



Economic Commission for Africa
Southern Africa Office

H A R N E S S I N G
TRADITIONAL GOVERNANCE
IN SOUTHERN AFRICA

November 2007



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Acronyms and Abbreviations

ADFIV	Fourth African Development Forum
AfDB	African Development Bank
AIDS	Acquired immune deficiency syndrome
ANC	African National Congress
AU	African Union
CONTRALESA	Congress of Traditional Leaders of South Africa
EC	Eastern Cape province (South Africa)
ESKOM	Electricity Supply Commission (South Africa)
FNDP	Fifth National Development Plan (Zambia)
FS	Free State province (South Africa)
GT	Gauteng province (South Africa)
HIV	Human immunodeficiency virus
HRH	His/Her Royal Highness
ICT	Information, Communication and Technology
IMF	International Monetary Fund
KZN	KwaZulu-Natal province (South Africa)
LP	Limpopo province (South Africa)
MDG	Millennium Development Goal
MP	Mpumalanga province (South Africa)
NC	Northern Cape province (South Africa)
NEPAD	New Partnership for Africa's Development
NGO	Non-governmental organization
NW	North West province (South Africa)
PPP	Public-Private Partnership
SADC	Southern African Development Community
SALGA	South African Local Government Association
SAP	Structural Adjustment Programme
SASAS	South African Social Attitudes Survey
SPSS	Statistical Package for the Social Sciences
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
WC	Western Cape province (South Africa)

Foreword

This paper is the result of a study that was conducted to assess the current role traditional leadership plays in public service delivery, and investigates how this role could be further enhanced. The findings from the study were further reinforced by perspectives of selected traditional leaders and representatives of local governments and civil society organisations from the Southern Africa region at a Workshop on “*Harnessing Traditional Governance in Southern Africa*” that took place during October 18-19, 2007 in Johannesburg, South Africa. The Workshop’s main objective was to boost the content of the study by inviting traditional leaders and other stakeholders within the Southern African Development Community (SADC) with a view to finding ways on how traditional leadership structures could be incorporated into the ‘modern’ systems of government for the purposes of public service delivery. Specifically, the Workshop’s goals were to (i) assess the current role of traditional with respect to public service delivery (health, education, agriculture, the judiciary, etc.); (ii) identify the modalities for enhancing the role of traditional leaders in public service delivery; and (iii) deliberate on possible ways to boost good governance in resource management, and to ensure delivery on development projects. Highlights of their discussions and recommendations are provided in annex 1.

The context and rationale for this study are the current democratization process and commitment to good governance on the African continent. Against the background of democratization in Africa, traditional forms of authority have come back into the spotlight of interest, especially with respect to the role of chiefs as an intermediary between the state and the citizen. The current opportunities for democratic participation and good governance in most African States seem unprecedented, yet there have been many failures. A significant part of this lies in the overlooked relationship between the contemporary African state and traditional authority and the opportunities these institutions provide for bringing development to the people. There remains a disconnect between State structures and civil society, and while the view is held that African democratization should draw from its cultural traditions, more needs to be done to analyze systematically the extent to which this can or does occur.

Chieftaincy in Africa is not only an integral part but is also a vital element in the social, political and cultural establishment of African communities. It is a dynamic institution that reflects and also responds to the evolving political and social transformations of society. The institution of chieftaincy and the institutions of the modern state are located along the line where the traditional world meets the modern-state administration. Therefore, as Africa continues to develop its political institutions to serve the demands of a democratic government in the modern state, the position of chiefs will continue to attract the attention of policy makers.

There are many examples to show that traditional chiefs are indeed playing a tremendous role in conflict resolutions as these pertain to land, chieftaincy, succession, criminal and civil cases. Traditional chiefs have forwarded the education agenda by marshalling resources from within and outside of their respective countries to ensure education for the children. They have further played a role in providing health services, including efforts to stem the tide of HIV/AIDS prevalence in their regions. Moreover, some traditional chiefs have taken their concerns to international donor community, such as the World Bank, calling for more resources and partnerships to improve social conditions of their peoples. A case in point is the Ashantihene of Ghana and how he has been able to mobilize resources to support social programmes.

In brief, if serious development is on the agenda of a country's leadership, traditional rulers should not be left out of the planning and management of projects at the community level. Indeed, it is not in the interest of communities for government to sideline traditional leaders when it comes to the setting up, and management, of projects.

In October 2004, UNECA organized its Fourth African Development Forum (ADF IV) under the theme *Governance for a Progressing Africa*, which brought together key stakeholders as a means of stimulating debate and building consensus identifying key and new areas for policy research and advocacy. The Forum discussed a whole range of issues relating to governance in Africa, including the role of traditional systems of governance in the modern state. Some of Africa's most progressive traditional leaders were invited and spoke from their own rich experiences of integrating traditional with modern systems of governance. The conclusion was not whether the traditional and "modern" systems of governance are competing against each other, but how to integrate the two systems most effectively to better serve citizens in terms of representation, participation and public service delivery.

In the ADF IV, the roles that traditional authorities can play in the process of good governance were broadly defined under three categories: First, their advisory role to government, as well as their participatory role in the administration of regions and districts. Second, their developmental role, complementing the government's efforts in mobilizing the population for the implementation of development projects, sensitizing them to health issues such as HIV/AIDS, promoting education, encouraging economic enterprises, inspiring respect for the law and urging them to participate in the electoral process; and, lastly, their role in conflict resolution, an area where traditional leaders across Africa have already demonstrated some success.

During the ADF IV, UNECA was requested to develop a project to map out traditional systems of governance, including their consensual decision making models, as part of a broader effort to better define and advocate their role in achieving good governance in Africa, and especially to ensure efficient and

effective public service delivery. The Workshop on “*Harnessing Traditional Governance in Southern Africa*” was thus in line with exercising the consensus mandate given by member States at the ADF IV.

The preparation of this report was a collaborative effort involving experts, key stakeholders and ECA staff. I would like to thank the consultant, Professor Acheampong Yaw Amoateng, of the Human Sciences Research Council, South Africa, who prepared this study under difficult circumstances and tight deadlines. I thank him also for taking time to participate in the Workshop where he presented the preliminary findings of the study.

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My sincere gratitude goes to the traditional leaders, and representatives of local government and non-governmental organisations in Southern Africa for their input during the afore-mentioned ECA consultative workshop held in Johannesburg on 18–19 October 2007. These are:

Botswana:

HRH Kgosi Tumelo D. Seboko – Deputy Director Tribal Administration, Gaborone.
HRH Kgosi Keineetse Sebele – Bakwena Tribal Administration, Molepolole.

Lesotho

Mr Mikia Molapo, Chieftainship Directorate, Local Government.

South Africa

HRH Nkosi Sango Phathekile Holomisa, Member of Parliament
Zolani Dabululwandle Mkiva, His Royal Heritage Estate, Gauteng province
Professor Wellington Sobahle, Executive Manager: Traditional Leadership Affairs, – Department of Provincial & Local Government

Swaziland

HRH Chieftainess Gelane Zwane, Senate President, The Senate President’s Office

Zambia

HRH Chief Mumena (Eshiloni Jonathan), House of Chiefs
Mr Lameck Simwanza, *Women for Change*

Zimbabwe

HRH Chief Fortune Zephania Charumbira, Member of Parliament
Mr George Madzimure, Ministry of Local Government, Public Works and Urban Development.

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Executive Summary

Study background

- The issue of governance has dogged African societies since time immemorial.
- The pre-colonial period characterized by a variety of traditional governance structures.
- Colonial and post-colonial periods were characterized by bifurcation of governance, since traditional structures juxtaposed the nation state.
- African social and political organization in the 21st century has been characterized by the failure of both socialist and neo-liberal development paradigms.
- Failure of the two orthodox development ideologies.
- The resilience of traditional governance structures as a result of their effective institutionalization.
- Renewed interest in indigenous knowledge and institutions.

Theoretical framework

- Modernization theory has been used to explain the current state of governance on the continent.
- The standard interpretation of the theory is that control of economic and other resources gradually passes from families to the state and capitalists as societies move from traditional to modern states.
- In the African context the markers of change are the establishment of colonial rule and the rise of the modern bureaucratic state.
- Against the broad background of modernization theory, two main divergent views are discernible in the literature, namely those who favour involving traditional authorities in modern governance because of their democratic elements; and those who think that their authoritarian nature compromises “modern” democratic governance.

Data and methods

- The major source of the data for the study was in the form of review of books and journal articles around issues of the resilience of the institution.
- In addition to the desk reviews face-to-face interviews were conducted with a traditional leader and an official of the department of local government in the

Limpopo Province, South Africa. Due to logistical problems, the interview guides were sent by mail to Zambia where the UNECA staff assisted in getting the representatives of the state, civil society organisations and traditional leaders to complete them. Participants of the UNECA workshop from Botswana, Lesotho and Swaziland provided written responses to the questions in the interview guides and submitted them at the workshop.

- South African social attitudes survey data (2005).

Aims of the study

The aims of the study were:

- To describe the inherent “institutional duality” of the Southern African political culture and analyze the democratic processes and their relationship to chieftaincy in Southern Africa.
- To describe the role of traditional authorities in modern local government and the extent to which, in the context of governance in the modern state, traditional authorities are involved in local governance.
- To examine the nature of the current interface between traditional structures and local governments with regard to the delivery of such services as land administration, dispute resolution, water, health, education, HIV/AIDS etc. programs with illustrative cases from the SADC region.
- To examine how the current role of traditional structures could be enhanced further by either modernization of the structures or through integration into the modern governance structures.

Principal findings

- Even though with the emergence of the nation state upon the inauguration of the project, the considerable administrative, judicial, legislative and religious powers wielded by traditional authorities in most African societies were curtailed, they continued to be important centres of power and authority in the institutional culture of the Southern African political and institutional culture. Their resilience in recent years, which is largely due to the failure of both socialist experiments and market reforms and the resultant decentralization in several African countries, has underscored the reality of this duality.
- There have been visible changes in attitudes of the Southern African public towards traditional leadership due largely to the increasing rate at which chiefs and their retainers are being educated. These changes in turn have led to the broadening of participation to ordinary members of rural communities who have the technical know-how to contribute to the communities’ development efforts.
- The resilience of the institution has also led to both constitutional and legal protections in the countries in the region. Traditional governance is recognized everywhere in the sub region although at different development levels with Lesotho and Swaziland having the high level of integration of the traditional institutions into state structures.
- Presently traditional leaders in the other countries play a much more limited advisory and lobbyist role on traditional, cultural and customary issues. This limitation and lack of independent resource base hinder the service delivery role of traditional leaders.

Key recommendations

Key recommendations are summed up under three main headings, namely (i) institutional strengthening and capacity building; (ii) information and knowledge sharing; (iii) boosting good governance:

Institutional strengthening and capacity building

- There should be political commitment and courage to take bold decisions on the role and involvement of traditional authorities in the service delivering and good governance process. This should include

introducing ICT infrastructure in rural areas to ensure availability of services such as birth, marriage and death certificates;

- There should be mechanisms to enhance traditional leaders' interaction with the various arms of the government (legislative, executive and judiciary);
- Concrete steps should be taken to move beyond coexistence and cooptation towards integration and mainstreaming of traditional leadership into the priority setting, legal and budgeting process, monitoring and evaluation to include well-defined mechanisms for strengthening the relationship between the two components.
- The state and representative bodies of traditional authorities should jointly review the myriad legislative provisions as a way of educating the traditional authorities about the implications of these legislations for their roles and for knowledge building purposes.
- These steps should be synchronized with building the capacity of traditional leaders through knowledge acquisition; training on public financial management; adequate remuneration and compensation; establishing institutional structures to facilitate their participation and to provide appropriate operating facilities (human, office's equipment and financial resources).
- Specific capacity building approaches could take the form of training of trainers which would include traditional leaders themselves, as trainers, in this programme and be based on needs analysis; workshops and seminars on practical issues of leadership roles and functions and to equip them with knowledge to be able to deliver public services; inter- and intra-country exchange missions and study tours to learn about other models and for networking; encouraging and supporting them to embark on lifelong learning and skills development to enable them to set examples in their communities about the importance of education.
- The state should endeavor to assist traditional leaders to mobilize the necessary resources to enable them to operate and empower their communities to take interest in community activities. Here, resources within communities provide opportunity to empower communities and in the process create employment and generate wealth.
- Public-Private Partnerships (PPPs) and rural economic empowerment should be considered as a way to generate wealth, involve community resources and access natural resources in ways that directly benefit local communities. PPPs are necessary for increasing investment; financing of public works and knowledge transfer. This has not been sufficiently exploited, but as knowledge to meet certain objectives.
- Traditional leaders should be supported to broaden participation as a means of bringing people with technical knowledge within communities to complement their capacities.
- Economic empowerment beyond benefits from royalties towards the community shareholding arrangements to stake their claim of the natural resources being exploited for a sustainable wealth creation at the community level.
- Arrangements and structures should be institutionalized to clearly define the roles of traditional authorities, government, civil society and parliaments.
- The issue of representation must be addressed to ensure that traditional leaders are well represented at all decision-making levels (Constituencies, District and National).
- Partnership arrangements should be established beyond consultation to building functional relationships between state systems and traditional authorities.
- With regard to the administration of justice, what emerged from the study is the fact that people, especially, those in urban areas who have limited access to municipal services, have confidence in the

role of traditional authorities because of their ready accessibility. Yet, the jurisdiction of traditional leaders in this area of service delivery is too narrowly defined. Moreover, there are other constraints in the performance of their judicial functions such as the non-codification of customary law in some countries, lack of facilities to keep records, lack of training, weak linkages with the enforcement arms and non-alignment between the customary law and the statutory law.

- As part of the formalization and integration process therefore, it would be cost effective in the long run for the state to provide resources for the codification of customary law, and provision of equipment such as computers to store and retrieve records and the requisite training to enable traditional leaders to complement the state's efforts in the dispensation of justice at the local level.

Information and knowledge sharing

To ensure that traditional leaders acquire knowledge and share the information they access, the following specific interventions are recommended:

- They should be encouraged and supported to build upon success stories and best practices available in different countries; and
- They should be provided platforms at national, sub regional and continental levels to enhance their voice and especially through the SADC Traditional Leaders' Council. Knowledge sharing and training should underpin the capacity development process including the development of a sustainable information system.
- They should build upon existing success stories and best practices on the role of traditional governance in service delivery. These success stories should be identified, compiled and disseminated.

Boosting good governance

Good governance is one of the central tenets of NEPAD therefore for a successful integration of traditional leadership into the modern state structures it is important to ensure that the institution adheres to this tenet. In boosting good governance, participation, information, accountability and political neutrality of traditional leadership should be entrenched since they are all necessary requirements for sound leadership, especially with respect to dispensing traditional leaders' public roles and duties.

To assist traditional leaders to play these goals, the following specific interventions are recommended:

- There should be needs assessments jointly undertaken by the state and traditional leaders in their respective communities. This should be in the form of stock taking and/or self-assessment process to identify strengths, weaknesses, opportunities and threats that face traditional communities;
- There should be mechanisms for tracking progress where communities under their traditional leaders embark upon development projects;
- This also means that systems for monitoring and evaluating such projects; and
- Ensure sound record keeping practice to ensure proper accountability and track progress on implementation of programmes and projects.

