

## Assessing Policy Initiatives on Traditional Leadership to Promote Electoral Democracy in Southern Africa

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### Abstract

*This article makes an assessment of policy initiatives on traditional leadership to promote electoral democracy in South Africa, Zimbabwe and Namibia in order to provide intervention mechanisms. In Southern Africa reports of abuse of the institution of traditional leadership by political parties during elections have manifested in various forms resulting in public outcry. The study is done through a review of domestic Constitutions and policies in place for traditional leadership in the selected countries. The study shows that Namibia allows traditional leaders to hold political offices, while two other countries do not allow that. Zimbabwe clearly forbids traditional leaderships to meddle in partisan politics through the national Constitution. South Africa is not very clear in the national Constitution although it forbids through a white paper. The study concludes that traditional leaders must use their influence to encourage people to make electoral choices independently and guard against political party manipulations. It invites governments to provide enabling legal frameworks that stimulate traditional leadership to be non-partisan and promote electoral democracy.*

**Keywords:** Electoral democracy; Traditional leadership

### 1. Introduction

In local governance, the role of traditional leaders has overly been controversial. There are varied experiences in Southern Africa which can be learnt and benefit others. The demand for electoral democracy in Africa is indisputable and effectively places the issue of the role of traditional leaders in the limelight. In the colonial era, some chiefs were reported to have worked closely and supported the colonial masters. In the post-colonial era, there have been reports of electoral manipulation through the institute of traditional leadership in Southern Africa and elsewhere. In the interest of democratic elections it is an issue that has to be resolved. Electoral democracy is taken to mean a democratic system which employ both political and civil liberties. Traditional leaders in this paper refer to village heads, headmen and chiefs. The article discusses the diverging views by modernists and traditionalists on the role of traditional leadership in contemporary Africa. It reviews statutes that have been made to enable traditional leadership to exercise their powers in democratisation and administration of elections. The study explores the legislative and policy issues reflected in Southern Africa's institution of traditional leadership in respect of South Africa, Namibia, and Zimbabwe.

### 2. Traditional Leadership as an Institution

Traditional institutions have wielded legitimate power in the pre-colonial era, through the colonial era and continue to this day. There are diverging views about the position of traditional leaders in contemporary Africa which Keudler (1998) refers to as modernists and traditionalists. Modernists argue that liberal democracy is universally valid as opposed to the traditional leadership type of democracy. In that view, Africans must aspire to democratic systems that look the same as those obtaining in the West. Traditional political systems are viewed as impediments to democratic development. Traditionalists on the other hand, argue that traditional institutions have proved malleable and adaptable drawing on their historical roots as a resource to overcome the Western liberal democratic model. Logan (2008:3) notes that "The ongoing debate about the proper role of traditional leaders in modern Africa, especially modern African democracies, is complex and multifaceted,..." Some scholars use terms like trivializers and romanticisers to describe traditional authorities in the same way the debate uses modernists and traditionalists. Oomen (2000) describes trivialisers as those who see traditional leaders as leftovers from a time that is swiftly fading, and romanticisers as those that nurture parochial images of traditional leaders as shepherds of coherent communities who still live off the land and follow traditional norms and

customs.

## 2.1 *The Modernists View*

Traditional leaders wield substantial influence in rural areas that is often realised by politicians of all persuasions (Chakaipa; 2010). In the pre-colonial, colonial and post-colonial era politicians have solicited the assistance of traditional leaders to influence governance and electoral processes in Southern Africa. The influence inherent in traditional leaders on the rural folk stems from tribal and ethnic ties, clan, custom and tradition as well as totems. Political parties realise the ability by political leaders to communicate information and command respect from their communities and have developed an edge to rally these leaders to their cause during electioneering. Traditional leadership provides an effective communication mechanism due to their hierarchical structure of village head, headmen to chief and their geographical spread. This makes them accessible and available in all the rural areas. Koeble (2005) reports that, traditional leadership is incompatible with democracy because it is a system that allows for inheritance of leadership (democratic pragmatism). It must be getting extinct but thrives because governments mistakenly support this system although it contradicts democracy. Koeble further argues that, democratic values and economic models propounded by the global discourse will eventually throw away the traditional leadership because of its undemocratic forms of governance.

