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Preface

A number of studies have affirmed the resiliency, legitimacy and relevance of African traditional institutions in the socio-cultural, economic and political lives of Africans, particularly in the rural areas. Juxtaposed with this is the sometimes parallel “modern State”, vested with enormous authority in rule making, application, adjudication and enforcement. As Africa seeks to build and strengthen capable States, there is the need to recognize and address this “duality” fully. This is principally borne out by a growing recognition that capable democratic States must be grounded on indigenous social values and contexts, while adapting to changing realities. This will require among other actions, aligning and harmonizing traditional governance institutions with the modern State.

The roles that traditional authorities can play in the process of good governance can broadly be separated into 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 government’s efforts in mobilizing the population for the implementation of development projects, sensitizing them on health issues such as HIV/AIDS, promoting education, encouraging economic enterprises, inspiring respect for the law and urging participation in the electoral process; and third, their role in conflict resolution, an area where traditional leaders across Africa have already demonstrated success.

The question therefore is not whether the traditional and “modern” systems of governance are competing against each other but how to integrate the two systems more effectively in order to better serve citizens in terms of representation and participation, service delivery, social and health standards and access to justice.

It is against this background that in October 2004, the Economic Commission for Africa (ECA) organized the fourth African Development Forum (ADF-IV), which focused on the theme, “Governance for a Progressing Africa”. In the ADF-IV agenda for action, ECA 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. This concept paper addresses these issues and outlines the theoretical framework for the dynamics that enable traditional governance institutions to play a more “developmentalist” role in modern governance systems.

The paper was also discussed in an experts' workshop that took place in Addis Ababa in June 2006. The experts endorsed the concept paper and made concrete recommendations on how to effect and implement the issues addressed.

A staff team from the Development Policy and Management Division (DPMD) prepared the study under the overall supervision of the Director, Mr. Okey Onyejekwe. The team was led by Mr. Kojo Busia and comprised Mr. Stephane Oertel and Ms. Hasna Mengesha. The technical support of Mr. Kidane Mengisteab was instrumental in the production of the concept paper and the success of the workshop.

Introduction

African countries are characterized by fragmentation of various aspects of their political economy, including their institutions of governance. Large segments of the rural populations, the overwhelming majority in most African countries, continue to adhere principally to traditional institutions. The post-colonial State, on the other hand, essentially emulates western institutions of governance, which are often at odds with traditional African cultural values and the region's contemporary socio-economic realities. Fragmentation of the institutions of governance, along with economic and social fragmentation, has contributed to Africa's crisis of state-building, governance, and economic development.

Despite modest progress in some countries, the post-colonial State has been unable to establish rights-based political and economic systems of governance that would facilitate consolidation of state-building and promote economic development. To a large extent, this has been due to its detachment from the institutional and cultural values of its constituency. The prevailing state of poverty on the continent, the persistence of widespread ethnic and civil conflicts, and frequent electoral and post-electoral strife are some manifestations of the failure of the State. The persistence of traditional institutions as a parallel system of governance, which provides some level of refuge for the rural population, often alienated by the State, is also another indication of the failure of the post-colonial State.

On the other hand, African traditional institutions are also not equipped to compensate adequately for such failure of the State. In addition to their local orientation, many of these institutions face various limitations, especially in the areas of accountability and gender equality. Many are also hampered by their inability to define and secure property rights, thereby raising the transaction costs of resource allocation to their constituencies. Moreover, the growing economic diversity and complex division of labour, which mark the present era of globalization, are largely beyond the scope of traditional institutions. These institutions are, therefore, unlikely to be able to cope with poverty alleviation among their constituencies without the stewardship of the State.

Africa's deepening crisis, is thus, unlikely to be reversed under the existing duality of institutions. The formal institutions of the State, i.e., rules regulating the structure of polity, property rights, and contracting, cannot be effective if they disregard or contradict the customary rules of the traditional institutions, which govern the lives and livelihood of large segments of the population. For instance, the State is unlikely to succeed in state-building and in mobilizing the cooperation of large segments of its citizens for socio-economic development without connecting itself to and harmonizing its political apparatus with the institutions, cultural values and interests of all its constituencies, including rural populations.

The task of reversing Africa's general crisis and realizing the New Partnership for Africa's Development's (NEPAD) concept of "African solutions to African problems" are likely to require integration of the parallel institutions of governance so that they can complement each other. Harmonizing the two sets of institutions, in turn, requires reform of both in ways that would make them democratic and amenable to integration into a coherent and effective system of governance. This vision provides the imperative for the proposed ECA project, whose overarching objective is to explore ways to reform and integrate the two parallel institutions in a manner that promotes democratic governance. This objective can be attained only through careful analyses of the characteristics and dynamics of traditional institutions in order to gain insight into their actual and potential contributions to democratic governance and economic transformation. This exercise will be particularly useful as traditional institutions on the continent are largely understudied and misunderstood.

As a first step towards the broad objective outlined above, this concept paper aims to undertake the following:

- Describe briefly the complex diversity of traditional institutions, including, their mechanisms of accountability, the transformation they have undergone over time, and the gender relations they foster;
- Outline the nature of the debate over the relevance of traditional institutions;
- Sketch a theoretical framework to explain how traditional institutions can contribute to Africa's socio-economic transformation;
- Identify specific areas in which the application of traditional institutions of governance would have significant transformative impact;
- Examine inadequacies in models that have been used by some African governments to incorporate traditional authorities into modern governance structures;
- Suggest some critical areas of policy-relevant research which would serve as the first step towards filling gaps in our understanding of traditional institutions; this would serve as the basis of a new model for integrating traditional institutions into the modern governance structures in a manner that would promote Africa's socio-economic transformation; and
- Construct a brief schematic roadmap for conducting a pilot study to test the research propositions outlined in section six.

1. Diversity and transformation of African traditional institutions

African traditional institutions of governance are diverse. They have evolved significantly from their pre-colonial forms in tandem with transformation of the continent's political systems, during the colonial and post-colonial eras. Despite their complex diversity, much of the post-independence literature classifies African traditional institutions of governance into two types, based on their pre-colonial forms: (a) the consensus-based systems of the decentralized pre-colonial political systems; and (b) chieftaincy of the centralized political systems.

- *Decentralized systems*

In large parts of Africa, pre-colonial political systems were highly decentralized with law-making, social control, and allocation of resources carried out by local entities, such as lineage groupings, village communities, and age-sets. These systems were largely based on consensual decision-making arrangements that varied from one place to another. As Legesse (2000; 1973) notes, the fundamental principles that guide the consensus-based (decentralized authority) systems include curbing the concentration of power in an institution or a person and averting the emergence of a rigid hierarchy. The settlement of conflicts and disputes in such consensual systems involves narrowing of differences through negotiations rather than through adversarial procedures that produce winners and losers.

Decentralized authority systems are based on respect for the rights and views of the individual, as individuals can veto the opinions of the majority. However, individuals are also expected to respect the wishes and interests of the community by accepting compromises, as they can face various forms of community censure, including social isolation, if they fail to do so. The extent to which minority views are accommodated enables these systems to prevent conflicts between minority and majority segments of a community. Another important aspect of the system is that it avoids the existence of political and social gaps between the governed and those who govern, as all eligible members of the community participate in both the creation and enforcement of rules. When the appointment of individuals for specific tasks is necessary, the duration of the appointment is rather short, often not exceeding a year. In many other cases, task assignments are based on age-cohorts.

One drawback of the decentralized authority systems is that decision-making is generally slow, since consensus-building is a time-consuming process. The Ibo village assembly in eastern Nigeria, the Eritrean village baito (assembly), the gada (age-set) system of the Oromo in Ethiopia and Kenya, as well as the council of elders (kiama) of the Kikuyu in

Kenya are among well-known examples where decisions are largely made in a consensual manner of one kind or another. The Teso and Lango of Uganda, the Tonga of Zambia, and the Nuer of Southern Sudan are other examples. The local self-governance system of various Berber ethnic and clan groups also falls within the decentralized consensual systems (Montagne, 1931; Aplort, 1954; Alport, 1964). Despite some variations between Berber groups, all adult males are eligible to participate in an assembly (jmaa) although decisions are made in a consensual manner by a council of notables (inflas or ait arbain).

Among some groups in the High Atlas region, the council elects in rotation and in a complementary manner, a leader (moqaddem) who presides over the execution of the council's decisions for a fixed term of one year. In some cases, however, the moqaddem has stayed in power longer and has even established dynasties. Other groups, such as those in the Suss and the Anti-Atlas areas, do not appoint moqaddem. Instead, all male adults assemble and assist the council in adjudicating disputes and passing sentences upon criminals.

- *Centralized systems*

Other parts of Africa established centralized systems of governance with kings and monarchs. The level of centralization and concentration of power in the hands of the leaders varied from place to place. In some cases, such as Abyssinia (Ethiopia) and Rwanda, the rulers enjoyed absolute power. In most other cases, the power of the rulers was restrained by various arrangements, including the institution of councils (Beattie, 1967; Osaghae, 1989). The level of development of the mechanisms of checks and balances, however, differed widely from place to place.

In some cases, such as the Buganda of Uganda and the Nupe in Nigeria, the formal institutions of checks and balances and accountability of leaders to the population were rather weak (Beattie, 1967). In other cases, such as the Ashanti of Ghana, Lesotho, the Tswana of Botswana, and the Busoga of Uganda, the systems of checks and balances were relatively better defined with constitutional provisions and customary laws authorizing a council of elders, religious leaders, and administrative staff of the chiefs to check the power of the leaders and keep them accountable (Busia, 1968; Jones, 1983; Coplan, 1997).

Viewed from the perspective of contemporary democracy, the formal mechanisms of accountability in the centralized African traditional institutions were rather weak, since chiefs often combined both executive and judicial powers and the councils, when they existed, were often composed largely of members of the nobility or close relatives of the chiefs. There were, however, various informal mechanisms that also fostered accountability. The ability of common people to shift their allegiance away from a despotic chief to other chiefs was, for instance, an important mechanism that mitigated the autocratic tendencies of chiefs.

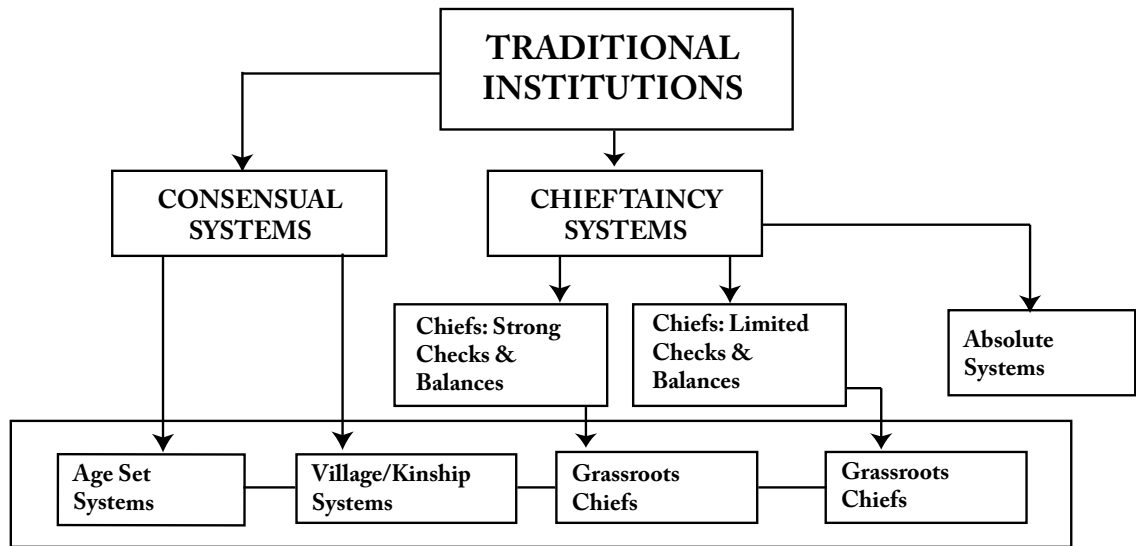
Despite centralization at the top, centralized systems are characterized by a great deal of autonomy at the bottom. At the grassroots level, chiefs often act primarily as facilitators, who preside over a consensual decision-making process by the members or elders of their communities. At the grassroots level, the chieftaincy system, therefore, overlaps in many respects with the decentralized consensus-based systems. The administrative structure of the Ashanti of Ghana, for example, allows each lineage, village or subdivision to manage its own affairs, including settling disputes through arbitration by elders (Busia, 1968). In Botswana also, the power of the chiefs is regulated by the consensual decision-making process in the kgotla.

