The critique, on the other hand, stems from Lefebvre's denouncement of the welfare capitalist society as the "bureaucratic society of organised consumption", where needs are created and institutionalised, where exchange value of urban space is prioritised over its use value.  This was a critique, in the context of the 1960's and 1970's when functionalist and technocratic urbanisation processes were under severe criticism for eradicating urbanity and depriving urban dwellers of places of social encounter through the rational ordering of urban space.  In the context of our Eastern Cape rural zone, the previous chapter has also highlighted the disastrous consequences of the application of power through a reductionist rationality brought by very particular interests.

According to Dikec (2011:75), Lefebvre was deeply concerned about the prevailing dynamics that had begun to permeate the city building processes.  The nineteenth century witnesses the development and deployment of industrial capitalism and the rise of the modern nation state.  Throughout the course of the twentieth century capitalism began to dominate all areas of social life and society was turned into a "bureaucratic society of controlled consumption" (Lefebvre, 1993 cited in Dikec, 2011:74).  Not only was consumption controlled, but the spaces of the society and the production as well, with the city being the site where these powers were more intensely at work.  It is in this context that Lefebvre's concerns can be seen as a

political project to rescue individuals from oppressive and homogenizing processes by asserting their right to the city. "The individual does not disappear in the midst of the social effects caused by the pressures of the masses, but is instead affirmed", Lefebvre would write: "Certain rights come to light" (Lefebvre 1993 cited in Dikec 2011:74).

In the context of the Eastern Cape these same dynamics of imposition were felt throughout the length and breadth of Xhosaland. One may legitimately argue that in the attempt to create a society of controlled consumption, the reduction of the Xhosa people to a docile source of cheap labour was a critical step in achieving such a state. The cost of the outputs of production, were a critical variable in the consumption endeavour. The Xhosa were oppressed and indeed depersonalised and homogenised into a factor of production, nothing more and nothing less. Every facet of Xhosa being, culture and identity was reduced and repositioned in localities (spaces) that were reserves for labour (abuse). The homeland idea was not about the preservation of Xhosa culture and identity. If this were the case, then Xhosa leadership would not have been tampered with and secondly Xhosa space would not have been violated through the imposition of betterment and the mass removal of people, an estimated 1.2 million. The homeland idea was first and foremost an imposition to protect and further the racist and labour policies of both the colonialist and apartheid regimes in collusion with capitalist interests. The Xhosa were forced into subjugation. They had no say in the matter and resistance was often met with extreme state sanctioned brutality: such fits in well with the ideas of absolute, applied ethnocentricity, alienation, estrangement and cultural dispossession. Even the laws that provided the "legitimacy" for such actions were written in a foreign language.

> "The right to the city, complimented by the right to difference and the right to information, should modify, concretize and make more practical the rights of the citizen as an urban dweller (citadin) and use of multiple services. It would affirm, on the one hand, the rights of users to make known their ideas on the space and time of their activities in the urban area; it would also cover the right to the use of the center, a privileged place, instead of being dispersed and stuck into ghettos (for workers, immigrants, the 'marginal' and even for the "privileged")" (Lefebvre 1986 cited in Dikec 2011:75.

The right to the city then implies the active participation of all the city's inhabitants in political life, management and the administration of the city. Critically the

achievement of these rights, according to Lefebvre (1986), supports the transformation of the society, of time and space. This idea of transformation was the critical idea presented at the onset of this chapter and hence Lefebvre's ideas add value to this all important concern in this Province. However before venturing further into such a discourse it is necessary to examine Lefebvre's ideas a little more.

The right to the city entails not all right to be distributed from above individual, but a way of activity and collectively relating to the political life of the city. The urban zone would then consist of "a civil society founded not on abstraction, but on space and time as lived" (Lefebvre 1986 emphasis added, as cited in Dikec 2011:76). "As lived" is the critical notion. The right to the city is therefore not just a participatory right, but considerably more importantly, it is an "enabling right". Urban citizenship therefore does not refer to a legal status, but a form of identification with the city, to an identity, both social and hence political. The systematic construction of these then enables the right to difference. The rural zone seeks nothing else. The village space is a space that is "as lived".

The right to difference, Lefebvre wrote, is "the right not to be classified forcibly into categories which have been determined by the necessarily homogenizing powers" (1976 as cited in Dikec 2011:76). This then fits in with the ideas of "as lived", enablement, identity retention and construction, including support and difference. Another translation of Lefebvre's work in this regard may better mean the right to resist struggle. Criticizing the marginalisation of certain groups through identities imposed upon them or through the use of identities that they associate themselves with and then trying to develop a "politics of identity" in the name of those "differences" to resist such processes is simply to accept and remain trapped in the already established categories. The colonial and apartheid regimes embraced the politics of identity by using both categorisation, informally (the "other") and formerly (reserves/bantustan) and reductionism (objectification).

For Lefebvre particularities (another way of expressing difference) exist naturally, but then become difference in the modern world. The right to difference is, according to Lefebvre, the basis and source of other concrete rights which could "be fully affirmed only beyond the written and the prescribed, in a practice recognised as the basis of

social relations. Differentialism is about living, not thinking, but being differently" (1970:45 and 186, cited in Dikec 2011:77).

It follows then that the right that Lefebvre conceptualises are established through lived experience and social relations. Consider the earlier reference to Bennett and the right of association as being consistent with this idea. Existing social relations as well as the possibilities to differ would lead to new ways of life as lived, even if this is different: in fact even more so precisely because of this fundamental characteristic. It would constitute an injustice if life as lived, together with a set of social relations were either negated or reduced. This is also a critical idea.

In this sense, rights as envisaged by Lefebvre become:

> *"…more of a claim upon than a possession held against the world. It becomes a claim upon society for the resources necessary to meet the basic needs and interests of members rather than a kind of property some possess and others do not… in terms of rights to the city and rights to political participation, right becomes conceived as an aspect of social relatedness rather than an inherent and natural property of individuals"* *(Holston and Appadurai 1996:197 cited in Dikec 2011:77).*

SPLUMA makes direct references to spatial justice. Any serious engagement with this idea must embrace the idea of social justice and the issue of rights as clearly articulated above. Spatial justice is being conceived as a development principle in the spatial planning discourse and therefore in order to apply this idea, there is a need to examine what this may mean in any and all contexts in which it is to be applied, and more especially in our customary rural context.

## 5.4    A Conceptualisation of Spatial Justice

Harvey (Soja 2010:85) defined territorial justice as a socially just distribution that is justly arrived at. Achieving justice was seen as an intrinsically geographic problem, a challenge to design a form of spatial organisation which maximises the prospects of the least fortunate region.

Bleddyn Davies (1968 cited in Soja 2010:85), in developing an approach to territorial justice, defined several principles of social justice as they apply to a geographical context. The first is that the organisation of space should meet the needs of people. To measure this is to examine the resources allocated and who benefits from such

allocations including what special attention is being given to redress inequalities in the environmental and social realms. The next set of principles then centres around, the issues of benefication and redress or more especially where the actual focus is. In the urban context, Harvey has boldly argued that the normal workings of the urban system tend toward a redistribution of real income in favour of the rich and more politically powerful. In other words, normal urban functioning makes the rich richer and the poor poorer (Soja 2010:86), relatively speaking, that is.

Dikec (2011:77-78) points to the great lesson that industrial capitalists learned from the grand strike of July 1969 in Turin. The 600 000 workers, united in Turin, were not only exploited in their factory space, but also in the city as well as a consequence of the logic of the capitalist mode of accumulation. Exploitation was produced and reproduced by social relations of power established under the capitalist production system, while spatial domination was produced and reproduced by the spatial logic of capitalism thereby contributing to the domination of one social group over another. Injustice was at once socially and spatially manifest and above all was produced in both social and spatial terms. In other words, the social condition presuppose the spatial and these spatial dynamics in turn inform the social, even reinforcing and all inequalities that exist. This is then a dynamic process. It is equally critical in the rural space.

> *"I do not mean to substitute spatial justice for the more familiar notion of social justice, but rather to bring out more clearly the potentially powerful yet often obscured spatiality of all aspects of social life and to open up in this spatialised society (and historically) more effective ways to change the world for the better through spatially conscious practices and politics" (Soja 2000:352 cited in Dikec 2011:78).*

Dikec (2011:78-79) goes on to say that justice then has a spatial dimension to it. There exist therefore, spatiality of injustice which range from physical/locational aspects to more abstract spaces of social and economic relationships that sustain the production of injustice and the injustice of spatiality in which there exist the elimination of political and social resources. This implies that there exist structures that have the capacity to produce and reproduce injustice through space. Form and the processes that produce this cannot be separated.

> *"(Social) space is not a thing among other things, nor a product among other products… it is the outcome of a sequence and set of operations and thus cannot be reduced to the*

> *rank of simple object... itself the outcome of past actions, social space is what permits*
> *fresh actions to occur, while suggesting other and prohibiting yet others" (Lefebvre*
> *1991:73 cited in Dikec 2011:79).*

Zoning is potentially a case in point. Zoning both labels and compartmentalises space. Attached to both are variable conditions that simultaneously restrict and permit social activity. Zoning is also the outcome of a social process and depending on a particular perspective may be regarded as exclusionary and hence may be regarded as a space which constitutes a "spatiality of injustice".

Dikec (2011:79) then regards the focus on the processes that produce space as being a critical point of departure.

> *"The basic features of the dialectical formulation I propose to consider in the relationship*
> *between injustice and spatiality are therefore as follows:*
>
> > *a. focusing on spatiality as a process; as a producer and reproducer of; at the*
> > *same time being produced and reproduced by, relatively stable structures*
> > *(permanence's);*
> >
> > *b. recognising the inter-relatedness of injustice and spatiality as producing,*
> > *reproducing and sustaining each other through a mediation of larger*
> > *permanence's that give rise to both of them" (Dikec 2011:79).*

There are processes that create space and there are those processes that maintain it.

In the context of the above then spatial justice is a critique of systematic exclusion, domination and oppression. It is a critique aimed at cultivating new sensibilities that would identify and articulate those actions that embed injustice in space and spatial dynamics. The pursuit of spatial justice then also becomes a journey into identifying both sources and resources that perpetuate injustice.

In the South African context, the act of claiming back space (restitution) is regarded as an act of restoring justice. This then could be regarded as a process of restoration following a process of dispossession and the maintenance thereof through domination, law and force. Implicit in this idea of transformation is then the idea of restoration.

Restoration is not only about returning land to its original occupants, but concomitant with this is the idea of restoring dignity and the right to make choices about how people live. This becomes a multi-faceted process involving claims against injustices, the right to heal and the right to a future determined by a people who elect to pursue a distinctive lifestyle and worldview, premised on "Ubuntu" and a moral economy. The pursuit of such a culture then, rightly defies all or selected aspects (values) of Western hegemony and its dominant feature or attribute commonly referred to as the city or urban zone, more especially when such a geographic zone is built solely or predominantly on the prevailing market and related economic rationalities. This is compounded further by the lack of inclusive development in the city where the relationship between international and local elites with complimentary interests have resulted in the capture of wealth and property (Maricato 2011:198) as is typically found in Latin American countries.

In the context of Latin America, Maricato (2011:199) also regards elites as both oligarchic and patrimonial. Patrimonial or clientelism has, according to Maricato, the following characteristics: (1) personal relationship and exchange of political favours are central to public administrations; (2) the public sphere is regarded as something private and personal and (3) there is a direct relationship between patrimonial property, political power and economic power and in such contexts the application of law is unpredictable and hence inconsistent when dominant interests are at stake.

The above then begins to open up this discourse concerning more modern trends (processes) of social and spatial injustice. It was mentioned in the previous chapter that law and its application is a dominant feature of the modern state. When breaking the law however (illegal occupation) becomes the norm and the norm (respecting urban laws) becomes the exception, there arises tension and arbitrary application of power is enforcing the law, both is court decisions and in urban management.

According to Maricato (2011:199), when the law is enforced according to specific circumstances and provides differential treatment to different social classes, it is then being used to maintain differential political relations of submission. In the case of Latin America, most of the population in the urban zone that lives in illegal conditions remains dependent on personal relationships based on the exchange of favours.

The maintenance of political power, or maintenance of dependence and submission, is the cause of perpetuating a complex pattern of law enforcement. At least two forms of injustice occur and these are, firstly, laws are created that are virtually impossible to comply with as these fly in the face of the realities that poor communities are faced with in attempting to secure livelihoods and secondly a tenuous law enforcement regime is underpinned by corruption and hence all manner of practices associated with this. Ultimately such a situation must give rise to instability and therefore impact upon and hence undermine social security. Social security is implicitly bound up in a relationship with human rights. This relationship, according to Dersso (2008:3), is characterised as both complimentary and interdependent. The definition in the African Union Non-Aggression and Common Defence Pact reads that "human security means the security of the individual with respect to the satisfaction of the basic needs of life; it also encompasses the creation of the social, political, economic, military, environmental and cultural conditions necessary for the survival, livelihood and dignity of the individual". This continues to say that human security constitutes a "vital core of all human lives in ways that enhance human freedoms and human fulfilment" (Commission on Human Security 2003:4 cited in Dersso 2008:3). A lack of security will perpetuate an appetite for violence, as mentioned in the previous chapter. South Africa is no different from Latin America in this regard. The processes that initiate and hence create such space (exclusion, discrimination, domination, manipulation etc.) are the very ones that maintain it, with the law being the final cog in this wheel of perpetual injustice and tension. An act of the justice system then becomes the act that creates and perpetuates the injustice. Is then the fate of our customary rural zone when the logic or rationality of the urban zone is applied to it without due reference to its peculiarities? A just action must refrain from this.

Production is also a factor. An example of this relates to housing. One characteristic of conservative modernist capitalism is the limited delivery of houses through the market system. In developed countries an average of 80 percent of the population has access to private housing markets, whilst 20 percent are dependent on public subsidies. According to Maricato (2011:199), in peripheral countries the opposite occurs with private markets having limited reach, are socially exclusive and highly speculative. The real estate market specialises in producing and maintaining luxury

goods. In Latin America as a whole, it is estimated that only 20 to 40 percent of the population have access to housing through the formal market.

Portions of cities then, with extents varying from country to country are built by the people themselves without proper financing, without proper technical knowledge and without taking into account property planning laws or building codes. There are also psychological, emotional, health and welfare issues that arise out of this situation.

All of the above illustrates just how deeply layered injustice becomes in the context of both resources and sources as mentioned earlier. Dikec (2011:80) goes on to suggest that there is then a need to explore the dynamic processes of social, spatial, economic and political formulations to see which produces and reproduces dominant and oppressive permanence's which could be regarded as unjust. In a spatial sense domination as a form of injustice manifests itself in space; mostly visibly in the built environment, but also in other forms of less visible spaces of flows, distributions, networks and institutions. Space and the processes of spatialisation play a major role, not only in the production of the conditions of domination, but also in their reproduction and survival "as an indispensable manipulative tool for the existing mode of production i.e. capitalism" (Dikec, 2011:80).

The rural zone is linked to the urban and vice versa. Injustices in the city impact the rural space as was made evident by the imposition of an urban logic in the collusion between the zones of power of the State and the capitalist enterprise, cited in the previous chapter.

## 5.5 Emancipatory Ethics

The journey into the concept of spatial justice and its origins then raises considerable points of departure, not to mention contention. It is a complex issue. The right to the city is a call for emancipation from those who do not enjoy the "ideal of egaliberte" (equality – freedom), in other words, are not free from domination and repression (Dikec 2011:80). Embedded in this, are also the spatial dialectics of injustice (spatiality of injustice and injustice of spatiality) and the right to be different. Spatial dynamics not only play an important role in the production and reproduction of

injustice, but also permit or prohibit the formation of rights claims as well as direct the ways and the extent in which rights are put into action or practiced.

All of these important concerns as articulated throughout this chapter begin to raise what I would term a critical moment in that the very heart of the spatial planning endeavour is being seriously challenged. Space is no longer two or even three dimensional. It becomes multi-faceted, multi-dimensional in that it embraces human imagination, human aspiration, human action and space and it does so not only in a very particular locality, but also as a consequence of activities in other localities. No space is left untouched and all space has its own unique set of dynamics stemming from its own unique history and spatialisation processes that have created it.

The "triad" of spatial dialectics, the right to the city and the right to be different provides a common lexicon and conceptual apparatus which then could cultivate an "ethico – political bond" (Mouffe 1992 cited in Dikec 2011:80) or and "ethics of political solidarity (Harvey 1996 cited in Dikec 2011:81) to inform emancipating movements of those "trapped in space" (Harvey 1989 cited in Dikec 2011:81). Other terms include those "disabled by the social production of space" (Gleeson 1998 cited in Dikec 2011:81), "excluded by urban entrepreneurialism" (Hall and Hubbard 1996 cited in Dikec 2011:81) or "expelled through urban renewal projects (Leroux 2001 cited in Dikec 2011:81). The bond is ethnical in the sense that it is nurtured through social relatedness, rather than assumed as an ontological given. Such a conception is necessary to imply that forms of morally defensible practices must firstly recognise the social reality (system) and secondly if there is to be any change then such may only arise from negotiation rather than manipulation by any dominant sector, such as the urban over the rural, more especially if such is markedly different. Engagement is a critical component of justice.

"Concepts of social justice and morality relate to and stem from human practice rather than from arguments about the eternal truths to be attached to these concepts" (Harvey 1973:15 cited in Maricato 2011:240). Eternal truths change in the meaning assigned them by men and women at different times and places, not to mention in the context of culture. Change is needed about the way we view things concerning space and justice and these include embracing concepts such as the end to acceptance of violence and the process that foster this, racial, ethnic and gender,

discrimination, consumerism, the competitive pursuit of wealth and power, false virility, hypocritical sexual moves, environmental degradation, commercialisation of art and imagination; in short, an end to the production of one dimensional people (Marcuse 2011:241). There is a need to embrace an envisaging process that is intended to go beyond redistribution of the existing, into claiming the right to the fulfilment of other values that make a humane life worth living and with this the pursuit of happiness, both as a social goal and as a personal one. There is a dire need to become dissatisfied with the aggressiveness in personal relations and in national practices. Domination and repression are classic examples of such aggression.

The Right to the City, both as an idea and as an ethical entity has in fact become part of progressive demands for social change around the world. Charters for the Right to the City have been agreed upon in various forms at sessions of the Social Forum of the Americas, Quito, July 2004; the World Urban Forum, Barcelona, October 2004; the World Social Forum, Porto Alegre, January 2005 and Revision Barcelona, September 2005 (Marcuse 2011:246).

In the United States there were similar developments with inaugural conventions held in January 2007 in Miami and the United States Forum held in June 2007 in Atlanta. The latter adopted the following:

1. *"The right to land and housing that is free from market speculation and that serves the interests of community building, sustainable economies and cultural and political space;*

2. *The right to permanent public ownership of urban territories for public use;*

3. *The right of working class communities of colour, women, queer, and transgender people to an economy that serves their interests;*

4. *The right of First Nation indigenous people to their ancestral lands that have historical or spiritual significance, regardless of state borders and urban or rural settings;*

5. *The right to sustainable and healthy neighbourhoods and workplaces, healing, quality health care and reparations for the legacy of toxic abuses such as brownfields, cancer clusters and superfund sites;*

6. *The right to safe neighbourhoods and protection from police, Immigration and Naturalization Services (INS)/Immigration Customs Enforcement (ICE) and*

7. *The right of equal access to housing, employment and public services regardless of race, ethnicity and immigration status and without the threat of deportation by landlords, ICE, or employers;*

8. *The right of working-class communities of colour to transportation, infra-structure and services that reflect and support their cultural and social integrity;*

9. *The right of community control and decision making over the planning and governance of the cities where we live and work, with full transparency and accountability, including the right to public information without interrogation;*

10. *The right of working-class communities of colour to economic reciprocity and restoration from all local, national and transnational institutions that have exploited and/or displaced the local economy;*

11. *The right to support and build solidarity between cities across national boundaries, without state intervention;*

12. *The right of rural people to economically healthy and stable communities that are protected from environmental degradation and economic pressures that force migration to urban areas" (Marcuse 2011:247).*

What is of particular interest in the context of this discourse are principles 1, 4, 8, 9, 10 and 12 which have a direct bearing on those communities that occupy the rural space, including that space occupied by Xhosa indigenous cultures.

