**Chapter 2: The Khutsong protracted boundary dispute**

**What are the key objectives of this chapter?**

**1. Account for what disputants saw at stake in this conflict?**

**2. Account for major strategies or mechanisms used by disputants to advance their agendas?**

**3. What broad issues does this bring to the fore? (To be the focus of chapter 5)**

**Context – Story – On the stakes and mechanisms – conclusion**

**2.0. Introduction**

**2.1. Socio-economic context of the area**

Khutsong forms part of Merafong City Municipality which straddled the South West of Gauteng and the North East of North West province, 75 km from Johannesburg and 50 km from Potchefstroom. Established in 1958, Khutsong owes its existence to its role as township to Carletonville, one of the principal mining areas to the West of Johannesburg and the main centre of economic activity in Merafong City Municipality. Carletonville represents the biggest gold mining complex in the world. The Municipality consists of the suburbs of Greater Carletonville, Forshville, Khutsong, Kokosi, Khutsong South, Wedela, Blybank, Welverdiend and commercial farming areas surrounding these built up areas. The area has a dispersed spatial pattern due to apartheid planning, the location of mines and restrictions on development posed by dolomitic geological conditions of the terrain, which can lead to sink holes.

Merafong City Local Municipality, located in the District of West Rand District Municipality, has the second largest population (215 865) in the District after Mogale City Local Municipality (IDP 2009/2010) , and the largest average family size (5.2)(Merafong City Annual Report 07/08). At the time the city was still a cross-boundary municipality, most of its inhabitants lived in Gauteng (71%) and the other in North West (29%). Khutsong is by far the most populated town with the 33.2% of the municipality population (Ricon (Pty) –Regional explorer data base, 2001; Merafong City Annual Report 07/08).

The racial configuration of the municipality population is as follows: black African (83.5%), Coloured (0.8%), Indian or Asian (0.1%), white (15.6%). However, Khutsong is mainly a black African township (99, 7%; Coloured (0.2%), Indian or Asian (0.0%) and white (0.1%)) (Ricon (Pty) –Regional explorer data base, 2001). The municipality counts 52% of employed people, 20.6% of unemployed and 26.7% of economically inactive(Merafong City Annual Report 07/08). Khutsong has one of the worst employment profiles in the municipality: 26.4% of employed, 35% of unemployed and 39.6 of economically inactive (Ricon (Pty) Ltd –Regional explorer data base. 2001). Some 70.6% of Khutsong’s inhabitants are classified as having no income while the percentage of this category in the whole municipality is 43.9. Top earners (in the range of R3201 to R25 000) in the township constitute only 1.8%. Khutsong’s employment, education and income levels are substantially lower than those of the entire Merafong City Municipality.

According to a study conducted in 1998 on social capital and HIV infection in Khutsong, the township displays a very lively associational life and wide variety of social networks. Reaching a randomly selected sample of 1,211 Khutsong residents (499 men and 712 women), aged between 13 and 60 years, the study established that 79% of women and 82% of men belonged to at least one association while only 5% of both men and women belonged to more than four associations (mean equal to 1.7 for women, 1.9 for men). Churches are the most common associations for both sexes. Sport clubs and then burial societies are common among men while for women it is burial societies, then sport clubs. The least common associations among men are residents associations and stokvels while for women they are political parties and trade unions. Other associations found in the area include youth groups and women groups.

This survey also reveals a range of health risks associated with HIV infection to which Khutsong residents are particularly vulnerable. The study depicts Khutsong as an areas “characterised by high levels of HIV infection, especially among young women (57% in those aged 25 years), low levels of condom use (only 18% of men and 28% of women always use a condom with casual partners), the practice of casual sex (32% of men and 22% of women report having had a casual partner in the last year) and high levels of alcohol consumption (51% of men and 35% of women drink alcohol). Notwithstanding the positive consequences of participation in stokvels, the research showed that “for both men and women, stokvel membership was associated with increased sexual health risks. For both sexes young people who belong to *stokvels* were more likely to drink alcohol, young men who belong to *stokvels* were more likely to be infected with HIV, and women of all ages who belong to *stokvels* were more likely to have had a casual partner in the last year.”[[1]](#footnote-1)

A report by the Centre for Development and Enterprise argues that “poverty and unemployment and the perceived failure of the mines in the area to contribute to broader development were a fertile breeding ground for protests”[[2]](#footnote-2). This is conveyed by a youth leader in these terms: “When people are hungry, they are capable of doing anything. People are poor around here. We’ve got a social democratic government, but … democracy is killing us. People are given matchboxes to live in… In fact, the demarcation issue is but one of the factors that led to the protests”[[3]](#footnote-3). Dissatisfaction with service delivery was also common in some areas of Khutsong as a community leader stated: “some areas in Khutsong are not provided with basic services such as running water, refuse removal and sanitation. Furthermore, where these services are provided, they are of such a low standard”[[4]](#footnote-4). Khutsong’s infrastructure is also worse compared to other neighboring towns. Khutsong’s poorer socio-economic standing in the municipality can be explained by the fact that other areas are closer to the mines, more important feeder areas for jobs in the mines and draw more benefit from this proximity. Yet, this creates resentments and feelings of exploitation as can be read in pronouncements from one councilor: “During my tenure I argued that mines should pay something to the Merafong Municipality. If you look at Khutsong, does it compare with other mining towns? Do you see any life here? No, not, our mines are useless. Our area is being destroyed daily by capitalists’ mining companies, yet we receive nothing in return. Areas such as Krugersdorp, Randfontein and Kagiso benefit from the mining activities around here”[[5]](#footnote-5)

The dolomitic nature of the land which renders 90% of land in Khutsong unfit for human habitation is one of the causes for Khutsong’s under-development. The local government has embarked on a resettlement plan for Khutsong. This partly explains lack of investment on infrastructure in the current Khutsong.

However, the dolomite crisis in Khutsong has been so poorly handled that it has engendered confusion and mistrust over the years. Whereas, starting in 1960s, other dolomitic lands in Carletonville were brought under control via the establishment of the Far West Rand Dolomite Water Association with the assistance of the Council of Geoscience, Khutsong did not receive similar assistance. “Centurion and Carletonville are also dolomitic, but the pipes and infrastructure in these two places have been handled well”[[6]](#footnote-6), said a municipal official. Thus the township continued to grow despite the ever increasing instability of the dolomitic land resulting in structural damage to homes and depreciation of their value. The municipality and individual councilors also acted in a manner that left residents confused on the nature of the dolomitic threat. The municipality managed to have Khutsong declared a disaster area and to secure a resettlement plan for Khutsong, but this was not effectively communicated to residents. Besides, the municipality and councilors continued to develop in the area. “Why are these infrastructural projects allowed to continue when our officials know that they ultimately want to resettle the community”[[7]](#footnote-7), a protest leader reacted at news that a road construction project had been awarded. Lack of clarity on the issue has led community members and leaders of the protests to look at the dolomitic issue as “simply a ploy used by the mining companies not to invest in Khutsong” and an excuse used by the Merafong City municipality for “its failure to develop the area”[[8]](#footnote-8).