Chapter I

Background: Situational Analysis

To the extent that governance is about the equitable distribution of societal resources, African societies have been grappling with the problem of governance since time immemorial. Long before the inauguration of the colonial project, African societies had established a variety of political systems with corresponding political, economic, and social institutions which dealt with allocation of resources, law-making, and social and political control. The predominant principle of social relations in pre-colonial African society was presumed to be that of family and kinship associated with communalism. Every member of an African society was believed to have his or her position defined in terms of relatives on his mother's or father's side. Land, a major means of production, was owned by groups such as the family or clan (Rodney, 1978). Because of this principle of social organization, consensus, rather than conflict over the distribution of economic resources, was often assumed in the discourse about governance. However, from oral and other anecdotal accounts, we also know that over time some families, through wars of conquest, subjugated other family groups and widened their territorial bases and eventually became ruling aristocracies.

As a result of the generally exploitative relationship that characterized the colonial project where “racial justice” dominated the discourse on governance, it became a fad for the post-colonial African state to adopt socialist principles of development in the 1960s and 1970s. However, in the 1980s, after the dismal failure of the socialist experiment, African states gradually reverted back to the neo-liberal development paradigm with its wholesale embrace of the market reforms popularly known as the Structural Adjustment Programs (SAPs). But, in spite of this embrace of the so-called *Washington Consensus* by Africa's ruling elite for more than two decades now, African societies continue to be faced with various problems of governance, a situation which, without a doubt, has led to the loss of a great deal of legitimacy by the post-colonial African state.

Coupled with the failure of the state structures inherited from the colonial state to govern in line with the socio-economic aspirations of Africa's peoples, and the proven resilience of traditional institutions as a result of their effective institutionalization, there has been a renewed interest in indigenous knowledge and institutions (for example, Ake, 1990; Ayittey, 1991; Davidson, 1992; Wunsch & Olowu, 1990). This resurgence of interest in traditional institutions has largely been manifested in the increasing popularity of decentralization which has occupied centre stage of policy experiments in several developing countries including in Asia and Africa in recent years; it is regarded as a way of diffusing social and political tensions and at the same time ensuring local cultural and political autonomy (Bardhan, 2002). However, some scholars have suggested that the fact that traditional governance is popular among mainly rural residents as opposed to the vast majority of urban residents who cling to modern governance structures has not helped in the resolution of this crisis of governance (Mengisteab, 2006).

It is against this background of the crisis associated with dissatisfaction with the *Washington Consensus* that the idea of integrating traditional governance structures into modern structures of governance to ensure effective and efficient governance in Africa must be understood. For example, applauding the idea of inte-

grating the two systems of governance, Skinner (2007) has argued that similar measures like the *Washington Consensus* in the 1960s by the new African elite essentially involved an outright abolition of traditional leadership structures in some countries or a drastic reduction in their powers and influence in the affairs of the state in others. He argues that these African nationalists ignored their own “counter-racist” philosophies such as “negritude” and the “African personality” by paying only lip service to traditional political cultures, while firmly rejecting compromise with African traditional politicians. For example, in Ghana, Kwame Nkrumah rejected the view that the new African states used agriculture to build their economies and employed *ethnic-based* coalitions (Lewis, 1967).

The so-called neo-traditionalists all invariably argued and advised the new African elite not only to recognize the loyalty of their people to traditional leaders but to also involve them in the governance of their countries (for example, Bond, 1976; Chazan, Mortimer, Ravenhill & Rothchild, 1992; Lloyd, 1970; Miller, 1970; Samuel, 1989; Whitaker, 1970; Wilson, 1994). In recent years the call to involve traditional authorities in the governance of “modern” African states by both African scholars and Western donor agencies has become louder and louder as a result of the social changes that have transformed the African social and political landscapes. For instance, several scholars have observed the juxtaposition of Western-styled democracy, which is based on the notion of political and social rights of individuals and the ethnic-based collectivism characteristic of African societies (for example, Owusu, 1991).

To such scholars, the problem of governance then is to recognize and to satisfy the goals and aspirations of different groups and their leaders. In fact, it has been argued that the institutional crisis in Africa cannot be resolved by relying exclusively on either external enclave transplant institutions or purely traditional institutions and that neither total ‘institutional’ transplant nor ‘traditional fundamentalism’ is a viable alternative for Africa’ (World Bank, 1992). Against this background of the contestations about integrating the two structures of governance, we take a critical look at the nature of existing scholarship with regards to the past and contemporary roles of traditional leadership in Africa as a whole and Southern Africa in particular.

Chapter 2

Theoretical Framework

Contrary to claims through several years of Eurocentric histories, which infantilized Africans and doubted their innovative ability, there is now a general consensus that state formation in Africa is not a post-colonial development. For instance, functional states like the Ashanti kingdom, the Zulu kingdom and the Great Zimbabwe existed in pre-colonial Africa. Recent archaeological findings in sites such as Mapungubwe and Thulamela in South Africa prove that pre-colonial Africans were innovative and had well-organized political institutions of power.

Consistent with the communalist nature of traditional society, at the basis of traditional governance during this period was the institution of the family and kinship which defined the social and economic positions, especially access to land, of members of society. The heads of these *dynastic* families often used their control over resources like land, cattle, and the bride price through strategic political marriage alliances, to establish themselves as a privileged economic and social stratum. Moreover, religious beliefs and practices, which at this time were family based in the form of ancestral worship, were used by the family to mobilize and discipline members in the process of state formation. Despite the resilience of traditional governance structures and the fact that they vary greatly from highly centralized to decentralized systems, there is still no consensus on the desirability of integrating them into modern democratic governance structures.

2.1 The neo-traditionalist argument

Essentially, two main divergent views are discernible in the existing literature, namely, those who contend that traditional leadership is compatible with modern democratic governance because it possesses certain democratic elements. For example, commenting on the organization of African societies around traditional leadership structures and the religious, legislative, administrative, and judicial roles they played in pre-colonial times, Sakyi (2003: 131) observed:

Traditional leaders once held a firm grip on the social, economic, and political system that governed society. There were systems in place to regulate behaviour, and rules were well enforced to ensure a safe and orderly society. They had an adequate revenue base through taxes and other donations and royalties to support families and meet their societal obligations.

For these and other scholars therefore, while the hierarchy characteristic of most traditional governance structures was only a means to maintain order and stability in society, they upheld democratic principles in the sense that everything was done in the open (for example, Ansere 1993; Ayittey; 1992; Busia 1951; Nsaroko, 1964; Tangwa, 1998; Keulder, 1998). While Mokgoro (1994) admits that African traditional leadership has always been hereditary and therefore not subjected to the electoral process that characterizes modern governance, he notes that power was traditionally exercised only through Council, which helped to negate absolutism.

Thus, according to this view, traditional leaders have helped to maintain a system of government based on accountability, consultation and decentralization. Supporting Mokgoro's view, Williams (2002) has noted that:

The democratic aspects of traditional leadership and authority systems were instrumental in mediating the autocracy of the kingdom but were undermined by colonialism. "Physical force" as the means by which African leaders exerted their authority was apparently exceptional before colonialism. Potentially highly exploitative practices such as polygamy and taxation were possible because of citizen deference to kingly authority and via specific ceremonial procedures and limitations.

To this group of scholars therefore, the two structures of governance can and must be integrated.

2.2 The neo-liberal argument

These observations about the democratic nature of traditional governance notwithstanding, some scholars have argued against the involvement of traditional governance structures in modern governance structures because to them by its very nature, traditional authority compromises the democratic project underway in many African countries (for example, Bekker, 1993; Mamdani, 1996; Ntsebeza, 2005; Simiyu, 1987; Rugege, 2002; Walker, 1994). Among the arguments of this view are that chieftaincy was corrupted by the colonial state and by the clientelism of the post-colonial mode of governance; the populations under traditional authorities live as "subjects" rather than as "citizens" of the state and democratic governance would not be achieved while such systems continue to exist; and that traditional institutions impede the pace of development as they reduce the relevance of the state in the areas of social services and moreover heighten primordial loyalties (for example, Mamdani, 1996; Ntsebeza, 2005; Marais, 2001; Mboya, 1974; Zack-Williams, 2002). This group therefore rejects any notion of accommodating traditional leadership in a modern democracy.

Chapter 3

The Aim and Objectives of the Study

It is against the background of the so-called “failed” state in Africa, the resilience of traditional institutions of governance, especially, the role of chiefs, and the urgent call for institutional reform in the discourse about governance in Africa that we undertake the present study. The main objective of the study is to highlight key traditional governance issues in the continent in general, and also the most pressing traditional governance issues within the Southern African sub-region. Specifically, the study seeks to accomplish the following objectives:

- To describe the inherent “institutional duality” of the Southern African political culture and analyze the democratic processes and their relationship to chieftaincy in Southern Africa.
- To describe the role of traditional authorities in modern local government and the extent to which, in the context of governance in the modern state, traditional authorities are involved in local governance.
- To examine the nature of the current interface between traditional structures and local governments with regard to the delivery of such services as land administration, dispute resolution, water, health, education, HIV/AIDS and other programmes with illustrative cases from the SADC region.
- To examine how the current role of traditional structures could be enhanced further by either modernization of the structures or through integration into the modern governance structures.

Chapter 4

Methodology

4.1 Fieldwork preparation

Initial contacts were made with the officials responsible for traditional governance in each Provincial/Regional Department of Local Government in South Africa and Zambia through emails with follow up phone calls. The initial emails explained the objectives of the study and the source of the funding. In this initial correspondence, we did not only ask for permission to conduct the interviews with the representatives of the traditional authorities and local government in the respective areas, but we also enlisted their support in having access to the key informants for the interviews

4.2 Data

4.2.1 Desk study

The study was predominantly a desk study and therefore entailed the review of the existing literature in the form of books and journal articles around issues of the resilience of traditional authorities and how the institution could be harnessed in Southern Africa, taking into account the change of attitude towards traditional authorities since colonial times to the present. Instances of the dynamic nature of the relationship between the institution, civil society and the state in the context of democratisation and governance were examined. Moreover, the bases on which the institution is a legitimate force to be used in promoting the interests of local communities and achieving local development were explored by consulting historical and modern records.

4.2.2 Interviews

Besides the review of existing literature, we used face-to-face interviews with representatives of traditional authority; local government and civil society organisations in purposively selected the two countries. However, for financial and logistical reasons, only two face-to-face interviews were conducted in the Limpopo Province in South Africa, where one local government official and one traditional leader granted the interviews.

In these interviews, informants were prompted, through an interview guide, to provide information about such issues as the description of the major features of traditional governance structure in the past and present (roles, responsibilities, relationships etc.); how the traditional system handles the provision and administration of public goods and services such as administration of justice; management of common pool resources; how the traditional system of governance supports productive and non-productive social activities; NGO activities related to, for example, HIV/AIDS – prevention, mitigation and care; drug/alcohol abuse, social grants, acquisition etc; how the traditional system handles participation and accountability (role of women, the youth and & “foreigners”); the nature of the relationship between the traditional system; and

state-based administrative system (areas of cooperation, conflict and mechanisms to resolve conflicts where they existed).

4.2.3 The Social Survey

In South Africa, a quantitative data set was analysed for information on the population's attitudes towards the different levels of governance under the country's 1996 Constitution, which duly recognises Traditional Authorities. The data for the study came from the 2005 round of the South African Social Attitudes Survey (SASAS), which is a national probability sample of 5,734 persons aged 16 and older.

The survey ascertained, among other things, people's levels of trust in the state in the form of the national government, provincial government, local government, parliament, the courts etc. on the one hand, and traditional authorities on the other. With such other factors as place of residence, age and issues of service delivery, this source of information proved valuable for the present study, especially, given its policy thrust.

4.3 Data analysis

All the interviews were transcribed and content analyzed thematically based on the objectives of the study. The interviews complemented the existing literature for the case studies we present for the two countries. Finally, in the case of South Africa, simple descriptive statistics were employed to analyze the 2005 South African Social Attitudes Survey using the Statistical Package for the Social Sciences (SPSS) software. In the next section we show the results of the analyses in addressing the central issues in the study.

Chapter 5

The Study Findings

5.1 The nature of the inherent “institutional duality” of the Southern African political culture

Like every human society, African societies were governed through structures that ranged from those that were highly hierarchical to those that were highly decentralised. In fact, it was partly because of the fact that the institution of traditional leadership is an integral part of the African cosmology that at the onset of British colonial rule on the continent, Lord Lugard, the British colonial administrator in the northern Nigerian Caliphates, concluded in his *Dual Mandate* that the institution was to be accommodated at the local government level. This conclusion about the relevance of chieftaincy led to the introduction of the indirect rule system of administration in most of the British colonies throughout the continent. While the French and other colonial powers employed different strategies with regard to traditional leadership, invariably, all the colonial powers refrained from discouraging the continuance of key pre-colonial institutions.

Thus, whether the decision to maintain this primordial system of governance by the colonialists was to serve their own colonial interests in terms of cost or it was motivated by a genuine desire to maintain African indigenous institutions, the fact remains that the institution of traditional leadership has remained a permanent feature of the African social, cultural, political and economic landscape. It is this permanency of the institution of traditional leadership that largely explains the failure of the first generation of African political leaders and their liberal scholar accomplices to undermine or even abolish it in the immediate period following decolonization. In other words, it is the importance and resilience of the institution of traditional leadership that has led to the culture of institutional duality on the African political landscape.

5.1.1 South Africa

This duality has been quite evident in the present study as the analyses of the data show. To illustrate this culture of institutional duality for South Africa, we use both the 2005 South African Social Attitudes Survey and the interview data. First, the survey data is used to show relationship between province and trust in the three levels of state governance vis-à-vis traditional authorities as depicted in tables 1 and 2. Specifically, a 5-point likert scale was used to measure the level of trust in the three levels of governance. The question asked in the survey was: “How much do you trust each of the following?” and the responses ranged from “strongly trust”, “trust”, “neither trust nor distrust”, “Distrust”, and “strongly distrust”. Table 1 shows the level of trust by province, while table 2 shows the level of trust by residence. Since traditional governance is only found among Black-Africans in South Africa, this analysis of the survey data is limited to Black-Africans.

Table 1: Relationship between Province and Trust in levels of Governance in South Africa

Level of governance	Province (percent)									Total
	WC	EC	NC	FS	KZN	NW	GT	MP	LP	
Traditional Authority	44	52	25	63	64	59	41	63	68	57
Local Government	24	80	42	54	53	52	39	59	48	53
Provincial Government	36	86	50	73	74	64	50	71	71	67
National Government	37	95	72	74	74	77	67	78	72	76

Source: 2005 South African Social Attitudes Survey

Table 2: Relationship between place of residence and trust in levels of Governance in South Africa

Level of governance	Residence (percent)	
	Urban	Rural
Traditional Authorities	50.9	64.0
Local Government	48.7	58.5
Provincial Government	63.1	73.3
National Government	71.9	79.4

Source: 2005 South African Social Attitudes Survey

Both tables 1 and 2 depict several issues that are central to the study. Firstly, apart from the three provinces where there are no traditional authority structures (namely, Western Cape, Northern Cape and Gauteng Provinces), the level of trust in traditional authorities ranged from 52 percent in the Eastern Cape Province to 68 percent in Limpopo Province.

Secondly, even in the Western Cape and Gauteng Provinces, 44 percent and 41 percent respectively of the African residents said they either “strongly trust” or “trust” traditional authorities¹. Thirdly, and most important, the table depicts a bifurcation of the South African political-administrative system which is a reflection of the culture of institutional duality. Specifically, the table shows that with the exception of the Eastern and North Cape Provinces, the level of trust in traditional authorities is higher than that in local government in every province (in fact, in the Western Cape where there is no traditional authority structure, the people are more trustful of traditional authorities than any other level of governance).