The Habitat International Coalition includes in its goals:

1. *"Equal opportunity for a productive and freely chosen livelihood;*

2. *Equal access to economic resources, including the right to inheritance, the ownership of land and other property… natural resources and appropriate technologies;*

3. *Equal opportunity for personal, spiritual, religious, cultural and social development;*

4. *Equal opportunity for participation in public decision making and*

5. *Equal rights and obligations with regard to the conservation and use of natural land and cultural resources" (Marcuse 2011:248).*

The European Urban Charter, adopted in the same tradition, espouses in principle 17, a broad right to "PERSONAL FULFILLMENT": to urban conditions conducive to

the achievement of personal well- being and individual social, cultural, moral and spiritual development as well as calls for the preservation of culture, cultural memory and dignity, peaceful co-existence and a culturally rich and diversified collective space that pertains to all inhabitants.  There is also a focus on "vulnerable and marginalised groups" (Marcuse 2011:248). Harvey (2008:23) refers to the idea of the city becoming something more after the "hearts desire".

The World Charter on the Right to the City was drafted by social movements gathered in the World Social Forum in Porto Alegre in Brazil in 2001 and the World Council of United Cities and Local Governments (UCLG) adopted the Global Charter-Agenda for Human Rights in the City in December 2011.  (UCLG Committee on Social Inclusion, Participatory Democracy and Human Rights 2012:7).   Listed amongst the values and principles are the following:

1. *"The dignity of every human being as a supreme value.*

2. *Freedom, equality… non-discrimination, recognition of difference, justice and social inclusion.*

3. *Democracy and participation as the policy of cities.*

4. *Universality, indivisibility and interdependence of human rights and*

5. *Social and environmental sustainability".*

The above then are developed into an agenda of rights and obligations, including an action plan to ensure that the wording above does not remain on the shelf to gather dust.  In respect of the first above the action plan includes the following:

1. *"Adoption and application of a human rights training programme for the employees of  local  public service, with emphasis on the respect for differences, co-existence and the common good as well as it needed the hiring of human rights specialists;*

2. *A participatory analysis or audit of human rights in the city which allow for a diagnostic of the situation and the formulation of a local development plan based on citizenship participation;*

3. *A participatory local action plan on human rights as a result of the previous analysis and evaluation…*

4. *Creation of different institutions, independent of the political authority empowered to: provide information to citizens on how to gain access to their rights; receive complaints and suggestions from the city's inhabitants; perform inquiry and social mediation functions"* (UCLG Committee on Social Inclusion, Participatory Democracy and Human Rights 2012:10).

The European Charter for the Safeguarding of Human Rights in the City is a document put together by more than 400 cities and the UCLG was instructed in 2011 to promote this Charter. The main difference between the Global Charter and the European Charter is the different geographic scope and following from this there are variances in the action plans. Interestingly Article XV, concerning the right to culture expressly states that "citizens have a right to culture in all its expressions, forms and manifestations" (UCLG Committee on Social Inclusion, Participatory Democracy and Human Rights 2012:7-14).

The critical point here is that the concept of spatial justice is being readily developed and applied to the context of development, in various parts of the world and it looks set to grow in increasing stature, more especially where gross injustices occur. The concept has developed into an ethnical consideration, one that needs to be taken seriously, even more so when one considers the Constitution of South Africa, wherein it is quite explicit about the concept of culture and the pursuit thereof.

Soja (2010:129) points out that, as far as the United States is concerned and more particularly the Los Angeles region, there has been in the period 1965-79 a considerable rise in the development of community unionism and social activism in matters pertaining to the above. The persistent inequalities of the urban processes continue to drive these dynamics.

> *"Just as none of us is beyond geography, none of us is completely free from the struggle over geography. That struggle is complex and interesting because it is not only about soldiers and cannons, but also about ideas, about forms, about images and imagining"* ( Soja 2010:1).

This rural zone of the Eastern Cape is immersed in all of the above and yet we cannot escape the following:

> *"Injustice anywhere is a threat to justice everywhere"* (Martin Luther King, letter from Birmingham Jail, April 16, 1963, cited in Soja 2010: vii).

## 5.6 Concluding Remarks: Toward a Spatiality of Justice

This country and indeed this Province has experienced deep and down-right inhuman policies and aggression, all directed at the Xhosa people. The consequences have, through the centuries, been devastating and it is virtually impossible to provide an accurate description of the seriousness or even depth of human agony that this region has had to endure as a consequence of the demands made by the urban region driven by exploitation and greed over this customary rural space.

There is a dire need to transform from a space built by domination and complete lack of respect for human existence to one whereby this rural entity can take its rightful place in South African spaces, even global.

The aggression over the centuries spawned resistance which ultimately resulted in the downfall of the apartheid regime. The Eastern Cape is hence well known for those famous men and women of this soil that were instrumental in bringing about such profound change. The legacy of this tragic history has indeed shaped this space. The product is one of spatial injustice which in turn is perpetuating injustice within this spatial context. The mammoth challenge then is to create a spatiality of justice and a pre-requisite to achieving this hinges around the application of the following:

1. The recognition of a specific culture (difference) and its right to existence;

2. To desist from re-imposing a culture of re-colonisation through the imposition of a "foreign" culture, its world's view values and ethos. The hegemony of the West and its economically driven urban zone is not the only rationale on offer i.e. eliminate the prospect of domination.

3. To provide the opportunities (freedom) for such a culture to develop in line with its own visualising processes i.e. enabling and capacitation, through the right of association

4. To retain community assets e.g. land, water and forest etc. for future generations of Xhosa culture

5. To promote the ethos of "Ubuntu", in line with the demands of dignity and respect for human worth i.e. eliminate domination, not to mention the development of personhood and becoming more human

6. To recognise the value of the "Other" i.e. eliminate the prospect of subjugation.

7. To recognise diversity (difference) and its necessity in order to achieve any hope of a sustainable existence, let alone achieving resilience i.e. one side does not fit all or the perpetuation of a mono-dialogue/discourse

8. To desist from the unilateral imposition of policy and regulation that has no bearing on or are inconsistent with the cultural pursuits concerning the existence of the Xhosa people and the space they occupy;

9. To create a basis for personal fulfilment within the references of the Xhosa people, (local rural communities) themselves e.g. empowerment and integrity;

10. Provide support to enhance the integrity of Xhosa customary practices;

11. Provide support to enhance Xhosa communities e.g. social and civil infrastructure;

12. To refrain from undermining the integrity of cultural leadership and other social processes that up-hold traditional Xhosa society. This will be interrogated more fully when the Traditional Leaders and Governance Framework Act is discussed later in this discourse;

13. Refrain from an imposition of policy and regulations, including law that perpetuates the criminalisation of people, particularly those members of Eastern Cape society who pursue a distinct cultural ethos. The persecution of the last few centuries is enough;

14. To enable the traditional Xhosa people to acquire land and possess land that is consistent with their cultural systems and worldviews;

15. To reduce the prospect of land dispossession and maintain a moral ethos concerning land and its occupation and use;

16. To manage land that is consistent with Xhosa cultural norms and standards.

17. Promote human and social security.

18. To collaborate on all relevant issues and concerns that may impact on Xhosa culture.

Luthuli, all those years ago, must have envisaged the above as being a fundamental part of his discourse, when he imagined a South Africa that would be home to all, one that paved the way for amongst other things, the prospect of serenity for all. This chapter has attempted to explore the concept of social justice and its possible application in the context of land use management.

It is a critical concern in that, while the idea of social and spatial justice appears in the provisions of SPLUMA, these must be equally applied to this rural Xhosa constituency, if there is to be any chance of implementation, going forward. The above provides a basis of doing so, as such an approach accords with the dictates of customary culture. It is submitted that, if we do not proceed in a manner consistent with the above, then we are perpetuating an injustice, which has really only one logical outcome and that is the perpetuation of a spatiality of injustice. Clearly such is unacceptable in the global arena. The work of UNESCO over the past sixty or so years is of significant importance in this regard: hence the next chapter. This Xhosa constituency is home to a specific culture which needs to be examined further. UNESCO has developed the concept of culture and in doing so, has identified some very important characteristics that have a significant bearing on land use management and the way to go about pursuing this endeavour. This research provides additional credibility to the proposals of the final chapter.

CHAPTER 6

# 6. International Discourse Concerning: Conventions- Declarations - Protocols - Human and Cultural Rights

## 6.1    Introduction

This chapter is a critical chapter in that it provides insight into the cultural arena and debate on a global level.  Culture as a concept or idea has evolved into a critical issue that has both incredible meaning and consequences for all societies. Homogeneity and cultural assimilation can no longer be regarded as a valid argument: on the contrary, the idea of difference and the acceptance thereof has begun to take centre stage in the global debate, not to mention imagination.

Culture is the collective outcome of the visioning, norms and practices of real people occupying actual space.  These outcomes deserve, respect and the outputs of governmental organisations such as the United Nations (UN) have begun to embrace and to embed such notions through a host of conventions and declarations.  These conventions and declarations embrace the lives of people and so it would be appropriate to make some form of connection to indigenous people.  Below are some, statistics and facts that make for interesting reading.

Indigenous peoples constitute about five percent of the world's population yet account for about 15 percent of the poor (IFAD)

About 300 to 370 million people belong to the world's indigenous groups (World Bank – UNPFII)

1.  Indigenous peoples have some 4 000 languages (IFAD)

2.  There are more than 5 000 different groups of indigenous peoples living in more than 79 countries (IFAD)

3.  Indigenous peoples make up about one third of the world's 900 million extremely poor rural people (IFAD)

4. Indigenous peoples live in every region of the world, but about 70 percent of them live in Asia (IFAD)

5. About 1,2 billion people in the world today live on less than one dollar a day (World Bank)

6. Latin America's 50 million indigenous people make up 11 percent of the region's population (IFAD)

7. During the 1990s the indigenous poverty gap in selected countries in Latin America grew to be wider than in previous periods (World Bank)

8. Ethnic minority groups make up less than nine percent of China's total population, but are believed to account for about 40 percent of the country's extremely poor people (World Bank)

9. In 2001 about 90 percent of Australia's indigenous population were identified as being of Aboriginal origin, six percent were identified as being of Torres Strait Islander origin and four percent were identified as being of both Aboriginal and Torres Strait Islander origin (Australian Bureau of Statistics)

10. Indigenous peoples are not always in the minority.  In Bolivia and Guatemala indigenous peoples make up more than half the population (UNDP)

11. In Australia some 500 languages have been lost since Europeans arrived on the continent (UNDP)

12. Life expectancy for Aboriginal men in Australia is 59 years, compared to 77 for Australian men in general (Survival International)

13. A recent study indicated that ending the marginalization of indigenous peoples could bring about the expansion of the national economics of Bolivia (by 37 percent), Brazil (by 13 percent), Guatemala (by 14 percent) and Peru (by five percent) (IFAD)

14. In Guatemala 86,6 percent of indigenous peoples are poor, and in Mexico 80,6 percent of them are poor (World Bank) Poverty situation and access to land

15. Living conditions on Canadian Indian reserves are at the same level as those in a country with a ranking of 78 on the UNDP Human Development Index (CHOIKE)

16. Indigenous peoples suffer higher rates of poverty, landlessness, malnutrition and internal displacement than other members of society, and they have lower levels of literacy and less access to health services (IFAD)

17. The Adivasi, or tribal peoples of India, constitute only eight percent of the total population of the country, but 40 percent of them are internally displaced (IFAD)

18. In Thailand, more than 40 percent of indigenous girls and women who migrate to cities work in the sex trade. The majority of females trafficked across state borders in south-east Asia are from indigenous communities (IFAD)

19. The Amazon River Basin is home to about 400 different indigenous groups. While it accounts for just seven percent of the world's surface area, it harbours more than half of the world's biodiversity (IFAD)

20. Two centuries ago indigenous people lived in most of the earth's ecosystems. Today they have the legal right to use only about six percent of the planet's land and in many cases their rights are partial or qualified (IFAD). Unpresented Nation and Peoples Organisation (2010-2011, online).

## 6.2 The Work of UNESCO

The United Nations Educational, Cultural and Scientific Organisation (UNESCO) World Report No. 2 entitled, "Investing in Cultural Diversity and Intercultural Dialogue" (2009), stresses the point that the subject of cultural diversity has emerged as a key concern for the twenty first century. UNESCO has since its inception in 1945/1946, embarked on a journey to both understand and give meaning to the concepts of culture and cultural diversity (Rautenbach, 2011:1) in order to realise Article 1 (1) of the UNESCO Constitution, whose purpose is to:

*"…contribute to peace and security by promoting collaboration among nations through education, science and culture in order to further universal respect for justice, for the*

*rule of law and for human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, language or religion, by the Charter of the United Nations."*

UNESCO has therefore been instrumental in making culture and cultural diversity, an important aspect of both the democratic and development agenda (Obuljen and Smiers, 2003:3) since a rich diversity of voices is essential for the democratic discourse. This goes further in that "wars begin in the minds of men" prescribed a certain kind of approach to conflict prevention, one that focussed on knowledge as the key to understanding and peace. Ignorance was identified as the underlying cause of suspicion, mistrust and war between peoples (Stenou 2003:5).

The formula: knowledge equates to understanding which in turn equates to peace was the initial idea that UNESCO adopted in the first London Conference of the late 1945. Clearly the impact of a global war had a profound effect on the thinking of the day: the Second World War had terminated a mere handful of months prior to this event. Peace then must be constructed in the mind of men (Rautenbach, 2011:6).

In September 1946 a United Nations (UN) report on "Les Arts de la Creation" (UN) acknowledged diversity as a critical component of the existence of the human family. Civilisation was in fact civilisations (plural) and hence there was not one single category that could adequately embrace all of human experience (Stenou, 2003:6). Rautenbach (2011:6) stresses however that at the time the notion of cultural diversity was applied mainly to the idea of cultural differences between State (external diversity) and not within then (internal diversity).

During the course of the 1950s and 1960s, particularly in the context of decolonisation, the concept of cultural diversity acquired a political dimension. The first major changes came about as a consequence of UNESCO's support to developing countries after decolonisation. Such support was centred, around the idea of ensuring these countries equal participation in international cultural affairs. UNESCO's recognition of the inter-connectedness between culture and human rights gave rise to new insights on the notion of culture and that is culture was not just about works of art, but now included issues of identity (Rautenbach 2011: 6).

UNESCO's focus on knowledge and its exchange was affirmed at the 5<sup>th</sup> session of the General Conference held in Florence (1950) in which it was stated that:

> *"The Declaration of Human Rights affirms that 'everyone has the right freely to participate in the cultural life of the community." To make a reality of this right, which is implicit also in the Constitution of UNESCO, great efforts are required of all countries. UNESCO will assist Member States by providing information, carrying out studies, making recommendations and where necessary, itself taking practical action in order to direct the education of both youth and adults towards a better understanding of the culture of mankind." (Rautenbach, 2011:6).*

In 1966, in the 14<sup>th</sup> session of the General Conference held in Paris, adopted the Declaration on the Principles of International Cultural Co-operation whilst respecting cultural differences.  Article 1 of this Declaration reads:

> *"1.      Each culture has a dignity and value which must be respected and preserved;*
>
> *2.      Every people has the right and the duty to develop its culture and*
>
> *3.      In their rich variety and diversity and in the reciprocal influences they exert on one another,     all cultures form a part of the common heritage belonging to all mankind."*

This same declaration brought another dimension of cultural diversity to the fore and that is, from the late 1960's onwards, UNESCO's commitment turned to the development of culture and the importance of culture for development.  The 1970 Venice Conference produced a report entitled the "Intergovernmental Conference on Institutional, Administrative and Financial Aspects of Cultural Policies" in which cultural development, within States, became a focal point of discussion.  The inter-connectedness between culture, the dignity of individuals and the development of a community came to the fore (Rautenbach, 2011:7).  This idea too, embraced the notion that culture was not universal, but rather particularistic and diverse, unlike science whose ultimate goal is unity or even uniformity (Stenou, 2003:7).

The notion of diversity could lead to a, certain possessiveness as in the idea of endogenous development as a people's own path of development arising from its own unique culture, rather than a uniform or formulaic path prescribed by the dictates of science.

UNESCO's "Medium Term Plan (MTP)" (1977-1982) emphasised the cultural dimension of development whose harmony depends on:

> *"…respect for the values and modes of thought peculiar to each people, the vigorous and open affirmation of their individual and collective cultural identity and the mutual appreciation of cultures and considers that the preservation of mankind's cultural heritage and its presentation, the broadest possible participation in cultural life and the stimulation of artistic and intellectual creativity are the essential factors of cultural development based on the interdependence and complementarity of the various cultures and respect for their diversity" (Rautenbach, 2011:7).*

The period 1977-1982 formally recognised the fact that culture developed into something that happens not only between States, but also within States. Furthermore, cultural identity is something that elicits respect. Society then contains a number of discrete cultural identities. Objective 1.2.4 of the MTP is formulated as follows:

> *"Promotion of respect for cultural identity of individuals and groups, with particular reference to those affected by the social exclusion phenomenon within developed or developing countries"*

Culture then, was recognised as the very essence of people. The 1978 Bogot Declaration emphasised that cultural development had to take into account "an overall betterment of the life of individuals and peoples" as well as "cultural diversity, from which it derives and whose furtherance and affirmation it promotes" and declared that "culture as the sum total of values and creations of a society and the expression of life itself, is essential to life and not a single means or subsidiary instrument of social activity" (Rautenbach, 2011:7); Stenou 2003:13). According to Stenou (2003:13), this objective also illustrated a growing realisation at the time that not only were State populations more diverse that had sometimes been admitted, but also these debates created a growing awareness, especially in urban centres, of the discourse of marginalisation involving both socio-economic and cultural factors. This objective evokes the central idea of pluralism as participation and sharing, not retreat or reclusion as well as the idea or notion of intercultural dialogue, which will be discussed more fully later in this Chapter.

Smiers (2006:11) also raises three concerns (demands) that emerged in the 1970's and these were:

1. the need to engage in a greater variety of sources of information;

2. reduce the monopolisation of the forms of cultural expression and

3. Preservation of some national cultural space from the pervasive commercialisation of Western cultural outpourings.

This desire to change the cultural and communication relations throughout the world became a movement that was called the "New World Information and Communication Order (NWICO)."

The NWICO movement was according to Nordenstreng (2010:1), a movement that connects the media and the study of the media to the geo-political studies/struggles between the American led "West" and the Soviet let "East", on the one hand and the industrialised "North" and the developing "South", on the other. It was also linked to the decolonisation offensive involving such organisations as the Non-aligned Movement (NAM) and the Organisation of the Petroleum Exporting Countries (OPEC). All these dynamics created a new relation of force in the global arena, particularly in the period up to the 1990s. The NWICO concept was designed to widen and deepen the freedom of information by increasing its balance and diversity on a global scale. Fundamentally it also gave rise to the debate about the decreasing importance of the State and the growing importance of the citizen.

The 1982 Mexico City Declaration contained a list of principles that should govern policy and these included the recognition of the inter-connectedness between cultural identity and cultural diversity the cultural dimension of development; the preservation of cultural heritage; freedom of expression and opinion; the relationship between culture, education, science and communication and international co-operation. The UNESCO 1988-1997 World Decade for Cultural Development: Plan of Action document contained four major objectives and these included acknowledging the cultural dimension of development, affirmed and enriched cultural identities, broadened participation in culture and pursues international cultural co-operation (Rautenbach, 2011:8).