1.1. Towards a new typology of African traditional institutions

The old classification of traditional institutions into centralized and decentralized systems, while useful as an analytical entry point, is an inadequate conceptual framework for understanding traditional institutions. It masks significant differences among the characteristics of each type together with similarities between types, because it lumps various chieftaincy systems together with differing levels of accountability. It also conflates consensual systems that operate on the basis of age-segmentation lump lineage or village-based systems (see table 1). Moreover, the old typology makes it difficult to distinguish succinctly between the relevant and the obsolete aspects of traditional institutions.

Future research must unpack the existing typology to make it possible for us to learn more about the intricate characteristics that are lost in its generalizations. Such insight enables us to identify the attributes of the various types of traditional institutions that can be used to promote development and democratic governance and those aspects that are incompatible with democratic governance and need to be changed. Without a fuller understanding of the characteristics and dynamics of traditional institutions, it is difficult to understand why they have remained resilient and to determine the potential contributions they can make to the building of democratic institutions that are compatible with African realities and value systems.

Figure 1. Tentative Typology of Traditional Institutions on the Basis of Accountability*



*Systems within the dotted box are similar in their structure.

Table 1. Examples of the Tentative Typology

Centralized Systems with Absolute Power	Abyssinia (Ethiopia), Rwanda, Swazi
Centralized Systems with Limited Checks and Balances	Nupe, Buganda, Zulu, Hausa, Yoruba, Igala
Centralized Systems with relatively Well Defined Systems of Checks and Balances	Ashanti, Busoga of Uganda, Lesotho, Tswana of Botswana
Decentralized Age-Set Systems	Oromo, Kikuyu, Masai
Decentralized Village/Kinship Systems	Ibo village assembly, Eritrean Baito, Tiv of Nigeria, Owan society of Nigeria, and the council system of the Berbers

The tentative typology outlined in table 1 incorporates the existing broad classification but it also attempts to classify the chieftaincy systems into at least three categories based on the robustness of their mechanisms of accountability. It also breaks down the decentralized systems, into age-set systems and village and kinship systems while showing the similarities between these systems with the chieftaincy systems at the grassroots level.

1.2. Transformation of African traditional institutions under colonialism

African institutions of governance were altered radically with colonial occupation and the ensuing fundamental restructuring of African political entities and socioeconomic systems. The colonial State brought the different African political systems under centralized States. A brief description of the changes in the two traditional systems follows.

- *Impact on decentralized systems*

In the formerly decentralized traditional systems, such as those of the Ibo of Eastern Nigeria, the Tonga in Zambia, and the Masai in Kenya, the colonial State invented chieftaincies and imposed hierarchical rule on its subjects. In some cases, the 'invented' chiefs used their power to enrich themselves and upon differentiating themselves from their communities, they subverted traditional political values (Tosh, 1973). In many other cases, however, the invented chieftaincies were unsuccessful in displacing the consensus-based governance structures (Gartrell, 1983). The warrant chiefs appointed by the British colonial State were, for example, unable to replace the traditional system of village council among the Ibo of Nigeria (Uwazie, 1994). The Eritrean village baito also survived colonialism largely intact. The district administrators appointed by the colonial State acted primarily as tax collectors and the village heads appointed by such administrators largely presided over village assemblies and pronounced the consensus that emerged from an assembly's deliberations rather than assume the role of decision-makers.

- *Impact on centralized systems*

The impact of colonialism upon the centralized authority systems was much greater, as it largely transformed the form and content of chieftaincy and, thus, the relations between chiefs and their communities, as Coplan and Quintan (1997) indicate in the case of Lesotho. The colonial State either demoted or eliminated African leaders who resisted colonization or rebelled after colonization (Busia, 1968). Leaders who submitted to colonial rule were mostly incorporated into the colonial governance structure of indirect rule, which was designed to provide the colonial State with a viable low-cost administrative structure to maintain order, mobilize labour, enforce production of cash crops, and collect taxes.

Incorporation severely weakened both the formal and informal mechanisms of accountability of traditional leaders to the population by changing the power relations between chiefs and their communities. Under colonialism, chiefs could be removed from power only by the colonial administration. Chiefs were also given control of land, thereby curtailing the ability of ordinary people to shift their allegiance to other chiefs.

It is often argued in the post-independence literature that colonialism transformed chiefs into mere civil servants of the colonial State. It is likely, however, that this view is often exaggerated. The roles of Hausa chiefs in Nigeria and Niger, for example, were affected differently by colonialism, with the power of those in Niger reduced more severely (Miles, 1987). As intermediaries between the colonial State and local peoples, chiefs were expected to maintain peace and order within their communities. To be effective administrators, chiefs had to maintain their legitimacy with their communities.

This required that they attempt to ease the burden of colonialism by interceding with colonial authorities on behalf of their people and by protecting the interests of their

communities as much as possible. As a member of the Nigerian Legislative Council for the Ibo Division, a certain chief, I. O. Mba, for example, is said to have argued "... I must say one thing in regard to the poll tax, that when I talked to people about it there was not one soul who was for it; not one Chief either who was for it ..." (Okafor, 1972:128). In some cases chiefs also rebelled against colonialism when unable to persuade colonial administrators to modify some of their policies.

1.3. Traditional institutions in the post-colonial era

Decolonization represented another landmark in the transformation of African traditional institutions of governance, especially the institution of chieftaincy. The abolishment of the colonial system of indirect rule left in flux the role of the upper echelons of chiefs and their relations with the new African State. Many of Africa's nationalist, first-generation leaders, such as Houphouet-Boigny, Sekou Toure, Leopold Senghor, and Kwame Nkrumah, saw chiefs as functionaries of the colonial State and chieftaincy as an anachronistic vestige of the old Africa that had no place in the post-colonial political landscape. African nationalist leaders, therefore, often pursued policies to Africanize the bureaucracy without indigenizing the institutions of governance. The new elite, which increasingly grew self-serving and autocratic, also could not tolerate the existence of contending points of power. As they banned opposition parties, they also dispossessed chiefs of the bureaucratic positions they held within the indirect rule system of the colonial State. Burkina Faso, Guinea, Tanzania, Uganda, Zambia and Zimbabwe, among others, attempted unsuccessfully to strip chiefs of most of their authority or even abolish chieftaincy altogether. In many other cases, in efforts to enhance its own legitimacy, the new elite, especially among the second generation of African leaders, attempted, with varying degrees of success, to co-opt traditional leaders.

Despite these ambiguous efforts, chieftaincy has continued to operate with large numbers of adherents, especially in rural areas. As an ECA study (2005a) notes, chiefs often operate as custodians of customary law and communal assets, especially land. They dispense justice, resolve conflicts and enforce contracts. They also serve as guardians and symbols of cultural values and practices. Unfortunately, chiefs operate largely in an informal setting without clear definitions of their authority. Some countries that have realized the resilience of the institution, such as South Africa and Uganda, are still grappling with how to incorporate chieftaincy and monarchy into their modern governance structure.

1.4 Gender relations in traditional institutions

Gender relations in Africa in general, and women's participation in decision-making in particular, vary from one community to another and it is not clear how much of the variation is associated with differences in the traditional political systems that prevail on the continent. Part of the variation seems to be related to whether or not women are engaged in the production of valued goods that would empower them economically and whether the community has a matrilineal or patrilineal social organization. In general, women who control wealth or who are engaged in the production of high-value products

have greater access to decision-making power relative to women who do not have economic independence. In most cases, the position of women in matrilineal societies also seems to be better than those in patrilineal societies, although in some matrilineal societies, such as the Berbers, Tuareg, and the Shaho of Eritrea, women neither participate in decision-making nor have inheritance rights.

- *Gender in consensual systems*

As noted, the consensual systems are largely democratic in their dispensation. However, the decision-making process is rarely inclusive of all members of the community. Women and young adults, for example, though not formally prohibited by rule, are often presumed to be represented by their husbands and fathers, respectively, and are customarily excluded from participation in the decision-making assemblies. Although, in some cases, women played various key societal roles, the patrilineal systems are particularly weak in protecting gender equality in decision-making on issues of a public nature. Among the Ibo, for example, disputes that family heads fail to resolve are referred to the *umuada* (married daughters) (Uwazie, 1994). Likewise, in the Eritrean village *baito* system, land is allocated to the household which is formed by marriage. In cases of divorce, the household's allotment, along with other property, are split equally between the former spouses (Mengisteab, 2003).

By contrast, we also find cases, such as among the Sonjo in Tanzania, the Gussi of Kenya and Uganda, and the Tiv of Nigeria, where women seem to have few rights as they are subordinated to their husbands who pay significant amounts in bride-wealth to marry them (Gray, 1960). As Kritz and Gurak (1989) note, acceptance of bride-wealth seems to transfer reproductive rights to the husband and his lineage. If divorce or separation occurs, the wife is often obliged to return the bride-wealth payment or leave her children with their father.

- *Gender in chieftaincy systems*

Similarly, opportunities for women to participate in decision-making in the chieftaincy systems are limited, although there are considerable differences between communities. Women in the Nupe and Yoruba societies are generally considered to maintain an autonomous economic role as market traders organizing trade guilds, which protect their interests and allow them to play important roles in political activities (Lebeuf, 1963; Levine, 1970). Women in some Mende communities of Sierra Leone, where the *Sande* secret societies operate, are also said to be politically equal to men. In these communities women's *Sande* societies and men's *Poro* associations are said to alternate political ritual control with women rising to become chiefs (Day, 1988). *Kofyar* women in the Jos plateau of Nigeria are also said to exercise independent economic and social decisions with little subordination to men while they may be excluded from mostly symbolic performances of rituals (Netting, 1969).

Despite such pockets of active women's participation in political decision-making, however, women generally are subordinated to men in much of Africa, and especially in the patrilineal systems. As is the case in many decentralized political systems, bride-wealth is said to subordinate women in many centralized systems, such as the Baganda of Uganda (Gray, 1960).

