The Interaction Between Traditional Systems and Local Government Systems in Sub-Saharan Africa

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The interaction between traditional systems and local government systems in Sub-Saharan Africa

Annotated Bibliography

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Executive Summary and Key Points

The subject of traditional authority in Africa seems to have neglected until very recently, except in historical studies, despite the fact that traditional leaders have played and continue to play a very important role in many African countries. There has been increased interest in chieftaincy since the mid-1990s, most likely as a result of decentralisation programmes in Africa, although the majority of studies currently seem to be either cross-country analysis or more advanced in a few countries (South Africa and Ghana in particular). As countries and donors become more interested in local government, it has become obvious that little is known about the relationship between local authorities and traditional authorities, and more analysis is needed. The literature included in this annotated bibliography represents the first stage in understanding the often very complicated relationship between different sources of power at the local level.

A number of key points have come out of this work:

- A starting point should be in finding out exactly how local people feel about traditional leadership in general and their leaders in particular. If they are supportive of both, it is important to include leaders in plans for local government. If local people do not support their traditional leaders, they should not be forced upon them.

- Traditional authorities and local government claim legitimacy and authority based on entirely different factors. Local government claims authority based on democracy and constitutional legality, much of which is inherited from the colonial period, despite the fact that colonialism itself was anti-democratic. Traditional leaders claim legitimacy based on history and religion. Historically, traditional leaders claim political authority derived from the pre-colonial period. They are seen to represent 'indigenous, truly African values and authority'. Religiously, they claim links to the divine, whether a god, a spirit or the ancestors.

- If traditional authorities are to have a role in providing services alongside local government, there must be cooperation between the two. The South Africans have a saying for this – 'two bulls in a kraal'. Both actors want to have the lead role, leading inevitably to deadlock and conflict. Roles must be well defined and agreed upon, and the public must understand which is responsible for what.

- Performance matters! Support for traditional leaders tends to be higher in places where service delivery is poor and then decreases in places where the local government is seen to be doing a good job.

- In many cases, traditional authorities can be a positive force for development, providing a bridge between civil society and the government. In other cases, traditional authorities can be corrupt, violent or criminal. It is

important to look at how leaders have behaved in the past to see how they are like to perform in the future.

Annotated Bibliography

General: Chieftaincy in Sub-Saharan Africa

C. Katiza, 'Going in to the 21st Century: Decentralization, Democratization and Empowerment at the Local Level', Paper presented at the Colloquium on 'The Commonwealth in the Third Millennium', Ottawa, 20-22 February 1998, 7pp, available at http://www.rcscanada.org/colloquium/Katiza.doc.

This paper only mentions chieftainship in passing, but is of interest nonetheless as the speaker is the Secretary General of the International Union of Local Authorities – Africa Section. He sets out why decentralisation, as opposed to deconcentration, is an important policy issue for the Commonwealth and sets out areas for focus including finance, capacity building, integrity systems and entrenchment of local authorities in national constitutions.

D.I. Ray, 'Traditional Leadership and Local Government: Some Policy Questions for Consideration', Paper presented at the *Symposium on Traditional Leadership and Local Government*, Commonwealth Local Government Forum, Gaborone, Botswana, 23-26 September 1997, 12pp, available at http://www.ucalgary.ca/UofC/faculties/SS/POLI/RUPP/taarn/page4ai.html.

In many countries, traditional leaders already have legitimacy that precedes the current post-colonial state, based on different bases of political legitimacy. For Ray, legitimacy = the reasons why people obey authority. Force, for example, may be one reason, but it lacks legitimacy and usually fails in the long-term. Instead, a form of authority has legitimacy when people obey its laws because they are convinced that they should do so willingly and are in agreement as to how they should be ruled.

The contemporary state in Africa bases its legitimacy on two main sources: democracy and constitutional legality. Much of this is inherited from the colonial period, despite the fact that colonialism itself was anti-democratic. Because of different political cultures, historical trajectories and colonial influences, the form and content of these may look different in different countries, but the two sources remain the same.

Traditional leaders also have two main sources of legitimacy, both very different from the secular sources for the state: historical and religious. Historically, traditional leaders claim political authority derived from the pre-colonial period. They are seen to represent 'indigenous, truly African values and authority'. Religiously, they claim links to the divine, whether a god, a spirit or the ancestors.

Ray explains that it's important that legitimacy is not seen as a 'zero-sum game', and that although very different, these forms of legitimacy can combine to form a powerful authority that is able to achieve high levels of both development and democratisation. Without cooperation, resources are likely to be pulled in different directions with little effectiveness. In either case, both forms of authority require the consent of the people. If local government does not have the support of the people, it should not be forced upon them, and nor should traditional leadership if it does not have support. It is important to find out the real will of the people.