Perhaps, this implies that, traditional leadership has no place in electoral democracy as it contradicts the very basic values of freedom of choice. This argument could be attributed to (Mamdani; 1990, 1996)'s assumption that rural citizens under traditional leaders are not true citizens per se. He argues that, it is not possible for Africans to be 'subjects' and 'citizens' at the same time. These citizens are viewed as subjects of undemocratic authority. An authority deemed not to have systems of accountability to its people. From this perspective, traditional leadership does not appear to provide an opportunity for recourse against unfair exercise of power and authority nor does it give anyone a chance to be elected into office. Bentley (2005) supports this argument as well, although with specific reference to women's rights to equality in the rural areas.

There is also an assumption that, "traditional leaders have re-inserted themselves into the political discourse in South Africa in fundamental ways..." (Koeble, 2005:12). According to Sithole and Mbele (2008:7) ,this resurgence could be attributed to the political trade-offs that were made between government and traditional leadership for purposes of elections that were impending. In Zambia, Zimbabwe, South Africa, Tanzania and Mozambique, traditional leaders have reasserted their authority (Ntsebeza, 1999, Raftopolous, 2002, Blom, 2002). In some instances they have strong political backing from central authorities. As observed by Chinsinga (2006), their weak material base renders them vulnerable to manipulation by politicians bent on satisfying their own strategic considerations.

Critics of traditional leadership argue that this institution is a vestige of the past which must not have survived beyond the 20<sup>th</sup> century as it is an instrument of oppression in areas of social mobility, economic rights and women's rights. Further, since the right to choose one's representative is a fundamental human right in electoral democracy, the case where chieftaincy is more or a less a caste in which only members from the same lineage can assume the role of chiefs makes traditional leadership principally undemocratic. The fact that chieftaincy is based on ascription and heredity, makes incumbents less accountable to their subjects and inherently undemocratic.

## 2.2 *The Traditionalists View.*

On the contrary, Sithole and Mbele (2008) contend that, another school of thought (organic democracy) does not see traditional leadership as a compromise to democracy or a contradiction. It is argued that, the institution of traditional leaders grows and adapts to the changing values of its people. People are fully aware of the duties owed by a ruler in as much as they are aware of duties they owe to the ruler. Traditional leadership is seen as a governance system that fulfils needs of people who understand democracy in more than one way. It is perceived as an institution that fills governance gaps created by the conventional democracy. According to this school of thought, despite manipulation by both colonial and post-colonial powers, traditional leadership has never disappeared and was never invented. It has thus, stood the test of time.

The generic Western democratic packages may not satisfy the diverse communities of Southern Africa or Africa as a whole. For Hughes (1969), traditional leadership should be seen as an alternative form of democracy that places more emphasis on cultural-moral principles expressed through human feelings and less emphasis on how governance comes into being. Culture and custom must not be seen as stumbling blocks to universal democratisation. These two cannot be wished away or changed by a proclamation of a piece of legislation. For instance, a proclamation to allow women to be heirs to traditional leadership may relegate a government not to be taken seriously.

It appears that, organic democracy does not argue against democratisation of traditional leadership as such, but contest the view that traditional leadership is undemocratic from the onset. What is traditional about traditional leadership is something that ties social responsibilities towards their citizens with the idea of identity and moral responsibilities (Sithole, 2005). This is sometimes negatively perceived in some Western contexts as nepotism. Sithole proposes establishing a good working relationship between these leaders even with the pending unresolved legislative matters around inheritance of positions and those of democratic elections. In fact, Lule (1995) argues that, the institution of traditional leaders is a cultural heritage of the African people. Therefore African people have a fundamental right to their culture and it cannot be outlawed because it is incompatible with some form of democracy.

Chinsinga (2006) suggests that, the dislike of traditional leaders in the post-colonial era could be linked to the intermediary and facilitator roles which chiefs played in the colonisation processes. As a result, their legitimacy was eroded through indirect legislative schemes and as (Ribot; 2002:67) tainted by "the excesses and contradictions that external backing and exigencies of colonial administration produced". But notably, the United Nations Development Program (UNDP, 2007) reported that in Sierra Leone, paramount chiefs had played a significant role in promoting free and fair elections. This is supported by Diamond(1999) interest in the democratic behaviour. Crook (2005) illustrated how traditional institutions can contribute to successful development strategies while Orvis (2001) has argued that, traditional leadership can perform many of the civil society functions if engaged properly.