It is quite evident that in the minds of Black-Africans in South Africa, there is no distinction between traditional authorities and local government, while they perceive the Provincial and National governments as representing one structure. This finding is in fact, the gist of the argument by the traditional authorities as

¹ This could be a reflection of the in-migration of Africans from traditional authority areas into the two economically dominant provinces in the country.

represented by Chief Mangosuthu Buthelezi during the country’s constitutional negotiations in the early 1990s that “traditional authorities are the local government”.

Table 2 speaks to two main issues. First, it is a further illustration of the institutional duality that characterizes the Southern African political and social landscape, and secondly, it debunks the myth that the popularity of the institution of traditional leadership is confined to rural areas. Even though almost two-thirds of rural residents are trustful of traditional authorities, more than 50 percent of urban residents trust traditional authorities, a 14 percentage-point difference only and a further evidence of the resilience of the institution in the social organization of African societies.

But, be that as it may, the pertinent question that must be answered at this point is: Why is traditional leadership relatively popular in rural areas than urban areas? While the ideology of the “*Divine Right of Kings*” so to speak, might be more entrenched in rural communities with their relative insulation from the ravages of modernizing ideologies, one cannot discount the impact of the persistence of the colonial-style development models whereby the modern state tends to be biased towards urban areas. This explanation of the institutional duality as a result of the relative popularity of traditional leadership amongst rural folks was supported by the survey data for South Africa as shown in figures 1 and 2.

Figure 1: Satisfaction with democracy by residence

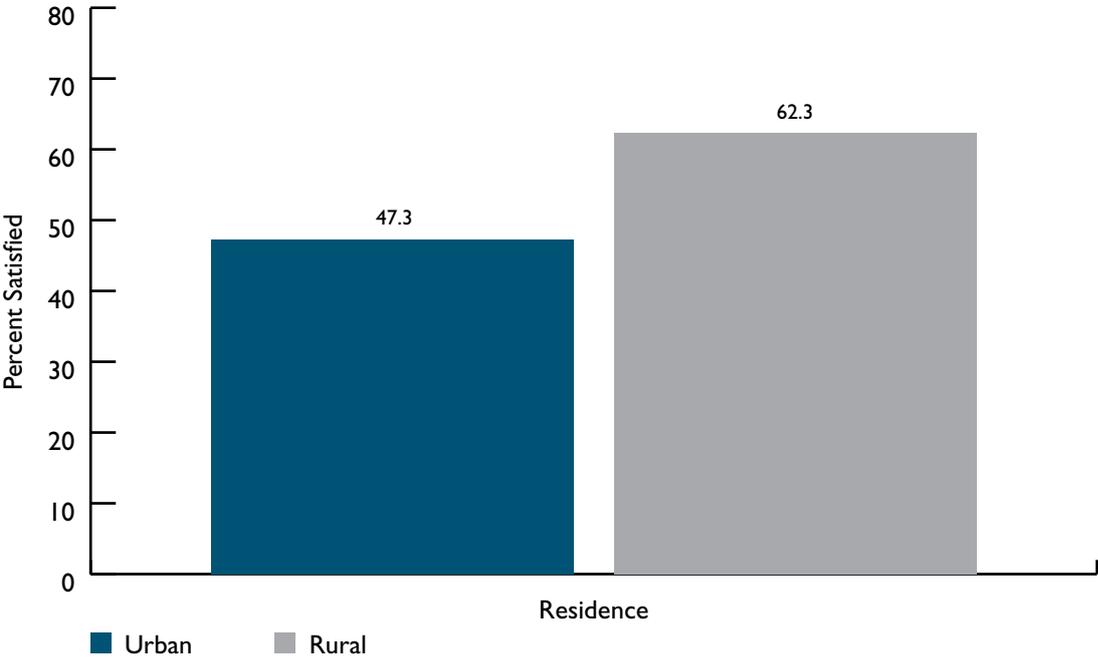


Figure 2: Satisfaction with service and residence type

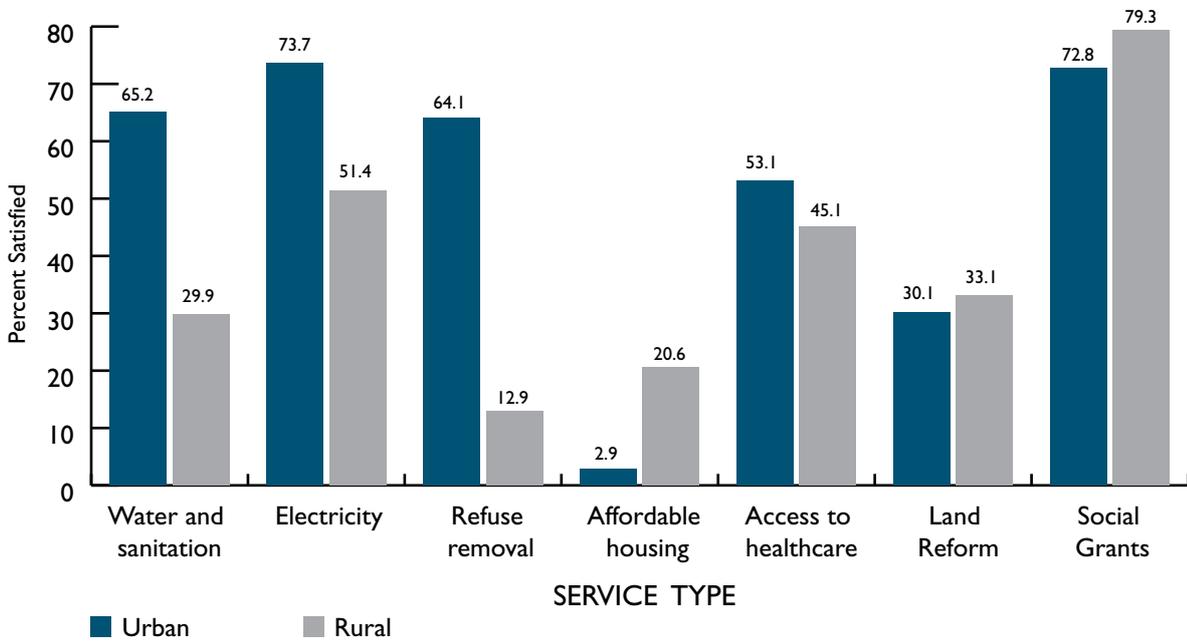
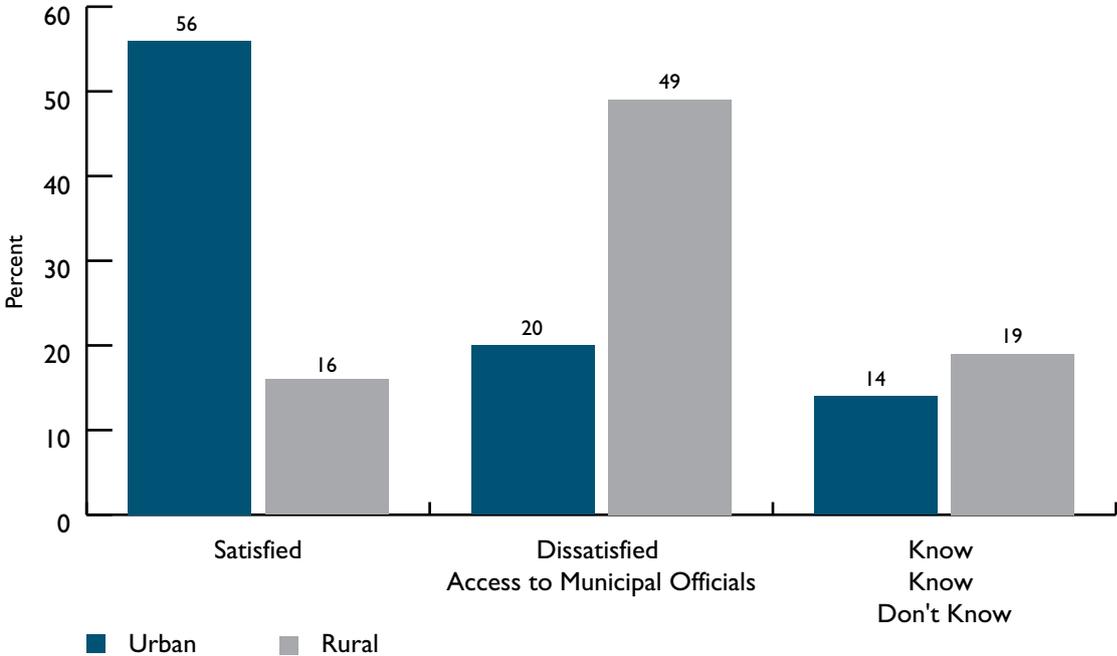


Figure 1 shows the results of the survey when respondents were asked to indicate their “satisfaction with the working of democracy in the country”. As the figure shows, rural residents were satisfied with the working of democracy as a broader notion, however, when democracy translates into the provision and delivery of specific basic services that define citizenship in a democratic political dispensation, the only service they were relatively satisfied with was access to social grants (Figure 2). For example, while nearly three-quarters (74percent) of urban residents said they were satisfied with access to electricity, only slightly over one in two (51percent) rural residents was satisfied with access to this service. This bifurcation of governance, which is mirrored in the geographical schism with regard to access to basic services, is further illustrated by figure 3, which shows satisfaction with access to municipal officials. While almost six in ten urban residents said they were satisfied with access to municipal officials, less than one in two rural residents said they were dis-satisfied with this access.

Figure 3: Satisfaction with access to municipal officials



Thus, even though the present government may have done better than its predecessor in expanding the social and economic benefits of democracy, there is still a schism between rural and urban areas in terms of access to basic services. The traditional authorities’ informant echoed this sentiment during the interview thus:

Rather than to say in order for you to work you have to move away from your rural community”, which is discrimination in its own right, because the environment does not, you know, allow people to reside in because the government or whoever is in authority continually centralize all the developments and the economic spin offs around urban areas.

Besides the quantitative/survey data, this institutional duality was confirmed by the interview data with the representatives of the two respective governance structures. For instance, in the interview with the informant for the Department of Local Government and Housing in Limpopo Province, she was clearly referring to the two pieces of legislation that take cognizance of the duality in the following statement²:

Maybe as a brief background I think this government; government of the day has actually taken a conscious decision to recognize traditional leaders, which has been, I think, a major step, that we recognize *them as part of our system*. But similarly to say that *provincially* as well, we have gone a bit further to say we have a House of Traditional Leaders that is recognized under the leadership of our Premier, that is, it is located within the Premier’s office. So *based* on that, there is no way that you can have any program being implemented without the participation of the traditional leaders...My understanding is that if you are a community member in a rural

2 The 2003 Traditional Leadership and Governance Framework Act and the 2003 Communal land Rights Act respectively.

village, be it a nurse or a teacher or whatever, you are obliged to the decisions taken by that particular traditional leader, but *similarly* as a municipality, as they roll out the Property Rates Act you would be liable for those, because they are within the middle income, which means that they can be able to pay for the rates. So it's.....it is good to have them in the community; the educated people, so they can also liberate the whole community.

In a similar admission of the institutional duality, our traditional authority informant made the following statement in which he contrasted the mechanisms of accountability under the two systems of governance:

...That is the best way of ensuring accountability, which I want to say is *missing* from the present, modern, local government setup. You know it's getting away, there's no system where for example every year the elected councilors are called and account to the community on what they've done. The only thing that happens is when they talk about *budgets* and what have you. To me it's not *enough* to give the community sufficient room to say "but hang on comrade councilor, we elected you, you were just an ordinary man, suddenly you are driving a big 4 x 4, how did you *manage*? Can you share with us? Where did you get this money because we are still suffering, we are still the very same society that elected you, but you are a few/far hundred metres away from us; *tell us*, why did you make magic out of this thing?"

5.1.2 Zambia

South Africa is in fact a mirror image of the rest of the Southern African region with regard to the inherent institutional duality that characterizes its social and political landscape. Even though unlike South Africa, we had no comparable quantitative data to depict this duality, its existence in Zambia was gleaned from the interview data we collected from the key informants in that country. For example, they all recognize the importance of the cooperation between the two governance systems as far as the delivery of services to the citizens goes. There was consensus among all the stakeholders that both institutions are responsible for advancing the socio-economic development of the communities they serve. The two statements below are indicative of this agreement that the two systems are symbiotic with regard to service delivery:

"The relationship... is that the two are partners in development" (SR – Local Government).

"They need each other for the purpose of development...all areas of development need the input of both the chiefs and councilors" (Representative of a Local NGO).

5.2 Democratic processes and their relationship to chieftaincy in Southern Africa

The combination of the failure of socialist central planning and military adventurism led to a rush to adopt such neo-liberal prescribed market principles as Structural Adjustment Programmes (SAP) and other IMF/World Bank conditionalities by several African countries in the early 1980s. This development reached its apogee with the collapse of the Soviet Union in the early 1990s. As a system, capitalism is a triumvirate of free marketism, political liberalism, and cultural diversity. Therefore, the implementation of market reforms has been done in tandem with democratization of the political systems as a means to ensure international best practices with regards to both political and economic governance. The democratization process essentially entails features such as multiplicity of political parties, regular, free and fair free elections, independence of the judiciary, and a free and robust press.

Notwithstanding the fact that liberal democracy prescribes cultural diversity, some scholars have suggested that the continued existence of the institution of traditional leadership in many African states is a fundamental contradiction of this democratization process. Writing specifically about the South African experience, Ntsebeza (2005), for example, has argued that because traditional authority (chieftaincy) is based on birth right as opposed to elections, it compromises the country's hard won democracy. Moreover, according to these scholars, the institution of traditional leadership is based on a rule by a few and therefore it is contrary to the republican ideals that underwrite liberal democracy; to them, the patriarchal ideals that underwrite traditional leadership means that the distribution of social, economic, and political resources in the traditional system favours *old* men at the expense of women and the youth.

5.2.1 South Africa

It is within this context of liberal-democratic governance with its underpinning rational-legal bureaucratic cultural ethos that the relationship between the modern state and the institution of traditional leadership must be understood. The legislative framework of the extension of the democratization process to the local level in South Africa was the 1993 Local Government Transition Act (Pycroft, 2000). Among other things, this Act sanctioned the creation of municipalities throughout the country, including rural areas, which were under the political and administrative control of traditional authorities under the apartheid dispensation. In fact, during our interview with the local government official in Limpopo Province, when asked about how the state relates to the various stakeholders with regard to service delivery, she cited this Act and the Inter-governmental Framework Act as the basis of their relationship with regard to rural communities:

We work with members of the rural communities, but with the understanding that we have what we call the inter-governmental framework Act, which looks into how government-to-government we operate. For instance as a *department* we don't actually go *directly* to a community, as a recognized structures that are there already. We have the ward committees that are responsible, you know, directly deal with the communities. So the ward committees will elevate all the matters raised by the community to the municipal level. The municipal level will then elevate that to the departmental level and the department will elevate that through our cabinet clusters, directly to cabinet. So that is how we deal with communities, because if you look at it now, if for instance as a department we interact directly with the municipalities, with communities, we are not recognizing all the structures that we have established according to the Act, the ward committees and all that.