The Mondiacult Conference held in Mexico in July-August 1982, produced a Declaration on Cultural Policies that noted:

*"…in its widest sense, culture may now be said to be the whole complex of distinctive spiritual, material, intellectual and emotional features that characterise a society or social group. It includes not only the arts and letters, but also modes of life, the fundamental rights of the human being, value systems, traditions and beliefs."*

The concept of culture then contained both the universal and the particular; the universal idea of fundamental human rights and the particular traits, beliefs and ways of living that allows members of a group to feel a special and unique bond with the members.

The Mexico Declaration defined the role of culture as broad and encompassing in that it is culture that gives man the ability to reflect upon him-self and others. It is culture that makes us specifically human, rational beings endowed with a critical judgement and a sense of moral commitment. It is through culture that we discern values and ultimately make choices (Stenou 2003:14).

The UNESCO Medium Term Plan for the period 1984-89 affirmed that each cultural heritage is part of the "common property of mankind. Studies and research were aimed at shedding light on the conditions for achieving balance between the affirmation of identity and the imperative requirement of living together in harmony and the mutual enrichment of cultures". It was during this period that liberation had become an imperative for groups within society and for societies themselves: the denial of human rights and fundamental freedoms (Stenou 2011:15). The Medium Term Plan acknowledged the many and varied pre-requisites – not only political and legal, but also economic, social and cultural – for the effective enjoyment by all peoples of genuine independence, that is to say, the ability to work out their own future in accordance with their aspirations (Stenou 2011:16).

In 1998 the Stockholm Conference produced the UNESCO Action Plan on Cultural Policies for Development and within these papers principle 6 recognised cultural diversity as "a treasure of humankind" and as "essential factors of development". In the period leading up to this Conference, UNESCO continued its efforts in the arena of peoples' rights, self-determination and cultural identity. As a consequence this focus delved more deeply in the arena of multiculturism as an alternative model to assimilation and integration for dealing with the rights of national minorities.

The 1994 Seoul International Meeting on Democracy and Tolerance promoted the idea and above all the practice of active tolerance.  This idea too was the precursor to achieving success in pursuing our creative diversity (Stenou 2003:18).  A creative diversity is simply not possible in an environment of intolerance.

The 1990-1995 UNESCO Medium Term Plan demonstrated a keen awareness of the contemporary global situation in that it:

1. recognised the growing interdependence of culture and economics, a process accelerated by the development of modern transport and communication;

2. recognised a growing re-affirmation of cultural specificities and identities;

3. recognised the persistence and re-emergence of inward looking tendencies and cultural prejudice which conflict with international co-operation and

4. Recognised the development of multi-cultural societies which makes the affirmation of cultural identity more complex, though at the same time enriching it.

Interestingly the Plan recognises that from the period 1950-1990 culturally rooted loyalties remained a fact of life (Stenou 2003:17).

The Medium Term Strategy for the period 1996-2001 continued to emphasize state wars and conflict, for which multi-ethnic, multi-cultural or multi-religious societies provide the most fertile soil.  These conflicts have arisen from, "the fear of differences", (Stenou 2011:17) and the need to focus on the management of intercommunity relations.  There is also, according to the Plan, an implicit connection between culture and security.  Intercultural relations are an international security issue.  UNESCO maintains that the need to study and to handle situations of cultural pluralism on every societal level will remain a vital and indispensable focus for the Organisation's activities.  Cultural goods are indeed not mere consumer goods; they express a vision of the world and the most complete identity of individuals and peoples.  It follows then that inter-cultural dialogue is the best guarantee of peace. UNESCO maintains that for the first time, cultural diversity has been acknowledged as the common heritage of humanity, the defence of which is deemed to be an ethical and practical imperative, inseparable from respect for human dignity.  Cultural

policies which are the true driving force in cultural diversity should foster the production and dissemination of diversified cultural goods and services.

The UNESCO Universal Declaration on Cultural Diversity (DCD) (2001) promotes cultural diversity for pluralism, sustainable development and peace. The idea is to channel diversity towards constructive pluralism through, the "creation of state and societal mechanisms, to promote harmonious interaction between cultures. To achieve this goal both the State and civil society have an important role to play by promoting equality and inclusiveness, not uniformity, by recognising the sense of belonging and fostering empowerment, allowing individuals to enjoy the security of individual and plural identities within an accepted social and democratic framework… The protection of cultural diversity is closely linked to the larger framework of the dialogue among civilisations and cultures and its ability to achieve genuine mental understanding, solidarity and co-operation… (Stenou 2003:20).

Rautenbach (2011:3), points to a number of dimensions of culture. Firstly it is a complex array of physical characteristics which can be externally observed and secondly it refers to a way of thinking and acting as a person or group. It is also descriptive (attitude, belief, moves, customs, values and practices) and it is set in a context supported by some form of institutional arrangement. This is useful for the discussion ahead.

## 6.3   Towards the Emergence of Culture and Cultural Diversity: as a Concept of International Law

The Convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005 (CPPDCE) is an initial attempt to define cultural diversity in a legal document which states:

> *"…the manifold ways in which cultures of groups and societies find expression. These expressions are passed on within and among groups and societies. Cultural diversity is made manifest not only through the varied ways in which cultural heritage of humanity is expressed, argumented and transmitted through the variety of cultural expressions, but also through diverse modes of artistic creation, production, dissemination, distribution and enjoyment, whatever the means and technologies used."*

The purpose of UNESCO as set out in its preamble of its Constitution is to prevent wars between States as a result of "ignorance of each other's ways" which has proven to be a "common course, throughout the history of mankind, of that suspicion and mistrust between the peoples of the world through which their differences have all too often broken into war." (Rautenbach, 2011:6)  Globalisation has also had an impact on the dynamics of culture and diversity.  The final report of the Stockholm Conference (1998) explained.

> *"The commitment to pluralism advocated by the World Commission has become an increasingly urgent imperative in the context of globalisation, which leads on the one hand to homogenisation in many areas and on the other, to an increased awareness of difference as both an opportunity and a serious challenge.  …As relationships between people and groups are formed increasingly on a global scale, the danger looms of a uniform global culture… of local and national cultures being overwhelmed by alien values, of economic development controlled by global forces rather than local supply and demand, of social and political emancipation being thwarted by exclusion.  Fear of such development can seal off societies as well, but in an open society different cultural identities are not a threat to one another, but co-exist in mutual respect:  "where people have faith in their own cultures, inter cultural communication and mixing freely with one another do not represent a loss, but have added value in people's lives.  Globalisation should not be allowed to be a process leading to the uniformation of cultures, but as a process of dialogue between cultures rooted in local heritage and creativity…" (Rautenbach, 2011:9).*

Cultural diversity is seen as a strategic resource for developing countries.  It has the potential to:

1. increase cultural industries and job creation;

2. enrich national heritage;

3. develop national identity and social unity and

4. Increase revenue from the tourism industry.

Cultural homogenisation inhibits cultural diversity.  In order to address the concerns, UNESCO adopted the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (October 2005 which entered into force in March 2007).  This

is the first legal international instrument protecting cultural diversity in a direct way. The rights outlined in this Convention include the rights to:

1. formulate and implement cultural policies;

2. adopt measures to protect and promote the diversity of cultural expressions;

3. strengthen international co-operation to achieve the promotion and protection of the diversity of culture and its expressions;

4. promote and protect cultural expression

5. integrate culture in the sustainable agenda and

6. Encourage the sharing of information, expertise and best practices pertaining to the diversity of cultural expression.

Article 2(1) of this Convention established a clear link between the respect for human rights and cultural diversity by stating the following:

*"The protection and promotion of the diversity of cultural expressions presuppose the recognition of equal dignity of and respect for all cultures, including the cultures of persons belonging to minorities and indigenous peoples."*

Article 6(1) states that measures must be developed to protect and promote the diversity of cultural expression within any given territory (UNESCO, 2005:3-6).

The 2009 UNESCO World Report (UNESCO 2009) emphasises the complexification of cultural identities and also acknowledge that cultural roots run deep and in many cases lie beyond the reach of exogenous influences. The question of identities, whether these are national, cultural, religion, ethnic, linguistic, gender based or consumer based, is assuming renewed importance for both individuals and groups. The growing tensions over identity are in contradiction with a more general trend towards the emergence of dynamic and multi-faceted identities. There is an ever increasing realisation and even appreciation that, national identities are to some extent, a construction. Cultural identities often derive from any number of sources and hence in a multicultural context, some people will choose to adopt a particular form of identity, others to live in a dual mode, whilst still others create for themselves hybrid identities (UNESCO 2007:7).

Culture brings with it a host of domains which can be as varied as tangible heritage, intangible heritage, cultural expressions, cultural exchanges and the illicit traffic in cultural goods, the agreements and standard setting activities at regional and international levels have sought to protect and promote some of the key tokens of cultural diversity and markers of cultural identity.  UNESCO is keeping with its UN mandate, has played a leading role in the formulation, promotion and implementation of many of these normative instruments.  These include:

1. The 1954 Hague Convention for the Protection of Cultural Property in the event of armed conflict;

2. The 1970 Convention on the means of Prohibiting and Preventing the illicit Import, Export and Transfer of Ownership of Cultural Property;

3. The 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage

4. The 2001 Convention on the Protection of the Underwater Cultural Heritage;

5. The 2001 Universal Declaration on Cultural Diversity and

6. The 2003 Convention for Safeguarding of the Intangible Cultural Heritage (UNESCO 2009:8) (Rautenbach, 2011:17-20).

All of the above reflect a progressive extension of the concept of culture and cultural heritage, not only in terms of material expressions, but also their intangible manifestations including oral traditions, performing arts and traditional knowledge, all of which reflects a common heritage that the international community has a duty to safeguard.  In addition to this, there is a need to recognise the specificities of culture in its own right (UNESCO, 2009:8).  National identities are not monolithic, but multiple and groups and individuals react differently to the dynamics of the twenty first century. All of the above have culminated in the 2005 Convention.

Culture then, not to mention all of its domains, is a highly complex issue and as can be seen from the above, requires a very distinct response, the first of which is respect.  The above is also a very brief summary of an international discourse that has become embedded in international law and international best practice: to put it

perhaps more bluntly, culture and cultural expression is an intensely personal issue. In this context then, it must be appreciated that culture and its various forms of expression will be defended.

## 6.4 International Instruments in the Context of Racism and Human Rights

It is not difficult to understand that in matters pertaining to race, rights and culture, there is significant overlap. The depth and breadth of such overlap must be regarded as considerable as for example, discrimination can be applied to a host of different variables and circumstances. It is important to become aware of just a few of the international instruments that seek to combat any prejudice in this regard. Rautenbach (2011:21-23), identifies seven different declarations that have relevance in this regard.

The first one is the Declaration on Race and Racial Prejudice (1978). This reaffirms the "right to be different". Article 1(2) states that "all individuals and groups have the right to be different, to consider themselves as different and to be regarded as such… the diversity of lifestyles and the right to be different may not, in any circumstances, serves as a pretext for racial prejudices; they may not justify, either in law or in fact any discriminatory practice whatsoever…" (Office for the High Commissioner for Human Rights 1978:2) This same source states that Article 1(3) reads that the "identity of origin in no way affect the fact that human beings can and may live differently, nor does it preclude the existence of differences based on, cultural, environmental and historical diversity nor the right to maintain cultural identity".

The second declaration is the Declaration of Principles on Tolerance (1995) Article 1(1) reads that "tolerance is respect, acceptance and appreciation of the rich diversity of our world's cultures, our forms of and freedom of thought, conscience and belief. Tolerance is harmony in difference…" Article 1(2) reads: "tolerance is not concession, condescension or indulgence. Tolerance is above all and active attitude prompted by recognition of the universal human rights and freedoms of others. In no circumstances can it be used to justify infringements of these fundamental values…" Article 1(3) reads: "tolerance is the responsibility that upholds human rights, pluralism

(including cultural pluralism) democracy and law. It involves the rejection of dogmatism and absolutism…" (UNESCO Culture of Peace 1995:2) This declaration resolved to take all positive measures necessary to promote tolerance in our societies, because tolerance is not only a cherished principle, but also a necessity for peace and for the economic and social advancement of all people.

The third one is the Declaration on the Responsibilities of the Present Generations toward Future Generations: 1977. Article 2 refers to the preservation of cultural and religious diversity by stating "it is important to make every effort to ensure, with due regard to human rights and fundamental freedoms, that as well as generations enjoy full freedom of choice as to their political, economic and social systems and are able to preserve their cultural and religious diversity." Article 7 also refers to the responsibility of the present generation to identify, to protect and safeguard the tangible and intangible cultural heritage and to transmit this common heritage to future generations (UNESCO, 2007:2-3)

The fourth one is the United Nations Declaration of Human Rights 1948 (UNUDHR): Articles 22 and 27 refer to the realisation of individual and communal cultural rights. In terms of these articles, these are a right. Article 1 state that all human beings are born free and equal in dignity and rights. (UNUDHR, 1948: United Nations: 1949:1)

The fifth one is the United Nations International Covenant on Economic, Social and Cultural Rights 1966 (ICESCR): Culture as a human right is a recurring theme and such is linked with peoples' dignity, freedom and development. Article 1(1) states categorically that all peoples have the right to self-determination and that by virtue of that right people have the right to freely determine their political status as well as freely pursue their economic, social and cultural development. (Office of the High Commissioner: UN Human Rights, 1976:1)

The sixth on is the International Covenant on Civil and Political Rights (ICCPR) 1966 recognises and protects the rights of persons belonging to minorities. Article 1 again reinforces the right to self-determination (United Nations: Treaty Series 14668, 1976:173); and

The seventh one aligned with the above is the 1992 Declaration on the Rights of Persons belonging to National, or Ethnic, Religious and Linguistic Minorities

(DRPNERLM). According to a definition offered in 1977 by Francesco Capotorti, Special Rapporteur of the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, a minority is: "a group numerically inferior to the rest of the population of the State, in a non-dominant position, whose members – being nationals of the State – possess ethnic, religious or linguistic characteristics differing from the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language." (United Nations: Minority Rights: International Standards and Guidance: Human Rights Office of the Commissioner, 2010:2).

In the context of this research an important question can be asked and that is: Are indigenous peoples considered minorities? Guidance can be obtained from the work of the Working Group on Indigenous Populations, the provisions of Convention 169 of the International Labour Organisation (1LO) and the contents of the United Nations Declaration the Rights of Indigenous Peoples (UNDRIP). The United Nations: Minority Rights and International Standards and guidance document (2010:2) sources cite the following characteristics, either alone or in combination: indigenous peoples are descendants of the people who inhabited the land or territory prior to colonisation or the establishment of the State borders. Such descendants possess distinct social, economic and political systems, languages, cultures and beliefs and are determined to maintain and develop this distinct identity. In addition to this characteristic such peoples exhibit a strong attachment to their ancestral lands and the natural resources contained therein. In practical terms then a number of connections and commonalities exist between the descendants and coupled to this is the idea that they wish to retain their identity.

In terms of rights, minorities have traditionally highlighted their right to have their existence as a group protected, their identity recognised and their effective participation in public life and respect for their cultural, religion and linguistic pluralism safeguarded. The United Nations Minorities Declaration requires that the legitimate interest of persons belonging to such groups be taken into account in national planning and programming (UN: Minority Rights Standards and Guidance, 2010:4). The Xhosa cultural context here in the Eastern Cape certainly displays all of the above characteristics and both national and provincial recognition has been accorded

to this in the form of the Traditional Leaders and Governance Framework Act, 2003 and the Eastern Cape Traditional Leaders and Governance Framework Act, 2005. This will be discussed later in this chapter.

The journey to define, protect and embrace culture has been long and intense and it continues. It is a work in progress. Since 1946 the definition of culture, its expression and practices has evolved significantly. Its importance to society is very clear: culture and cultural diversity are essential elements of both the state and global realms. These elements are also the precursor to social security and sustainability. Culture lies at the heart of the social, economic and even environmental discourse and hence it has found various forms of expression in international declarations, covenants and law. Culture is an intensely complex and intense issue and the emergence of a "resurgence of identities" in the global discourse points to the fact that homogenisation and standardisation are not actual options on the contrary, "identities" which set themselves up as standards and leave no place for otherness and difference, belong to the logic of totalitarianism (Giordan, 1994:2-4).

## 6.5    The International Labour Organisation (ILO) and Convention 169

The International Labour Organisation (ILO) a specialist agency of the United Nations, approved and adopted its Convention on Indigenous and Tribal Peoples, 1989 (No.169) amidst growing momentum for the recognition of indigenous peoples rights to self-determination and decolonisation (Barsh, 2013:1-7). Coupled to the progress made in the UN arena, was also the successful growth of the internationalisation of the indigenous movement itself.

In the 1980's indigenous people' own organisations began to influence the discourse at an international level, culminating in the adoption of Convention 169. The support base however (countries that ratified this Convention) was largely confined to the Latin American region who were at the time engaged in the urgent need to forestall the colonisation and destruction of Amazonia, Maya pan, Araucaria and other relatively intact South American Indian territories.

Once adopted, this Convention became legally binding on those States which ratified this document. Under Article 19(5) of the ILO Constitution, if a State does not ratify a

convention within one year, it must submit a report to the ILO giving its reasons for the delay. In short, the ILO regards the non- ratification of a convention, as a potential human rights violation.

Convention 169 requires state parties to foster a co-operative spirit in relationship concerning indigenous peoples. This included some provision for good faith negotiations and consent. Taken together these provisions very nearly approximate, according to Barsh (2013:3) the right to self-determination.

Convention 169 agreed to respect "the integrity of the values, practices and institutions" of indigenous peoples and to support the "full development of these peoples own institutions." Laws or policy involving indigenous peoples may not be prepared and applied without the express wishes and acknowledgement of the people concerned. Other important provisions of this Convention require the settling of historical land laws, strengthening of traditional subsistence activities; providing support for education; cross national border agreements and ensure that "historical textbooks and other educational materials provide a fair, accurate and informative portrayal of indigenous societies and cultures" (Barsh, 2013:4). Article 13 requires governments to respect the special importance to the cultures and spiritual values of indigenous and tribal peoples of their relationship with the lands or territories that they occupy.

## 6.6 United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP)

Convention 169 contained important principles for UNDRIP which emerged out of twenty years of negotiation between Indigenous Peoples, Organisations and representatives and nation states and the rights recognised in this watershed document constitute the minimum standards for the survival, dignity and wellbeing of the indigenous peoples of the world (Article 43, UNDRIP). This Declaration became effective in September 2007 and South Africa is one of the 144 signatories to it. Since its adoption Australia and the United States have also become signatories. UNDRIP has a highly visible body overseeing it – the United Nations Permanent Forum on Indigenous Issues, which increases the likelihood that it will maintain a conspicuous place in the international arena.

Article 3 of UNDRIP recognises the principle of self-determination by virtue of which right Indigenous peoples may "freely determine their political status and freely pursue their economic, social and cultural development." This right is moderated by Article 46(1) which limits the right to what is commonly referred to as "internal" self-determination, because it does not include the right to secede from a sovereign State (UN Economic and Social Council, 2009:13-14).

Article 46 encompasses various other rights and these include, but are not limited to:

1. *"sufficient access to Indigenous lands, territories and natural resources in order to pursue and maintain cultural practices and traditions and to preserve cultural institutions and laws;*

2. *the right to be free of adverse discrimination against cultural practices and traditions including the right to just and equitable reparation for breach of this right;*

3. *the right to have the necessary means to ensure Indigenous peoples' equitable economic, social and cultural development and*

4. *The right to determine priorities and strategies for the course of their own development".*

All of the above is consistent with the following component of the Preamble found in the Annex of UNDRIP, which reads inter alia:

*"1.     That, indigenous peoples are equal to all other peoples, while recognising the right of all people to be different, to consider themselves to be different and to be respected as such;*

*2.     that, all peoples contribute to the diversity and richness of civilisations and culture which constitute the common heritage of humankind;*

*3.     that all doctrines, policies and practices based on, or advocating superiority of peoples or individuals on the basis of natural origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust;*

*4.     that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonisation and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their needs and interests;*

*5.     the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and*

*from their cultures, spiritual traditions, histories and philosophies, especially their right to land, territories and resources;*

6. *Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs and*

7. *Recognising that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment… (UNITED NATIONS, 2007:2-4).*

UNDRIP has a total of 46 articles which seek to expand on the above, not to mention those that have been excluded from the text. What is important however, is to note – that in line with the earlier definition of indigenous peoples, the occupants of the Eastern Cape cultural rural zone are entitled to the application of the spirit, content, terms and rights elaborated upon in this international ground breaking Declaration. This is especially so, since this country is a signatory to its aims, objects and outcomes.

