

**YIN'WANA YA MITLHONTLHO EKA THEMINOLOJI YA NAWU
WA VANHU: HI KU KONGOMISA EKA XITSONGA**

**SOME OF THE CHALLENGES IN THE TERMINOLOGY OF
PUBLIC LAW: WITH SPECIAL REFERENCE TO XITSONGA**

hi

NKHENSANI LINDIWE MALOPE



**XITSALWANA XO ENGETELA EKA SWILAVEKO SWA
XIKAMBELO XA "DEGREE OF MASTERS OF ARTS"**

eka

**NDZAWULO YA TINDZIMI TA VANTIMA EYUNIVHESITI YA
LIMPOPO**

MULETERI : DR N.E. NXUMALO

LEMBE : 2011

XIKHENSO

Ndzi rhandza ku khensa Xikwembu loko xi ndzi pfunile ku kota ku tsala xitsalwana lexi. A swi nga olovi ku xi sungula, kambe hikokwalaho ka matimba ni tintswalo ta xona ndzi swi kotile.

Ndzi rhandza ku khensa swinene no ba mandla eka muleteri wa mina, Dokodela N.E. Nxumalo eka nhlohotelo lowu va nga va na wona ku sukela eka xitsalwana xa Onasi ni ku ka va nga ndzi heleli mbilu. A swi nga olovi ku sungula. Ndzi khensa ku hlamuseriwa ni ku kombiwa ndlela ku kondza ku va na ndzima. Ndzi ba mandla ndzi vuyelela swinene.

Ndzi khensa nuna wa mina, Noel Xilungwini Malope, loyi a nga va ni nseketelo lowukulu, ku va a ri hava mavondzo, kambe a va ni nhlohotelo wo va ndzi yisa tidyondzo ta mina emahlweni. Eka swiphigo hinkwaswo leswi ndzi nga hlangana na swona, a va a ri kona kusuhi ku ndzi seketela. Ndzi khensa ni vana lava Xikwembu xi hi katekiseke hi vona, ku nga Terry na Timmy ku va mikarhi yo tala va ndzi pfumala. Ndzi khensa nakambe vatswari va mina lava hundzeke emisaveni ku va na vona va ve ni xiave eka nhlohotelo wa dyondzo, ngopfungopfu manana loyi a saleka a hi kurisa hi vusati. A ndzi rivali vanghana lava ndzi nga va na vona eka ndlela leyi ni nkhutazo lowu nga va kona exikarhi.

INKOMU!

NONGONOKO WA TIMHAKA

PAPILA

NDZIMA YA 1

1. Manghenelo	1
1.1 Xikongomelo	2
1.2 Nsusumeto	2
1.3 Maendlelo	13
1.4 Nkatsakanyo	14

NDZIMA YA 2

2. Nhlamuselo ya nawu wa vanhu	15
2.1 Manghenelo	15
2.2 Nawu wa vugevenga (Criminal law)	18
2.3 Nxopaxopo wa matheme ya nawu wa vugevega	20
2.4 Nkatsakanyo	54

NDZIMA YA 3

3. Nawu wa vumbiwa (Constitutional law)	55
3.1 Manghenelo	55
3.2 Nawu wa vumbiwa	56

3.3	Nxopaxopo wa matheme ya nawu wa vimbiwa ku ya hi maivo leyi a mune (Analaysis of classification of constitutional law into four Categories)	57
3.4	Nkatsakanyo	75

NDZIMA YA 4

4.	Nawu wa mafambiselo (Administrative law)	76
4.1	Manghenelo	76
4.2	Nxopaxopo wa nawu wa mafambiselo	78
4.3	Nkatsakanyo	105

NDZIMA YA 5

5.	Ku dlayiseta	106
6.	Tibuku leti tirhisiweke	112

NDZIMA YA 1

1. MANGHENELO

Van Marwijk (2008:32) u ri:

People cannot live without each other, we are social beings. As we are communicating for this, we can make use of spoken and written content of a message clear to each other. However, we can also have communication; tell us something about the relationship between getting the content of the message across. The communication tells us something above the relationship between people communicating about communication.

Eka ntshaho lowu nga laha henhla Van Marwijk u kombisa nkoka wa ririmi leswaku munhu a nga ka a nga hanyi a ri yexe kumbe munhu a nge hanyi handle ka un'wana hikuva munhu i munhu hi van'wana. Loko hi ri karhi hi vulavula hi ndlela leyi hi tirhisa marito leswaku hi twanana. Mbhurisano wu hi byela vuxaka exikarhi ka vanhu lava vulavurisanaka hi mbulavulo.

Van Marwijk (2008: 32) u ya emahlweni a ku:

When we connect with a person, we also have to make it clear that the message need to be interpreted. How we do this says something to other people or think we have anyway often words are

inadequate not to tell each other that easily how we feel about each other or how it is interpreted. To make the meaning of words clear we use book without spoken words and therefore, called verbal communication

Van Marwijk eka ntshaho lowu u hlamusela leswaku ku twanana ni munhu un'wana hi loko hungu ri vekiwa kahle ri tlhela ri twisiseka. Leswi nga endliwa njhani handle ka ku vula swin'wana eka vanhu kumbe ku vula hi ndlela leyi marito ma pfumalekaka. Leswaku hungu ri hlamuseriwa kahle kumbe ku twisiseka ri nga hlamuseriwa hi ku tirhisa tibuku.

1.1. Xikongomelo

Xitsalwana lexi xi kongomise eka nxopaxopo wa yin'wana ya mitlhontlho ya theminoloji ya nawu wa vanhu hi ku langutisa eka Xitsonga ni ku nyika ntlhontlho eka vadyondzi ku yisa emahlweni no tsala switsalwana hi matheme ya ririmi ra Xitsonga hikuva ka ha ri ni nkayivelo swinene wa matsalwa.

Xin'wana i ku fikisa mahungu eka vanhu hi ku angarhela leswaku va ta tiva ni ku tirhisa theminoloji hikuva eka tindzawulo to tala ku ni nkayivelo wa matsalwa ya nawu lama hundzuluxiweke hi ririmi ra Xitsonga.

1.2. Nsusumeto

Nsusumeto wo tsala xitsalwana lexi i ku vona nkayivelo wa matsalwa lawa ya nga ni matheme lama tsariweke hi ririmi ra Xitsonga, ngopfu eka dyondzo ya nawu wa vanhu (public law).

1.2.1. Nhlamuselo ya theminoloji

Oxford Student Dictionary (2007: 255) va nyika nhlamuselo ya theminoloji hi ndlela leyi:

Terminology as the special word and expression that are used in a particular professional subject or activity.

Ntshaho lowu wu hlamusela leswaku theminoloji i nhlamuselo ni marito yo karhi lama nga tirhisiwaka eka dyondzo yo karhi leyi kongomaneke na dyondzo kumbe nghingiriko wo karhi. Theminojoloji yi ni nkoka swinene hikuva yi pfuna leswaku marito ya dyondzo yo karhi ma nyika tihlamuselo ta marito lawa vanhu va nga kotiki ku kuma tihlamuselo hi ku olova.

Cabré (1994: 48) u seketela mhaka leyi loko a ku:

Representation of knowledge in an organised way to facilitate structural mediation and communication of specialised knowledge as between the specialists or as practiced by translator, broadcaster or technical writer.

Cabré wa ha tiyisisa leswaku theminoloji i vuyimeri bya vutivi lebyi longoloxiweke hi ndlela ya kahle ku endla leswaku ku va ni ku twanana no burisana eka mavumbelo ya vutivi byo karhi, exikarhi ka vatokoti kumbe lava tirhaka hi ku hundzuluxa, vahaxi na vatsari va xithekiniki.

Cabré (1994:48) u ya emahlweni a vula leswaku theminoloji i ya nkoka swinene hikuva yi tlhela yi pfuna eka ku kula kumbe ku hlukisa ririmi, marito ni tihlamuselo ta wona. Marito ma nga kota ku fikelela vatirhisi ni vanhu hi ku angarhela. Ku kayivela ka theminoloji swi nga endla leswaku ririmi ri nga hlukisi naswona ri nga koti ku fikelela ku ringana ni le ka vatirhisi va khomphyuta.

Guidelines for terminology policies (2005: v) yi vula leswi:

Inadequate terminology is one key factor in the inequality of linguistic access, and it result in functional illiteracy in the context of accessing information and using computers.

Ntshaho lowu nga laha henhla wu seketela mhaka ya leswaku nkayivelo wa theminoloji i xin'wana xa swivangelo swa ku va ku nga ri na ku ringana ka mfikelelo wa ririmi leswi endlaka leswaku ku va na matirhiselo yo ka ya nga koxometi eka vundzeni bya ririmi ni ku fikelerisa mahungu ni ku tirhisiwa ka khomphyuta.

Eka dyondzo ya theminoloji ku ni marito kumbe matheme lama tirhisiwaka ku hlamusela dyondzo ya theminoloji. Ndzi ta nyika tihlamuselo ta matheme lama landzelaka ku ya hi swidyondzeki swo hambana.

1.2.2. Tihlamuselo ta matheme man'wana ya nkoka eka xitsalwana lexi.

- (i) *Xitsonga - Themilogirafi*
Xinghezi - Terminography

Guide for Terminology policies (2005: 12) yi nyika nhlamuselo ya theminologirafi hi ndlela leyi landzelaka:

Terminography is the process of documenting terminological information. The work is carried out on monolingual, bilingual and multilingual.

Ntshaho lowu nga laha henhla wu hlamusela leswaku theminologirafi i ndlela yo tumbuluxa tsalwa kumbe matsalwa. Ntirho lowu wu tirhisiwa eka ririmi rin'we, timbirhi ni le ka tindziminyingi.

(ii) *Xitsonga - Lekizikhogirafi*
Xinghezi – Lexicography

Cabré (1999: 31) u hlamusela lekizikhogirafi hi ndlela leyi:

Lexicography deals with the principle and method of writing dictionaries.

Cabré u hlamsela leswaku lekizikhogirafi yi tirha na swinawana ni maendlelo yo tsala dikixinari.

(iii) *Xitsonga - Lezikholoji*
Xinghezi - Lexicology

Oxford (2007: 468) yi hlamusela lezikholoji (lexicology) tanihi: ... *“the study of words and their form, history and meaning.”*

Ntshaho lowu wu hlamusela leswaku lezikholoji (lexicology) i dyondzo ya marito ni mavumbelo ya wona, matumbulukelo ni tihlamuselo.

- (iv) *Xitsonga - Lezikhoni*
Xinghezi – Lexicon

Greenwich English Dictionary (1990: 236) va nyika nhlamuselo ya lezikhoni (lexicon) hi ndlela leyi:

A vocabulary containing an alphabetical arrangement of the words in a language, with the definition of each.

Ntshaho lowu wu hlamusela leswaku lezikhoni (lexicon) i marito lama longoloxiweke ku ya hi nongonoko wa tialifabete ta marito eka ririmi ni tinhlamuselo ta wona.

- (v) *Xitsonga - Lekizikhogirafa*
Xinghezi - Lexicographer

Greenwich English Dictionary (1990: 236) va hlamusela lekizikhogirafa (lexicographer) tanihi “*the author or compiler of a dictionary*”

Ntshaho lowu wu hlamusela leswaku lekizikhogirafa (lexicographer) i mutsari kumbe muhlengeleti wa dikixinari.

1.2.3. Mitirho leyi endliweke eka theminoloji

Eka ririmi ra Xitsonga hi vona ku ri na nhluvuko hi tlhelo ra theminoloji laha tindzawulo to hambanahambana ti nga va ni xiave eka ku vumba theminoloji hi ku hundzuluxa ku suka eka Xinghezi ku ya eka Xitsonga. Yin'wana ya tindzawulo leti i Ndzawulo ya Vutshila ni Mfuwo (Department of Arts and Culture) eAfrika-Dzonga eka leyi tsaleke ***Multilingual Natural Science and Technology Dictionary for***

Grade 4 to 6.

Eka tsalwa leri xikongomelonkulu a ku ri ku hundzuluxa matheme eka dyondzo ya *Natural Science na Technology* ya nxaxamelo wa tidyondzo ta lembe ra 2005 eka swikolo swa tidyondzo ta le hansi ku nga giredi ya 4 na 6, leswaku vadyondzisi ni vadyondzi va ta kota ku tirhisa buku leyi tanihi xipfuneto eka theminoloji hi ririmi ra Xitsonga. Swin'wana swa swikombiso leswi humaka eka tsalwa leri swi katsa leswi landzelaka.

Swikombiso:

Xitsonga	English
Xihanya-hi-nyama	Carnivore
Mheho	Direction
Sefo	Filter
Xiyimelo	Symbol
Phayiphi ya mati	Water pipe
Sathelayiti	Satelite
Nhlungu	Nipple
Xivungu jiya	Caterpillar
Ku luka	Weaving
Masi	Milk

Ndzawulo ya Vutshila ni Mfuwo (Department of Arts and Culture) nakambe hi ku tirhisana ni vatirhi va Ndzawulo ya Rihanyu (Heath/Medical Service Providers) va tsarile buku leyi vuriwaka ***“The Glossary of Heath/Medical Terminology”***.

Xikongomelonkulu xa tsalwa leri a ku ri ku vona swiphiso swo tala leswi vavabyi va hlanganaka na swona xikan'we ni vapfuni va vona hi nkarhi wo kamberiwa loko va nga koti ku twanana. Eka tsalwa leri ku katsiwile ni matheme ya thekinoloji (technological terms). Swinw'ana swa swikombiso leswi humaka eka tsalwa leri swi katsa leswi landzelaka.

Swikombiso:

Xitsonga

English

Byeke

Abdomen

Asima/phika

Asthma

Vubofu

Blindness

Ku oma

Paralysis

Ntshikelelo wa ngati

Blood pressure

Nsiha

Vein

Hefemulo

Respiration

Nsawutiso

Immunisation

Chefuhato wa swakudya

Botulism

Tsalwa ra ***Multilingual Terminology for Information, Communication Technology*** i tsalwa leri va Ndzawulo ya Vutshila ni Mfuwo (Department of Arts and Culture) va nga nyika nxaxamelo wa matheme hi ku vona leswaku ku ni nkayivelo eka vutirhisi bya thekinoloji, hikokwalaho ko ka ku nga ri na ku twisisa hi ririmi ra hina ni ku endla leswaku ku va ni nhlohotelo wo tirhisa xiyenge lexi xa thekinoloji eka tindzimi hinkwato ta Afrika-Dzonga ta ximfumo. Ndzi ta nyika swin'wana swa swikombiso swo huma eka tsalwa leri:

Swikombiso:

Xitsonga

Xiyanimoya
Pirintara
Webusayiti
Thelevhixini
Khasete ya vhidiyo
SMS
Mukhumbeki
Khadi ra mpfumawulo
Xinghenisiwa
Inthanete

English

Radio
Printer
Website
Television
Video cassette
SMS
Stakeholder
Soundcard
Input
Internet

Tsalwa ra Ndzawulo ya Vutshila ni Mfuwo ra ***Multilingual Mathematics Dictionary for Grade 1 to 6*** i tsalwa leri xikongomelonkulu ku nga ku nyika matheme eka tindzimi ta Vantima hi dyondzo ya Tinhlayo eka giredi ya 1 ku fika eka 6. Matheme lama ma katsa tidyondzo ta nhungu ku nga *Mathematics, Natural Science, Technology, Human Science, Social Economic and Management Sciences, Arts and Culture, Life Orientation na Language*.

Swikombiso

Xitsonga

Engele
Avanyiso
Vundzeni
Endla

English

Angle
Apportion
Capacity
Carry out

Mpimo wo cincana	Exchange rate
Xitandza	Oval
Pharalele	Parallel
Rente	Rent
Thyana hi vuntshwa	Rename

Eka tsalwa leri vuriwaka *A Multilingual Glossary of Commercial Terminology* hilaha hi kumaka theminoloji ya swa bindzu. Tani hiloko theminoloji yi ri swin'wana swa swikongomelo swa Ndzawulo ya Mitlangu, Vutshila ni Mfuwo (Department of Sport, Arts and Culture) ku hluvukisa ririmi, va vonile swi ri swa nkoka ku fikisa hungu leri eka vakhumbeki ni vanhu hi ku angarhela, leswaku va ta kota ku twanana eka mimbhurisano ya vona. Swin'wana swa swikombiso leswi humaka eka tsalwa leri.

Swikombiso

Xitsonga

Mutirhatinkota
 Huvo yo lawula
 Ntswalo-khatakanyo
 Xikweleti xa swa tindlu
 Ntwanano wa bindzu
 Ntlakuko wa nxavo
 Xitolomendhe
 Papila ra ndzhaka
 Ku xavisela/ku xava
 Xaviselano/Maendlelo ya bindzu

English

Accounting officer
 Board of control
 Compound interest
 Home loan
 Corporate
 Inflation
 Instalment
 Will
 Trade-in
 Transaction

Vumbiwa ra Riphabuliki ra Afrika-Dzonga (Constitution of the Republic of South Africa) i yin'wana ya migingiriko leyi endliweke ya theminoloji laha ku hundzuluxiweke Nawu wa 103 wa lembe ra 1996 ku suka eka Xinghezi ku ya eka Xitsonga. Swikombiso hi leswi landzelaka:

<i>Xitsonga</i>	<i>English</i>
Ntshuxeko wo humesa mavonelo	Freedom of expression
Vuhundla bya munhu	Privacy
Timfanelo ta swa tipolitiki	Political right
Nhundzu	Property
Timhaka ta tindlu	Housing
Vana	Children
Dyondzo	Education
Vutomi	Life
Ndzinganano	Equality
Ririmi na mfuwo	Language and Culture
Ndzhuti wa munhu	Human dignity

Eka tsalwa ra projeke ya **Theminiyoyi ya HIV/AIDS** va vonile swi ri swa nkoka ku humesa tsalwa leri hi xikongomelo xo humesela matheme mantshwa ni lama nga kona leswaku vanhu hi ku angarhela va ta kuma hungu leri. Swin'wana swa swi kombiso leswi humaka eka tsala leri hi leswi landzelaka:

Swikombiso:

<i>Xitsonga</i>	<i>English</i>
Mpapalato	Abstain
Swihalaki swa miri	Body fluid

Hlonga ra swidzidziharisi	Drug addict
Xiyimo xa HIV	HIV status
Ntlulêto	Infection
Bundzu	Lump
Nsuna	Mosquito
Ku ongola	Nursing care
Nkucetelo wa tintangha	Peer pressure
Ku sivela	Prevent

Eka tsalwa ra vurimi nakambe hi vona nghingiriko wa theminoloji lowu endliweke ku antswisa vutivi bya vanhu eka tindzimi ta Vantima. Swin'wana swa swikombiso leswi huma eka tsalwa leri hi leswi landzelaka.

Swikombiso:

Xitsonga

Mavelenzoho
 Xirimiwa xo dya
 Ndzetelo
 Xirin'wa xa oyili
 Mumangari
 Muholi wa mudende
 Swiphemuringano
 Muyimeri
 Nkatsiwo
 Yuniti ya nawu

English

Cereals
 Food crop
 Irrigation
 Oil crop
 Plaintiff
 Pensioner
 Symmetric
 Proxy
 Coverage
 Legal unit

1.3. Maendlelo

Maendlelo lama tirhisiweke eka ndzavisiso lowu i maendlelo yo kuma mahungu eka matsalwa lama vuriwaka **“textual method”**.

1.3.1. Nhlamuselo ya “textual method”

Concise Oxford Dictionary (1990: 1263) yi nyika nhlamuselo ya **“textual method”** hi ndlela leyi landzelaka: *concerning a text*. Ntshaho lowu wu hlamusela leswaku hi leswi kongomaneke ni tsalwa.

Kasi rito **“method”** ri hlamuseriwa hi **Concise Oxford** (1990: 746) tanihi *“a special form of procedure”*. Ntshaho lowu wu hlamusela leswaku **“method”** i endlelo rin’wana ro hlawuleka.

1.3.2 Eka maendlelo ku tirhisiwile ni endlelo ro xopaxopa leyi vuriwaka **“content analysis”**. Va *Wikipedia* va nyika nhlamuselo ya “content analysis” hi ndlela leyi:

A standard methodology in the science for studying the content of communication.

Ntshaho lowu nga laha henhla wu hlamusela nxopaxopo wa vundzeni tanihi maendlelo lama eka sayense ku dyondziwaka timhaka leti yelanaka na mbulavulo.

1.4. *Nkatsakanyo*

Eka ndzavisiso lowu hi laha hi vonaka leswaku ririmi i ra nkoka swinene. Munhu a nga ka a nga hanyi a ri yexe. Laha ku nga na vanhu hilaha hi kumaka mbhurisano. Mbhurisano wu kona exikarhi ka vanhu, ni matsalwa i ya nkoka laha hikuva eka matsalwa hi laha hi kumaka kona mahungu.

NDZIMA YA 2

2. NHLAMUSELO YA NAWU WA VANHU

2.1. Manghenelo

Snyman (1995: 5) u hlamusela nawu wa vanhu hi ndlela leyi:

Law is traditionally subdivided into two main categories namely public law and private law. Public law deals with the relationship between the state as an authoritative power and the subjects of the state with the relationship between the different branches of state and with the relationship between different states.

Snyman eka ntshaho lowu nga laha henhla u hlamusela leswaku nawu wu avanyisiwile hi swiyenge swimbirhi ku nga nawu wa vanhu na nawu wa phurayivhete. Snyman u ya emahlweni a hlamusela leswaku nawu wa vanhu i nawu lowu kongomaneke na mfumo tani hiloko wu ri ni matimba na vanhu va mfumo lava fumiwaka hi wona mfumo.

Matsalwa yo tala ya kombisa ku hambana exikarhi ka nawu wa vanhu na nawu wa xihundla. Rautenbach na Malherbe (1996: 7) va kombisa mhaka leyi hi ndlela leyi:

Although the rules of public law are undoubtedly directed at the protection of public interest, they simultaneously protect the interests of the individual. Criminal law and criminal procedure are for example

part of public law, the rules of criminal law prohibit certain actions that would harm the community and the rules of criminal procedure authorise government bodies to limit the right of people who committed crimes through such measures as arrest, trial and punishment. However, for the very reason that there are rules of law in respect of these matters, government bodies may not act arbitrarily in their fight against crime. The same rules that protect community interests, also protect the right of individuals in their personal capacity.

Eka ntshaho lowu wa Rautenbach na Malherbe va hlamusela leswaku a swi kanakanisi leswaku nawu wa vanhu wu kongomane ni nsirhelelo wa ku navela ka vanhu ku katsa ni nsirhelelo wa un'wana na un'wana. Milawu ya nawu wa vugevenga yi sivela swiendlo swin'wana leswi nga vavisaka vaakatiko, yi nyika matimba eka swirho swa mfumo ku hunguta timfanelo ta vanhu eka lava kumekaka va ri ni milandzu ku ya hi swipimelo swo fana ni ku khomiwa, ku tenga no xupuriwa.

Hambiswiritano, eka nhlamuselo yo tani ku ni milawu leyi swirho swa mfumo hi ku rhandza swi nga swi kotiki ku lwa ehenhla ka milandzu. Milawu yo fana ni yo sirhelela vaakatiko yi tlhela yi sirhelela timfanelo ta mani na mani ni vuswikoti bya vona.

