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Emerging rural struggles against unelected traditional authorities and the role of the courts

*Lessons from rural villages of the
Eastern Cape*

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Introduction

In seeking to realise the more radical vision [...], perhaps most problematic is the road to this future agrarian economy. As noted earlier, neither a land movement nor a radicalising state presently exists in South Africa. Historical and global evidence, including the example of Zimbabwe, strongly suggest that massive rural mobilisation is required in order to push through any meaningful rural change (Hendricks et al., 2013: 357).

As this quotation argues, there is a view that South Africa needs to chart a ‘radical vision’ that is based on an agrarian economy with equitable access to productive land for rural residents with land-based livelihoods. More importantly for our purposes is the argument that ‘massive rural mobilisation is required’ for the attainment of the ‘radical vision’. But in his chapter, ‘South Africa’s countryside: prospects for change from below’, Ntsebeza (2013b: 153–4) concludes that ‘rurally-oriented social movements’ are still weak and ‘would remain weak at least for some time’. Ntsebeza bases his conclusion on the lack of a clear indication from social movements of how to attain the radical vision, and their heavy dependence on external funding (Ntsebeza, 2013b: 153–154).

This chapter reflects on emerging rural struggles over leadership, land and other resources, and the possibilities for rural mobilisation in South Africa’s countryside, similar to the Mpondo Revolts and the Mnxe Tshisa-tshisa campaign in the 1960s (Ntsebeza, 2011). Since 2013, there has been a mushrooming of rural struggles¹ across the Eastern Cape for the democratisation of rural governance. Civil society organisations in the form of rural people’s organisations and non-governmental organisations (NGOs) played an important role in the struggles and mobilisation of rural people. In Cala Reserve, this followed attempts by Chief Gecelo and the KwaGcina Traditional Council (KTC) to impose an unelected headman in the village. The imposition of unelected traditional authorities has triggered a growing demand for the democratisation of governance in rural areas. The struggle of the residents of Cala Reserve, despite their reliance on the legal system, has snowballed as news of their battle spread to other rural areas across the Eastern Cape. This followed a challenge in the High Court by the residents of Cala Reserve against the imposition of the unelected headman by Chief Gecelo and his traditional council in 2013. The residents opposed the imposition because it conflicted with the longstanding practice of residents electing their headmen. On the other hand, the chief believed that it was his sole prerogative to decide, without consultation with the residents, who the headman of the village should be. Not only did the residents successfully challenge the imposition, they also used the judgment to encourage

other communities to stand up against the chiefs' undemocratic tendencies. Thus, the High Court judgment became a mobilising tool in other rural communities in Ngcobo, Lady Frere, Cofimvaba, Indwe, Centane, Whittlesea, Stutterheim, Berlin and Peddie. This marks a groundswell in these rural villages of demands for the right of residents to elect their local leaders.

This chapter argues that while it is true that there are presently no strong rurally oriented social movements in South Africa, the emerging rural struggles discussed above raise the possibility of the development of just such a rurally oriented social movement to lead the transformation of the countryside. Although the case started in Cala Reserve and was largely pursued through the High Court, the judgment became an organising instrument, whose ramifications go well beyond Cala Reserve, reverberating throughout the whole province. Indeed, during a Provincial Conference in June 2016, which was co-hosted by the Eastern Cape House of Traditional Leaders (ECHTL), the South African Local Government Association (SALGA) and Mrs Serobe, the founder of the Women's Investment Portfolio Holdings (WHIPHOLD),² demands were made by community representatives from across the Eastern Cape, starting from communities such as Prudhoe around Peddie, in the west, to Caguba in Port St John's in the east. The community representatives demanded elected and accountable leaders in their areas.³ The successful High Court challenge to the legitimacy of Chief Maqoma by the Amahlathi Crisis Committee, representing eight communities next to Stutterheim, is another example.⁴ Furthermore, in November 2017, submissions were made by 22 rural communities in the Western Cape to the senior chief in Qamata about the undemocratic and abusive behaviour of traditional authorities, illustrating the reverberations of these rural struggles.⁵

The next section discusses the origins of the current rural struggles, highlighting processes leading to the emergence of the struggle to democratise rural governance. Following on from that, consideration is given to the response of members of a group called the Planning Committee (PC) to the imposition of an unelected headman in Cala Reserve, including the decision to pursue the legal route. The PC

consists of representatives from the six sub-villages of Cala Reserve established to support the outgoing headman. The paper ends with discussion of, and concluding remarks about, the wider significance of such moments and the possible ramifications for future challenges to traditional authorities.

The genesis of rural struggles to democratise governance

The genesis of the current rural struggles is the ‘landmark judgment’ by the High Court in Bhisho on 18 August 2015 (Rickard, 2015). As is explained later, the judgment appears to have opened the floodgates by enabling rural residents to challenge the legitimacy of traditional authorities in many rural areas of the Eastern Cape. The judgment by a full bench of High Court judges followed an appeal against an earlier judgment by the lower division of the High Court by the local chief (Chief Gecelo of the KTC), the premier of the Eastern Cape, the Member of the Executive Committee (MEC) for the Department of Cooperative Governance and Traditional Affairs (COGTA) and the Eastern Cape House of Traditional Leaders (ECHTL). This appeal was the reason for the second judgment of the full bench of the High Court.

It was collaboration between the provincial government and traditional authorities, rather than an election, that led to the imposition of a headman in Cala Reserve on 27 March 2013. The imposed headman replaced Mr Jongilizwe Hamilton Fani, who had retired at the end of February 2013. Since the colonial period in the late 19th century, headmen in Cala Reserve had been elected. Mr Fani’s election to headmanship in 1979 was the last in the area. According to Ntsebeza (2013), there is a list of elected headmen in Cala Reserve,⁶ beginning with Duncan Makhohliso (Mfengu), followed by Boy Nophothe (Mpondomise), Mahlamvana Guata, Velile Guata and Sthukuthezi Guata (amaGcina). As can be seen from the list, all the headmen, except the Guatas from the amaGcina clan, came from different families. Even the Guata members assumed

leadership through election. Thus, Cala Reserve, together with the 20 other villages in the former Xhalanga magisterial district, had an established tradition of elected headmen.⁷

The Transkei Authorities Act No. 4 of 1965 prescribed that registered voters, who happened to be only men in whose name land was registered, were consulted in the selection of headmen. Yet, in practice, elderly men and women also participated in electing their headmen. These residents would participate from the identification of candidates, who were given time to canvass support before the actual elections. On the day of the elections, the candidates were put in front of voters, who were asked to queue behind the candidate of their choice (see Ntsebeza, 2013a). The residents of Cala Reserve reported similar processes in their area.⁸ Thus, the election process of headmen was transparent and democratic in so far as it was conducted publicly and allowed the participation of elderly men and women.