### 2.3 *Convergent views*

However, in some countries in Southern Africa Chinsinga (2006) argues that, some politicians in their perpetual bid to hold on to power have found traditional leadership to be vital in providing supplementary support for their weak power bases. Chinsinga notes that, even in the situations where government may claim legitimacy by way of general elections, there is ample evidence to show that traditional leaders have been accomplices in election rigging, victimisation and use of traditional institutions to manipulate the electoral processes. Some scholars have however argued that, elections can really co-exist with political rights abuses (Sorensen, 2010; Zakaria, 1997).

This may imply that, electoral democracy involves widespread acceptance of rules that guarantee political competition and participation as noted by Bratton (1998:51). The rule of law and democratic elections are often likened to a game's rules in which players of the democratic game include not only citizens and elected officials. Civil society is sometimes identified as an important player in the democratic game (Diamond, 2008). Principles of popular participation and competition; and the establishment of democratic rule of law which protects basic human rights and civil liberties constitute the basic rules for democratic elections. One may ask where traditional institutions fit into the democratic game. Some would argue that, traditional institutions should not play a role within a democratic regime because they are an out-dated institution while others wish they should.

## 3. **Democracy and Traditional Leadership**

Defining the role of traditional leadership within a democratic system of governance in Southern Africa is quite a challenge. South Africa, Zimbabwe and Namibia join other numerous governments in the African continent as will be discussed below. Non-governmental organisations, policy makers, academics, practitioners and development institutions who have attempted to address this challenge have found it to be multifaceted and complex (Cele, n.d)

### 3.1 *South Africa*

South Africa has established the Department of Traditional Affairs in order to accommodate and secure the role of traditional leaders in their affairs. This is in compliance with the National Constitution which acknowledges the institution of traditional leadership, its place and role in the system of democratic governance.

Chapter 12 of South Africa's Constitution (1996) provides for the continued authority and function of the traditional leaders post the apartheid era. It also provides for the establishment of a council of traditional leaders which is guided by the Council of Traditional Leaders Act of 1997. In 2003, the Traditional Leadership and Governance Framework was enacted which sought to give clarity to the role of the traditional leaders. This piece of legislation aligned the previous statutes with principles of democracy that were not very elaborate. However, the Constitution does not confer traditional leaders with powers beyond the role of being custodians of tradition and culture. This creates problems when defining their roles and duties in electoral democracy. The Council for Traditional Leaders in South Africa (CONTRALESA) has argued that, the reluctance by the government to accord legitimate political authority, especially at local level where

traditional leadership commands great influence is a recipe for ethnic conflicts in the future (Cele, n.d). Whether municipal councillors can execute their duties without encroachment to the duties of traditional leaders compromising democratic values which spell out their existence remains blurred and this may spark controversy.

The White Paper on Traditional Leadership (DPLG, 2002:16) reported that, "traditional leaders have a role to play on issues of development although they are forbidden from active participation in party politics". This is a positive move in electoral democracy.

Sithole and Mbele (2008:43) conclude that,

*South African intellectuals are not in agreement about the relevance of traditional leadership in the South African political system. They are therefore generally ambiguous about traditional leadership core areas of operation and about their proposals on policy direction. Within this generality there are those that are clear about the need to phase out traditional leadership from the South African political system and those who are adamant traditional leaders must be given administrative support and a flexible, mutually agreed, policy environment in which to work.*