Jacobs na Snyman (2004: 27) na vona va nyika ku hambana ka nawu wa vanhu na nawu wa phurayivhete loko va ku:

If someone commits a crime, this act goes the

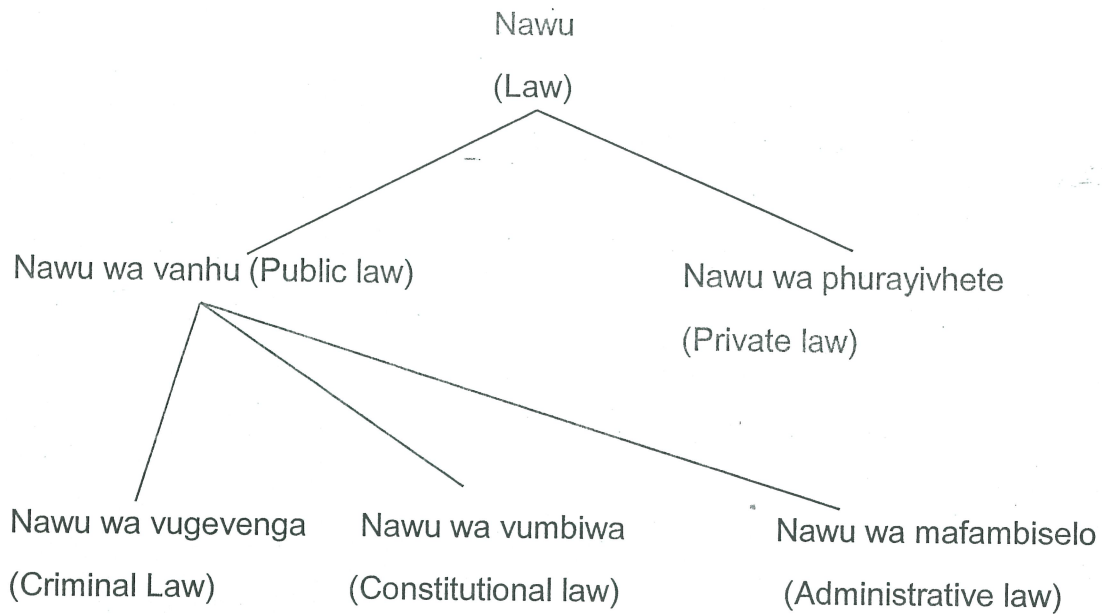
interest of the community and must be punished and such act becomes concern of public law. If the same act harm the interests of private person, the act becomes the concern of private law also.

Jacobs na Snyman va kombisa ku hambana hi ku vula leswaku loko munhu a endla nandzu lowu khumbaka ku navela ka vaakatiko, munhu yoloye u fanele ku xupuriwa, nandzu lowu i wa vanhu kasi loko munhu a vavisa ku navela ka munhu a ri un'we i nawu wa phurayivhete.

Xitsalwana lexi xi kongomise eka nawu wa vanhu. Snyman (1995: 5) u vula leswi:

Public law may be subdivided into, for example, constitution law, administrative law and criminal law.

Snyman u hlamusela leswaku nawu wa vanhu wu nga avanyisiwa hi miavo leyi, xikombiso, nawu wa vumbiwa (constitutional law), nawu wa mafambiselo (administrative law) na nawu wa vugevenga (criminal law). Vuxaka bya nawu hi ku angarhela na nawu wa vanhu byi nga kombisiwa hi xifaniso xa murhi hi ndlela leyi landzelaka:

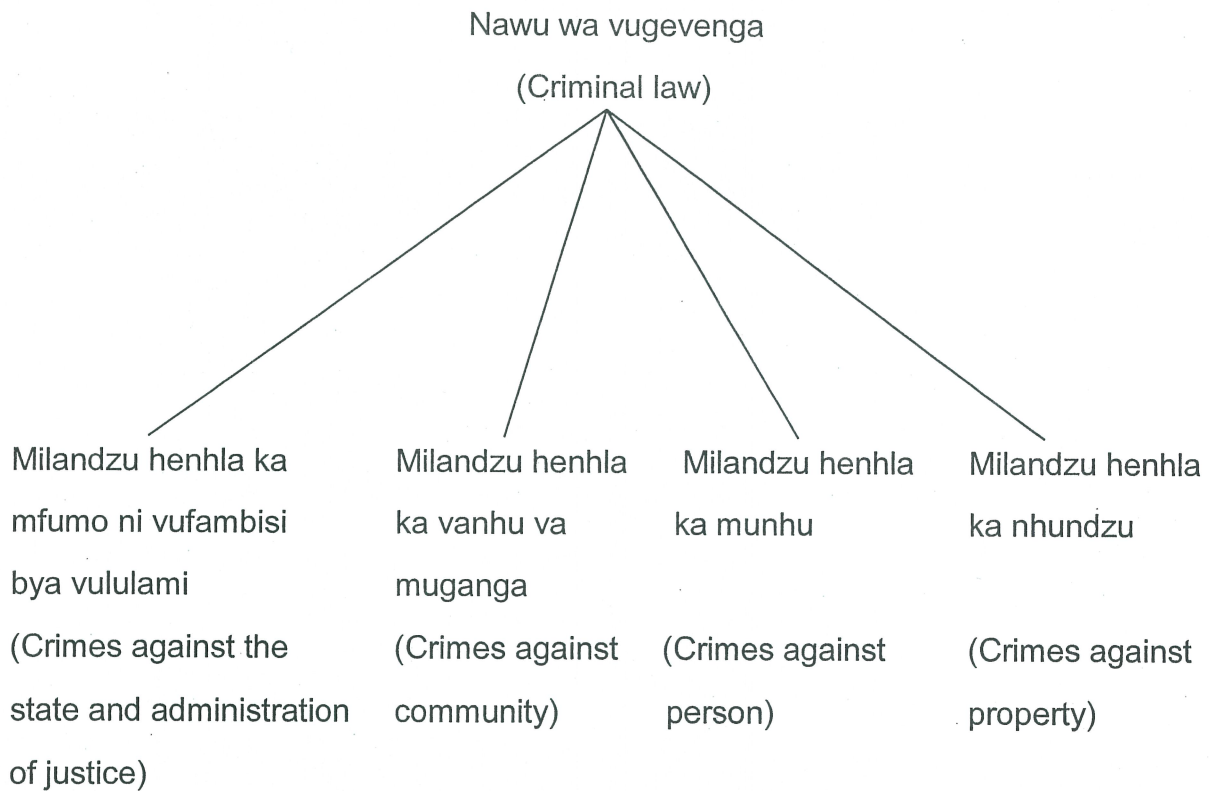


2.2. Nawu wa vugevenga (Criminal law)

Snyman (1995: 291) u hlamusela hi maavanyiselo ya milandzu eka nawu wa vugevenga loko a ku:

The best known and most popular method is to classify crimes according to the interests which the law seeks to protect by punishing the particular crime. The crime will be discussed in four broad categories, namely crime against the state and administration at justice, those against the community, those against the person and those against the property.

Snyman u hlamusela leswaku ndlela ya kahle ya maavanyiselo ya milandzu i maendlelo yo toloveleka ku nga ku avanyisa ku ya hi ku navela, lowu nawu wu lavaka ku sirhelela hi ku xupula loyi a endleke nandzu wo karhi. U ya emahlweni a vula leswaku milandzu leyi yi nga ta hlamuseriwa yi avanyisiwile hi mitlawa ya mune, ku nga nandzu henhla ka mfumo ni vufambisi bya vululami (crime against the state and administration justice), nandzu ehenhla ka vaakatiko (crime against the community), nandzu henhla ka munhu (crime against the person) ni nandzu henhla ka nhundzu (crime against the property). Mhaka leyi yi nga kombisiwa hi xifaniso xa murhi lowu landzelaka:

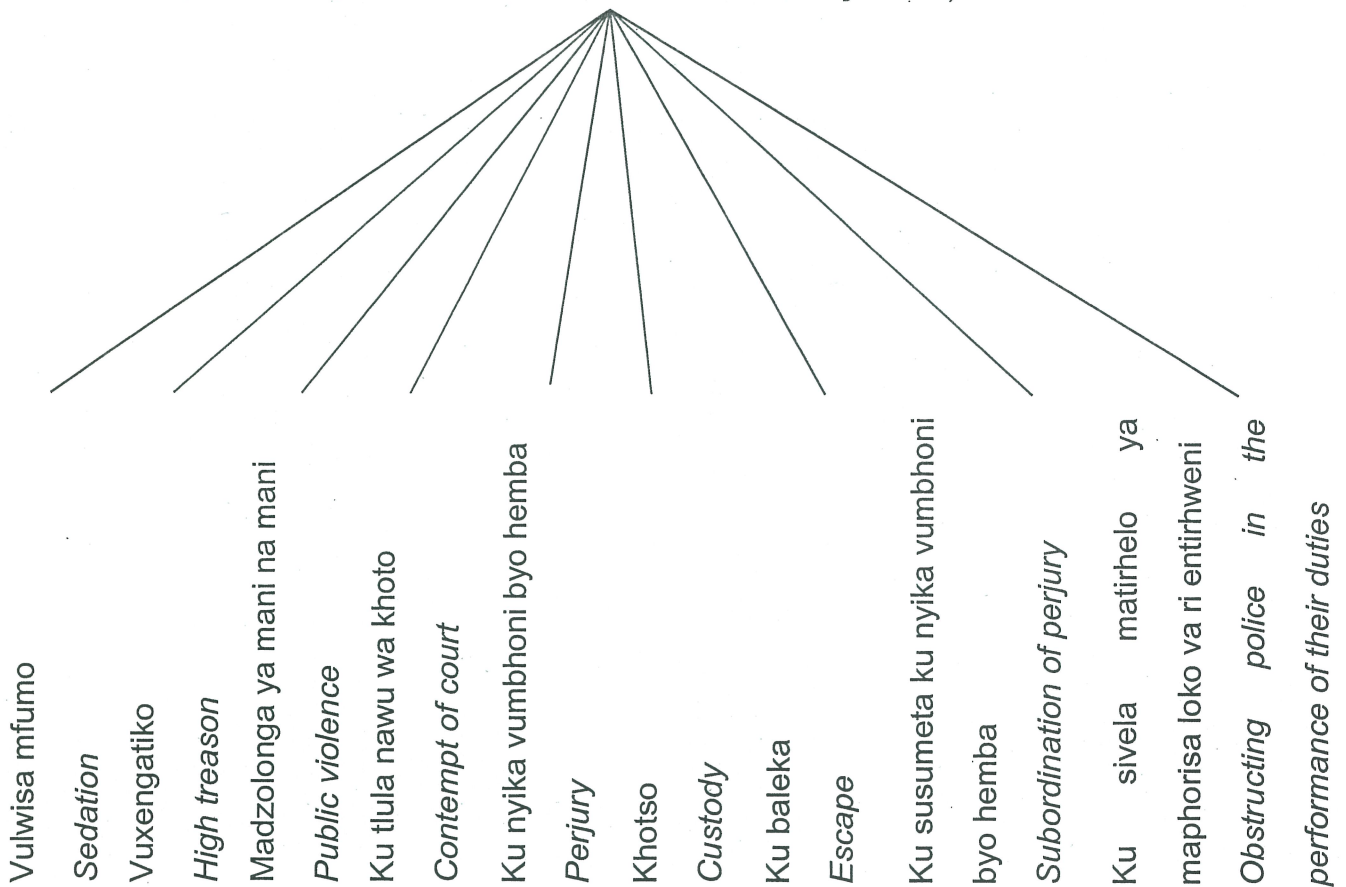


2.3. Nxopaxopo wa matheme ya nawu wa vugevenga (criminal law) ku ya hi swiyenge leswa mune swa milandzu

2.3.1. Milandzu ehenhla ka mfumo ni vufambisi bya vululami
(Crimes against the state and administration of justice)

Eka milandzu leyi yi nga laha henhla hi kuma milandzu yo hlayanyana. Nhlamuselo hi xitalo yi ta kombisiwa hi xifaniso xa murhi lowu landzelaka:

2.3.1.1. Milandzu ehenhla ka mfumo ni vufambisi bya vululami
(Crimes against state and administration of justice)



- (a) *Xitsonga - Vulwisamfumo*
Xinghezi - Sedition

Iqbane (2006: 20) va nyika nhlamuselo 'sedition' hi ndlela leyi:

Sedition consists in unlawfully and intentionally taking part in a concourse of people violating or by threats of violence challenging, defying or resisting the authority of the state.

Ntshaho lowu nga laha henhla wu hlamusela leswaku vulwisa mfumo i ku pfuxa dzolonga exikarhi ka ntshungu kumbe ku onha kumbe ku chavisela hi ku hlohlotela, ku ala mafumelo ya mfumo.

- (b) *Xitsonga - Vuxengtiko*
Xinghezi - High treason

Snyman (1995: 295) u hlamuselo vuxenga tiko (high treason) hi ndlela leyi:

A person commits high treason if, owing allegiance to the Republic of South Africa, he unlawfully engages in conduct within or outside the Republic, with the intention of overthrowing the government of the Republic or changing the constitutional structure of the Republic.

Snyman eka ntshaho lowu u hlamusela leswaku vuxengatiko i nandzu wa ku va

munhu a nga tshembekangi a fanele ku hakela Riphaboliki ra Afrika Dzonga, laha a nghenelaka swi nga ri nawini hi xikongomelo xo xavisa tiko kumbe ku cinca mavumbelo ya vumbiwa ra tiko.

- (c) *Xitsonga - Madzolonga ya mani na mani*
Xinghezi - Public violence

Snyman (1995: 306) u nyika nhlamuselo ya madzolonga ya mani na mani hi ndlela leyi:

An act or acts which assume serious dimension and which are intended forcibly to disturb public peace and tranquility or invade the right of others.

Ntshaho lowu wa madzolonga ya mani na mani wu hlamusela leswaku i milawu leyi hi nga tekaku leswaku yi nga va na khombo swinene naswona yi susumeta ku lwa ka matimba loku kavanyetaka ku rhula ka vanhu kumbe ku onha timfanelo ta van'wana.

- (d) *Xitsonga - Ku tlula nawu wa khoto*
Xinghezi - Contempt of court

Martin (1984: 82) u nyika nhlamuselo ya ku tlula nawu wa khoto. Martin u hlamusela leswaku nandzu wo tlula nawu wa khoto i ku va munhu a nga landzeleri vulahluri bya khoto.

- (e) *Xitsonga - Ku nyika vumbhoni byo hamba*

Xinghezi – Perjury

Martin (1994: 203) u hlamusela ku nyika vumbhoni byo hembra (perjury) hi ndlela leyi:

The offence of giving false evidence or evidence that one does not believe to be true. These include making false statement on oath in non-judicial and making false statement or declaration relating to marriage or to the registration of birth or death certificate.

Martin u hlamusela leswaku ku nyika vumbhoni yo hembra i ku nyika vumbhoni bya vunwa kumbe lebyi un'wana a nga tshembaka leswaku i ntiyiso. Vumbhoni bya vunwa byi katsa ku endla xitatimendhe xa vunwa hi ku hlambanya ehandle ka vuavanyisi ni ku endla xitatimendhe xa vunwa hi ku endla xiboho lexi fambelanaka ni ku endla xitifikhethi xa vukati, xo velekiwa kumbe xa rifu.

- f) Xitsonga – Khotso
Xinghezi – Custody

Martin (1994: 99) u nyika nhlamuselo ya khotso hi ndlela leyi:

Custody is an imprisonment or confinement.

Martin eka ntshaho lowu u hlamusela leswaku khotso i vuvochwa kumbe ku va u vekiwa eka ndhawu yin'we ku tlhela ku va ni swipimelo.

- g) Xitsonga – Ku baleka
Xinghezi - Escape

Martin (1994: 35) u nyika nhlamuselo ya ku baleka (escape) hi ndlela leyi:

*The common offence of escaping from lawful custody
The custody may be in prison in a police station or
even in the open air.*

Martin u hlamusela leswaku ku baleka i ku baleka ekhotsweni ra nawu ku nga va khotso leri munhu a nga pfalleriwa exitichini xa maphorisa kumbe khotso ra ku va munhu a ri handle.

- h) Xitsonga – Ku nyika vumbhoni byo hamba
Xinghezi – Subornation of perjury

Snyman (1995: 326) u nyika nhlamuselo ya ku nyika vumbhoni byo hamba

(subornation of perjury) hi ndlela leyi landzelaka:

Subornation of perjury consists in unlawfully and intentionally inducing another person to make a false material statement on oath, affirmation in the course of judicial proceeding which statement is fact made by the other person.

Snyman u hlamusela leswaku ku nyika vumbhoni byo hamba i ku susumeta un'wana ku nyika vumbhoni byo hamba kumbe nyika xitatimendhe hi ku hlambanya, kumbe ku pfumela emahlweni ka vaavanyisi kasi i nandzu lowu endliweke hi un'wana.

- i) Xitsonga – Kavanyeta kumbe ku sivela
Xinghezi – Obstructing police in the performance of their duties

Snyman (1995: 330) u nyika nhlamuselo ya ku sivela matirhelo ya maphorisa loko va ri entirhweni hi ndlela leyi:

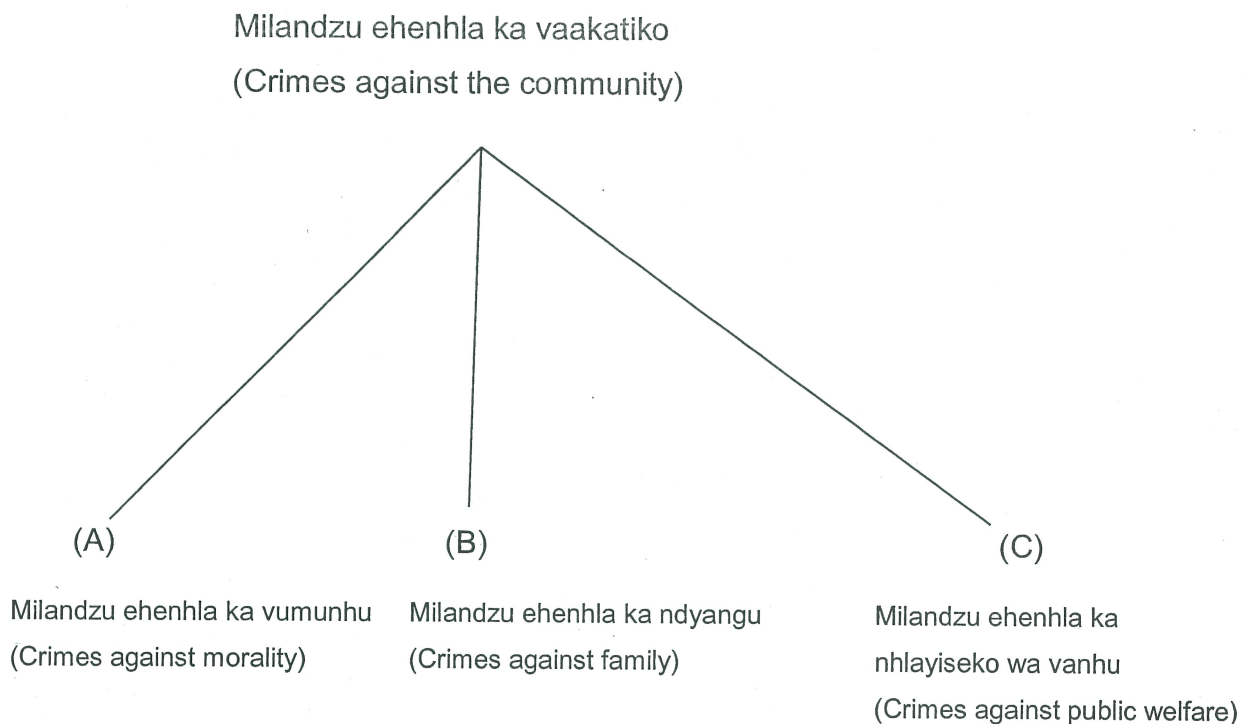
The subsection provides that any person who resists or willfully hinders or obstructs any member of the police force in the exercise of his power or the performance.

Snyman u hlamusela leswaku ku kavanyeta matirhelo ya maphorisa loko va ri entirhweni i xiyenge xin'wana lexi nyikaka wun'wana na wun'wana loyi a alaka kumbe loyi hi xikongomelo a sivelaka xirho xin'wana na xin'wana xa vuthu ra maphorisa ku tirhisa matimba ya vona kumbe ku tirha.

2.3.2. Nxopaxopo wa milandzu ehenhla ka vaakatiko
(Analysis of crime against community members)

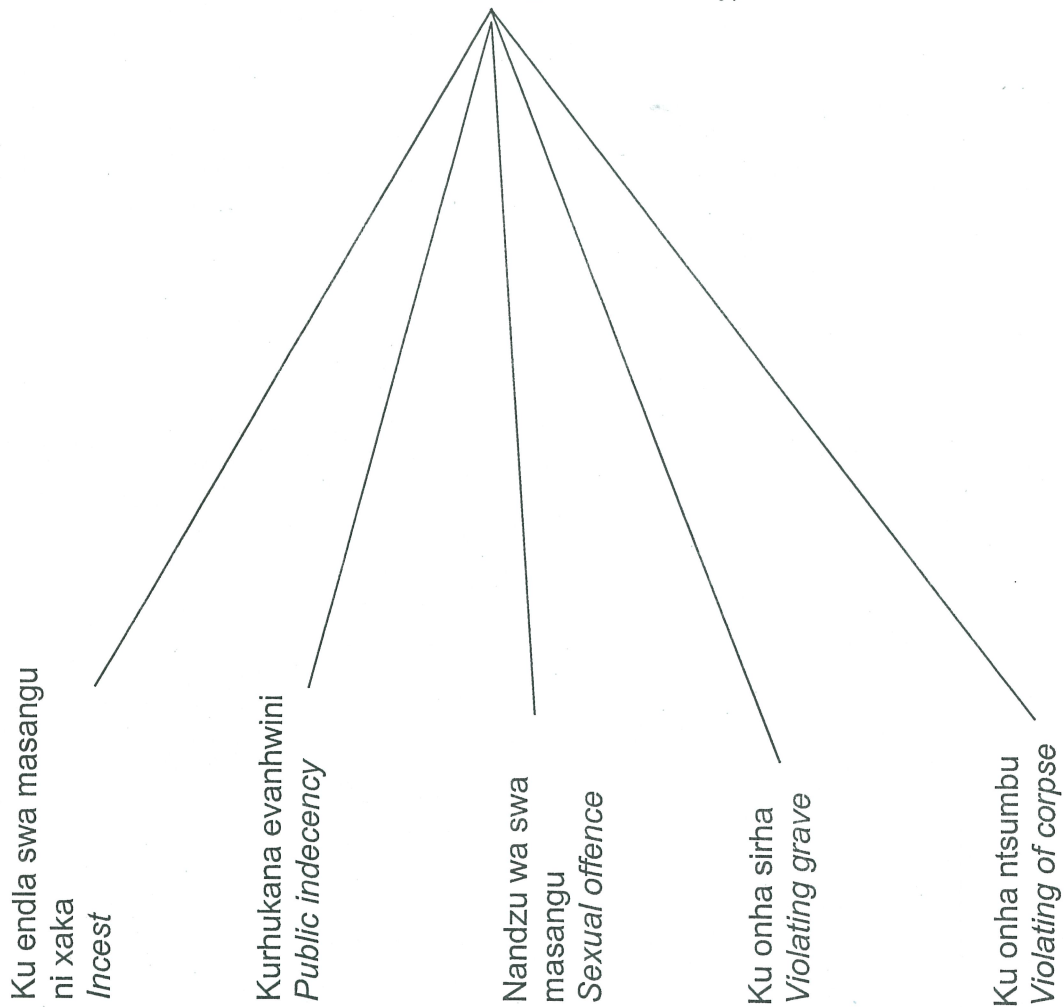
Milandzu leyi nga ehenhla ka vaakatiko yi tlhela avanyisiwa hi miavo minharhu ku nga milandzu ehenhla ka vumunhu bya munhu (crimes against morality), milandzu ehenhla ka ndyangu (crime against family) na milandzu ehenhla ka nhlayiseko (crime against welfare).