These poor socio-economic conditions rendered Khutsong not only susceptible to social unrest, but more intransigent in their fight to stay in the wealthier Gauteng province. For the majority of the inhabitants of Merafong, especially the people of Khutsong, provincial location became a vital question on which depended their daily livelihoods and future prospects. It became a matter of life and death.

* 1. **The phasing out of cross boundary municipalities**

The status of cross boundary municipality attributed to Merafong and 15 other municipalities was “an unintended conse­quence of the extended mu­nicipal demarcation of 2000, which reduced South Afri­ca’s municipalities from 843 to 284”( Sharivan Moodley, Katharine Mckenzie, Delivery, 36). Merafong City local municipality was established by amalgamating the then Carletonville Transitional Local Council as well as parts of Gatsrand rural council which were situated within the boundaries of Gauteng province with the then Forshville Transitional Local Council, Wedela Transitional Local Council, as well as the surrounding farm portions which were situated within the North-West province. A cross boundary municipality was envisaged as an area where communities existing in adjoined provinces were “so closely linked and socially and economically interdependent that the establishment of a single functional municipality will require the determination of a municipal boundary across the provincial boundary in question” ( The constitution of the Republic of South Africa second amendment act, 1998)”.

At the time, the establishment of cross boundary municipalities helped to contain provincial boundary disputes in such areas as Bushbuckridge, Moutse and Merafong. This dispensation allowed government to restrain from demarcating certain “affected areas” in one province. As a result of the cross boundary legislation, the municipality of Merafong for instance, straddled between North West and Gauteng provinces. Areas such as Khutsong, Carletonville were incorporated in the West Rand District, in the Gauteng province whereas Fochville and Kokosi fell in the Southern Rand District, in the North West province. Some 74% of Merafong inhabitants belonged to the Gauteng province while the remaining 26% lived in the North West province.

While this municipal category helped to ally tensions in few communities that were involved in provincial boundary disputes, it soon became clear that cross boundary municipalities posed intractable administrative and service delivery complications that contributed a great deal to their poor performance. A municipal council report points one of the key barrier to smooth service delivery in the Merafong cross boundary municipality: “Notwithstanding the provisions of Section 90 of the Local Government Municipal Structures Act, 1998 (Act 117 of 1998), which provides that the MECs responsible for local government in the affected provinces in the case of a cross-boundary municipality, should reach an agreement on the provincial management of the municipality, this never materialized in Merafong City Municipality’s case”( Merafong Demarcation Forum versus President of the Republic of South Africa, Annexure “**7**” - Motivation by Merafong City Local Municipality to be included in Gauteng Province). As a result, major services such as health services, provincial housing, public works, regional planning and development, road Traffic Regulations, vehicle Licenses, welfare Services were discharged in an uncoordinated manner, “with directives from the two provinces which is the main reason for different levels of services rendered to different parts of the community of Merafong City Local Municipality” ( Merafong Demarcation Forum versus President of the Republic of South Africa, Annexure “**7**” - Motivation by Merafong City Local Municipality to be included in Gauteng Province). [ cite discrepancies and differences in services in Kokozi and Khutsong – in residents submissions ]

In 2005, the then minister of provincial and local government, Sydney Mufamadi, explained the complexity of the situation in these terms: “many provinces have differ­ent legislation for similar functions and if the laws of more than one province need to be administered in a cross-boundary municipality, it is confusing, duplicative and costly. For instance, a cross-boundary mu­nicipality needs to have its Integrated Development Plan (IDP) approved by both affected provinces, and integrat­ing programmes and budgets for differ­ent provinces into a single IDP can prove impossible. This is an administrative nightmare and it leads to service delivery being compromised, with cross-boundary municipalities featuring prominently among those municipalities discharging less than 30% of their assigned powers and functions.”( Sharivan Moodley, Katharine Mckenzie, Delivery, 36).

To ease service delivery in the affected municipalities, the department of provincial and local government undertook, in line with a presidential coordinating council decision of 2002, to re-demarcate cross boundary municipalities in such a way that they fall totally in one province. This was a move that had to affect sixteen cross boundary municipalities and six provinces namely Gauteng, North West, Mpumalanga, Limpopo, Eastern Cape and KwaZulu Natal. This also required an amendment to the constitution as well as an act repealing the cross boundary municipalities’ laws. The process was to implicate the Municipal demarcation board which is the independent board constitutionally empowered with the task of demarcating municipalities and delimiting wards. Getting rid of cross boundary munipalities thus put in motion two different and overlapping processes, namely the municipal demarcation procedure of demarcating municipalities and the national legislative process of re-determining provincial boundaries. As this study will later show, these two processes often clashed with the legislative process, more politically oriented and less people driven gaining precedence over the more technical and community driven process of the municipal demarcation board. At the end of the day, re-demarcating provincial boundaries is a constitutional prerogative of legislators. Hence, dissenting communities were left at the mercy of politicians.

**2.3. Government against the people of Khutsong**

From the start of the process, residents of Merafong engaged government in an attempt to prevent their area being moved to North West province. Under the leadership of the Merafong Demarcation Forum, an ad hoc platform formed to fight the inclusion in North West, residents of Merafong held many protest marches and submitted petitions to relevant authorities including the municipal council, the demarcation board, the provincial government, the department of provincial and local government and the presidency.

However, the department of provincial and local government, under the leadership of Minister Sydney Mufamadi, had planned to place the Merafong municipality in the North West and was not prepared to change its position. Even after the Municipal demarcation board, following consultation with the people in Merafong, had withdrawn its initial proposal of demarcating Merafong in North West, the minister maintained his policy and was determined to push it through parliament. Despite having received dissenting submissions from residents of Merafong and having met with a delegation from Merafong on 5 November 2005, the minister introduced the bill to parliament without even alluding to the fact that the proposed legislation was generating local resistance. Before parliament, the minister argued that the proposed “legislation would set the scene for the reconstruction of the “developmental landscape””[[9]](#footnote-9).

**Reasons behind the clash**

Reasons for Merafong’s fierce opposition to government demarcation policy have to do with poorer socio-economic conditions as well as grim developmental prospects in the North West province. Residents feared that their life would worsen as a result of being demarcated in North West. Hence their demands to stay in Gauteng which they perceive to be wealthier, less corrupt, more effective in terms of service delivery, whose capital or major cities are geographically closer to their locality.