According to Cala Reserve elder Mr Jongilizwe Tasana, the impending retirement of Mr Fani sparked polarised discussions in Cala Reserve from the outset.⁹ Mr Tasana is not just one of the few elders in the community, but is also one of the councillors and a close confidante of Mr Jongilizwe Fani. The discussions revolved around the headman's replacement and the process for this. Some residents were concerned about whether there would be adherence to the tradition of electing a headman, while others were not. Nonetheless, the discussions divided the residents between those who wanted an elected headman, in line with their custom, and those who wanted an *umGcina*¹⁰ (of the chief's family) as leader of the village.

The indifference of some residents about whether the tradition of electing headmen would be followed or not stems from their different interests. Some residents saw the vacancy of headmanship in Cala Reserve as an opportunity for their family members. Instead of pulling together, the discussions rekindled historical social divisions between the *bona fides* or *iinzalelwane* (i.e. born and bred in the area) and the outsiders also referred to as *amalose*. *Amalose* consist mainly of former farm workers who are viewed as *omabhulwini*¹¹ or outsiders in the community. Some *bona fides* reject the leadership of people considered as *omabhulwini*. The candidate headman – Gideon

Sitwayi – was regarded as an outsider even though he had lived in the village since the 1950s. He had also been headman Fani's right-hand man and even acted as headman when the former's health failed, according to the court papers.¹²

The character of the person chosen to lead the village was of particular concern for Mr Tasana.¹³ Sharing his views with the author at the beginning of February 2013, Mr Tasana pointed out that the residents may take 'ill-considered decisions by choosing someone who is not useful to the community' (*izigqibo ezingenangqiqo, sithathe umntu ongeyonzuzo kulelali*). Mr Tasana made clear his preference for Mr Gideon Sitwayi, not only because he was already a sub-headman and the deputy of headman Fani, but also because he was a well-mannered person. Other residents were equally concerned about the headman's retirement. One of these was Mr Mcebisi Ntamo, a community leader in the area who echoed Mr Tasana's views.¹⁴ On 26 February 2013, Mr Mcebisi Ntamo reported on a community meeting that took place in Cala Reserve the previous day.¹⁵ The meeting was called by members of the local PC¹⁶ who decided to be pro-active and not allow the KTC members to dictate terms to the community. Participants in the meeting selected Mr Gideon Sitwayi as the new headman. All except one of the participants at the meeting chose Mr Sitwayi as the future leader. The dissenter was a member of the Guata family, who, according to Mr Ntamo, indicated that he would prefer the new headman to come from his family. The member reasoned that the headmanship should revert to his family because as far as he was concerned, headman Fani held the position on behalf of the family.

Although at the meeting in which Mr Sitwayi was selected as headman everyone was allowed to express views about the replacement of Mr Fani, no other names were proposed for the vacancy besides the name of Mr Sitwayi. The residents present in the meeting were allowed to discuss at length the issue of the replacement of Mr Fani and no one objected to the identification of Mr Gideon Sitwayi as the replacement.

Participants in the meeting later mandated the incumbent headman, the late Mr Penrose Ntamo (a brother of Mcebisi Ntamo), and one of Mr Fani's sub-headmen, to report the community's decision to

the KTC. However, the community decision did not sit well with the council members (i.e. councillors of the chief) who severely criticised Mr Fani when he and Mr Penrose Ntamo delivered the report. The first to register his disapproval was the secretary of the council who angrily told the delegates that the community acted illegally by not involving the traditional council when holding the meeting to choose the new headman. Nonetheless, the secretary promised the delegates that the council members would discuss the report in their meeting scheduled for 4 March 2013. The secretary's unhappiness was just a prelude to what was to follow.¹⁷

The council's hostile attitude towards the decision of the Cala Reserve residents should be seen in the context of a long struggle that rural residents, in various parts of South Africa, have mounted from the 1940s. Examples include the rural struggles in Sekhukhune in the 1940s, Witzieshoek/Zeerust in the 1950s, Mpondoland in the late 1950s to early 1960s and in Xhalanga in the late 1960s (see Redding, 2009; Ntsebeza, 2011; Badat, 2012). The denial by the apartheid government of the rights of rural people to democracy and equality accounts for the resistance (Ntsebeza, 2011: 2). Fierce opposition to traditional authorities from rural residents in the 1980s to early 1990s, led by the South African National Civic Organisation (SANCO), weakened and even led to the collapse of some structures of traditional authority, especially in the Ciskei (Manona, 1997; Wotshela, 2009). The formation of the ANC-aligned Congress of Traditional Leaders of South Africa (Contralesa), in 1987, marked traditional authorities' resurgence (Ntsebeza, 2004). Contralesa gained implicit recognition in the new South African Constitution of 1996, which called for legislation to ensure the recognition of traditional leaders. One such piece of legislation is the Traditional Leadership and Governance Framework Act (TLGFA) No. 41 of 2003 which, among other things, calls for the transformation of tribal authorities into traditional councils.

In Xhalanga, rural resistance led to the burning down of the houses of opponents and supporters of tribal authorities in two villages – Mnxe and Tsengiwe – in the 1960s (Ntsebeza, 2004). Four tribal authorities were eventually established in Xhalanga in 1957,

despite fierce opposition.¹⁸ The KwaGcina Tribal Authority (now the KTC), under Chief Gecelo, is one of the traditional councils with six administrative areas – Cala Reserve, Manzimdaka, Mbenge, Hota-Mbeula, Nyalasa and Qhiba. As in other rural areas, traditional authorities were under tremendous pressure in Xhalanga in the late 1980s to early 1990s. In 1991, the headman of Mnxe was removed and replaced with an elected headman (Ntsebeza, 2005). The number of unelected headmen grew in Xhalanga from 2007, following the promulgation of the provincial Traditional Leadership and Governance Act No. 4 in 2005. Traditional authorities believe the provincial act empowers them to select headmen without consulting communities.

The KTC members were furious about the developments in Cala Reserve, according to two text messages from Mr Zwelakhe Moni, who worked for the local NGO – Cala University Students Association (CALUSA).¹⁹ He wrote:

Things are getting tough regarding the election of the new headman (in Cala Reserve). It seems there are people in the traditional council who are opposed to the elected new headman. (*Izinto zifuna ukubanzima malunga nosibonda omtsha. Ingathi kukho abantu abayiphikisayo enqileni.*)²⁰

Zwelakhe's second message was even more revealing of the attitude of the amaGcina royal family.

I am presently accompanying members of Cala Reserve to deliver a letter to the traditional council about the election of the new headman. My sense is that there are headmen (from the six administrative areas that are under the council) who disapprove of the election of the new headman, especially those from the amaGcina clan. These headmen allege that Mr Fani acted out of line in allowing the election of the headman to take place.²¹

Zwelakhe further reported that the headmen in the traditional council

harshly criticised headman Fani for allowing the community meeting to take place. This was despite the fact that headman Fani had explained that the meeting was called by the PC and it was the right of the community to meet if they wanted to. According to Zwelakhe, members of the traditional council would hear none of that.²² The KTC members viewed the developments as thwarting their intentions of installing their close relative.