Vuxaka exikarhi ka milandzu ley byi nga kombisiwa:



2.3.3. A

Milandzu ehenhla ka vumunhu
(Crimes against morality)



(a) *Xitsonga – Ku endla swa masangu hi rixaka*

Xinghezi - Incest

Martin (1994:176) u hlamusela ku endla swa masangu ni xaka hi dlela leyi:

Sexual intercourse between man and his mother, daughter, sister, half sister or granddaughter or between a woman over age of 16 and father, son, brother and half brother.

Ntshaho lowu nga laha henhla wu hlamusela leswaku ku endla swa masangu ni xaka i ku endla swa masangu eka rixaka rin'we. Ku nga va ku ri exikarhi ka tatana ni n'wana wa yena wa xisati, vamakwavo va xisati, vamakwavo lava nga riki va ngati kumbe swa masangu exikarhi ka wansati loyi a nga henhla ka malembe ya khume tsevu ni tata wa yena.

- (b) *Xitsonga – Ku rhukana evanhwini*
Xinghezi - Public indecency

Snyman (1995: 332) u nyika nhlamuselo ya ku rhukana evanhwini hi ndlela leyi:

Public indecency consists in unlawfully intentionally and publicly engaging in conduct which tends to deprive the morals of others or which outrages the public's sense of decency.

Ntshaho wa Snyman wu hlamusela leswaku ku rhukana evanhwini hi leswi munhu a swi endlaka swi nga ri nawini ku nghenelela evanhwini hi xikongomelo xo onha vumunhu bya van'wana kumbe ku rhukana swinene leswi endlaka leswaku vanhu va titwa va suke ndzhuti.

- (c) *Xitsonga – Nandzu wa masangu*
Xinghezi – Sexual offence

Martin (1994:337) u hlamusela nandzu wa swa masangu hi ndlela leyi:

Sexual offence is any crime that involves sexual intercourse or any other sexual act, category are rape and sexual assault.

Eka ntshaho lowu Iqbane yi hlamusela leswaku ku onha ntsumbu (violating a corpse) i nandzu wo vavisa ntsumbu hi xikongomelo.

Martin eka ntshaho lowu u hlamusela leswaku nandzu wa swa masangu i nandzu wun'wana na wun'wana lowu katsaka swa masangu, swiyenge swa kona i ku pfinya ni ku khoma-khoma swirho swa xihundla.

- (d) *Xitsonga - Ku onha sirha*
Xinghezi - Violating a grave

Iqbana (2006: 20) u nyika nhlamuselo ku onha sirha hi ndlela leyi:

Violating a grave consists in unlawfully and intentionally damaging a human grave.

Ku onha sirha, Snyman u hlamusela leswaku hi leswi munhu a swi endlaka swi nga ri nawini hi xikongomelo ku cela sirha munhu.

- (e) *Xitsonga - Ku onha ntsumbu*
Xinghezi - Violating a corpse

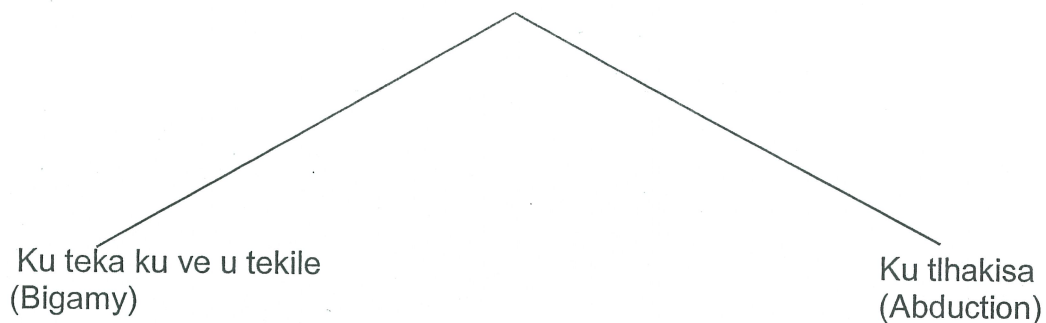
Iqbane (2006: 20) u nyika nhlamuselo ya ku onha ntsumbu hi ndlela leyi:

This offence consists in unlawfully and intentionally violataing a corpse.

Eka ntshaho lowu Iqbane yi hlamusela leswaku ku onha ntsumbu (violating a corpse) I nandzu wo vavisa ntsumbu hi xikongomelo.

2.3.3 (B)

Milandzu ehenhla ku dyangu (Crimes against family)



- (a) *Xitsonga – Maendlelo yo teka nsati ku ve u tekile*
Xinghezi – Bigamy

Martin (1994: 95) u hlamusela maendlelo yo teka nsati ku ve u tekile hi ndlela leyi landzelaka:

The act of going through a marriage ceremony with someone when one is already lawfully married to someone else.

Eka ntshaho lowu Martin u hlamusela ku teka nsati ku ve u tekile hi loko munhu a teka un'wana nsati kasi u tekile khale hi nawu.

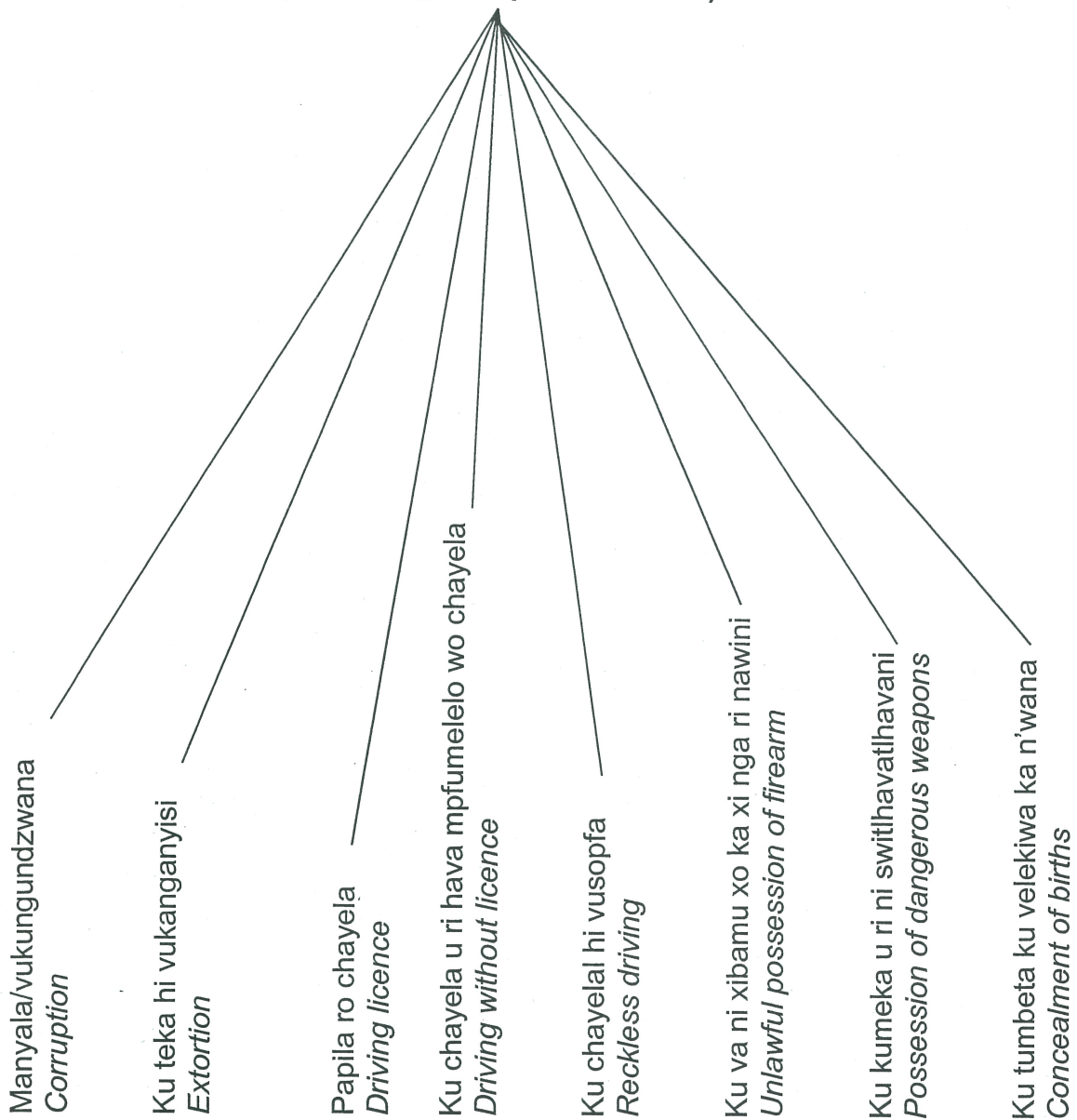
- (b) *Xitsonga – Ku tlhakisa*
Xinghezi – Abduction

Martin (1994:2) u nyika nhlamuselo ya ku tlhakisa hi ndlela leyi:

The offence of taking an unmarried girl under the age of 16 from the possession of her parents or guardians against their will.

Martin eka ntshaho lowu nga laha henhla u hlamusela leswaku ku tlhakisa i ku teka nhwana loyi a nga hansi ka malembe ya khumetsevu loyi a nga hansi ka vulawuri bya vatswari ku ri hava ku pfumelelana na vatswari va yena.

**2.3.3 C) Milandzu eehla ka nhlayiseko wa vanhu
(Crimes against public welfare)**



a) *Xitsonga - Ku endla manyala/vukungundzwana*
Xinghezi - Corruption

Martin (1994: 41) u nyika nhlamuselo ya vukungundzwana hi ku vula leswaku:

Corruption is to persuade someone to accept bribes.

Martin eka ntshaho lowu u hlamusela leswaku vukungundzwana i ku susumeta munhu un'wana ku amukela ku beriwa mati.

b) *Xitsonga – Ku teka a hi vukunyanyisi*
Xinghezi - Extortion

Martin (1994: 143) u nyika nhlamuselo ya ku teka hi vukanganyisi ku ya hi xiyimo xa wena hi ndlela leyi:

A common law offence committed by public officer who uses his position to take money or any other benefit that is not due to him.

Martin eka ntshaho lowu u hlamusela leswaku nandzu wa ntlovelo ku va mutirhelamfumo a tekela vanhu mali kumbe ku teka swin'wana leswi nga riki swa yena.

c) *Xitsonga - Mpfumelelo wo chayela*
Xinghezi - Driving licence

Martin (1994: 122) u nyika nhlamuselo ya mpfumelelo wo chayela hi ndlela leyi:

*An official authority to drive a motor vehicle granted
upon passing or driving test.*

Ntshaho lowu wa mpfumelelo wo chayela wu hlamuseriwa leswaku i mpfumelelo wa ximfumo wo chayela movha lowu munhu a nyikiwa endzhaku ka ku va a humelerile eka xikambelo xo chayela.

d) *Xitsonga - Ku chayela u ri hava papila*
Xinghezi - Driving without a licence

Martin (1994: 122) u hlamusela ku chayela u ri hava papila hi ndlela leyi:

*An offence committed by someone who drives a motor
vehicle on a public road without a driving licence.*

Eka ntshaho lowu Martin u hlamusela leswaku ku chayela u ri hava mpfumelelo wo chayela ku ri nandzu lowu muchayeri wa movha a wu endlaka hi ku chayela movha epatwini a ri hava papila ro chayela.

- e) *Xitsonga - Ku chayela hi vusopfa*
Xinghezi - Reckless driving

Martin (1994: 300) u nyika nhlamuselo ya ku chayela hi vusopfa hi ndlela leyi:

The offence of driving a motor vehicle on a road in such a way as to create a real risk of causing physical injury to the road users.

Ntshaho lowu wu hlamusela leswaku ku chayela hi vusopfa i ku chayela hi ndlela leyi yi nga endlaka leswaku vatirhisi va gondzo va kumeka va ri ekhomyeni kumbe ku tshuka va vavisekile.

- f) *Xitsonga - Ku va ni xibamu xo ka xi nga ri nawini*
Xinghezi - Unlawful possession of any fire-arm

Snyman (1995: 393) u nyika nhlamuselo ya ku va ni xibamu xo ka xi nga ri nawini hi ndlela leyi:

Any person who has in his possession any fire-arm, unless licenced to possess such arm commit an offence.

Ntshaho lowu nga laha henhla wu hlamusela leswaku ku va ni xibamu xo ka xi nga ri nawini i ku va ni xibamu xo ka xi nga ri nawini, handle ka loko munhu a kumeka a ri na mfumelelo wo va na xona.

- g) *Xitsonga - Ku kumeka munhu a ri ni switlhavatlhavani*
Xinghezi - Possession of dangerous weapons

Snyman (1995:394) u nyika nhlamuselo ya ku kumeka munhu a ri na switlhavatlhavani hi ndlela leyi:

The expression "dangerous weapon" is defined as any object other than a firearm, which is likely to cause serious bodily injury if it were used to commit an assault.

Ntshaho lowu wu hlamusela leswaku rito switlhavatlhavani ri hlamusela nchumu wun'wana na wun'wana handle ka xibamu lowu munhu a nga wu tirhisaka ku vavisa miri, kumbe wu nga tirhisiwaka ku hima kumbe ku gamba.

- h) *Xitsonga - Ku tumbeta ku velekiwa ka n'wana*
Xinghezi - Concealment of births

Snyman (1995: 397) u hlamusela ku tumbeta ku velekiwa ka n'wana (concealment of births) hi ndlela leyi:

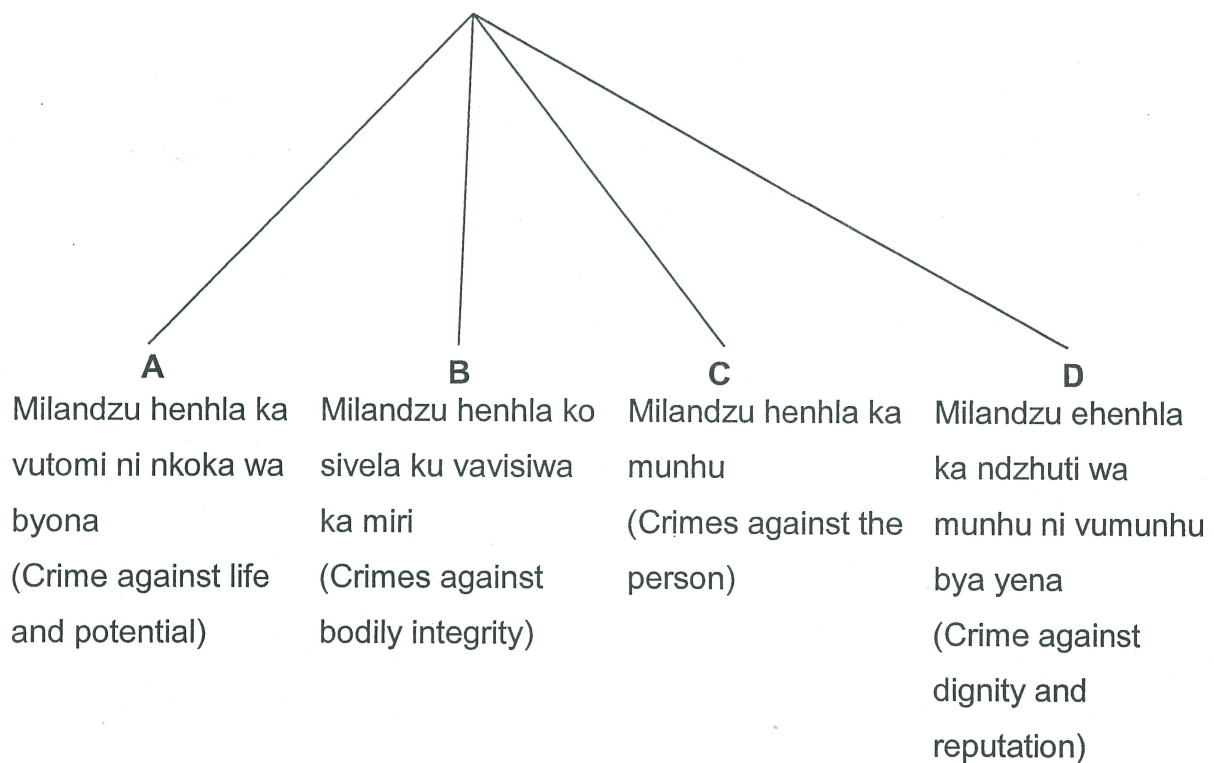
Any person who disposes the body of any child with intent to conceal the fact of its birth, whether the child died before, during or after birth is guilty of an offence.

Snyman u hlamusela ku tumbeta ku velekiwa ka n'wana hi xikongomelo xo tumbeta ku va a velekiwile, a nga va n'wana a lovile a nga si velekiwa, hi nkarhi wo velekiwa kumbe endzhaku ka ku va a velekiwile, munhu yoloye u ta kumeka a ri na nandzu.

2.3.4. Nxopaxopo wa matheme ku ya hi swiyenge leswi nga laha hansi ka milandzu leyi nga ehenhla ka munhu

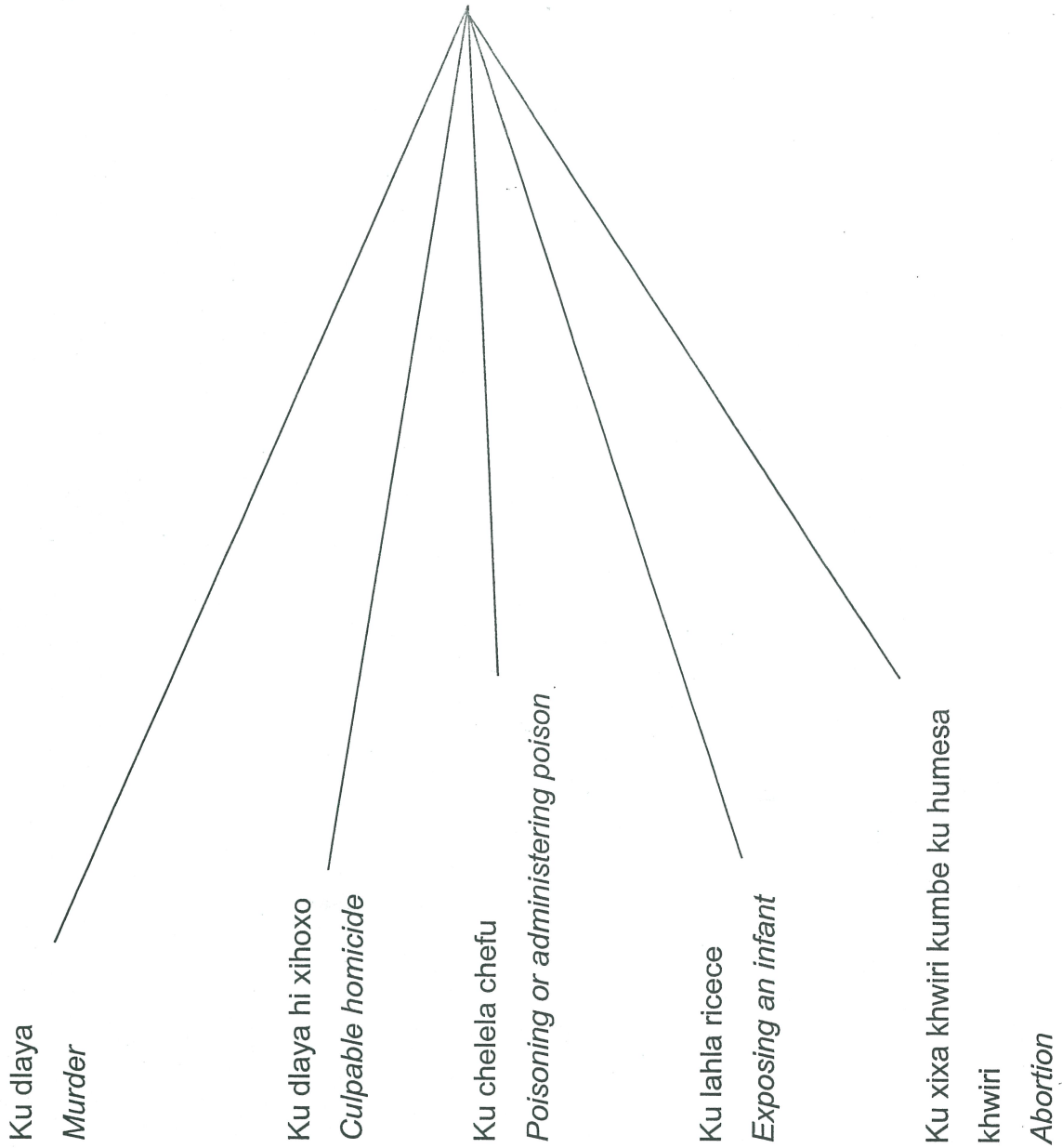
Milandzu ehenhla ka munhu yi tthele yi avanyisiwa hi swiyenge swa mune ku ya hi xifaniso lexi landzelaka:

**Milandzu ehenhla ka munhu
(Crimes against person)**



Nxopaxopo wa matheme ku ya hi swiyenge leswi nga laha hansi ka milandzu leyi nga laha ehenhla ka munhu

**2.3.5 (A) Milandzu ehenhla ka vutomi ni nkoka wa byona
(Crimes against life and potential life)**



- (a) *Xitsonga - Ku dlaya*
Xinghezi -Murder

Iqbane (2006: 19) u nyika nhlamuselo ya ku dlaya hi ndlela leyi:

*Murder is the unlawful and intentional killing of a
human being.*

Ku dlaya eka ntshaho lowu wa Iqbane wu hlamuseriwa leswaku i ku va swi nga ri enawin' u dlaya munhu hi xikongomelo.

- (b) *Xitsonga - Ku dlaya hi xihoxo / Ku dlaya u nga tiyimiselanga*
Xinghezi – Culpable homicide

Iqbane (2006: 117) u nyika nhlamuselo ya ku dlaya hi xihoxo hi ndlela leyi:

*Culpable homicide is the unlawful negligent of killing
another human being.*

Eka ntshaho lowu Iqbane u hlamusela ku dlaya u nga tiyimiselanga u hlamusela leswaku hi leswi munhu a nga swi endlaka hikokwalaho ka vusopf lebi nga vanga rifu ra munhu un'wana.

- (c) *Xitsonga - Ku chelela chefu*
Xinghezi - Poisoning or administering poison

Iqbane (2006: 19) u nyika nhlamuselo ya ku chelela chefu hi ndlela leyi landzelaka:

The crime of administering poison consists in unlawfully and intentionally administering to another person poison or another noxious substance.

Ntshaho lowu nga laha henhla wu hlamusela leswaku ku chelela chefu i ku va swi nga ri nawini naswona u chelela munhu un'wana chefu hi xikongomelo.

- (d) *Xitsonga - Ku lahla ricece*
Xinghezi - Exposing an infant

Snyman (1995: 405) u nyika nhlamuselo ya ku lahla ricece (exposing an infant) hi ndlela leyi:

The crime of exposing an infant consists of the unlawful and intentional exposure and abandonment of an infant in such a place or in such circumstances that its death from exposure is likely to result.

Ntshaho lowu wa ku lahla ricece hi leswi munhu a swi endlaka hi xikongomelo xo veka kumbe ku lahla n'wana laha a nga tshukaka a humelerile hi khombo kumbe eka ndhawu leyi khombo ri talaka ku humelela.