The paper suggests various ways these authorities can cooperate:

1. Legislative/Executive Bodies

    a. Reserved seats for traditional leaders

        i. By appointment
        ii. Elected by fellow traditional leaders
        iii. Regular elections
        iv. Variation of the above

2. Administrative/Supervisory Bodies

    a. Reserved seats for traditional leaders

3. Advisory Bodies

    a. Joint committees of local government and traditional leaders

4. Local Governance: what traditional leaders could do

    a. Informal involvement of traditional leaders
    b. More formal involvement
    c. Mobilisation of customary values
    d. Traditional leader-organised development
    e. Mobilise customary values in and of civic education and elections
    f. Traditional discussion meetings
    g. Resolve customary disputes (resort where necessary to joint traditional-state bodies such as houses of chiefs)
    h. Creation of networks of traditional leaders, officials and researchers such as the Traditional Authority Applied Research Network (TAARN)[1]

D.I. Ray, K. Sharma & I.I. May-Parker (eds), *Symposium on Traditional Leadership and Local Government*, Commonwealth Local Government Forum, Gaborone,

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[1] See http://www.ucalgary.ca/UofC/faculties/SS/POLI/RUPP/taarn/.

Botswana, 23-26 September 1997, 49pp, available at http://www.ucalgary.ca/UofC/faculties/SS/POLI/RUPP/taarn/page4ai.html.

This symposium brought together over fifty traditional leaders, mayors, senior local and government officials and academics from twelve African countries: Botswana, the Gambia, Ghana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Uganda, Zambia and Zimbabwe, as well as the UK and Canada (Nigeria and Sierra Leone would've been included but both had been suspended by the Commonwealth). General consensus among participants prior to the symposium was that traditional leaders should have an active role in local government in their countries but the nature of this role needed debate.

The participants recommend the following broad principles:

- a reconfirmation of support for 'effective, elected local government was an important foundation of democracy';

- constitutional and administrative frameworks should ensure the participation of all stakeholders in local governance;

- recognition of the role of traditional leadership and, where appropriate, incorporated into the constitution;

- traditional leaders and local government should cooperate for development.

In addition, participant issued recommendations on service delivery, social change and transformation, governance and land and judicial functions.

The governance recommendations, in particular, highlight the complexity of the traditional-local government relationship. It firstly recognises the legitimacy that traditional leaders continue to have and the power this gives them to mobilise local populations behind development initiatives. However, the Symposium recommends that traditional leaders face the same requirements of transparency and accountability that local government faces, that leaders stay away from partisan politics and that their role within local government be advisory or consultative.

All of the countries (and Sierra Leone in absentia) presented an overview of the historical and current relationship between traditional leaders and local government. Although brief, these provide a good outline of the current scenario in each country.

D.I. Ray & E.A.B. van Rouveroy van Nieuwaal, 'The New Relevance of Traditional Authorities in Africa: The

Conference; Major Themes; Reflections of Chieftaincy in Africa; Future Directions', *Journal of Legal Pluralism and Unofficial Law: Special Issue on The New Relevance of Traditional Authorities to Africa's Future*, 37-38, 1996, 38pp, pp. 1-38.

This paper introduces a special issue of the *Journal of Legal Pluralism and Unofficial Law*, based on the Conference on the Contribution of Traditional Authority to Development, Democracy, Human Rights and Environmental Protection: Strategies for Africa. The conference concluded that the relationship between the state (at the national and local levels) and civil society in Africa is often disjointed and traditional leaders can act as a bridge between the two; however, the relationship between these three actors is often 'unrecognised, ignored or misunderstood'.

Besides setting out clearly the agenda of the conference and an overview of key issues in the papers included in this special issue, the paper concludes with suggested areas for future work:

- the need to look at how chiefs have been able to mobilise the grassroots for support for developmental and democratic projects;

- the impact of migration (both rural-urban and rural-rural) on legitimacy of local chiefs, when a number of their 'subjects' owe no allegiance to them;

- the increased importance of developing concepts of the state, government, administration, sovereignty and legitimacy that both apply to and are the product of the realities of Africa;

- and finally, a deeper understanding of the relationship between traditional leaders and development NGOs, both foreign and domestic.

K. Sharma, 'Mechanisms for Involvement of Traditional Leaders in the Promotion of Good Governance', Paper presented at the *Symposium on Traditional Leadership and Local Government*, Commonwealth Local Government Forum, Gaborone, Botswana, 23-26 September 1997, 4pp, available at http://www.ucalgary.ca/UofC/faculties/SS/POLI/RUPP/taarn/page4ai.html.

In 1995, the Commonwealth Local Government Forum commissioned a piece of research on the role of traditional leaders. This paper outlines how this research saw the role of traditional leaders in the promotion of good governance. Six areas are covered: constitutional and legal provision; land

allocation, land tenure and dispute settlement; development and service delivery; social and cultural change; the relationship with central and local government; the relationship with civic and community based organisations; and finally, training, conditions of service and facilities.

Highlights include:

- formal recognition of traditional chieftainship;

- recognition and honour of traditional chiefs through advisory bodies like the House of Chiefs should be encouraged to protect local customs;

- involve chiefs in local government through election, nomination or ex-officio status;

- using chiefs to impart customary justice ('The people in rural areas find the proceedings of customary courts simpler, cheaper and comprehensible'.);

- consultation between chiefs and local government about the allocation of land and its use;

- using chiefs to mobilise local support for development plans;

- using chiefs to provide advice on use of traditions of communal provision of services;

- using chiefs to provide communication between local people and government;

- joint provision of civic and community education programmes;

- provide social cohesion and maintain traditional values, reducing juvenile delinquency and crime.