Mr Fani's report in the meeting of the PC on 10 March 2013 confirmed Zwelakhe's report. He said: 'the KTC members attacked me for allowing the community to elect my replacement' (*iNqila indihlasele kakhulu ngokuwumela ukuba umzi wonyule umntu ozakuthatha iintambo kum*). Thus, the council had rejected the community decision. In the process of rejecting Mr Sitwayi's name, members of the council questioned the authenticity of the attendance register on the grounds that there were no signatures against the names of participants in the community meeting. The council members ended their attack on Mr Fani by informing him that they would come to the community on 11 March to handle the process of replacing the headman. They also warned him that they would come with the police to maintain law and order during the community meeting.²³

The hostile reaction from the KTC members shows their disrespect for the views of local people and how keen the members were on imposing their views on the residents. The reaction also confirms the criticism about traditional authorities' lack of accountability to the people they lead (Hendricks & Ntsebeza, 1999; Ntsebeza, 1999; 2005; Jara, 2011).

In the same meeting, PC members discussed preparations for the impending visit by members of the council. The behaviour of the council members hardened the attitude of the PC. Mrs Nomvuzo Nophothe's views, which were expressed in the same meeting, aptly capture the mood of PC members. She pointed out that, '[w]e are in a struggle that needs us to constantly meet to strategise. Therefore, we should not waste time arguing about the attendance register. We need to think about how we engage in this struggle (*Sisedabini, masihlale singqubana, sibonisana ngalomba. Akuzukusinceda ukuba*

sibesixoxa nge-register. Intoekufanele siyenze kukucinga ukuba elidabi sililwanjani na).²⁴ The reference to the attendance register relates to the query by members of the council about the authenticity of participants in the community meeting that had selected the new headman. In appreciation of Nomvuzo's challenge, PC members resolved to meet weekly to review developments and to plan their actions. They honoured this resolution, and from 2013 up to the present day the council has met weekly.

It also transpired in the meeting that the visit of the KTC delegation planned for 10 March had been postponed indefinitely. Although members of the PC suspected that the postponement was a ploy by the council to confuse the community and to disrupt the leadership, they decided to continue with the meeting in order to strategise. They also decided to notify the community about the postponement of the meeting at a community meeting, which they would hold on the 13 March 2013 (Ncapayi, 2013).

The agenda of the community meeting on 13 March, which was attended by 20 community members, had two items: report on the meeting of the KTC and report on land allocations in Cala Reserve. Headman Fani reported his hostile reception by members of the council. In view of the report, participants in the meeting concluded that the council members had adopted a confrontational approach. The discussions then focused on how to deal with the situation. It was agreed that the KTC delegation should not be allowed to have a separate meeting with the PC. Instead, the delegation should meet with the community. The aim was to avoid confusion and suspicions that members of the PC had been bought over by the council delegation.²⁵

The meeting of the council delegates with Cala Reserve residents eventually materialised on 27 March 2013. From the outset, Chief Gecelo and his traditional council showed unwillingness to be held accountable. They unsuccessfully tried to block residents in the meeting from discussing the issue of the headmanship. After the formalities, the chairperson of the meeting – Mr Jentile (a member of the council) – remarked that they did not intend to have a discussion, but came to introduce the person the royal family had chosen as the headman of Cala Reserve.

Indeed, when the chief spoke, he reiterated Mr Jentile's remarks that they came not to answer questions, but to announce the new headman of the area. He continued, saying 'the man with spectacles in this house should stand up for the people to see him (*indoda eneglass aph' endlwini mayiphakame abantu bayibone*)'.²⁶ To the surprise of the residents, the person who stood up was Mr Ndodenkulu Yolelo, a taxi owner who had, until recently, mostly been based in Cape Town. Like the chief, he is an umGcina. The chief then asked whether the nominee accepted the nomination to be headman. When the person responded in the positive, the chief exclaimed: 'I am done with what I came for (*ndiyiqibile ke into ebendizokuyenza*)'.²⁷ Thereafter, the chief sat down without explaining what had happened to the name of the headman the residents had selected and submitted to the council.

After a moment of silence, as if people were still digesting what they had just heard, the hands of residents abruptly shot up. Participants wanted to comment on or ask questions about the events they had just witnessed. The chairperson unsuccessfully attempted to block discussions by once more reminding the residents that his delegation was not there to respond to questions. He further indicated that he was rushing somewhere. Eventually, he reluctantly allowed questions and comments, after people started grumbling.²⁸ One of the participants wanted to know whether the council delegation intended to disregard the views of residents concerning the name of the person they preferred as the new headman. Another asked whether or not democracy applied to rural areas.

As in other communities, the views of the residents in the meeting were not unanimous. Some residents took a different view to the majority of the residents. For instance, an elderly woman asked: 'Why are you questioning decisions of the chief? I am really surprised at the lack of respect for the chief that I'm witnessing here (*Kutheni niyixambulisa kangaka nje inkosi? Noko ndiyothuka yilento ndiyibonayo yokungahlonitshwa kwenkosi*)'. Another participant, Mr Madoda Nophothe, demanded that the residents should stop the questions 'which are a waste of people's time'. He further pleaded with the residents to accept what the delegation had decided. He almost did not finish his point as people shouted him down. Amid

grumblings, Mr Mcebisi Ntamo furiously shouted: '[J]ust leave the meeting and do not stop us if you have no questions. Don't decide for us.' The tension in the room rose as other residents pointed out that there was no protocol that prevented people from asking the chief questions.²⁹ In response, Mr Jentile (of the traditional council) explained that things had changed with regard to the election of headmen by communities. According to him, 'that practice has stopped since the new law, which instructs that the royal family elects the headmen'. In other words, he suggested that it was the prerogative of the chief to decide who the headman of Cala Reserve should be. He further pointed out that the community could only object to the chief's choice if there was evidence that the nominee was a criminal or a rapist. The headman of Mbhenge – Headman Gecelo – concluded the discussion by arrogantly remarking that, 'whether you like it or not, it is the royal family that decides on the headmen (*nokuba niyathanda okanye anithandi na, yiroyal family ethatha izigqibo ngokubekwa kweenkosana*)'.³⁰ Thereafter, the chairperson requested that the delegation be released as some of them had already indicated that they had other commitments. He advised those who were unhappy to write to the traditional council, stating the reasons for their unhappiness.

This section has shown how traditional authorities rode roughshod over the residents and disregarded the views of the community regarding ascension to the position of headman. The traditional authorities disregarded the community's expressed wish to have a headman of their choice, something which is a standing practice in the community. The actions of traditional authorities, which confirm Ntsebeza's (2005; 2013) argument that traditional authorities are unelected and thus undemocratic, left the residents of Cala Reserve very unhappy. Their unhappiness triggered a struggle that spread like a prairie fire from one village to another across the province. The rapid spread of this struggle is evidenced in the number of communities that approached CALUSA³¹ for assistance, as well as in the views expressed by residents in various Transkei and Ciskei communities visited by the author and by representatives of the Legal Resources Centre following the High Court judgment.