UNDRIP also makes direct reference to the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights as well as the Vienna Declaration and Programme of Action. UNDRIP seeks to remain faithful to its developmental roots embracing negotiation and research. Its development involved and hence embraced the very concepts it stipulates. There was an important, if not painstaking dialogue, a cross cultural dialogue. This needs to be continued.

UNDRIP cannot be regarded as anything more than a framework that sets specific international standards and in so doing challenges the conventional way of understanding doing things. It challenges the notion of assimilation and homogeneity. Rather it brings to the fore the concept of culture and its potentially diverse expression, its creative spirit and the real prospects of hope in a sustainable future. To this land and its use is all tied. The use of land is at the end of the day a cultural expression.

## 6.7    Free, Prior and Informed Consent (FPIC)

UNDRIP continues with the theme of free, prior and informed consent in that the idea first appeared in 1966 ICESCR.  In this context however the matter is more adamant or insistent:  it is declared in Article 11 as a right.  No policy or action may be taken in an area under the jurisdiction of a customary custodian (community) without the FPIC of the effected people being obtained.

FPIC is an international human right standard that derives from the collective rights of indigenous peoples to freely make their own decisions through their own freely chosen representatives and customary values and institutions.  FPIC also means that consent may be given or withheld by customary (indigenous) constituency.  FPIC is a standard that ensures that the rights of indigenous populations are in fact exercised and hence these have wide application.  Rights include rights concerning self-governance, participation, representation, culture, identity, property, lands and even territories (Food and Agriculture Organisation (FAO) of the United Nations 2014:4).  The UN-REDD Programme guidelines on FPIC (2013:9) add to this list by including non-discrimination, self-determination and freedom from forced relocation.  It goes further by stating that the State has a duty and an obligation to seek FPIC and secure it; thereby allowing FPIC to serve as a safeguard or rights based mechanism in the State's paramount responsibility to effectively take all necessary measures to ensure respect, protection and enjoyment of all underlying rights.  FPIC is a normative obligation (UN-REDD Guidelines on FPIC, 2013:10).

It is once again important to stress that the unambiguous recognition of FPIC in international law is the product of, among other things: decades of extensive advocacy by indigenous peoples and their supporters; numerous legislative and judicial interventions worldwide; increased understanding regarding their historic and contemporary circumstances, systematic discrimination, cultures and needs; as well as a growing collaborative relationship between indigenous peoples and States in the protection of human rights and the pursuit of sustainable rights based economic development and conservation (UN-REDD Guidelines on FPIC, 2013:11).

Whilst the UNDRIP includes no less than seven provisions expressly recognising the duty of States to secure FPIC from indigenous peoples, international courts and

human right commissioners in the African and American regions in particular have also made it clear that binding regional human rights treaties and conventions such as the African Charter on Human and Peoples Rights (Banjul Charter, the Rights and Duties of Man (1948), all recognise the States duties to secure FPIC. This is in addition to what has been already highlighted in this text (UN-REDD Guidelines on FPIC) (Ward, 2011:61).

The expert Mechanism on the Rights of Indigenous Peoples also issued a "Final report on the study on indigenous peoples and the right to participate in decision making" opining that:

> *"As mentioned above, the right to free, prior and informed consent is embedded in the right to self-determination. The procedural requirements for consultations and free, prior and informed consent respectively are similar. Nevertheless, the right to free, prior and informed consent needs to be understood in the context of indigenous peoples' right to self-determination because it is an integral element of that right.*
>
> *The duty of the State to obtain indigenous peoples, free, prior and informed consent entitles indigenous peoples to effectively determine the outcome of decision-making that affects them, not merely a right to be involved in such processes. Consent is a significant element of the decision-making process obtained through genuine consultation and participation. Hence, the duty to obtain free, prior and informed consent of indigenous peoples is not only a procedural, but a substantive mechanism to ensure the respect of indigenous peoples' rights" (UN-REDD Guidelines on FPIC, 2013:15).*

## 6.8   Benefits of FPIC

Ultimately respecting and applying FPIC benefits the state, customary community stakeholders and the private sector: in fact all of society in that in the broadest sense its application minimises the risk of disputes escalating into conflict. This in turn prevents the loss of investment opportunities. Clearly in situations when tensions may arise, investors are very likely to invest elsewhere where they perceive their investments are more secure. Respecting FPIC thus benefits all parties involved, protecting local community livelihoods, strengthening the practical and financial viability in the short, medium and long term as well as creating a basis for sustainable development. FPIC then is critical for increasing investment potential and

opportunities in developing countries and their specific geographic region (FAO, 2014:10).

FPIC is however an ongoing activity as unanticipated outcomes can negatively impact on any project. Identifying and addressing issues of community concern before undue impacts occur, before projects begin, are likely to prove more successful and cost effective than responding to community opposition later on.

FPIC needs to be obtained from the legitimate customary occupiers of the geographic space in question. Common characteristics used to identify such people are:

1. Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;

2. Collective attachment to geographically distinct habitats or ancestral territories in a proposed project area and to the natural resources in these localities;

3. Customary cultural, economic, social or political institutions that are separate from those of the dominant society and culture and

4. An indigenous language. (FAO, 2014:9)

Coupled to all of the above are the prerequisites of both the versions of the National and Provincial Traditional Leaders and Governance Act (2003 and 2005). It follows then that adherence to the above is critical to the concept of cultural dialogue.

## 6.9   Defining the Elements of FPIC

The UN-REDD Programme Guidelines on FPIC (2013:18-20) provides assistance in defining the elements of FPIC as endorsed by the United Nations Permanent Forum on Indigenous Issues (UNPFII) at its Fourth Session in 2005:38

Free refers to a consent given voluntarily and absent of 'coercion, intimidation or manipulation". Free, then refers to a process that is self-directed by the community from whom consent is being sought, unencumbered by coercion, expectations or

timelines that are externally imposed. This is further expanded to mean that Stakeholders determine process, timeline and the decision-making structure used.

Information is transparently and objectively offered to the stakeholders upon request. The process must be free from coercion, bias, conditions, bribery or rewards. All meetings and decisions take place at locations and times and in languages and formats determined by the stakeholders; and equally importantly, all community members are free to participate regardless of gender, age or standing.

Prior, on the other hand means consent is sought sufficiently in advance of any authorization or commencement of any or all activities. Prior also refers to a period of time in advance of an activity or process when consent should be sought, as well as the period between when consent is sought and when consent is given or withheld. Prior includes involving the community at the early stages of a development or investment plan and, not only, when the need arises to obtain approval from the community.

The UN REDD guidelines expand by stating that: Prior implies that time is provided for affected parties to understand access and analyse information on the proposed activity. The amount of time required will depend on the decision-making processes of the right-holders. All relevant information must be provided before activities can be initiated, at the beginning of initiation of an activity, process or phase of implementation, including conceptualization, design, proposal, information, execution and following evaluation. The decision-making timeline established by the rights-holders must be respected, as it reflects the time needed to understand, analyse and evaluate the activities under consideration in accordance with their own values, norms and customs (UN-REDD Guidelines, 2013:18-20).

Informed refers mainly to the nature of the engagement and type of information that should be provided prior to seeking consent and also as part of the ongoing process. Information should be: Accessible, clear, consistent, accurate, constant and transparent. Such should be delivered in an appropriate language and culturally appropriate format (including radio, video, graphics, documentaries, photos, oral presentations). All information should be objective, covering both the positive and negative potential of any project. Information must also be complete, covering the

spectrum of potential social, financial, political, cultural, environmental impacts, including scientific information with access to original sources in appropriate language. The delivery of information must be done in a manner that strengths and does not erode indigenous or local cultures, be provided by culturally appropriate personnel, in culturally appropriate locations. Such information must contribute to building the capacity of the communism as well as be delivered with sufficient time to be understood and verified.

Information must reach the most remote, rural communities, women and the marginalised and provided on an ongoing and continuous basis throughout the FPIC process.

Consent refers to the collective decision made by the rights-holders and reached through the customary decision-making processes of the affected peoples or communities. Consent must be sought and granted or withheld according to the unique formal or informal political-administrative dynamic of each community. Consent then is a freely given decision that may be a "Yes" or a "No", including the option to reconsider if the proposed activities change or if new information relevant to the proposed activities emerges. A collective decision is determined by the affected peoples (e.g. consensus, majority, etc.) in accordance with their own customs and traditions.

Consent must be an expression of rights to self-determination, lands, resources and territories, culture. It follows too, that consent may be given or withheld in phases over specific periods of time for distinct stages or phases of REDD+. It is not a once-off process.

While the objective of consultation processes shall be to reach an agreement (consent) between the relevant parties, this does not mean that all FPIC processes will lead to the consent and approval by the rights-holders in question. At the core of FPIC is the right of peoples concerned to choose to engage, negotiate and decide to grant or withhold consent, as well as the acknowledgement that under certain circumstances, it must be accepted that the project will not proceed and/or that engagement must be ceased if the affected peoples decide that they do not want to

commence or continue with negotiations or if they decide to withhold their consent to the project.

The FAO Guide on FPIC (2014:6) reminds us that these instruments must at all times require respect for indigenous peoples' customs and traditions, including indigenous institutions and modes of representation. Therefore the various decision making processes relating to FPIC will vary depending on the customs and traditions of the affected people.

Carino (2005:25) raises an awareness concerning the complexities attached to the above. There is the need to have appropriate knowledge as to what constitutes these rights and customs and she refers to the Philippine experience which is bound up in the "Indigenous Peoples Rights Act[1] 1997 (IPRA) of the Philippines. In terms of this law (Section 3(g) states:

> *"Free and Prior Informed Consent as used in this Act shall mean the consensus of all members of the ICCs/IPs (Indigenous Cultural Communities/Indigenous People) to be determined in accordance with their respective customary laws and practices, free from external manipulation, interference and coercion and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community."*

In 2002 the National Commission on Indigenous Peoples (NCIP), the government agency charged with the implementation of the IPRA, revised certain guidelines on the coverage of FPIC which stated:

> *"The ICCs/IPs shall within their communities, determine for themselves policies, development programmes, project and plans to meet their identities, priority needs and concerns. The ICCs/IPs shall have the right to accept or reject a certain development, activity or undertaking in their particular communities. The acceptance or rejection of proposed policy, programme, project or plan shall be assessed in accordance with the following IPs development framework and value systems for the conservation of:*
>
> *Ancestral domains/lands as the ICCs/IPs fundamental source of life: traditional support systems of kingship, friendship, neighbourhood clusters, tribal and inter-tribal relations rooted in co-operation, sharing and caring;*
>
> *Sustainable and traditional agricultural cycles, community life, village economy and livelihood activities such as swidden farming, communal forests, hunting grounds, watersheds, irrigation systems and other indigenous management systems and practices and*

*Houses, properties, sacred and burial grounds"*

Practical guidelines are needed and this may take the form of a Community Protocol. An example may be just what the customary practice of consensus-building consists of, how decisions are made, the tabling of reasons for non-consent as well as what a Memorandum of Agreement (MOA) should consist of in terms of its scope and detail. These are not insurmountable issues, but it does point to the fact that there is simply put, much to learn. The power of FPIC lies in its potential to transform oppressive conditions by introducing processes that require negotiated agreements between the indigenous peoples and broader society. It requires relationship of respect and understanding more especially as the outcome lies in the hands of the people themselves. What is needed is a political or even planning process that prioritises cultural, cultural diversity and natural diversity as core values in our lives and our survival. The "spirit" of FPIC is quite distinct from "planning consent" or formal compliance with the letter of the law. There must be national, provincial and local capacity and resources to ensure the rights of indigenous peoples are truly respected in the development agenda (Carino, 2005:39).

## 6.10  Inter-cultural Dialogue

Underpinning all of the above is the acquisition of knowledge, more importantly cultural or indigenous knowledge. In a culturally diverse world it becomes essential to develop approaches that are consistent with different worldviews and values. The prerequisites include consideration of the ways in which culture relate to one another, awareness of cultural commonalities and shared goals and the identification of the challenges presented in reconciling cultural differences,

Cultures are not self-enclosed or static entities. According to the UNESCO World Report, one obstacle to dialogue is, perceiving cultures as if fault lines separated them. Enculturation can have reverse dynamics as well. What is critical however is the awareness of history and context as well as understanding cultural codes in order to overcome the persistence of cultural stereotypes whilst on the path to this dialogue. Cultures belonging to different civilizational traditions are particularly prone to mutual stereotypes.

International tensions are bound up in conflicts of memory, competing interpretations of past events and conflict of values. Dialogue is a critical key to unlocking deep seated/rooted antagonisms if the will exists to do so. The cultural challenge that this multi-cultural society (South Africa) faces is to reconcile the recognition of, protection of and respect for cultural particularities with the affirmation and promotion of universally shared values emerging from the interplay of cultural specifics.

The UNESCO World Report (2009) goes on further to suggest that inter-cultural dialogue is dependent on inter-cultural competencies, defined as the complex of abilities needed to interact appropriately with those who are different to oneself. These abilities are essentially communicative in nature, but they also involve reconfiguring our perspectives and understanding of the world; for it is not so much cultures, as people: individuals and groups with their allegiances and complexities who are engaged in the process of dialogue.

Rather than knowledge of others, what determines the success of inter-cultural dialogue is the basic ability to listen, cognitive flexibility, empathy, humility and hospitability (UNESCO World Report, 2009:10). International dialogue requires empowerment of all participants through capacity building and projects that foster interaction without a loss of personal or collective identity.

The White Paper on Inter-cultural Dialogue emanating from the Council of Europe (CoE) 2008, states that inter-cultural dialogue is a precursor to "living together as equals in dignity." It reasons that the inter-cultural approach offers a forward looking model for managing cultural diversity. It proposes a conception based on human dignity, embracing our common humanity and common destiny ( CoE, 2008:2).

In the White Paper introduction it is stated that the 2005 Third Summit of the Head of State and Government identified inter-cultural dialogue as a means of promoting awareness, understanding, reconciliation and tolerance, as well as preventing conflicts ensuring integration and the cohesion of society (CoE, 2008:3). Under the heading of Pluralism, Tolerance and Inter-cultural Dialogue, the risk of non-dialogue are listed as follows:

1. to not engage makes it easy to develop a stereo typical perception of the other;

2. build up a climate of natural suspicion, tension and anxiety;

3. use minorities as scape goals and

4. Generally foster intolerance and discrimination.

The breakdown or non-existence of dialogue within and between societies can lead to a climate conducive to the emergence and the exploitation by same, of extremism and even terrorism. Shutting the door on a diverse environment can only offer an illusionary security. The abuse of dialogue deprives every one of the benefit of new cultural openings necessary for personal and social development in a globalised world (CoE, 2008:7-8).

The White Paper (CoE, 2008:12) introduces four policy approaches to the promotion of inter-cultural dialogue and these include:

1. the democratic governance of cultural diversity which in turn embraces developing a culture that values diversity, promotes human rights and fundamental freedoms and promotes equality and equal enjoyment of rights;

2. the promotion of a democratic citizenship and participation;

3. Developing learning and teaching, inter-cultural competencies which embraces the identification and maintenance of cultural norms and values such that prejudice and stereo typing are eliminated. Included in this group of policy imperative are references to primary, secondary and higher education, as well as research. In the latter context the university is regarded as a place where there exist a commitment to "open-mindedness and openness to the world, founded on enlightenment values." Research is seriously needed to address the aspects of learning to live together and cultural diversity in all teaching activities; and

4. Recognising and creating spaces for inter-cultural dialogue. Successful inter-cultural governance at any level is largely a matter of cultivating such spaces. Town planning is cited as an obvious example: urban space can be organised in either "single minded" or "open minded" ways. If single minded areas favour an atomised existence, open minded places can bring diverse sections

of society together and create a sense of tolerance. It is critically important that migrant populations, for instance, do not find themselves concentrated on soulless and stigmatised housing estates, excluded and alienated from city life. Cultural activities can provide a source of knowledge of diverse cultural expression and so contribute to tolerance, mutual understanding and respect (CoE, 2008:7).

Following out of the above mentioned policy imperatives, the White Paper recommends a number of specific actions which include inter alia the following:

1. inter-cultural dialogue needs a neutral institutional and legal framework;

2. public authorities and all social forces are encouraged to develop the necessary framework of dialogue through educational and practical arrangements involving majorities and minorities;

3. participation must embrace multiculturalism;

4. public authorities and all social actors are invited to develop inter-cultural dialogue in the spaces of everyday life and within a framework of the respect of fundamental freedoms; and

5. Public authorities and non-state actors are encouraged to promote culture, the arts and heritage, which provide important spaces for dialogue. Cultural activities can play a key role, in transforming a territory into a "shared public space" (CoE, 2008:26).

Suciu, Neagu and Mateeseu (2014:632) make the point that, transforming common multi-cultural co-habitation spaces into authentic multi-cultural society depends on three variables and these are:

1. tolerance and the way that culture is valued and appreciated by the host society;

2. orientation towards a fully integrated of minorities in the host societies cohabitation spaces or to preserve their cultural specificities; and

3. The number of minorities and their proportion in the majority. With regard to the last two variables, the majority in the context of the Eastern Cape are Xhosa speaking people. Effective inter-culturalism is premised on any of the following:

(a) explicit recognition of the existence of diverse cultures and the right of these cultures to express in a cultural different way;

(b) to identify the various cultural relationships and exchanges between individuals, groups and institutions that form a different culture i.e. creating the relevant knowledge base;

(c) creating and adopting relevant common standards that may be applicable to a different cultural space; and

(d) Facilitate different cultural groups to organise and resist assimilation.

In essence there is a need to develop an inter-cultural competence. "An inter-cultural competent student must be able to move confidently within the steadily alterable contexts, that is, to sense and adjust to changes appropriately and effectively" (Hiller G.G and Wozniak M, 2009 cited in Suciu et al, 2014:634) This same publication has cited Deardorff K (2006) as defining inter-cultural competence "as the ability to interact effectively and appropriately in inter-cultural situations, based on specific attitudes, inter-cultural knowledge, skills and reflections" (2014:634). Inter-cultural competencies are learned and practiced.

Inter-cultural education or learning requires the pursuance and adoption of at least the following:

1. Start with putting behind our own cultural identity and embrace an open vision of seeing and understanding the world;

2. Embrace diversity which will help us to open our mind to find common and universal roots of all the people that are interacting. Inter-cultural dialogue with other cultures makes us to reconsider, rediscover and recover essential components of self-culture values;

3. Recognise the differences between individuals and encourage the right to behave freely.

4. Avoid discrimination by promoting an equalitarian attitude in classes and in our own life;

5. Embrace respectively between individuals and promote tolerance within and outside university;

6. Encourage inter-cultural collaboration in projects that run outside or inside the educational spaces on diverse subjects and why not even inter-cultural issues;

7. Make use of examples in presentation of cultural different situations always underling the positive side of diversity and of a competent way to manage the diversity; and

8. Encourage the liberty to speak freely for all the people assuring openness and a positive climate to exchange opinions. Also grant equal importance for opinions of different individuals. (Suciu et al. 2014:635)

The above then, not only impacts on attitudes, but also on how culture is presented in the training of planners. This will not necessarily be achieved over night. Cultures bring with them alternatives (values, world views) and hence a richness of knowledge. The sustainable agenda is infinitely bound up in the capacity to embrace difference.

## 6.11  Cultural Diversity: a Key Dimension of Sustainable Development

The UNESCO World Report, 2009 makes the point that, contrary to widespread assumption there is no prescribed pathway for the development of a society, no single model that can be applied. The conception of development as a linear and essentially economic process (in keeping with the Western model) has tended to disrupt society pursuing different development trajectories or subscribing to different values. A sustainable development strategy cannot be culturally neutral. The idea of profit maximisation and the accumulation of material goods is increasingly being challenged (2009:24).