P. Skalník, 'Authority versus Power: Democracy in Africa Must Include Original African Institutions', *Journal of Legal Pluralism and Unofficial Law: Special Issue on The New Relevance of Traditional Authorities to Africa's Future*, 37-38, 1996, 12pp, pp. 109-121.

This paper is by and large a detailed anthropological report on the Nanun chieftaincy in northeastern Ghana. However, in the introduction and conclusion it raises important points. Firstly, it is important to remember that virtually all studies on traditional authorities in Africa see the institutions through a 'Western lens'. This impacts our understanding and leads to

scholars seeing a dichotomy between 'traditional' and 'modern'. The reality is much more complex. Secondly, he re-emphasises the difference between direct and representative democracy. If someone has a complaint and brings it to his local councillor, it may not be possible for that person to bring the complaint to those with the power to address it. If s/he brings it to the chief, the chief can go directly to the head of state if necessary.

E.A.B. van Rouveroy van Nieuwaal, 'States and Chiefs: Are Chiefs Mere Puppets?', *Journal of Legal Pluralism and Unofficial Law: Special Issue on The New Relevance of Traditional Authorities to Africa's Future*, 37-38, 1996, 39pp, pp. 39-78.

To some observers, chiefs have been seen as an anachronism, a throwback to pre-colonial days, pre-modern days; however, chiefs have proven remarkably adaptable and continue 'to play a crucial role in future social, economic and cultural transformations at regional and national levels'.

Colonial governments changed the nature of chieftaincy by giving them specific administrative responsibilities, incorporating them into the modern ruling apparatus and, hence, politicising them. In the post-colonial era, this has also been the strategy of many democratic, autocratic, military and one-party states. As chiefs have become, in many cases, glorified local officials or civil servants, the author argues that their traditional role has become 'folklorization': using the traditional legitimacy and symbols of the chiefs to add to the legitimacy of the state. He becomes subsumed into the local government machine, losing his power and also his special role as intermediary between the people and the government. He risks becoming merely a 'tourist guide…for safaris.'

This dual role, as speaker for both the people and the local government, can strengthen both a new local council, lacking legitimacy, and a politically illiterate people, as long as the goals of both coincide. If there is conflict, the chief finds himself trying to appease both parties, eventually weakening his position with both.

The problem is that the state should not need to enhance itself by usurping or borrowing the chiefs' legitimacy. However, the modern African state has lost the trust and good will of its people. Because democracy has yet to bring about an increase in trust and legitimacy, governments often find that '[a] good relationship with chiefs who are the representatives of that other traditional, moral and political order is conducive to the legitimacy of the [government]'. However, it is important to ask if the government intends this as a short-term solution to a short-term problem, or does it really intend to fully integrate traditional authorities into the governing of the state? If it is seen only as a short-term arrangement, one must remember the adaptability and longevity of traditional authority. Also, powerful chiefs may be unwilling to simply step aside to let an effective, modern, democratic government take

over. The author provides the following description of the Ooni of Ifé in Nigeria to illustrate this point: 'He is the descendant of Ododua, the god…He is the undisputed leader to 15 million Yorubas and the representative of God on earth…[He is unlikely to let] himself become a tool of the state.'

In the 1980s in Zimbabwe, the government was unable to control street violence following the conflict with Uganda. It allowed the rise of *sungusungu*, or vigilante groups organised by traditional leaders, who helped establish law and order. Although the state had lost its monopoly on violence (one of the keys to state sovereignty), it viewed the groups positively, 'as a successful alternative to the state judicial organisation'. However, Mugabe has used these same groups very successfully in recent years to intimidate and even kill the opposition, much to many Zimbabweans and the international community's dismay. This illustrates the need for caution when perceiving the use of traditional authority as a short-term solution.

T. von Trotha, 'From Administrative to Civil Chieftaincy: Some Problems and Prospects of African Chieftaincy', *Journal of Legal Pluralism and Unofficial Law: Special Issue on The New Relevance of Traditional Authorities to Africa's Future*, 37-38, 1996, 28pp, pp. 79-107.

This article focuses on the way that the relationship between the chief and the colonial and post-colonial state has evolved into one where the chief acts as an intermediary between the state and the people, which the author refers to as 'intermediary domination'. This reflects an antagonistic relationship between the state and the people. The use of the chief in this way reflects 'the limits of state power to organise directly…They are a sign of the fundamental weakness of the colonial and postcolonial state. They are an indication of a lack of "organisational power" of the state'.

Before suggesting 'principles' for the future development of African chieftaincy, von Trotha addresses two key assumptions. First, although he speaks in terms of the 'state', his state doesn't have a monopoly on the use of violence. Secondly, it is not possible to reform the institutions of traditional authority without also addressing problems within the institutions of the state. If checks and balances are needed on chiefs' power, chances are they are also needed on the power of government officials and politicians.

Von Trotha's principles:

- *The principles of local justice and local autonomy*

'The chief and his court should be made an official institution of the legal system…[with]independence …guaranteed to the chief in his legal role and to the members of the chief's court''

'The principle of local autonomy entails leaving the solution of local problems to members of the local order…the members of the local orders should take responsibility for their proper concerns and interests and become agents in the process of societal change.'