Residents’ preferences for Gauteng are largely shaped by service delivery and social development experiences. The overarching perception is that service delivery and prospects for social development are better in Gauteng province compared to North West Province. Gauteng’s provision of education is perceived to be richer in content, more advanced in terms of use of technology and adequate infrastructure, more resourceful, and more effective. Khutsong and Carletonville schools have been provided with computers and benefit from Gauteng online program whereas in North West run schools in Kokosi are “without computers because they are poor” and “all schools in North West are lagging behind with information technology”. It is reported that “the MEC for education has introduced a nutritional programme for all schools in Gauteng and it is doubtful whether North West will have a similar programme on a sustainable basis”. The Carletonville branch of South African democratic teachers’ union (SADTU), for instance, saw the Gauteng department of education as way ahead of its North West counterpart when it comes to curriculum issues, human resources management, and infrastructure development. “We cannot afford to leave Gauteng Department, which is in forefront in curriculum issues i.e. currently the process of RNCS; implementation in 2006 is at an advance stage. What about the North West? Moving to NW would cause a serious confusion”, states SADTU’s submission to government. It also adds: “in Gauteng difficulties around provision of teachers and administration staff is a thing of the past. It depends on the effectiveness of the manager of the school in terms of submission. But in the NW schools have applied for such services from Department and no supply hence very poor management and administration of schools which resulted in misadministration of schools”. Regular supervisory visits in schools, special attention to child headed families, orphans and needy learners, provision of temporary teachers, quicker filling of vacant positions and better financial aid opportunities for learners are some of the Gauteng benefits which residents argue are not or scarcely provided in North West.

Health and emergency services are also better in Gauteng as compared to North West. There are enough clinics in Carletonville and Khutsong whereas in Kokosi, only two clinics exist without “medicine and staff to provide services after hours”. No hospital exists in Kokosi resulting in pregnant women being always referred to Carletonville Hospital or Potchesftroom hospital. The majority of Merafon residents access secondary and tertiary health care in Gauteng and will continue to do so even if the municipality was to fall under North West for functional reasons. This would constitute an additional burden on Gauteng province if the municipality does not fall under its jurisdiction. Emergency services such as fire brigade and ambulances are run by the Gauteng West Rand district municipality which services even areas of Merafong that fell in the North West under the cross municipality dispensation. Residents believe that it is unlikely that North West will provide them with similar services and that “it is unthinkable that accident victims on the N12, R28 and N14 where it currently runs through the West Rand District in the Westonaria and Merafong City areas, would be taken to secondary and tertiary medical facilities in the North West province in Potchefstroom” (view from Wedela community). North West’s under-resourced stature put aside, efficiency demands that emergency services be provided by Gauteng given the short distance and functional link to its major cities such as Johannesburg.

When it comes to home affairs services, Merafong residents are happy that Gauteng has offices in Khutsong and Carletonville where registration for identity documents is done daily on an effective and efficient manner. The same benefit is not available to Kokosi residents who are said to be “suffering because their government in North West cannot afford to bring services closer to them”. Access to home affairs services in the North West part of Merafong municipality is perceived to be difficult as attested by this testimony: “officials from Potchefstroom are sent every Tuesday to register people without ID. Registration is done manually. People are expected to walk to town to register for ids. If a person does not get an opportunity to register on that day, he must wait for the next Tuesday”. A similar scenario applies to government social services for which there are offices in Khutsong and Carletonville whereas in Kokosi, there is no dedicated office for these services. “They use municipal offices in Kokosi. They cannot afford to hire offices because they are poor”, complain Gauteng proponents. “In Gauteng, pensioners are paid for three days, whereas in Kokosi, pay for pensioners is provided once per month. If you fail to avail yourself on the pay day, you must wait for next month”, they add. Besides, Merafong-Gauteng is said to have enough staff for social services whereas in Merafong-North West communities are services by only one social worker and volunteers. As Merafong was integrated in North West in 2006, residents noticed that certain community structures including the Mothusampilo, the home based care, Tshepo Themba Development centre and all the crèches suffered from absent or inadequate funding. Existence of a multipurpose community centre and eradication of the bucket system in Gauteng-Merafong are also celebrated as benefits one would not leave to go to North West where such multipurpose centre does not exist and the bucket system is still prevalent.

In addition to service delivery and social development concerns, residents also justified their attachment to Gauteng on economic considerations. The local economy of the Merafong is hard hit by the down-scaling of the mining sector as a result of the financial crisis. This creates significant job losses with associated increasing levels of poverty. The crisis caused by a declining mining sector is not helped by the dolomitic challenge which prevents establishment of industrial or agricultural activities on a large scale in order to absorb mining sector job losses. In this difficult socio-economic context, residents ask “to what extent the North West Province would be able to absorb such job losses into its provincial economic dynamics and to what extent the North West Province would provide the economic base or impetus for the survival of the communities of Merafong city?”(Merafong City submission: view of the community of Wedela, Annexures). For them, it is unlikely that North West will be able to help the local economy to cope and reinvent itself. Scepticism on North West capacity to re-launch Merafong local economy is unambiguous: “the material probability that the North West Province would not be able to provide a dynamic and empowering economic environment to counter the down-scaling of the mining sector and to absorb its impact in the long term is cause for grave concern” (Merafong City submission: view of the community of Wedela, Annexures). But so is residents’ acceptance that “the City region of Gauteng provides a far more feasible empowering economic environment to counter the steadily declining mining activities of the West Rand”.

Reliance on the Gauteng province capacity to deal with Merafong socio-economic crisis rests on the belief that Merafong, as a powerhouse of mining activities, has contributed a lot to the wealth of Gauteng region and is entitled to receiving its appropriate assistance. So deeply entrenched is such belief on economic mutuality and inseparability between Merafong and Gauteng that Jomo Mogale could say: “Our revenue for the mines does not go to the North West government, it goes to the Gauteng government. It goes to the West Rand Council. Even when Merafong fell into North West, but mining sector money was going to Gauteng. You see. Carleton Centre was supposed to be built here in Carltonville. That why it is called Carlton centre because of the romantic issue here. The Marshal tours, the Chamber of commerce were built with the revenue of the mines from Merafong, Khutsong. Why is it that we should now be taken to North West where we have never contributed financially? We have contributed a lot in Gauteng. So we belong here”. At several times, pro-Gauteng residents have also pointed out that the flow of goods and persons are naturally and functionally driven to Gauteng rather than North West. “We spend our money in Gauteng” as some residents put it. Monetary and material flows to (and from) Gauteng reinforce the belief that their communities have to be served by Gauteng rather than any other province.