### 3.2 Zimbabwe

Traditional leadership in Zimbabwe in the pre-colonial period represents the pre-colonial forms of local governance in Southern Africa as a whole. According to Dusing (2001), traditional leadership originally provided religious, economic and political functions to local communities. The spirit-mediums of the chieftom would install chiefs in consultation with senior headmen in the area. The spirit-mediums were the voices representing the ancestors. A chief who declined orders from the ancestors and did not rule according to prescribed democratic guidelines was dethroned. Chiefs acted as links between the subjects and the ancestors. Vaughan (200) notes that, as links between the supernatural and humans, chiefs had immense religious powers that generated fear and obeisance from their subjects. Traditional leaders were expected to ensure justice and democracy in their jurisdiction. In performing their administrative duties, chiefs consulted elders, spirit mediums and headmen. As noted by Ayittey, cited by Dusing (2001:77) "without the approval of the elder council, a traditional leader was powerless as he neither could pass any legislation nor make political decisions. Makahamadze et al (2009:36) had this to say,

*"Therefore, it is plausible to argue that, in general, traditional chieftaincy represented a democratic society whose communal aspirations and values were collectively expressed. Chiefs had a sense of what can be termed as 'grassroots' democracy".*

In the colonial era, chiefs were no longer answerable to the ancestors but to colonial administrators. They were reduced to government officers. They were only allowed to handle minor cases like domestic disputes and referred serious cases to the judicial system through the administrative structures. The Native Commissioner installed new chiefs and screened candidates for headmanship to ensure that the 'right' candidates were appointed. As Kruger (1992:64) put it, "...from the time of European conquest, chieftainship and other positions depended not only on inheritance laws but also on government approval".

In 1980, the government that replaced the colonial regime discredited the institution of traditional leadership and further clipped the powers of chiefs

(Makahamadze et al;2009:40).The socialist policies adopted by the government at independence excluded the traditional leadership and introduced village committees (VIDCOs) and Ward Committees (WADCOs) In 1999, the Ministry of Local Government re-introduced traditional leaders in villages. Despite their manipulation by politicians during the colonial and post-colonial periods, traditional leaders still remain influential political actors in contemporary Zimbabwe.

The old Constitution of Zimbabwe was silent on the role of traditional leaders in democratic elections. What was clear was their appointment and representation in government structures. Section 34(1) on composition of the Senate and subject to the provisions of section 76(3) (b) provided that, out of the ninety-three Senators, two shall be the President and the deputy President of the Council of Chiefs. It also provided that, sixteen shall be chiefs, being two from each of the provinces other than the metropolitan provinces, elected in accordance with the Electoral Law; and five shall be appointed by the President. Section 111 on chiefs and Council of Chiefs provided that, chiefs shall be appointed by the President in accordance with the Act of Parliament to preside over the people of Zimbabwe. In doing so the President of Zimbabwe shall give due consideration to the customary principles of succession of the locality over which the chief will preside. Section 111 also provided that, there shall be a Council of Chiefs which shall consist of such number of chiefs selected by chiefs from each of the various areas of Communal Land in such manner as is prescribed by or under an Act of Parliament. The qualifications and disqualifications of candidates for election to any council of Chiefs and the tenure of

office of members thereof shall be as prescribed by or under an Act of Parliament.

The new Constitution of Zimbabwe, Amendment number 20 is very clear about the non-partisan role of traditional leaders. Chapter 15 Section 281(1) on traditional leaders reads;

*Traditional leaders must act in accordance with this Constitution and the laws of Zimbabwe, observe the rules pertaining to traditional leadership and exercise their functions for the purpose for which the institution of traditional leadership is recognized by this Constitution and treat all persons within their areas equally and fairly.  
Section 281(2) reads;*

Traditional leaders must not be members of any political party or in any way participate in partisan politics, act in a partisan manner, further the interests of any political party or cause or violate the fundamental rights and freedoms of any person. In Section 281(3) it reads, "In the performance of their functions traditional leaders are not subject to the direction or control of any person or any authority, except as may be prescribed in an Act of Parliament."

These pieces of legislation point towards a good direction in electoral democracy if implemented to the letter and spirit of the Constitution. Other countries in the region and beyond may need to follow the same trend.

### 3.2.1 Study Tour to Botswana, Zambia and Namibia

In 2005 after opening of the Parliament of Zimbabwe, the President informed the House that the Chiefs and the Headmen Act was to be amended to provide for the restoration of administration and traditional powers to chiefs, headmen and village heads. A parliamentary study tour (PST) was made to Botswana, Zambia and Namibia. Below is a summary of selected recommendations made at the conclusion of the tour as cited in Chakaipa (2010).