- *The principle of legal competition and urban settings*

Although chiefs may seem like a rural phenomenon, requiring a homogenous local population, patterns of migration into urban areas often reflect certain classes, ethnic affiliations and place of origin, leading to relatively homogenous neighbourhoods. The 'chef de quartier' can act as advisor, mediator and judge in neighbourhood conflicts, with the chiefs' courts having the same status and liability as state courts.

- *The principles of agency and competence*

As agents of both tradition and change, it is vital that chiefs' competencies meet the economic, administrative and political needs of today.

- *The principle of 'civil chieftaincy'*

When people say the chief 'represents' his people, it is not meant in the Western tradition of representation, based on universal suffrage, free elections, secret ballot and so on. It is instead 'grounded on a social and moral idea of representation'. It is based on 'communitarian forms of social relationships…the unity of sacred traditions and common religious beliefs…the construction of a common history…and the unity which domination demands'.

The chief is where local debate is focused, where conflicting opinions and ideas can be voiced. It is direct democracy, as opposed to representative democracy.

- *The principle of legislative integration of chieftaincy*

Chieftaincy requires constitutional rights and responsibilities, ensuring that local interests are expressed at the national level.

- *The principle of limitation of the national power of chiefs*

Once again, checks and balances are required to protect the people against an abuse of power by chiefs, as it is to protect against the state. This is probably the most difficult of all the principles to implement in reality. If there is corruption and a lack of accountability at the state level and a political culture of the 'politics of the belly', then it is likely that the chiefs will reflect this as well.

Country Case Studies

Ghana

C. Lentz, '"Chieftaincy has come to stay": la chefferie dans les sociétés acéphales du Nord-Ouest Ghana' ['Chieftaincy has come to stay': chieftaincy in the acephalous societies of North Western Ghana], *Cahiers d'études africaines,* **Vol.XL, No.159, 2000**

This paper looks at the reasons for the survival of chieftaincy regimes after the end of colonial rule and their current role. The paper concentrates on one specific role, that of mediation between the colonial authorities and local communities at a low level (village, hamlet, household). After decolonisation the institution of chieftaincy remained the only viable intermediary between these local communities and the post-colonial state.

Colonial administrative boundaries, without exception in this region, paralleled local chiefs domains, an elite strategy that was reinforced by the colonial practice of targeting the education of chiefs' sons. Post-colonial Ghana has tended to continue this practice, and the several local disputes involved in succession are testament to the continued importance of this role, particularly in acting as a springboard into national politics.

The system existed pretty much the same until the 1980s and into the 1990s when the policies of Rawlings expanded the educated base of the country, as well as forming a plethora of youth organisations allowing for the progression of non-chief youth to the more populist politics of 1990s Ghana. Despite this widening of the educated elite, chiefs remain powerful at local level, particularly in more remote or rural areas.

R. Rathbone, 'Native Courts, Local Courts, Chieftaincy and the CPP in Ghana in the 1950s', *Journal of African Cultural Studies***, 13(1), 2000, 15pp, pp. 125-139.**

This article highlights the chiefs' role in Ghana as arbitrars of customary justice, as well as the political and economic costs to the government of opposing this system. In Ghana during this time, the majority of cases heard were in customary courts, with the British reserving control over major crimes such as murder and arson. These Native Courts were extremely inexpensive to run and most of the chiefs did not earn a stipendiary for their time. They also were in charge of much of the 'everyday' regulation, including land allocation, confiscation, taxation, rights to cultivate, and so on. However, this lack of stipend is said to have led to arbitrary judgements and even trumped-up charges so that chiefs were able to collect fines and bribes.

Although inexpensive, several reports commissioned during this time showed the system to be largely unjust and arbitrary. Recommendations included a complete overall of the system, modernising it and removing the Native

Courts. The British were unable to do this in the political climate at that time, where any attempt to change traditional ways of doing things was attacked. Also, the cost of a complete overall of the justice system proved too expensive in the inter-war and war period. There was also a real paucity of trained lawyers and judges and training enough to man a modern legal system only added to the escalating financial estimates.

When the Convention Peoples' Party (CPP), headed by Nkrumah, came into power, they too sought to reform the judicial system. Effectiveness, fairness and efficiency were a concern, but the CPP also wanted to destroy the chiefs in general and recognised that taking away the Native Courts took away the majority of their power. The CPP also believed that as it had come to power democratically, it had legitimacy that the chiefs lacked. However, the CPP found the same financial constraints, as had the British, and completely overhauling the system because less attractive. Instead, the Minister of Local Government decided to use Variation Orders to remove many chiefs from the Native Courts and replaced them with non-chiefs, often chosen from the party's ranks. He was able to do this legally and without resorting to new legislation that would've required debate in the legislature. The CPP managed to gain considerable control over the chiefs through this system, as chiefs loyal to the CPP could be reinstated to the Native Courts. This 'politicisation' of the chiefs was to prove problematic for the CPP when the National Liberation Movement began. Instead of a weakened or destroyed chieftaincy system, the chiefs were able to play the parties and players off of each other for their own gain.