Historical arguments have also been invoked to repudiate any past connection with North West province, but not without attempts to manipulate history to fit one’s cause. Pro-Gauteng activists would argue that Carletonville “is historically part of the West Rand. Although, in particular Carletonville has historically been referred to as the Far West Rand, it was never referred to as being part of the “Western Transvaal” (today largely comprising the North West Province). No demarcation argument would be able to nullify this historic fact. Since 1994/5 the West Rand forms an integral part of the Gauteng Province”(Submissions by South African communist party district). This recourse to history is partial as it is silent on the long association of certain Merafong areas with North West (Western Transvaal or Bophuthaswana homeland). However, pro-Gauteng activists would respond to this criticism by arguing that integration of certain areas in Western Transvaal or in the homeland of Bophutaswana was forceful and thus should constitute a reference point for decisions regarding the future of Merafong as a whole. Given the fact that Merafong municipality emerged from the amalgamation of various white and black local authorities at the frontier between Gauteng and the former homeland of Bophutashwana, the history argument is unable to conclusively point to an exclusive provincial affiliation.

The decision of the municipal demarcation board’s withdrawal of its earlier proposal to move Merafong in North West is widely relied upon in resisting government persistent position. After consultation with the Merafong community, the municipal demarcation board stated: “….”. As redrawing provincial boundaries is of exclusive competence of parliament, the minister for local and provincial government lobbied parliament to enact the policy withdrawn by the municipal demarcation board. In the face of such contradictions between two state institutions, residents were left perplex and suspicious asking: “ what different methodology would parliament use to determine whether the communities of Merafong prefers NW or Gauteng as the province in which parliament must demarcate them (Merafong communities) other than the same process that Demarcation Board went through except a technical argument that the board only demarcates Municipal boundaries and parliament demarcates provincial borders”. (Merafong City submission: view of the community of Wedela, Annexures). For residents, this divergence meant that parliament’s decision, especially as it differed from their wishes, was based on political reasons rather than a comprehensive assessment of the interest of the community of Merafong. Thus, throughout the campaign against government decision, residents kept on referring to the decision of the municipal demarcation board urging that “The decision of the municipal demarcation board to withdraw its proposal and re-demarcate Merafong and Westonaria back to Gauteng on municipal boundary should be accepted by parliament” (Khutsong/Carletonville Community submission).

Recourse to democratic principles also abounded in residents’ justification of their dissent.

They “will receive better services from the wealthier Gauteng – to which they have financially contributed”[[10]](#footnote-10); that the North West has “no capacity”, that its “medical services were inferior, education was worse and social development was not happening”[[11]](#footnote-11) .

**The People shall govern**

To defend their vital economic interests, residents heavily relied on their constitutional right to influence government decisions affecting their lives. Democracy based arguments have been extensively used in a bid to advance their agenda. In a memorandum submitted to authorities, it could be read: “The residents of Khutsong are calling on both the National Council of Provinces and the National Assembly to think about their mandate, which is to represent the people of South Africa. The decision to incorporate Khutsong into North West goes against the above principle, and we view this as a serious act to undermine democracy”[[12]](#footnote-12). For many aggrieved residents, the fate of Merafong had already been sealed by the National Executive Committee of the ANC back in 2004 regardless of the outcomes of public hearings which were said to be just a “sham”. This accusation was extensively raised in the court papers as well as in a memorandum submitted to the ANC office, after the Constitutional court had dismissed residents’ challenge of the act. In the memorandum the Merafong Demarcation Forum said that “it was dissatisfied by the manner in which the ANC national executive committee of 2004 decided unilaterally on the incorporation of Merafong into the North West province from Gauteng”[[13]](#footnote-13) . In various public demonstrations, residents would insist on the imperative that “people shall govern”, “batho pele”, and “the people must tell you” as could be read on posters on 20 September 2007 when the Merafong dispute was being argued in the Constitutional Court. Another community organizer and member of the Communist party, Andries Magodiele expresses it in a contrasted form: “Batho pele, people first, is what the government keeps saying, but they are not putting us first”.

**Politicians that betrayed the people of Khutsong**

Such blatant disregard of the preferences of the majority in affected areas was regarded as orchestrated by key political leaders at national, provincial and local level. Jomo Mogale, the spokesperson of the Merafong Demarcation Forum relates his version of how people’s view was ignored by politicians: “We had public hearings on November 25, which were attended by the portfolio committee of the Gauteng and North West legislatures, and the outcomes of the hearings were clear: the people of Khutsong want to remain in Gauteng (…) We had an overwhelming 90 percent vote for Gauteng. The remaining few wanted to go to North West for their own selfish interests (…) In spite of the majority decision, Mufamadi went ahead to lobby parliament to support his proposal”[[14]](#footnote-14). By pushing such an unpopular bill against the resistance of the people, the minister of local and provincial government put the entire government at war against rebelling residents who vowed to fight the policy to the last man. This attitude also made the minister be identified as the main cause of the ensuing social unrest in affected communities. A resident in Khutsong declared that “as long as President Thabo Mbeki and Minister Mufamadi, who is in charge of local government, continue to ignore the cry of the residents of Khutsong, or continue to use the police in order to beat the people of Khutsong to submission, the crisis will continue”.

Political leaders believed to have played a negative role in the escalation of the dispute also include the then municipal councilor Van de Roy, Defense minister Lekota and Gauteng Premier Mbhazima. Residents accused the municipal councilor Van de Roy and other Ward councilors of supporting government demarcation decision for their own selfish interests. It was alleged that some of these local ANC politicians expected or were promised promotions in the North West provincial government. Such perceived betrayal of community interest made them one of the main targets of public violence in khutsong. As for the then Defense Minister and chairperson of the ANC Mosioua Lekota, residents of Khutsong saw him as the man who added fuel on the fire by making a series of derogatory and threatening statements. Lekota’s attempts at engaging the residents of Khutsong appeared too confrontational and came too late. He responded to residents’ anger by reading them the riot act, blaming the local leadership and calling on the police to arrest unruly protesters. During a rally in Khutsong on 19 February 2006, “Lekota and Justice Minister Brigitte Mabandla had to be whisked to safety by heavily armed police” as protestors “chanted “voertsek out of Khutsong” and sang other derogatory songs”[[15]](#footnote-15). The then ANC minister would later concede that conditions for a free and fair election did not exist in the troubled Khutsong. Premier Mbhazima Shilowa was not singled out as a key driver of the unpopular decision. Nevertheless, the MDF spokesperson had this to say on his role: “ Shilowa did nothing to stop the move, instead he supported it . We went to his office several times but he never came to speak to us. He sent junior staff and never responded to our grievances.” So profound was residents’ resentment towards these two leaders that their newly formed breakaway party, COPE, was threatened of physical attacks if it dared campaign in Khutsong. “They are not welcome here; if they come they would be attacked physically. This is something we are prepared to die for as residents,” said MDF spokesperson Jomo Mogale.