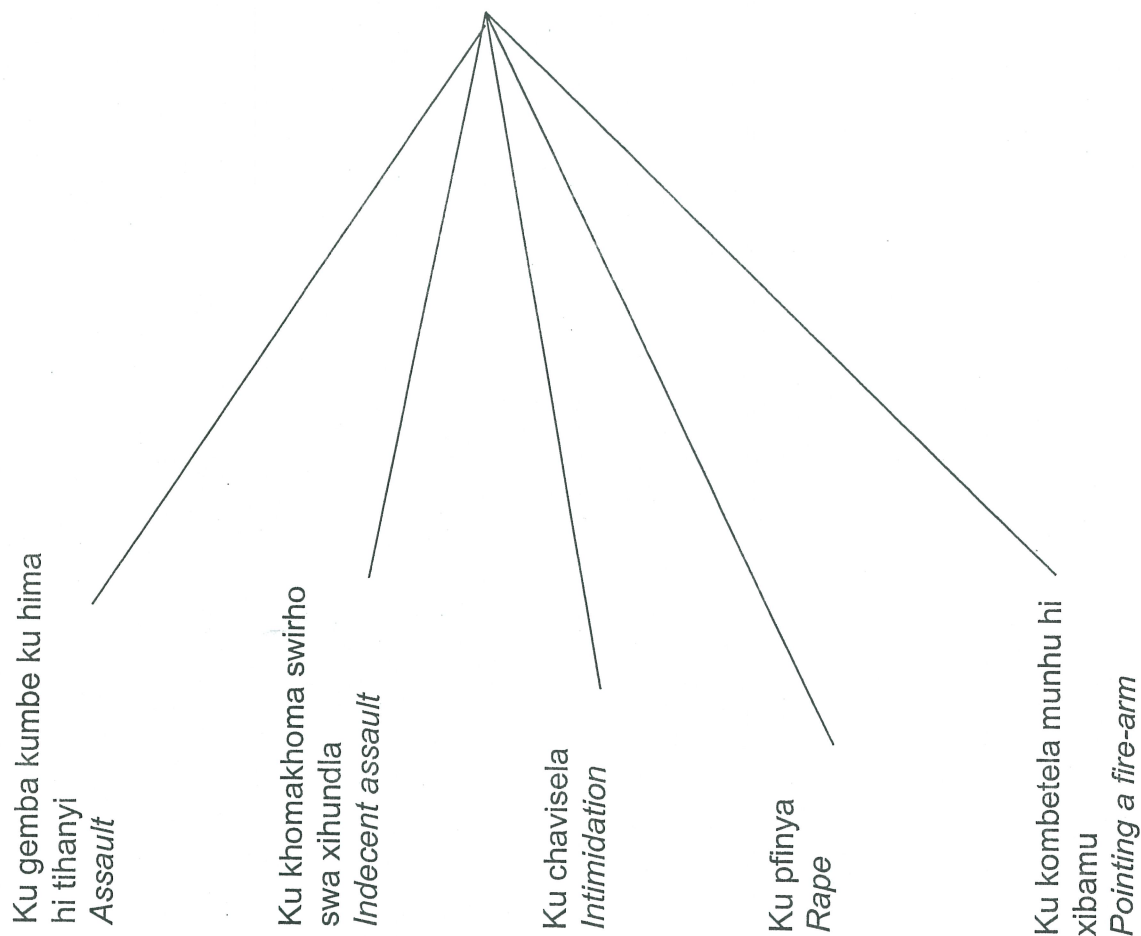
- e) *Xitsonga - Ku xixa khwiri/ku humesa khwiri*
Xinghezi - Abortion

Martin (1994: 2) u nyika nhlamuselo ya ku xixa khwiri hi ndlela leyi:

*The termination of a pregnancy at a stage when the
foetus incapable of independent survival.*

Ntshaho wa Martin wu hlamusela leswaku ku xixa khwiri i ku humesa ndzhwalo wa vuyimani laha n'wana exivelekelweni a nga si swi kotaka ku tiyimela.

2.3.5 (B) *Milandzu ehenhla ka nsivelo wa ku vavisiwa ka miri*
(*Crimes against bodily integrity*)



- a) *Xitsonga - Ku gamba kumbe ku hima hi tihanyi*
Xingezi - Assault

Snyman (1995: 413) u nyika nhlamuselo ya ku gamba kumbe ku hima hi tihanyi hi ndlela leyi:

Assault consists of unlawfully and intentionally act that cause someone to be put in fear of

immediate physical harm, e.g. point a gun at someone.

Snyman eka ntshaho lowu u hlamusela ku gamba kumbe ku hima hi tihanyi hi leswi munhu a swi endlaka hi xikongomelo xo gamba hi tihanyi kumbe ku chavisela, leswi nga tshuku swi vavisile n'wanu, xikombiso, ku kombetela hi xibamu.

- b) *Xitsonga - Ku khomakhoma swirho swa xihundla*
Xinghezi - Indecent assault

Snyman (1995: 419) u nyika nhlamuselo ya ku khomakhoma swirho swa xihundla hi ndlela leyi:

Indecent assault formerly an assault or battery in circumstance of indecency such as touching or attempting to touch the genital of another person without their consent.

Ntshaho lowu wa Snyman wu hlamusela leswaku ku khomakhoma swirho swa xihundla ku khomakhoma kumbe ku ringeta ku khomakhoma swirho swa xisati ku ri hava mpfumelelano.

- c) *Xitsonga - Ku chavisela*
Xinghezi - Intimidation

Martin (1994: 191) u nyika nhlamuselo ya ku chavisela (intimidation) hi ndlela leyi:

The act of frightening someone into doing something.

Ntshaho lowu wu hlamusela leswaku ku chavisela i ku chavisela un'wana leswaku a endla swin'wana

d) *Xitsonga – ku pfinya*
Xinghezi - Rape

Martin (1994: 337) u nyika nhlamuselo ya ku pfinya (rape) hi ndlela leyi:

Sexual intercourse with a woman without her consent as a result of physical force or threat or because she was conscious or asleep or because a consent was obtained through fraud.

Ntshaho lowu wa Martin wu hlamusela leswaku ku pfinya hi laha wa xisati a sindzisiwaka, ku ri hava mpfumelelano, ku chaviseriwa kumbe mpfumelelao wu kumeke hi ndlela ya vukanganyisi.

- e) *Xitsonga - Ku kombetela munhu hi xibamu*
Xinghezi - Pointing a fire-arm

Snyman (1995: 423) u nyika nhlamuselo ya ku kombetela munhu hi xibamu (pointing an arm) hi ndlela leyi:

Pointing an arm provided that any person who unlawfully points any arm, air rifle or air revolver at any person commits an offence.

Snyman u hlamusela leswaku ku kombetela munhu hi xibamu (pointing an arm) a wi fumeleriwi. Munhu a nga va ni xibamu xihi kumbe xihi a xi tirhisa ku kombetela munhu hi xona u ta va a ri na nandzu.

**2.3.5. (C) Nandzu ehenhla ka ntshunxeko wo fambafamba
(Crime against the freedom of movement)**



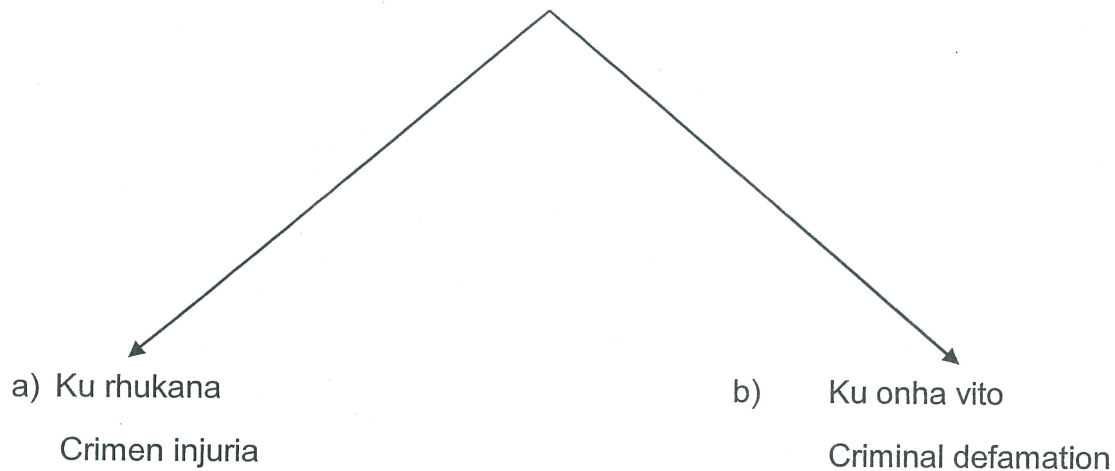
Ku va xikhomelanandzu/ku tlhakisa
Kidnapping

Snyman (1995: 437) u nyika nhlamuselo ya ku va xikhomela-nandzu kumbe ku tlhakisa hi ndlela leyi:

Kidnapping consists in unlawfully and intentionally depriving a person of his freedom of movement and or if such person is a child, his custodians of their control over him.

Ntshaho lowu wu hlamusela leswaku ku va xikhomelanandzu (kidnapping) i ku khoma munhu hi xikongomelo leswaku a nga koti ku fambafamba kumbe loko a ri n'wana, vulawuri bya yena byi le henhla ka wena.

**2.3.5. (D) Milandzu ehenhla ka ndzhuti wa munhu ni vumunhu bya yena
(Crime against dignity and reputation)**



- a) *Xitsonga - Ku rhukana*
Xinghezi - Crimen injuria

Snyman (1995: 428) u nyika nhlamuselo ya ku rhukana hi ndlela leyi:

Crimen injuria consists in the unlawful and intentional violation of dignity or privacy of another, in circumstances where such violation is not of a trifling nature.

Snyman u hlamusela leswaku ku rhukana hi leswi swi nga riki nawini, leswi munhu a swi endlaka hi xikongomelo xa ku onha ndzhuti wa munhu kumbe ku humesela vumunhu bya un'wana ehandle.

(b) *Xitsonga – Ku onha vito*
Xinghezi - Criminal defamation

Snyman (1995: 438) u nyika nhlamuselo hi ndlela leyi:

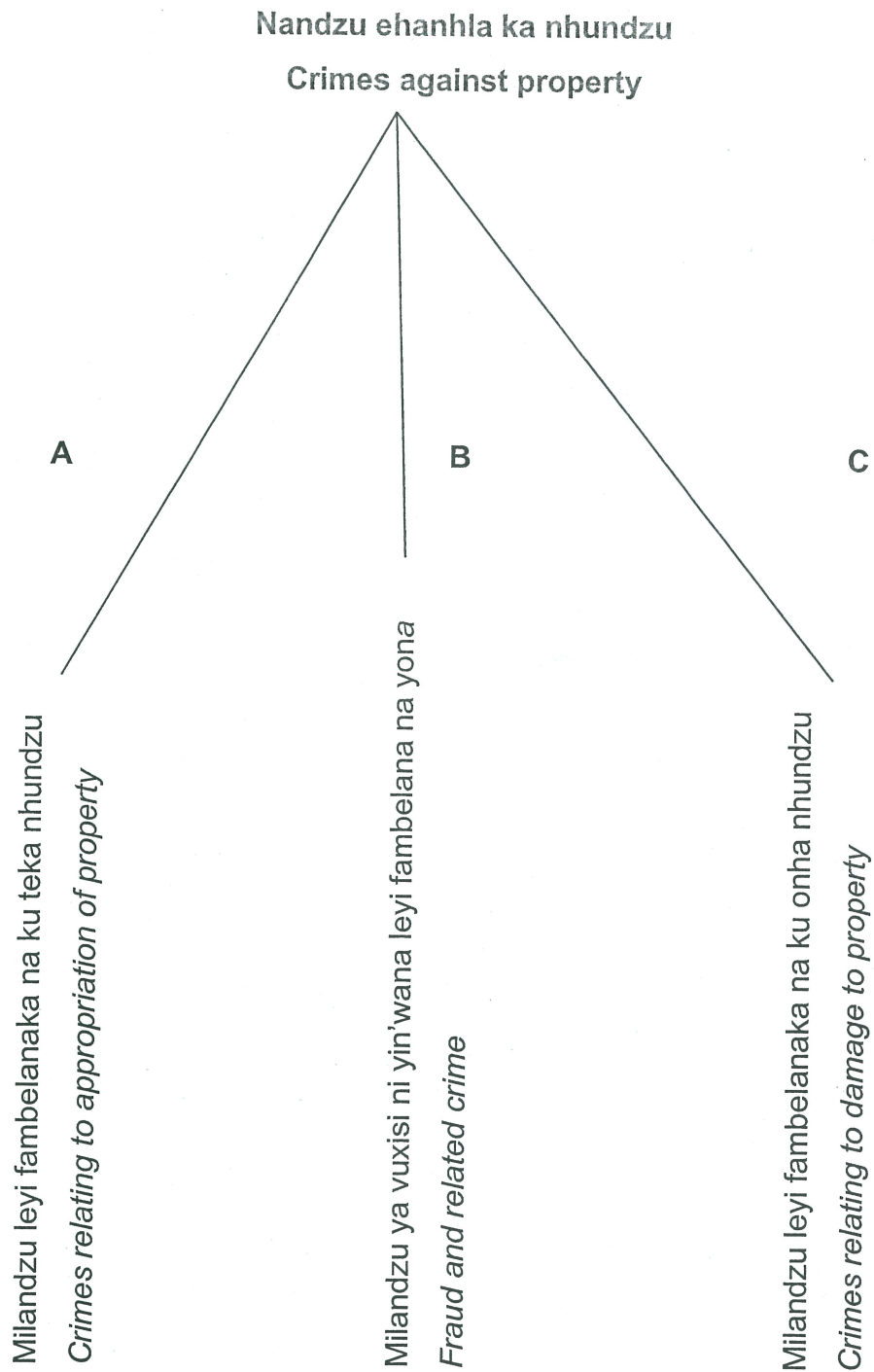
Criminal defamation consists in the unlawful and intentional publication of matter concerning another which tends seriously to injure his reputation.

Ntshaho lowu wu hlamusela leswaku ku onha vito i nandzu lowu munhu a wu endlaka hi xikongomelo xo humesela timhaka ta un'wana ehandle leti nga tshukaka ti onha vumunhu bya yena.

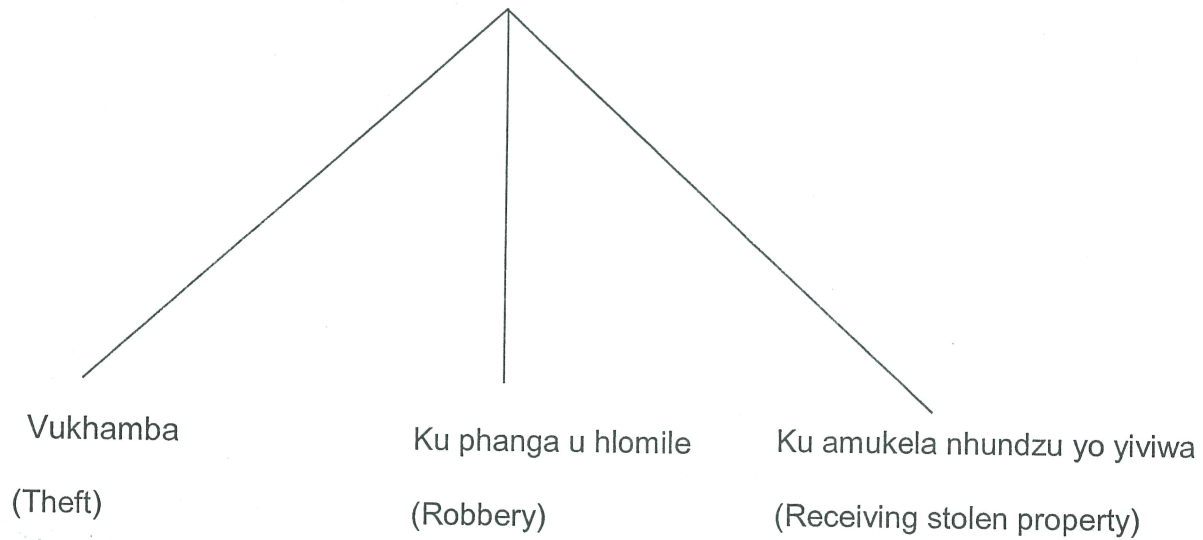
2.3.6. Nxopaxopo wa matheme lama nga hansi ka nhlokomhaka ya milandzu ehenhla ka nhundzu

(Analysis of crimes against property)

Milandzu ehenhla ka nhundzu yi avanyisiwile hi swiyenqe swinharhu. Milandzu leyi yi nga kombisiwa hi xifaniso xa murhi lexi landzelaka:



Milandzu leyi fambelanaka ni ku teka nhundzu
(Crimes relating to appropriation of property)



- (a) *Xitsonga - Vukhamba*
Xinghezi - Theft

Martin (1994: 364) u nyika nhlamuselo ya vukhamba hi ndlela leyi landzelaka:

Theft is the dishonest appropriation of proper belonging to someone else with the intention of keeping it permanently.

Ntshaho lowu wu hlamusela leswaku vukhamba i ku va munhu a nga tshembekanga, a teka nhundzu ya un'wana a tshama na yona hi xikongomelo xo yi endla yi va ya yena.

- (b) *Xitsonga - Robbery*
Xinghezi – Ku phanga u hlomile

Martin (1994: 322) u nyika nhlamuselo ya ku phanga u hlomile hi ndlela leyi:

*The offence of using force against any person
or utting them in fear of being subjected to
force, In order to commit theft.*

Martin u nyika nhlamuselo ya ku phanga u hlomile leswaku hi laha munhu a endlaka vukhamba hi ku tirhisa matimba eka un'wana na un'wana kumbe ku chavisela hi ku va va tshikileriwile hi matimba leswaku va ta kota ku teka leswi va swi lavaka.

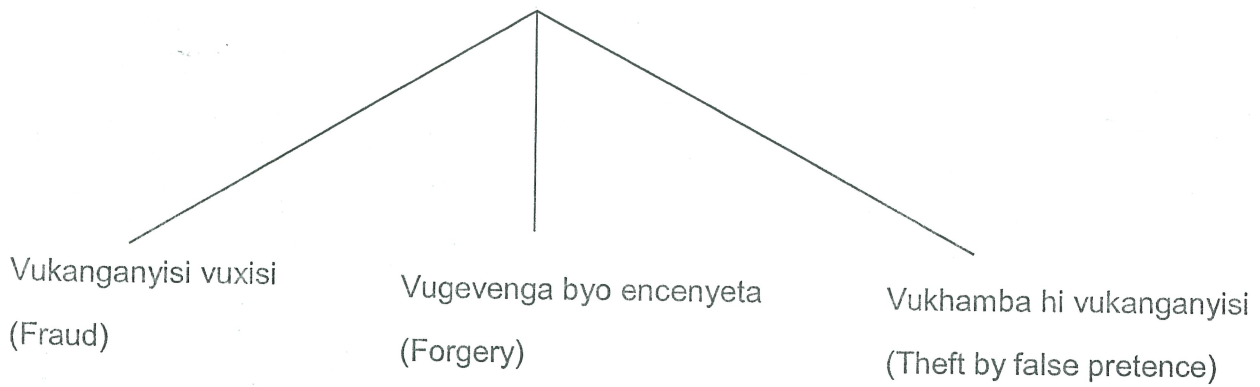
- (c) *Xitsonga - Ku amukela nhundzu yo yiviwa*
Xinghezi - Receiving stolen property

Snyman (1995: 479) u nyika nhlamuselo ya ku amukela nhundzu yo yiviwa hi ndlela leyi:

*A person commits the crime of receiving
stolen property, knowing it to be stolen if he
unlawfully and intentionally receives into his
possession property knowing at the time he
does so, that it has been stolen.*

Ntshaho lowu wu hlamusela leswaku ku amukela nhundzu yo yiviwa hi loko munhu a amukela nhundzu leyi a ri karhi a swi tiva leswaku yi yiviwile, u ni nandzu hikuva u amukela hi xikongomelo a ri karhi a swi tiva hi nkarhi wolowo lewaku yi yiviwile.

**B. Milandzu yo endla vukanganyisi ni yin'wana leyi fambelanaka na yona
(Fraud and related crimes)**



- (a) *Xinghezi - Fraud*
Xitsonga – Vukanganyisi/vuxisi

Martin (1994: 155) u nyika nhlamuselo ya vukanganyisi hi ndlela leyi:

A false representation by means of a statement or conduct made in order to gain material advantage.

Ntshaho lowu wa vukanganyisi Martin u wu hlamusela leswaku i mavekelo ya timhaka ta vunwa hi ndlela ya xitatimendhe kumbe maendlelo lawa munhu a nga ta kota ku vuyeriwa.

- (b) *Xitsonga – Vugevenga byo encenyeta*
Xinghezi – Forgery

Martin (1994: 195) u nyika nhlamuselo ya vugevenga byo encenyeta hi ndlela leyi:

The offence of making a false document in order that it may be accepted as genuine, thereby causing harm to another (an instrument may be a document, a stamp or any device, e.g. magnetic tape).

Ntshaho lowu wu hlamusela leswaku vugevenga byo encenyeta i ku nyika tsalwa ra vunwa leswaku ri ta amukeleka ri ri rona ra ntiyiso, kasi hala tlhela ri vavisa un'wana. (Xitirhisiwa lexi nga tirhisiwaka ku nga va tsalwa, xitempe kumbe xin'wana na xin'wana xa xitirhisiwa, xikombiso, thepi ya maginete).

(c) *Xitsonga -Vukhamba hi vukanganyisi*
Xinghezi - Theft by false pretence

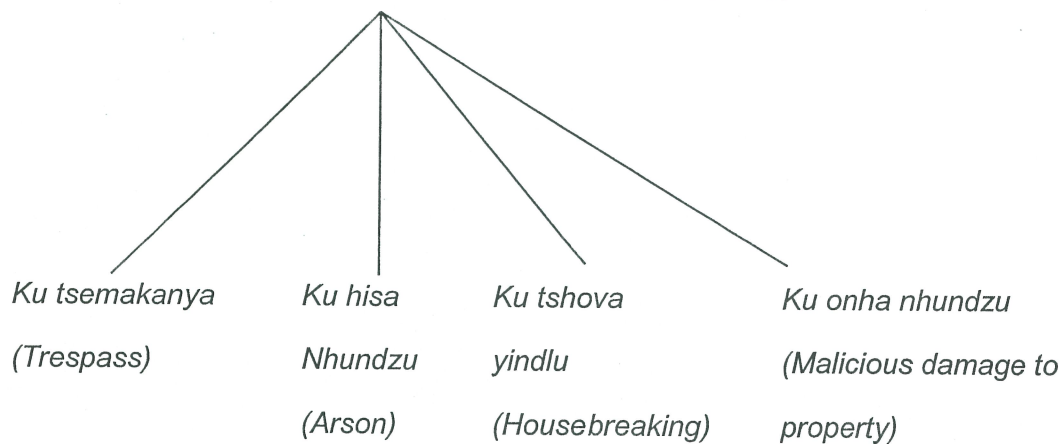
Snyman (1995: 499) u nyika nhlamuselo ya vukhamba hi vukanganyisi hi ndlela leyi:

A person commits thefts by false pretence if he unlawfully and intentionally obtains movable property, belonging to another with the consent of the person from whom he obtains it, such consent being given as a result of intentional misrepresentation by the person committing the crime and appropriate it.

Ntshaho lowu wu hlamusela leswaku vukhamba bya vukanganyisi i ku va munhu a kumeka ri ni nhundzu leyo khomeka ya un'wana hi ku komba onge hi yena n'wini wa yona u tiva ni lomu yi humaka kona, kasi endzhaku nandzu wu kumeka eka yena.

Milandzu leyi fambelanaka ni ku onha nhundzu

(Crimes relating to damage of property)



Martin (1994:371) u nyika nhlamuselo ya ku tsemakanya hi ndlela leyi:

A wrongful direct interference with another person or with his possession of land or goods.

- (a) *Xitsonga – Ku tsemakanya*
Xinghezi – Trespass

Ntshaho lowu wu hlamusela leswaku ku tsemakanya i ku kavanyeta munhu n'wana endhawini ya yena kumbe ku nga va ku ri ndhawu kumbe nhundzu ya yena.