R. Rathbone, *Nkrumah & the Chiefs: The Politics of Chieftaincy in Ghana 1951-60*, London: James Currey, 2000.

This book builds on the research presented in the above article and is particularly important for the attention paid to the relationship between the chiefs and the political parties. The first Minister for Local Government under the CPP explained early in 1951 that the new party wanted to retain the 'traditional relationship between chiefs and their people' while at the same time putting together new local councils that would be 'efficient, modern and democratic bodies and to have an origin and existence wholly distinct from the traditional councils'.

As the story unfolds it becomes clear that the CPP was never able to find a balance between these two objectives and probably never intended to do so. The CPP wanted to destroy the old traditional councils but found that they were too powerful and still had a great deal of loyal followers (at least in some if not all areas). There seems to be two main reasons for this: (1) the traditional councils went against everything the party believed in terms of progress and democracy, and (2) the party did not want to share power with anyone else, least of all the chiefs. Things became messy when the government tried to simply fit new councils alongside traditional councils, which simply ignited both old and new political rivalries. More problems

emerged when chiefs couldn't become accustomed to new ways of doing things or when elected local officials tried to aggressively assert their authority.

With the rise of the NRM, this relationship became even more complicated. The outgoing colonial government was hostile to Nkrumah and the CPP, which it believed was aligned with Moscow, and this strengthened the NLM. Chiefs found themselves caught up in this battle for power, and while some were able to use it to their benefit, others simply became victims, either being forced to publicly choose sides or even by becoming caught up in the outbreaks of violence that seemed to dominate local politics.

One the one hand, one can argue, as did some contemporaries, that restricting traditional leaders from participating in party politics would've helped alleviate this problem. However, another lesson could be drawn: avoid turning local politics into a battleground for national political parties, regardless of whether the actors involved are democratically elected local councils or traditional leaders.

Beyond this, the new government never found the right balance between traditional and local councils, partly because it never seemed to have any intention to do so in the first place. When, by the mid-1950s, the CPP launched an all out offensive against the chiefs, it added to people's view of them as authoritarian, losing them popular support, and raised levels of support for chiefs. As Rathbone points out in his conclusion, the fact that chiefs in Ghana survived this period of history and have remained a strong political force should not be forgotten.

D.I. Ray, 'Divided Sovereignty: Traditional Authority and the State in Ghana', *Journal of Legal Pluralism and Unofficial Law: Special Issue on The New Relevance of Traditional Authorities to Africa's Future*, 37-38, 1996, 19pp, pp. 181-202.

Sovereignty has long been considered an essential feature for a functioning state, and the role of chiefs raises questions both about their compatibility with the state system and the usefulness of largely Western concepts of sovereignty for the African context. Sovereignty, as we understand it is located at the highest political level, is the final power and is independent (although subject to interaction with other actors/influences). However, the 1992 Ghanaian Constitutions gives some power to the National House of Chiefs that is not subject to the state: in other words, in certain matters, the chiefs are sovereign, not the state.

One way to look at it is to see sovereignty based on legitimacy. Because the state and the chiefs have different bases for legitimacy (secular vs. religious, democratic vs. pre-colonial), it makes sense that the state should be sovereign in the affairs in which it has legitimacy and likewise for chiefs. Problems arise only when one crosses over into an area in which it lacks

legitimacy: for example, when the state tries to determine who becomes chief or when chiefs become involved in party politics.

Each also has to be responsible for their own domain in order for that sovereignty to be respected. Ray gives the example of the tribal violence that took place between December 1993 and August 1994. Many people were killed, including some chiefs, largely over traditional territory disputes and leadership battles. President Rawlings was forced to call a State of Emergency and send in the Ghanaian army to stop the violence. He criticised the chiefs for being a source of violence rather than the source of peace. It was made clear that the chiefs had a responsibility to look after the areas in which they are considered sovereign, including security within their own territory.

S.Tonah, 'Fulani herdsmen, indigenous farmers and the contest for land in northern Ghana', *Afrika Spectrum*, Vol.37, No.1, 2002

This paper highlights one of the main issues of controversy between formal legal frameworks and traditional systems within Ghana. It essentially deals with the system through which the Fulani pastoralists and the indigenous farming population resolve disputes over land tenure and usage. In particular, it focuses on the deteriorating relationship between the herdsmen and farmers caused by the destruction of crops by livestock, and also the loss of cattle to rustlers. The relationship is further intensified by competition over the most fertile land along the banks of the Volta Lake.
The increasing tension between the farmers and pastoralists has led to the intervention of national and local authorities to maintain law and order and to keep the pastoralists out of the farming area. However, local authorities have used the dispute to usurp the powers of the traditional leadership and chiefs who continue to rent out land to the Fulani. They have also threatened to prosecute chiefs who rent out land in this way, setting the scene for a protracted dispute between local government and traditional leaders.

Mozambique

'Marena' Research Project, DFID, various briefing notes, University of Sussex

The Marena research project is currently looking at issues relating to conservation and natural resource management in Manica, in rural Mozambique. It has an interest in chiefs and traditional leadership due to the importance of traditional leadership systems for mobilising local support.
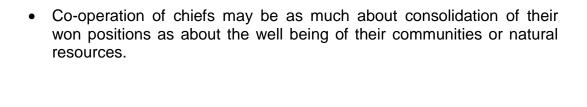
The role of the traditional leaders has been in flux in post-colonial Mozambique. After independence the formal systems of chieftaincy were abolished by the government, causing considerable resentment amongst local communities. By the end of the civil war, the view had altered and the government reconsidered its decision, finally deciding to work with, rather than against, chiefs.