The response of the PC and other structures to the imposition of an unelected headman

This section focuses on the response of the PC leaders, structures of Siyazakha Land and Development Forum and CALUSA members to the imposition of the unelected headman in Cala Reserve. Siyazakha is a local rural people's organisation that was formed in 2007 to act as a voice for rural people in the Sakhisizwe Local Municipality and other neighbouring municipalities. Cala is one of the two towns under the Sakhisizwe Local Municipality. Although not registered, Siyazakha has a Constitution and an elected leadership. Siyazakha is part of a national rural movement called Inyanda National Land Movement. CALUSA is a non-governmental organisation with seven staff members and works with rural communities in Sakhisizwe, Emalahleni, Ngcobo, Intsika Yethu and Enoch Mgijima local municipalities. It focuses on land and agrarian issues, democratisation of governance and youth development. Underpinning the programmes is research that is aimed at building Siyazakha as a rural movement. Siyazakha is at the forefront of the struggle to democratise rural governance.

As will be seen below, the PC organised local meetings and kept the struggle alive through a range of activities, including approaching its lawyers. Siyazakha encouraged its members to actively support the struggle of Cala Reserve. For instance, Siyazakha included a discussion about the struggle in its workshops to update its members and to encourage its members' participation in the struggle. CALUSA members supported the residents of Cala Reserve by documenting the processes, providing transport, linking the PC members with the traditional council and the Regional Traditional Council in Qamata and facilitating communication with the provincial government (the Premier's Office, the Department of Cooperative Governance and Traditional Affairs) and the Legal Resources Centre (LRC). CALUSA members, including the author, also raised awareness in communities through workshops and inputs in meetings.

Soon after the meeting of the KTC members, the agitated local leaders (members of the PC) briefly met and resolved to take further steps regarding the issue of headmanship in their community. The

resolve of the leaders to pursue the matter is captured by Mr Mcebisi Ntamo's remark that, 'it is now time for cowards to move backwards (*Ngoku kufuneka amagwala ayekulonina*)'.³² The remark is indicative of the determination of the PC members not to give up the fight to defend the democratic rights of the community. Thus, after the events at the meeting of the KTC delegation with the residents of Cala Reserve, the PC members decided to challenge the imposition of an unelected headman. Importantly, the decision to challenge the imposition of an unelected headman marked the beginning of the struggle for the democratisation of rural governance in Cala Reserve.

A number of actions were identified to take the struggle forward. The first one was a meeting with representatives of CALUSA on 2 April to formulate a response to the developments.³³ In the meeting, PC members also handed in a formal request for support from CALUSA, which was accepted by CALUSA.³⁴ Members of the KTC were also informed that the author would lead CALUSA's work relating to this matter. Flowing from discussions in the meeting, the agreement was to mount the struggle on three fronts; namely engaging and putting pressure on the chief and the council members to reverse their decision; exerting pressure on the remier and the Member of the Executive Council (MEC) of COGTA to intervene; and mounting a legal challenge.³⁵

Regarding putting pressure on the chief and KTC members, the council members and Chief Gecelo were bombarded with a flurry of letters. The first of the letters was written to the council on 2 April 2013. In the letter, the PC members sought to persuade the council members to reconsider their stance with regard to the community views about Mr Yolelo (the council's elected headman). Copies of the letters were also sent to the MEC for COGTA and to the Premier's Office, as the institutions responsible for traditional authorities. Although traditional authorities operate under COGTA, it is the premier that accepts and endorses the names of new headmen and chiefs. Letters were also sent to the Regional Traditional Council in Qamata, which is the regional structure in Western Thembuland that the KTC and chiefs account to. It was only the Premier's Office that responded and indicated that the matter had been referred to COGTA for consideration.

Furthermore, CALUSA members advised the PC leaders to ensure that residents were mobilised around the headmanship issue. The aim was to ensure that the struggle did not become the concern of PC leaders only. In line with this, Siyazakha had to be approached for support.³⁶ Indeed, Siyazakha did support the struggle by teaming up with PC leaders to organise a protest march to Chief Gecelo's place, where a petition was handed over in early November 2013.³⁷ Representatives from groups in the villages of Sifonondile, Mnxe and Lumphashi also participated in the march, as members of Siyazakha. The presence of Siyazakha members in the march showed its support for the struggle. Two weeks after the march, Chief Gecelo and his council responded by indicating that the Regional Traditional Council would respond on their behalf. However, the chief's response did not impress the PC members and CALUSA because the regional structure had already been unsuccessfully lobbied to intervene in the issue, and it was clear that the Regional Traditional Council supported Chief Gecelo's actions (Ncapayi, 2013).

In addition to the march, PC members conducted door-to-door visits in the community to explain what the struggle was about. During the door-to-door visits, the PC members also collected signatures from the residents to demonstrate community support for the struggle. Copies of the forms were also sent to residents who were migrant workers in urban centres such as Johannesburg and Cape Town. These efforts solicited about 390 signatures of local residents and migrant workers who pledged their support for the struggle.³⁸ Migrant workers constituted about 30 per cent of the signatories, while the rest were local residents. Cala Reserve has 435 households and the majority of the signatures were those of location community members. Moreover, the PC members organised regular community meetings in December, starting from 2013, to brief locals and migrant workers about developments in the village.³⁹ Some of the migrants even pledged financial support to assist with the payment of transport costs incurred when PC members attended the High Court in Bhisho. The holding of meetings in December has since become an annual occurrence, when the migrant workers are around (see CALUSA Annual Report, 2014). The rural-urban linkage shows that the struggle

is not localised/parochial, but has urban linkages and support, similar to the rural resistance of the 1960s (see Ntsebeza, 2004). This shows the active interest migrant workers took in developments in their rural areas.

The legal route and the spread of the campaign beyond the Sakhisizwe Local Municipality

When lobbying the traditional authorities and the government did not yield results, the PC and CALUSA resolved to take the struggle to the courts as the next phase of the strategy. Working with CALUSA, PC members approached the Legal Resources Centre (LRC) to mount a legal challenge in the High Court in Bhisho (CALUSA, 2013; 2014). As is already known, the legal challenge led to two High Court judgments in Bhisho (Case No, 169/14). The first judgment, by Acting Judge Nhlangulela in the lower division of the High Court, in October 2014 found the premier of the Eastern Cape to have erred in recognising the nomination of Mr Ndodenkulu Yolelo as the headman of Cala Reserve. The judge reasoned that the recognition disregarded the customary practice of not only the village, but also of the entire former Xhalanga magisterial district. According to the judge:

[The] respondents could pitch their argument no higher than the contention that the Governance Act places the identification of a headman in the hands of the Royal Family only. I have already found that the statement is wrong to the extent that the Royal Family and the Premier failed to take into account the applicable customary law in the Cala Reserve Community as proven in the doctoral thesis of Professor Ntsebeza. In the light of this failure, I find the respondents acted in breach of section 18 of the Governance Act ... Consequently, the applicants must succeed.

This emphatic judgment notwithstanding, the Premier's Office, the MEC for COGTA, the Eastern Cape House of Traditional

leaders (ECHTL) and the KTC royal family appealed. This was immediately after the judgment was handed down. The involvement of the provincial government in the appeal was surprising to the civil society organisations considering that all provincial political leaders are elected. This shows that politicians are prepared to sacrifice the democratic rights of rural residents to keep traditional authorities on their side.