According to the liberal-democratic formulation, the above statement by the representative of officialdom is the essence of the participation, which is the *sine qua non* of this system of governance since it constitutes the core of its legitimacy. While the neo-traditionalists do not dispute this claim by liberal democracy, they contend that the fact that the institution is hereditary does not mean participation in the running of community affairs is limited to the ruling lineages. In fact, they suggest that kingly authority and traditional governance is a combination of leadership strategies, which includes important democratic processes (for example, Ansere 1993; Busia 1951; Nsarko 1964; Tangwa 1998). For example, based on the Senegalese experience, Pathe_ Diagne (1970) has strongly insisted on the significance of the *lineage* as a major subject in the country's political evolution. He argues that being the depositary of sovereignty; the lineage remains the reference in the definition of legitimacy and in the power devolution system, and through family communities, the depositary of social status and political power.

Thus, according to this view, traditional leaders have always helped to maintain a system of government based on accountability, consultation and decentralization. Moreover, to give meaning to an adage of the Akans of Ghana that “one man does not sit in council”, the Chief governs with Council of Elders composed by a diversity of community members. Members of this modern-day Cabinet are appointed from within the respective communities based on several criteria such as competence and service to the community. In fact, during our interview with the traditional leader in Limpopo, he argued that under that system of governance, the notion of heredity is tied to that of legitimacy in that the ruling lineage is accorded legitimacy by the involvement of the whole community in the selection of the wife for the senior male member of the lineage who has the responsibility of producing the heir for the throne. On the broader issue of participation in the political process, like every socio-political institution, the institution of traditional leadership is changing and adapting in accordance with the rhythm of broader societal transformations. On the issue of how participation is changing under the system, here is what the chief said:

Yeah, in the past, it would be this leader and his brothers but *equally* with *other* influential people whom they appointed, the ‘headman’. A headman means you are not related to this royalty but by virtue of your loyalty and capability of doing things, the royal house felt that you needed to be part of that council, which even to date we are still operating in that way....You know, Prof, I came from the liberation movement background and I took over while I was an activist in the ground and I had to bring some new dimension into the system where I had to say despite that there will be royal family members, headmen as part of council, I would want a new representative from the community to come and form part of us.

When I was saying so, I must say that it wasn’t pleasing my elders within the royal family and within the council. They were saying ‘no, no, no, now this young man is taking our powers and distributing amongst, you know commoners’.

This situation of the adaptability of traditional leadership to changing circumstances with regard to participation may be contributing to the changing public perception of the nature of the institution in for example, South Africa as gauged by the data from the social attitudes survey. Below, we show some of the data of this possible change in perception in South Africa.

Figure 4 shows the results of the analysis of the relationship between level of trust in traditional authorities and age, while figure 5 shows the relationship between levels of trust in the institution by gender. As figure 4 shows, even though the level of trust in traditional authorities is highest amongst persons aged 50 and above years (65.3 percent), the level of trust in the institution is quite reasonable across all age groups. This is contrary to our expectation that the institution is anti-youth and vice versa. Significantly, the level of trust in the institution among young adults aged 16-24 is higher than those of the middle generations. In attesting to the adaptability of the institution to changing circumstances, our traditional leader informant describes his own effort to get the participation of the youth in the following words:

I was saying we should allow the community, to have, you know their own chosen people to come and serve in the council as a development orientated structure that will be driving us from that particular understanding, because I had to appreciate and acknowledge that it does not mean that by virtue of being where I've been, by virtue of being a Kgosi (chief), I've got every knowledge that the world wants. Therefore let's allow other people to come and spice us and help us you know to have a better way of thinking. But, from tradition and cultural point of view, the elders could not swallow that pill easily...

Figure 4: Trust in Traditional Authorities by Age

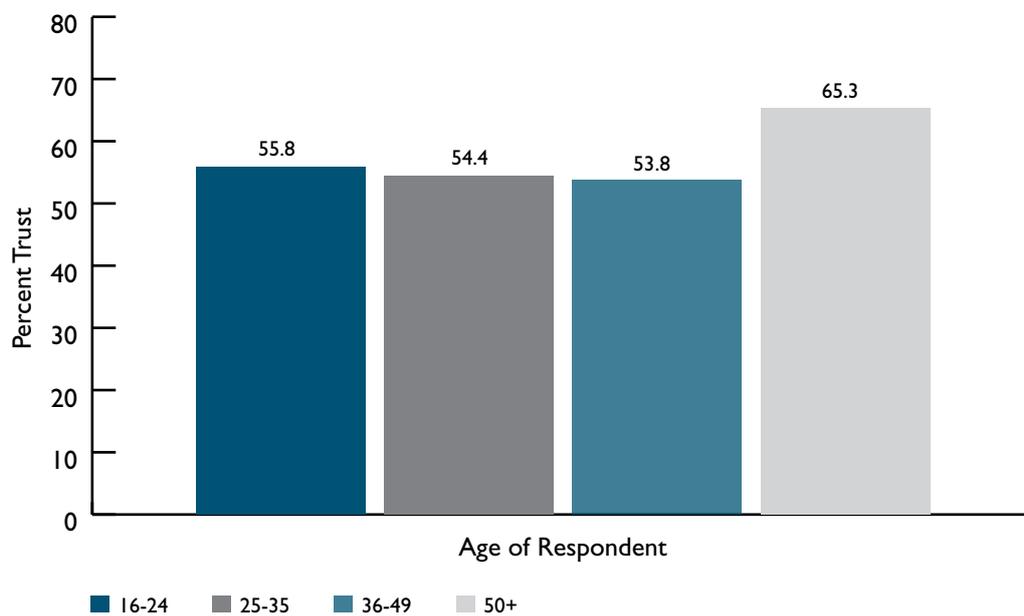
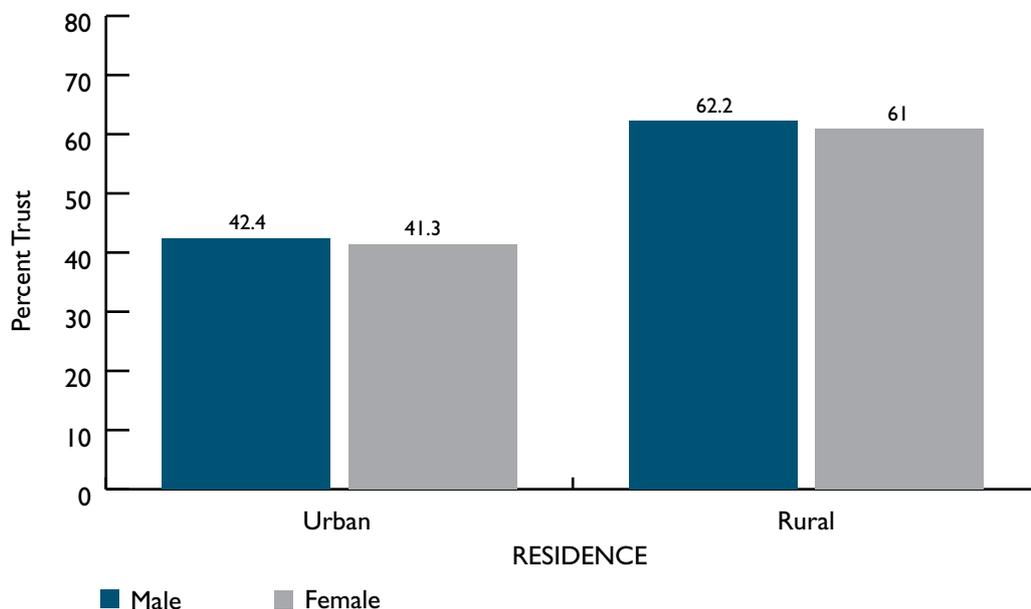


Figure 5 shows the relationship between level of trust in traditional authorities and gender controlling for residence. While rural residents are more trustful of traditional authorities than their urban counterparts regardless of gender, females are no less trustful of traditional authorities than their male counterparts regardless of residence. The fact that there are no significant differences between males and females in their levels of trust in traditional authorities is very significant since the conventional wisdom appears to be that females are disadvantaged under traditional governance, which is patriarchal in nature.

Figure 5: Level of trust in traditional authorities by gender and residence



5.2.2 Zambia

A similar situation of the changing nature of traditional leadership with regard to participation was observed in Zambia. There was clear evidence that traditional institutions have embraced state-led development and thus combine modernity and tradition in their structures. Unlike in the past when the Council of Elders would be constituted by the chief's relatives, distinguished tribal warriors, traditional healers and loyal wise men, today recognition is also given on the basis of new statuses and roles. For example, traditional councilors include teachers, businessmen and retired civil servants within the chief's jurisdiction. In several instances people who have certain competencies are appointed to serve on the Council from outside the accredited families, regardless of age, class or gender. This is akin to the modern democratic system where a president can appoint to his cabinet a person from across the political divide if they are deemed to possess certain technical competencies.

The question of broader participation and inclusion of representatives of various interest groups in society is the gist of democracy and cannot be prescribed to traditional institutions only. In Zambia, it was the representative of the local government who ironically criticized the current composition of councils for not adequately representing the myriad interest groups whose representatives should be nominated to the councils. It is recognized that such a change would increase stakeholder participation in the affairs of these councils beyond that of elected representatives (councilors), and one category of nominated members being chiefs' representatives as is currently the case.

Thus, the critique that traditional leadership compromises democracy because it does not encourage participation by non-royals appears to be contradicted by the fact that "commoners" participated and continue to participate in the governance of traditional communities. The description of public participation under

traditional governance system in the past and how this participation is rapidly expanding to adapt to modern circumstances as the situation in the two countries has shown.

5.3 The role of traditional authorities in modern local government and traditional authorities' involvement in local governance.

The claim by traditional leaders in general, and in South Africa in particular, that “they are the local government” is based on the role the institution has played historically and, in many instances, continue to play today in many African societies. There is a great deal of variability in the organizational structure of traditional leadership across the continent, ranging from those that are highly hierarchical to those that are based on consensual decision making (for example, Mengisteab, 2006). However, the common thread that runs through all the institutions is the roles they have played as: The custodians of ancestral and community land; the custodians of culture, customary laws and traditions including history; the initiators and champions of development activities in their respective areas of jurisdiction; and their role in the maintenance of law and order including presiding over and settling non-criminal civil disputes.

Even though upon the inauguration of the colonial project and the emergence of the modern nation state the centralized colonial state usurped the functions of traditional leaders and in the process assumed responsibility for many of these roles, traditional leaders continued to be used in the colonial administrative apparatus in various capacities at the local level.

This was the case especially with the British colonial administration's policy of indirect rule in most of their colonies. During this period, traditional leaders performed formal governmental, administrative, judicial, and land-revenue management roles. For example, in South Africa under the Bantu Authorities Act of 1951, some chiefs became so aligned with the state as to render them unpopular with the masses and later the liberation movements. Ntsebeza (2005), for example, has observed that because of the control they exercised over the administration and allocation of land at the local administration and Tribal Authorities level, Tribal Authorities were often the targets of land-related rural struggles in Apartheid South Africa.

5.3.1 South Africa

It is this historical role of local governance by traditional leaders, which forms the background to the relationship between the state and traditional leaders with regard to local governance in South Africa and elsewhere in the region today. Democratic constitutions are notorious for their ambiguities because of the myriad compromises they seek to strike with the diverse interests in the polity. Despite the lack of consensus within the ruling ANC on the issue of the status of traditional authorities, the formalization of this status was accomplished by the Traditional Leadership and Governance Framework and Communal Land Rights Acts of 2003 (For a detailed examination of the political horse trading that took place between the ANC and traditional leaders prior to the enactment of the two pieces of legislation, see Ntsebeza, 2005). Thus, with the enactment of the two pieces of legislation, the state essentially juxtaposed traditional governance with that of the state throughout the republic by ceding the administration of rural areas to traditional authorities through the control of land allocation. This effort by the state to recognize and make traditional leaders partners in development at the local level was echoed by the local government official in Limpopo during our interview with her in the following words:

If you go through the Structures Act (Municipal Structures Act), it has a provision for the *participation* of traditional leaders in council meetings. So you do not reach a situation where you discuss issues without the traditional leaders because they participate in all council meetings. So immediately thereafter, if you need any intervention from the traditional leaders you already have their buy-in as they are there in your council meetings. So basically that has actually assisted a lot. Instead of strengthening or let's say prolonging the problem by saying you meet as council, after council then you go to the traditional leaders. They become part of the council you know, their decisions...that actually helps a lot in terms of being *transparent* as well as you know *communicating* a message *back* to their constituents as traditional leaders. (All italics are ours).

The pertinent question to pose at this point is: Does the recognition of the role of traditional leaders to facilitate their co-operation in delivering the benefits of democracy mean that the two systems of governance are equal partners? An examination of both the enabling legislation and concerns of traditional leaders on the ground indicate that this is not the case and never was intended to be. For instance, while the power and authority of the state in the form of the Municipal and District Councils cut across geographical space, that of traditional leaders was limited to those areas with Traditional Councils according to Section 21 (2) of the 2003 Communal Land Rights Act.

In fact, this unequal partnership was hinted at by the local government official during our interview in Limpopo Province:

...We recognize *them* as part of our system....That is the starting point. But similarly to say that *provincially* as well, we have gone a bit further to say we have a house of traditional leaders *that is recognized under the leadership of our Premier; it is located within the Premier's office*. So, *based* on that there is no way that you can have any programme being implemented without having participation of the traditional leaders.

Several traditional leaders (at least those who are sympathetic to the ANC) realize that the government has made significant concessions to the inertia of the past by recognizing them constitutionally and legally despite their inglorious history with the previous apartheid regime. But, they also realize that the partnership is less than equal and moreover because of the schism between that policy and practice there has been an unintended consequence in the form of intensifying the competition between the two systems of governance. Here is our traditional leader informant:

It (*The Traditional Leadership and Governance Framework Act*) has created room for the enhancement of the institution (*Traditional Leadership*), but then that enhancement is clearly intensifying the *competition* between the institution and the local government structure of councillors. It *clearly* sets up of two bulls in one kraal, and I think it's going to have a lot of problems....in our own understanding, we thought traditional leadership institutions should be regarded as a *Ward*, traditional leaders being head of that particular *Ward* and deciding how do they feature into the district, and *Municipalities* coming from this *Ward* structures of traditional leadership, but the current situation left much to be desired. It is a recipe for perpetuating the tension between the two institutions....that's my understanding.

But, the critical question of the cooperation between local government and traditional governance at the local level appears to be largely a function of the political history of a country and the local communities. Analysis of the data from the Kwazulu-Natal pilot study underscored the critical role national politics plays in determining the cooperation or lack thereof between traditional leaders and local government structures. For example, the Speaker of one rural district council in the province hinted at this variation in cooperation at the local level by traditional leaders in the following words:

Errh...Dlakadla (Clan name of interviewer) the relationship varies from inkosi (chief) to inkosi. Errh...there are amakhosi with whom we work well and those with whom even if we co-operate but you can see that because the work is not clearly spelt out by the government as to who will do what there is fear that if the councilor does something on development it is as if he is now taking inkosi's power, etc. But other amakhosi understand that we are all working to bring development but others have that fear which results in a lack of co-operation with the councilors but generally there is co-operation. For example, as a Speaker I have never been denied an opportunity to report at inkosi's tribal meeting (with inkosi himself present) what the municipality sent me to report on.

5.3.2 Zambia

While the key informants, in Zambia, expressed a similar perception of the asymmetry of the powers of the two structures there was understanding that this differential level of authority is also dependent on their spheres of operation, the issues at hand and the resources needed. Traditional and state institutions tended to have different domains of authority; in communities where the traditional institutions exist, chiefs usually command more respect than their elected counterparts who are perceived as ordinary members of community, yet the view was that they had to cooperate because they controlled different forms of resources for development.

