EXECUTIVE SUMMARY

Traditional leadership is an integral part of the current democratic dispensation and consequently an institution that cannot be ignored. In South Africa, and Africa as a whole, it is entrenched as a form of governance.

Over time traditional leadership in South Africa has been influenced by interventions and, at times, outright interference, by different governments. Notable here is the influence of the apartheid government that created the current system of traditional leadership by introducing tribal councils and regional councils. The tribal councils are now called traditional councils and these councils constitute the governance of traditional communities, with functions ranging from the distribution of land and the development of traditional communities, to the administration of justice. While all these functions are important, this monograph focuses on the administration of justice and crime prevention only.

The monograph introduces the institution of traditional leadership. It demonstrates how this system has been entrenched in the rural areas and raises related questions (chapter two). It deals with the policy and legislative framework that applies to traditional leadership. It shows that traditional leadership as an institution has been tremendously influenced by both colonisation and apartheid systems of government. This is evident in that one of the most important pieces of legislation applicable to traditional leadership is the Black Administration Act (38 of 1927). More significant, however, are developments that took place in the post-1994 era. After a worryingly long period of time, an Act was passed in 2003 (Act 41 of 2003) to deal with the institution of traditional leadership comprehensively.

The monograph then proceeds to present current day experiences as observed in Mokopane, a traditional community in Limpopo province (chapter 3). Two cases – about domestic disputes – are dealt with. These cases are used to demonstrate how an ordinary traditional court deals with cases and disputes. This paves the way for an interrogation of some of the problems that pertain

to a traditional court. The issue of gender (and gender relations), as well as that of the procedure followed in the traditional courts, are dealt with.

Crime prevention is one of the areas in which traditional leaders play a significant role – at least so it is claimed. The role of traditional leaders in crime prevention is examined and interrogated: do traditional leaders indeed play such a role and, if so, are they being effectively tapped into as a resource (chapter 4)?

Having confirmed, on the basis of the evidence presented, that traditional leaders do indeed play a significant role in crime prevention, the monograph goes on to assess feasible ways in which traditional leaders can participate in improving their communities' access to justice (chapter 5).

The monograph ends by concluding that traditional leadership is entrenched in the rural areas and has a crucial role to play. However, there are problems that need to be addressed in order to ensure that justice prevails in these traditional communities.