Nonetheless, from the beginning of 2014 the judgment became an organising tool for CALUSA and PC members. CALUSA members, working with Siyazakha, attempted to ensure that the struggle was not confined to Cala Reserve. In a message communicated to rural residents through local community radio – Vukani Community Radio – we from CALUSA and representatives of the PC pointed out that the judgment meant that rural residents can challenge the imposition of headmen in their areas. The responses of listeners to the radio presentations gave an indication of the number of communities with similar challenges. Thus, a coordinating structure called the Democratisation Task Team (DTT), consisting of three representatives from each of these villages: Cala Reserve, Indwana, Mnxe, Sifonondile and Tsengiwe, was established. These are administrative areas in which residents experienced governance problems caused by their headmen. For instance, the representatives highlighted that some headmen refused to append signatures when required for the initiation of boys, used vulgar language against residents and threatened residents physically.⁴⁰

There were fears that the struggle would be isolated or marginalised. This is reflected in the internal documents of CALUSA and the discussions of the author with various members of CALUSA.⁴¹ The members of CALUSA, including Professor Ntsebeza, the NGO's board member, also realised that the court process had to take place in conjunction with the mobilisation of rural residents. Workshops, seminars, dialogues, as well as electronic and print media, became the tools to spread the message and to mobilise rural residents. Workshops involving members of the DTT and the leadership of Siyazakha were used to discuss the experiences of rural residents in relation to rural governance and the legislation that impacts on it.

Although participants were representatives mostly from the rural villages of Sakhisizwe, Emalahleni and Engcobo municipalities, one of the workshops also included representatives of Ilizwi Lamafama from the Amathole District Municipality; the Rural People's Movement and the Unemployed People's Movement from the Sarah Baartman District Municipality, and Makukhanye in the Nelson Mandela Bay Metropolitan Municipality. The first two workshops, which preceded the High Court judgment in October 2014, sensitised participants about the legislation related to traditional authorities, while the third workshop, held after the conclusion of the court case, discussed the implications of the judgment (CALUSA Report, 2014).

After the first judgment, CALUSA and members of the PC established links with rural communities in other parts of the Eastern Cape. In April 2014, CALUSA accepted an invitation to a seminar organised by the Border Rural Committee (BRC), an NGO with offices in East London, and Ntinga Ntaba kaNdoda, a social movement operating in the villages of Keiskammahoek. As will be seen later, both organisations work with rural communities and organised rural residents to hold regular pickets during sessions of the Cala Reserve court case in support of CALUSA and Siyazakha. The seminar discussed the implications of the High Court judgment. Members of the Vulamasango Singene campaign⁴² and representatives of rural communities where Ntinga Ntaba kaNdoda operates also attended the event. In his presentation to the seminar, the author not only updated participants, but also discussed implications of the judgment for residents in areas under traditional authorities (BRC, 2015). When the BRC and Ntinga members heard that traditional authorities and political leaders had appealed the judgment, they resolved to support the struggle of the residents of Cala Reserve. In line with the resolution, participants in the seminar were encouraged to picket outside the High Court on the dates that the case was heard. Indeed, there were pickets outside the High Court whenever the case was heard. To keep the picketers informed, there were briefings to representatives of communities experiencing governance issues by the author and the representative of the LRC about the case after each court sitting.

Information on the struggle was also shared through newspaper

articles.⁴³ In an opinion piece in the *Daily Dispatch* (Ncapayi, 2014), the author warned that rural people were being denied their democratic right to elect and be elected into decision-making structures in rural areas. Since this is a provincial newspaper that serves people in urban and rural communities across the Eastern Cape, the information was widely distributed in the Chris Hani District Municipality. Information was also shared through Vukani Community Radio and there were weekly radio presentations to update members of the public about the struggle and the progress of the case. It is not possible to gauge the impact of these efforts on the public, but phone calls and public comments during the presentations on Thursday evenings showed the interest the public took in the struggle for the democratisation of rural governance. Most of the people who commented expressed support for the struggle.

The Full Bench of the High Court heard the appeal in August 2015. In their appeal, the advocate for the appellants argued that:

while the royal family is granted the power to decide a person who qualifies to be appointed with regard to customary law, there is no requirement that the royal family must take into account the popular views of the community and no community consultation is envisaged in section 18 of the Governance Act.

The royal family referred to in the above quotation are family members of Chief Gecelo. Moreover, as the extract shows, the premier, the MEC for COGTA and traditional authorities do not see it as necessary to consult rural residents about the determination of local leaders. However, the Full Bench judges disagreed that rural residents do not have to be consulted. To the judges: '[T]he facts set out in Professor Ntsebeza's affidavit establish a practice of long duration. That practice, judging from the community of the Cala Reserve's response to the retirement of Fani, is the current practice.' The judges further argued that the election of headmen (pp. 17–18):

... is a reasonable practice in that it is not in conflict with legislation or the Constitution. Indeed, it is a practice that is in

consonant with the value of democratic governance, aimed at achieving accountability, responsiveness and openness, that is one of the Constitution's founding values. It is also consistent with various fundamental rights, such as the right to dignity, the right to freedom of opinion, the right to freedom of association and the right to make political choices.

Thus, the judges delivered what has become a 'landmark judgement' by dismissing the appeal on 18 August 2015 (see Rickard, 2015).

Once more, the conclusion of the court case was followed by a flurry of newspaper articles, which not only informed the public, but also helped to mobilise rural residents. Commenting on the judgment, Wilmien Wicomb of the Legal Resources Centre wrote: '(B)eing able to vote for our leaders is what it means to live in a democracy. Yet the Eastern Cape government tried to block a rural community from electing their leader' (see Rickard, 2015). In another opinion article (Ncapayi, 2015) the author encouraged rural residents to use the judgment as an opportunity to claim their democratic right to elect their local leaders.

The judgment of the Full Bench and the newspaper articles triggered reactions from various rural communities as well as from civil society organisations across the province. These responses led to the development of a campaign locally and provincially to democratise rural governance. Locally, there was more demand from various rural residents to CALUSA to assist residents to deal mostly with unelected headmen, non-transparent land allocations and undemocratic decisions about who should be sub-headmen, following the second High Court victory. Thus, Siyazakha and CALUSA resolved to broaden the DTT by incorporating representatives from communities with similar governance challenges who had also shown interest in being part of the campaign. Consequently, the DTT's members increased from five to 12 communities that came from the Emalahleni, Engcobo and Sakhisizwe municipalities.⁴⁴ Moreover, the judgment was translated into isiXhosa and its copies circulated in Cala Reserve. The youth of Siyazakha also had to be involved in popularising the court judgment by circulating and explaining it to

the households beyond Cala Reserve (CALUSA, 2014; 2015).