Thus, there is cooperation between traditional leaders and local government structures irrespective of their institutional affiliation was that traditional and state institutions tended to have authority yet they had to cooperate because they control different forms of resources. Ironically, in Zambia, it was the representative of the local government who criticized the current composition of councils since they do not adequately represent the myriad interest groups whose representatives should be nominated to the councils. He/she argues that such a change would increase stakeholder participation in the affairs of these councils beyond that of elected representatives (councillors), one category of nominated members being Chiefs' representatives. On the other hand, the representative of the traditional authorities found the composition of councils to be satisfactory "because the majority of councilors [were] elected".

5.4 The nature of the current interface between traditional structures and local governments with regard to the delivery of such services as land administration, dispute resolution, water, health, education, HIV/AIDS and other programmes with illustrative cases from the SADC region

Traditional authority was the repository of political-administrative power in the pre-colonial period. To this effect, provision of services such as land administration, construction of feeder roads, latrines, dispute resolution, wells etc. were all the sole prerogative of traditional leaders during this period. The resources for the provision of these services were in the form of levies, donations, royalties and tributes. However, with the emergence of the nation state under colonial and post-colonial regimes, the modernization of basic services, and the need to provide such services on a larger scale compelled the state to assume responsibility for the provision of these basic services through its elected local government structures such as municipal and district councils. Thus, traditional authorities no longer had independent resource base to provide services for their communities. In fact, in Zambia, one of the key informants indicated that under indirect rule, the British colonial government allocated a portion of financial resources to chiefs for the purpose of developing their chiefdoms.

5.4.1 South Africa

Within this context, the role of traditional leaders was limited to mobilizing their communities to complement the efforts of the central government in the provision of these and other services. However, following the failure of the neo-liberal reform agenda, the role of traditional leadership with regard to the provision of these services at the local level has come to occupy centre stage in development thinking on the continent. Local communities, through their chiefs and other stakeholders are being called upon to play increased roles in the development of these communities although the dominant role is being played by the state. The state's approach to service delivery is duly informed by the Municipal Service Partnerships (Department of Constitutional Development, 1999).

The essence of this partnership is to enhance the role of the private sector in service delivery within the New Public Administration paradigm (Pycroft, 2000). It became clear from our interview with the local government official the state had established several types of partnerships (public-public, public-private etc.) to deal with the issue of service delivery at the local level. Firstly, through the Municipal Infrastructure Delivery Section, the state interacts with stakeholders such as ESKOM, the para-statal that provides electricity. Secondly, on water and sanitation services, they collaborate and work directly with the Department of Water Affairs. Thirdly, in office of the Premier, they work very closely with the section that is responsible for the House of Traditional Leaders to discuss issues of structural arrangements in municipalities.

Besides engaging such service providers as ESKOM, NGOs, the South African Local Government Association (SALGA) and other Civic Organizations, the department also seeks to empower the local government structures themselves to ensure that they are able to deliver on the mandate of service delivery. This they do by ensuring that ward committees are properly established and that all ward committees have constitutions. The Executive Manager in charge of Traditional Leadership and Institutions in the National Department of Provincial and Local Government, Professor Wellington Sobahle, outlined the complementary roles of the state and traditional leaders at the local level and admitted that the institution of traditional leadership can

play a key role in supporting government to improve the quality of life of people. Moreover, he acknowledged that elected representatives do not possess a monopoly of ideas with respect to socio-political and economic transformation.

5.4.2 Zambia

In Zambia, there is a consensus that local government structures are a vital link between the communities and central governments through participation of the traditional leaders in the structures which make decisions on matters pertaining to development at the local level. Traditional leaders' contribution to strategic integrated development plans such as the Fifth National Development Plan (FNDP for 2006-2010) is considered crucial. However, like in South Africa, there is lack of consensus on the degree of participation by traditional leaders. For example, the state representative suggested that the programme activities of the FNDP incorporated the views of the traditional leaders as part of the stakeholder institutions in Zambia who participated in the formulation of the Plan. In contrast, the representative of traditional authorities observed that there is no such participation since there were no chiefs who sit on the Lusaka City Council and a particular senior chief (Senior Chief Nkomesha) was not represented on the Council.

In other words, the institution of traditional leadership was not effectively involved in Council's initiatives for socioeconomic development.

5.4.3 South Africa

However adequate the participation of traditional leaders in local government structures may be, there is evidence that they continue to play their time-honored role of initiating and executing development projects in their communities independent of the state. Our traditional leader informant in Limpopo province described a typical community-initiated development project in his area of jurisdiction in what he referred to as a Community Integrated Development. This was the initiative of the Traditional Council and it consisted of cultural tourism; intensification of the current subsistence farming system; cleaning and bottling the water in the area; production of poultry, fishery and a butchery which would all be fed by the agricultural produce through the intensification of subsistence farming. The community engaged the services of a Consultant who assisted in costing the project. Here is how the chief described the project:

We developed, even before the current local government, and produced what we called Community Integrated Development. We analysed the area and said we can't build on things that we don't have. We should focus on things that we do have, and when we looked in that community we concluded that it is a mountainous with perennial rivers, rocks, field, open field where you can farm. So, we then said that's what our strength is. So we are looking at traditional or cultural tourism form of, you know, economic build up....,

The independent efforts by traditional authorities to provide vital services to their communities in the form of job creation, education, clinics etc. did not stop at the production of the plans. Since a British company was involved in the production of asbestos in the area in the past, the traditional council approached the British High Commission in Pretoria to help fund the on the basis of corporate social responsibility, while they sent

a delegation to meet and share their plans with the former deputy president, Jacob Zuma. As the case of this traditional area clearly indicates, one of the major challenges facing traditional leaders as far as interfacing with local government structures in the provision of services is marshalling the necessary resources to undertake the development projects they identify. In our interview with the representative of the local government, there was a sense that notwithstanding the fact that traditional leaders do not have the powers to impose levies, some engage in this behaviour to the distaste of the state and the middle classes in such communities:

So a municipality can take a conscious decision to say because this area is predominantly poor people who are let's say below the income level of R800 per month, those we are not going to levy rates. So the question is if the municipality makes a decision to say they are not going to levy a rate in a particular, in this particular village, does it mean that the chief in that area will continue collecting the R10 or the R20? But on the other side if you have an area where the municipality sees it as a; you have your teachers, your policemen who are actually within the middle income where you can levy rates, but in a community land, are they going to pay double the rates, pay double rates, pay the rates to the municipality and pay the rates to the traditional leaders? So those are questions that we haven't as yet answered you know because we have those kinds of questions, which we have to take it up with the house of traditional leaders as we move on.

5.4.4 Zambia

While we have no data on the independent community projects engaged in by traditional leaders, the problem of access to resources to embark upon such development projects was quite evident in the following statement by the representative of traditional leaders in Zambia thus:

In the past, for the construction of schools and health centres, chiefs were able to impose a school levy or health levy on all native taxpayers in the chiefdom. Similarly, levies were imposed on the construction of roads and bridges in the chiefdom. Chiefs today have no powers to impose such levies. They are left without any budgets in their chiefdoms and therefore cannot be as active in the development of their chiefdom without financial provisions.

5.4.5 Botswana

The various democratic structures, which include both traditional leaders as ex-officio members and elected leadership, for example, Urban/Village Development Committees and Local Councils allow for the coexistence of the two governance structures. Dikgosi work with the Government of Botswana to facilitate government's legitimate responsibility to secure the well-being of the nation through the provision of vital services such as education, health sanitation in the villages by the local councils and municipalities. Partnerships with non-governmental organizations, the community and business are practical efforts, which have provided synergies in entrenching the value of self-reliance among the Batswana. Specific projects such as youth sports activities, Boards of Trustees and community trust Funds are examples of developmental initiatives in the country.

Although there may be conflict of interest in some areas, the relationship between chiefs and local councils is largely cordial. The position of chiefs due to their social proximity to their communities means that they

are better placed to advise government about the socioeconomic needs of the people and this is useful in the distribution of services and resources.

5.4.6 Swaziland

The functions of chiefs in development are stipulated in Section 11 of the Swazi Administration Order, 1998. They are the link between their communities and central government and play a vital role in maintaining the relationship by informing their communities of developments, which affect them. Although they are expected to promote the welfare of their communities, some of the main challenges to service delivery in Swaziland emanate from the fact that the mechanisms and processes of administration remain highly centralized and therefore are not immediately accessible to the majority of citizens, especially in the rural areas. From the perspective of traditional leadership, equitable allocation of resources and service delivery between the rural and urban areas is hampered by lack of participation in the decision making processes which lead to the identification of development priorities in the different areas. Consequently, the Central Government is considered the only role player in the provision of services among local communities. It is observed that since the adoption of the Decentralization Policy of 2005, there have been attempts by the traditional leadership to solicit government's cooperation with civil society and the private sector in promoting people-centred development.

5.5 The current role of traditional structures could be enhanced further by either modernization of the structures or through integration into the modern governance structures

Based on his work in the Northern Nigerian Emirates where he observed an emerging stable symbiosis of modern and traditional elements, Whitaker (1970: 467), noted several cases of what he called "creative adjustments" leading to what he described as "democratic reforms". Questioning the assumptions that there could not be a compromise in the leadership of the two governance structures, he concluded "significant elements of the traditional political system of the Emirates proved to be compatible in practical terms with significant features of the modern state." Contrary to the expectation that traditional authority would be a victim of modernization, it has successfully adapted to modernizing influences through such mechanisms as primitive accumulation and acculturation.

Like the feudal lords of medieval Europe, traditional authorities' primitive accumulation enabled royal lineages to help create the middle class, which later became a new point of power on the political landscape. In the specific African context, the overlap between the "old" and "new" African elite was the result of the strategy of chiefly lineages using their accumulated resources to increasingly educate their members and retainers both at home and overseas. In fact, as the traditional leader in Limpopo, who has a degree indicated members of royal lineages go to school with the aim of using their newly-acquired skills and knowledge to change the lives of their "subjects". To this effect, they are very selective even in their choice of subjects at school and university they study. In his case, for example, he had intended to study medicine. However, the university advisor at the time who knew his royal background, advised him to study the social sciences. Thus, ironically, the forces of modernization have helped the institution of traditional leadership to be versatile and dynamic; formal education has helped the institution to add value to the developmental goals of societies with traditional authority structures.

This sentiment was echoed by the King of the Bafokeng in South Africa at the ECA's Fourth African Development Forum (ADF IV) workshop in 2004: "We are rooted in –but not bound by – tradition". By virtue of their education, in several African states, chiefs are directly and indirectly playing vital administrative, judicial, and legislative roles in both state and para-statal institutions. In fact, as a result of their formal educational qualifications, many chiefs see themselves as better qualified and therefore competent than some of the elected municipal council officials who are responsible for the delivery of development projects at the local level. To some, especially, the educated traditional leaders, many of these local government officials are there because of political patronage due to their activist credentials.

The review of the empirical data based on the case studies suggest that contrary to our expectation, the line between the two structures of governance continues to be blurred by modernizing forces. Another trend in Southern Africa and elsewhere on the continent, which suggests the blurring of the distinction between the two structures of governance, is that successful members of the modern elite are increasingly seeking chieftaincy titles through intense lobbying in their respective local communities. On the basis of these and other trends with regard to the two structures of governance, some may hasten to suggest that we integrate them or fuse them into one structure to ensure efficient delivery of services to local communities. Such a suggestion should however take cognisance of the historical but necessary tension between the two systems as was captured in the following statement by our traditional leader informant in Limpopo province:

We should start by appreciating and of course saying this institution [Traditional Leadership] had its limitations during that particular system of apartheid, but at the end of the day it makes us to be what we are today [as Africans]. We are talking about the 13 percent of land occupied by blacks, the very same 13 percent that we talking about is only the land that is in the hands of traditional leaders. Nobody else managed to sustain any piece of land except the one that is in the hands of traditional leaders. So, instead of duplicating and creating competing institutions, we should consider enhancing the current system of traditional leadership by building *our local council out of the institution [traditional leadership]*.

Chief Phathekile Holomisa, an Advocate, a ruling Party Member of Parliament, and President of the Congress of Traditional Leaders of South Africa (CONTRALESA) and Chairperson of the SADC Council of Traditional Leaders, concurs with this view. His argument is that traditional councils are ideally placed to facilitate the delivery of services to rural communities. According to him, the councils or their subsidiaries, the headmen, are much closer to the people they serve. To this effect, the process of service delivery would greatly be facilitated if government departments and other organs of State established offices and relevant personnel in the Council establishment. Thus, rural citizens will be accorded the same rights and privileges that their urban counterparts currently enjoy. In the words of Chief Mangosuthu Buthelezi, "We are the local government". Traditional authorities have a potential role to play in ameliorating some of the administrative difficulties, which the poor in the rural areas encounter in their attempt to access their entitlements such as social security benefits from state agencies.

However, as the case of South Africa illustrates, the state appears to have a different view with regard to the integration of the two structures of governance. For instance, consistent with his view of the complementary role of traditional leaders, the Executive Manager of Traditional Leadership and Institutions clearly had in mind the idea of the coexistence of the two structures as opposed to integrating them. He outlined the essential features of the envisaged partnership between the two structures in the following way:

- Municipalities and traditional councils sharing resources;
- Joint IDP compilation processes – including Local Economic development plans and activities with municipalities;
- Allocation of functions to traditional councils through service delivery agreements by government departments;
- Traditional councils and municipalities identification of community development needs in rural areas;
- Signing of service delivery agreements by traditional and municipalities for certain services to be rendered by the traditional councils;
- Constant sharing of information on matters of mutual interest; and
- Government departments having to allocate roles and functions to traditional leadership in terms of legislation.

Chapter 6

Conclusion

The distribution of vital societal resources in pre-colonial African societies was organized through various structures of traditional governance. With the inauguration of the colonial project on the continent these traditional leadership structures have lost a considerable amount of the administrative, legislative, judicial and religious powers they wielded prior to the time. Even though many of the colonial powers tried to maintain these traditional governance structures, especially the British under their indirect rule system, in the absence of any independent resource base to provide services to their communities, chiefs and their elders were left without much influence. Because of the intensity of the colonial exploitation, based largely on race, there was virtually a wholesale adoption of the socialist paradigm of development by the post-colonial African elite upon the attainment of national independence in the 1960s and 1970s.

Because of the new African elite's reasoning that traditional leadership was feudal in nature and did not include the mass of the people in governance, several of the new leaders sought to reduce the powers and influence of the traditional leaders further and in some instances even sought to abolish the institution altogether. The failure of the socialist experiments by African states led to the adoption of market reforms and their concomitant democratization processes in the 1980s and 1990s under the so-called Washington Consensus. However, these reforms too have not yielded the expected benefits as far as the improvement in standards of living are concerned leading to renewed interest in African indigenous knowledge systems in general and traditional institutions of governance, in particular.

This renewed interest in traditional governance is reflected in the increased rate with which African countries are adopting decentralization to ensure efficient and effective delivery of services, especially at the local community level. While following the renewed interest in traditional governance structures and decentralization countries on the continent have moved to recognize traditional leadership institutions through constitutional and legal frameworks, their roles and powers with regard to service delivery at the local level are vaguely defined.

The aim of the present study was to examine how traditional leadership can be harnessed for the purposes of service delivery at the local level in Southern Africa. Specifically, the study sought to examine the current role of traditional leadership institution which is an inherent part of the Southern African institutional culture with regard to service delivery vis-à-vis the democratic processes in the region and how the institution can be modernized and in possible integrated into the existing state structures to enhance their service delivery role at the local community level. The data for the study were based desk reviews of existing literature, a social survey (SA), interviews with representatives of local governments, traditional leaders, civil society organisations in Botswana, Lesotho, South Africa, Swaziland, Zambia and Zimbabwe as well as inputs from the participants from these countries at a workshop organised by the ECA in Johannesburg, South Africa.