- *Changes in gender rights*

While their impact on the patrilineal and matrilineal social organizations is unclear, education and urbanization, along with active state involvement in supplanting traditional marriages with legal marriages, have led to some improvements in women's conditions. Cameroon, for instance, has registered a notable decline in bride-wealth payments and widow-inheritance. It has also made progress in improving the inheritance rights of children and in raising the age of marriage by promoting mass education. However, less than 50 per cent of the African population lives in urban areas and only roughly the same ratio is literate. Thus, many of the mechanisms that subject women to oppression, including abduction, arranged marriages without the consent of the bride, and marriage at an early age, are still widely practiced. A 2003 report by Ethiopia's National Committee on Traditional Practices, for example, indicates that marriages by abduction in the Southern Nations and Oromia regions of Ethiopia account for about 92 per cent and 80 per cent of all marriages, respectively (BBC, May 15, 2006).

2. The debate over the relevance of traditional institutions

The relevance of traditional institutions, especially chieftaincy, to the transformation of African economies and governance systems is highly disputed in the post-colonial literature. At the risk of over-generalization, three strands can be identified in this discourse. One highly skeptical strand contends that chieftaincy is anachronistic, a hindrance to the development and transformation of the continent, undemocratic, divisive, and costly. Among the arguments advanced by this view are that:

- Chieftaincy has been corrupted by the colonial State and by the clientelism of the despotic post-colonial State and is, thus, no longer subject to accountability to the populace (Zack-Williams, 2002; Kilson, 1966);
- Populations under traditional authorities, as in South Africa, live as "subjects" rather than as citizens of the State, and democratic governance would not be achieved while such systems continue to exist (Mamdani, 1996; Ntsebeza, 2005);
- Chieftaincy heightens primordial loyalties as chiefs constitute the foci of ethnic identities (Simwinga, quoted in van Binsberger, 1987: 156);
- Chieftaincy impedes the pace of development as it reduces the relevance of the State in the area of social services (Tom Mboya, in Osaghae, 1987; Law and Development, 1974); and

- The hereditary nature of chieftaincy renders it incompatible with democratic governance, which requires competitive elections as one of its cornerstones (Ntsebeza, 2005).

A polar view asserts that traditional institutions are indispensable for political transformation in Africa, as they represent a major part of the continent's history, culture, and political and governance systems. This view attributes the ineffectiveness of the African State in bringing about sustained socio-economic development to its neglect of traditional institutions and its failure to restore Africa's own history (Basil Davidson, 1992). As Dore (n.d.) notes, when policy neglects history, culture, and social context, huge amounts of effort and resources can be wasted on poorly conceived initiatives. However, the indigeneness of institutions, by itself, is not a sufficient condition to enable traditional institutions to facilitate the transformation of social systems. History teaches us that, depending on their nature, traditional institutions may hinder or facilitate development and democratic transformation and that these institutions are not static, as they undergo constant change. It is likely, however, that political and economic development would be more successful when rooted upon widely shared institutions and cultural values (Fallers, 1955).

A third and more balanced view acknowledges the limitations of traditional institutions, that the colonial State largely transformed chieftaincy into its intermediate administrative institution, and that the post-colonial State often co-opted chiefs to facilitate the extension of despotic control over its citizens. This view nonetheless recognizes the fact that traditional institutions constitute crucial resources that have the potential to promote democratic governance and to facilitate access of rural communities to public services. Among the arguments advanced by this view are that:

- Chieftaincy can provide the bedrock upon which to construct new mixed governance structures since chiefs serve as custodians of and advocates for the interests of local communities within the broader political structure (Sklar, 1994; Skalnik, 2004);
- The conception of traditional institutions that the source and *raison d'être* of power is the collective good of all members of society, provides a strong philosophical basis for establishing accountable governance, (Osaghae, 1987); and
- Given that over-centralization of power in the hands of predatory States often obfuscates community-based initiatives and democratic practices at the grassroots, good governance can materialize only through the articulation of indigenous political values and practices and their harmonization with modern democratic practices (AJID, 1996, vol. 2, no.1; Ayittey, 1992; Ake, 1987).

2.1. Reasons for the divergence of views on traditional institutions

A number of factors help to explain the sharp divergence of views in the literature and the skepticism surrounding the relevance of traditional institutions. One factor is the

failure of scholars to differentiate between the role and behaviour of actors who exercise authority and the aspects of traditional institutions that refer to customary laws, political values, and rules that govern socio-economic interaction. As skeptics and proponents of traditional institutions note, the role and behaviour of chiefs was largely transformed by both the colonial and post-colonial States.

However, there has been little evidence or research to show that the essence of customary laws or has political values of African societies (including the mechanisms for conflict resolution) have been fundamentally altered by the colonial and post-colonial experiences. The level of loyalty enjoyed by these institutions, especially from rural populations, supports this perspective. The dispute in the literature is, thus, largely about the changing roles of chiefs, which often were imposed by the changing political systems, and not about the relevance of the political values of traditional systems, although the latter deserve at least as much attention.

A second factor is the failure of scholars to differentiate between the various forms of chieftaincy and governance practices at different levels within the hierarchy of chieftaincy. As noted in section one of this paper, the nature of chieftaincy in Africa with regard to accountability of leaders to the population varies greatly across both geographical and historical space. In some cases, chieftaincy is accompanied by mechanisms of checks and balances, while in other cases the arrangements for regulating the power of leaders and ensuring accountability are not robust. Chieftaincy varies in terms of hierarchy, even within the same geographical and historical context. At the lower levels, chiefs and headmen generally exercise little power beyond presiding over community meetings, where decisions are largely made in a consensual manner.

At the grassroots level, chieftaincy systems, for the most part, overlap with the consensual systems. Chiefs at the grassroots level are accountable to the higher-level chiefs and rarely have the power to subvert the community's interests. Despite these variations, the literature portrays chieftaincy as a homogenous system and the skeptics posit, with little acknowledgement of the democratic practices--especially at grassroots levels--that chieftaincy cannot be reconciled with modern democratic institutions. Botswana's experience seems to suggest that chieftaincy can indeed co-exist with democratic governance.

Another factor that sheds some light on the divergence of views in the literature is the ethnographic nature of the study of traditional institutions. Since the nature of chieftaincy varies significantly across geographic areas, the findings of ethnographic studies on the role and behaviour of chiefs also vary widely. Carefully crafted comparative research is likely to explain the divergence of views resulting from differences in methodological approaches.

Analytical problems have also contributed to the highly skeptical view concerning the relevance of traditional institutions. Much of the skepticism emanates from the perspective that chiefs often availed their services to both the colonial State and the post-colonial

despotic State, thereby betraying their responsibility to their communities. This charge is undeniable in many cases. By claiming tribute, labour and tithe on peasants' produce, chiefs often built up their own fortunes during the colonial era. Higher-level chiefs also built networks of patronage, through influence, if not control, of appointments of their subordinates (Gartrell, 1983). Some were even apathetic in the nationalist movement for fear of losing their lucrative positions, as Miller (1968) notes. Many chiefs, however, resisted colonialism and colonial policies that subverted the interests of their communities and were killed, jailed, or demoted for it. The exile of the Kabaka of Buganda in 1953 for defying a British Governor is a good example. Even in the case of those who submitted to the colonial State to serve as intermediaries or those who were co-opted by the post-colonial State, it is not clear if their collaboration with the State worsened or ameliorated the conditions of their communities. As Kuper (1970) notes, chiefs and headmen often presented to district commissioners the argument that their people would not accept certain measures, and since their priority was to maintain law and order, the District Commissioners often supported the chiefs.

The role of South African chiefs under the apartheid system can be used to strengthen the argument that chiefs, for the most part, did not worsen the conditions of their communities. Many chiefs were not willing functionaries of the apartheid regime. A considerable number of them were, for instance, among the founding members of the African National Congress (ANC), which at the time of its formation in 1912 was known as the South African Native National Congress (van Kessel and Oomen, 1999). Some chiefs also led rural revolts in the 1950s and 1960s against various policies of the apartheid regime, including the Bantu Authority system (Beinart, 1985). As Holomisa (2004) notes, the South African Truth and Reconciliation Commission also does not have any record of ordinary traditional leaders being engaged in or accused of committing gross human rights violations when they served under the apartheid State.

More importantly, if chiefs betrayed their responsibility to their communities by collaborating with the State, then the State was at the centre of the problem. In most cases, however, the role of chiefs was analysed outside the context of the State. The skeptics, for example, did not provide convincing arguments to explain why the populations under chieftaincy chose to continue to adhere to the institution if chiefs did not command any accountability or if they treated the population as subjects. It may very well be that chieftaincy, despite its limitations, provides the population with better services or services at a lower transaction cost than does the State. It is also likely that it provides the population with a refuge from the oppression of the extroverted post-colonial State, whose policies were driven by the self-interest of functionaries and the demands of donors and lenders rather than by broad social interests. Empirical research that would enable us to understand why the African masses continue their allegiance to traditional institutions is sorely unavailable.

The claim that chieftaincy is divisive is also highly suspect, especially in view of the fact that political leaders of the post-colonial State have often politicized ethnicity in order to extend their tenure in power through various divide-and-rule mechanisms and uneven

distribution of resources. As Minikin (1973) notes in the case of Sierra Leone, the political elite even attempts to politicize chieftaincy in an effort to secure electoral support. There is little doubt that chiefs can play a divisive role, especially when mobilized by the State to play such a role, as is evident from the role of some chiefs in the Darfur conflict. However, chiefs and other traditional authorities also have the potential to mitigate ethnic conflicts by applying traditional conflict-resolution mechanisms to narrow differences.

The various ethnic conflicts across the continent suggest that African traditional conflict-resolution mechanisms, which have been reasonably effective in resolving intra-group conflicts have not been effective in dealing with inter-ethnic conflicts. The explanation for this limitation lies perhaps in the fact that these institutions did not develop the necessary mechanisms of enforcement of decisions to be able to operate effectively beyond the local level, as their development was curtailed by the colonial disruption and post-colonial neglect. The traditional conflict-resolution mechanism, however, has the potential to be effective beyond the local level, given an enabling political environment. The coalitions that chiefs in many countries have built among themselves in order to strengthen their own position vis-a-vis the State may also serve to reduce ethnic conflicts.

The concern of skeptics that chiefs are used by the State at the expense of their responsibilities to their communities is, thus, oftentimes valid. However, if chiefs are adaptive enough to be used as resources by the colonial State and are still used by the post-colonial State, there is little reason why they would not provide their services to a democratic State and become catalysts for democratization and development, especially given the general lack of administrative capacity African countries face. They can mobilize their communities for participation in political activities and economic development, as long as they command the respect and allegiance of these communities. The skeptical view does not consider this potential, although there is evidence that service delivery in rural areas has been smoother in areas where government structures had good relations with traditional leaders than in areas where relations are not good (Miller, 1968).

Moreover, the skeptics of the chieftaincy system offer little beyond advocacy for the abolishment of the institution. The feasibility of this proposal is, however, highly questionable since large segments of rural Africans demonstrate allegiance to these institutions and the State has encountered intense resistance when it attempts to eliminate them.

In addition to the analytical problems discussed above, the literature on traditional institutions is characterized by omission of some of their critical attributes. The paltry attention paid to the political values and practices of the decentralized consensual systems is one glaring omission. Another is the neglect of the political values and practices of most chieftaincy systems at the grassroots level. The treatment of chieftaincy, as suggested in the previous section, concentrates more on the roles of the upper echelons of leaders and their relations with the State than on the underlying customary laws and political values and practices including the administrative structures at the grassroots level.

Omissions of this nature have obscured much of the democratic characteristics of the values and practices of traditional institutions and their convergence with modern democratic governance. This issue will be developed further in section 3.2. We now attempt to formulate a working theory that would help us explain why traditional institutions have the potential to become instrumental in Africa's socio-economic transformation.