Following the United Nations Development Programme (UNDP) elaboration of the human development model in the 1990's increasing emphasis has been placed on integrating the cultural dimensions of development thinking, thereby taking into account the "webs of significance" that people create, the cultural context in which communities and groups exist, local social hierarchies and habitation patterns, livelihoods and local forms of communication and expression (2009:24).

Local solutions can really only be found in conjunction with the communities involved. Holistic approaches that integrate culture and human rights contribute greatly to both empowerment and capacity building. Cultural factors too influence consumption behaviour as well as the values concerning environmental stewardship.

There is a significant growing concern that the "three pillar" model of sustainability consisting of environmental, economic and social dimensions may be overlooking something of fundamental importance and that is the cultural – aesthetic/religious – spiritual dimensions (Burford et al 2013:3036). Cultural diversity, understood as a sense of "wellbeing, creativity, diversity and innovation" should be treated as one of the basic requirements of a healthy society (Hawkes, 2001:25). The broader definition of culture cannot be confined to arts and heritage, but rather embraces a whole complex of distinctive spiritual, material, intellectual and emotional features that characterise a society or social group (1982 Mexico City Declaration on Cultural Policies, as cited in Burford, Hoover et al, 2003:3036). A cultural – aesthetic perspective can be found among indigenous communities and their advocates, including the UN Food and Agriculture Organisation (FAO), who frame the missing pillar debate in terms of cultural integrity. This term is used to embrace shared values, beliefs and knowledge as well as more tangible manifestations of culture such as ceremonies and objects. The United Nations Permanent Forum on Indigenous Issues (UNPFII) has also acknowledged the necessity for incorporating cultural indicators of well-being and sustainability that reflect, "true indigenous perspectives such as portraying approaches grounded in wholism (sic) and unique values" (Burford et al, 2013:3037).

A much less known perspective on the missing pillar dimension of sustainability is embraced in the concept of an awakening global ethical and spiritual consciousness that underpins sustainability transitions. In a keynote address at the 2010 Earth

Charter conference "An Ethical Framework for a Sustainable World" Steve Rockefeller described this emerging consciousness as "in truth the first pillar of a sustainable way of life" on the premise that ethical vision and moral courage are essential to generating the political will required for transitions to sustainability (Burford et al, 2013:3037).

To what extent then, does the planning agenda concur, or even have a dialogue with such a statement? Indeed everything that has been written thus far must represent a challenge to the status quo, more especially as far as the planning project here in South Africa is concerned. Thoughts concerning this will be penned in the final chapter of this thesis.

In its simplest form, the concept of sustainability embraces a desire that, future generations will inherit a world as least as bountiful as the one we inhabit: how to get there will always be the subject of constant debate. This debate however hinges around at least the following:

1. *the social production and transmission of identities, meaning knowledge, beliefs, values, aspirations, memories, purposes, attitudes and understandings and*

2. *the way of life as described and constructed by a particular set of humans embracing customs, faiths and conventions, codes of manners, dress, cuisine, language, arts, science, technology, religion and rituals, norms and regulations of behaviour, traditions and institutions. Culture then is both the medium and the message: the inherent values and the means and the results of cultural expression. Culture enfolds every aspect of human intercourse and hence Hawkes postulates that culture is the basic need; it is the bedrock of society (Hawkes, 2001:3).*

A sustainable society depends on a sustainable culture and according to Hawkes (2002:4-14), culture is required in order to lay the groundwork for a sustainable future. Just as biodiversity is an essential component of ecological sustainability, so too is cultural diversity essential to social sustainability. Cultural democracy involves the exercise of rights, not simply the availability of opportunity. "Cultural diversity is integral to social cohesion, human development, peaceful co-existence and the prosperity of societies" (The Santorini Statement, 3rd Annual Ministerial Meeting of the International Network on Cultural Policy, cited in Hawkes, 2001:4).

Communities have the right as well as the responsibility to engage with the values that determine the nature of the society of which they are a part. Some communities enjoy considerable influence whilst many others experience significant deficiencies in this regard. This is a cultural problem which requires a cultural solution. Culture is not a closed system, it embraces many influences, many of which are global, but the response to these influences cannot help, but be mediated through our own particular, unique experience (Berry, Poortings, Segall and Dasen 1992, cited in Berry, 1997:6). The concept of distinctiveness and even authenticity emerges in the midst of such interactive processes. Culture is the outcome of the production of social values and culture is the foundation of the development of community. Community cohesion is critically dependent upon the capacity of community members within a community to understand, respect and trust one another. Social capital has hence been referred to as the glue that binds society and also social capital is the lubricant that allows it to operate smoothly (Hawkes 2001:18). Any infringement or imposition (forced enculturation) that undermines the recognition of the uniqueness or distinctiveness of a particular culture enhances the risk of social upheaval. Identity is to rather be celebrated: the promotion of identity is a critical endeavour and hence huge responsibility which if applied respectfully, will bring huge benefits. Distinct and confident identities are an integral basis for wellbeing, social cohesion and economic development (Hawkes 2001:20).

Berry (1997:9), in line with the above, identifies two major issues that are also at play in the dynamics of sustainability, identity and wellbeing, and these are "cultural maintenance" and "contact and participation". Both are a dialogue embracing choice that takes place within distinct communities as well as between communities. Prejudice and discrimination have a significant impact on wellbeing, and ultimately sustainability. The choices made in turn embrace the notions of "culture learning" and "culture shedding" (Berry, 1997:27): both of which are bound up in the concept of inter-cultural dialogue and its intended sustainable outcome. There is quite naturally the need to learn as well as the need to unlearn (shedding). This is not however straight forward and the recognition of such, is important in how an inter-cultural dialogue is managed. Mutual accommodation, (Berry 1997:29) too becomes a critical idea. The management of pluralism depends both on its acceptance as a contemporary fact of life and on mutual willingness to change.

*"I have no right to claim on behalf of non-Aboriginal Australia that all the non-Indigenous are now part of Australia's deep past, nor do I wish to. Belonging ultimately is personal. There are many routers to belonging as there are non-Aboriginal Australians to find them. My sense of the native born has come – is coming. It comes through listening, but with discernment; through thinking, but not asserting; through good times with my Aboriginal friends, but not through wanting to be the same as them; through understanding our own history, but being enriched by the sites of past evil as well as good. It comes from believing that belonging means sharing and that sharing demands equal partnership" (Peter Read (2000) cited in Hawkes 2001:20).*

Hawkes goes further to say that Read is but one of a panoply of voices that points out that until the issue of Indigenous rights is resolved, the question of how non-Indigenous peoples' sense of connectedness, with this country (Australia) will develop authenticity remains problematic, which is to say that a resolution is an imperative for us all, not just Indigenous people.

Growth, development and progress are concepts that have informed western philosophies of public action for centuries. The question of "towards what" is only a more recent development. Prior to this the standard answer would have been centred on achieving "more material prosperity". Even culture has been transformed into a market driven consumption commodity, all of which is simply put, not sustainable. "To achieve ecological growth we may need to move from an economy of production to an economy of repair – of our damaged society, of our damaged environment, even our used products…"(Gleeson and Low, 2000, cited in Hawkes, 2001:21). This idea of repair means, inter alia, realigning our ideas concerning culture and its vital role in achieving sustainability. We need a process of nurture and cultivation: culture is a fragile and delicate organism. The manifestation of cultural vitality include "robust diversity, tolerant cohesiveness, multi-dimensional egalitarianism, compassionate inclusivity, energetic creativity, open minded curiosity, confident independence, rude health. Attributes such as these will help us make a future that our children will thank us for" (Hawkes 2001:23). Governance methodologies, including spatial planning will need to have a well throughout and clear understanding of the role of culture in society if it wishes to effectively facilitate the flowering of these qualities in our communities.

*"The four pillars of sustainability:*

*Sustainability, as it has become formally adopted around the world, has not one, but three pillars: ecological sustainability, social sustainability and economic sustainability. Some would argue that there should be four pillars and that cultural sustainability should always be included. We agree with this view." (D. Yencken and D. Wilkinson, 2000:9 cited in Hawkes 2001:25).*

Community wellbeing is built on a shared sense of purpose; values inform action; a healthy society depends, first and foremost on open, lively and influential cultural activity amongst the communities within it; sustainability can only be achieved when it becomes an enthusiastically embraced part of our culture (Hawkes, 2001:25). Culture has to be a separate and distinct reference point embracing and ensuring identity vitality, wellbeing, creativity, diversity and innovation.

## 6.12  Inter-cultural Dialogue, Cultural Knowledge and Cultural/Community Mapping

A dialogue is not merely the attempt to gain knowledge in order to understand a culture distinct from one's own, it is also about understanding how the cultural knowledge has shaped, not only the perspectives of its' people, but also how this shapes and impacts the spatial domain. Land and its use are embedded in culture. It goes further in that different perspectives on what counts as normal are part of the surprise element in effective inter-cultural dialogue. Assumption about values, perspectives and even topography can be misleading and false (Crawhall, 2007:2).

Cultural mapping involves the representation of landscapes in two or three dimensions from the perspectives of indigenous and local peoples. It follows that this is an important tool in order to create platforms for inter-cultural dialogue and increase awareness of cultural diversity as a resource for the sustainable management and use of natural resources. Early work on cultural mapping focussed on demonstrating Inuit land use and occupancy (ILOUS) patterns that led to disputes over natural resource rights. In more recent times this approach has also been used for the indigenous defence of biological diversity (Crawhall, 2007:3). Poole (2003:10-11) explains cultural mapping as a concept that is used in both a literal and metaphorical sense in that this activity goes beyond strict cartography to include cultural resources other than land. Such maps are generated in the course of conversation within communities and provide information such as local names,

traditional resources, seasonal movements, special places, hunting grounds, and various habitats, families of hunters, fishers and gatherers. Such documents may also be referred to as "map-biographies". From a strategic point of view such maps are critical in both a territorial and community sense. These maps empower communities in that they are able to format information for recognition, negotiation and monitoring purposes. In the majority of cases, communal boundaries, although well known to communities on the ground have never been accurately placed upon official maps that are, for example, used for allocating permits to logging and mining companies. The Inuit Land Use Study (ILOUS) took over 25 years to complete and during this time, the Nunavut negotiating team developed an advanced geomantic information base that combines traditional knowledge with the data needed from global and national sources. This database is rapidly becoming the authoritative environmental information source for the Canadian Arctic and Nunavut is now retailing this data to others. The Inuit communities have developed a sophisticated information system where layer by layer different information is made available from the display of historic sites to videos of elders telling stories or singing about their territory (Poole, 2003:14-15).

Chapin et al (2005) cite the 1976 "The Inuit Land Use and Occupancy Project (ILOUS) cover some two million square kilometres as one of the foundational experiences of geographers and anthropologists working with Inuit hunters and trappers to map 33 communities in the Northwest Territories of Canada. These Arctic and other Northern Canadian experiences were taken up by Aboriginal peoples in Australia, by the Maya (1977) in Central America, by indigenous peoples in the Philippines and the rainforest of Brazil (Crawhall, 2007:5). In short over the last four decades, there has been increasing awareness that some of the most important aspects of human culture are contained in the intangible aspects of cultural practices and knowledge systems.

The three "Rio Convention" from 1992, namely the Convention on Biological Diversity (CBD), the Convention Combating Desertification (CCD) and the Framework Convention on Climate Change (FCCC) all recognised the link between sustainability and the increasing involvement of local and indigenous communities. It has now been recognised that cultural systems and practices that favour natural resource

management together with their respective value systems and knowledge systems are critical in shifting patterns of over consumption of natural resources, in combating pollution and reducing greenhouse gas emissions. The UN instruments recognise that local communities can be more effective managers of natural resources than decision makers in remote urban areas or even global market players (Crawhall 2007:6)

In November 2006, the Division for Cultural Policies and Inter-cultural Dialogue organised a workshop in Paris to help UNESCO staff and Francophone indigenous trainers to initially consider the use of Participatory 3-Dimensional Modelling (P3DM) to assist in formulating and implementing policies and programmes to reduce poverty, promote sustainable food security, preserve the natural resource base and in so doing build self -reliance in African, Caribbean and Pacific (ACP) rural and agricultural development. This event provided some important lessons which include:

1. Cultural and participatory mapping arise from different origins (different communities identifying and documenting cultural resources). These activities help to strengthen indigenous and local peoples' capacities to express and defend their points of view, cultural practices and rights and aspirations. This is particularly critical in the context of globalisation where diverse ways of living are under threat.

2. The making of the map legend (i.e. the key to making the map) for cultural participatory maps creates opportunities for mutually beneficial inter-cultural dialogue as well as the valorising of local and indigenous voices;

3. Cultural maps are valuable tools for the mapping of protected areas and cultural heritage sites;

4. Cultural mapping practices creates the condition for better understanding and negotiation between stakeholders;

5. The mapping assists in matters concerning the concept of FPIC;

6. Cultural and participatory mapping are unique tools for making intangible heritage visible in its territorial and resource context;

7. The processes of conducting these mapping exercises bring to the fore issues of ethics, the safety and wellbeing of communities and the protection of intellectual property rights; and

8. The issue of gender, women and children as well as the elderly voices needs to be articulated, addressed and monitored.  (Crawhall, 2007:10)

Burini (2012:3) makes the point that in line with the principles of participation and environmental governance, it is possible to imagine thoughtful mapping that tries to restore the social sense of places and therefore the identity of those living in the area represented.   Another technical term for this type of exercise is known as participatory geographic information systems which allows for the geo-referencing and display of territorial knowledge of local communities known by the acronym ISK meaning Indigenous Spatial Knowledge (Rambaldi et al, 2006 cited in Burini, 2012:3).

Mapping then makes it possible to create a special kind of communication-bridge.  In a non-bureaucratic environment maps also help to reveal hidden assumptions and cultural constructs about territory and natural resources.  The work of inter-cultural dialogue is the work of making hegemonic relations explicit and showing that there are multiple voices and paradigms for natural resource use and that sustainability rests, not only on cultural diversity, but also on economic diversity and on policies of economic pluralism (Crawhall, 2007:3).   At the heart of the conflict between indigenous hunter gatherers, for example and dominant agricultural societies are different perceptions of the relationship between man and nature, the unnamed prejudices about production and reproduction and power issues.  Such differences are exacerbated by globalist economic theories and policies that regard nature within a commodity and ownership framework.  This hegemony in approach makes it difficult to express different economic models that are grounded in unique cultural norms about life, land and resources.  It is a sad fact that indigenous models that emphasise equilibrium, sustainability, mobility and collective responsibility are not easily accommodated by finance ministries that depart from models based on the domination or submission of nature resources including biodiversity to growth and consumptive models.

*"It is one thing to create dialogue; it is another to transform power relations. For activists, the Universal Declaration on Cultural Diversity creates opportunities not just to publish more maps from different cultural perspectives, but to negotiate changes in power relationships between holders of different knowledge, cultural systems and economic power in a manner that is sustainable for all life on earth, as well as for ensuring peaceful co-existence and good governance" (Crawhall, 2007:13).*

Cultural mapping is not a static venture either. In a rapidly changing world there can be significant shifts in knowledge and experience between successive generations. Clearly there is always going to be an intra-cultural dialogue as well, between elders and youth, between men and women and so on. This then raises the issue of indigenous populations being able to recognise and manage their own knowledge systems.

*"The most important lesson learn from the Nunavik (Quebec) experience is that the indigenous peoples must first and foremost control their own information. It has also become clear over the years that the knowledge base of indigenous peoples is vital, dynamic and evolving. Merely "collecting" and "documenting" indigenous environmental knowledge is in fact counter-productive. These knowledge systems have been under serious attack for centuries and the social systems that support them have been seriously undermined… it is not a question of recovery and recording indigenous knowledge, it is one of respect and revitalisation" (Brook and Kemp 1995: 27 cited in Crawhall, 2007:14).*

Brook and Kemp point therefore to a twofold problem and that is (1) indigenous people experience cultural assaults that may cause their inter-generational transmission of knowledge to weaken or even collapse and (2) even when a wealth of knowledge exists it is not easy to communicate this to decision makers or to bring orally based knowledge effectively into negotiations, disputes, courts or governance mechanisms. Such would include the realm of spatial planning. Rachel Olson (Crawhall, 2007:15) a First Nations activist and geographer explained at the Paris 2006 workshop that GIS (geographic information system) has become an essential tool for aboriginal Canadians in managing their lands and their relationship with the State and the private sector. No longer are they vulnerable to data manipulation and possible disputes of interpretation. Their ancestors understood the treaty making process differently than the white settlers primarily, because First Nations emphasised honouring one's verbal promises, the respect for host and guest and the inalienability of their territories. Cultural mapping creates a new language that the

State cannot dominate and coupled to this is the emergence of a new technical literacy that is more visual and not the unique domain of the dominant culture.

Through the regional dialogue facilitated by the Indigenous Peoples of Africa Co-ordinating Committee (IPACC), it has according to Crawhall (2007:15) become clear that most African indigenous peoples would like greater engagement with the State over issues of recognition, education, protection for threatened languages and cultures, improved sustainable livelihoods, land management and local governance.

> *"African states have shown enthusiasm for the 2003 and 2005 UNESCO Conventions. Africa is particularly rich in cultural and linguistic diversity. As the understanding of the value of cultural diversity in suggesting biological diversity increases, there is an interesting opportunity for indigenous and local peoples to redefine their relationship with the State. Experiences of historic marginalisation rooted in colonialism can be transformed into new relationships of mutual co-operation, using cultural knowledge systems and practices to help protect and manage Africa's vulnerable natural resources" (Crawhall, 2007:15).*

Cultural mapping then is a critical space where indigenous peoples and the State can come to know each other and redefine relationships for the benefit of all. The African Biodiversity Network (ABN) has entered a dialogue and is sharing information with the Technical Centre for Agricultural and Rural Co-operation (CTA), ERMIS Africa (Environmental Research Mapping and Information Systems) and the IPACC to bring the practice of mapping to rural communities across the continent. The Eastern Cape needs to engage in a process of cultural dialoguing and produce the type of knowledge that is critical to our sustainability efforts.

## 6.13  Endogenous Development and Bio-cultural Community Protocols

The Editorial of the Endogenous Development Magazine (EDM) (No 6: July 2010) describes, endogenous development as an approach to development that is based on local people criteria for, development and such process take into account their material, social and spiritual wellbeing. Endogenous development then is mainly based on local strategies, values, institutions and resources. It goes on to say that the importance of such participatory approaches that integrate local knowledge into the development mix are becoming widely recognised as a legitimate alternative to the mono-dialogue of the materialistic bias found in much of the Western view on this

subject.  Endogenous development seeks to overcome this bias by ensuring that there is the inclusion of local people's worldviews and livelihood strategies at the onset of any dialogue and development policy formulation process.  Endogenous development embraces not only the economic, but also the social, the spiritual, the ecological and the cultural dimensions of existence and their respective development.

As this type of approach stresses local strategies, values, institutions and resources, priorities, needs and criteria for development may differ from community to community.  The Editorial goes on to state that key concepts within the endogenous development paradigm include:

1.  local control of the development process;

2.  applying cultural values in a serious and dignified manner;

3.  appreciating difference and worldviews as well as

4.  Finding a balance between local and external resources.

The overall aim of endogenous development is to empower local communities to envisage and realise their future as well as assume control of their own development process.  While revitalising ancestral and local knowledge, endogenous development helps local people make their own choices concerning external resources that best fit local conditions.  Endogenous development also leads to improving the prospects of maintaining and even improving biodiversity, cultural diversity, reducing the prospect of environmental degradation and increasing the prospect of self-sustenance.

Bavikatte and Jonas (EDM, 2010:4-6) makes the point that endogenous development is founded on the principle of self-determination which is reflected in international law.  They cites article 3 of UNDRIP which states:  "Indigenous peoples have the right to self-determination.  By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."   It follows that such an approach stresses that external intervention must be undertaken only when the principles of FPIC are applied.