In addition, Siyazakha and CALUSA initiated discussions with members of the DTT on what it means to have democratised rural communities. Workshops were then organised in 2015 and 2016 to clarify the matter. Each workshop had between 60 and 70 participants from areas such as Bengu, Guba Hoek, Machubeni, Mbinzana and Mgwalana in Lady Frere (Emalahleni Municipality); Qhumanco and Beyele (Engcobo Municipality); and Cala Reserve, Draaifontein, Indwana, Mnxe and Mthingwevu in Cala (Sakhisizwe Municipality). The experiences of African states such as Guinea-Bissau and Mozambique, which established liberated zones during their struggles for liberation, were shared with participants in the workshops. In the context of Guinea-Bissau, the liberated zones, which were areas that were won over by the liberation forces from colonial rule, saw the establishment of alternative socio-economic and political systems to mark the break with the colonial past (Chabal, 1983; Davidson, 1984). According to Chabal (1983: 107), village committees were set up in the liberated zones as part of their political re-organisation. The committees served as the 'political and administrative nerve centres' of the liberated zones. Economic reconstruction of the liberated zones was also undertaken. This involved dismantling the colonial agricultural model of export-oriented agriculture. Production of cash crops, for instance, was done away with in favour of production of food. Such information was shared with participants in the workshops. Consequently, the participants agreed in the workshops that democratised communities should have democratically elected leaders; have leaders that are accountable to the residents rather than those above them; have leaders that respect the residents they lead, and have residents that actively participate in development as well as in decision-making processes (CALUSA, 2015).

At the same time, there were regular presentations by various leaders of the DTT on Vukani Community Radio on the democratisation of rural governance. These initiatives popularised the struggle for democratisation of rural governance. The radio presentations reached other rural communities in the Chris Hani District Municipality. For instance, during the radio presentations there were telephone calls

from people in Whittlesea who indicated that they also had serious problems of governance in their areas (CALUSA, 2015). When following up the calls, it emerged that more than 12 communities in Whittlesea had governance-related problems. Giyose's (2015: 13) research with members of the people's organisation, Sikhulule Bawo, in Qhumanco and Beyele, paints Chief Mgudlwa as a dictatorial leader who treats the residents as servants and does not allow them 'any free will'. The demands of rural residents were clearly articulated in a meeting of community representatives from more than 21 communities across Western Thembuland – that is communities under the Qamata Regional Traditional Council. The meeting was held in Qamata with Dalimvula Matanzima, the senior chief of Western Thembuland, and his councillors. The representatives demanded the withdrawal of unelected headmen in their communities. Additionally, they complained about the ill treatment of rural residents by headmen and some chiefs. For instance, some representatives complained that some traditional authorities abused them. In other instances, the residents alleged that some traditional authorities denied them services such as permits for circumcision of their children and papers for deaths. The residents of Xonxa complained that their headmen blocked development processes led by a local committee that was elected by the residents. As can be seen, it was and continues to be the dictatorial tendencies of the chiefs that are at the centre of the struggles in these rural communities.⁴⁵

As local leaders, headmen are responsible for land administration and allocations, cases of civil nature, signing of affidavits for residents who die at home and witnessing for residents who apply for social grants (Act 41, 2003). Headmen are also expected to hold regular community meetings to report and discuss issues with their residents. Moreover, headmen account to the traditional councils at weekly meetings of these councils. Thus, headmen attend weekly meetings of the traditional council they are under. The chief, as the head of the traditional council, is expected to hold monthly meetings with residents in villages under his jurisdiction. Some of the meetings are supposed to keep rural residents abreast of developments, including policy changes.⁴⁶

Reliance on the legal process as opposed to community mobilisation

The story of growing mobilisation beyond Cala Reserve also has a downside. PC members have been relying on the legal system. This contributed to the failure of PC leaders to sustain the mobilisation of residents. Legal processes take time, and the longer the legal process took, the more the imposed headman was able to entrench himself in the community by allocating land to residents sympathetic to him and allegedly giving them preference when job opportunities arose (see CALUSA, 2016).

Pursuance of the legal route without social mobilisation is problematic. As Gloppen (2005) points out:

[L]itigation on its own has limited potential to change the situation on the ground, but creates opportunities for other actors. With a ‘receptive apparatus’ in place litigation seems to be effective in bringing out facts that can be used for advocacy purposes, fed into social and political discourses and directly inform policy processes.

The inability of the elderly PC members to win the youth over to their cause also turned out to be one of the challenges of the campaign. The imposed headman promised job opportunities to the youth, and this swayed the youth to the headman’s side. The position of the headman was further boosted by the continued support the government departments and the local municipality gave to him. For instance, government departments such as those dealing with agriculture and social development, as well as the police and the municipality, recognised him as the leader of Cala Reserve. With regard to the coronation ceremony of Mr Yolelo, the mayor of the Sakhisizwe local municipality advised Chief Gecelo to disregard papers from the lawyers warning him against going ahead with the ceremony. So, government institutions supported Mr Yolelo. Government departments and the municipality deliberately supported the headman – and this meant that, as political deployees, these government officials also ensured

political support for the ruling party.

On the opposing side, PC members were unable to counter the support government departments and the local municipality gave to Mr Yolelo. In the absence of a convincing counter programme, the elderly PC members in effect allowed a section of the residents to believe that Mr Yolelo's appointment was final and official. As a consequence, the support base of the PC dwindled and the meetings it organised were gradually restricted to meetings among themselves as PC members. Accordingly, the struggle in Cala Reserve began to wane, even though the flames that had been fanned in other parts of the Eastern Cape continued blowing.

Spreading the struggle provincially

The rural struggles from 2013 to 2017 have to be understood in relation to rural struggles of the 1950s and early 1960s. Mostly coordinated by the Transkei Organised Bodies (TOB), the rural struggles of the late 1950s and early 1960s were in response to the introduction of the betterment schemes of the 1940s and the Bantu Authorities Act (Ntsebeza, 2011: 21). Political activists such as the ANC-linked Govan Mbeki and the All-African Convention-linked (AAC) IB Tabata moved around the Eastern Cape, mobilising rural residents to resist implementation of the policies (Ntsebeza, 2011: 21). Although the three collaborating organisations – Border Rural Committee (BRC), CALUSA and Ntinga Ntaba kaNdoda – support the current struggles, there is no similar coordinating structure for the struggles. Development activists from the Border Rural Committee (BRC), CALUSA and Ntinga Ntaba kaNdoda led the rural mobilisation provincially. In 2017, the Inyanda National Land Movement adopted a national position supportive of the struggles. It is too early, however, to assess whether it is in a position to coordinate the struggles. Without an independent and self-funded local organisation, the campaign runs the risk of collapsing as soon as support from the externally funded collaborating organisations run out of funds.

Nonetheless, the members of these three organisations – BRC,

CALUSA and Ntinga Ntaba kaNdoda – made an effort to link up with other NGOs, rural movements and communities with similar concerns. The collaboration culminated in a decision to elevate the rural democratisation campaign to a provincial campaign. A series of provincial workshops and seminars that brought together more than 30 rural organisations were held across the province from 2015 to 2017, with the Cala Reserve case being the point of reference (CALUSA, 2015). As already indicated, BRC and Ntinga Ntaba kaNdoda co-hosted the first seminar in East London on 9 April 2015, involving community representatives from various villages in Keiskammahoek, Stutterheim and Cala Reserve, as well as representatives of the Vulamasango Singene campaign (BRC, 2015). Professor Luvuyo Wotshela from the University of Fort Hare, Ms Wicomb from the Cape Town office of the Legal Resources Centre and the author made presentations. It also emerged in the seminar that there was contestation of power between local headmen in various communities such as Amahlathi in the Stutterheim area, Ncerhana in Centane, Dwesa-Cwebe in Willowvale and Xolobeni in Mbizana.