Create a house of traditional leaders at the national level to provide advice to the government and to the national legislature on matters concerning tradition and culture.

- Harmonise traditional and elected structures by stipulating a quota of traditional leaders in all local government structures up to the national level. Traditional leaders would be appointed on rotational basis by the President and the process of who gets in or out being managed by the Provincial Assembly and the Chiefs' Council
- Traditional leaders should not be allowed to compete for elections on the open or unreserved roll of institutions in which they have a reserved quota.

It appears that, the government of Zimbabwe has not implemented most of the recommendations made by the parliamentary study tour which to a large extent support democratic values.

### 3.3 Namibia

In an attempt to align traditional leadership to democratic principles Namibia has passed four pieces of legislation since it attained independence namely; Article 102(5) of the 1990 Constitution, the Traditional Authorities Act of 1995, the Council of Traditional Leaders Act of 1997 and the Traditional Authorities Act of 2000. The only article which refers to the traditional leaders in the Constitution is quite ambiguous as shown below;

Article 102(5), There shall be a Council of Traditional Leaders to be established in terms of an Act of Parliament in order to advise the President on the control and utilization of communal land and on all such other matters as may be referred to by the President for advice.

As noted, it is silent about the democratic rights of the traditional leaders in terms of political party affiliation and engagement. This may expose traditional leadership to political party manipulation. The 1995 Traditional Authorities Act placed traditional institutions under the Ministry of Regional and Local Governance insinuating that appointments would be directed by the Minister responsible. This piece of legislation clearly prescribed the roles and duties of the traditional leaders through Article 10 (a to i) but remained silent on engagement in party politics.

However, Article 12(1-2) provides that the institution shall give support to the policies of central government. The Traditional Authorities Act of 2000 was a refinement of the 1995 Traditional Authorities Act with additional roles for the traditional leaders. Article 15 is of particular interest in that; it allowed traditional leaders to hold political office. It appears, it is only Namibia in Southern Africa which has enacted this kind of law. The problem of having chiefs run political offices is that they mobilise their subjects in favour and against different parties for personal gains. One fundamental principle of democratic elections is the freedom of political choice. Where a chief is meddling in partisan politics the democratic values and principles of citizens are compromised. Although Namibia has been relatively politically stable since independence, democracy may not have improved that much.

#### 4. Conclusion and Recommendations

The assessment made shows that traditional leadership in Southern Africa in general and in South Africa, Zimbabwe and Namibia in particular; is playing a role beyond its primary function in tribal and customary affairs. A report prepared for the Commonwealth Local Government in 1995 on Traditional Leadership in Africa as cited by Pasteur (1999) concludes that this role is expanding rather than declining. It is noted that traditional leadership's role is not necessarily neutral as chiefs have become aligned with political parties. What is encouraging is the recognition of the institution and definition of roles through National Constitutions and Acts of Parliament in a bid to promote democratic values and principles.

In terms of promoting electoral democracy the role of traditional leadership remains generally obscure and not very desirable in the case of Namibia. While a variety of structural arrangements to support the institution have been made, more should be done to create consultative forums paired with civil society to advise political leadership at national level on developmental issues. It is the view of this paper that, governments should consider enacting laws that prohibit chiefs from influencing members of their communities in affiliating to political parties of their (chiefs) choice. Further, laws should be made that prohibit traditional leadership from holding political offices or stand for elections as candidates. This will promote electoral democracy at local, provincial and national level.

Zimbabwe's new Constitution seems to have taken a lead in Southern Africa on this issue. Remuneration of chiefs should be a State obligation with no political overtones. The Council of Chiefs should be vested with powers to appoint and disqualify chiefs rather than leave it to a President or Minister who has political motives by virtue of his/her office. The Ministry or Department responsible for traditional leadership should exist to facilitate State obligations while the Council of Chiefs reports directly to Parliament. Various ethnic groups should be left to decide whether women should become traditional leaders or not in their own settings. If governments implement these recommendations it becomes imperative for the institution of traditional leadership to complement the roles of election management bodies and civil society in voter education programmes in pursuit of democratic elections. Perhaps Southern African Development Community (SADC) and African Union (AU) may need to take the initiative.

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