Bio-cultural community protocols are a statement of self-determination of a particular community that details its existing resources, assets and values and its locally identified priorities. These protocols can also articulate procedures as well as terms and conditions for engaging other stakeholders. In this way, communities effectively underscore that they are not merely stakeholders whose views may or may not be taken into account, but are in fact rights holders with entitlement under law. A protocol helps communities articulate its norm and values in its own voice while still being understood by non-community actors (EDM, 2010:6).

Holcombe (EDM, 2010:8-9) points to examples of three such protocols that were developed in conjunction Aboriginals in the Northern Territory, Australia. In 2008 the Australian Natural Resources Management Board (NRMB) commissioned the development of Indigenous Cultural and Intellectual Property Protocols dealing with indigenous ecological knowledge management. The three protocols that emerged from this exercise consisted of:

1. guidelines for indigenous ecological knowledge management for community based organisations and natural resource management agencies;

2. a handbook for communities and community based organisations; and

3. A statement about the rights and obligations of natural resource management practitioners in respect of indigenous intellectual property rights;

With the Australian government's endorsement of UNDRIP in 2009, these three protocols embedded the principles and language of the UN Declaration most notably articles 32.1, which reads:

*"Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands and territories and other resources"*

*31.1 & 31.2 which reads:*

*"Indigenous peoples have the right to maintain, control, protect and develop their intellectual property over their cultural heritage, traditional knowledge and traditional cultural expressions. And… states shall take effective measures to recognise and protect the exercise of these rights" (EDM, 2010:9).*

These protocols focus on:

1. principles of partnership and collaboration;

2. ethics principles;

3. benefit sharing in research;

4. FPIC processes;

5. ethical management of indigenous culture and intellectual property and

6. Repatriation processes for research data.

The development of these protocols did not however override local level indigenous knowledge protocols or systems, but rather attempted to assist these processes by outlining a decision making framework for FPIC. Two other important objectives were pursued in the aforementioned processes and these were:

1. to promote inter-generational knowledge and

2. The principle of active protection of this knowledge. Holcombe acknowledge that the protocols are to be regarded as first generation and hence it has also been acknowledged that as trust and communication evolves, the limitations of these efforts will indeed become apparent. In short these are then regarded as working documents, or a work in progress.

Given the turbulent history of the Eastern Cape (as outlined in Chapter 3), not to mention the disastrous "planning" attempts referred to as "betterment schemes" it may well be appropriate for a spatial planning protocol to be developed in line with the various principles and declarations outlined in this chapter. The very recently completed East Cape Wild Coast Regional Spatial Development Plan (WCRSDP) revealed a number of critical concerns in the credibility stakes. Consultations with relevant Traditional Councils, whilst developing this planning document (2014-2015), highlighted deep seated suspicions concerning the bona fides of planning and its agents, namely government. This is hardly surprising given the many years of horrific and violent marginalisation and abuse that the residents of these rural areas were subject to and to some extent still are. Land restitution claims, such as the one previously mention in the Keiskammahoek region, bear ample testimony to this.

There is, if you will, a form of "truth and reconciliation" that the spatial planning endeavour will need to pass through in order to gain acceptance by those responsible for the custodianship of customary culture, its norms, values and heritage.

The creation of appropriate protocols along the lines described in this chapter may prove to be an acceptable way of gaining the much needed credibility if spatial planning is to break its links with betterment and the aggressive and forceful top down approach used to implement these schemes. The WCRSDP processes made it clear that both the cultural memory and associated anger still exists. Social cohesion can never be attained if these wounds are not appropriately dealt with. Land is not simply a commodity: it is a social asset (Ocheje, 2007:176).

## 6.14 Eastern Cape Traditional Leaders and Governance Framework Act 4 of 2005 (ECTLGFA)

The above mentioned Act came into existence as a consequence of the provisions of the Constitution and the national Traditional Leaders and Governance Framework Act (TLGFA) of 2003. The Spatial Planning and Land Use Management Act, 16 of 2013 (SPLUMA) makes reference to the National Act of 2003 in order to address the concerns of those of this country's residents who elect to live under customary tenure and cultural values. SPLUMA however does not articulate its relationship to this largely unique customary rural constituency. This remains to be worked through and this research is but one approach as to how this may actually happen.

An appropriate starting point would be to acknowledge not only the existence of the ECTLGFA, but also its specific context, aims and objectives. The preamble reads as follows:

> "To provide for the recognition of traditional communities; to provide for the establishment and recognition of traditional councils; to provide a statutory framework for leadership positions within the institution of traditional leadership, the recognition of traditional leaders…; to provide for the functions and roles of traditional leaders; to provide for a code of conduct and to provide for matters connected therewith."

This provincial act formally, as in law, provides for the explicit recognition of a traditional community, its cultural practices, norms and values, its heritage and its

customary cultural leadership structures that need to attend to these matters. There are now 240 traditional councils in this Province, each with its own area of jurisdiction and each of these is empowered to further its cultural pursuits in line with inter alia the rights to self-determination (Section 235) as stipulated in the South African Constitution (see also Sections 30, 31, 211 and 212).

Van der Vyver (2011:7-20) refers to a number of international covenants and declarations to illustrate the point that people of different ethnic, religion and linguistic communities are to be respected in these matters. Some of these international instruments have already been referred to in this chapter. Van der Vyver references "The Covenant in Civil and Political Rights (1966)(CCPR) and the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (1992) (DRPNERLM)" as relevant examples of the international perspective. Article 27 of the CCPR states:

> *"In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such , to their own culture, to profess and practice their own religion or to use their own language"*

Whilst, Article 2(1) of the DRPNERLM reads as follows:

> *"Persons belonging to national or ethnic, religious and linguistic minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and public, freely without influence or any form of discrimination."*

In the light of the above, Van der Vyver (2011:7) argues that government through their respective constitutional and legal systems, are requires to secure the interests of distinct sections of the population, to enable such communities to participate effectively in decision making pertinent to the group to which they belong, not to undermine identity and to ensure equal treatment by and before the law. This is embellished further in UNDRIP as has already been articulated. South Africa is a signatory to this Declaration.

Chapter 2 of the Provincial Act provides for the functions of traditional councils and these include inter alia:

- Administering the affairs of the traditional community in accordance with custom and tradition;

- Assisting traditional leaders to perform their functions;

- Supporting municipalities in the identification of traditional community needs;

- Facilitating the involvement of the traditional community in the processes of developing an Integrated Development Plan (IDP);

- Formulating policy and recommending appropriate interventions to government that will contribute to development and service delivery;

- Formulate specific policy as well as participate in the development of policy and legislation at a local level;

- Participate in development programmes of all spheres of government;

- Promote the ideals of co-operative governance, integrated development planning, sustainable development and service delivery;

- Promote indigenous knowledge systems for sustainable development and disaster management;

- Alert any relevant municipality to any hazard or calamity that threatens the area of jurisdiction of the traditional council or wellbeing of the inhabitants of such area of jurisdiction;

- Sharing information and co-operating with their traditional councils and

- Performing the functions conferred by customary law, customs and statutory law consistent with the Constitution.

The above mentioned functions are then regarded as the legitimate concerns of the traditional cultural realm. What is perhaps surprising is that there is no specific reference to heritage and the rights associated with this subject as articulated in the international discourse on human heritage and culture. Perhaps this is implied by the fact that custom and its spatial outcomes, not to mention its cultural and spiritual

outcomes, are bound up in the concept of custodianship, diversity and ultimately identity.  Of equal importance is the inter-generational transfer of cultural values and assets.  All of this represents important opportunities for the development of a spatial planning ethos that respects diversity and cherishes the development of a cultural heritage that gives a people and its geographic area a distinct character.  Such an ethos must also recognise the absolute value of alternate outcomes.

## 6.15  Concluding Remarks

This journey into the subject of culture is by no means a complete one.  It is however a first attempt on the journey that Holcombe refers to.

> *"Effective implementation of the human rights based laws and judgement within the entire country will in the final analysis be continued by the cultivation of a human rights ethos on a stronghold of all peoples and all tribal communities of the South African nation.  In this respect South Africa still has many more miles to run" (Van der Vyver, 2011:11).*

Justice Albie Sachs on occasion referred to "ubuntu-batho" in the sense of "civility" as " a precondition for the good functioning of contemporary democratic societies" and noted that "civility in a constitutional sense involves more than just courtesy and good manners… it presupposes tolerance for those with whom one disagrees and respect for the dignity of those, with whom one is in dispute" (Masetlha v President of the RSA 2008 1 SA 566 (CC) Para 238, cited by Van der Vyver, 2011:18).

The international discourse on culture has evolved significantly over the period 1946-2014, a period spanning over 60 years.  The idea that homogenisation and enculturation are a natural event has proven to be entirely incorrect.  Identity (revitalisation) has in the process of globalisation emerged as a significant feature of the twenty first century.  The twenty or so years it took to develop UNDRIP is testimony to the above.  Culture has a long memory and today we witness the emergence of First Nation concerns in the United States and Canada, the Aborigine of Australia and many distinct groups in Africa e.g. the San and various peoples in South and Latin America.  This chapter commenced with a few facts concerning the indigenous peoples of the world, all 370 million of them.  These are real people living in a real world attempting to etch out a livelihood consistent with their specific values and worldviews.  This is their right and if there is a modicum of truth in this, then the

planning endeavour must contribute. This becomes even more of a concern when one considers the connection between culture and development. In the context of sustainability, the one is entirely dependent on the other.

Land use management, as shown in Chapter 2, is an activity embedded in culture. Space, the manipulation and maintenance thereof is really driven by cultural norms and values. The predominant emphasis on economic or even environmental concerns is in effect inadequate. This foray into Xhosa culture has clearly shown that there is a dire need to be far more inclusive in our thinking. If cultural values dictate the use and management of space, then we as planners are actually oblidged to incorporate these.

**CHAPTER 7**

# 7. An Approach toward a Framework for a Sustainable Land Use Management System in Customary Rural Eastern Cape

## 7.1    Introduction

This final chapter will provide an answer to the research question posed at the onset of this thesis. The research question posed in Chapter 1 was to ascertain whether or not only one system of land use management can be created and applied to a geographic space that is occupied by a Xhosa cultural constituency which in turn has been framed and even driven by a particular form of cultural knowledge and customary law? The research has revealed a complex and even conflicting array of concerns and issues which need to be considered when attempting to find such an answer.  In the light of these complexities it is considered useful to briefly revisit each chapter and pen the main researched outcomes of each, before attempting to provide a definitive answer.

## 7.2    Xhosa Culture and existing Land Use Management practices: the building of the person and the community

Xhosa culture centres on the concept of becoming human and a primary feature of this is maintaining human dignity. Maintaining contact through pursuing relationship and especially dialogue is a central feature of Xhosa customary existence. Dialogue affirms one's existence and one's place in such existence which includes space.  The social condition or need therefore informs the spatial outcome. Land, therefore, is not a commodity or thing distinct from existence. On the contrary, land can almost be considered as a medium upon which and through which harmonious relationships is maintained.

Relationship is not confined to something that is merely between people, it is also about the maintenance of identity within the inner being (person), as well as relationship with family members who have departed.  These play a vital role in the establishment of harmony within the village group. These departed also occupy the same space as the living. Relationship then, is not only about connections to space,

but also connections to various time horizons. Personhood is initially bound up in self, others (living), others (deceased), others (unborn) and space. One could almost refer to this notion of space as abiding in a spatiality of identity, one's own and those of relatives (living and departed), a spatiality of sanctuary, a spatiality of dignity, a spatiality of culture, norms and values (rules of existence), a spatiality of comfort indeed a spatiality that imbibes any and all qualities commonly referred to as home. Home is not just a piece of land defined by a few pegs in the ground (cadastral) rather home is a space that enables existence and being and being human. This embraces the notion of multiple rights of access: access to the home (as definitive structure), access to land for cultivation, access to land for resources e.g. water and other natural resources such as plants, access to land for spiritual or ritual purposes, access to land for grazing (livestock support for both the individual as well as the family or clan), access to land for future generations, access to land for any other social or engineering support services. Access is a right and it is this right that enables a community to enjoy livelihood and prosperity. I am because you are, is very definitive concept of living and life. Space and access to it builds relationships and maintains it. This is an extremely critical point to note. It is submitted then that, if either are restricted then essentially relationship will begin to deteriorate. Connectivity depends upon maintaining connection, physically, psychologically and spiritually. Property (land) supports people relationship and as this is so important, it is a birthright. Anyone who is born into a particular space has the absolute right to inhabit that space. Space then, is generally not bought or sold.

Land and its use are not separate or distinct from life or living. The management of these dynamics then are controlled by the very people who subscribe to their "as lived" law, customary law, for it is these very values, norms and worldviews that ultimately determine the shape of and form of the space that is occupied. Space then is the outcome of the realisation or manifestation of social values which ultimately revolves around the ever present quest of becoming more human. As lived, norms and values are dynamic and when a community decides on making changes, such may influence what space begins to look like. Allocation, reallocation, adjustment and transmission of rights, including access rights, are the business of the resident community who are constitutionally free to pursue their custom or culture. Dialogue plays an essential role in all of these processes. The act of dialogue

is essential as it is through this that people and their value are recognised. Failure to do so is a mark of disrespect.

## 7.3    Potential zone of conflict and resistance

The content of chapter 3 revealed the enormity of the colonial and apartheid inspired injustices perpetuated against the Xhosa people.  The research also revealed that the application of these injustices took place layer by layer over an extensive period of time. The first important point to note is that all of this was an imposition in virtually every sense of the word. In terms of traditional Xhosa culture, any such imposition is regarded as the perpetration of an act of inhumanity. It is regarded as a violation of human dignity and human respect. It is the antithesis of becoming human.

The application of these injustices set about reducing Xhosa people and their culture to not only one that is inhuman, but also sought to reduce them to objects for exploitation. Every facet of Xhosa life was under threat and the United Nations labelling apartheid as a "crime against humanity" needs to be considered very seriously. This small statement is loaded with meaning and such meaning has not been lost on the people of this space in this Province. I have personally faced open criticism in some meetings, as have my staff e.g. WCRSDP project. The critical points to appreciate are:

- The memory of the Xhosa people of this Province is long;

- The anguish of these yesteryears has not gone away;

- There is a need to develop a sensitivity that aligns with dignity and respect;

- People in this Province are still processing the agony of the past. This is consistent with the plight of other indigenous groupings in other parts of the world, hence the negotiations at an international level for recognition of culture, diversity and difference;

- There is a dire need to develop an approach that is consistent with Xhosa norms for engagement;

- Failure to develop and appropriate approach, consistent with Xhosa norms and values, will induce resistance;

- Resistance will have consequences that are likely to undermine social stability and good governance;

- Resistance will result in loss of municipal revenue as well as the loss of prospects for investment;

- Resistance has the potential to become violent.

Clearly then the foray into our past is useful in that, amongst other things, we are reminded of our vulnerabilities and hence risks. The space that both colonialism and apartheid created can only be regarded as spaces of injustice. There is also the possibility that we can perpetuate the injustice of spatiality. This latter context will arise in those instances where imposition continues to dominate the agenda. What is particularly concerning in this regard is the fact that the processes establishing SPLUMA (National) have not engaged the traditional cultural leadership of this Province. This fact may yet haunt our efforts at a Provincial level. It is also important to note that this customary rural zone is unfamiliar with an orthodox spatial planning land use management system. This being the case means there is considerable potential for tension, more especially if we adopt a formalised top down approach over this rural constituency.

## 7.4 Social and Spatial Justice: the right to culture and the creation of a spatiality of culture

The dispossessions and impositions of our tragic history have been nothing more than the imposition of injustice. Spatial justice could be defined as the creation of space that is the outcome of human activity that is consistent with the prescripts of social justice. Generally speaking, social justice in this context then should be, amongst other things, the pursuit of one's own culture and not that of another. This in turn would mean moving away from any notion of imposition (top down) on the part of government, engaging in a manner that is consistent with the "imbizo" (community driven), promotes recognition and respect, restores dignity, removes any notion of force or fear, fosters appreciation and enables people to choose the way in which

they wish to live. Spatial justice must also be the result of preparing and pursuing values and policy that is consistent with the visioning processes of the resident community, together with maintaining their culture and their cultural heritage. In other words, this also means putting to an end a focus that considers people to be one-dimensional. Critical to all of this is the allocation of resources to enable communities to realise this justice that is consistent with the aspirations of this Xhosa constituency.

This chapter also highlighted a number of important trends concerning the advancement of human rights, which includes the advancement of cultural rights as well. In effect then there is a dire need to realise a position that seeks to transform space, which has been built in the past, on domination and the unilateral imposition policy and law to a space which comes about as a result of people's own inputs. These inputs are guided by their sense of worth and the values that they subscribe to. In short then, there is a need to:

- Recognise that this Province is a multicultural one;

- Recognise the existence of culture;

- Recognise the value of Xhosa culture;

- Recognise the need to develop and promote Xhosa culture;

- Recognise the need to develop Xhosa cultural heritage;

- Recognise the need for diversity in order to enrich the spatial dimensions of this Province;

- Recognise the need to promote human and social security and

- Recognise the need for collaboration and culture's role in realising sustainability.

## 7.5    Culture as an International Imperative for Peace and Sustainability

Chapter 6 researched the subject of culture at an international level. The primary focus was the work of UNESCO spanning the period 1946-2014. The initial UN

theme was that wars occur as a result of the ignorance in the minds of men of the ways of others. To this, one may add imposition, domination, arrogance, intolerance, prejudice and stereotyping. Peace and sustainability are regarded as worthy pursuits and over time culture became regarded as a critical means for achieving these. Various declarations and conventions were created, debated and adopted concerning culture and cultural rights. Culture became regarded as the very essence of people, the expression of life. It follows then that culture and identity are bound in each other. It was recognised that there is a diversity of culture, that there is a right to develop culture and that each culture has a right to develop itself. Cultural expression must also be protected as must the pursuit of establishing a cultural heritage. Diversity of culture underpins a quality of life.

For at least two decades leading to 2007, representatives of the indigenous peoples of the world lobbied for recognition of their right to exist and to pursue their chosen values. These efforts culminated in a watershed document referred to as UNDRIP. As previously stated, South Africa, along with 143 other countries, ratified this Declaration. This Declaration contains 46 Articles, the Annex of which affirms that any doctrine, policy or practice that seeks to undermine a distinct culture is condemnable and social unjust. There is also an important provision concerning the manner in which people of a distinct culture may engage or be engaged, more especially by any organ of state. The concept of Free, Prior and Informed Consent (FPIC) was introduced.

FPIC enables cultural communities to become more effective in any deliberations concerning their way of life. In line with the prescripts of UNDRIP any policy or law brought to bear on a distinct cultural community without obtaining FPIC in regarded as immoral, condemnable and socially unjust. This gives a strong message and that is people and their cultural perspectives are to be taken with the utmost sincerity. If not, how are the matters of peace and sustainability to be pursued? In matters of culture, there are potentially many fault lines, any one of which can change the course of history. This country, and more especially this geographic zone under scrutiny, is an example of such history: a history of imposition, a history of arrogance, a history of selfishness, a history of manipulation, a history of inhumanity, a history of greed, a history of injustice and consequently we are left with an enormous legacy of

inequality that needs to be undone. We earnestly need to embark on a journey of transformation. Knowing our horrific past, will enable, even empower, us to achieve a rendering of beauty and appreciation of the richness of our diversity. We need, in the words of Ramphele (2008:15), to have a Province that is characterised by the antithesis of the apartheid system. It is my contention that spatial planning has a potentially vital role to play in this regard.