- (b) *Xitsonga - Ku hisa nhundzu*
Xinghezi - Arson

Martin (1994: 24) u nyika nhlamuselo ya ku hisa nhundzu hi ndlela leyi:

The intentional or reckless destruction or damaging of property by fire with a lawful excuse.

Martin u hlamusela leswaku ku hisa nhundzu i nandzuwo hisa nhundzu hi ndzilo hi xikongomelo xo lava ntsetselelo wa nawu.

- (c) *Xitsonga - Ku tshova yindlu*
Xinghezi - Housebreaking

Martin (1994: 25) u nyika nhlamuselo ya ku tshova yindlu hi ndlela leyi:

Forcing one's way into someone else's house.

Martin u hlamusela leswaku ku tshova yindlu eka ntshaho lowu leswaku hi loko munhu a sindzisa ku nghena endlwini ya un'wana munhu.

- (d) *Xitsonga - Ku onha nhundzu*
Xinghezi - Malicious damage to property

Snyman (1995: 502) u nyika nhlamuselo yaku onha nhundzu hi ndlela leyi:

Malicious injury to property unlawfully and intentionally damages movable or immovable property belonging to another or his own insured property intending to claim the value at the property from the insurer.

Ntshaho lowu wa Snyman wu hlamusela ku onha nhundzu hi loko munhu a onha nhundzu yo tlakuleka kumbe yo ka yi nga koti ku tlakuleka ya yena n'wini kumbe u'nwana hi xikongomelo xo lava ku vuyeriwa endzhaku ka ku tivisa vandzindzakhombo va yena.

2.4. *Nkatsakanyo*

Eka Nawu lowu wa vugevenga ndzi kume leswaku I swa nkoka swinene leswaku n'wana na n'wana a tiva milawu leyi hikuva ndi vone ko tala loko hi hlangana na swipiqho hi ngu ni tivi theminoloji ya nandsu lowu a nga khomeriwaka wona. Loko matsalwa ya theminoloji yo kota ku fikelela eka vanhu swi ta olova eka vakhomi ni vakhoniwanu ni vaavanyisi va milandzu hikuva hinkwawo marito ya theminoloji ma tivekaku eka vanhu.

NDZIMA YA 3

3. XITSONGA - NAWU WA VUMBIWA XINGHEZI - CONSTITUTIONAL LAW

3.1. *Manghenelo*

Eka nawu wa vumbiwa (Constitutional law) hi ta hundzuluxa matheme lama nga eka nawu wa 108 wa vumbiwa ra lembe ra 1996. Vumbiwa na rona ri ni maavanyiselo ya rona ya milawu. Motala na Ramaphosa (2002: 223) va hlamusela leswi landzelaka hi nawu wa vumbiwa (constitutional law) hi ndlela leyi:

The constitution contains protection for first, second and third generation human rights and proclaim that the Bill of rights is a cornerstone of democracy.

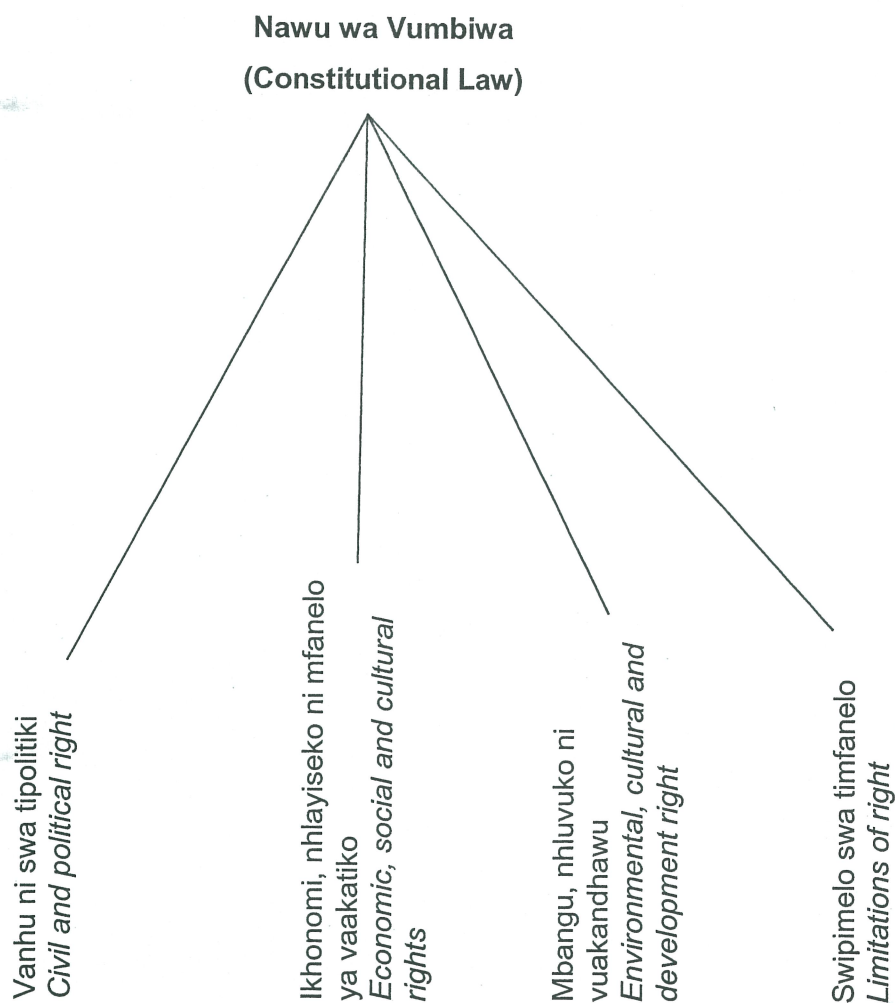
Motala na Ramaphosa eka ntshaho lowu va vula leswaku vumbiwa ri na nsirhelelo eka xiyenge xo sungula ni xa vumbirhi, xa vunharhu i timfanelo ta ximunhu lexi nga xiviko xa nawumbisi wa timfanelo tanihi masungulo eka xidemokrasi. Kasi Mason na Cotzee (2004: 17) vona va ri:

The constitution contains the following types of rights: civil and political rights, economic, social and cultural rights, environmental, cultural and development right and right may only be limited on the limitation is reasonable and justifiable.

Eka ntshaho lowu Mason na Coetzee va hlamusela leswaku vumbiwa ri na tinxaka ta timfanelo, timfanelo ta vanhu ni swa tipolitiki, nawu wa timfanelo, ikhonomi, hlayiseko ni mfanelo ya vaakatiko, nawu wa timfanelo ta mbangu, nhluvuko ni timfanelo ta vuakandhawu naswona nawu wu nga pimeriwa ntsena loko swipimelo swa kona swi kota ku twisiseka.

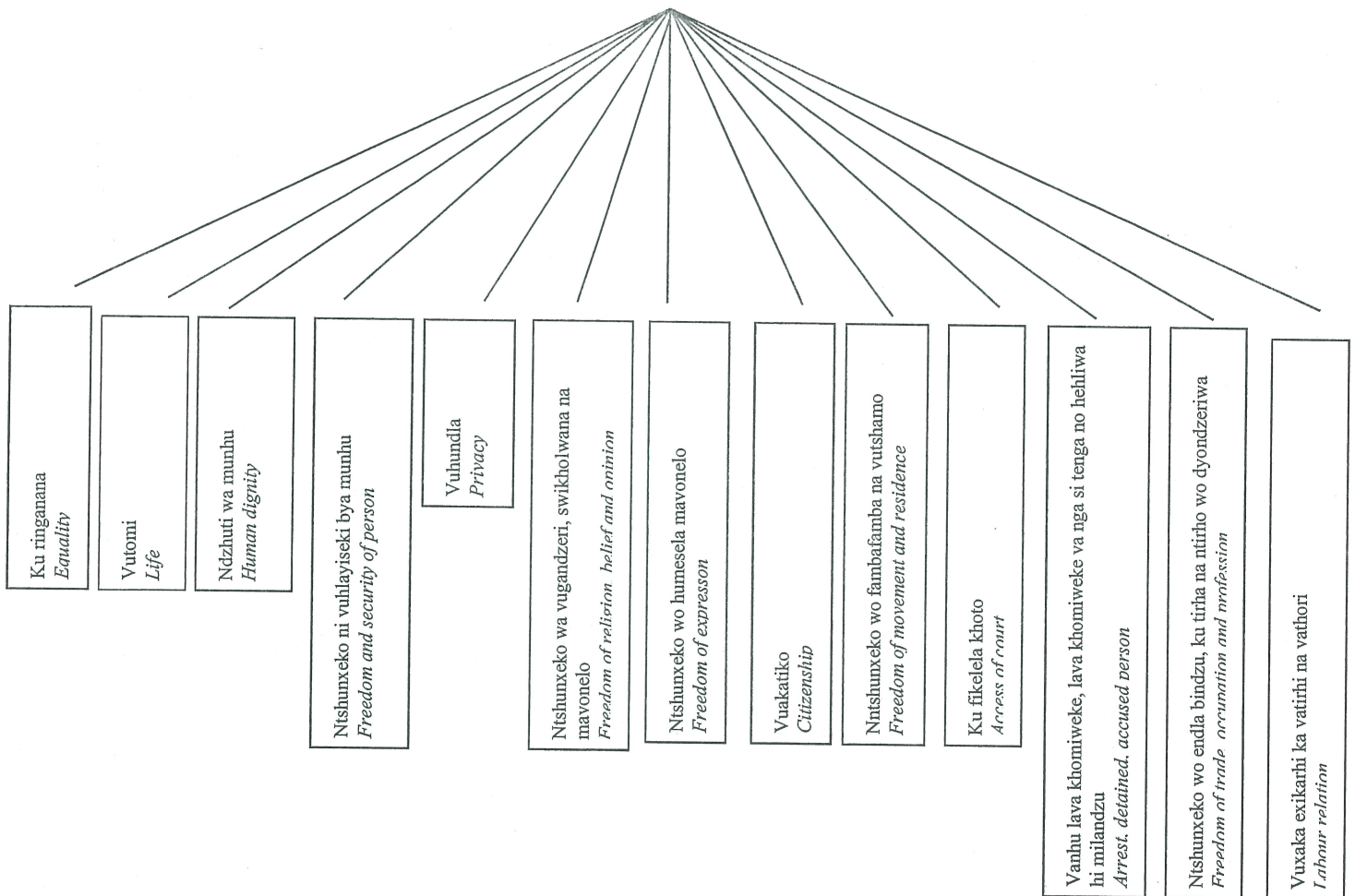
3.2 Nxopaxopo wa nawu wa vumbiwa (Analysis of constitution law)

Nawu wa vumbiwa wu avanyisiwile hi swiphemu swa mune. Vuxaka bya maavanyiselo ya milawu hi ku angarhela bya nawu wa vumbiwa byi ta hlamuseriwa hi xitalo hi xifaniso xa murhi lexi landzelaka:



3.3 Nxopaxopo wa nawu wa vumbiwa ku ya hi miavo leyi ya mune
 (Analysis of classification of constitutional law into four categories)

3.3.1 Vanhu ni timfanelo ta swa tipolitiki
 (Civil and political right)



3.3 Nxopaxopo wa vanhu ni timfanelo ta swa tipolitiki

- (a) Xitsonga – Ndzinganano
 Xinghezi - Equality

South African's constitution (1996:7) yi nyika nhlamuselo ya ndzinganano (equality)

hi ndlela leyi:

Everyone is equal before the law and has the right to equal protection and benefit of the law.

Ntshawo lowu nga laha henhla wu hlamusela leswaku vanhu hinkwavo va ni ndzinganano emahlweni ka nawu naswona va na mfanelo yo sirheleriwa hi ku ringana ni ku pfuniwa hi nawu.

(b) *Xitsonga - Vutomi*
Xinghezi - Life

South Africa's constitution (1996: 7) va nyika nhlamuselo ya vutomi (life) hi ndlela leyi:

Everyone has the right to life.

Ntshaho lowu wu hlamusela leswaku munhu un'wana na un'wana u na mfanelo yo hanya.

(c) *Xitsonga - Ndzhuti wa munhu*
Xinghezi - Human dignity

Burchel ma Milton (1997: 2) va nyika nhlamuselo ya ndzhuti wa munhu (human dignity) hi dlela leyi landzelaka:

Everyone has inherent dignity and the right to have their dignity respected and protected.

Ntshaho lowu wa ndzhuti wa munhu wu hlamusela leswaku munhu un'wana na un'wana u na mfanelo yo tshama a ri na ku xiximeka na ndzhuti, a tlhela a va na mfanelo yo xiximiwa na ku sirheleriwa ka ndzhuti wa yena.

- (d) *Xitsonga - Ntshuxeko wa vuhlayiseki bya munhu*
Xinghezi - Freedom and security of the person

Burchell na Milton (1997: 2) va nyika nhlamuselo ya ntshuxeko wa vuhlayiseki bya munhu hi ndlela leyi:

Everyone has the right to freedom and security of the person which include the right not to be deprived of freedom arbitrarily or without just cause.

Marito lawa ya ntshuxeko na vuhlayiseki bya munhu ya hlamusela leswaku un'wana na un'wana u na mfanelo yo tshunxeka na ku sirheleriwa leswi katsaka na mfanelo ya ku ka a nga tekeriwi ntshunxeko handle ka xivangelo xo twala kumbe ku nga ri na xivangelo lexi faneleke.

- (e) *Xitsonga - Vuhundla*
Xinghezi - Privacy

Burchell na Milton (1997: 2) va hlamusela vuhundla (privacy) hi ndlela leyi:

Everyone has the right to privacy which include the right not to have their home searched, their property searched or the privacy of their communications infringed.

Marito lawa ya vuhundla ya hlamusela leswaku munhu un'wana na Un'wana u na mfanelo ya xihundla leswi katsaka na mfanelo ya ku ka a nga sechiwi nhundzu, ku a nga sechiwi muti wa yena, ku ka a nga kavanyetiwi eka xihundla xo fambelana na vuhlanganisi bya yena.

- (f) Xitsonga - Ntshunxeko wa vugandzeri, ku tshemba na mavonelo
Xinghezi - Freedom of religion, belief and opinion

South Africa's constitution (1996: 9) va nyika nhlamuselo ya ntshuxeko wa vugandzeri, ku tshemba na mavonelo hi ndlela leyi:

Everyone has the right to freedom of conscience religion, thought, belief and opinion.

Ku ya hi ntshaho lowu nga laha henhla wa ntshuxeko wa vugandzeri, ku tshemba na mavonelo wu vula leswaku un'wana na un'wana u na mfanelo yo ntshuxeka eka ripfumelo, vugandzeri, miehleketo, ku tshemba na mavonelo.

- (g) *Xitsonga - Mfanelo ya ntshuxeko wo humesa mavonelo*
Xinghezi - Freedom of expression

Rautenbach u hlamusela leswaku muakatiko un'wana na un'wana a nga fanelangi ku tsoniwa mfanelo va vuakatiko.

Everyone has the right to freedom of expression.

Eka ntshaho ku hlamuseriwa leswaku mfanelo ya ntshuxeko wo humesa mavonelo swi vula leswaku un'wana na un'wana u na mfanelo yo humesela erivaleni miehleketo ya yena.

- (h) *Xitsonga – Vuakatiko*
Xinghezi - Citizenship

No citizen may be deprived of citizenship.

Rautenbach u hlamusela leswaku muakatiko un'wana na un'wana a nga fanelangi ku tsoniwa mfanelo va vuakatiko.

- (i) *Xitsonga - Ntshuxeko wo fambafamba na vutshamo*
Xinghezi - Freedom of movement and residence

South Africa's onstitution (1996: 10) yi nyika nhlamuselo ya ntshuxeko wo fambafamba na vutshamo hi ndlela leyi:

*Everyone has the right to freedom of movement
and every citizen has the right to enter, to remain
in and to reside anywhere in the Republic.*

Marito lawa ya hlamusela leswaku ntshunxeko wo fambafamba na vutshamo swi vula leswaku munhu un'wana na un'wana u na ntshunxeko wo fambafamba na ku tshama kun'wana na kun'wana laha tikweni.

- (j) *Xitsonga - Mfikelelo wa mahungu*
Xinghezi - Access to information

Devenish (1998: 78) u nyika nhlamuselo ya mfikelelo wa mahungu hi ndlela leyi:

*Everyone has the right of access to any information
held by the state and any information that is held by
another person and that is required for the exercise
or protection of any rights.*

Ntshaho lowu wu hlamusela leswaku munhu un'wana na un'wana u na mfanelo yo fikelela mahungu wahi kumbe wahi lama ya nga mavokweni ya mfumo na mahungu wahi kumbe wahi lama nga mavokweni ya munhu un'wana na un'wana naswona lama swi nga endlekaka leswaku ya lava ku tirhisiwa no sirhelela timfanelo tihi na tihi.

- (k) *Xitsonga - Ku fikelela tikhoto*
Xinghezi Xinghez i- Access to courts

South Africa's constitution (1996: 16) yi hlamusela ku fikelela tikhoto hi ndlela leyi:

Everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court.

Ku ya hi ntshaho lowu munhu un'wana na un'wana u na mfanelo ya mholovo yihi na yihi leyi nga ahluriwaka hi ku tirhiseriwa nawu yi tsemiwa emahlweni ka khoto ya nawu lowunene lowu tirhelaka erivaleni.

- (l) *Xitsonga - Ku khoma, ku khotsiwa na munhu la hehliwaka*
Xinghezi - Arrest, detained and accused person

South Africa's constitution (1996: 16) yi nyika nhlamuselo ya ku khoma, ku khotsiwa na munhu la hehliwaka hi ndlela leyi landzelaka:

Everyone who is arrested for allegedly committing an offence has the right to remain silent and to be informed promptly.

Ntshaho lowu wa ku khoma, ku khotsiwa na munhu la hehliwaka wu hlamusela leswaku un'wana na un'wana loyi a khomiweke ku senga hi ku tekiwa ku va a endle nandzu u na mfanelo yo va a nga hlamuseli nchumu no tivisiwa hi xihatla.

(m) *Xitsonga - Ntshuxeko wa ku tihlanganisa na van'wana*
Xinghezi - Freedom of association

Devenish (1998: 61) u nyika nhlamuselo ya ntshuxeko wo tihlanganisa na van'wana hi ku rula leswaku *Everyone has the right to freedom of association.*

Devenish eka ntshaho lowu u hlamusela leswaku munhu un'wana na un'wana u na mfanelo yo ntshuxeka ya ku tihlanganisa na van'wana.

(n) *Xitsonga - Ntshuxeko wo endla bindzu, ku tirha na ntirho wo dyondzeriwa*
Xinghezi - Freedom of trade, occupation and profession

Burchell na Milton (1997: 2) va nyika nhlamuselo ya ntshuxeko wo endla bindzu, ku tirha na ntirho wo dyondzeriwa hi ndlela leyi:

Every citizen has the right to choose their trade, occupation or profession freely. The practice of a trade, occupation or profession may be regulated by law.

Ntshaho lowu wa Burchell na Milton wu hlamusela leswaku muakatiko un'wana na un'wana u na mfanelo yo langha hi ku ntshuxeka bindzu, ntirho kumbe wo dyondzeriwa. Ntirho wa bindzu, kumbe ntirho wo dyondzeriwa lowu lawuriwaka hi nawu.

- (o) *Xitsonga - Vuhlonga, ku tirhisiwa tanihi hlonga na ku tirhisiwa hi nsindziso*
Xinghezi - Slavery, servitude and forced labour

South Africa's constitution (1996: 8) yi nyika nhlamuselo ya vuhlonga, ku tirhisiwa tanihi hlonga na ku tirhisiwa hi nsindziso hi ndlela leyi:

No one may be subjected to slavery, servitude or forced labour.

Ku ya hi ntshaho lowu ku hava munhu loyi a nga ha endliwaka hlonga, ku tirhisiwa tanihi hlonga kumbe ku tirhisiwa hi nsindziso.

- (p) *Xitsonga - Timfanelo ta swa tipolitiki*
Xinghezi - Political rights

South Africa's constitution (1996: 9) yi nyika nhlamuselo ya timfanelo ta swa tipolitiki (political rights) hi ndlela leyi:

Every citizen is free to make political choices, which include the right to form political party, to participate in the activities and to campaign for political party

Ku ya hi ntshaho lowu nga laha henhla muakatiko un'wana na un'wana u na mfanelo yo langha tlhelo ro karhi ra swa tipolitiki, leswi katsaka ku vumba ntlawa wa tipolitiki, ku nghenelela eka migingiriko ya ntlawa na ku yima a vulavulela ntlawa wa swa tipolitiki.

- (q) *Xitsonga - Nhlengeletano, ku kombisa matitwelo ku phiketa na tiphētixini*
Xinghezi - Assembly, demonstration, picket and petition

South Africa's constitution (1996:9) yi nyika nhlamuselo ya nhlengeletano, ku kombisa matitwelo, ku phiketa na tiphētixini hi ndlela leyi:

Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions,

Ntshaho lowu eka vumbiwa bya Afrika-Dzonga wu hlamusela leswaku un'wana na un'wana u na mfanelo, hi ndlela yo rhula, naswona a nga hlomanga, yo ngehenela tihlengeretano, ku kombisa matitwelo, ku phiketa na ku heleketa tiphētixini.

- (r) *Xitsonga - Vuxaka bya swa mitirho*
Xinghezi - Labour relation

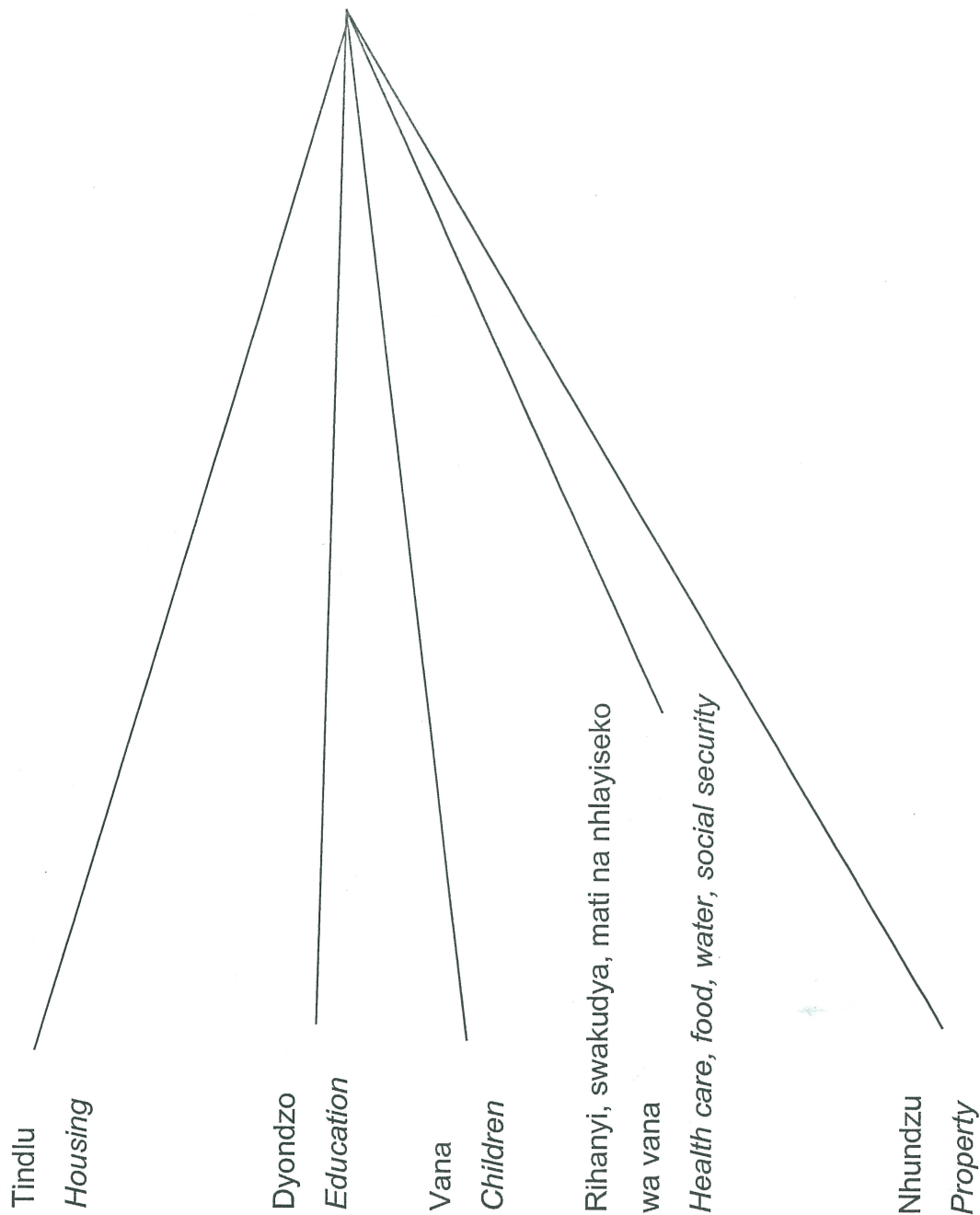
South Africa's constitution (1996: 10) yi nyika nhlamuselo hi ndlela leyi:

Everyone has the right to fair labour practices, every worker has the right to form and join a trade union, to participate in the activities and programmes of a trade union and to strike.