Manica was one area subject to Renamo control during the civil war, and a deliberate strategy of the rebels was to install local chiefs into areas they controlled. This provided local logistical support but also much needed legitimacy in rural areas. Since the end of the civil war, Renamo (now the opposition) have continued to support these institutions and the government has come around to this view.

One Briefing Paper (MZ02) for the project relates an interesting case of the government project working with local leaders, and one in particular, which has been difficult. The main issue has been legitimacy. This particular chief has suffered from early in his reign from a legitimacy problem. The true successor fled and so his brother was installed. He appointed his own subordinates, which in turn led to distrust amongst groups of the population. The project first had difficulties in meeting the chief, who insisted on them meeting the spiritual advisor. This was then complicated by the projects attempts at participation, where the local population did not like the idea of a committee and consequently refer decisions to the chief. The chiefs association with a government project have also made it difficult for him, since his opponents claim he is accepting bribes from the government. At the same time, the government see him as being 'difficult'. The role of intermediary has not been easy.

Key points raised are:

- Traditional leaders often command respect and may be a more legitimate source of government at a local level, but the complex history of chieftaincy and the alliances built up by chiefs may weaken authority, thus developing problems for projects and organisations trying to work through traditional structures
- Working with traditional structures cannot instantly cleanse a history of conflict between rural people and government.

- Co-operation of chiefs may be as much about consolidation of their won positions as about the well being of their communities or natural resources.

C. Ifeka, 'Conflict, Complicity & Confusion: Unravelling Empowerment Struggles in Nigeria After the Return to "Democracy"', *Review of African Political Economy*, **27(83), 2000, 9pp, pp. 115-123.**

This article looks at the rise of militant groups of youth, particularly in the Delta Region, and their conflictual and ambiguous relationships with traditional chiefs. Youths, often well-educated and unemployed, struggle for 'real' democracy by attacking large NGOs, police, militia and oil companies. In this struggle, chiefs can be both victims and accomplices.

The role of chiefs in Nigeria is very complex, largely because in the past, 'military regimes have co-opted traditional rulers and rendered them complicit in looting public revenues for private gain…Consequently, "elders" have lost esteem and authority'.[2] Youths either use or abuse chiefs, depending on their own needs, and often seek to overthrow the traditional elder/youth relationship. Chiefs have come under attack and have even been killed. In other instances, chiefs have worked as middlemen between local government and young vigilante groups, taking 'brown envelopes' from government and passing on somewhat smaller 'brown envelopes' to the groups. As Ifeka points out, 'Complicity between some youth and some elders implies that traditional rulers – representatives of the ancestors, guardians of their clan and ethnic group's ritual regalia and sacred sites – have lost, or are fast losing their status and social distance from junior males, as the latter acquire increasing influence and political power through control of well-armed grassroots vigilante groups. This lack of respect for authority is not merely directed at chiefs but often existing political institutions. In Nigeria, both the post-colonial state and the pre-colonial chiefs seem to have lost their legitimacy among these young groups.

As an interesting aside, the author – herself the founder of an NGO often under attack from the vigilante groups – questions the donor/NGO strategy of participation and empowerment. The young unemployed men are exactly those people that empowerment programmes in the area seek to assist, but it seems that once they get power, it is abused.

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[2] Interestingly, in South Africa, under aparthaid many traditional leaders were seen as tools of the white regime but have managed to maintain legitimacy, respect and authority in the post-apartheid era.

South Africa

B. Oomen, 'Group rights in post-apartheid South Africa: the case of the traditional leaders', *Journal of Legal Pluralism and Unofficial Law*, No.44, pp.73-104, 1993

South Africa's first democratic constitution provides that the 'institution, status and role of traditional leadership, according to customary law, are recognised'. This recognition represents a continuation of former 'native rule' policies, but also represent a feature of the modern South African state. On the one hand, the recognition is linked to South Africa's colonial and apartheid past, during which ethic identity was compartmentalised into 'homelands' with imported tribesmen and sometimes a false sense of ethnicity. On the other hand the recognition of chiefs does represent a desire to recognise cultural diversity and different norms of governance within South Africa, as well as the representation of minority political interests.

Recognition in this way does, however, pose a series of problems:

- How do you decide which groups need recognition? Inclusion and exclusion becomes a political issue when inclusion means separate legal rights.
- Recognition of 'traditional' law frequently represents a questionable definition of customary practice based on anthropological assumptions. Traditional leadership is usually presented as an 'age-old' African tradition that may not actually be true, or that may be a misrepresentation of reality that leads to fuzzy legal frameworks based on 'fuzzy logic'.

B. Oomen, *Tradition on the Move: Chiefs, Democracy and Change in Rural South Africa*, Nederlands instituut voor Zuidelijk Afrika (NiZA), Cahier No. 6, Amsterdam, 2000, available at http://www.niza.nl/nl/publications/006/toc.htm.