The venture into the realm of culture is consistent with the idea of constructing a new imaginary, as well as, pursuing a discourse that begins to move away from the master narrative of modernity. The realm of culture also begins to open space for recognising secreted logics and other forms of knowledge (Harrison, 2006:323-324). In order to venture on such a path, there is a need to realise our shortcomings, as well as accept our need to deliberately and actively venture into a dispensation of learning. Dialogue is the principle mechanism by which this is going to occur. Thomas (1998:199), makes the point that historians of urban planning ignore vast regions of truth if they try to explain the evolution of planning divorced from the context of racial change and racial oppression and she cites South African professional planners as an entity that should be compelled to consider such issues in their work (Lemon, 1991; Mandy, 1984 cited in Thomas, 1998:199). Cultural inequality is no different from racial inequality and this being so, there is an imperative that our past is not repeated, not even in another guise. Transformation then consists of recognising our need to take a journey from a starting point of disempowerment (history) to a destination embracing and pursuing empowerment. A critical starting point must be recognition of diversity, difference and hence culture. Any reduction of culture becomes an act of disempowerment.

## 7.6    SPLUMA: Processes of Disempowerment

Reference has been made throughout this thesis in regard to actual activities and planning projects as they have unfolded over the past few years. ECCOGTA is constitutionally mandated to oversee the spatial planning activities of municipalities throughout the Province. The day to day observations stemming from these discourses do not give rise for considerable optimism. Of the many areas of concern, the one that is perhaps, for the moment, the most critical is the unfolding of SPLUMA throughout the Province. Ownership of these processes has, from the earliest efforts

to construct SPLUMA, been vested with one Department, namely DRD&LR. It would be fair to say that even as this is being penned, the relationship between the spatial planning Directorates of the two Departments is far from cordial. There are definitely power dynamics at play. Notwithstanding there are also considerable differences concerning process. More to the point are the shortcomings in matters of consultation, engagement, and empowerment and hence ownership in as much as these relates to and is grasped by stakeholders. The principle omission, prior to the promulgation of this Act, was the engagement of traditional cultural leadership and hence the constituency that these traditional councils represent. ECCOGTA by virtue of its specific mandate is acutely aware of the sensitivities in this regard and yet when inputs were made in the various deliberations, these were ignored. At a SPLUMA meeting, held in 2012 in Port Alfred, for example, the provincial political chair for Agriculture and Rural development, requested DRD&LR to make available all the comments that their Department had received concerning SPLUMA. Added to this, a request was made for a record of how decisions were arrived at concerning what was to be retained in SPLUMA and what was not. Officials of DRD&LR were unable to provide either as these did not exist. This was one of many of what could be referred to as defining moments in the deliberations involving SPLUMA.

What is critical to recognise is that as a consequence of these participatory omissions to enter into dialogue, the credibility of these processes are now sorely undermined, with Traditional Leadership threatening constitutional court challenges. The decision taken by DRD&LR to not engage this traditional cultural constituency has important ramifications, not the least of which concerns the possible outcome in attempting to answer the research question. The, as lived, realities are just as important to consider, as any theoretical approach, especially in this context. SPLUMA is the casualty of the consequences of failing to recognise, at the very least, the Constitutional imperatives concerning culture and customary law. This turn of events cannot be ignored as such outcomes are motivated by some or other rationale, whether this is political or professional or both. Certainly at no time has it been publically or privately stated that it is one or the other. Both sources are implicated in that, while there may be a political will to fast track the SPLUMA process, the meeting at Dan's Place cited earlier in this discourse, would suggest

more. It was mentioned that SPLUMA was being viewed as a mechanism to dislodge the State of communal or trust land.

Focussing on the possible rationalities stemming from the professional side, at no time were discussions initiated by ECCOGTA around culture, diversity or difference entertained. Time and time again concerns were summarily dismissed with the latest instance being the deliberate amendment to an agenda. If any rationality has been offered it has been both a direct, but perhaps more indirect reference to the agenda of modernity, including the colonial notion of custom as being something subservient, even undesirable. Clearly in the light of what has been stated in 7.5, racism is still prevalent. Certainly in the context of the international discourse, no free, prior or informed consent was obtained, and yet processes are very much underway to implement SPLUMA. The date that this is to commence in all its legal earnest is 1 July 2015. Without FPIC, such an act in terms of UNDRIP is racist, legally invalid, morally condemnable and socially unjust. The planning profession is implicated in these labels and therefore there has to be enormous concern. If not, then serious questions about our transformation from our past must begin to emerge. What this also highlights is the real possibility of the existence of huge knowledge gaps that may exist within the ranks of the profession. Notwithstanding, going a little deeper this unintended outcome may also have its roots in the historical socio-economic legacy of this country. Short affordable training courses, whilst expedient in the short run, may well prove to be devastating in the long run.

## 7.7    The Validity of One System of Land Use Management

Everything that has been penned thus far has been done so with a view to assisting answering the research question posed at the onset of this thesis. There is absolutely no doubt that this research has highlighted the existence of a plethora of complex issues, some of which have been in existence for centuries, whilst others are still emerging. Some like customary law span the past, the present and the future. This law provides the structure, details and processes for maintaining and perpetuating a distinct ethos that defines a distinct culture. Post-modernism also entertains the concept of plurality, difference and diversity. Planning theory has extended its reach to engage in these matters, but the reality (real life experience in this Province) has uncovered a worrying concern about the prevalence or lack of

such knowledge within the professional body. The dominant rationality, it would seem, still appears to be that founded and framed in modernity. It follows that what is equally worrying is that in the SPLUMA dialogue, there was a definitive lack of critical thinking. Sandercock's (1998:4), proposition that in modernist portraits of planning, planning has no fatal flaws, would appear to be a prevalent and hence powerful discourse. This being the case, then there is every reason to anticipate the application of this modernistic ethos across the entire length and breadth of the municipal space, irrespective of whom or what occupies such space. SPLUMA itself does not really assist in these matters in that when all is said and done, it too is really framed in terms of this dominant rationality. Very few lines, out of hundreds of pages are penned addressing diversity, difference, culture or customary law. Such a situation must speak volumes concerning our current frame of reference.

It is against this backdrop that the answer to the research question, has to be no. It is not desirable to have only one system and nor will such be accepted. Implicit in this determination is not only a concern for the choice of rationalities and their application, but there are also concerns regarding process as well as lack of knowledge. In customary law, dialogue is the medium and process through which ideas; values, norms and worldviews are accepted, modified or rejected. The act of engagement is significant. The failure to engage is to deny the existence of the other. In so doing, the pursuit of humanness and humanity ceases. I am because you are ceases to be a dictum of life. In the context of knowledge two critical issues emerge and are restated: there is a lack of knowledge of the other and there is a lack of widespread and accepted knowledge of how to approach and relate to this other, in a manner that is respectful, dignified and ultimately empowering. This build up to SPLUMA has presented the profession with important opportunities to critically assess its relevance as well as its prospects for sustainability. The failing has in my view, been our inability or reluctance to make the invisible, visible (Sandercock, 1998). For many planners then planning is still too much of a hero. If this is the case then dominant rationalities persist and the recent past has not shown any capacity to embrace any other rationality. It is submitted that the adherence to such notions are inappropriate.

## 7.8    Transformation: Enabling people to empower themselves

Harrison (2006:331), points out that there are a number of difficulties in dealing with matters where there are contexts of deep difference and seemingly conflicting rationalities.  The degree of difficulty may well make the life of a professional planner difficult, but the reality on the ground has been one where rejection by key stakeholders, including Traditional leadership has been an option: rejection of SDFs, rejection of planning policy and ultimately the rejection of the profession. The example of Libode was cited in the thesis in Chapter 1 as a case in point. SPLUMA however compels a way forward. Simply put, a way has to be found. Thomas (1998) raises a beacon of hope when she makes the point that the human spirit can triumph in the face of oppression.

> *"Rather than foster an attitude of helplessness, historians of social conscience can foster a sense of constructive self-initiative a sense of human nobility. Acknowledging that self- initiative existed in the past is one way to do so and this does no more than acknowledge the truth: (Thomas, 1998:260)*

The truth is, traditional Xhosa society has managed and fended for itself for centuries. The question then is how do we intersect with these dynamics and play a role we, as planners, believe appropriate? The following represents such an approach and the central philosophical tenant must at all times build on the notion of enablement and empowerment. Xhosa Culture has a right to envision its own destiny.

## 7.9    A Multicultural Dialogue

For many in the Xhosa cultural zone, the introduction of this system will be in fact a new venture. It follows then that the logical starting point is at the beginning which in Xhosa practice, is the dialogue. In line with the prescripts of the international experience and associated best practices, concerning communicative planning theory and the recognition of indigenous rights, there is therefore a definite need to establish a planning and development protocol that is informed by at least the following objectives and principles:

- Affirm the relevance of culture (the application of the notions of equality, dignity and respect.

- Affirm the role of culture in planning.

- To recognise the existence of a multicultural state (diversity and difference).

- Create a platform to overcome the indignities of the past (acknowledging existing provisions of law e.g. Constitution, MSA, TLGFA, PAJA.

- Protect and promote the interests of Xhosa culture, its values and worldviews.

- Protect and promote Xhosa cultural heritage.

- To recognise and promote relevant international protocols e.g. UNDRIP and the principles contained therein.

- To uphold the principle of Free, Prior and Informed Consent

- To affirm the relevance of cultural knowledge

- To establish a cultural knowledge information base e.g. community mapping.

- Integrate culture in the sustainable agenda as envisaged in Chapter 6.

- Develop cultural policy to ensure the Constitutional imperative of realising cultural rights (Section 30 and 31 of the Constitution).

- Promote diversity and the right to be different.

- Promote tolerance and freedom to incorporate cultural pursuits in development.

- Promote documentation and research of culture, cultural knowledge, best practices and associated activities.

- Promote social security as outlined in the UN discourse.

The main reason why this is critical is again the fact that Xhosa culture, its custodians and those who live by it have for many years borne the brunt of intensely prejudicial and humiliating policies of both the colonial and apartheid regimes. Chapter 3 went deliberately to some lengths to provide an account of the creation, application and

maintenance of layer upon layer of what can only be described as undignified and unjust policies aimed at reducing Xhosa culture and its people to objects. Ultimately these people were made to conform to the prescripts of capitalist and racial exploitation.

Dispossession is not solely about having land, literally removed, but this idea also speaks of a reduction of association or relationship. Any activity that seeks to reduce either of these (i.e. through the imposition of restrictions of use or the ability to manage or allocate) must be regarded as unacceptable as such actions infringe on cultural rights, including that of self-determination of the community (Constitution Section 235).

It has also been explained that culture, land use and land cannot be separated into distinct categories of activity and commodity. Chapter 2 described how Xhosa culture and its core activities, including the occupation and use of land are in a seamless relationship with the one totally immersed in the other. The Xhosa identity is also bound up in land, its former and present occupiers. Space too, is occupied by former residents. Space is a multi-dimensional social construct, managed and distributed by a distinct cultural ethos and community structure.

Notwithstanding the contents of Chapters 2 and 3, Chapter 5 refers to the concept of justice, more especially the notion of social and spatial justice. Chapter 3 goes to some length to create and in-depth picture of the dimension of injustice that was perpetrated against the Xhosa people. Year by year, layer upon layer, motivated by, at times altruistic sentiment (Christianity), but soon surpassed by greed and ruthless exploitation, one injustice upon another was perpetrated against this nation.  This geographic zone was reduced to what really amounts to, a form of a slave existence, heavily dependent on exceptionally limited wealth creation opportunities and more so on meagre labour wages, dictated by the whims of big business. These words are not to be regarded as mere sentiment. Colleagues of the offices of ECCOGTA attest to unbelievable hardship and tragic loss of life during the apartheid era e.g. the untimely death of many children stemming from extreme cold and hunger in the Tembisa village, approximately 30 kilometres from King Williams Town in the erstwhile Ciskei. The planning endeavour framed as "betterment" has also not lost its disastrous significance or meaning in the name of development and planning or more

to the point, an imposed development. At a meeting held in December 2014 at the Eastern Cape Socio-Economic Consultative Council (ECSECC) offices in East London, concerning development, two members present attested to the loss of loved ones (family members), as a consequence of the enforcement of betterment. Justice calls for the maintenance of "right to the city" or in our customary rural context, calls for the maintenance of all cultural rights in this rural zone as required by customary law. The individual in customary law is confirmed and affirmed as being a legitimate member of his or her community and as such has a role in the development and maintenance of space, especially that space simultaneously occupied by former community or family members (deceased). Identity is therefore linked not only to space (geography), but also history. Does space inform identity? Yes, because time, cultural choice and cultural politics are spatialised. "I am more than what the thin present defines" (Gervais-Lambony, 2006:66). This latter notion then begins to introduce a complex web of connectivity that begins to embrace the notion, "as lived". The people of these geographic and historic cultural spaces then have the right to be different; such difference being their own chosen social construction. Within this then are processes that continuously create and re-create space as well as those processes that maintain it. Any development or land use management practice should be devoid of systematic exclusion, domination and oppression. Is it impossible to imagine a specific cultural space, defined on its own terms by people who reside there, to share a place in the world, as equal if not superior to any other configuration or construction? We need to celebrate diversity of space, these being an expression of the diversity of our people, an expression of free thinking people exercising their Constitutional right to pursue their own destiny.

Such protocol must not be regarded as one sided. The municipal constituency also has its own issues and Constitutional duties to attend to. The protocol then also seeks to:

- Create a platform of mutual trust (overcome the layers of mistrust that are already in existence).

- Create a platform for ongoing mutual communication and dialogue with the view to achieving certain objectives, such being in line with cultural demands.

- Provide an interpretation of intercultural space, roles and responsibilities.

- Develop cultural policy in the municipal space.

- Incorporate culture and cultural spaces in the IDPs and SDFs

  *"Interculturalism goes beyond equal opportunities and respect for existing cultural differences, to the pluralist transformation of public space, institutions and civic culture… cities need to develop policies which prioritise funding for projects where different cultures intersect, "contaminate" each other and hybridise… city governments should promote cross-fertilisation across all boundaries between "majority" and "minority", "dominant" and "sub" cultures, localities, classes, faiths, disciplines and genres, as the source of cultural, social, civic and economic innovation" (Bloomfield and Biachini 2004, cited in Wood, 2008:3)*

- Recognise the need to identify zones of marginalisation or dominance e.g. underfunding, under-representation, lack of presence in the public sphere, ethnic segregation (Bloomfield, 2007:3)

- Recognise the need to identify relationships between culture and the importance of wild plants (nature and bio-diversity) for rural livelihoods. According to Cock and Dold (2008:293), the Xhosa have, despite urbanisation, displacement and other impacts of the apartheids regime, retained the use of wild plants for cultural functions. One such plant is the Wild Olive tree ("Olea europaea Africana" or "Umnquma" in Xhosa). What is interesting is that not only are medical plant products, for example used in the rural zone, they are also exported to the urban zone. This flow of materials for both medicinal and cultural rationalities has considerable potential concerning livelihood. We need therefore to begin to develop fresh insight into the connections between culture and bio-diversity. No doubt such will be an ongoing research venture. Dold and Cocks (2008:305), do stress the point however that resources such as the "Umnquma" are systematically being depleted and it is therefore critical that appropriate sustainable management practices be introduced in communities in order to conserve these resources. Such then becomes an important consideration for land use management going forward.

- Develop an accepted terminology and language response to this terminology.

- Create and establish an appropriate information system. Such should include the recording of villages, their names, the number of residents, the vacancy rates (those who work elsewhere which implies understanding the dynamic of remittances), actual occupancy (women, elderly, children), livelihood programmes and project, cultural programmes and projects, heritage sites etc. Coupled to this information then is also the community's description of space and its quantification (community mapping).

- Jointly create a more specifically negotiated framework for land use management.

- Create a platform for mutual co-operation and accountability.

## 7.10   Toward a Framework for Establishing a New set of Rationalities applicable to the customary zone

These steps are not exclusive, they overlap. They are merely presented in this manner to assist with providing a framework to develop a land use management system. Each step is premised in the notions of exploration and experimentation, something one would expect from adopting a proceduralist approach.

This first step is the affirmation and acknowledgement that there are alternative views to the modernist approach. In theoretical terms, this research has highlighted the fact that planning has, over the past twenty or so years, identified and responded to this idea of alternate rationalities stemming from the existence of multiculturalism, difference and diversity. Post-modern thinking then has posited a critical approach, but as stated, this does not appear to be prevalent. Implicit in this step is the need to appreciate the limits of the modernistic underpinning of spatial planning. What then are the dominant rationalities of this customary zone?  What form of visioning exists in the minds, hearts and souls of this rural community? These need to be identified and articulated.

The second step is to more closely become sensitised to the history and context we find ourselves in, which in this context is the customary rural zone of the Province. What do we actually know about this space? This thesis has attempted to develop the beginnings of a knowledge base for this constituency. The values that underpin life in this rural zone are something very different to those generally accepted in the urban zone with its reliance on various rationalities that have become emerged in the realm of fear and the use of conditions to overcome or deal with these fears (e.g. restrictive conditions in title, zoning provisions etc.). Fear, of course, is bound up in a host of other issues, such as the need to protect land values, environmental standards, access rights, uncertain future, fear of the other etc. To these ends there has been the development of public policy and law that seeks to implement exclusionary zoning, expulsive zoning, segregation (race and class), subdivision regulation and even environmental racism (Thomas, 1998:201). Other layers of policy and control are added as a consequence of the interest of the market (commoditisation and profiteering), local government (tax base) and the pursuit of freeholds title and various ideas or concepts concerning property and the western concept of individualism. The list is indeed extensive and it is not the intention to write another book explaining all of this. The critical point is that our customary zone is different: even the use of customary law is a strange phenomenon at least in the context of planning theory. The invisible in this instance, has over centuries been ridiculed, avoided, attacked, undervalued, compartmentalised and even plain and simply ignored, continuously made invisible. The, often made remark, about our customary rural space follows a line of reasoning that goes something like this: there is so much empty land, underused, underutilised, undervalued and in such a state is ripe for development. It is land that has no description, no label that assists in telling us more about its use, value or even potential. It is as it were nothing "terrae nullius" (Bennett, 1995:16; Porter, 2010:52; Robson and Oranje, 2012:47). Clearly such views are ill considered in that this space has considerable meaning to those that occupy it. What therefore is the specific history and context from the community's point of view? What is the cultural history and context, the kingdom history, the clan history and what is the current contextual thinking to name a few important examples of the type of questioning that needs to prevail.

The third step then is to appreciate that all space in our customary zone has meaning and as such contains a host of possibility, but its possibility needs to line up with the views of the other. This meaning is distinctly different to that associated with private property. The customary zone does not rely so heavily on boundaries or compartments. The core rationality of becoming human means, that space is utilised to suit this end. Space, as previously stated in the customary context, is a social construct, serving the ends of identity, dignity and respect. How different is this to an ethos that has little sympathy for those who cannot afford space, because space has been converted into some form of tenure that defines the entry level and in so doing inhibits access. In the customary context access to space is a birthright. There is therefore a need to establish just what that meaning is. This needs to be captured. How is space categorised in terms of cultural manners and practices? Is there a prioritisation of space? If so, what is this? This would involve engaging in the process of cultural mapping which in turn must inform policy and the SDF. One may argue that a SDF that does not contain this information could be considered as invalid.

The fourth step is to acknowledge value in diversity, difference and culture. This research has shown that as a result of globalisation, previously homogenous urban societies are now facing the onslaught of migration, either to or from. Each scenario presents its own challenging dynamics, one of which is engaging in the concept of justice, social and spatial justice. The interests of justice are served only when we engage in a discourse that both acknowledges and respects difference. This precludes any idea of remaining on the fringe or insisting on retaining a viewpoint that subscribes to any notion of marginalisation. It is submitted that culture is a serious topic which brings with it a host of advantages, not the least of which is its role in maintaining social cohesion and sustainability. Culture cannot be regarded as a fringe topic: it speaks to who a people are and what they hope for. In addition this culture, if allowed or permitted, its rightful place in the human discourse, may suggest some interesting answers to the current dilemmas we face concerning the future of this planet. An example of this is the interest in indigenous (cultural) knowledge and our dire need to protect this knowledge e.g. Nagoya Protocol and the Convention on Biodiversity. What are the differences within this space? Are some areas more important than others? If so, what are they? What are the priorities of the residents? What are the rights of access? What are the rights associated with occupation? What

is taboo? Are there any boundaries, cultural, social, physical, economic or spiritual? Not everything is informed by cadastral boundaries.