The results of the study confirmed the duality of the Southern African institutional culture. In other words, even though traditional leaders no longer wield the considerable administrative, legislative and judicial powers they used to exercise over the chiefdoms, they are still a very much part of the institutional culture

of the sub-region. In almost every country in the region, traditional leadership enjoys both constitution and legal protections and are seen by both traditional leaders and government representatives as partners with regard to development at the local level. The continued importance of the institution of traditional leadership is largely due to the broadening of participation by ordinary members of their communities based on technical competence and contributions to development efforts in these communities.

In South Africa, where a survey data on the public's attitudes towards various issues in the country, including traditional authorities was available and analysed, the renewed legitimacy which traditional leaderships enjoys in modern democracies in Africa was shown by the high level of trust from all sections of the society regardless of residence, age and gender.

Even though with the exception of Lesotho and Swaziland where traditional leaders are fully integrated into the state structures, traditional leaders in all the countries in the sample are recognized as part of the respective local government structures, their role is limited to being advisors and lobbyists. Thus, there is a general agreement that the relationship between traditional leaders and the state is one that is best characterized as unequal partners. But, while there is a general dissatisfaction with this advisory and lobbyist role in all countries, traditional leaders in some countries such as Zambia and Zimbabwe accept that there are separate roles for traditional leaders and the state and that they complement each other. To this effect, traditional leaders believe that they have a critical role to play in development and that they continue to complement the administrative structures in service delivery. Consequently, there is on-going consultation with communities and authorities in Zambia regarding a structure, which will entail chiefs and elected councilors existing side by side.

However, in South Africa, traditional leaders are adamant that they constitute local government and therefore require a greater and more effective role in local governance. For example, on the question of public service delivery, the position of the traditional leaders is that traditional councils are ideally placed to facilitate the delivery to rural communities. Thus the councils or their subsidiaries, the headmen, are much closer to the people they serve. They believe therefore that the process of service delivery would greatly be facilitated if government departments and other organs of State established offices and relevant personnel in the Council establishment, and in the process accord rural citizens the same rights and privileges that their urban counterparts currently enjoy.

In conclusion, the present study has shown the continuing importance of the institution of traditional leadership in the social organization of African societies. While the resilience of the institution and its attendant duality of the institutional culture in Southern Africa has come at a cost in the form tension between it and existing state structures, the fact remains that the two structures complement each other. What this means that since modernizing influences such as formal education by chiefs and their retainers have largely contributed to the resilience of the institution through renewed legitimacy, the state should assist in this process of transformation by providing the requisite resources and further training to enhance traditional leaders' role in service delivery at the local level.

Chapter 7

Recommendations

The increasing rate at which countries are adopting decentralization as a way of bringing services to people provides opportunities for formalizing and integrating traditional leaders into the state structures to enable them to play a more prominent role in service delivery. Efforts to enhance the role of traditional leaders in public service delivery will require the adoption of a framework that will seek to address the strengths and weaknesses of traditional leadership to enable it to become an effective vehicle for service delivery. This framework will encompass the following three areas:

7.1 Institutional strengthening and capacity building

- There should be political commitment and courage to take bold decisions on the role and involvement of traditional authorities in the service delivering and good governance process. This should include introducing ICT infrastructure in rural areas to ensure availability of services such as birth certificates, marriage and death certificates;
- There should be mechanisms to enhance the traditional leaders' interaction with the various arms of the government (legislative, executive and judiciary);
- Concrete steps should be taken to move beyond coexistence and cooptation towards integration and mainstreaming of traditional leadership into the priority setting, legal and budgeting process, monitoring and evaluation to include well-defined mechanisms for strengthening the relationship between the two components.
- The state and representative bodies of traditional authorities should jointly review the myriad legislative provisions as a way of educating the traditional authorities about the implications of these legislations for their roles and for knowledge building purposes.
- These steps should be synchronized with building the capacity of traditional leaders through knowledge acquisition; training on public financial management; adequate remuneration and compensation; establishing institutional structures to facilitate their participation and to provide appropriate operating facilities (human, office's equipment and financial resources).
- Specific capacity building approaches could take the form of training of trainers which would include traditional leaders themselves in this programme; workshops and seminars on practical issues of leadership roles and functions and to equip them with knowledge to be able to deliver public services; inter- and intra-country exchange missions and study tours to learn about other models and for networking; encouraging and supporting them to embark in lifelong learning and skills development and thereby set example in their communities about the importance of education.
- The state should endeavor to assist traditional leaders to mobilize the necessary resources to enable them to operate and thereby empower their communities to take interest in community activities. Here, resources within communities provide opportunity to empower communities and in the process create employment and generate wealth.
- Public-Private Partnerships (PPPs) should be considered as a way to generate wealth, involve community resources and access natural resources in ways that directly benefit local communities.

PPPs are necessary for increasing investment; financing of public work; knowledge transfer. This has not been sufficiently exploited, but as knowledge to meet certain objectives.

- Traditional leaders should be supported to broaden participation as a means of bringing people with technical knowledge within communities to complement their capacities.
- Economic empowerment beyond benefits from royalties towards the community shareholding arrangements to stake their claim of the natural resources being exploited.
- Arrangements and structures should be institutionalized to clearly define the roles of traditional authorities, government, the civil society and parliaments.
- The issue of representation must be addressed to ensure that traditional leaders well represented at all decision-making levels (at the constituencies, district and national levels).
- Partnership arrangements should be established beyond consultation to building functional relationship between state systems and traditional authorities.
- With regard to the administration of justice, what emerged from the study is the fact that people, especially, those in urban areas who have limited access to municipal services, have confidence in the role of traditional authorities because of their ready accessibility. Yet, the jurisdiction of traditional leaders in this area of service delivery is too narrowly defined. Moreover, there are other constraints in the performance of their judicial functions such as the non-codification of customary law in some countries, lack of facilities to keep records, lack of training, weak linkages with the enforcement arms and non-alignment between the customary law and the statutory law.
- As part of the formalization and integration process therefore, it would be cost effective in the long run for the state to provide resources for the codification customary law, equipment such as computers to store and retrieve records and the requisite training to enable traditional leaders to complement the state's efforts in the dispensation of justice at the local level.

7.2 Information and knowledge sharing

To ensure that traditional leaders acquire knowledge and share the information they access, the following specific interventions are recommended:

- They should be encouraged and supported to build upon success stories and best practices available in different countries; and
- They should be provided platforms at national, sub regional and continental levels to enhance their voice and especially through the SADC Traditional Leaders' Council. Knowledge sharing and training should underpin the capacity development process including the development of a sustainable information system.

7.3 Boosting good governance

Good governance is one of the central tenets of NEPAD therefore for a successful integration of traditional leadership into the modern state structures it is important to ensure that the institution adhere to this tenet. In boosting good governance, participation, information, accountability and ensuring neutrality of traditional leadership should be entrenched since they are all necessary requirements for sound leadership, especially with respect to dispensing traditional leaders' public roles and duties.

To achieve these goals, the following specific interventions are recommended:

- There should be needs assessments jointly undertaken by the state and traditional leaders in their respective communities. This should be in the form of stock taking and/or self-assessment process to identify strengths, weaknesses, opportunities and threats that face traditional communities;
- There should be mechanisms for tracking progress where communities under their traditional leaders embark upon development projects;
- This also means that systems for monitoring and evaluating such projects; and
- Ensure sound record keeping practice to ensure proper accountability and track progress on implementation of programmes and projects.

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Annex I

A Workshop on Harnessing Traditional Governance in Southern Africa 18 – 19 OCTOBER 2007, Johannesburg, South Africa

Report

1. Executive Summary

The rationale for strengthening traditional governance institutions is the desire to take development to the people and meet the challenges of poverty. Notwithstanding good intentions by many post-colonial governments, tensions still characterize the relationship between traditional and state governance, some of which are a result of misconception and lack of information.

Against this backdrop the Workshop on *Harnessing Traditional Governance in Southern Africa* asserted that traditional governance should be seen as complementary rather than competing with state governance. It therefore called for reinvigorated efforts to redefine traditional governance and to incorporate it into the “modern day western type democracy”.

It is also important to find creative ways to enable the traditional structures to function in harmony with the state to deliver public services particularly in rural areas as a means of ensuring the achievement of the MDGs. Accordingly, the Workshop called for measures aimed at reconciling these governance systems, introduce checks and balances between and among them, harmonize their values with the aim of eliminating poverty as a key objective.

Specific recommendations centred on three broad areas. First, concerted efforts should be placed on strengthening traditional institutions through, *inter alia*, injection of resources and capacity building. Second, there should be a constant and continuous sharing of information between traditional and state governance structures. Lastly, there is a need to boost good governance within traditional governance systems by ensuring effective participatory processes, accountability for resource utilization and neutrality of traditional leadership in the face of competing and shifting political agendas and alliances.

2. Background: Situational Analysis

Traditional governance is recognized as existing everywhere in the sub region but with different development level with Lesotho and Swaziland having the high level of integration of the traditional institutions into state structures.

The strategic role of the traditional governance in public service delivery and in the overall development process has been recognized since the inauguration of the colonial project but within the post-colonial period these institutions have been weakened. Presently traditional leaders play a much more limited advisory and lobbyist role on traditional, cultural and customary issues. Their power and resource base have been constantly redefined and neutralized. In spite of this, traditional systems have demonstrated strong resil-

ience and continuity, and not anachronistic institutions, as some views would have it. Therefore, the need for their more and concrete recognition has been clearly established.

With the current intensification of democratic processes in Africa from the 1990s, evidence shows that the people's views regarding these institutions remain positive. Countries are adopting decentralization as a way of bringing services to their peoples but these decentralization processes are yet to fully capture the role of the traditional leadership in service delivery.

The decentralization of government functions provides a great opportunity to formalize and integrate the traditional leadership into the delivery of services at various levels (planning, implementation, monitoring and evaluation).

Notwithstanding the people's respect for traditional systems of governance and the subsequent formal recognition from post-colonial governments, the relationship between the state and the traditional authority remains clearly characterized by coexistence and cooption than real integration.

To illuminate this point, with respect to the administration of justice, while people have confidence in the role of traditional authorities, because of their accessibility, their jurisdiction is too narrowly defined. Other constraints in the performance of their judicial functions include the non-codification of the customary law in some countries, the lack of facilities to keep records, lack of training, and the weak linkages with the enforcement arms. There is also the issue of non-alignment between the customary law and the statutory.

3. Attendance

The Workshop on *Harnessing Traditional Governance in Southern Africa* was held at the Protea Hotel – The Lakes, Johannesburg from 18-19 October 2007.

The Workshop was attended by traditional chiefs from Botswana, Lesotho, Swaziland, Zambia, South Africa and Zimbabwe. There were also representatives of local government departments from Lesotho, South Africa and Zimbabwe. Civil society representatives came from Zambia. Names of participants and their affiliations appear as Annex 3.

4. Opening Session

4.1 Welcome Address

The Director of the UNECA-Southern Africa Office, Ms Jennifer Kargbo, welcomed the participants and gave the background and mandate for the Workshop.

In her statement, the Director thanked the chiefs for taking time out of their busy schedules to attend the Workshop, which is aimed at strengthening the relationship between the State and traditional authorities in the Southern African region. The strengthening of this relationship is deemed necessary to enhance the role of traditional leadership in support of economic and social development in the Southern African region.

In giving the background to the Workshop, she referred to the UNECA's efforts to improve governance among its member States and to give tangible support to NEPAD's resolutions on the promotion of good governance to achieve development. Furthermore, the Fourth African Development Forum (ADFIV) of 2004 requested UNECA to develop a project to map out traditional systems of governance. Here, special attention was placed on developing a better understanding of the decision making role, as part of a broader effort to better define and advocate traditional leaders' role in achieving good governance in Africa. Finally, this Workshop was carried out within the framework of implementing the UNECA 2006-2007 Work Programme on the preparation of a paper on *Harnessing Traditional Governance in Southern Africa*.

4.2 Opening Statement

Professor Wellington M. Sobahle, Executive Manager: Traditional Leadership & Institutions, Department of Provincial and Local Government, South Africa, gave an Opening Statement. His statement focused on recent influences on the institution of traditional authority by the recent legislative and policy developments particularly in South Africa. Underpinning all these developments is the realization that the institution of traditional leadership can play a key role in supporting government to improve the quality of life of people. He acknowledged that elected representatives do not possess a monopoly of ideas with respect to socio-political and economic transformation.

He outlined the basic tenets of the recent legislative and policy reforms, as captured in South Africa's 1996 Constitution, the Local Government Municipal Structures Act of 1998, Municipal Systems Act of 2000 and Traditional Leadership and Governance Framework Act, as follows:

- Promote socio-economic development;
- Promote service delivery;
- Contribute to nation building;
- Promote peace and stability among community members;
- Promote social cohesiveness of communities;
- Promote the preservation of the moral fibre and regeneration of society;
- Promote and preserve the culture and tradition of communities; and
- Promote the social well-being and welfare of community.

He pointed out that throughout most of Africa, traditional authority and institutions have survived the destabilizing and reforming impact of colonialism, apartheid, modernization, technological change, western education and republican constitutions, and others.

In concretely outlining the modalities of partnership of traditional leadership with government, Professor Sobahle identified, among others, the following features of partnership:

- Municipalities and traditional councils sharing resources;
- Joint Integrated Development Plan (IDP) compilation processes – including Local Economic development plans and activities with municipalities;
- Allocation of functions to traditional councils through service delivery agreements by government departments;

- Traditional councils and municipalities identification of community development needs in rural areas;
- Signing of service delivery agreements by traditional and municipalities for certain services to be rendered by the traditional councils;
- Constant sharing of information on matters of mutual interest; and
- Government departments having to allocate roles and functions to traditional leadership in terms of legislation.

Notwithstanding these laws and policies, a number of challenges remain in implementing the new legislative dispensation. Professor Sobahle summarized them thus:

- Lack of proper understanding of the roles of both institutions;
- Forging of synergistic partnerships in terms of the Framework Act and getting all role-players to cooperate;
- Execution of the capacitating programme for all traditional leaders and traditional councils;
- Inclusion of traditional leaders in ward committees;
- Creating a common understanding as to the status and roles of both municipalities and traditional institutions;
- Provision of resources in terms of legislation and in partnership with municipalities; and
- Mobilizing all government and non-government institutions to work with traditional leaders.

He concluded by noting that the sustainability and viability of the mission to democratize the institution will depend largely on the ingenuity and reliability of the actual political compromises and political adjustments between traditional and modern social interests and the sensitivity of the systems of accommodation and patterns of stabilization to the diversity of traditional authority, institutions and interests.

4.3 Keynote Address

His Royal Highness, Nkosi Phathekile Sango Holomisa (A! Dilizintaba), President: The Congress of Traditional Leaders of South Africa (Contralesa), and Chairperson: SADC Council of Traditional Leaders gave a Keynote Address to the Workshop [see Annex 1]. He opened by thanking the UNECA for this pioneering Workshop. He warned that the longer governments delay the recognition of traditional institution the more the rural community in particular will be deprived of much-needed public services, hence undermining MDGs.