Going beyond the above-mentioned personalities, affected communities identified the President Thabo Mbeki as the source of the conflict. The provincial location of affected cross-boundary municipalities was however a decision that was highly centralized with many aggrieved communities believing that the president himself decided or accepted their “removal” from their preferred province. That is why much of communities’ advocacy and protest actions was directed to Mbeki. Even when violent protests in Khutsong drove councilors out of the township and turned the area to “hell”, President Mbeki maintained “his policy of quiet diplomacy in Merafong”[[16]](#footnote-16) . Mbeki’s indifference towards the unrest in Khutsong, even as he visited other municipalities throughout the country for election campaigns, puzzled more than one analyst: “where is President Thabo Mbeki as Khutsong burns? Last week he was in Kimberley, then in Soshanguve, then Manenberg and Langa. In other words, everywhere but Khutsong”[[17]](#footnote-17). At the height of the dispute, a statement by the KMF says: “We don't know why the president has sided against us. Perhaps he is misinformed.”[[18]](#footnote-18)

**2.4. Khutsong’s violent resistance**

Khutsong’s resistance to incorporation into the North West Province assumed national and international notoriety for the high level of public violence and disruption that characterised it. Yet, residents’ unruly behaviours seem to have been a function of the quality of engagement from the State. Prior to 31 October 2005, opposition to government proposed demarcation policy was generally peaceful and channelled towards the relevant institutions. On 24 and 25 September 2005, peaceful rallies were held in Westonaria and in Merafong with active support of SACP and COSATU. In October 2005, residents submitted representations in response to the Municipal Demarcation board’s notice of their incorporation in North West. Noting the overwhelming resistance to inclusion in North West, the municipal demarcation board withdrew the proposed plan and confirmed that Merafong would remain in Gauteng. On 30 October 2005, residents of Khutsong held a celebration rally for what appeared to be the final victory on this issue. The triumph was short-lived as the municipal demarcation board, on 31 October 2005, notified the municipality that the minister’s plan to incorporate Merafong into North West was still on.

In the period from early November 2005 to 23 December 2005, residents intensified pressure including through violent means in a bid to prevent the enactment of the minister’s plan. This is the period of the legislative process comprising the passing of the bill in the national assembly, its referral to the NCOP, the organisation of public hearings in provinces, the approval of the bills in provincial legislatures, its approval by the NCOP, and finally its enactment by the president. An inconclusive meeting between aggrieved residents of Khutsong and the minister of provincial and local government on the 5th November 2005 contributed in entrenching perceptions that government was determined to excise the locality from Gauteng against the wishes of the majority in the area. The meeting was preceded by three days of intense community mobilisation, disruptive demonstrations and violence targeted at local public representatives. This initial violent campaign left a municipal building burnt, councillors’ houses petrol bombed, the mayor’s house stoned, five councillors driven out of the township, telephone booths ripped out and thrown into the streets, many shops looted and 82 people arrested[[19]](#footnote-19).

A series of less disruptive public rallies and handing of petitions followed including massive participation to the public hearing jointly organised by the provinces of Gauteng and North West on 23 November 2004 where residents unequivocally voiced the majority preference to remain in Gauteng and legislators promised to support the majority view. For some technicalities, the Gauteng legislature could not fulfil the promise at the time of voting in the NCOP. In a context where vetoing the bill would have resulted in unpleasant consequences, on the legislature’s analysis, it decided rather to approve Merafong exclusion from Gauteng, thus reneging its commitment without taking any step to inform affected citizens of the new developments. The Constitutional Court would sharply be divided on whether such conduct of the legislature amounted to a breach of a constitutional duty, as we shall discuss later. The 14th December 2005, the day the bill was approved by the NCOP, was the culmination of community anger, with the destruction of valuable public and private properties, vandalisation of schools, burning of mayor’s house, physical attack on councillor Elias, with 5 policemen injured in a confrontation with stoning residents, and the high number of arrests (57) [[20]](#footnote-20). This also constituted the day of a total breakdown in the relationship between the residents of Khutsong and the ANC as well as its president Thabo Mbeki. This kind of political divorce was signified through the public burning of Mbeki t-shirts and residents’ ANC cards. An eleven hour memorandum to President Mbeki, asking him not to sign the bill into law, could not prevent the acting president to seal the fate of the people of Merafong by officially assenting to the bill on 23 December 2005. The unrest in the protesting township was far from over.

Though festivities of Christmas and New Year constituted a reprieve moment, the period running from 2 February 2006 to 2 March 2006 saw renewed waves of demonstrations and public violence that could be characterised as electoral violence. Whereas earlier acts of violence targeted officials of the State, this wave of attacks was directed towards ANC leaders and ANC members that dissented with the community’s defiance campaign. In this crucial electioneering period, the Khutsong unrest became an ANC internal war with local SACP members distancing themselves from the ANC and ANC being divided in terms of pro and anti-North West. The first march of the year is peacefully organised by the Young Communist League on 2 February 2006. Yet, on 12 February 2006, a group of 150 SACP members throw stones on ANC members attending a campaign rally in Khutsong stadium. Temperature rises higher with the visit of the chairperson of the ANC Terror Lekota, the premier of North West and Minister Brigite Mabandla scheduled to address election rallies in Khutsong on 18 and 19 February 2009. This was the first time that an ANC leader arrived in the township since its failed campaign to stay in Gauteng. Angry residents prevented people from attending the ANC rally and accused the ANC of dividing the community by bringing in residents from a nearby informal settlement to attend the rally. On 19 February 2009, 2500 protestors create havoc outside Khutsong stadium where the rally was being held. Ministers Lekota and Justice Minister Brigitte Mabandla had to be whisked to safety by heavily armed police. Reports said that Lekota reacted strongly to the protesters, who chanted "voertsek out of Khutsong" and sang derogatory songs. Within these two troubled days, police arrested 128 people charged with public violence. In the aftermath of Lekota’s expulsion, the township remained in a state of volatility leading to the election boycott of 2 March 2006 after the Pretoria high court had rejected on 28 March 2006 Khutsong’s application for election postponement. Less than 10% of registered voters[[21]](#footnote-21) cast their vote in a climate of intimidation. Hours after elections, a house and a shack belonging to ANC members were set alight. The resultant leadership could only govern from “exile” as they had been violently chased from the township.