3. Theoretical framework

Despite widespread skepticism about their relevance, African traditional institutions have the potential to facilitate democratic transformation and socio-economic development. To explain this potential, this section of the paper examines the dynamics of both the leadership and values of traditional institutions.

3.1. Traditional authorities

Understanding the dynamics of traditional authorities entails distinguishing between the social position of chiefs in the centralized political systems and that of elders in the decentralized systems. With respect to chiefs, their role in fostering democratic governance and socio-economic development largely depends on a number of factors, including the nature of the state; the level of democratic awareness of the population, which is influenced by the nature of traditional political values and level of education; the mechanisms of accountability of the chieftaincy system; and the administrative effectiveness of the sitting chief. This hypothesis may be expressed as follows:

$$Y = f(Sn, Pa, Ca, Ce),$$

where Y stands for the potential role of traditional authorities in promoting socio-economic development and democratic governance, Sn represents the nature of the state, Pa represents political awareness of the population, Ca represents the mechanisms of accountability to the community of the chieftaincy system, and Ce represents the administrative effectiveness of the chief.

It is generally agreed that, since the loss of independence by African societies and the formation of the colonial State, chiefs have essentially operated between two political and social forces. On the one hand, the State often attempts either to co-opt chiefs or to abolish their authority altogether, especially if they fail to comply with its demands and directives; on the other hand, communities expect their chiefs to be custodians of their collective interests. Chiefs, like most other political leaders, can be expected to have conflicting tendencies; either to advance self-interest at the expense of community interests, or to curb their self-interest in order to promote community interests. The pursuit of either tendency is, however, constrained by the demands that the State and their communities place upon them. Chiefs cannot ignore the demands of the State, as they retain their position at the State's pleasure and often they depend on the State for resources. This dependence compels them to perform tasks that link the State with rural communities.

At the same time, chiefs have to provide some protection for the interests of their communities in order to maintain the legitimacy of their leadership. The claim by van Nieuwaal (1987) that a chief commits political suicide if he fails to perform what his/her community expects is largely true since a chief cannot stay in power for long without commanding legitimacy within the community.

Being under pressure from the two sides, the most basic self-interest of chiefs is likely to revolve around the preservation of their position, which is predicated largely upon their effectiveness in negotiating between the demands of their communities and those of the State. These two sets of interests may often conflict with each other. In other words, chiefs are motivated to maintain legitimacy through the allegiance of their communities, which requires responding positively to community demands, and by securing recognition by the State, which also requires responding positively to the State's demands.

Despite the community's heterogeneity, its demands are likely to revolve primarily around issues of development and democratic governance. The level of political awareness and level of education of the community can also be expected to affect the ability of the community to articulate its demands and exert pressure on chiefs. The nature of the demands of the State, on the other hand, varies with the nature of the State.

In a democratic environment where the population exercises control over the activities of the State, the demands that the latter places upon chiefs can be expected to coincide largely with those of the communities. A democratic system can also be expected to allow chiefs the freedom to choose political positions without reprisals from the State. Under these conditions, it is unlikely that the administrative role of chiefs would deviate significantly from the harmonious demands of the State and the community. In this era of democratization, in which African societies are engaged in an intensive struggle for popular political participation, chiefs who lag behind a progressive state in advancing the interests of local communities expose themselves to extinction. The people can easily vote with their feet by abandoning chieftaincy and embracing the institutions of the State. The State can also easily bypass or dismiss chiefs who lose legitimacy.

Under such conditions, self-preservation is likely to force chiefs to act as agents for the advancement of local interest, which in turn will coincide with the promotion of development and democratic governance. In the process, however, the chieftaincy systems, and especially those with weak mechanisms of accountability, are likely to be transformed. In other words, under a democratic State, chiefs have to contribute to the empowerment of their communities in order to sustain their legitimacy and the more empowered rural communities become, the more likely traditional authorities are pushed to become agents of development and democratic governance.

A democratic State can also be expected to facilitate reforming and integrating traditional institutions into the modern governance structures. In a democratic political system

therefore, we can expect to have all three entities, namely the State (S), chiefs (C), and the population (P) pushing towards a democratic system of governance and development, as depicted in the simplified model below.

a. (Despotism) S → C → P → (Democ. & Develop)

In a situation where the functionaries of the State are despotic and self-serving, the demands of the State and those of the population can be expected to be in conflict, or to move in opposite directions as the second and third models depict. Reconciling the conflicting demands of the State and those of the community becomes difficult for chiefs when the State is undemocratic. They cannot ignore the State, as they serve at its pleasure.

Often they are also corrupted by the rewards they obtain from political leaders in return for their support to such leaders. Still, even corrupt chiefs cannot completely ignore the demands of their communities without running the risk of completely losing their legitimacy which would be costly for them because without the allegiance of their communities and their ability to maintain some link between the State and the community, their value to the State is also likely to disappear. Under these conditions, chiefs would face two options. One option is for them to meet the demands of the State and manipulate or ignore those of the community, as depicted in the second model. However, this strategy is likely to be unsustainable, especially in cases where the mechanisms of accountability and the political awareness of the community are fairly developed. The price for neglecting the interests of the community is that chiefs lose legitimacy and eventually their relevance to the state.

b. (Despotism) ← S ← C P → (Democ. & Develop.)

The second and perhaps more likely option is for chiefs to attempt to meet some of the demands on each side (depicted by arrows pointing in different directions in model C so that they do not endanger their social position. In the process of taking a middle-of-the-road position, chiefs provide some refuge to their communities thus mitigating the impact of the despotic State. Such a role, of course, requires effectiveness on the part of the sitting chief.

c. (Despotism) ← S ⇄ C ⇄ P → (Democ. & Develop.)

Under a tyrannical State, the ability of chiefs to protect the well-being of their communities is likely to be limited, especially in the more centralized chieftaincy systems with less stringent mechanisms of accountability. The basis for integrating traditional institutions with the modern governance system with a view to attaining better governance would also be largely absent. However, it is likely that the interests of the community would be better served under chiefs than without them, under a self-serving despotic State. Fanthorpe's (2006) survey in Sierra Leone confirms this proposition, as peasants preferred chiefs over State bureaucrats, although they wanted reforms of the chieftaincy as well.

With respect to leaders in the decentralized political systems, the ability of elders to take measures that diverge from the interests of the community is limited, since they do not control decision-making. The actors in this traditional system are, thus, the state and the community. If the State is democratic and shares common interests with the community, the elders become resources for advancing the shared interests. If the State's interests diverge from those of the community, however, the elders serve to articulate the demands of the community.

3.2. Convergence of traditional political values with modern democratic governance

The nature of their underlying political values is another factor that gives traditional institutions the potential to contribute to Africa's democratization process. It is likely that the more traditional political values converge with democratic principles in their dispensation, the greater would be their potential to contribute to democratic transformation of the continent. It is always risky to generalize about African traditional institutions, given their diversity. Nevertheless, the most common political values and practices in the decentralized political systems include:

- Decentralization of power;
- Direct participation in decision-making;
- Resolution of conflicts by narrowing differences;
- Respect for dissent and protection of minority views and interests by requiring consensus on decisions;
- Narrowing the gap between the rulers and the ruled through direct participation of all adult males in making and in enforcing rules;
- Shortening the term of service of office holders; and
- Equitable access to land.

These values clearly contradict claims that the political culture tends to be vertically organized in rural African societies (Yoder, 1998). Such practices are also not limited to decentralized systems. Most of these values are widely held at the grassroots level in most chieftaincy systems. As a result, they are African political values rather than political values limited to a specific type of a political system.

Undoubtedly, traditional African political values have limitations that necessitate reforms, particularly in the area of gender relations, as indicated in the first section of the paper. This limitation notwithstanding, there is little doubt that African political

values, especially those of the consensual systems, converge with modern democratic political systems, which are crafted to allow the general population to exercise control over decision making on issues of public concern (Beetham, 1992). The identified traits of such political values and practices clearly enable local communities to control decision-making in so far as this affects their collective interests.

However, perhaps because their development was blocked by the combined effects of Africa's colonial experience and subsequent neglect by the post-colonial State, traditional African democratic values and their conflict-resolution mechanisms remained largely confined to the local level. As a result, they operate the basis of direct participation rather than on a representative basis, and decisions are made on a consensual rather than on a majority basis. Both of these arrangements reduce the need for electoral contests. In other words, African political values converge with the essential characteristics of modern democracy. The mechanism by which African democratic values are exercised, however, vary significantly from those of the modern democratic system of liberal democracy.

Some of the mechanisms by which African traditional democratic values are practiced are inapplicable at the state level in their present form. It would, for instance, be impractical to have direct participation of the population in decision-making beyond the village or local level. It would also be hard to imagine all state-level decisions being made on a consensus basis. Some of the modern mechanisms of democracy are, therefore, indispensable for contemporary Africa. However, the imported mechanisms were largely developed in post-industrial and post-state- building (nation-building) conditions.

As a result, some aspects of these imported mechanisms are inconsistent with pre-industrial and pre-state-building realities of Africa. The majority-based electoral systems, for example, are unlikely to resolve conflict resulting from disagreements over the terms of incorporating various ethnic entities into the State. Africa's transition, therefore, requires that some mechanisms of traditional institutions are applied to complement the modern mechanisms of democracy in dealing with the critical problems that cannot effectively be addressed through the latter alone.

Once state-building and transformation of the peasantry are achieved, the traditional mechanisms are likely to converge more fully with the mechanisms of modern democracy. In other words, the more advanced state-building becomes, and the further African societies move away from their present pre-industrial mode of production, the more likely it is that their traditional mechanisms of democratic values would also evolve closer to the mechanisms of modern democracy. Traditional authority is also likely to be transformed in tandem with the transformation of the traditional mechanisms. We now examine some areas where the application of the traditional mechanisms would make a significant contribution to Africa's socio-economic transformation.

4. Areas of potential contribution of traditional institutions

Conflict resolution, by narrowing the differences between protagonists, is one of the strengths of African traditional institutions of governance. However, the African continent remains plagued by many internal conflicts that emanate from problems of state-building (nation- building). These conflicts have produced immense human losses. These African continent now accounts for more war-related deaths than the rest of the world combined (Human Security Report, 2005). The conflicts have led to the collapse of the State and gross human rights violations, including genocide in some countries.

Concomitantly, the conflicts have resulted in the flow of millions of refugees, widespread internal displacement, severe economic dislocations, and disruption in the provision of public services. There are also growing indications that the conflicts are contributing to the spread of the HIV/AIDS epidemic in various ways.

4.1. State-building

Africa's process of state-building is one critical area that can benefit from the application of the traditional mechanisms of conflict-resolution and consensual decision-making. Settlement of border disputes among African countries is another.

The factors that cause civil wars are many and vary from case to case. In most cases, however, these wars are manifestations of the absence of broad agreement among the various ethnic and other sub-state entities on the terms of incorporation into the State. African civil wars, therefore are largely challenges levelled against the State by disaffected entities. The African State usually attempts to suppress these challenges by force, which rarely advances state-building.

As Okafor notes, coercive approaches to state-building fail because in the contemporary view of human rights, violent, coercive unification and repressive homogenization are morally and socially bankrupt" (2000:525). Far from leading to long-term peace and stability, military victory, if attained, leads only to a temporary lull in violent conflicts, accompanied by intense resentment and resistance, which are likely to be followed by a new cycle of hostilities. By contrast, African conflict-resolution mechanisms are designed to establish peace and harmony in order to prevent future feuds.