The introduction to this book looks at the nature of traditional authority in South Africa today, its relationship with local government and the judicial system and the issue of land.

Traditional leaders might often look like the stereotype: grey-haired men in traditional dress, but there is some considerable diversity. There are both women and young men, 'kitted out with cell-phones, Armani suits and stock-options'. No matter what they look like though, all leaders work within traditional structures, including such bodies as tribal councils.

These 'traditional authorities' have an often contentious relationship with local authorities, which the authors point out is known as 'two bulls in a kraal'.

Although local authorities were delegated distinct powers in 1994, older legislation giving similar powers to traditional authorities still applies. Traditional authorities still control offices, administrative staff and, importantly, communal land. Additionally, many rural people see the chief has the holding legitimate power and authority, rather than local government officials. Traditional authorities still often preside over customary courts, and the South African Law Commission has recommended that this continue, despite there being concerns over overly harsh punishments, irrational decisions and discrimination against women.

B. Oomen, '"Walking in the middle of the road": people's perspectives on the legitimacy of traditional leadership in Sekhukhune, South Africa', Paper presented at the seminar on 'Popular Perspectives on Traditional Authority in South Africa', African Studies Centre, Leiden, 17 January 2002, 44pp, available at http://asc.leidenuniv.nl/pdf/walking.pdf.

Oomen pioneered the questionnaire used here and by others, including Richard Thornton (see p. XX), to measure local people's perspectives on traditional leaders. This paper begins with a series of quotes from her interviews that, besides making for interesting reading, provide important insights into the way people feel about both traditional leaders and local government. Traditional leaders are 'part and parcel of our black culture…' but are also '…just like us. They should go out and look for a job.' '…[E]lected leaders seem to undermine the chiefs'. 'All those people we elected never set foot in our village again afterwards. I'll never vote again'.

Quotes such as these support Oomen's main findings:

- Immaterial support for traditional leaders is high (80%!) but material support is limited (24%). By material support, she means payment of tribal levies or a traditional tribute such as *sebego* (home-brewed beer) or *lehlakori* (a special cut of beef). Many of the people who do pay this material support do not do so voluntarily and resent the fact that they have to pay it. This is why 68% of all those surveyed believe that the government should pay traditional leaders out of existing taxation.

- Support is issue-related. People believe that traditional leaders should serve certain functions (e.g., settling disputes such as family matters, witchcraft, small theft and land issues), whereas other matters, such as large theft and maintenance cases, should go to the magistrate.

- Support is not exclusive but exists jointly with support with other forms of authority. People see multiple forms of authority as providing 'opportunities for forum-shopping and for holding more

institutions responsible for bringing development'. If the authorities could learn to cooperate, the logic goes, then there are more people to get things done.

Oomen asked further questions about the nature of government, asking who should provide democratic government, socio-economic development and services: the municipality, the chief, political parties, civil society or the central government. The central government ranked very low on these, despite being the only institution to provide roads, schools, water, electricity and telephone services. Civil society ranked similarly low. In all three categories, political parties ranked the highest, followed closely by the chiefs and then much further behind by the municipality (although the municipality was closer in the expectation of provision of services) (see Thornton, p. XX, for similar findings in a different part of South Africa).

- Support is dynamic, changing over time. Depending on performance, support for traditional leaders can rise or wane. One thing that does seem certain, for now anyway, is that in general people feel that traditional leaders 'provide a sense of identity in a fast-changing world'.

Oomen also provides a breakdown of her findings in terms of different kinds of communities. Although these should not be surprising, they are of particular importance to policy makers. The three communities surveyed included Hoepakranz, an isolated village of 500 high in the mountains; Ga-Masha, a poverty-stricken virtual shanty town of 5,000; and Mamone, a flourishing township of 40,000.

- Hoepakranz: Support for traditional leaders here is the highest (94%), with 69% not even having heard of the local council. 87% rank the performance of the traditional leadership as 'good' or 'very good'. The village is very remote, and no government vehicle has ever come up the mountain path. Only migrant workers who leave the village and come back have contact with the government. Without traditional leaders, people believe there would be no government at all. Despite this, people are very open to the notion of development and yearn to be part of the wider community, including other forms of authority.

- Ga-Masha: Although 82% support the idea of traditional leadership, only 39% rank its performance as 'good' or 'very good', and only 56% thinks it should have a future. People here seem to support traditional leaders not because they've done well but because the local government has done such a bad job: 76% have heard of the local council and 81% of these rate its performance poorly. Were this performance to improve, it is very likely that support for traditional leaders would subsequently decline.

- Mamone: This is exactly what has happened in Mamone. Only 68% have heard of their local council, but of these 54% feel that their standard of living has improved thanks to improved services provided by the government. Consequently, support for traditional leadership is lowest, at 73%, and the main reason for this support appears to be its link to culture and tradition. In an area of rapid change, it seems to provide people a link to their unique identity. It is important to note though that this does not appear to be the case with the under-30s, and it is unclear what will be the implication of this demographic anomaly in the future.