Khutsong residents persevered over three years in their fierce opposition to inclusion in the North West, seizing every opportunity to protest and petition the government while they also brought the matter to the Constitutional Court. On 21 April 2006, a march jointly held with the residents of Moutse, also resisting inclusion in Limpopo, ended up with fire being set on the lawns of the Union Building. The inauguration of the new council in Merafong on 3 May 2006 also sparked violent protest with two houses of councillors being burnt. However, it is the official integration of Merafong to the North West in March 2007 that saw renewed disruptions and violent attacks on councillors[[22]](#footnote-22). The North West Premier Edna Molewa was sworn at by residents who told her to bring back Gauteng Premier Mbhazima Shilowa.

**2.5. Schools resist demarcation decision**

Schools in Khutsong became an important site for contestation of the demarcation decision from early April 2007 onwards. Key leaders of the Merafong Demarcation Forum were teachers in Khutsong Schools which were among the first institutions of the public sector to start interacting with the North West department. Teachers would receive correspondence with North West letterheads. They would be sent to attend workshops in Mafikeng. A teacher complained about the journey distance and inconveniences associated with it: “You would be expected to be there 9.00. Yet it is 4 hours drive. It means you have to leave this place at before 5h00” (Yvonne). The NW department of Education micro-manages schools: “It expects you for every little expenditure to get the approval of the department” (Yvonne). Teachers who also belonged to the MDF were asked to distance themselves from the forum or face consequences. Yvonne explains how she was threatened of disciplinary action on the ground that she used school resources for MDF activities. As for students, they also disliked being managed by the NW department of education and were upset by the idea that their exam papers would be coming from North West with NW emblems on them. Under this backdrop, a series of school boycott started in 12 April 2007 that made students loose a great deal of lessons. It initially started as a teachers’ strike, but later involved students in protest actions including public violence. A call by the North West premier Edna Molewa for children and teachers to return to school was received with renewed violent protest. Teachers said “they would not teach until they were taken back to Gauteng(K 165). In support of the campaign, a local teachers’ union said “incorporation into North West was a retrogressive step for the schools”(Sapa).

Disruption of schooling in Khutsong lasted for three months with dire consequences on children’s education, vandalised school infrastructure and breakdown of relationship in the school community. At least three teachers got suspended in connection with their involvement with the demarcation forum. The spokesperson of the Merafong Demarcation Forum was subsequently dismissed for “his activities and participation in the destabilisation of schooling in Khutsong”, according to department of education spokesperson, Charles Raseala. He added that Mogale, “knowingly and purposively” incited pupils to boycott classes, and threatened with violence those who did not want to participate (K 186). The decision sparked a court challenge and calls from protesting young communist league that Mogale be reinstated.

Five weeks of school boycott in Khutsong raised mixed reaction within the political spectrum. Cosatu carlentonville branch, in a memorandum, blamed the redemarcation for actions by teachers which had led to their suspension and victimisation and the docking of their pay. The municipality maintained their plea for normalisation of schooling saying: “ we remain resolute in our call for those who are pro-violence and intimidation not to sacrifice the future of learners in pursuit of a populist agenda”(the municipal spokesperson, Seabo Gaeganelwe. Speaking during her budget vote in parliament, Education minister Pandor said she was worried that thousands of pupils in Khutsong were being denied an education by their own community (Star, May 30, 2007). COSAS tried to sensitize students to convince them to return to school, but soon became the target of violent attack for its perceived support of the demarcation decision. A DA spokesperson, George Boinamo, said that schooling problem in Khutsong needed serious attention, that “it cannot be solved through the unilateral decision of department of education (…), and that as long as President Thabo Mbeki and minister Mufamadi, who is in charge of local government, continue to ignore the cry of the residents of Khutsong, or continue to use the police in order to beat the people of Khutsong to submission, the crisis will continue”.

A recovery camp for Khutsong matric students in Taung was not only the source of more controversy, but marred with violent incidents opposing students to the host community. Critics denounced the NW education department partial treatment of educational challenges in Khutsong. While Nadeco welcomed the department’s decision to take Khutsong’s Grade 12 pupils to an education camp, most other political parties considered the move as flawed. “ The same interest that they have in Grade 12 should be shown across the board from grade R to Grade 11”, stated the National Professional Teachers Organisation of SA(Naptosa)’s provincial chairperson Molefe Kwalate. The DA spokesperson George Boinamo insisted that the school problem in Khutsong “cannot be solved through unilateral decision of department of education to remove a section of learners from Khutsong to Taung in an endeavour to conduct catch-up classes in preparation for matric examinations, while ignoring the needs of other learners”. Buti Manamela from the YCL had more sceptical comments: “learners have been taken to Taung and we hear that no learning is happening there and that they spend their time drinking alcohol and doing nothing else” (K 129). Fight between pupils and members of the host community on (date) was partly the result of perceptions that Khutsong pupils were being given preferential treatment at the expense of the locals (K 182).

Some analysts have looked at school boycott in Khutsong as a classic case of schools being turned into political playgrounds at the detriment of learners. Education experts have noticed an increase in politicking inside education institutions by teachers unions, YCL, ANCYL and COSAS. These organisations are accused of “wanting to flex their political muscles in schools”. David Quail, a DA member of the Gauteng provincial legislature, had this to say on this phenomenon: “I was a teacher since 1959 and in that time conditions for teachers have improved dramatically. But there have been signs that Cosas and Sadtu have become a lot more politicised. It is seen as an easy way to raise their profile politically. Being a part of Cosas and Sadtu are ways of getting somewhere in the ANC and Cosatu”. Graeme Block, an education expert from the Development Bank of South Africa, particularly castigates the warlike language used by teacher unions and a trend to use threats in schools in order to get what they want. Two illustrative cases are mentioned. Earlier in 2009, there were reports that, after teachers were reprimanded in Alexandra for not teaching children, Sadtu threatened that every child who came to school would be met with violence. In opposition to curriculum training held on Saturdays and in the afternoons on weekdays, sadtu wrote to the Gauteng Department of Education threatening that “anything that extends beyond working hours and conditions of service of our members will be a declaration of hostilities (…) We are in a state of perpetual readiness as Sadtu to disrupt these meetings and declare war on anyone who is arrogant to disregard this call” (Star, 22 July 2008). In response to this criticism, Ronald Nyathi, Sadtu spokesperson said: “we use that language because we feel it is the only language the department understands”.