Ntshaho lowu wu hlamusela leswaku un'wana na un'wana u ni mfanelo yo khomiwa hi ndlela leyi faneleke eka maendlelo ya swa mitirho, mutirhi un'wana na un'wana u na mfanelo yo vumba no joyina nhlango wa vatirhi, ku hoxa xandla eka migingiriko ya vatirhi, ku hoxa xandla eka migingiriko na minongonoko ya nhlango wa vatirhi na ku kombisa ku vilela.

3.3.2 B Nxopaxopo wa matheme eka nawu wa ikhonomi, nhlaysenko ni timfanelo ta vuakandhawu
(Analysis of Economic, Social and Cultural rights)

**Nawu wa timfanelo ta ikhonomi, nhlaysenko ni timfanelo ta vuakandhawu
(Economic, social and cultural rights)**



- (a) *Xitsonga - Tindlu*
Xinghezi - Housing

Burchell na Milton (1997: 3) va nyika nhlamuselo ya mfanelo ya timhaka ta tindlu (housing) hi ndlela leyi:

*Everyone has the right to have access to
adequate housing.*

Ku ya hi ntshaho lowu un'wana na un'wana u na mfanelo yo va na vutshamo lebyi ringaneleke bya yindlu.

- (b) *Xitsonga - Dyondzo*
Xinghezi - Education

South Africa's constitution (1996: 13) yi nyika nhlamuselo ya dyondzo (education) hi ndlela leyi:

*Everyone has the right to basic education
including adult basic education and further
education which the state, through reasonable
measure must make progressively available and
accessible.*

Ntshaho lowu wa dyondzo (education) wu hlamusela leswaku munhu un'wana na un'wana u na mfanelo ya dyondzo ya masungulo ku katsa na dyondzo ya masungulo ya lavakulu ni yo yisa emahlweni, eka yona mfumo hi ku tirhisa magoza man'wana lama faneleke ku endla leswaku dyondzo yi kumeka no fikeleleka.

(c) *Xitsonga - Vana*
Xinghezi -Children

South Africa's constitution (1996: 4) yi nyika nhlamuselo ya mfanelo ya vana (children) hi ndlela leyi:

Every child has the right to a name and nationality from birth, to family care or parental care, to basic nutrition and to be protected from maltreatment.

Nhlamuselo ya ntshaho lowu hi leswaku n'wana un'wana na un'wana u na mfanelo yo kuma vito ra ku va xirho xa rixaka ku sukela eku velekiweni, mfanelo yo hlayiseka endyangwini hi vatswari, ya ku nyikiwa swakudya swa masungulo na ku sirheleriwa eka ku khomiwa hi tihanyi.

(d) *Xitsonga - Nhlayiso wa rihanyu, swakudya, mati na nhlayiseko wa vanhu*
Xinghezi - Health care, food, water and social security

South Africa's constitution (1996: 13) yi nyika nhlamuselo ya nhlayiso wa rihanyu, swakudya, mati na nhlayiseko wa vanhu hi ndlela leyi landzelaka:

Everyone has the right to access to health care, sufficient food and water and social security including if they are unable to support themselves and they are unable to support themselves and their dependants, appropriate social assistance.

Ntshaho lowu wu nga laha henhla wu hlamusela leswaku munhu un'wana na un'wana u na mfanalo yo kota ku fikelela vutirheli bya nhlayiso wa rihanyu, ku katsa na hlayiso wa ku kuma swakudya leswi eneleke na mati na nhlayiso wa vanhu hinkwavo ku katsa na loko a nga koti ku tihlayisa yena n'wini na vawundliwa va yena na ku kuma nhlayiso wa vanhu lowu faneleke.

(d) *Xitsonga - Nhundzu*
Xinghezi - Property

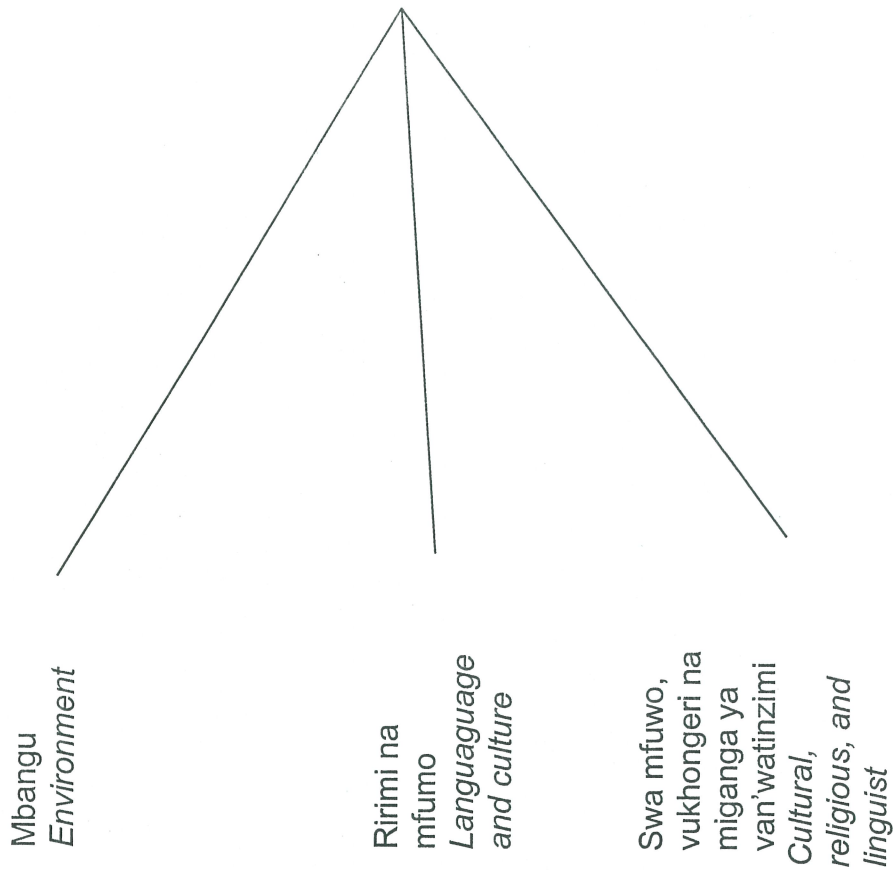
South Africa's constitution (1996: 11) va nyika nhlamuselo ya nhundzu (property) hi ndlela leyi:

No one may be deprived of property except in terms of law of general application and no law may permit arbitrary deprivation of property.

Ku ya hi ntshaho lowu wa nhundzu munhu un'wana na un'wana, ku hava loyi a faneleke ku tsoniwa nhundzu handle ko landza nawu wa swikombiso swo angarhela, kutani ku hava nawu lowu faneleke ku pfumelela ku tsoniwa ka nhundzu ku ri hava xivangelo xo twala.

3.3.3. Nxopaxopo wa nawu wa timfanelo ta mbangu, nhluvuko ni vuaka-ndhawu
(environment, cultural and development right)

Nawu wa timfanelo ta mbangu, nhluvuko ni vuakandhawu
(Environment, cultural and development right)



(a) Xitsonga - Mbangu

Xinghezi - Environment

South Africa's constitution (1996: 11) yi nyika nhlamuselo ya mbangu hi ndlela leyi:

Everyone has the right to an environment that is not harmful to their health or well-being and to have the environment protected for the benefit of present and future generation.

Ntshaho lowu wa mfanelo ya mbangu wu hlamusela leswaku munhu un'wana na un'wana u na mfanelo eka mbangu lowu nga riki na makhombo eka rihanyu kumbe vuhlayiseki by yena na ku va mbangu wu va lowu sirheleriweke ku endlela rixaka ra sweswi na leri ra ha taka.

b) Xitsonga – Ririmi na mfuwo

Xinghezi – Language and culture

South Africa's constitution (1996: 15) yi nyika nhlamuselo ya ririmi na mfuwo (language and culture) hi ndlela leyi:

Everyone has the right to use the language and to participate in the cultural life of their choice, but no one exercising these rights may do so in a manner inconsistent with any provision of the bill of rights.

Ntshaho lowu wa ririmi na mfuwo wu hlamusela leswaku munhu un'wana na un'wana u na mfanelo ya ku tirhisa ririmi no tlhela a tinghenisa eku hanyeni eka mfuwo lowu a wu tsakelaka kambe ku hava loyi a fanelaka ku endla sweswo hi ndlela leyi nga fambelaneki na kungu rihi na rihi ra nawumbisi wa timfanelo.

- (c) *Xitsonga - Swa mfuwo, vukhongereri na miganga ya van'watindzimi*
Xinghezi - Cultural, religious and linguist communities

South Africa's constitution (1996: 15) yi hlamusela swa mfuwo, vukhongereri na miganga ya van'watindzimi hi ndlela leyi:

Persons belonging to a cultural, religious or linguistic community may not be denied the right with other members of community to enjoy their culture, practice their religion and use their language and to form, join and maintain cultural religious and linguistic association and other organisations of civil society.

Ntshaho lowu nga laha henhla wu hlamusela leswaku vanhu lava welaka eka ntlawa wa vanhu wa swa mfuwo, vukhongereri na miganga ya van'watindzimi a va fanelangi ku tsoniwa mfanelo, vona na swirho swin'wana swa ntlawa wa vona hi muganga na ku tihanyela ku ya hi mfuwo wa vona, ku yisa emahlweni vukhongereri bya vona na ku tirhisa ririmi ra vona na ku vumba, ku tinghenisa no hlayisa mihlangano ya mfuwo, vukhongereri na ririmi ra swirho swin'wana swa vaakatiko ntsena.

3.3.4 *Xitsonga - Swipimelo swa timfanelo*
Xinghezi - Limitations of rights

South Africa's constitution (1996: 13) va nyika nhlamuselo ya swipimelo swa timfanelo hi ndlela leyi:

The right in the Bill of rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom and taking into account all relevant factors.

Timfanelo leti nga eka nawumbisi wa timfanelo ti nga ha vakeriwa swipimelo ntsena hi ku landza nawu wa matirhelo yo angarhela ku fikela laha xipimelo xolexo xi twakala no va xi lulamile exikarhi ka vanhu lava tirhaka swilo erivaleni no va na xidemokrasi, lava xiximaka vumunhu ku ringanana na ntshuxeko no tekela timhaka enhlokweni.

3.4. Nkatsakanyo

Eka nawu wa vumbiwa hi dyondzile xiyile swo tala swa nkoka mayelana na nawu wa vumbiwa. I swa nkoka swinene leswaku nawu wa vumbiwa wu hundzuluxiwa hi ririmi leri un'wana na un'wana a nga ta kota ku twisisa. I milawu leyi muakatika un'wana na un'wana a faneleke ku yi tiva leswaku loko hi tshuka hi hlangana ni swiphiqo a ta tiva leswaku vumbiwa rona ri ri yini hi timfanela ta munhu.

NDZIMA YA 4

4. **XITSONGA - NAWU WA MAFAMBISELO** **XINGHEZI - ADMINISTRATIVE LAW**

4.1. *Manghenelo*

Nawu wa mafambiselo (administrative law) i nawu lowu swi nga oloveki ku nyika maavanyiselo. Kambe milawu leyi tirhaka hi vufambisi bya mfumo i ya nkoka hikuva hi leyi va faneleke ku tirha hi yona xikan'we no languta switandzhaku loko u tshuka u yi tlurile.

Burns (1999: 95) u hlamusela nawu wa mafambiselo hi ndlela leyi:

It is often why it is necessary to distinguish between the various acts performed by the state administration. The answer is simple, the distinction is necessary because in practice, the law attaches important consequences to the classification of administrative action as legislation, judicial or purely administrative.

Eka ntshaho lowu Burns u hlamusela leswaku mikarhi yin'wana, ku vutisa i swa koka leswaku hikokwalaho ka yini ku fanele ku hambanyisiwa exikarhi ka milawu leyi tirhaka hi vufambisi bya mfumo. Nhlamulo yo olova hi leswaku swi fanerile hikuva milawu leyi tirhisiwaka yi khumba switandzhaku swa nkoka swa maavanyiselo ya mitirho tanihi nawu, vuavanyisi kumbe mafambiselo lamanene.

Kasi Wiechers (1985: 87) yena u hlamusela hi ndlela leyi:

The way in which the administration acts is often referred to as the administrative function. There can be no objection to designation as such by the term administrative act is to be preferred because "functions" is capable of various interpretation.

Ntshaho lowu wa Wiechers wu hlamusela leswaku ndlela leyi milawu ya mafambiselo yi talaka ku kongomisa mafambiselo eka matirhelo ya vurhangeri ku hava lexi nga sivelaka eka leswi vekiweke enkarhini lowu nawu wa vurhangeri a wu vekiwile ha kona, hikuva mitirho yi lulamerile eka mavekelo yo hambanahambana, Wiechers (1995: 87) u ya emahlweni a ku:

There are two problems in the treatment of administrative acts, and can be classified into various categories according to their nature and content and the second is whether such a classification could have distinguished between different kinds of administrative act unless the distinction has practical value, for instance, why would one trouble to classify acts as legislative, judicial or administrative if the law attaches no consequences to the classification. The classified demarcation by montesqueu of act as judicial legislative and executive has elicited a good of criticism.

4.2.1 Administrative law

Ntshaho lowu wa Wiechers wu hlamusela leswaku ku ni swiphiqo swimbirhi eka matirhiselo ya milawu ya vurhangeri leyi nga avanyisiwa hi swiyenge swo hambana ku ya hi matumbulukelo ni vundzeni kasi xiyenge xa vumbirhi ku nga maavanyiselo lama nyikaka ku hambana exikarhi ka nawu wa vurhangeri handle ka loko ku hambana loku ku ri na nkoka wa maendlelo, xikombiso, hikokwalaho ka yini un'wana a nga karhateka hi ku avanyisa milawu tanihi nawu, vuavanyisi kumbe mafambiselo ya milawu leyi nga khumbiki switandzhaku swa maavanyiselo. Maavanyiselo ya "*montesqueu of act*" tanihi nawu, vuavanyisi na huvonkulu wu vile na ku xopaxopiwa lokunene.

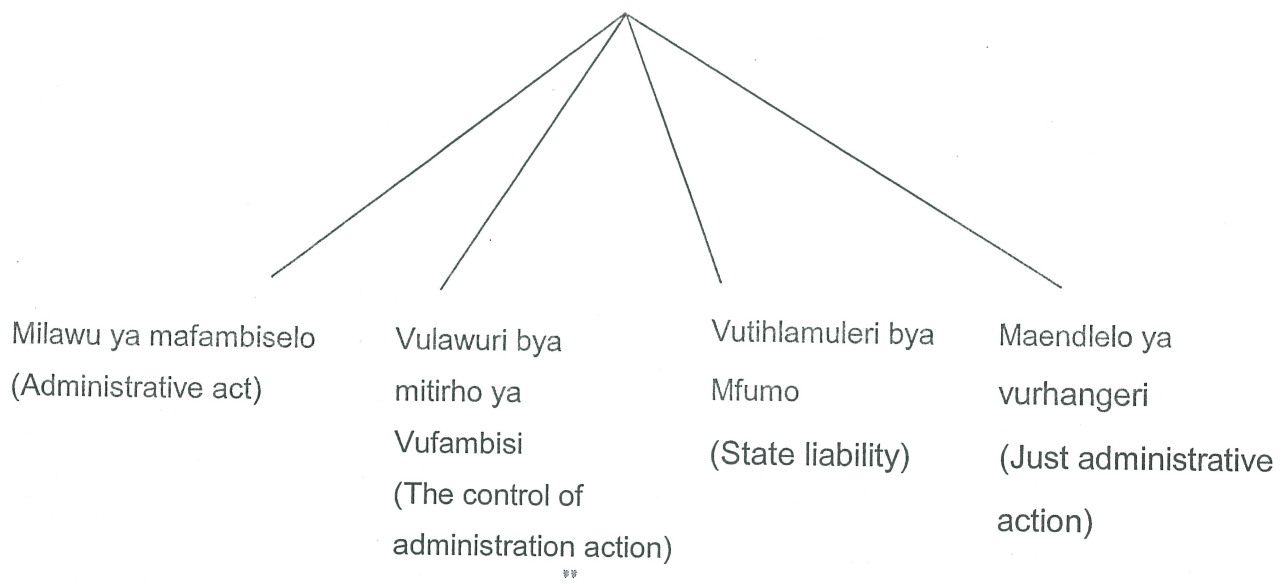
4.2. *Nxopaxopo wa nawu wa mafambiselo*

(Analysis Administrative law)

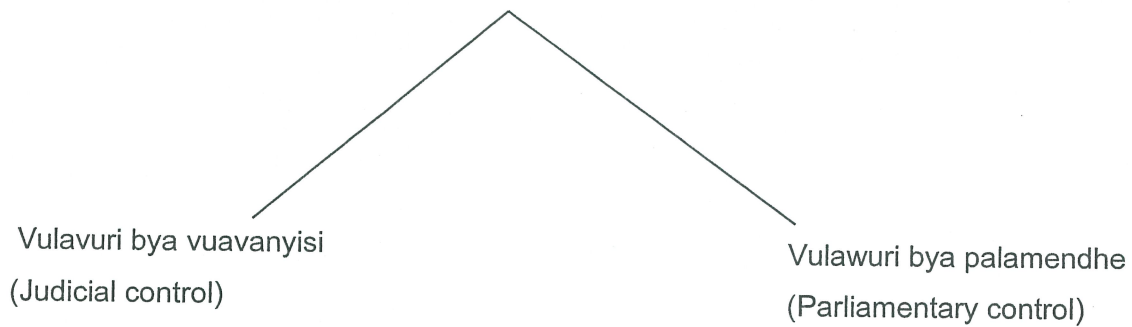
Nawu wa mafambiselo tani hiloko wu ri na swiphiqo eka maavanyiselo ya milawu ya mafambiselo, hi ta languta eka miavo leyi landzelaka: milawu ya mafambiselo (Administrative act), vulawuri bya mitirho ya vufambisi (The control of the administration action), vutihlamuleri bya mfuwo (State liability) ni maendlelo ya vurhangeri. Nkomiso wu ta nyikiwa hi xifaniso xa murhi lexi landzelaka:

4.2.1

**Nawu wa vurhangeri/mafambiselo
(Administrative law)**

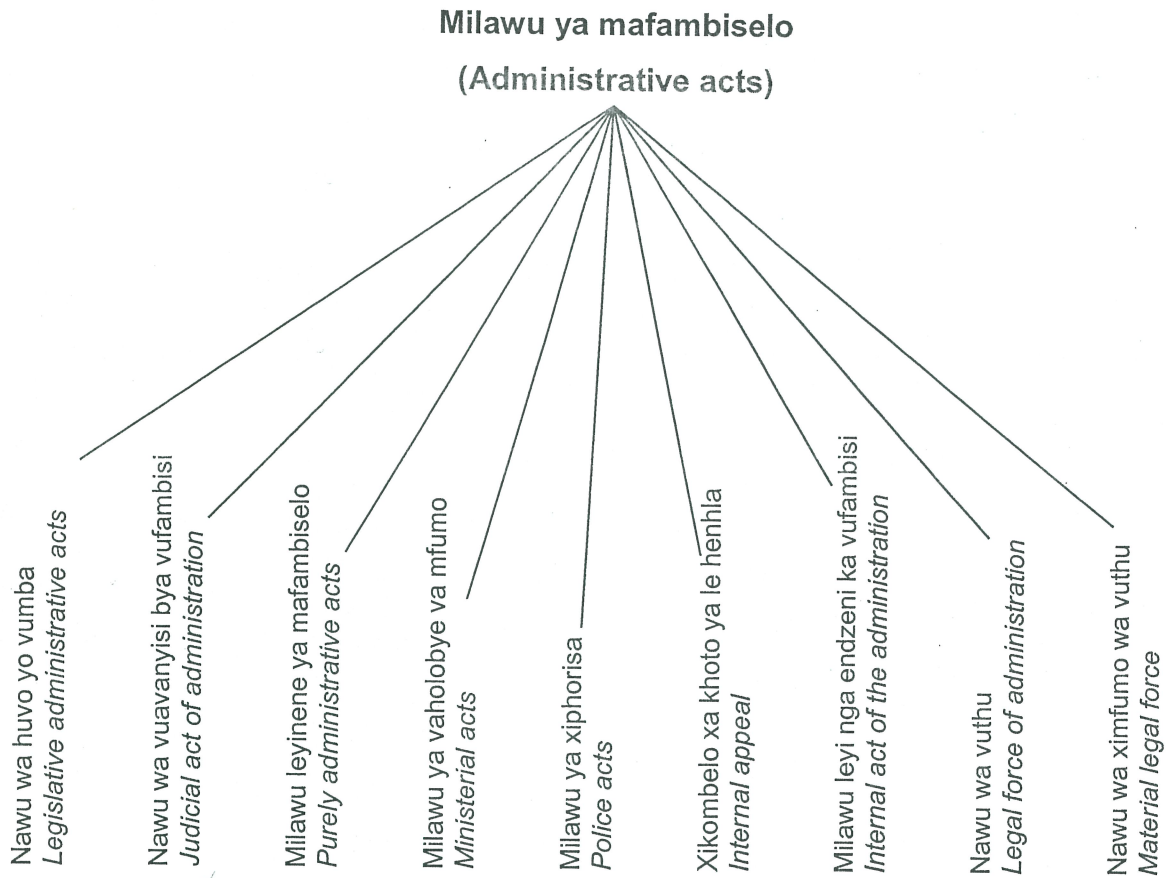


**Vulawuri bya mitirho ya vufambisi
(The contro of Administration action)**



4.2.2 Nxopaxopo wa mathema eka nawu wa mafambiselo.

(Administrative law)



(a) *Xitsonga* - Nawu wa huvo yo vumba milawu ya mafambiselo

Xinghezi - Legislative administrative acts

Burns (1999: 97) u nyika nhlamuselo ya nawu wa huvo yo vumba milawu ya mafambiselo hi ndlela leyi landzelaka:

Legislative administrative acts are the most easily recognised acts of the administration. They have specific form and are published in an official document such as the provincial gazette. They create, vary or terminate relationships by creating binding legal rules.