J.B. Peires, 'Traditional Leaders in Purgatory: Local Government in Tsolo, Qumbu and Port St Johns, 1990-2000, *African Studies*, 59, 1, 2000

This paper seeks to clarify the situation in which traditional leaders of the Eastern Cape have found themselves. Essentially they have been faced with four problems:

- An erosion of their traditional power base and encroachment of national law, in particular the appointment of independent magistrates, undermining the powers of village headship enjoyed under the Native Administration Act
- The development of the new model of rural local government introduced in 1995, which effectively moved the control of service provision and development projects to, what the author terms 'dubiously elected councillors'.
- An upsurge in violence from May 1998 caused by stock theft, experiencing an escalation after the formation of vigilante groups, and criminality that could not be stopped by traditional leaders
- A conflict between traditional leadership and elected councillors, won, eventually, by the councillors

The paper concludes that the power of traditional leaders in the Transkei has deteriorated significantly in terms of formal power, but the chiefs remain a powerful local force, and a moral one.

Despite the issues raised above, the prospects for traditional leaders are positive, largely due to their continued and constant presence in the local communities and their continued legitimacy amongst local inhabitants. The real challenge is to try to incorporate traditional leaders into democratic institutions.

R. Thornton, '"Traditional Authority" and Governance in the Emjindini Royal Swazi Chiefdom, Barberton, Mpumalanga: An

empirical study', January 2002, 28pp, available at http://asc.leidenuniv.nl/pdf/swazianaly.pdf.

This empirical study uses a questionnaire to determine level of support for both the local chief and the municipality, with very interesting outcomes. The Emjindini Chiefdom lies next to the northern border of Swaziland and claims to include both the rural 'Landgoed' and the township of Barberton. The current chief is paid by the South African government but considers the Swazi king as its head. This trans-national identity, though not unusual, lacks constitutional legitimacy, as do chiefs throughout South Africa. Chiefs are expected to represent their communities and provide cultural guidance but do not have political or administrative powers.

Despite this lack of legitimacy, 43% of respondents support the current chief, and 52% support the institution of chieftainship. Surprisingly, the support for the chief is 85% in the municipal-run township, where only 31% supported the municipal government. This is despite the fact that the chief provides no discernible goods or services and few respondents actually knew what he should do for them. The majority of those who did not register support for the chief or the institution seemed to be adopting a 'wait and see' attitude rather than disapproval. Furthermore, the team could not find any particular factor to determine support or disapproval for either the chief or the municipal government – age, sex, education, religion, ethnicity and so on. Instead it appears to be down to 'some unknown "political" factor', just like support for the ANC despite disapproval of its performance in government.

The team asked further questions about the nature of government, asking who should provide democratic government, socio-economic development and services: the municipality, the chief, political parties, civil society or the central government. The central government ranked very low on these, despite being the only institution to provide roads, schools, water, electricity and telephone services. Civil society ranked similarly low. In all three categories, political parties ranked the highest, followed closely by the chiefs and then much further behind by the municipality (although the municipality was closer in the expectation of provision of services) (see Oomen, p. XX, for similar findings in a different part of South Africa).

Despite the fact that both the central and municipal governments have constitutional legitimacy that the chief lacks and provide services, especially in the township, that the chief does not, people expect that the chief will play an important role in government and in service provision. This seems to be linked to the fungibility of political culture, a perception of 'distance' from the government, even at the local level, a belief that the chief represents 'real' African traditions and identities and the idea that governments come and go but '"the chief is always here"'.

Zimbabwe

M.L. Daneel, 'Environmental Reform: A New Venture of Zimbabwe's Traditional Custodians of the Land', *Journal of Legal Pluralism and Unofficial Law: Special Issue on The New Relevance of Traditional Authorities to Africa's Future*, 37-38, 1996, 29pp, pp. 347-376.

In Zimbabwe, as in many places, chiefs have a connection to the land in the eyes of the public, and are often seen as the traditional custodians of the land. They protect the land through upholding the ancestral rest-day, which protects soil fertility; preparing rain rituals; get divine environmental protection through the animals, which protects species diversity; and finally, preserving holy groves, which contain the majority of intact closed canopy forests in the country.

The colonial government took some of this traditional land and gave it to white settlers (46.5%), alienating some chiefs from their holy groves. The first government after independence further stripped chiefs' rights, allowing them only to arbitrate on domestic disputes and sit on village development committees, and did not recognise their 'mystically derived environmental authority'. Because of this, the chiefs were unable to stop the land abuse and deforestation that characterised the post-independence years. The government has since begun giving some powers back to the chiefs, and through the creation of the Association of Zimbabwean Traditional Ecologists (AZTREC), chiefs have been able to reassert some control over traditional lands, focusing on afforestation, protection of water resources and wildlife conservation. At the same time, chiefs are able to gain government and national recognition for their activities. AZTREC has been very successful in achieving their aims. As of this publication, they have planted over 2 million trees, brought attention for the need for harmony with nature, provided a forum for public confessions of guilt about environmental destruction (on behalf of local people), promoted cooperation between chiefs and local government officials, protected water resources and helped provide adequate game management on communal lands. Despite this, Daneel points out that, as is often the case throughout Africa, donor and NGO funded projects rarely include chiefs or traditional leaders in their environmental work, and the Zimbabwean case is no exception.