Additionally, the three organisations visited various communities under the Mnquma, Buffalo City, Raymond Mhlaba, Ngqushwa, Enoch Mgijima, Ngcobo, Emalahleni and Sakhisizwe local municipalities. The visits also confirmed that rural residents in these communities wanted to have a voice in who leads and how land and natural resources in their communities are managed. Rural residents complained about unilateral decisions by some headmen in land allocation, even to people from outside the village, and the refusal of some headmen to account for money collected from the sale of natural resources (e.g. crush stone, sand, firewood, etc.).⁴⁷

The visits to various communities caught the attention of traditional authorities who initiated discussions with representatives of civil society organisations immediately after the visits. The deputy chairperson of the Eastern Cape House of Traditional Leaders (ECHTL), Mr Zolile Burns-Ncamashe, initiated talks with the three organisations (BRC, Ntinga Ntaba kaNdoda and CALUSA) who brought community representatives along. Two meetings were held between Mr Burns-Ncamashe and the civil society organisations

towards the end of 2015 and early 2016. According to Mr Burns-Ncamashe, the exploratory talks aimed at opening dialogue between the ECHTL, the organisations and the communities they worked with. As he put it, ‘there is a need to talk so that we speak with one voice when making policy proposals as people of the Eastern Cape’.⁴⁸ He invited the organisations to a roundtable organised by the ECHTL in December 2015. When reviewing the meetings with Burns-Ncamashe, representatives of civil society organisations in the Eastern Cape agreed that the meeting was an attempt by traditional authorities to ensure that they influenced and controlled the developments in rural areas. Nevertheless, representatives of community structures in the meeting, and the three organisations, resolved to attend the roundtable to put forward the views of rural residents.

This marked the beginning of a more coordinated approach to the rural struggles, at least at the level of the three collaborating organisations. The organisations jointly mobilised the communities and supported representatives of the affected communities to raise their issues in the roundtable. Furthermore, the organisations mobilised the community representatives to participate in the Provincial Conference on Communal Land Tenure organised by the ECHTL, the South African Local Government Association (SALGA) and the Women’s Investment Portfolio Holdings Limited (WIPHOLD) in June 2016 (Jara, 2016; see also CALUSA, 2015). Moreover, it was organised for community representatives to attend public hearings on the Traditional and Khoi-San Leadership Bill in Mthatha, East London, Graaff-Reinet, Port Elizabeth and Kokstad towards the end of 2016 and the beginning of 2017.

Land ownership and control, as well as the election of headmen featured prominently in discussions during the roundtable, conference and public hearings. Traditional authorities argued against the establishment of Communal Property Associations (CPAs) as democratic landholding entities. Instead, they vociferously called for the registration of rural land in their names (Jara, 2016). Chief Mwelo Nonkonyana, for instance, warned the Conference that ‘such structures (CPAs) will never be allowed in the land of amaBhala’.⁴⁹ On the other hand, community representatives fearlessly argued for

the registration of land in their names or through structures decided by the residents (see Jara, 2016). Nolundi Zitha of Ntinga Ntaba kaNdoda informed traditional leaders in the Conference that ‘we want our land registered in our names or in the names of structures elected by communities, such as CPAs. In our community we do not recognise traditional leaders. The South African National Civic Organisation (SANCO) is our governing structure’. The sentiments expressed by communities about rural governance, land ownership and control were echoed in the community and district workshops that the three organisations organised in 2016 and 2017 to discuss the Traditional and Khoi-San Leadership Bill. The above community views are in line with Claassens’s (2014) argument that decision-making over land should be vested in ‘small social units such as families, clans and user communities’ (see also Mafeje, 2002). According to Mafeje (2002), chiefs were never holders of community land, which was the prerogative of households, clans or communities.

Towards a conclusion

This chapter has reflected on the contemporary struggles of rural residents who want their voices heard. Using a combination of social mobilisation and the legal system (the High Court in particular), what started out as a local struggle in Cala Reserve has spread into a provincial campaign; it mushroomed in communities in various parts of the Eastern Cape where residents, with the support of civil society organisations, are taking up the struggle to democratise rural governance. As Claassens (2014: 1) puts it, there is widespread ‘contestation concerning the content of chiefly power over communal land ...’ Indeed, the struggle is about the democratisation of governance, which includes ownership and control of land in rural areas. The struggle manifests as demands for space in decision-making by rural residents. Primarily, residents are demanding that they should have a say in who their leaders should be, but also about the governance of land and other natural resources in rural communities. However, while there are demands by rural residents to have a voice

in choosing their leaders, there is no indication of the term of office for the elected leaders or whether it should be fixed as for municipal councillors or indefinite.

Two issues come to the fore in this chapter regarding provincial mobilisation for the democratisation of rural governance. The first is the utilisation of the legal judgment as a springboard for civil society organisations and rural residents to mobilise for rural governance to be more democratic. This means the courts are also useful instruments for mobilising rural societies to fight for democratic change. Secondly, civil society organisations played a role in coordinating rural struggles locally and provincially. The interventions have managed not only to bring together rural residents, but have also enabled rural residents to express themselves on decisions about leadership, the ownership of land and the governance of such land and other resources in rural areas. The concern of rural residents about the land and other resources challenges the view of some scholars, such as Manona (1997) and Bernstein (2005), that rural residents are less interested in productive land than in land for housing, or jobs in urban areas.

And, as shown earlier, the struggle was started by the members of the PC in Cala Reserve who organised local people to challenge the imposition of an unelected headman. Although it had limited success in organising at the local level, the PC-led struggle served as an inspiration to other communities. Rural residents gained confidence when they witnessed the way in which PC members challenged traditional authorities, something that is very rare if not unheard of. The mushrooming of communities that took up the challenge was due to the realisation that it is possible to challenge the power of traditional authorities, as the PC's actions and the Cala Reserve court case clearly demonstrated.

At the same time, the experience of Cala Reserve shows that, indeed, the legal system on its own has limitations. The participating civil society organisations are mindful that the strategy has not worked well in Cala Reserve where local leaders relied too heavily on the legal system rather than on mobilising the residents. As Gloppen (2005) warns, legal processes have to be accompanied by social mobilisation and local struggles to achieve the intended goal, which

in this case is an elected local leader that also ensures the participation of rural residents in decision-making. Heywood (2009) concurs with this view and shows that, in the context of the Treatment Action Campaign's struggle for access to medicines for HIV-positive people, a combination of mobilisation, awareness-raising and litigation was the key to the success of the struggle. However, in the bigger picture of the democratisation of rural governance campaign, the Cala Reserve case, despite its reliance on the legal system, proved to be a useful organising tool and serves as inspiration to other rural residents that are faced with similar governance challenges.