Burns eka ntshaho lowu u hlamusela leswaku nawu wa huvo yo vumba milawu ya milawu ya mafambiselo i milawu leyi tsundzukekaku hi ku olova eka milawu ya vufambisi. Yi na xiyimo xo kongoma na ku va xi hangalasa tsalwa ra ximfumo tanihi gazette ya xifundza. Ya vumba, ya hambanyisa no herisa vuxaka hi ku endla milawu yo boha ya nawu.

(b) *Xitsonga - Nawu wa vuavanyisi bya vufambisi*
Xinghezi - Judicial act of administration

Burns (1999: 99) u nyika nhlamuselo ya nawu wa vuavanyisi wa vufambisi hi ndlelaleyi:

The law attaches specific consequences to these judicial administrative act.

Ntshaho lowu wa Burns wu hlamusela leswaku nawu wa vuavanyisi wa vufambisi i nawu lowu khumbanaka ni switandzhaku eka milawu leyi ya vuavanyisi ya nawu wa vurhangeri.

- (c) *Xitsonga - Milawu leyinene ya mafambiselo*
Xinghezi - Purely administrative acts

Burns (1999: 102) u nyika nhlamuselo ya milawu leyinene ya mafambiselo (pure administrative acts) hi ndlela leyi:

Purely administrative acts of the administration are these acts which create, alter or terminate individual administrative law.

Ntshaho lowu wa Burns wu hlamusela leswaku milawu leyinene ya mafambiselo i milawu ya vufambisi leyi vumbaka kumbe ku hundzuluxa kumbe ku herisa milawu ya vurhangeri.

- (e) *Xitsonga - Milawu ya vaholobye*
Xinghezi - Ministerial acts

Marinus (1995: 136) u nyika nhlamuselo ya milawu ya vaholobye hi ndlela leyi:

The concept of ministerial acts may be interpreted in two ways. First of all, a ministerial act may refer to the act of a minister of state and secondly, to the act of an administrative official or organisation acting in according with some narrowly circumscribed instruction task.

Ntshaho lowu wa milawu ya vaholobye yi nga hlamuseriwa hi tindlela timbirhi. Yo sungula, nawu wa vaholobye lowu kongomiseke eka vaholobye va mfumo, ya vumbirhi yi kongomise eka varhangeri va mfumo kumbe xirho lexi pfunetaka ku tirha hi ku landzelerisa swileriso kumbe mitirho leyi vekiweke.

- (f) *Xitsonga - Milawu ya xiphorisa*
Xinghezi - Police acts

Marinus (1995: 141) u nyika nhlamuselo ya milawu ya xiphorisa hi ndlela leyi:

Police acts comprises of all these administrative acts which govern the private conduct and freedom of individuals in order to ensure the discipline and order demanded by an organised community.

Ntshaho lowu nga laha henhla wu hlamusela leswaku milawu ya xiphorisa i milawu hinkwayo leyi katsaka milawu ya vurhangeri leyi fumaka mahanyelo ya swihundla na ntshuxeko wa mani na mani ku endlela leswaku ku va ni ntshinyo lowu laviwaka hi vaakatiko lava kotaka ku tilawula.

- (g) *Xitsonga - Xikombelo xa khoto ya le kaya*
Xinghezi - Internal appeal

Burns (1999: 117) u nyika nhlamuselo ya nawu wa xikombelo xa khoto ya le kaya hi ndlela leyi:

Internal appeal refers to the reconsideration of the validity desirability and efficacy of an administrative act by higher authoritative body.

Ntshaho lowu wa nawu wa xikombelo xa khoto ya le kaya i nawu lowu kongomiseke eka ku endla xikombelo xa vumbirhi xo ya khoto hi ku vona nkoka wa swilaveko na ku humesa nawu wa vurhangeri wa swirho leswi nga ni matimba.

- (h) *Xitsonga - Milawu leyi nga ndzeni ka vufambisi*

Xinghezi - Internal act of the administration

Marinus (1995: 115) u nyika nhlamuselo ya milawu leyi nga ndzeni ka vufambisi hi ndlela leyi:

Administrative acts dealing with the internal organisation, division of labour and internal functions of the administration are referred to as internal administrative acts.

Marinus eka ntshaho lowu u hlamusela leswaku milawu ya vurhangeri leyi tirhaka ni mihlangano leyi nga ndzeni ka vufambisi, ku aviwa ka mitirho ni vufambisi leyi kongomisiweke eka milawu leyi nga ndzeni ka nawu wa vurhangeri.

- (i) *Xitsonga - Vuthu ra xinawu ra vurhangeri bya mitirho*
Xinghezi - The legal force of administrative action

Burns (1999: 118) u nyika nhlamuselo ya nawu wa vuthu ra xinawu ra vurhangeri bya mitirho hi ku vula leswi:

Legal force of administrative is merely referring to the effect that the administrative has in law.

Ntshaho lowu wa Burns wu hlamusela leswaku nawu wa vuthu ra xinawu ra vurhangeri bya mitirho ko va nawu lowu kongomiseke eka mbuyelo lowu nawu wa vurhangeri wu va ka na wona eka nawu.

- (i) *Xitsonga - Nawu wa ximfumo wa vuthu ra xinawu*
Xinghezi - Material legal force

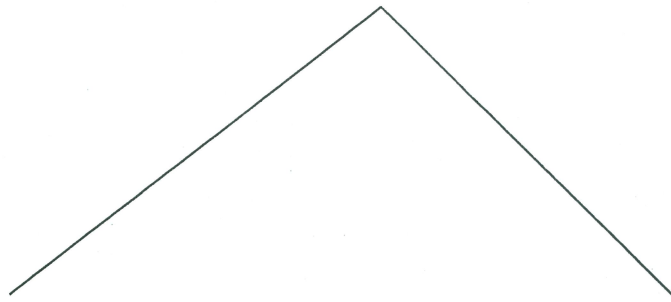
Burns (1999: 118) u nyika nhlamuselo ya nawu wa ximfumo wa vuthu ra xinawu hi ku vula leswi:

It relates to the way the administrative act function in law in terms of its content.

Burns u hlamusela leswaku nawu wa ximfumo wa vuthu ra xinawu i nawu lowu rungulaka hi ndlela leyi nawu wa vurhangeri wu tirhaka hakona eka nawu ku ya hi vundzeni bya kona.

4.2.3

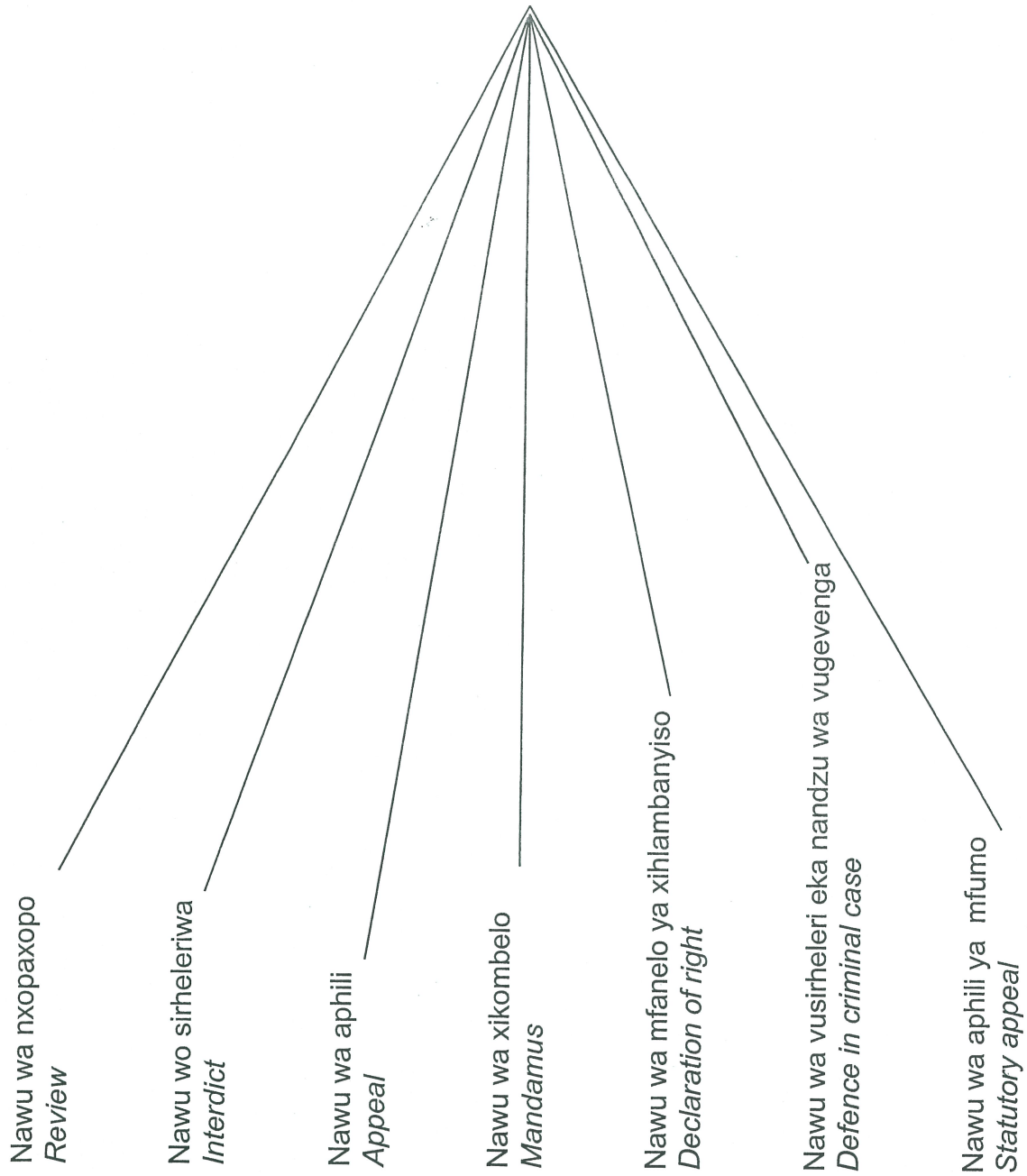
Vulawuri bya mitirho ya vufambisi (The control of administrative action)



Vulawuri bya vuavanyisi
(Judicial control)

Vulawuri bya palamendhe
(Parliamentary control)

4.2.3 A. *Xitsonga – Vulawuri bya vurhangeri*
Xinghezi - Judicial control



4.2.3 A Nxopaxopo wa mathema lama nga hansi ka maendlelo lama
Vulawuri bya vuavanyisi

- (a) Xitsonga – Nxopaxopo
 Xinghezi – Review

Burns (1992:217) u nyika nhlamuselo ya nawu wa nxopaxopo (review) hi ndlela leyi:

*Review take place by way of notice of motion in
terms of rule 53 of the Supreme Court Act.*

Ntshaho lowu nga laha henhla wu hlamusela leswaku nawu wa nxopaxopo wu humelela hi ndlela ya kungu ra xitiviso ku ya hi nawu wa makumentlhanu nharhu wa nawu wa ya Khoto ya le henhla.

- (b) Xitsonga – Ku sirheleriwa
 Xinghezi – Interdict

Burns (1999:218) u nyika nhlamuselo ya nawu wo sirheleriwa hi ndlela leyi:

*Where an applicant can prove that action or
proposed action by the administration will be to
his/her detriment and will encroach upon
his/her right an interdict may be sought*

Ntshaho lowu nga laha henhla wa nawu wo sirheleriwa i nawu lowu laha mukombera nga kombisaka leswaku maendlelo lama vekiweke hi vufambisi ya nga tshukaka ya n'wi twisa ku vava kutani ku tumbuluxiwa mfanelo leyi nga ta n'wi sirhelela.

- (c) *Xitsonga - Ku aphili*
Xinghezi - Appeal

Burns (1999: 218) u hlamusela nawu wa aphili hi ndlela leyi:

An appeal amounts to a hearing, In other words, the appellate body will examine the merits of the matter to determine whether the decision was right or wrong,

Ntshaho lowu wa Burns wu hlamusela leswaku nawu wa aphili i mbuyelo wo tenga. Hi marito man'wana mukhomi wa swikombelo swa aphili u ta kambisisa vundzeni bya mhaka ni ku xiyaxiyisisa leswaku xiboho lexi tekiweke xi lulamerile kumbe a xi lulamelangi.

- (d) *Xitsonga - Ku tlherisiwa ka xirho xo yirisa hi khoto ya nawu*
Xinghezi - Mandamus

Burns (1999: 219) u nika nhlamuselo ya ku tlherisiwa ka xirho xo yirisa hi khoto ya nawu hi ndlela leyi landzelaka:

The objective of this legal process is to compel an administrative organ to perform some of other statutory duty.

Burns eka ntshaho lowu wa ku ttherisiwa ka xirho xo yirisa hi khoto ya nawu (mandamus) u hlamusela leswaku i xanchumu xa maendlelo ya xinawu lexi susumetaka swirho swa vurhangeri ku tirha mitirho yin'wana ya mfumo.

- e) Xitsonga - Mfanelo ya xihlambanyiso
Xinghezi - Declaration of right

Burns (1999: 220) u nyika nhlamuselo ya mfanelo ya xihlambanyiso hi ndlela leyi:

This legal process may be used where there is a clear legal dispute or legal uncertainty regarding an administrative acts .

Burns eka ntshaho lowu wa mfanelo ya xihlambanyiso u hlamusela leswaku endlelo ra xinawu leri nga tirhisiwaka laha swi nga erivaleni leswaku ku ni nkwetlembetano kumbe leswi nga tivekiki swa xinawu mayelana na milawu ya mafambiselo.

- f) Xitsonga - Vutisirheleri eka nandzu wa vugevenga
Xinghezi - Defence in a criminal case

Burns (1999: 220) u nyika nhlamuselo ya nawu wa vutisirheleri eka nandzu wa vugevenga hi ndlela leyi:

In a criminal case the validity or an administrative act may be challenged by raising its invalidity as a defence. This defence may only be raised once all the internal or domestic remedies have been exhausted.

Ntshaho lowu wa Burns wa vutisirheleri eka nandzu wa vugevenga wu hlamusela leswaku eka nandzu wa vugevenga kona kumbe nawu wa vurhangeri lowu nga kona wu nga va ni ntlhotlho eka ku tlakusa leswi nga riki eka vutisirheleri. Vutisirheleri lebyi byi nga tlakusiwa ntsena loko ku ringetiwile hinkwaswo.

- g) Xitsonga - Aphili yamfumo
Xinghezi – Statutory appeal

Wiechers (1995: 262) u nyika nhlamuselo ya nawu wa aphili ya mfumo hi ndlela leyi:

It is only where acts of parliament create the possibility of appeal whether on the fact or on question of law both the civil courts are competent to have appeals against administrative acts.

Wiechers u hlamusela leswaku aphili ya mfumo hilaha ntsena milawu ya palamendhe yi vumbiwaka eka leswi nga tshukaka swi va swa aphili. Ku nga ha va hi ndlela ya xivutiso kumbe mhaka ya nawu wa khoto ya mani na mani laha yi nga vekiwaka aphili ehenhla ka milawu ya vurhangeri.

4.2.3 B Vulawuri bya palamendhe
Parliamentary control

Nawu wa swirho leswi yimelaka vanhu
(Public bodies)



4.2.3. Nxopaxopo wa mathema lama nga hansi ka nawu wa swirho swo yimela vanhu

- (a) *Xitsonga - Musirheleri wa vanhu*
Xinghezi - The Public Protector

Burns (1999: 234) u nyika nhlamuselo ya musirheleri wa vanhu hi ndlela leyi:

The Public Protector has the power as regulated by national legislation to investigate any conduct in state affairs or in the public administration in any sphere of government.

Ntshaho lowu wa Burns wu hlamusela leswaku nawu wa Musirheleri wa Vanhu u na matimba tani hiloko a lawula hi milawu ya tiko ku kambisisa matikhomelo wahi kumbe wahi eka timhaka ta mfumo kumbe ka mafambiselo ya tiko eka xiyenge xihi kumbe xihi xa mfumo.

- (b) *Xitsonga - Khomixini yo tlakusa no Sirhelela Timfanelo ta Vuakandhawu ni mfuwo, Vugandzeri na Ririmi leri tirhisiwaka*
Xinghezi - The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities

Burns (1999: 235) u boxa ntirho wa Khomixini yo tlakusa no Sirhelela Timfanelo ta Vuakandhawu ni Mfuwo, Vugandzeri na Ririmi leri tirhisiwaka (Commission for the Promotion and Protection of the Rights of Cultural, Religious and Communities) hi ku vula leswi:

The commission is to promote respect for the right of cultural, religious and linguistic communities, to promote and develop peace, friendship, humanity, tolerance and national unity among these communities.

Ntshaho lowu nga laha henhla wu hlamusela leswaku nawu wa khomixini i ku tlakusa ni ku xiximiwa ka timfanelo ta vaakandhawu hi tlhelo ra mfuwo, vugandzeri na ririmi leri va ri tirhisaka, ku tlakusa no hluvukisa na vun'we bya rixaka exikarhi ka vanhu valavo.

(c) *Xitsonga - Nawu wa Oditara-Jenerala*
Xinghezi - The Commission of Auditor-General

Burns (1999: 236) u nyika nhlamuselo ya nawu wa oditara-jenerala hi ndlela leyi:

The auditor-general is to audit and respect on the account financial statement and financial management of all national and provincial state, departments and administrations, all municipalities and any other institution (as required by legislation).

Ntshaho lowu wa Burns wu hlamusela leswaku Khomixini ya oditara-jenerala u fanele ku kambela no nyika swiviko swa tinkota, swikomba-tinkota swa timali, malawulele ya timali ya tindzawulo hinkwato ta mfumo na swifundzankulu, vamasipala hinkwavo na ndhawu ya vukorhokeri yihi na yihi leyi lawuriwaka hi milawu ya mfumo

- (d) *Xitsonga - Khomixini ya Ndzingano wa Rimbewu*
Xinghezi - The Commission on Gender Equality

Burns (1999: 235) u nyika nhlamuselo ya khomixini ya ku Ndzingano wa rimbewu hi ndlela leyi:

*The commission is to promote respect and
rotection, development and attainment of
gender equality.*

Ntshaho lowu wa Burns wu hlamusela leswaku khomixini ya ku Ndzingano wa rimbewu yi fanele ku yisa emahlweni ku xixima no sirhelela, hluvukisa na ku fikeleriwa ka ku ringanana ka rimbewu.

- (e) *Xitsonga - Khomixini ya Timfanelo ta Vanhu*
Xinghezi - The Human Rights Commission

Burns (1999: 235) u nyika nhlamuselo ya khomixini ya timfanelo ta vanhu hi ndlela leyi:

*Promotion of respect for human rights and
culture of human rights and promotion of
protection and monitoring and accessing or
the observance of human rights,*

Ntshaho lowu wa Burns wu hlamusela leswaku khomixini ya timfanelo ta vanhu wu tlakusa ku xiximiwa ka timfanelo ta vanhu ni mfuwo wa timfanelo ta vanhu. Wu tlhela wu yisa emahlweni ku sirhelela ni ku xiyaxiyisa na ku kambela ku xiximiwa ka timfanelo ta

vanhu.

- (f) *Xitsonga - Khomixini ya Nhlawulo*
Xinghezi - The Electoral Commission

Burns (1999: 236) u nyika nhlamuselo ya khomixini ya nhlawulo hi ndlela leyi:

The commission control elections of national, provincial and municipal level. It must ensure that those elections are free and fair and the result must be declared within the period prescribed by national legislation.

Ntshaho lowu wu hlamusela leswaku khomixini ya nhlawulo yi lawula mihlawulo ya tiko, swifundzankulu na vamasipala. Yi tiyisisa leswaku mihlawulo yi ntshunxekile no lulama no hlamusela mbuyelo wa nhlawulo hi nkarhi lowu faneleke ku va wo koma hi laha swi kotekaka na hilaha swi vekiweke hakona hi milawu ya tiko.

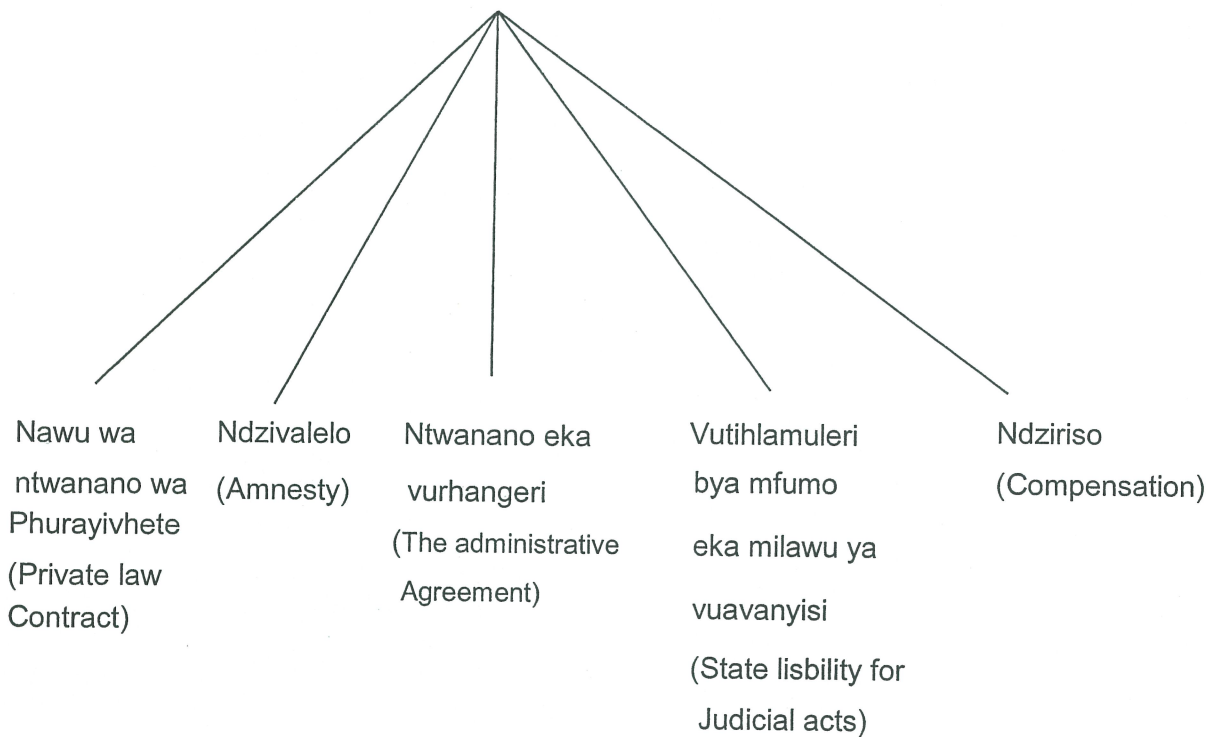
- (g) *Xitsonga - Vulawuri lebyi Tiyimeleke byo Lawula Vuhaxi*
Xinghezi - The Independent Authority to Regulate Broadcasting

Burns (1999: 236) u hlamusela vulawuri lebyi tiyimeleke byo lawula vuhaxi hi ndlela leyi:

This independent body is responsible for the regulation of broadcasting, Broadcasting must be in the public interest and authority must enure fairness.

Ntshaho lowu wa Burns wu hlamusela leswaku vulawuri lebyi tiyimeleke wo byo lawula vuhaxi byi ni vutihlamuleri eka vulawuri bya vuhaxi. Vuhaxi byi fanele ku endla ku ya hi swilaveko swa vanhu na ku tiyisisa ku lulama na ku hambanahambana ka mavonelo lama hi ku anama ya yimelaka vanhu va Afrika-Dzonga.