Electoral mechanisms alone are also ineffective in dealing with conflict over the terms of state-building, since people may vote along ethnic lines, thus marginalizing ethnic minorities. Under these conditions, it is imperative that divided African countries explore alternative dispute- resolution mechanisms and apply the traditional mechanisms of conflict-resolution and consensus-building, at least with regard to the terms of state-building. Constitutions and electoral laws can become effective mechanisms of state-building if established in a consensual manner.

As post-election conflicts in many countries, such as Burundi, Côte d'Ivoire, Ethiopia, and Togo show, elections hardly settle the contest for power when the contestants do not even agree on the constitutional framework for state-building, or even the laws governing elections.

Many African countries also have to contend with border conflicts, which are likely to increase and intensify with the growing demand for resources. Again, traditional conflict-resolution mechanisms can be extremely valuable tools in dealing with such conflicts, in conjunction with arbitration efforts by actors such as the African Union (AU).

The traditional conflict resolution and consensual decision-making mechanisms can, thus, enhance state-building by creating possibilities for accommodating the interests of different sub-state entities and the protection of minority interests. Decentralization of decision-making and adherence to term limits of leaders are other mechanisms with traditional roots that can facilitate state-building. Incorporation of traditional values also makes it possible for the adoption of power-sharing arrangements as a strategy of state-building. This strategy was effective in the transition to post-apartheid South Africa. In addition, the traditional conflict-resolution mechanisms can be applied in order to deal with the growing problem of post-election inter-party conflicts. The coercive approach African States have adopted to suppress political parties often exacerbate the state-building crisis, as political parties often tend to have ethnic or regional affiliations.

4.2. State reconstitution and accountability of leadership

Another critical aspect of the crisis of state-building is the nature of the post-colonial State. Many observers view the despotic and self-serving nature of the African State to be a major hindrance to Africa's political and economic transformation (Ayoade, 1988; Keller, 1991; Ayittey, 1993; Ake, 1996; Samatar, 2002). The African State, in most cases, inherited the extractive (rentier) production relations and repressive security apparatus of the colonial state (Musah, 2002: 915; Acemoglu, Johnson, and Robinson, 2001). It also remained largely outside the control of its citizenry, advancing private interests at the expense of public interests.

As a result, the general population often perceives the State to be an apparatus of exploitation and oppression, while the élite see it as a source of power for control and self-enrichment. A State that is perceived in this manner and lacking internal legitimacy cannot provide accountable leadership or be an agent for the empowerment of citizens. It also cannot mobilize the general population for social development. Transforming the African State into an agent of empowerment of citizens and political and economic transformation entails re-conceptualizing the State anew, in order to establish a system of governance with mechanisms that enable the population to control decision-making and thereby coordinate policy with broad social interests.

The incorporation of African traditional political values into the modern values of governance constitutes a critical step in the reconstitution of the African State. Decentralizing decision-making, resolving conflicts by narrowing differences, making key decisions on consensual basis, and establishing power-sharing arrangements of governance, all contribute to bringing the State under broader popular control, grounded on African political and cultural values. Reconstitution of the State and integration of traditional institutions are thus complementary processes that must go hand in hand.

4.3. Expansion of public services

Public-service delivery in Africa is generally poor. An ECA study (2005a), for instance, reveals that less than 31 per cent of the population of the countries in the survey sample expressed satisfaction with the service-delivery of their local governments. Lack of political will and capacity on the part of governments and lack of local participation in the design and delivery of service are among the major factors contributing to the poor state of service-delivery. Democratization of the State, along with incorporation of African traditional institutions, can contribute to the improvement of service-delivery in various ways.

Traditional authorities can mobilize local communities for political participation, thereby empowering them to play a part in influencing policy on the distribution of public services. Traditional authorities also have the potential to support the efforts of governments in service-delivery by participating in the administration of justice and by mobilizing human and financial resources for expanding educational and health services (ECA, 2005a). African traditional values, thus, not only converge with modern democratic values but also have the potential to complement the mechanisms of modern democracy by filling the gaps in the applicability of modern democratic mechanisms. They can also bring marginalized groups of society, including the peasantry, into the political process and enhance access to public services for such communities.

4.4. Management of resource-based conflicts

Another area of potential contribution of traditional institutions is in the mitigation of resource-based conflicts. The communal land tenure system that is pervasive in much of Africa is a foundation for the traditional political structures and democratic values. The communal tenure system creates access to land for all members of the community. While it does not necessarily alleviate poverty or ensure social equality, it creates a relative equality of access in the rural areas. Until economic development creates access to alternative opportunities, the communal tenure system remains a vital mechanism for reducing rural unemployment, poverty and inequality. It also makes the preservation of traditional democratic values and rural self-governance possible.

Notable changes in land tenure systems are presently taking place in many African countries. In some cases, such as Kenya, this has been effected through registration and privatization of communal land. Many governments, however, have issued land concessions

to commercial farmers and mining corporations with little regard for the land rights and interests of local communities. Such concessions, in conjunction with population growth and adverse ecological changes, have led to land shortages and the impoverishment of local communities, triggering violent resource-based conflicts among communities and between the state and communities in several countries, including Nigeria and the Sudan. Mitigating resource-based conflicts is likely to require respect for the traditional land rights of local communities and their involvement in decision-making as well as in sharing the benefits of land and other geo-resources allocation.

5. Integrating traditional authorities into the governance structure

To the extent that African traditional political values and customary laws are essential to the continent's transformation, the role of the authorities who are engaged in the practice and maintenance of those values is indispensable. Chiefs, especially those at the grassroots level, and elders in the decentralized political systems, are leaders in the practice of those values and they form an integral albeit informal part of the governance structures of rural Africa. As von Trotha (1996) notes, chiefs and village heads under civil chieftaincy constitute a forum where local interests are debated and articulated. Thus, they can constitute a valuable resource in informing the state about the interests of local communities as well as in mobilizing rural populations for active engagement, not only in development activities and the distribution of public services, but also in the national political process.

Unlike government-appointed administrators, lower-level chiefs and village leaders live in conditions largely similar to those of their communities. They share common interests and think like their people. As a result, they are better equipped to represent the interests of their communities than are government-appointed administrators, who are accountable only to the political élite. Partnership in development between local traditional leaders and government administrators is also likely to promote cooperative state-society relations that are sorely absent in Africa. However, even though incorporating these leaders has not been controversial, the state has invariably underutilized the traditional leaders at the grassroots level and has done little to integrate them into the formal governance structures.

As noted in the second section of this paper, much of the controversy over traditional institutions lies in the debate over the incorporation of the upper echelons of chiefs into the modern governance structures. Nevertheless, a growing number of African countries, including some of those that had previously attempted without success to strip chiefs of their power or to completely abolish traditional institutions, have realized the political currency that chiefs possess. They also now concede to the political risks or opportunity costs involved in abolishing chieftaincy. Chiefs have become "vote-brokers" in rural areas and exercise significant informal control over the State's intervention in local affairs (von Trotha, 1996; van Kessel and Oomen, 1996). As vote-brokers, they align themselves with the powers that offer the best chances for safeguarding their positions and advancing their interests. As a result, several countries, including those led by regimes that are reluctant

to allow the establishment and free operation of opposition parties, such as Uganda and Zimbabwe, have taken measures to reinstate and to integrate chiefs into their governance structure.

The modalities of integrating chiefs into the modern system of governance vary across countries but the most common form has been the creation of an upper house (house of chiefs) in parliament with a largely advisory role. The Council of Traditional Leaders in Namibia, for instance, is an organ that advises the President, mostly on matters of utilizing communal land. Ghana's House of Chiefs is also charged with advising any authority under the constitution on matters related to chieftaincy and customary law. Zimbabwe reversed its earlier policy of dismantling chieftaincy and created a Council of Chiefs in 1993. The House of Chiefs was restored in Zambia in 1996. In Lesotho and Malawi, chiefs constitute two-thirds and 30 per cent of the Senate respectively. South Africa's 1996 constitution provides for the creation of provincial and national houses of traditional leaders. The Congress of Traditional Leaders of South Africa (CONTRALESA) has, however, complained that the National House of Traditional Leaders is merely symbolic and does not give traditional leaders a substantive role (Bank and Southall, 1996).

CONTRALESA's concerns are however valid, since the existing mechanisms of integration limit chiefs to a largely advisory role. The extent to which policy makers take the advice of chiefs seriously is also unclear. It is possible that the houses of chiefs are designed largely to appease chiefs and to manipulate them into supporting the political leaders. In any case, the mechanisms merely incorporate the upper echelons of chiefs without integrating the traditional democratic values or the leaders at the grassroots level. This approach is not very likely to lead to a dynamic harmonization of the fragmented governance structures of African countries. A new and more holistic incorporation of traditional institutions, including lower-level chiefs and headmen and the relevant aspects of customary laws and political values would be more effective. Botswana, which has maintained an upper house of chiefs since 1965, has taken steps in this direction. It has maintained the traditional courts, with chiefs performing judicial duties. An approach which combines advisory and judiciary roles for traditional authorities and builds on democratic traditional political values and customary laws is likely to be more successful.

6. Future direction of research and aims of the project

As stated at the outset, African traditional institutions are understudied and misunderstood. This section attempts to highlight some key gaps in the existing literature on traditional institutions.

6.1. New typology of traditional institutions

As already noted, the literature categorizes traditional institutions into chieftaincy under the centralized political systems and the consensual systems of the decentralized political areas. Unfortunately, this broad classification has masked critical differences within each

system as well as similarities between the two systems. A new typology that addresses these problems and highlights the attributes and dynamics of each type, perhaps along the lines suggested in the first section of the paper, would be instructive. Such a typology would help determine with greater certainty the actual and potential relevance of these institutions to the economic and political transformation of contemporary Africa. A comparative longitudinal and cross-sectional study of traditional institutions is necessary for a fuller appraisal of traditional institutions and will help construct a more informative typology.

6.2. Resilience of traditional institutions

Another major gap in the literature is the near-absence of empirical studies on the resilience of traditional institutions. African traditional institutions command the allegiance of large segments of African societies, but there is little empirical work either on the size of this segment of the population or how adherents assess the benefits and costs of these institutions. Whether adherents draw distinctions between their traditional values and traditional leaders and if they are content with the performances of their traditional leaders is also an open question.

6.3. Gender relations in traditional institutions

The weakness of traditional institutions in the area of gender relations was noted in section one. The State, in some cases, including Ethiopia and South Africa, has attempted to remedy the situation through constitutional and legal changes. Some countries, including Mozambique, Namibia, Rwanda, South Africa, and Uganda, have also raised the representation of women in their parliaments to 25 per cent or higher (ECA, 2005b). The impact of such measures on the general situation of women, however, remains unclear. There is little doubt that there is still room for constitutional and legal changes and representation of women in positions of authority. However, such measures are unlikely to be sufficient since they are not well-linked either to the population or to the customary laws on the ground. A combination of legal changes and revitalization of customary laws, along with transformation through education and poverty alleviation, would be required for promotion of gender equity. Future research needs to identify the obsolete cultural values and customs that subjugate women, including marriage by abduction, payment of bride-wealth, early marriage, and denial of inheritance rights. There is also a need for research that will propose ways in which traditional authorities can help eradicate gender-related oppression.