However, it is the impact of such bellicose utterances on children behaviours that Block decries: “by playing to the natural militancy of young people, political organisations are adding to the bad discipline in schools. You see children attacking teachers all the time, so if you throw works like ‘kill’ around it’s not just rhetoric. How can you say ‘kill’ figuratively when kids bring knives into schools? It’s a dangerous edge we’re on”. Indeed, political instrumentalisation of youth militancy in schools proved to be a double-edged sword in the Khutsong saga. While it helped to advance the Merafong Demarcation Forum political agenda, it has certainly left a legacy of indiscipline and violent protestation that schools will have to deal with. An example of such assimilated bellicose attitudes is the burning of a classroom and a storeroom by a group of Khutsong pupils because of dissatisfaction over the exam timetable.

Khutsong remained ungovernable for three years even as the new province North West made some attempts at asserting political authority. Any symbol of North West province encountered strong rejection and NW officials in visit in Khutsong had to be heavily protected by the police. (life under the NW administration) Residents specifically complained about the deterioration of health services. Distrust within the community was also at its highest level given divisions over the demarcation issue and the victimisation incidents.

**2.6. The Constitutional Court sharp divisions on the dispute**

The constitutional court challenge did not advance residents’ cause. It took twelve months for the court to deliver a highly controversial judgement that reflected deep disagreement among judges[[23]](#footnote-23). Constitutional court judges fundamentally differed on these questions that raised the enquiry into the legislature’s duty to involve the public in the law making process to its highest level ever: Was the public participation process a genuine one or just a sham? Did the process end with the holding of the public hearing session or was the legislature bound to keep the community engaged until the final decision? Was the legislature bound to a decision that accords with the wishes of the people and with its promises at the public hearing and in the negotiating mandate? Was the legislature’s final decision to support the excision of Merafong from Gauteng rational or irrational in the light of the outcome of the public hearing and the power of a possible veto granted to it by the constitution?

Arbitration of the Merafong constitutional challenge was made complex by the fact that the Legislature’s final decision of rejection of the preferences of residents reneged on its initial position, formulated in the minutes of the public hearing and in its negotiating mandate document, to support the demarcation of Merafong in Gauteng. Residents alleged that such disregard of the outcome of the public hearing showed that the participation process was just a sham. A political decision contrary to the wishes of the people had already been taken. Yet, the Legislature explained in the court that its turn about was as the result of learning at the NCOP meeting that its support for the Merafong cause would require an amendment of the bill, which could not be effected at the NCOP level. Though the legislature was still left with the option of simply vetoing the bill, it rather decided not to do so and support it as it stood because it identified with other objectives pursued by the bill and was concerned of the detrimental consequences of its veto on the upcoming local elections and service delivery in cross boundary municipalities. Judges are divided on whether the legislature ought to have returned to residents to report back about the difficulties of carrying out its earlier promises to them.

On whether the Legislature’s failure to report back to the community vitiated the quality of its compliance to the constitutional duty to involve the public in the legislative process, the majority holds a minimalist and formalistic view of the right of public participation whereas the minority judgment, especially Judges Sachs’ and Madala’s reasoning, provides a maximalist interpretation. The majority of judges are satisfied with the holding of the public hearing and the recording of residents’ concerns in the Legislature portfolio committee’s minute and in the negotiating mandate. For them, that is a proof that the duty to facilitate public involvement was adequately discharged. That the Legislature misconceived its power in the NCOP and had to review its negotiating mandate without bothering to report back to the concerned residents is considered to be minor incidents that don’t affect the quality of the public participation process that had taken place. Legislature’s early ignorance of the impossibility to amend the bill at NCOP level is excused by the argument that we cannot expect legislators to know all legal nuances or all relevant facts. That they did not report back is minimized as possibly disrespectful or discourteous, but not rising to the level of the breach of a constitutional obligation. Such disrespectful politicians, the majority judgment suggest, are punished through elections not by courts.

The minority judgment, especially Sachs’ ruling, still upheld the progressive interpretation of the right to public participation outlined in the Doctors for Life International ruling. According to Sachs, the initial engagement of the legislature with the residents of Merafong was not a sham. Yet, it was unreasonable[[24]](#footnote-24) for the legislature not to report back to the people on its changed position with regards to the demarcation of the municipality. Whereas participatory democracy is intended to produce dialogue, mutuality of open and good-faith dealing, and maintenance of good relationship between government and the citizenry, absence of further consultation with residents engendered quite the contrary of these constitutional goals: diminished civic dignity for the majority, rupture in the relationship between the community and the Legislature, a debacle.

**2.7. The breakthrough with Zuma presidency**

Taking seriously the court’s advice that the problem called for a political solution, aggrieved residents of Merafong redirected their advocacy actions towards politicians. However, three main factors played in their advantage. Firstly, the new ANC leadership that had emerged from Polokwane in December 2007 with Jacob Zuma as the president sought to distance itself from contested policies of the Mbeki administration and to cast an image of a caring and people-driven government. The re-alignment within the alliance opened channels of easier communication between SACP and COSATU that ambiguously supported the cause of the residents and the new ANC leadership. In the aftermath of xenophobic violence in May 2008, the MDF organised a march to Luthuli house with great participation of African immigration in an effort to broadcast a message of peaceful integration and submitted a memorandum that was well received by the new secretary Gwede Mantashe. On 25 June 2008, just ten days after the court judgement, a delegation of ANC leaders promised to return calm to Khutsong after meeting residents in the area. Secondly, the recall of President Thabo Mbeki followed by the resignation of his close allies in government such as Mufamadi and GP premier Mbazima Shilowa gave impetus to the new ANC leadership intention to reverse the demarcation decision. The new premier of GP, Paul Mashatile, reassured Khutsong residents that a legislative process was underway to get them back to Gauteng. The new minister of provincial and local government, Shiceka, was the most vocal on this policy reversal at the risk of accused of undermining the credibility of government. “If the majority of people of Merafong in general (and) Khutsong in particular want to come to Gauteng that is going to happen…We’re saying as the ministry wer are going to be involved in a process that is going to engage the communities… we want to find lasting solutions in the issues of boundaries to ensure that the people are settled where they want to be… We believe that there should be no person who stays where they don’t want to stay” (K 218). Thirdly, the prospect of an electoral boycott in Khutsong in April 2009 general elections prompted the ANC to ensure its return to Gauteng before voting. This was a strategic imperative in a context of decreasing ANC membership in Gauteng due to the competition of the ANC breakaway party, Congress of the people and the controversy over his presidential candidate, Jacob Zuma. Weeks before the finalisation of the decision by parliament, Gauteng premier and ANC chairperson Paul Mashatile, in a rally held in Khustong, appealed to “residents of the Merafong Municipality to reward the ANC with their votes for bringing them back into Gauteng”(K 221). No wonder why opposition parties have criticised the move as “political expediency” and “an opportunistic political move by the ruling ANC through government structures” (K 220). Many members of parliament have expressed the view that the process was rushed through.