The fifth step then is to engage, armed with the necessary attitude and line of questioning. Sandercock outlines a new intercultural role for planners when she states planning "involves dialogue and negotiation across the gulf of cultural difference, requiring practitioners to be fluent in a range of ways of knowing and communicating: from story-telling to listening to interpreting visual and body language" (Sandercock 2003:162, cited in Bloomfield 2007:8). This concern with knowledge and communication has been a central theme and hence concern from the onset of this research. Knowledge built around a monologue stemming from a distinctly different mono-culture will surely prove disastrous as the colonial and apartheid discourse attest to. Knowledge must inform process. We need to obtain such knowledge and with this develop our communication skills to engage in a long term venture. This is not a quick fix. Iain Borden, Jane Rendell and Helen Thomas (1998:140), remind us of the real need to generate an understanding of our physical environment as spatialities of identity as well as the spatiality of social systems and the impact of such on the consciousness of the individual and community. There is a dynamic between objective and subjective realities, the former being represented by "scientific" analysis of space and the latter by the notion of place as defined by the particular meanings of the individual or even community's lives. Space is not simply visual, but rather is one that embodies and embraces everyday life as the tracts and memories of spatial practices. "…left untouched by modernity, a life of innocence that has nonetheless been impoverished and humiliated by twentieth-century capitalism" (Lefebvre, 1991, cited in Borden et al, 1998:141-142). The opposite of the visualised realm is then that space perceived through the senses, a space inhabited by "cyclical memory of everyday life, the place untouched by images outside of the directly experience" (Borden et al, 1998:142). To embrace such must constitute the beginnings of a journey (development trajectory) that seeks to be founded on integrity and dignity. The creation of a united diversity as perceived by our Constitution is not possible without such humble beginnings, hence these steps. As previously stated, these steps are not entirely exclusive, there is considerable overlap. New information may well mean revisiting the earlier dialogue.

Krumholz (1982:173, cited in Forester, 1993:83), makes the claim that, as a profession, planning has been too timid and such criticism is levelled more at the directors, than rank and file. The criticism comes from a perception that opportunities to engage in an activist role are not being taken up. Krumholz believes that planners can do much more than they are now doing. According to Forester (1993:85), the abovementioned image needs to be replaced with an image of an "attentive, practical context-dependent response to particular situational demands". In line with this then, a planner's work must be regarded as both social and interactive and this is what Forester (1993:85) refers to as engaging in a form of communicative action. Davids et al (2009:164-165) refers to this same idea as participatory learning and action. The planning processes, embracing these ideas of action, in turn need to inform the existing ongoing processes of social reproduction of culture in the situated context in which the planning activity is located or being generated and ultimately applied. Such too would be consistent with the provisions of the Constitution.

Forester (1993:88) goes on to say that little work has been done that begins to inform just how alternative social and political theories might inform planners' readings of their ability to engage in conflict, co-operation, opportunity and resistance. This means having to engage in a climate of both uncertainty and ambiguity. Questions of rights, entitlements and justice will inevitably mean engaging in a political or social discourse. Such would need to be guided by a clear articulation of what may be acceptable goals, expectations and outcomes. This in turn needs to be underpinned by a discourse that ventures into the norms, values and worldviews of the stakeholders that occupy any affected space.

The sentiments expressed by Forester together with the concerns contained in the other four steps, begin to challenge the validity of the second research aim, which was to provide a framework for deriving a new Provincial spatial planning land use management regime applicable to this Xhosa constituency which is in turn consistent with the research findings. There was also a proviso and that was there is a need for a planning system that is validated by the people who occupy this geographic area. I think it is important to emphasise an earlier point and that is the object of engagement is not one of imposition. On the contrary the aim is to identify points of entry and where value can be added. The aim is to empower, not dominate or

control. Ownership by the community themselves will very possibly result in less control by external authority than more. This concept should be tested.

Given the complexities that are involved, it may well be that this second part of the research is too ambitious. The steps listed and the principles these embrace do however move in this direction. The fact is that a system needs to actually be evolved, involving the critical stakeholders. The outcome of this cannot be totally anticipated.

What is becoming increasingly clear is that before any land use management system can be formulated there is a dire need to engage in a holistic process, starting from the beginning. Forester's concerns involving uncertainty and ambiguity are never more, true. The steps highlighted thus far are really about establishing and appropriate attitude or mind set as well as assuming a proceduralist discourse (Harrison, 2006:321), involving communicative planning or "just city" approach or exploring and learning of the world of difference that has been discussed to some extent in Chapter 2 and 3. As stated, the search is about establishing and developing points of interaction in existing communal practices.

The sixth step is the ratification of understanding of the points of intersection and their application. Communication theorist seem to agree on one simple, but fundamental point and that is, all communication consists of two deeply related aspects and these are, content and context (Forester, 1998:90-91). Theron and Westmore, (2009:159), suggest that there is no "ready-made world" for people and it is up to people themselves to make the world liveable and to do this, people must define their own meaning-giving social context. When meaning (content and context) is formed and shared, then a social reality is formed. As normative beings, people create their own social reality, including their own norms and values, which can never be value free. People sharing their own social reality form their own community, which cannot be analysed according to the prescripts of some form of neutral universal methodology, "but only by their own contextually bound social reality through a dialogical process - conscientisation" (Theron and Westmore, 2009:159). The Xhosa people have created such a social reality. The recognition then provides an opportunity to create a new system, but it is critical that before attempting this, understanding is tested as are the parameters for application. Any content must be in

the correct context, otherwise there may be unintended consequences. Furthermore the pursuit of FPIC remains a paramount objective.

The seventh step in this process is to determine both lines of communication and authority. Certainly there are provisions in law, but in some instance these have proved contentions and tension filled. The conflictual status quo, where it exists however, cannot be permitted to prevail. An example was mentioned in Chapter 1 involving the Tshesi Traditional Council and the WRCSDP project. The prospect of having to deal with all municipalities affected by Traditional Councils is indeed a daunting one. The resources available to deal with everyone are seriously limited. It would seem that one option is to identify those municipalities that have managed to establish some form of working relationship between the traditional and democratic leadership and begin with these in order to create an appropriate model from which to engage further. It is hoped too that the initial protocol, stemming from a cultural dialogue referred to earlier, would also assist in this regard.

Amongst other things the context and history of this Province has left its mark in that there is in existence a "pot pouri" of settlement forms and standards. There are together 7000-10000 villages, a number of small towns scattered across the eastern part of the Province and it is therefore important to consider these along more conventional urban guidelines and design standards. There is also one large urban centre, which is Mthatha, the third largest urban centre in the Province after Nelson Mandela Metropolitan Municipality (Port Elizabeth – Uitenhage) and Buffalo City (East London – King Williams Town). Mthatha and many of the small towns such as, Cofimvaba, Tsomo, Ngcobo, Idutywa, Butterworth, Lady Frere, Bizana, Ntabankulu, Port St Johns and Lusikisiki, to mention a few examples, are generally developed on conventional urban development guidelines. It should therefore in these instances not be a huge problematic to adapt the provisions of SPLUMA. There is however a particular issue that needs to be addressed and that is in certain instances, occupation of land adjacent to these small centres is on land that is currently described as communal or is under the jurisdiction of traditional leadership. Such land then will need to be released and in order to do this negotiation needs to take place between the leadership and municipal governance. This activity needs to

happen as soon as possible. However I do not believe this should occur until a protocol is in place that would enable such dialogue to take place.

It is suggested that settlement that has taken place outside the commonage, will have to be incorporated into a newly defined urban edge. It is quite possible to conceive of a necessity to engage in developing a second tier protocol specifically targeting land release from the communal zone. This would probably have to happen on a municipal by municipal basis. The initial idea would be for municipalities to ascertain the extent of land required, say for the next twenty years and thereafter negotiate the land release. It is envisage that the municipality directly control these urban centres. However assistance would be needed from the traditional councils to, for example the control of new informal settlement from occurring adjacent to the new boundaries, to mention one such instance.

It is difficult to imagine that there will ever be absolutely clear lines of authority in the sense that, even if the towns were the primary concern of the municipal (democratic) order there would always be the prospect of dispute and even conflict if any perception arises whereby the urban is perceived as benefiting from service delivery or resource allocation more than the village rural zone. An investigation into the success or failure of current IDP practices involving ward based planning and the allocation of resources would be necessary to ascertain what risks are involved here. If there are any, these need to be identified and policy or steps instituted to avert the prospect of serious tension and conflict.

Any municipal or provincial planner that is involved in these processes needs to engage in a dialogue which promotes participation social learning and flowing out of this appropriate action. Implicit too in these broad sets if activities is the need to unlearn, embrace error and sit down, listen and learn and respect as local community members share their knowledge. The primary aim is to learn about and appreciate the richness and validity of social capital, indigenous knowledge and the social system that flow out of such dialogue. There is a need to separate the "etic" – the outsiders' mental frame, categories and worldview and the "emic" – those of the insider (Chambers, 1983:93-103; Pelto, 1974:84-86; Pratt and Loizos, 1992:63; Treurnicht, 1997:93-103 cited in Theron and Westmore, 2009:165).

The way the law is currently framed in terms of the Constitution, even though there exists a definitive third sphere and this sphere has been allocated considerable responsibility, there is still a requirement that consultation take place. Consultation is not a passive or third party engagement. All parties need to benefit from such processes. More clear lines of authority and accountability need to be devised in these processes of engagement. The application of FPIC offers scope in this regard.

The next step is to establish community needs. This can be done through dialogue, researching the existing IDPs, SDFs and related budgets. The importance of this is to establish how the planning endeavour can support the realisation of such needs, in both specific and general terms. An immediate example is how current planning instruments support the advancement of culture and cultural heritage. Specifics may include actual need to identify specific land within a particular village context. Given the possibility that there are many young and elderly, transport or access to social infrastructure may also be a serious matter. Certainly the topography in some of these rural spaces is very mountainous, which has an impact on the ability to move from one point to another, especially in those unfortunate instances of illness. At a recent Provincial Integrated Transport Planning Co-ordinating Committee meeting dated 12 March 2015, it was commented that public transport should be afforded the same seriousness as matters relating to water supply and sanitation. The issue of movement and access in these deep rural spaces is extremely important. How is this to be addressed? The issues in this matter go beyond a scheme or SDF in that there needs to be roads, these need to be maintained and these must be used to satisfy need. People's lives in these rural zones are not really improved by the use of a scheme. It is the practical relief that is sought.

The situation in which a scheme and its clauses may be applied relatively easily, does however still require some research in that in most instances, Scheme clauses tend to follow the prescripts of conventional urban zones premised on the modernist model. This model is also underpinned by a particular planning rationale embracing compartmentalisation, a variety of uses, design elements (coverage, FAR and length), parking, loading, aesthetics (Site Development Plans), density, occupancy etc. Clearly each of these contains both inclusionary and exclusionary provisions and such should be tested against cultural norms and standards. An example would be in

respect of occupancy by a family in a detached dwelling. A family in a European context is different to a family in a Xhosa context. Another example relates to restrictions on the use of space. In the case of livelihoods, this becomes an important consideration more especially when aspirant hawkers etc. occupy sidewalks, major intersections etc. In our "rural" small towns "informal" livelihood activities occupy virtually every metre of side walk, more especially along the major transportation routes that pass through these centres. Such may not look neat and tidy, but these spaces provide important opportunities for livelihood activities particularly in prime locations. These are spaces that people would not otherwise afford. Public space whether this is parks or road reserves then has an important role to play. This is especially so in situations where the market has consumed all the other places of business opportunity, but virtue of its privileged past.

The small rural towns, along with the major one, Mthatha are experiencing the dynamics of the interface of traditional and modern. Some may argue post-modern given the dynamics of the 21$^{st}$ Century, globalisation, urbanisation, migration etc. Effectively what I am suggesting here, in our specific context, is the fact that, not only are we having to contend with the demands of our cultural constituency we are also having to deal with the demands of an aspirant population, whether this be cultural or otherwise. This rural zone, stemming from its history is steeped in poverty. National Planning policies of a hundred years ago (Chapter 3) are still heavily impacting on this space. Many of the victims of the Marikana tragedy, for example, were from the Eastern Cape. This merely reminds us of just how many of this Provinces' residents are engaged in employment in the mines and manufacturing of another distant region, one of which was always an intended beneficiary, namely Gauteng. The mines were also classified accordingly only this time, instead of gold mines of the Reef, these are the mines of the "Platinum Belt" (Rustenburg region in North West Province).

Culture and development are not going to summarily cease. The pursuit of the protocols and community mapping projects are going to take time, perhaps even years. Notwithstanding, given the specifics of this geographic area, it would seem appropriate to adopt a pragmatic approach by selectively focussing on dismantling and rebuilding new land use management systems in specific geographic areas.

Clearly there are, as it were two extremes. There are on the one hand existing urban areas to which more conventional land use management systems can be applied. Such then should be developed in a prioritised manner consistent with available budgets. There is however some concerns and these include:

Ensuring community "buy in". Without this the system will fail.

- Ensuring appropriate levels of consultation in line with the prescripts of the Constitution, MSA, TLFGA, PAJA and SPLUMA in order to secure such buy in.

- Ensuring that the land use management system is inclusionary and respect human dignity in line with the SPLUMA development objectives and multiculturalism.

- Ensuring that the system is in fact implementable and can be maintained.

- Ensuring that the system is able to cope with disaster. There is an expectation that climate change will have significant impacts going forward and

- That the system promotes efficiency concerning the use of resources and alternative technologies.

The second extreme as it were, concerns our deep customary rural zones. As far as conventional schemes are concerned, these should be well left alone. A broad zoning of say, "customary cultural zone" should be developed and applied. This needs to be qualified. This is also not a simplistic exercise. The concerns, issues and values highlighted in this thesis need to be engaged, discussed and consensus arrived at. This for planning, is a new domain. Land use management is not confined to SDFs and zoning schemes. It also involves a constant dialogue, even more so in the context of rural culture. SDFs and zoning schemes are no doubt extremely convenient in that these constitute, if you will, a record of policy (SDF) and the translation of this policy into a legal framework (scheme). The customary zone could be regarded as one that is both permanent and in transition. Generally then, there is no need for complex and expensive processes to bring about change.

The existing spatial arrangement as stated in our rural areas is a product of social construction, a customary construction. This can be improved upon however, in that carefully considered support activities and uses can also be introduced to an area. This may take on the form of the addition or inclusion of new or additional social infrastructure (schools, clinics, libraries, community halls, safety and security (SAPS) etc.) Such additions are firstly determined by the ongoing interactive dialogue that must take place between the municipality or planning officials and community. Once need is established and agreed upon, then locality becomes the next item to be discussed and agreed upon. This need have to always take place in the context of FPIC. The introduction of such a use then may take on the form of zoning e.g. education. There should also, in the course of deliberation, be a discussion concerning multiple use applications. Resources, such as schools and clinics are expensive. It makes sense then to develop such to be able to serve other community related activities. Any zoning in this regard needs to be modified accordingly. Such applications and actions then enable and empower the local community to realise their visioning in line with their values.

The issue of visioning then can stem from different sources which include indigenous knowledge, indigenous codes for development, community protocols, imbizos (community meetings), policy designed to address and achieve specific ends, community mapping (detailing the concepts and use of space through the eyes, hearts and minds' of the resident community), endogenous development and SDFs (informed by all of the above) or even IDPs. The scope for engagement is enormous and must be a continuous thing. What is absolutely essential is however the dire need to listen and understand the community dynamics and their relationship to space before attempting any dialogue that will begin to bring about change. Such can so easily be misunderstood. The role of the community structures and traditional councils in decision and policy making, become critical. Procedures and tools must embrace a discourse of FPIC. Clearly too, as such policies are deliberated, it is important to understand the intended and unintended outcomes and plan accordingly.

The planner has entered the world of a distinct culture and its social and political dynamics. This is not about an objectified rationalisation of land and its use. In this

context there is always a social dynamic that underpins what is seemingly on the surface, a simply activity, disconnected from any significant relationship to anything else.  The protocols described should then inform the dynamics of how the municipal and traditional entities collaborate with each other concerning space. As stated the principles of FPIC should always apply. All municipal activities must be channelled through the Traditional Councils or local community committees. The municipal sphere, not to mention any other governance sphere must engage with a view to promoting the cultural and human rights of the people concerned. It is highly likely that the interaction will vary from geographic zone to geographic zone. This is something that must be respected and allowed to evolve.

Implicit in all of the above the next step or action to consider is identifying potential zones of conflict or tension. It has been stated that we are operating in an arena of ambiguity and uncertainty. We are operating in an arena that is definitely outside of the comfort zone of modernity whose ethos has found resonance with the specialist and the State.

## 7.11   Concluding Remarks

This thesis set out to answer a seemingly straight forward question and that was whether or not one land use management system can be applied across the entire Eastern Cape. The research unfolded a web of dynamic complexity, involving Xhosa culture spanning history, context, embracing social justice, an international discourse on culture and spatial planning rationalities. The outcome was that it was not possible to have only one system, but rather there is a dire need to engage and create an appropriate system to suit the specifics of the situation. A possible approach was, albeit in broad terms, also tabled. It was stated that to assume detail would be premature as there is a need to learn (new knowledge) and unlearn (old knowledge) even assumption. The process of dialogue would determine the pathway. It was also suggested that any attempt to introduce a new system must be one that adds value to the people who reside in this customary space. The central theme, it was suggested was to centre, on the concept of enablement and empowerment. Another central theme throughout this thesis has been one that supports the notion of least interference and hence avoiding any risk of imposition or more importantly the consequences of such action.

The planning rationalities available are many and varied and the research has shown there is a need to expand upon these so as to embrace customary culture and enable those that live by this to realise their vision. Multiculturalism, social justice and collaboration are indeed matters that are currently being discussed and debated in the spatial planning theoretical arena. This debate is welcomed and no doubt the efforts of introducing an appropriate land use management system into our rural zone will add value to this discourse. There is much that remains to be discovered however. There is much too that is uncertain. The early steps of implementing SPLUMA have already shown some propensity for resistance. Whether or not this resistance will be sustained is yet to be determined. The opportunity however does exist to reduce the perceived threats to the traditional cultural leadership. It is submitted that this can only be done by application of sensitised attitude toward this venture: one that embraces respect and dignity.

The research also uncovered some important concerns about the actual capacity (knowledge) or readiness of practising spatial planners to engage in a manner consistent with respect and dignity. The many opportunities for debate that have arisen in the SPLUMA participatory processes have not revealed any such knowledge. There would appear to be serious gaps in the spatial planners' theoretical vocabulary. This situation is not helpful. The idea of "act together" and "live together" (Barrero 2013:9-10) may prove to be more difficult if the theoretical mind set is not in place.

Sandercock (1998) has entitled her book, "Making the Invisible, Visible". This is an interesting concept or idea, in that this is what this thesis has actually attempted to do. A culture that was for so many centuries subjected to socio-political processes to render it invisible now needs to be reversed. The same may be said of spatial planning. The many efforts to create a set of rationalities to serve particular interests also have to be interrogated. This means that its own invisible domain must now become visible. To achieve this, spatial planning, theory and practice, must open itself up to scrutiny and embrace a counter argument (Harrison, 2006:325). It is my contention that the aims and objects of SPLUMA have brought us to such a place. Two distinct cultures (the Western dominated urban perspective) and the Xhosa customary "other" have to face up to each other. Border thinking may be found in the

"interstices between Occidental rationalities and the rationalities of the colonised – the spaces where, to use the wording introduced by Mignolo, global design meet local history" (Harrison, 2006:325). We as planners have little choice but to experience the "cross over, boundary-breaking" journey into a new cultural space, one that is framed in becoming human and in so doing pursue the dictates of I am because you are. Implicit in this cultural dictum are ideas of inclusiveness, equitability and sustainability.

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