6.4. Changes in land tenure and traditional institutions

The communal land tenure systems that prevail in much of Africa underpin African traditional political structures and values. However, significant changes in land tenure systems, including privatization of communal land, which are intended to promote agricultural growth, are under way in many countries. Such changes are likely to undermine the traditional structures of self-governance by removing from the village, kinship, and chiefs the authority over land allocation. However, there has not been sufficient research

to show how changes in land tenure patterns impact on traditional institutions. Further research is also required to illuminate how traditional authorities can be used to mitigate some of the resource-based conflicts that have ravaged many communities in the face of changes in tenure and land-use systems.

6.5. Mechanisms of integrating traditional authority

More research also needs to be undertaken on how to integrate traditional authorities, customary laws, and traditional democratic political values into the modern governance structure in a dynamic manner that enhances development and promotes democratization. The existing strategy of creating a second chamber in parliament devoted to chiefs is simply inadequate. It is not even clear what is the impact, if any, of creating such chambers in countries where non-chieftaincy traditional systems co-exist with chieftaincy systems. Unfortunately, even the literature that advocates the usefulness of traditional institutions in Africa's transformation is largely silent on how to integrate these institutions into the modern governance structure.

Given the differences in the characteristics and histories of these institutions, it is not likely that research will produce a single strategy applicable to all the countries on the continent. It may be possible, however, to frame a broad paradigm that can guide policy towards optimal use of traditional institutions. Research that would lead to charting a new vision in this regard is long overdue.

ANNEX I

Relevance of African Traditional Institutions of Governance Workshop

Addis Ababa, 17-18 June 2006

Recommendations

I. All participants of the workshop, which was held at UNECA in Addis Ababa 17-18 June, agreed on the following substantive issues:

1. Rationale for the project: why harmonization of institutions of governance is crucial for Africa's socio-economic transformation

- Africa's general crisis is unlikely to be reversed without a coherent and effective system of institutions. The formal institutions of the state, i.e. rules regulating the structure of polity, property rights, and contracting, cannot be effective if they fail to advance the interests of large segments of the population and disregard or contradict the traditional institutions, which govern the lives and livelihoods of large segments of the population.
- The task of reversing Africa's general crisis requires integration of the parallel institutions of governance so that they can complement each other.
- Harmonizing the two sets of institutions, in turn, requires reform of both in ways that would make them amenable to integration into a coherent and effective system of governance.
- Reforms that reconcile the two sets of institutions also reconcile state-society relations and thereby promote democratic governance on the continent.
- This vision provides the imperative for the proposed ECA project, whose overarching objective is to explore ways to reform and integrate the two parallel institutions in a manner that promotes democratic governance.

2. That the most salient aspects of the study, as identified in the concept paper, are appropriate. These salient issues include:

- (a) Re-examination of the nature of traditional institutions to develop a new typology: there are major gaps in the existing studies of traditional institutions as they pay little attention to differences between various types of chieftaincies and various types

of decentralized systems. This area of focus is designed to fill the existing gaps in our understanding of the nature and attributes of traditional institutions. The key research issues of this area of focus include:

- A new typology of the characteristics of traditional institutions;
- Main factors for the resilience of traditional institutions;
- Gender relations in traditional institutions; and
- The impacts of changes in land tenure systems on traditional institutions.

(b) Identification of specific areas of contribution of traditional institutions: on the basis of their attributes, including their conflict-resolution and decision-making mechanisms, the second area of focus examines the relevance and dynamics of traditional institutions and the specific areas where they would make a significant contribution to Africa's socio-economic development and democratic transformation. Among such areas are:

- Advancing state-building;
- Settling post-election conflicts;
- Reconstitution of the state for accountable leadership;
- Coordination of resources with social interests and expansion of public-service delivery;
- Management of resource-based conflicts; and
- Settling border conflicts.

(c) Exploring mechanisms for optimal integration of African traditional institutions: the third area of focus attempts to chart a new vision on how to integrate traditional authorities, customary laws, and traditional political values into the modern governance structure. Among the research issues of this area of focus are:

- Existing models of integration of traditional institutions;
- Deficiencies of existing models; and
- Characteristics of a holistic model.

3. The theoretical framework, as outlined in the concept paper, is appropriate. The theory on why traditional institutions can contribute to Africa's socio-economic transformation is based on the following two propositions:

(a) Political values and practices of the decentralized political systems largely converge with democratic values and are likely to enable these systems to contribute to democratic transformation. The most common political values of the decentralized systems include:

- Decentralization of power;
- Direct participation in decision-making;
- Resolution of conflicts by narrowing differences;
- Respect for dissent and protection of minority views and interests by fostering consensus on decisions;
- Narrowing the gap between the rulers and the ruled through direct participation of all adult males in making and in enforcing rules and by shortening the term of service of office holders; and
- Equitable access to land.

(b) Chieftaincy systems have the potential to facilitate democratic transformation and economic development: chiefs, being part of the political élite, can be expected to have the tendency to advance self-interest at the expense of community interests. Chiefs, however, are not sovereign. They serve under the State although they obtain their position from their communities and not from the State. Under these conditions, whether or not chiefs promote community interests and democratic governance (Y) largely depends on a number of factors, including:

- The nature of the state (Sn);
- The level of democratic awareness of the population, which is influenced by the nature of traditional political values and level of education (Pa);
- The mechanisms of accountability of the chieftaincy system (Ca); and
- The administrative effectiveness of the sitting chief (Ce).

The hypothesis on what determines the democratizing role of chiefs can be expressed as follows:

$$Y = f(Sn, Pa, Ca, Ce)$$

ANNEX II

Traditional Systems of Governance and the Modern State

Keynote Address

Presented By

His Royal Majesty Otumfuo Osei Tutu II, Asantehene

At the Fourth African Development Forum

Addis Ababa, 12 October 2004

Your Majesty Kgosi Leruo T Molotlegi,
Your Excellency, the Vice President of the Gambia,
Your Excellency, the President of Africa's Parliamentary Group,
Your Excellency, the Executive Secretary of the Economic Commission for Africa,
Excellencies, Heads of Diplomatic Missions,
Honourable Ministers, Honourable Members of Parliament,
Ladies and Gentlemen,

Please allow me to express my thanks and that of my delegation to the Government and People of Ethiopia, for the warm reception and hospitality extended to us since our arrival in this historic city of Addis Ababa. In the same vein, may I express my profound gratitude to you all, especially the Economic Commission for Africa, the African Union and the African Development Bank for the honour done me by inviting me to deliver the keynote address on the important theme of "Traditional Systems of Governance and the Modern State".

It is significant that the organizers of this Forum have put traditional systems of governance on the African development agenda.

I would wish, even before I go into any detail, to request that the African Union considers giving African traditional leaders a seat in their regular meetings to discuss development issues on the continent. Reasons for this request will become more apparent in my presentation.

I am informed that the purpose of this plenary session is to examine traditional modes of governance in order to evaluate the aspects of indigenous leadership that are in accord with the basic tenets of modern democratic governance or can be adapted to contemporary political realities. In this respect, particular focus is to be placed on the special value and merits of traditional methods of conflict resolution.

TRADITIONAL FORMS OF GOVERNMENT IN AFRICA

Dear Delegates,

African societies, throughout the centuries, have been organized on the basis of a social contract whereby people come together to form a state or nation because they believe that, through their combined efforts, they will be more able to realize their common aspirations for peace and security, which are essential for their physical and spiritual welfare and progress, both as individuals and as a community. It is to achieve these objectives that the people agree collectively to surrender to a king or ruler the power to control their lives and to organize and regulate activities within their society. In the process, they have always had clear understandings and agreements regarding the ideas and principles that underlie their political systems and on the basis of which power and authority are to be exercised by the various elements of government.

By traditional systems, I refer to genuine traditional institutions, uncontaminated by colonial or post-independence modifications or distortions. Most observers of traditional African political systems recognize two main forms, namely the non-centralized or fragmented traditional State and the centralized State.

Non-centralized traditional states: In these states, there was no sovereign in the Austinian sense. Techniques of social control revolved around what Meyer Fortes called the “dynamics of clanship”. The normative scheme consisted of elaborate bodies of well-established rules of conduct, usually enforced by heads of fragmented segments, and in more serious or subversive cases, by spontaneous community action. Examples are the “Tallensi” of Northern Ghana, the Sukuma of Tanzania, the Nuer of Southern Sudan, the Ibos of Nigeria and the Kikuyu of Kenya. For the purposes of our discussion, we should note two major features of this system:

1. The existence of well-defined norms despite the absence of a hierarchical system headed by a sovereign;
2. The direct and pronounced participation of people – members of clans, segments and so on in decision-making assuring a visible democratic process.

Centralized states: The centralized states such as Asante and Mole – Dabgani of Ghana, Yorubaland of Nigeria, Zulus of South Africa, Barotse of Zambia and Baganda of Uganda had a more structured and sophisticated political system. These states were organized under well-entrenched, highly structured and sophisticated political authorities. They had all the elements of an Austinian state – a political sovereign backed by well-organized law-enforcement agencies and habitually obeyed by the citizenry. Infraction of well-articulated legal norms attracted swift sanctions imposed by state officials. Through the king, chief or the political sovereign, rule of law was a cardinal feature of their system of governance. The king was ultimately accountable and liable to deposition upon the violation of norms considered subversive of the entire political system or particularly heinous.

In many cases, the political structures were complemented by hierarchy of courts presided by the king, the head chief or the village chief.

The concept of law in these states was, in substance, hardly distinguishable from that of a modern state.

In most of these states, there was provision for participation in decision-making by groups of the citizenry, either indirectly through the heads of their clans' lineages or families, or more directly through various types of organizations like the Asafo Companies of the Fantes in Ghana.

Eligibility for installation as king or chief was limited to certain royal families but among many states of Ghana, the institution of king-makers was not unlike the Electoral College in some other countries. The Queen Mother played a critical role as the custodian of the "royal register" and the person who pronounced on the eligibility of conditions for chiefly office.

MULTIPLICITY OF SYSTEMS

It is evident from the theme of this Session and my remarks that there are various systems of traditional governance in Africa. Just as there have been and remain different forms and orientations of western democracy, so there were different forms and institutions of government among the various ethnic groups and societies in different parts of Africa. But in spite of the unavoidable variations, the different forms of African traditional governance had a number of important common elements and features.

Invariably, they almost always involve the devolution of power by ascription. A person inherits governmental authority or position mainly by virtue of membership of a particular family or clan. However, in many cases, the choice of the political leader is based not solely on the circumstance of birth, but involves other criteria, such as the character or other personal qualities. Where this is the case, there usually is an election between several eligible persons from the same family or clan. The people who exercised governmental authority were referred to by various names in different parts of Africa, such as kings, chiefs, elders, leopard-skin chiefs, emirs and so on. In all cases, they ruled or governed their societies with the assistance of lower-rank rulers, as well as a large number and levels of advisers who, for the most part, also occupied their positions by virtue of their family or clan origins and status.

It is worth emphasizing that this mechanism ensures that the king or chief does not rule arbitrarily. Although the king or chief has the final word, he is bound to consult very regularly, and decisions are reached by consensus without formal votes. In this connection, although a chief is elected and installed for life, his continued stay in office is subject to good conduct.

A chief who breaks his oath of office to seek the welfare of the people and progress of the nation is removable according to the rules and procedures laid down and transmitted from generation to generation.

It is not my intention to glorify our traditional systems. But I am concerned to point out that democracy was not alien to all traditional African systems, and the rule of law, which provided checks and balances in the political system and imposed restraints on authoritarian rule, was a prominent feature of most traditional African systems.