The reincorporation of Khutsong to Gauteng came about as a result of another costly formalistic legislative process which caused dissatisfaction from minority groups. No opposition party voted in favour of the bill in the North West. There are indications that many ANC MPs in the North West province disapproved the bill but supported it in parliament to comply with a party instruction. On approving the bill that returned Merafong back to Gauteng, two government ministers formally apologised to residents for the “mistake” of placing them under North West jurisdiction: “We are putting a final nail in the coffin that buries the unhappiness of the people of Merafong in general and in Khutsong in particular… These people were incorporated into the North West province against their will… The Freedom Charter says no government can claim legitimacy unless it is based on the will of the people… Today we are coming to reaffirm the principle that guided the ANC for the past 97 years… “Re entse phoso’-Sesokho (we made a mistake)… ‘Lixhoshwa libhekile’ -isiZulu(we are all fallible).

2.8. Khutsong and xenophobia… ( in order to understand why the issue of boundary disputes took precedence over nationalities…)

2.9. Contestations among political parties

2.10. Stakes and strategies

1. Campbell, C., Williams, B. and Gilgen, D. (2002) Is social capital a useful conceptual tool for exploring community level influences on HIV infection? An exploratory case study from South Africa. *AIDS-Care*. 14(1), 41-55 (February) [↑](#footnote-ref-1)
2. Voices of anger, protest and conflict in two municipalities, Centre for Development and Enterprise, April 2007 [↑](#footnote-ref-2)
3. Idem [↑](#footnote-ref-3)
4. Idem [↑](#footnote-ref-4)
5. Idem [↑](#footnote-ref-5)
6. Idem [↑](#footnote-ref-6)
7. Idem [↑](#footnote-ref-7)
8. Idem [↑](#footnote-ref-8)
9. Sapa, Dec 13, 2005 [↑](#footnote-ref-9)
10. Khutsong 'a forced removal', http://www.news24.com/News24/South\_Africa/Politics/0,,2-7-12\_1850222,00.html [↑](#footnote-ref-10)
11. Jeremy Gordon, Khutsong: “we are not going to go away”, Sunday Independent, May 20, 2007 [↑](#footnote-ref-11)
12. Star Dec 13, 2005 [↑](#footnote-ref-12)
13. Sapa, 25 June 2008 [↑](#footnote-ref-13)
14. Star Dec 13, 2005 [↑](#footnote-ref-14)
15. Sapa [↑](#footnote-ref-15)
16. K 131 30 May 2007 by Lebogang Seale [↑](#footnote-ref-16)
17. 27 Feb 2006, K 117 [↑](#footnote-ref-17)
18. Reference? [↑](#footnote-ref-18)
19. On 2 November 2005, violent protest took place in Khutsong with these happenings: residents barricaded roads with burning tyres, car wrecks, large rocks and branches of trees; rocks were thrown at vehicles wanting to leave the suburb; some people wanting to go to work were intimidated, groceries bought in town were damaged; matric exams were stopped and learners were forced to leave school; twenty seven youth were arrested for looting shops. On 3 and 4 November 2005, well attended rallies took place in Khutsong stadium with respectively 3000 and 6000 attendees. On 5 November 2005, a march was organized and a delegation met with the minister of provincial and local government, but no solution to residents’ concerns was provided except a promise to forward residents’ grievances to parliament which was considering the legislation. These three days were marked by these disruptive events: angry residents set the municipal building on fire, looted shops, streets were barricaded with burning tyres, rocks, branches of trees and car wrecks, telephone booths were ripped out and thrown into the streets; on 4 November 2005, police reinforcements were called to assist when 6000 residents, after a rally, started looting businesses; the homes of Mr Des Van Rooyen (mayor) and other councilors were bombarded with stones and a crowd petrol bombed councilors’ houses causing five of them to flee; on 5 November 2005: marchers arrived at the extension four traffic lights and youth set rubber tyres alight; police used rubber bullets to disperse angry crowds; 43 people were arrested for looting. [↑](#footnote-ref-19)
20. On 11 November 2005, a march was organized to submit a memorandum to the police station. On 23 November 2005, residents attend the public hearing in Carlentonville which was jointly organized by the Gauteng and North West provincial legislatures. On 7 December 2005, disruptive protest takes place in Khutsong and seven protestors are arrested by the police. On 12 December 2005, a march goes to submit a memorandum to chief magistrate Howard Raath. The 14 December 2005 experiences the highest level of public violence and vandalism: Khutsong residents burnt T-shirts with President Mbeki printed on them; residents burnt ANC membership cards; a municipal truck was set alight; smoke from burning tyres engulfed the township and the streets were barricaded with boulders and old car wrecks; schools were vandalized; the library was destroyed and electronic equipment was stolen, those costs being estimated to be R8 million; a R350 000 council building used by the Southern African National cancer association was destroyed; Khutsong’s stadium, swimming pool, roads and infrastructure were badly damaged; the police shot at protestors as their armoured vehicles came under fire from protestors throwing stones and bottles; residents used dustbin lids to shield themselves from rubber bullets, birdshop and stun grenades; the residents divided into smaller groups and destroyed 10 houses, and also torched Mayor Des Van Rooyen’s house; Councillor Elias “Rachpark” Legoete’s minibus, car and house were set on fire; he was injured in the attack and had to be hospitalized; five policemen were injured; fifty seven people were arrested; five houses were burnt down. [↑](#footnote-ref-20)
21. 232 voters out of 34 000 cast their vote on 2 March 2006 local elections in Khutsong. [↑](#footnote-ref-21)
22. On 26 February 2007, the premier of North West announces that government was working on the final stages concerning the integration of Merafong into North West. On 1 March 2007, violent protest erupted in Khutsong. Six houses were petrol bombed. 12 people were arrested including an ANC councilor. Schools were disrupted. [↑](#footnote-ref-22)
23. The majority position dismissed Merafong’s application with the support of six judges. The minority judgment with the concurrence of four judges ruled in favour of the affected community. [↑](#footnote-ref-23)
24. Three important elements should have led the legislature to resume some degree of consultation with the community. Firstly, the legislation was unusual. It is one of the rare matters on which the provincial legislature has been given the veto power. Secondly, its sociological consequences on the lives of residents were real as they stood to be functionally and emotionally affected by the legislation. Lastly, strong expectations had been created by two objective factors namely the proposal of the municipal demarcation board and the initial position expressed in the negotiating mandate, both of which were favorable to the wishes of the majority of the people in Merafong. [↑](#footnote-ref-24)