4.2.4 Nawu wa vutihlamuleri bya mfumo (State liability)



- (a) Xitsonga – *Kontiraka ya nawu*
Xinghezi - Private law contract

Burn (1999: 240) u nyika nhlamuselo kontiraka ya nawu wa phurayivhete hi ndlela leyi:

This means that in private undertakings, where an executive official or a public body or institution concludes a contract on behalf of the state, the private rules of contract apply.

Ntshaho lowu wa kontiraka ya nawu phurayivhete wu vula leswaku leswi nga tekeriwiki enhlokweni swa xihundla laha swirho swa huvonkulu kumbe swirho swo yimela vanhu kumbe tindzawulo swi teka xiboho xa ntwanano ematshan'wini ya mfumo, milawu ya xihundla ya ntwanano ya tirhisiwa.

- (b) Xitsonga - *Ndzivalelo*
Xinghezi - Amnesty

Burns (1999: 246) u nyika nhlamuselo ya ndzivalelo hi ndlela leyi:

The general rule (laid down in the state liability act) is that the state is dilectual/y liable for its actions.

Burns u hlamusela leswaku nawu wa ndzivalelo i nawu hi ku angarhela lowu vekiweke hansi hi nawu wa vutihlamuleri bya mfumo leswi vulaka leswaku mfumo hi xiviri wu ni vutihlamuleri hinkwabyo eka swiendlo swa wona.

- (c) *Xitsonga - Ntwanano wa vurhangeri*
Xinghezi - The administrative agreement

Burns (1999: 241) u nyika nhlamuselo ya ntwanano wa vurhangeri hi ndlela leyi:

These administrative agreement act in its capacity as an organ of state and exercise a measure state.

Ntshaho lowu wa Burns wu hlamusela leswaku ntwanano wa vurhangeri i ntwanano lowu wa vurhangeri tani hiloko swirho swa mfumo swi tirhisa swipimelo swa mfumo.

- (d) *Xitsonga - Vutihlamuleri bya mfumo eka milawu ya vuavanyisi*
Xinghezi - State liability for judicial acts

Burns (1999: 262) u nyika nhlamuselo ya vutihlamuleri bya mfumo eka milawu ya vuavanyisi hi ndlela leyi:

This principle which is applied in most countries is based on the approach that it is undesirable for judicial officers to become involved in claims for damages.

Ntshaho lowu wu hlamusela leswaku milawu leyi yi tirhisiwaka eka matiko yo tala yi kongomise henhla ka maendlelo lawa yo ka ya nga ri kahle leswaku varhangeri va vuavanyisi va ta nghenelela eka ku endla swikombelo swa leswi onhakeke.

- (e) *Xitsonga - Ndziriso*
Xinghezi – Compensation

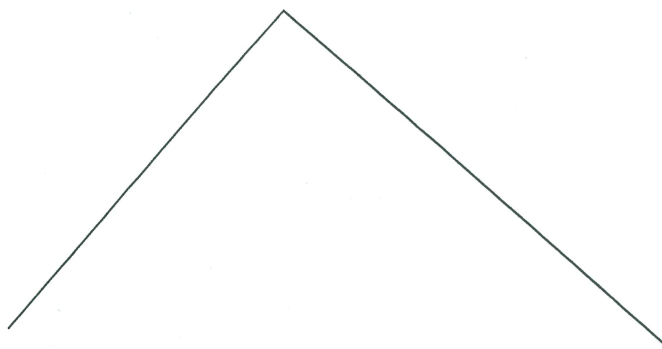
Burns (1999: 263) u nyika nhlamuselo ya nawu wa ndziriso hi ndlela leyi:

Provides that the state must compensate persons disable by occupation injuries as well as employees who sustain or contract diseases in the course of their employment.

Ntshaho lowu wa Burns wa nawu wa ndziriso i nawu lowu nyikaka mfumo leswaku wu fanele wu va ni ndziriso eka vanhu lava nga ha kotiki ku tirha hikokwalaho ko vaviseka va ri entirhweni kumbe vathoriwa lava kumaka mavabyi emitirhweni ya vona.

4.2.5

Maendlelo ya vurhangeri (Just administrative action)



A Nawu lowu nga ni matimba yo endla
(Enabling act)

B Nawu wa maendlelo yo ringanana
(Procedural fairness)

4.2.5 A *Xitsonga - Nawu lowu nga ni matimba yo endla*
Xinghezi - Enabling act

Burns (1999: 139) u nyika nhlamuselo ya nawu lowu nga ni matimba yo endla hi ndlela leyi:

All administrative authority and power derives from legislation which confers administrative authority is generally termed an enabling act/statute. This enabling statute defines the scope and content of administrative power, and may also prescribe specific procedures to be followed.

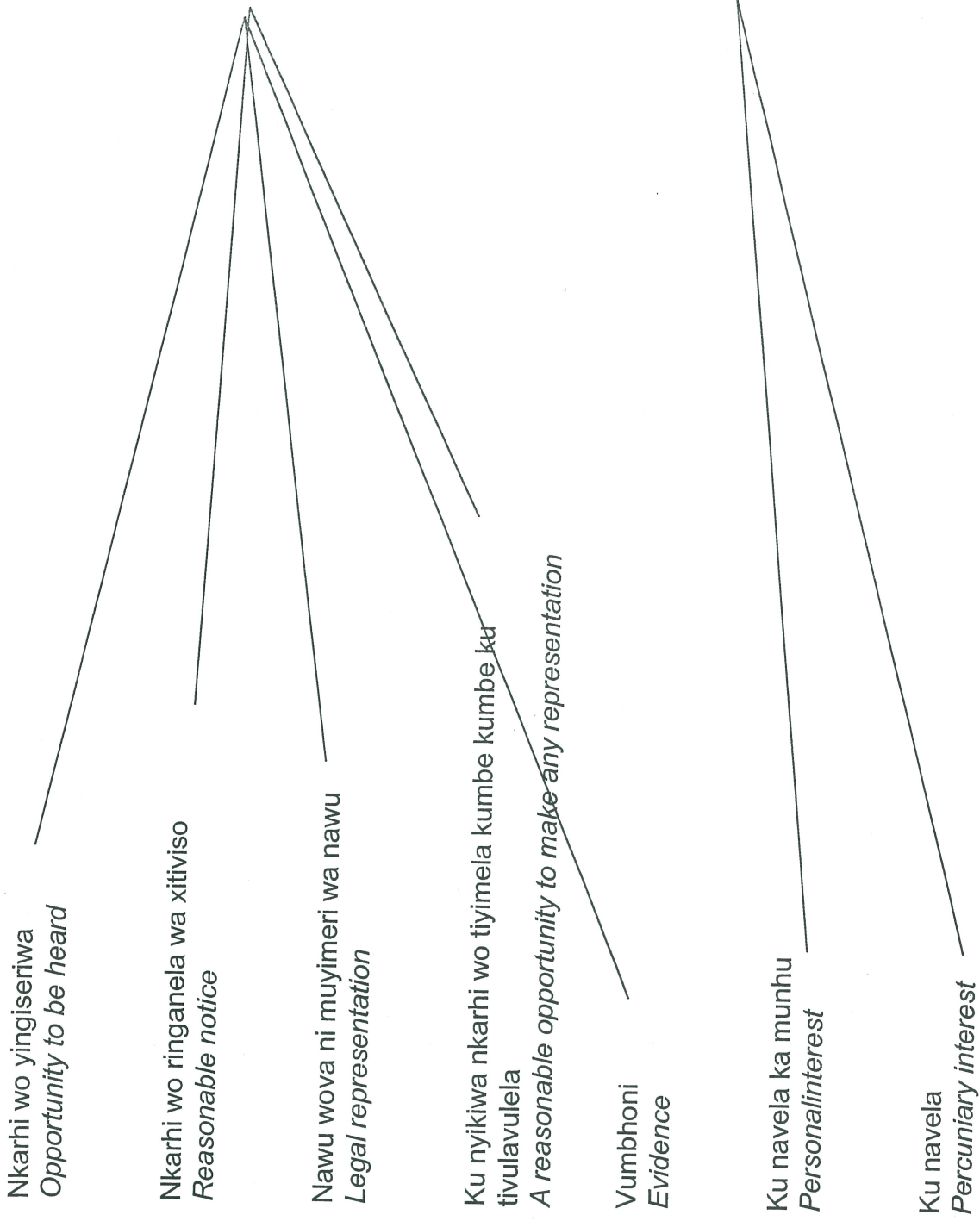
Ntshaho lowu wa Burns wu vula leswaku vurhangeri hinkwabyo byi ni matimba. Nawu wu tiyisisa leswaku vurhangeri bya matimba byi vuriwa nawu lowu kotaka kumbe nawu wa mfumo. Nawu lowu wu hlamusela xiyimo ni vundzeni bya matimba ya vurhangeri wu tlhela wu hlamusela maendlelo yo karhi lama faneleke ku landzeleriwa.

4.2.7 B

Nawu wa maendlelo yo kala tlhelo
(Procedural fairness)

Mfanelo yo yingiseriwa
(Audi alteram partem rule)
The right for hearing

Nawu mayelano ni voyamelo tlhelo
(Nemo iudex in propria causa)
The rule against bias



**Nxopoxopo wa nawu wa mfanelo yo yingiseriwa
(Procedural fairness)**

- (a) *Xitsonga - Nkarhi wo yingiseriwa*
Xinghezi - Opportunity to be heard

Devenish (2001: 281) u nyika nhlamuselo wo nyikiwa nkarhi wo yingiseriwa hi ndlela leyi:

This requires that any person whose rights, privileges and freedoms are affected by the act of an administrative authority, must be given the opportunity to present his or her case.

Ntshaho lowu wo nyikiwa nkarhi wo yingiseriwa wu hlamusela leswaku munhu un'wana na un'wana u na mfanelo yo nyikiwa nkarhi na ntshuxeko wo veka mhaka ya yena.

- (b) *Xitsonga - Ku nyikiwa nkarhi wo ringanela wa xitiviso*
Xinghezi - Reasonable notice

Devenish (2001: 282) u nyika nhlamuselo yo nyikiwa nkarhi wo ringanela wa xitiviso hi ndlela leyi:

A reasonable time must be given to the person concerned in order for him or her to collect and digest all the necessary information.

Ntshaho lowu wu hlamusela leswaku loyi a nga ni nandzu u fanele ku nyikiwa nkarhi wo ringanela wo hlela ni ku hlengelela timhaka hinkwato leti nga ta nkoka.

- (c) *Xitsonga - Ku va ni muyimeri wa nawu*
Xinghezi - Legal representation

Hoexter (2007: 339) u nyika nhlamuselo ya ku va ni muyimeri wa nawu hi ndlela leyi:

To give an affected person an opportunity to obtain assistance and in serious or complex legal representation.

Ntshaho lowu wo va ni muyimeri wa nawu i nawu lowu nyikaka munhu nkarhi wo tilavela mupfuni kumbe kutikumela loyi a nga n'wi yimela ka eka timhaka ta yena to tika.

- (d) *Xitsonga - Ku nyikiwa nkarhi wo tiyimelela kumbe ku tivulavulela*
Xinghezi - A reasonable opportunity to make representation

Hoexter (2007: 334) u nyika nhlamuselo ya ku nyikiwa nkarhi wo tivulavulela kumbe ku tiyimela hi ku ndlela leyi:

Implies an oral hearing at which the aggrieved party will be able to appear in person

Eka ntshaho lowu ku hlamuseriwa leswaku ku nyikiwa nkarhi wo tivulavulela kumbe ku tiyimela i ku va loyi a nga ni nandzu a nyikiwa nkarhi wo tivulavulela un'wana na un'wana a yingiserile.

- (e) *Xitsonga - Vumbhoni*
Xinghezi - Evidence

Devenish (2001: 283) u nyika nhlamuselo ya vumbhoni (evidence) hi ndlela leyi:

That which tend to prove the existence on non-existence of some facts.

Eka ntshaho lowu ku hlamuseriwa leswaku nawu wa vumbhoni i nawu lowu endlaka leswaku munhu a nyika vumbhoni lebyi nga kona eka lebyi nga riki kona.

4.2.5 B Nxopoxopo wa nawu mayelano ni mboyamelo tlhelo (The rule against bias

- (a) *Xitsonga - Ku navela ka munhu*
Xinghezi - Personal interest

Hoexter (2007: 408) u nyika nhlamuselo ya ku navela ka munhu hi ndlela leyi:

Where allegations of an appearance of bias were based partly on friendship and professional relationship between certain judges and the appellants.

Ntshaho lowu wa Hoexter wu hlamusela leswaku eka leswi munhu a lumbetiwaka, swa kayivela vuahluri byi va bya tlhelo rin'we.

(b) *Xitsonga - Ku navela*

Xinghezi - Pecuniary interest

Baxter (1996: 303) u nyika nhlamuselo ya ku navela hi ndlela leyi:

Baxter observes that an indirect pecuniary interest is a matter of degree and that the court will draw a line where the interest is so remote that it does not satisfy the test for bias.

Ntshaho lowu wa Baxter wu hlamusela leswaku ku navela loku ka ku nga kongomi, swi ya hi mpimo wa mhaka ni leswaku khoto hi yona yi nga ta veka xiboho laha ku nga ni ku navela loku nga ta ka ku nga ta nyika vumbhoni lebyi nga tsakisaka tlhelo rin'we.

4.3. *Nkatsakanyo*

Eka dyondzo leyi ya nawu wa mafambiselo (administrative law) a swi nga lovi ku hundzuluxa. Yi ve dyondzo yo tika ku hundzuluxa matheme ku suka eka Xinghezi ku ya eka Xitsonga, kambe i dyondzo ya nkoka hikuva eka Ndzawulo ya Mafambiselo theminoloji yo tala ya ha tirhisiwa hi Xinghezi, leswi nga oloviki eka vanhu ku twisisa ni loko va tshuka va hlangana ni swiphiqo.

NDZIMA VA 5

5. KU DLAYISETA

Eka dyondzo leyi ya theminoloji ndzi lemukile swo tala swinene hikuva ndzi kote ku vona leswaku theminoloji i ya nkoka eka dyondzo yin'wana na yin'wana tanihi loko dyondzo yin'wana na yin'wana yi ri na matheme ya rona, lama hi ma tivaka ni lama hi nga ma tiviki ni tinhlamuselo ta kona. I swa nkoka eka ririmi rin'wana na rin'wana leswaku ku tirhisiwa tindlela hinkwato to hluvukisa ririmi hikuva loko ti nga tirhisiwi ririmi ri ta nyamalala kumbe ri nga hluvuki.

Cabre (1999: 18) u seketela mhaka leyi hi ku vula leswi:

A language that cannot be used in all types of communication is doomed to disappear and language cannot be used in all structures unless it has the terminology.

Eka ntshaho lowu Cabre u seketela mhaka ya leswaku loko ririmi ri nga tirhisiwi eka tinxaka hinkwato ta mbulavulo ri tala ku nyamalala na ririmi leri nga tirhisiweki eka swivumbeko hinkwaswo handle ka loko ri ri na theminoloji.

Eka dyondzo leyi ya nawu wa vanhu (public law) ndzi kume leswaku ku ni swiyenge swo hlaya swa nawu wa vanhu, kambe xitsalwana lexi a xi kongomise ntsena eka swiyenge leswi, ku nga nawu wa vugevenga (criminal law), laha mathema a kuri swinawana leswi nga kona eka nawu wa vugevenga. Xikongomelo xa xa nawu lowu i ku sirhelela vanhu ni ku vona leswaku loyi a endleke nandzu u fanele ku xupuriwa.

Nawu wa vumbiwa (constitutional law) eka wona matheme lama nga kona i swinawana leswi nga kona, laha nawu wa vumbiwa wu kongomiseke eka ku sirhelela timfanelo ta vanhu.

Nawu wa mafambiselo (administrative law) wona wu kongimise eka milawu leyi vatirhela mfumo va faneleke ku tirhisa xiswona xikan'we xikan'we na ndlela leyi na wona mfumo lowu vekeke milawu leyi wu faneleke ku tirhisa xiswona.

Mithontlho leyi hi nga hlangana na yona Loko hi ri karhi ndzi hundzuluxa mathema ya nawo ku suka eka Xinghezi ku ya eka ririmi ra Xitsonga swi nga olovi. Hi ta nyika swikombiso swa swin'wana swiphiqo leswi hi nga hlangana na yona. Hi ta rhangana hi ku nyika nhlamuselo ya rito "term" (thema) ndzi nga si ya emahlweni.

Va *Oxford Concise Dictionary* (2007: 1210) va nyika nhlamuselo ya rito "term" hi ndlela leyi:

A word or phrase used to describe a thing or to express a concept.

Ntshaho lowu wu hlamusela leswaku theme i rito kumbe xivulwa lexi tirhisiwaka ku hlamusela xilo kumbe ku hlamusela miehleketo.

Swikombiso:

Life Vutomi

Egg Tandza

Loko hi hundzuluxa a hi hlangana na swiphiqo. Mbuyeleli loko hi hundzuluxa man'wana matheme a hi hundzuluxa hi ku va yatekela mimpfumawulo, leswi vuriwaka "transliteration". Nhlamuselo ya "transliteration" ku ya hi *Oxford Concise Dictionary* (2007: 271) yi hi ndlela leyi:

To write or spell in different characters intended to express the same sound.

Ntshaho lowu wu hlamusela leswaku "transliteration" i ku tsala kumbe ku peleta rito hi ku landza mpfumawulo wo fana na rito leri hlamuseriwaka.

Swikombiso:

English

Appeal

Auditor

General

Commission

Xitsonga

Aphili

Oditara

Jenerala

Khomixini

Eka matheme man'wana loko hi hundzuluxa a ma hundzuluxeka hi ku va ku vumbeka Xivulwahava (phrase). *Oxford Dictionary* (2007: 608 va hlamusela rito "**phrare**" hi Ndlela leyi:

A phrase is a group of words forming a unit, especially as an idiom or a striking or clever way of saying something/ a group of words forming a unit within a sentence or phrase.

Ntshaho lowu wu hlamusela leswaku xivulwahava (phrase) i marito lama nga eka ndhawu yin'we ya vumba vun'we, ku nga va ku ri xivulwahava kumbe ndlela yin'wana yo tlhariha yo vula swilo.

Xitsonga

Swikombiso:

English

Ku tlhakisa

Kidnapping

Ku tlhelela endzhaku ka miseve

Reflection

Ku antswa ka bindzu

Booms

Ku hunguteka ka nxavo

Depreciation

Ku vona masiku

Menstruation

Ku veleka

Childbirth

Matheme man'wana a ma hundzuluxeki, kambe loko ya hundzuluxiwa matheme lama ya endliwa hi ku vumba xivulwa (sentence).

Oxford Concise Dictionary (2007: 739) yi nyika nhlamuselo ya xivulwa (phrase) hi ndlela leyi:

A sentence is a set of words containing a verb (either expressed or understood) that is complete in itself as an expression of thought and conveying a statement, question or command.

Ntshaho lowu wu hlamusela leswaku xivulwa i marito lama nga ni riendli kumbe lexi nga helela ku hlamusela miehleketo ni ku humesa xitatimende, xivutiso kumbe xileriso.

Swikombiso:

Xitsonga

Maendlelo yo teka ku ve u tekile

Ku hima hi tihanyi

English

Bigamy

Assault

Eka ku hundzuluxa ku na endlelo rin'wana ro vumba matheme man'wana hi ku vumba thema hi vuntshwa, leswi vuriwaka niyologizimi.

Greenwich Dictionary (1990: 273) va hlamusela neologism hi ndlela leyi:

Neologism is a new word or phrase or new use of expression.

Ntshaho lowu wu hlamusela leswaku "neologism" i rito rintshwa, xivulwahava kumbe ku tirhisa rito rintshwa eka xivulwa.

Swikombiso:

Xitsonga

Vumbhoni

Ndziriso

Ndzivalelo

English

Evidence

Compensation

Amnesty

6. **Tibuku leti Tirhisiweke**
1. African-Dzonga 1996 : *Vumbiwa ra riphabuliki ra Afrika-Dzonga*. Pretoria: government printer
 2. Antia, B 2001 : *Terminology and Language Planning*. University of Maidaguri: John Benjamins Publishing Company. Amsterdam: Philadelphia.
 3. Baxter, L. 1986 : *Administrative Law*. University of Natal. Juta and Co. Ltd: Wynberg: Cape Town.
 4. Burchell, J. 1997 : *Cases and Material on Criminal Law*. University of Pietermaritzburg. Juta and Co. Ltd: Kenwyn.
 5. Burchell, J. 1997 : *Principle of Criminal Law*. University of Pietermaritzburg. Juta and Co. Ltd: Kenwyn.
 6. Burns, Y. 1999 : *Administrative Law Under 1996 Constitution*. University of South Africa. Butterworth: Durban.
 7. Cabré, M.T. 1999 : *Terminology (Theory, Method and Application)*. University of Pompeu Fabra. John Benjamins Publishing Company. Amsterdam: Philadelphia.
 8. Cheadle, N.M., Vavis, D.M. & Hayso, N.R.C. 2005 : *South African Constitution Law: The Bill of Rights*. 2nd Edition. Lexisnesis: Durban.
 9. David, F. 1990 : *Fouke's Administrative Law*. University of Wales (Butterworth). London and Edinburg.
 10. Devenish, G.E. 1998 : *A Commentary on South African Constitution*. University of Natal: Durban: Butterworth.
 11. Devenish G.E. 2001 : *Administrative Law and Justice in South Africa*. University of Natal: Durban: Butterworth.
 12. Guidelines for Technology

- Policies 2005 : *Formulating and Implementing Policy in Language Communication*. Inforterm United Nations Educational, Scientific and Cultural Organisation.
13. Hoexter, C. 2007 : *Administrative Law in South Africa*. Juta and Co. Ltd. Mercury Crescent. Cape Town: South Africa
14. Jacobs, A. 2004 : *Introduction to the Theory of Law*. University of South Africa. Pretoria.
15. Jones, B.L. 1989 : *Garner's Administrative Law*. University of Nottingham (Butterworth): London and Edinburg.
16. Masio, D.M. 2004 : *Street Law Practical Law of South Africa*. 2nd Edition. Juta and Co. Ltd: Cape Town.
17. Martin, E. 1990 : *A Concise Dictionary of Law*. 2nd Edition. Oxford University Press:
18. Martin, E. 2004 : *Oxford Dictionary of Law*. 6th Edition. Oxford University Press.
19. Mathumba, D.I. 2005 : *Xitsonga/English Dictionary*. Pumelela Publishers (Pty) Ltd.
20. Mota, Z. & Ramaphosa, C. 2002: *Constitutional Law analysis and cases*. Oxford University Press: South Africa. Cape Town.
21. Pieterse, R. 1990 : *The Greenwich English Dictionary*. Greenwich Edition. Brewery Road: London.
22. Rautenbach, I.M. & Malherbe, E.F. 1996 : *Constitutional Law, 2nd Edition*. University Of South Africa: Butterworth Publishers.
23. Smith, E.J. & Naude, 1997 : *Law, Government and People*. South Africa. Butterworth Publishers.

24. Snyman, C.R. 1995 : *Criminal Law*. 4th Edition. University of South Africa. Durban: Butterworth.
25. Snyman, C.R. 2002 : *Criminal Law*. 4th Edition. University of South Africa. Durban: Butterworth.
26. South Africa 1996 : *The Constitution of the Republic of South Africa*. Pretoria. Government Printers.
27. South Africa 2006 : *Iqbane. The South African Police Service*. Juta and Co. Ltd. Cape Town.
28. Temmerman, R. 2000 : *Toward New ways of Terminology Description*. Erasmus Hogeschool Brussels: John Benjamins Publishing Company. Amsterdam: Philadelphia.
29. Van Marwijk (11.05.2008): *The Secret of Mater Communicators Revealed Body Language Secrets* website selfgrowth.com.
30. Wiechers, M. 1985 : *Administrative Law*. University of South Africa. Durban: Butterworth.