However, this presentation is not about our traditional systems in their pristine purity before the colonial and post-independence impact. It is very much about the role of these systems under modern political and constitutional dispensations in Africa.

THE FUNCTIONS OF THE TRADITIONAL RULER

Dear Brothers and Sisters,

Before the advent of colonial rule, the traditional leader's role encompassed numerous functions which revolved around the cardinal theme of guiding, protecting, defending and providing for the needs of the society he served. He was the intermediary between the departed ancestors, the living and the yet unborn. These holistic approaches involved religious, military, legislative, executive, judicial, social and cultural features.

Leadership was, however, predicated on a set of well-articulated norms and mechanisms. The multifarious functions were exercised with specific functionaries whose role was hallowed by ancient custom. Sometimes these were elders or councilors, or communal groups or judicial institutions of state or drummers. Each entity performed its assigned role in accordance with customary law.

The military role of the traditional leader was accentuated by the frequent incidence of inter-ethnic wars or the normal process of acquiring territory for statehood. But in this function, the welfare of the people was paramount. Any chief who ignored this forfeited the trust of his people and was liable to deposition.

TRADITIONAL AUTHORITY IN COLONIAL AND POST-COLONIAL ERAS

The colonial and post-independence eras had a profound impact on traditional institutions, in particular chieftaincy. The colonial system ostensibly enhanced chieftaincy through the system of indirect rule particularly in Nigeria and Ghana. But the perception that chiefs and kings ultimately derived their power from the colonial power eventually undermined their power. In some African countries the colonial authorities appointed chiefs directly thereby underscoring the uncomfortable fact that they were colonial creations, which were ultimately abolished with the demise of colonial rule.

As far as post-colonial African regimes were concerned, it is hardly contestable that they saw traditional authorities as a dangerous bastion of rival political power and largely succeeded in dismantling or attenuating their authority. Examples exist in Liberia and other African States. The reality is that in most African States, our traditional systems have been divested of their formal executive, economic and judicial powers except in narrowly defined areas.

Even more critical, they have been denied the requisite resources for effective functioning, although the institution of chieftaincy has been guaranteed in some constitutions such as Ghana's.

But, in spite of all these moves, it is paradoxical that in a number of African countries, chieftaincy is attracting academics, civil servants, business leaders and teachers. In Nigeria, Ghana, Uganda, Lesotho, and Swaziland and in South Africa, the traditional leadership position is becoming more competitive than probably ever before. It would be illuminating to find out why the situation is changing so fast.

TRADITIONAL AUTHORITY TODAY

Admittedly, the chief of today cannot act in the way his predecessors behaved. He is neither the military leader nor the legislator that he once was. Except in very limited areas, he has no judicial functions or executive powers of any significance. But this does not mean that the chief has no meaningful role in the modern era.

On the contrary, he has a vital role to play not just in his own domain, but also at the national level. This fact is recognized in the governmental system of Ghana, where the institution of chieftaincy is given an entrenched status in the 1992 Constitution. Among other duties, chiefs are expected to provide advice to the central government and to participate in the administration of regions and districts. As symbols of unity in Ghanaian society, chiefs are constitutionally barred from active party politics.

Apart from these constitutional functions, chiefs have the moral obligation to contribute to the lives of their individual citizens in particular, and to the nationals of their country at large. These days, a chief is expected to lead his people in organizing self-help activities and projects, and take the initiative in establishing institutions and programmes to improve the welfare of his people in areas such as health, education, trade and economic or social development. These institutions and programmes are not intended to replace those that must be provided by the central and regional government, but rather to supplement them, especially in these days when the demands of the people are such that it is unrealistic to expect that they can all be met from central government resources. The chiefs can and do play a vital role in development which at once enhances democracy and sustains good governance.

At a recent international conference on chieftaincy in Africa, held in Niger, there were numerous reports from African countries such as Nigeria and South Africa as well as Ghana about the development role of chiefs – mobilizing their people for the execution of development projects, sensitizing them to health hazards, promoting education, preaching discipline, encouraging various economic enterprises, inspiring respect for the law and urging the people to participate in the electoral process. Most of these efforts are done without formal recognition or financial support from government.

Modern African States have not all succeeded in establishing viable insurance schemes, comprehensive health and educational systems, facilities for counselling the youth or role models in all fields of endeavour.

The modern chief, stripped of political and executive power and formal financial support, has to address these basic needs for his people using his ingenuity, diplomacy, power of motivation and sometimes his own personal resources.

Chiefs have been most active in dispute resolution both in Africa generally and in Ghana particularly, where parties, disenchanted with the dilatory procedures of the formal courts, have clamoured for traditional techniques of resolution. Indeed, dispute resolution would have been impossible without the active involvement of chiefs in all parties of Ghana. And it is my considered opinion that the absence of strong traditional systems in some African states, particularly in Liberia, Sierra Leone and Côte d'Ivoire, has contributed to the instability we see there today.

PERSONAL PERSPECTIVES AND EXPERIENCES

At this juncture, I would like to illustrate the potential role of chiefs by focusing briefly on what I have done since I ascended the Golden Stool of Asante. Five years ago, I took an oath before my people on 6 May, 1999 to rule with honesty and truth.

Ghana, at the time, was ending the second term of democratic rule. Our economy was not in the best of shapes as a nation. In the Asante community itself, educational standards were failing, children were dropping out of school at an alarming rate to chase jobs for a living, and some children were attending school under trees. In the health sector, HIV/AIDS was threatening our population and our entire social and economic fabric, and our children were being bombarded with foreign cultural material. Added to this were a large number of chieftaincy, succession, land and litigation cases before the courts, which were impeding social cohesion and economic development.

In my first address to the Asanteman Council, the highest level of traditional authority in Asante, I underlined all these problems and challenged all the chiefs to get involved in programmes and projects that would address the unacceptable trends in the communities. I indicated to my chiefs and people that the central government alone could not solve all the problems of society. I argued that leaving conditions to deteriorate would amount to abandoning our social and moral functions.

Education Fund: The next thing I did was to set up the Otumfuo Education Fund, under an independent body, in order to harness contributions from all sectors of society and support bright but needy children in our communities. Contributions have come from Ghanaians overseas. To date, over two thousand children have benefited from scholarships offered by the Fund.

Beneficiaries have not come from Asante alone, but also from the other nine regions of Ghana, irrespective of their gender.

Health: I also established a Health Committee to advise me on steps to stem the tide of HIV/AIDS prevalence in the region. The committee was also charged to work closely with the Regional and Metropolitan Medical Team with a view to finding support for the eradication of infant mortality, and elimination of glaucoma and other eye diseases, buruli ulcer, guinea worm and other water-borne diseases. Today, my health sector concerns have been taken over by my dear wife who runs an NGO and continues to support me on that front.

Interaction with External Bodies: I took my concerns about the social conditions of my people further when the then Country Director of the World Bank, Peter Harold, paid a courtesy call on me in late 1999. I charged that the practice whereby traditional rulers were left out of the planning and management of projects at the community level was wrong. I indicated that it was not in the interest of communities for government to sideline traditional leaders when it came to the setting and management of projects. The result of my perseverance with the World Bank led to the establishment of the project now called Promoting Partnership with Traditional Authorities Project.

Under the PARTNERSHIP project, the World Bank is assisting Asanteman with a grant of US \$4.5 million to build the management capacity of chiefs; rehabilitate schools and build sanitation facilities in 41 communities; develop health education modules for traditional authorities to lead in awareness creation on HIV/AIDS; and build programmes designed to preserve traditional values and culture. In all cases, traditional leaders are playing active roles in the implementation of projects.

They follow the Bank's strict rules regarding disbursement of funds, including procedures for accounting and audit of expenditures, in order to avoid misuse of funds and ensure the successful completion of projects. Let me emphasize that district local government officials are partners at all stages of this programmes.

This year, I was privileged to be invited to Washington DC as a private guest of Mr. Paul D. Wolfensohn, President of the World Bank. This was my second time, and I used the opportunity to carry along an extension of my development agenda in the partnership vein. This time, my concern was with the Millennium Declaration which was adopted by Heads of State and Government at the United Nations General Assembly in 2000. Part of the Declaration says, and I quote: *"We will spare no effort to free our fellow men, women and children from abject and dehumanizing conditions of extreme poverty."*

Among other things, the Declaration aims to “halve the proportion of people who are unable to reach or afford safe drinking water” Great declarations, I say to myself. But then, how can traditional leaders be involved in solving problems which rightly fall at their doorstep?

Upon consultation with my chiefs and elders, I concluded that if we are to commit the international community to an expanded vision of development, one that is people-centered and vigorously promotes human development as the key to sustaining social and economic progress in all countries, and recognizes the importance of creating a global partnership for development, then all of us in leadership positions have a moral responsibility to get involved. On current records, I cannot see how Government interventions alone can solve the problems of Ghana.

In a country with a population of just over 20 million, Ghana has 7.4 million people drinking unsafe water, and more than that figure are exposed to poor sanitation. I therefore presented a case to the World Bank asking for a grant to fund water and sanitation facilities for one thousand communities in five regions of Ghana as supplement to Government interventions. This was well received by the Bank, and as I am speaking, the pilot phase is ready to take off. We as traditional leaders are undertaking to mobilize our various communities to own the projects and manage them. This is in the true spirit of partnership with traditional authorities. We are turning round the often-repeated but poorly organized ‘supply-driven’ approach to development to a “demand-driven” one. This project is in consonance with the World Bank’s own evolving concept of good governance.

In recent years, the Bank has been exploring new ways of empowering and enabling its clients. It has embraced mechanisms that promote “citizen voice participation” and allow non-governmental entities and other groups of citizens an effective say in the design and implementation of projects. Projects are not seen as viable unless they are “owned” by the people most directly affected by them. There is a growing concept of community-owned rural development projects which is currently being tested in Ghana.

The involvement of traditional leaders and their people in the Bank’s operations is therefore a logical extension of the Bank’s own evaluation of actors other than its conventional partners and a recognition of the importance of innovative mechanisms for reinforcing the development endeavours of its clients.

Conflict Resolution:

Your Excellencies, one area where the traditional system of governance has shown tremendous success is in conflict resolution. We have sat in council with chiefs, sub-chiefs and elders and dispensed justice to the satisfaction of all. Applying the norms of customary law, recognized under the constitution of Ghana, the king or chief settles all disputes that come before him. In the past five years, following an appeal I made to all concerned, nearly five hundred cases that would otherwise be still sitting in the books of modern law courts and dragging on intractably have been settled amicably before my traditional court.

These were land, chieftaincy, succession, criminal and civil cases. Peace has returned to communities whose development was halted, and families have been reunited in several instances.

You may also be interested to know that for the past five years, I have caused to be recorded on video all cases that have come before the traditional court, and my secretariat has begun transferring them onto CDs and DVDs to help preserve the institutional memory of my court.

Criticism against Traditional Rule: Excellencies, it would be remiss on my part not to take advantage of this august Forum to respond to some of the criticisms that have been levelled against traditional rule by some social commentators and critics. They contend that the system under which total power was in the hands of a hereditary ruler whose legitimacy derived from the circumstances of his birth cannot be compatible with the idea of democracy as a government of the people by the people and for the people. They hold further that the chief is a despotic monarch who operates under no legal or political control and is therefore not accountable to the people.

It must be said here that a chief is chosen from eligible members of the ruling family with the choice based on the personal qualities of the candidate. The Electoral College that elects the chief is composed of representatives of the various clans or families in the community. The non-tool holders (young men) act as a pressure group to ensure that the elders choose the best candidate.