He voiced his concern at the inclination of post-colonial leaders to dismiss traditional governance structures in favor of strenuous attempts to acquire the knowledge of “*colonial masters*” with regard to legislative and administrative forms of government “*as if pre-colonial Africa never had governments.*” He warned that since royal establishments continue to be the gateway in rural areas, any state institution, which seeks to introduce its programmes or projects, is well advised to consult the local traditional leaders if these initiatives are to have salutary effects on rural development. This is because rural communities remain respectful of their traditional leaders as custodians of culture, history and their land. Indeed, “*...rural people need progress, development, public services and all the amenities that urban societies take for granted, but they do not want these at the expense of all that define them.*”

Nkosi Holomisa stressed that the traditional ways of arriving at decisions have always been inclusive than generally acknowledged, taking into account the views of all people, including women and the youth, during *iimbizo*. Hence decisions arrived at are in sync with democratic principles, and indeed have generally enjoyed more legitimacy than those foisted on the rural community by the 'enlightened' government officials. For this reason, attempts at bypassing traditional authorities in the formulation and implementation of development policies and programmes will render those government efforts ineffectual in the final analysis.

On party political involvement of traditional leadership, Nkosi Holomisa, stated that the preferred position of Contralesa is that traditional leaders should not be involved in party politics "*while they are in office.*" To encourage non-involvement however requires certain preconditions, most of which should be met by governments. This includes clearly defining the roles of traditional leaders to both parties' mutual satisfaction. Furthermore, houses of traditional leaders must be established at all levels of government to ensure their effective participation in processes of policy-making and legislation. Where houses of chiefs have been established, these must be reformed to do away with the current practice of rendering traditional leaders mere government advisers. As an integral part of decision-makers, he argued, "*Traditional leaders are the advised rather than advisers!*"

At the regional and continental levels, Nkosi Holomisa called for similar umbrella structures to complement existing SADC commissions, the Pan African Parliament and the African Union.

On public service delivery, he asserted that traditional councils are ideally placed to facilitate the delivery of services to rural communities. The councils or their subsidiaries, the headmen, are much closer to the people they serve. This process would greatly be facilitated if government departments and other organs of State establish offices and relevant personnel in the Council establishment. Thus, rural citizens will be accorded the same rights and privileges that their urban counterparts currently enjoy.

In conclusion, Nkosi Holomisa argued that as custodians of cultural values, the formal recognition of traditional institutions by the state would encourage traditional leaders to add their voice and efforts in the fight against the HIV/AIDS pandemic. He noted that some cultural practices followed by African communities were aimed at promoting proper and morally sound behavior on the part of especially the youth. To this end, he enjoined the State to provide adequate resources to enable traditional councils to maintain and uphold law and order and to dispense justice efficiently and effectively.

4.4 Organizational Matters

The Workshop elected the following participants to guide the meeting:

- Chairperson of Day 1 Agenda: His Royal Highness Chief Eshiloni Jonathan Mumena, Chairman: House of Chiefs, Zambia.
- Rapporteur: Mr. Lameck Simwanza, Programs Coordinator: *Women for Change*, Zambia.

The Programme of Work was adopted without alteration.

5. Presentation of the Draft Paper on Harnessing Traditional Governance in Southern Africa

Professor Acheampong Yaw Amoateng, Director of Research, Human Sciences Research Council, South Africa, presented the preliminary findings of a study captured in the draft paper entitled *Harnessing Traditional Leadership in Southern Africa*. The purpose of the study was to (i) describe the inherent “institutional duality” of the Southern African political culture and analyze the democratic processes and their relationship to chieftaincy in Southern Africa; (ii) describe the role of traditional authorities in modern local government and the extent to which, in the context of governance in the modern state, traditional authorities are involved in local governance; (iii) examine the nature of the current interface between traditional structures and local governments with regard to the delivery of such services as land administration, dispute resolution, water, health, education, HIV/AIDS and other programmes with illustrative cases from the SADC region; and (iv) examine how the current role of traditional structures could be enhanced further by either modernization of the structures or through integration into the modern governance structures.

He explained the methodology he followed in researching and drafting the paper as a combination of a desk-top research and a limited primary research in the form of face-to-face interviews in South Africa and mailed interview questionnaires to Zambian correspondents. The paper itself looks at historical, theoretical and analytical aspects of the issue.

Professor Amoateng indicated that the theoretical framework is underpinned by two opposing, and at times even antagonistic, views on traditional governance, namely, those who favor involving authorities in modern governance because of their democratic elements, and those who think that their authoritarian nature compromises “modern” democratic governance.

Notwithstanding the theoretical battles regarding the relevance or otherwise of traditional governance, the empirical evidence from his study so far indicates that the public is positively disposed towards traditional leadership. In the South Africa, for example, analysis of the data of a study conducted by the HSRC indicates that traditional authorities enjoy sanguine views even in provinces that have hardly any traditional structures in them such as the Western Cape and Northern Cape provinces. The popularity of traditional authorities is even more pronounced in provinces where traditional structures are entrenched such as KwaZulu-Natal, North West and Limpopo provinces. Indeed, in some instances, the trust in traditional governance surpasses that indicated for the local government in the Western Cape Province. This clearly shows the resilience of the traditional systems even in modern times and urban places. These findings are in accord with qualitative findings from the interviews Professor Amoateng conducted in South Africa and Zambia, all of which revealed the same strong support for traditional systems of governance.

If the findings show this kind of strong support and that various governments in the region have put in place legislations and policies in support, and recognition, of traditional systems, then why is this not translated into actual integration of these systems in the State public service delivery machinery? The answers to this question range from a tepid political will and courage, to innocent inability to find useful ways of merging the two systems of governance. The latter point is illustrated by quotes from the local government representative in Zambia who said, “*The relationship...is that the two are partners in development*”. Also, an NGO representative is quoted as saying: “*They need each other for the purpose of development...all areas of development need the input of both the chiefs and councilors.*”

In sum, the key findings of the draft paper can be summed up in the following paragraphs:

- Even though with the emergence of the nation state upon the inauguration of the project, the considerable administrative, judicial, legislative and religious powers wielded by traditional authorities in most African societies were curtailed, they continued to be important centres of power and authority in the institutional culture of the Southern African political and institutional culture. Their resilience in recent years, which is largely due to the failure of both socialist experiments and market reforms and the resultant decentralization in several African countries, has underscored the reality of this duality.
- There have been visible changes in attitudes of the Southern African public towards traditional leadership due largely to the increasing rate at which chiefs and their retainers are being educated. These changes in turn have led to the broadening of participation to ordinary members of rural communities who have the technical know-how to contribute to the communities' development efforts.
- The resilience of the institution has also led to both constitutional and legal protections in the countries in the region. Traditional governance is recognized everywhere in the sub region although at different development levels with Lesotho and Swaziland having the high level of integration of the traditional institutions into state structures.
- Presently traditional leaders in the other countries play a much more limited advisory and lobbyist role on traditional, cultural and customary issues. This limitation and lack of independent resource base hinder the service delivery role of traditional leaders.

6. The Role of Traditional Leaders in Public Service Delivery: Selected Country Cases

Traditional leaders represented gave a short summary of the role of traditional chiefs in public services delivery in their respective countries. Here are summations of those presentations.

Botswana

There are various democratic structures in the country, which include both traditional leaders as ex-officio members and elected leadership, in for example, Urban/Village Development Committees and Local Councils, which allow for the coexistence of the two governance structures. *Dikgosi (Chiefs)* work with the Government of Botswana to facilitate government's legitimate responsibility to secure the well being of the nation through the provision of vital services such as education, health, and sanitation in the villages by the local councils and municipalities. Partnerships with non-governmental organizations, the community and business are providing synergies in entrenching the value of self-reliance among the Batswana. Specific projects such as youth sports activities, Boards of Trustees and community trust funds are examples of developmental initiatives in the country.

Although there may be conflict of interest in some areas, the relationship between chiefs and local councils is largely cordial. The position of chiefs due to their social proximity to their communities means that they are better placed to advise government about the socioeconomic needs of the people and this is useful in the distribution of services and resources.

South Africa

The government's enactment of Traditional Leadership and Governance Framework and Communal Land Rights Acts of 2003 essentially juxtaposed traditional governance with that of the state throughout the republic by ceding the administration of rural areas to traditional authorities through the control of land allocation. This action enabled the *participation* of traditional leaders in council meetings. So you do not reach a situation where you discuss issues without the traditional leaders because they participate in all council meetings.

Nonetheless, the pertinent question that has been constantly raised is: Does the recognition of the role of traditional leaders to facilitate their co-operation in delivering the benefits of democracy mean that the two systems of governance are equal partners? Answers have varied, demonstrating the unsettled issue of how should traditional leadership structures be integrated into modern local government structures.

Some of the most optimistic traditional leaders argue that the government has made significant concessions to the inertia of the past by recognizing them constitutionally and legally despite their inglorious history with the previous apartheid regime. But, they also realize that the partnership is less than equal and moreover because of the schism between that policy and practice there has been an unintended consequence in the form of intensifying the competition between the two systems of governance.

The critical question of the cooperation between local government and traditional governance at the local level appears to be largely a function of the political history of a country and the local communities. Analysis of the data from the Kwazulu-Natal pilot study underscored the critical role national politics plays in determining the cooperation or lack thereof between traditional leaders and local government structures.

Swaziland

The functions of chiefs in development are stipulated in Section 11 of the Swazi Administration Order, 1998. The chiefs are the link between their communities and central government and play a vital role in maintaining the relationship by informing their communities of developments, which affect them. Although they are expected to promote the welfare of their communities, some of the main challenges to service delivery in Swaziland emanate from the fact that the mechanisms and processes of administration remain highly centralized and therefore are not immediately accessible to the majority of citizens, especially in the rural areas. From the perspective of traditional leadership, equitable allocation of resources and service delivery between the rural and urban areas is hampered by lack of participation in the decision making processes which lead to the identification of development priorities in the different areas. Consequently, the Central Government is considered the only role player in the provision of services among local communities. It is observed that since the adoption of the Decentralization Policy of 2005, there have been attempts by the traditional leadership to solicit government's cooperation with civil society and the private sector in promoting people-centered development.

Zambia

In Zambia, there is a consensus that local government structures are a vital link between the communities and central governments through participation by traditional leaders in the structures, which make deci-

sions on matters pertaining to development at the local level. Traditional leaders' contribution to strategic integrated development plans such as the Fifth National Development Plan (FNDP for 2006-2010) is considered crucial. However, like in South Africa, there is lack of consensus on the degree of participation by traditional leaders. For example, the state representative suggested that the programme activities of the FNDP incorporated the views of the traditional leaders as part of the stakeholder institutions in Zambia who participated in the formulation of the Plan. In contrast, the representative of traditional authorities observed that there is no such participation since there were no chiefs who sit on the Lusaka City Council and a particular senior chief (Senior Chief Nkomesha) was not represented on the Council.

In other words, the institution of traditional leadership is not effectively involved in Council's initiatives for socioeconomic development.

7. Themes Running through the Discussions

In the subsequent discussions, there was a general agreement that traditional institutions have a significant role to play; that they can play this role; and that they should be supported and allowed to play it.

The involvement of traditional institutions has to be defined within a framework of the decentralization programme. In defining their involvement, due consideration should center on strengthening their role in the delivery of social services, and address in a comprehensive manner their capacity needs.

8. Modalities to Enhance the Role of Traditional Leaders in Public Service Delivery

Efforts for enhancing the role of traditional leaders in public service delivery will require the adoption of the framework addressing both the strengths and weaknesses of traditional leadership to enable it to become an effective vehicle for service delivery. This framework will encompass the following areas:

8.1 Institution strengthening and capacity building

This area include the following aspects:

- Stock taking as a self-assessment process to identify strength, weaknesses, opportunities and threats.
- Role definition to cover all aspects of service delivering (planning, management, monitoring and evaluation, partnership including public/private partnerships)
- Review of the myriad of the legislative provisions as a way of educating the tradition authorities on the implications of these legislations on their roles and for knowledge building.
- Building their capacity through knowledge; training on public financial and project management; adequate remuneration and compensation; establishing institutional structures to facilitate their participation and to provide appropriate operating facilities (human, office's equipment and financial resources).
- Address the representation issue to ensure that they are well represented at all decision-making levels (at the constituencies, district and national levels).
- Establishing partnership arrangements beyond consultation to building functional relationship between state systems and traditional authorities.

There is a need to adopt a variety of capacity building approaches in order to enable traditional leaders to carry out their responsibilities efficiently and effectively. These approaches include:

- Training of trainers including traditional leaders themselves in this programme.
- Workshops and seminars: on practical issues of leadership roles and functions and to equip them with knowledge to be able to deliver public services.
- Inter- and intra-country exchange missions and study tours to learn about other models and for networking.
- Their leadership roles require that they must be encouraged to embark in lifetime learning and skills development. Hence they should set example in community about the importance of education

The means or resources to operate or function effectively are equally important aspect of capacity and should be given enough attention to enable the dispensation of their role. This should include:

- The resources to operate and to empower their communities to take interest in community activities. Here, resources within communities provide opportunity to empower communities and in the process create employment and generate wealth.
- Public Private Partnerships (PPPs) were considered as a way to generate wealth, involve community resources and access natural resources. PPPs and rural communities' economic empowerment are necessary for increasing investment; financing of public work; knowledge transfer. This has not been sufficiently exploited as knowledge to meet certain objectives.
- Introducing participation to bring people with technical knowledge within communities to complement traditional authority's capacity.
- Issue of compensation/remuneration remains controversial with complication on many fronts. In order to relieve the traditional authority's of the unease associated with compensation, this should be considered along other issues, such as:
 1. Guaranteed tenure of service to ensure that they are not subjected to whims of the Government of the day.
 2. Safeguard their autonomy and define their status.
 3. Clearly define the relationship between traditional authority and executives to avoid conflicts.

These were considered important to ensure the unifying force of traditional leaders.

8.2 Information and knowledge sharing

Under this theme, participants considered the following areas of intervention as key in enhancing the role of traditional authorities in public service development:

- Building upon success stories and best practices available in different countries; and
- Providing platforms at national, sub regional and continental levels to enhance their role and especially through strengthening the SADC Traditional Leaders' Council. Knowledge sharing and training should underpin the capacity development process including the development of a sustainable information system.

8.3 Boosting good governance

In boosting good governance, participation, information, accountability and ensuring neutrality of traditional leadership should be entrenched. Participants considered these elements as necessary requirements for sound leadership, especially with respect to dispensing traditional leaders' public roles and duties.

Participation however is already part of their *modus operandi* because the institution of traditional leadership has built-in good governance elements such as consensus on the decision-making process. The decision making process includes all communities, and thus better than those practiced by modern democratic structures.

There was a feeling that ensuring better reporting systems, information dissemination, acquisition and storage could strengthen better governance. Other measures to promote good governance as part of their responsibility included the following:

- The needs assessments;
- Mechanisms for tracking progress;
- Systems for monitoring and evaluation; and
- Sound record keeping practice to ensure proper accountability and track progress on implementation of programmes and projects.

Information was considered key to enhancing their oversight role and need of constant appraisal on resources available, for delivery of public service projects, and the expected results from these resources.

As part of boosting good governance, participants encouraged the ongoing and increasing involvement of the **civil society** as part on non-state actors to safeguard the public's interest and wishes. They argued that such involvement could also complement traditional councils' tasks of rolling out public services, ensuring clear impact of such services on the ground, overseeing those elements of accountability and also ensuring that proper use of public resources is entrenched. As participants call for more civil society participation, they also encouraged them to also exercise good governance in their own organization, setting examples that the want government and traditional authorities should emulate. Failure to do so will reduce their own credibility and compromise their role as providers of checks and balance role as well as guardians of the general public's interest

With respect to the issue of **traditional leaders' political affiliations**, the general feeling was that such affiliations are likely to undermine their political neutrality considered key to their unifying role. Ideally traditional leaders should not participate in politics. However, the current political dispensation expects some allegiance, and this undermines the importance of neutrality in their representation of the communities and dispensation of their role in a non-partisan manner.