The government and some traditional authorities have reluctantly acceded to the demands for the voices of rural residents to be heard on the need to have elected headmen, and on the governance of land and other natural resources. The Regional Traditional Council in Qamata and the four traditional councils in the former Xhalinga magisterial district have acknowledged this fact. As such, four headmen have since been elected in Indwana, Manzimahle, Tsengiwe and Mnxe. These are concrete outcomes of the campaign.

However, the outcomes of the current campaign still have limitations in relation to the election of headmen by local people, and the campaign does not affect all levels of traditional authorities. The upper levels remain unchanged and the campaign runs the risk of being undermined as elected headmen still operate within the undemocratic institution of traditional authorities. In addition, the existing close relationship between the institution of traditional authority and the ruling party – the ANC – means that there is no real inclination from the ANC to transform the institution. The pieces of legislation the ANC-led government seeks to pass such as the Traditional and Khoi-San Leadership Bill, Traditional Courts Bill and the Communal Land Tenure Bill, which seek to strengthen the power of traditional authorities, confirm the attitude of the ruling party towards the institution of traditional authority. Thus, unless the campaign's approach is to democratise governance at all levels of traditional authority, it runs the risk of being undermined both by some traditional authorities and by the government.

Closely linked to the above, the sustainability of the current rural

struggles is highly questionable at two levels. Besides the coordinating role played by the NGOs, an independent coordinating structure – constituted by the affected people – is yet to emerge. As Ntsebeza eloquently puts it, leadership of the affected people in their struggles is important as a driving force. Additionally, inability of the affected people to fund their struggles makes it impossible for them to establish a self-funded, coordinating structure. Instead, the struggles are dependent on other organisations for funding. Thus, the affected communities are unable to run a sustained campaign without external financial and human resources support.

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Notes

- 1 The struggles have also erupted in Prudhoe (Peddie area), Tshabo (Berlin), Amahlathi (Stutterheim), 12 villages of Whittlesea, Beyele and Qhumanco (Ngcobo), Xonxa, Bengu (Lady Frere) and Guba (Lady Frere), Manzimahle, Tsengiwe and Mnxe (Xhalanga) and Ncerhana (Centane).
- 2 WHIPHOLD is a company aimed at empowering that was formed in the early 1990s.
- 3 The author was part of a delegation of rural organisations participating in the conference.
- 4 See article entitled 'Xhosa community asks court to confirm they have no chief' in *Sunday Times Live* (25/6/2017), accessed 29 March 2018.
- 5 The author was personally involved in the meeting, accompanying the

- delegation from Cala.
- 6 It has not been possible to find out why the area is called Cala Reserve.
 - 7 Unfortunately, it has not been possible to determine the dates at which the various headmen were in power.
 - 8 Founding affidavit of Penrose Ntamo, 26 May 2014
 - 9 He expressed these views on several occasions during conversations with the author, which started at the beginning of 2013.
 - 10 UmGcina is the clan name of one of the Nguni groups.
 - 11 *Umabhulwini* is a derogatory term referring to a person from white-claimed farms who were also called *amalose* (loose people) because they had no land and later became labour tenants of the local landholders (see Ntsebeza, 2005; Ncapayi, 2013).
 - 12 See also Founding Affidavit of Penrose Ntamo for the High Court Case, page 11
 - 13 He expressed these views on several occasions when he had conversations with the author from the beginning of 2013.
 - 14 Conversation of the author with Mr Ntamo and Mrs Nomvuzo Nophothe on 10 February 2013
 - 15 Notes of the author, 28 February 2013
 - 16 The PC is a local committee that worked closely with headman Fani to plan developments in the area.
 - 17 Conversation with Mr Penrose Ntamo in Cala Reserve
 - 18 See Ntsebeza Supporting Affidavit to the Bhisho High Court in 2015.
 - 19 CALUSA (Cala University Students Association) is a locally based NGO, which has been in existence since 1983. The NGO works with rural communities on issues of land access, land use and rural governance.
 - 20 The author received two SMS messages from Mr Zwelakhe Moni on 27 February regarding the reaction of the traditional council to the Cala Reserve delegation.
 - 21 Zwelakhe Moni, 27 February 2013
 - 22 Meeting the author had with Mr Moni on 28 February 2013
 - 23 Notes of the author who was a participant observer in the meeting, which was held in headman Fani's homestead.
 - 24 Notes of the author who was a participant observer in the meeting, which was held in headman Fani's homestead.
 - 25 Notes of the author who was a participant observer in the meeting, which was held in headman Fani's homestead.
 - 26 Notes of the author who was a participant observer in the meeting, which was held in headman Fani's homestead.
 - 27 Notes of the author who was a participant observer in the meeting, which was held in headman Fani's homestead.

- 28 Undated notes of Nomvuzo Nophothe. Cala Reserve File, CALUSA office
- 29 Author's observations and personal notes. See also notes of Nomvuzo Nophothe
- 30 Personal notes the author took in the meeting
- 31 CALUSA was formed in 1983 by Lungisile Ntsebeza, Meluxolo Silinga and Bambo Qongqo, local political activists who wanted to contribute in the field of education, in Cala and the former Xhalanga magisterial district.
- 32 Author's observations and notes. As a member of CALUSA, the author also led the programme for the democratisation of rural governance of the NGO.
- 33 The author was part of the delegation from CALUSA.
- 34 See copy of the letter dated 2 April 2013
- 35 Notes of the author in the meeting
- 36 Siyazakha Land and Development Forum is a conglomeration of local development initiatives such as agricultural projects, land reform groups and other local community development initiatives.
- 37 Author's notes about the meeting he also chaired
- 38 Answering Affidavit of Penrose Ntamo, 2014
- 39 Personal notes of the author as a participant-observer in the struggle
- 40 Written submissions by community representatives in a meeting with traditional authorities in Qamata, November 2016
- 41 See CALUSA operational plan for 2014
- 42 The Vulamasango Singene campaign is a rural movement of betterment-planning land claimants in the Eastern Cape, which works with BRC.
- 43 See also Legal Resources Centre. 'Cala Reserve: What does this judgment mean for rural democracy and governance?', <http://lrc.org.za/lrcarchive/other-news/3439-cala-reserve-what-does-this-judgment-mean-for-rural-democracy-and-governance>, accessed 14 May 2017.
- 44 See CALUSA reports from 2015 onwards
- 45 Verbal account of Sipiwo Liwani and Nonceba Ntlonze, staff members of CALUSA who accompanied members of Siyazakha Land and Development Forum, 17 November 2017
- 46 Chief Gwazinamba Matanzima pointed some of this out during the meeting that he and his council had with the PC and CALUSA representatives in Qamata in 2013.
- 47 Notes of the author who was part of the delegation that visited the communities in October 2015
- 48 The second meeting between Mr Zolile Burns-Ncamashe and the three organisations with the community representatives was on 15 June 2016,

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in the International Convention Centre, East London.
49 The author was an active participant in the Provincial Conference on Communal Tenure in East London.