Their neutrality can be entrenched by government creating the conducive environment that include:

- Guaranteeing their autonomy and allowing the heredity process to take its course;
- Allowing the heredity process to take its course; and
- The relationship with executive should be mutually respectful and well defined.

This is necessary for the consolidation of the unifying role of chiefs, irrespective of political party in power, and public service delivery does not suffer in the process of government changes. All of these issues should be addressed collectively to bring harmony and ensure sustainability.

9. Summary of Recommendations and Challenges

The increasing rate at which countries are adopting decentralization as a way of bringing services to people provides opportunities for formalizing and integrating traditional leaders into the state structures to enable them to play a more prominent role in service delivery. Efforts to enhance the role of traditional leaders in public service delivery will require the adoption of a framework that will seek to address the strengths and weaknesses of traditional leadership to enable it to become an effective vehicle for service delivery. This framework will encompass the following three areas:

9.1 Institutional strengthening and capacity building

- There should be political commitment and courage to take bold decisions on the role and involvement of traditional authorities in the service delivering and good governance process. This should include introducing ICT infrastructure in rural areas to ensure availability of services such as birth certificates, marriage and death certificates;
- There should be mechanisms to enhance the traditional leaders' interaction with the various arms of the government (legislative, executive and judiciary);
- Concrete steps should be taken to move beyond coexistence and cooptation towards integration and mainstreaming of traditional leadership into the priority setting, legal and budgeting process, monitoring and evaluation to include well-defined mechanisms for strengthening the relationship between the two components.
- The state and representative bodies of traditional authorities should jointly review the myriad legislative provisions as a way of educating the traditional authorities about the implications of these legislations for their roles and for knowledge building purposes.
- These steps should be synchronized with building the capacity of traditional leaders through knowledge acquisition; training on public financial management; adequate remuneration and compensation; establishing institutional structures to facilitate their participation and to provide appropriate operating facilities (human, office's equipment and financial resources).
- Specific capacity building approaches could take the form of training of trainers which would include traditional leaders themselves, as trainers, in this programme and be based on needs analysis; workshops and seminars on practical issues of leadership roles and functions and to equip them with knowledge to be able to deliver public services; inter- and intra-country exchange missions and study tours to learn about other models and for networking; encouraging and supporting them to embark in lifelong learning and skills development and thereby set example in their communities about the importance of education.
- The state should endeavor to assist traditional leaders to mobilize the necessary resources to enable them to operate and thereby empower their communities to take interest in community activities. Here, resources within communities provide opportunity to empower communities and in the process create employment and generate wealth.
- Public-Private Partnerships (PPPs) and rural economic empowerment should be considered as a way to generate wealth, involve community resources and access natural resources in ways that

directly benefit local communities. PPPs are necessary for increasing investment; financing of public work; knowledge transfer. This has not been sufficiently exploited, but as knowledge to meet certain objectives.

- Traditional leaders should be supported to broaden participation as a means of bringing people with technical knowledge within communities to complement their capacities.
- Economic empowerment beyond benefits from royalties towards the community shareholding arrangements to stake their claim of the natural resources being exploited for a sustainable wealth creation at the community level.
- Arrangements and structures should be institutionalized to clearly define the roles of traditional authorities, government, the civil society and parliaments.
- The issue of representation must be addressed to ensure that traditional leaders well represented at all decision-making levels (at the constituencies, district and national levels).
- Partnership arrangements should be established beyond consultation to building functional relationship between state systems and traditional authorities.
- With regard to the administration of justice, what emerged from the study is the fact that people, especially, those in urban areas who have limited access to municipal services, have confidence in the role of traditional authorities because of their ready accessibility. Yet, the jurisdiction of traditional leaders in this area of service delivery is too narrowly defined. Moreover, there are other constraints in the performance of their judicial functions such as the non-codification of customary law in some countries, lack of facilities to keep records, lack of training, weak linkages with the enforcement arms and non-alignment between the customary law and the statutory law.
- As part of the formalization and integration process therefore, it would be cost effective in the long run for the state to provide resources for the codification customary law, equipment such as computers to store and retrieve records and the requisite training to enable traditional leaders to complement the state' efforts in the dispensation of justice at the local level.

9.2 Information and knowledge sharing

To ensure that traditional leaders acquire knowledge and share the information they access, the following specific interventions are recommended:

- They should be encouraged and supported to build upon success stories and best practices available in different countries; and
- They should be provided platforms at national, sub regional and continental levels to enhance their voice and especially through the SADC Traditional Leaders' Council. Knowledge sharing and training should underpin the capacity development process including the development of a sustainable information system.
- They should build upon existing success stories and best practices on the role of traditional governance in service delivery. These success stories should be identified, compiled and disseminated.

9.3 Boosting good governance

Good governance is one of the central tenets of NEPAD therefore for a successful integration of traditional leadership into the modern state structures it is important to ensure that the institution adheres to this tenet. In boosting good governance, participation, information, accountability and ensuring political neutrality of

traditional leadership should be entrenched since they are all necessary requirements for sound leadership, especially with respect to dispensing traditional leaders' public roles and duties.

To achieve these goals, the following specific interventions are recommended:

- There should be needs assessments jointly undertaken by the state and traditional leaders in their respective communities. This should be in the form of stock taking and/or self-assessment process to identify strengths, weaknesses, opportunities and threats that face traditional communities;
- There should be mechanisms for tracking progress where communities under their traditional leaders embark upon development projects;
- This also means that systems for monitoring and evaluating such projects; and

Ensure sound record keeping practice to ensure proper accountability and track progress on implementation of programmes and projects.

In moving forward, participants identified a number of challenges towards making traditional authorities effective partners in development, and integrating the system of traditional authority in modern systems. Some of these challenges were outlined thus:

- The political commitment and courage to take bold decisions on the role and involvement of traditional authorities in the service delivering process;
- To enhance the traditional leader interaction with the various arms of the government (legislative, executive and judiciary);
- To move beyond coexistence and cooption towards integration and mainstreaming of traditional leadership into the priority setting, legal and budgeting process, monitoring and evaluation to include well defined mechanisms for strengthening the relationship between the two components;
- To build or enhance knowledge of legislative instruments and direct implications of their role in policy making process that affect their participation;
- To design and resource a comprehensive capacity building programme addressing national planning, resources management, monitoring and evaluation;
- The need to go beyond the current lobbyist role to a dynamic service delivering one;
- Enhance the capacity of the traditional governance to manage their own development to reduce political patronage;
- Economic empowerment beyond benefits from royalties towards the community shareholding arrangements to stake their claim of the natural resources being exploited; and
- To institutionalize arrangements and structures to clearly define the roles of traditional authorities, government, the civil society and parliaments.

In conclusion, participants requested UNECA, in the process of facilitating the effective involvement of traditional leaders in service delivery, to also bring on board other partners including the AU/NEPAD, SADC, UNDP, World Bank, ADB... There is a need to expedite the implementation of existing initiatives such as the SADC Council of Traditional Leaders. The government should engage to evolve a partnership programme with traditional authorities for service delivery.

Participants acknowledged that this Workshop constitute a start and should move from here to more ambitious levels. Such levels should incorporate inclusion of ministers too to ensure a strong political buy-in in the process of integrating traditional authorities in the modern public delivery mechanisms.

A number of participants called for a step-wise process to the integration of traditional authorities into modern public service delivery systems. Accordingly, they requested the UNECA to identify a single achievable issue that could serve as a catalyst for other issues. An example of an issue was that introducing ICT infrastructure in rural areas to ensure easy availability of such services as birth- and other certificates as well as personnel and infrastructure to ensure a speedy company registration processes.

Annex 2

A Workshop on Harnessing Traditional Governance in Southern Africa

“Past, Present and Potential Role of Traditional Structures in Public Service Delivery”

Keynote Address: Nkosi Phathekile Holomisa (A! Dilizintaba)

President: Contralesa

Chairperson: Sadc Council Of Traditional Leaders

Date: 18-19 October 2007

Venue: Protea Hotel – The Lakes, Benoni, Johannesburg, South Africa

Allow me to thank you for inviting me to participate in discussions on how to facilitate the participation of the institution of traditional leadership in the delivery of public services. The recognition of the relevance of the institution in the governance of the public affairs of the African states by no less a body than the United Nations Economic Commission for Africa is indeed a cause for renewed hope for the marginalized masses of the regions' rural citizens. This is so because the longer our governments delay the inevitable formal recognition of the institution the more we deprive our people of much-needed public services.

It is my fervent hope, therefore, that the suggestions that will arise out of our deliberations will be given serious attention by our governments.

In general post-colonial African governments have been generally a disappointment to the rural citizens of our lands. Our liberators and new intellectuals proved to be more knowledgeable about the colonial masters' ways of governance than those of their own people. They quickly and easily adopted the white man's legislative, judicial and administrative systems of government. It was as if pre-colonial Africa never had government.

Yet we know that Africa, like other societies, has always had indigenous ways of rule. *Ubukhosi*, the institution of traditional leadership, in its various forms, has always been the epitome of African government. This continues to be the case in the rural communal areas. In crafting the role of the institution within the modern state we need not re-invent the wheel. What we need to do is to simply study the way these communities run their affairs and replicate that in the rest of the country.

The royal establishments continue to be the gateway into the rural areas. Any state institution, which seeks to introduce its programmes or projects, is well advised to consult the local traditional leader for it to make headway. This is so because people believe in the institution. The institution is the custodian of the cultures, the history and the land of the people. People need progress, development, public services and all the amenities that urban societies take for granted; yet they do not want this at the expense of all that define them. Respect for their traditional leaders becomes, therefore, a *sine qua non* for the successful introduction of new initiatives. This applies also to non-governmental organisations that want to implement their own programmes.

While we may talk of *ubukhosi* as if it is an institution of the past, we need to bear in mind that its defining fundamental and salient features continue to obtain to date. *Iimbizo*, the people's general assemblies, constitute the forums where communities gather in order to discuss and take resolutions on matters affecting the relevant communities. Such resolutions are as binding on the community as are by-laws made by municipal councils on urban residents. In fact, they arguably enjoy more legitimacy than the by-laws on account of the fact that all adult community members are entitled and required to attend and participate in the deliberations and taking of resolutions. In these days attendance at *iimbizo* is not longer confined to male heads of household as was the case in the past. Women, the youth and the aged are encouraged to attend and to be full participants in the proceedings. People who tend to exclude themselves from such activities are some of the educated lot, who tell themselves that they cannot be party to deliberations presided over by illiterates. You see a great number of traditional leaders and counsellors have limited education. The other lot are political and civic activists who regard *ubukhosi* as a reactionary institution not worthy of their time.

As a result of their attitude such "enlightened" individuals deprive themselves of the opportunity to impart their white man's knowledge and skills to the people who need them the most. Thus they become useless and irrelevant themselves. Interestingly, come election time, they suddenly realise the importance of the royal residents as they enlist their support when they seek meetings in which to campaign for votes.

And talking about elections, *ubukhosi* in many areas act as guarantors of freedom of expression and association. Traditional leaders are well placed to ensure that all political parties are able to conduct their activities without fear of intimidation. In such instances the traditional leader is expected to subject his own political preferences to the need to ensure that his people are free to make their own choices without fear or prejudice.

The preferred position of the Congress of Traditional Leaders of South Africa is that traditional leaders should not be involved in party politics while they are in office. This, however, is an ideal that may obtain only when the role of traditional leaders has been defined to their satisfaction and that of those who adhere to the principles underpinning the institution. In this regard both Contralesa and the Southern African Community Development Council of Traditional Leaders are calling for the establishment of Houses of Traditional Leaders at all levels of governance in all states that have traditional leadership. It is through such Houses that traditional leaders can participate in processes of policy-making and legislation. Countries like South Africa, Namibia, Lesotho, Botswana, Zambia and Zimbabwe, which have established such Houses, should do more than give them powers to advise government on matters of customs, traditions and the institution itself. Traditional leaders are the advised rather than advisors! The reverse is nothing but a perversion of African culture.

At the regional and continental levels the two structures are advocating the establishment of similar structures to complement those such as the SADC Commissions, the Pan African Parliament and the African Union. Without the involvement of African traditional leaders these forums remain aloof and impervious to the needs of the people they are supposed to represent. Besides they appear more to be replicas of their European counterparts without being informed by the cultural mores of Africa.

Traditional Councils, constituted as they are of senior members of the royal families and elders knowledgeable about the customs, cultures, history and origins of the communal lands, must, of necessity, be recognised as local government structures.

Where this is not yet the case, these Councils must be made up also of democratically elected representatives of women, the youth, people with disabilities and the elderly. The heads, who are, of course, the traditional leaders, must have the right to appoint to the Council people who have special skills and talents that may add value to the work of the Council.

Traditional Councils are ideally placed to facilitate the delivery of public services to rural communities. They or their subsidiaries, the headmen, are within walking distance from the people they serve. For the colonial settlers it made sense that public services were made available in the towns they created, for that is where most of them were concentrated. Post-colonial African governments should have realised that it would make equal sense for the majority of the citizenry to access government services where they were mostly concentrated; the rural areas. This means that all departments and other organs of state must have offices and relevant personnel in the Council establishments. In this way rural citizens will be able to enjoy the same rights and privileges that their urban counter-parts take for granted.

As custodians of cultural values, the formal recognition of the institution by the state will encourage traditional leaders to add more of their weight in the fight against the scourges of moral degeneration and HIV/AIDS. It is common knowledge that some of the cultural practices followed by African communities are aimed at promoting proper and morally sound behaviour on the part of especially the youth. Such norms help reduce the chances of the contracting of sexually transmitted diseases, unplanned pregnancies and lack of respect for fellow human beings and the law. Furthermore these practices help to bring about strong family and community values. Towards this end, therefore, the state must provide resources to traditional leaders to enable them to conduct ceremonies marking important milestones in the histories of communities, as well as those that mark initiation of individuals into adulthood.

Traditional Councils also serve as dispensers of justice and upholders of law and order. As courts of justice they must be given the relevant resources and the necessary powers to enforce their decisions. The legitimacy of these courts derive from the fact that they are rooted in the people, are conducted in the open, litigants are tried by their peers, the proceedings are informal, yet dignified, are democratic and inclusive, and are aimed at reconciliation, rehabilitation and compensating.

Modern African states are faced with the prospects of tribal conflicts, as the political elite is not totally averse to using tribal differences and loyalties to gain access to political and economic power. Traditional leaders, as tribal leaders, are best placed to give guidance and leadership to the tribal aspirations of the people without resort to unnecessary antagonisms. My work in Contralesa and the SADC Council of Traditional Leaders has shown me that when people accord respect to the different customs and traditions to which we subscribe, they develop an understanding on which good relations are built. Stereotypes and prejudices are soon cast aside and conditions of peace and harmony are created.

Having experimented with the governance systems of our erstwhile rulers and having determined that they have not proved to be any better than ours, it is now time for our leaders to find ways of incorporating them into ours, rather than the opposite, where we talk of how we can accommodate ours within those we have inherited from the West.

Thank you very much for your attention!

Annex 3

Workshop on “Harnessing Traditional Governance in Southern Africa” List of Participant

Traditional Leaders

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