With respect to accountability, it should be emphasized that the chief is expected to be aware at all times that the loyalty and allegiance which the people owe him are based on the understanding that he will follow the law and show due respect to others as well as take account of their views and protect the property of the state with diligence and honesty.

I therefore challenge critics of the traditional system to re-assess their thinking.

CONCLUSION

In conclusion, I would like to draw attention to the phenomenon of dualism in Africa and the role chiefs play in eliminating or attenuating it. Almost every African state has two worlds: one world is the largely urban, where modernization is evident in terms of the impact of the Constitution, modern western-oriented laws, a developed physical infrastructure, existence of health and other social facilities, a vibrant cash economy, economic institutions, and the prevalence of English, French or other Metropolitan legacies.

In this world, which commands much less than the majority of the entire national population, the impact of traditional African systems on the lives and conduct of the people is minimal. There is visible evidence of institutions of central administration, the

Ministries, departments, the Courts and so on, and the chiefs are sometimes relegated to decorative or cultural sideshows with little social clout.

The other world, which is predominantly in the rural areas, and is populated by the majority of the citizenry, is hardly touched by the sophisticated constitutional and legal structures or the official court systems. The people in this world largely have a traditional worldview and look to their chiefs and elders for development, settlement of disputes, allocation of land, financial support to the needy and other elements of social insurance. They hardly speak English or any European language. They have limited access to health facilities or other social amenities. They are mainly farmers or peasants and the quality of life is significantly lower than that of the other world. No chief who commutes from the first world to the second world can fail to appreciate the reality of this dualism and the challenges it poses for an integrated national development which is equitable and sustainable.

Most of the development endeavours of chiefs are dedicated to addressing the needs of the second world and bridging the gap between the two worlds. This is a task which is beyond the resources or even the vision of most governments. It is my respectful submission that we the traditional rulers have to provide the crucial leadership in this area.

Addressing the problems of the second world establishes the proper infrastructure for the growth of democracy and good governance. We chiefs have converted the weapons of war into instruments of development and peaceful resolution of disputes. Far from acting as a rival to state political power, we sustain the state, and particularly in cases of collapse of the state apparatus, when we have to deal with failed states. This was anathema in the days gone by. It will pay all of us richly if we accepted the obvious fact that the two institutions complement each other.

Ladies and Gentlemen: our main contention is that traditional authorities are natural and obvious partners in the development process and governance in Africa. We are indeed partners in progress.

No concept of governance or development in Africa will be complete without acknowledging the role of traditional authorities. We therefore appeal to this forum, all African governments and all international organizations to place the role of traditional authorities firmly on their agenda for development and governance.

Distinguished Chairman, Your Excellencies, Dear Delegates,

I hope I have left you in no doubt that though weaknesses still exist in the traditional system, it is still a viable partner in the social and economic development of our communities in Africa. If Africa wants peace, truth and justice; if Africa wants to restore its traditional values of being each other's keeper; if Africa genuinely recognizes deep weaknesses in its developmental agenda, then I can only say that it is not too late to critically look for convergences between the modern state and the traditional state. The hopes of our

youth are hanging in the doorway looking for direction. Do not let us disappoint them. Remember that as traditional leaders, our social contract with our people is forever and not for the next election.

It now remains for me to thank you most sincerely for the opportunity to share my thoughts with you and for your kind attention. I congratulate you and all those who were involved in organizing this important and worthwhile event, and I wish you all the best and continued success.

ANNEX III

“Traditional Leadership for a Progressing Africa”

By

*His Majesty Kgosi Leruo Tshekedi Molotlegi
(of the Bafokeng Community, South Africa)*

**Presented at the Fourth African Development Forum
United Nations Economic Commission for Africa**

**Addis Ababa, Ethiopia
12 October 2004**

Introduction

Our task today, as I see it, is twofold. On the one hand, we need to assess the role of traditional authorities in democratic African states. This means, first, taking a hard look at forms of leadership that seem to be out of step with the trend towards multi-party politics and free and fair elections. We hope to challenge that perception. Second, it means focusing on forms of representation in our villages and communities, and wondering whether people's voices can be heard in a chiefdom as well as they can in a town or a municipality. And, third, it means scrutinizing the ways in which laws are established and enforced in our societies, and find out if justice and due process are available to those living under customary laws. I will talk about each of these questions in turn, with reference not only to my own community in South Africa, the Royal Bafokeng Nation, but also with reference to communities across Africa.

That is the first of our tasks today. The second one is more reflective, and ultimately more political. As we discuss the extremely important issues of governance, economic justice, human development, and societal progress, I feel it is imperative to stand back and honestly confront our own assumptions, attitudes, and opinions about traditional governance in Africa. First and foremost, we must make our reference point the realities as they exist on the ground, not the ideal situations that exist only in theory. Systems that are perfect in theory but flawed in practice are no more compelling or useful to our people than a beautiful well that doesn't draw water, or an elegant house that can't keep out the wind and the rain. Second, we must bear in mind that traditional modes of governance are not the same thing as tribal politics. To the extent that we recognize the dangers of ethnic factionalism on our continent, we must remember that not all traditional leaders represent tribally- or ethnically- defined entities. And it goes without saying that electoral politics are not immune to the negative aspects of tribalism (which I believe is quite an understatement in certain contexts).

Part I: Traditional Authority and Democracy

I was recently asked on whose authority do I speak, in light of the fact that I'm not an elected official, but rather a hereditary ruler. This is the first important issue I want to mention here. The fact that politicians are elected by voters, whereas chiefs and kings are selected through rules of succession, is one area of our alleged "incompatibility with the democratic ideal" (ADF Traditional Governance Issues Paper). Let's take a moment to think this through. Setting aside the question of whether elections really reflect the will of the people, or bring the best people to power, I would like to point out that modes of selecting traditional leaders are numerous, complex, and almost always involve structured input from constituents. Yes, it is often royal lineages that produce the future chiefs and kings, and yes, patriarchal systems often prevent women from holding the highest traditional offices. But if our main concern is the effectiveness and accountability of our leaders, then the way they come to power is only part of the picture. In my view, one doesn't automatically possess all the necessary leadership skills one needs the moment one comes to power. Leadership can be cultivated and nurtured from a young age, as it is in my family, and good leaders continue to learn and hone their skills while they are in office. Like other leaders, chiefs and kings do a lot of learning on the job, and the best, most accountable leaders, are always learning from their constituents and their peers, as well as their mistakes.

The bottom line is that there is no mode of selection, including the most free-and-fair election, that can guarantee that the person in office will have integrity, compassion, and the best interests of his constituents at heart. Accountability in office is the only way to really measure, monitor, and promote these things. In traditional communities, accountability is achieved in different ways. In the Bafokeng community, my decisions and policies are subject to review in our general meeting, in meetings at the village level, by the community representatives that comprise our Supreme Council, and by the overall Bafokeng administration through formal and informal advisory committees, our internal auditing department, and consultants such as lawyers and accountants. There are, therefore, numerous ways in which I am held accountable to my constituents, and my effectiveness as a leader stands in direct proportion to these things.

It bears repeating again and again that traditional governance is not-as so many persist in claiming-a fixed set of practices that cannot keep pace with changing times. The fact is that our systems of governance have changed dramatically over the centuries, adapting and responding to new state formations, macroeconomic shifts, colonial invasions, and oppressive regimes. One thing that has kept these forms of Governance in place over such a vast swath of the continent is that people understand the mechanisms by which their traditional leaders are chosen, they know how to exert influence over that process, and they know what options exist to sanction or remove leaders who do not act in their best interests. It seems fair to ask: does this same degree of accountability and transparency exist in the selection and removal of elected politicians in Africa? Again, as we look at these institutions in terms of fairness, transparency, accountability, etc., please let's

focus on the actual track record of these institutions, rather than on some theoretical idealized version. The processes by which traditional leaders are chosen throughout Africa may not conform to the Western democratic ideal, but that certainly doesn't mean that accountability is absent from the process, or that the electoral system necessarily works better in practice.

Another question that frequently arises is that of participation in traditional structures. There is an assumption that policy decisions in chiefdoms come from the top, without consultation from those whose lives they affect. Speaking from my own experience in Phokeng, there are many and various ways in which people voice their concerns, both directly through the village headmen and through councillors, whose responsibilities include conveying information from the villages to the administration. We use radio call-in shows, print media, as well as the Internet to facilitate the flow of communication between leaders and constituents.

In that respect I'm glad that one of the principles in the African Governance Report is making better use of communication and Internet technologies, because in rural communities like ours especially, tools of e-governance can do much to expand people's opportunities to participate in traditional or state authorities.

The Bafokeng spent R10,000,000 (approx. \$ US 1.5m) in 2000 to install a wide-area intranet system accessed by our schools and local institutions. We have special general meetings for the youth and for women to ensure that everyone in our community can enter into the policy-making dialogue. We value the traditional institutions through which people can speak on their own behalf, and we are constantly devising new ways to ensure that everyone's voice is heard.

The third issue I'd like to address today is conflict resolution. There is a widespread fear that because so many people in Africa take their disputes first to their chiefs and headmen for resolution, and only occasionally to the civil courts, that traditional leaders are somehow mollifying the rights enshrined in our national constitutions and legal codes. As I've attempted to show with reference to other issues, there are two sides to that coin.

People want their problems solved, and are likely to bring them to the judicial arena they trust the most, feel they can rely on, and whose judgments they deem fair. If local leaders and tribal courts can mete out justice that merits that trust, shouldn't we be celebrating this fact? In fact, the fears about parallel legal codes are often unfounded. In the case of the Bafokeng, our tribal court adjudicates cases under the supervision of an admitted attorney with national qualifications. Cases are decided with reference to our customary laws, but never in contravention of the South African Constitution or the Bill of Rights.

The issue of tribal courts and customary law is still under debate in South Africa, but for the time being, we are able to resolve most disputes at the local level in an atmosphere of trust and fairness.

I would like to add that indigenous conflict resolution mechanisms should not be reserved only for lesser criminal cases – stock theft, land disputes, etc. In Rwanda, we see that even with reference to the most serious of crimes – genocide- institutions such as gacaca courts (gacaca meaning the grass where the proceedings traditionally took place) can be more effective at reaching meaningful judgments than Western-style courtrooms that cost a lot more, and that may reach a less durable decision.

To sum up this first part of my comments, traditional forms of governance are not elitist, autocratic, and unchanging by definition, nor are they in practice.

Under closer scrutiny, and by looking at how these institutions actually operate on the ground, the picture is more complex. Perhaps in their sheer variety, uncodified flexibility and ever-changing adaptability, traditional forms of governance in Africa seem unpredictable, risky, and difficult to control or categorize.

The way we do things in a Tswana chiefdom in South Africa is different from the way things work in Ghana or Cameroon or Swaziland. Some of these institutions may be more-or-less representative, more-or-less transparent, and even more-or-less oppressive. What's important is that we ask and answer those questions in a spirit of honest inquiry and open-mindedness. African traditional governance is, by definition, a local and variable phenomenon. There is no continent-wide model of how it works, or what it does or doesn't do. It is rooted in the histories and cultures and contexts where we find it, and it is very hard to make blanket statements about the thousands of communities across the continent that adhere to some form of traditional rule.

I can say this with confidence, however: as I've travelled around Africa meeting traditional leaders and their people, I've been struck by the deep respect and intense attachment to these institutions that is not only surprising, but also deeply humbling to a South African like me whose people have been so thoroughly and systematically colonized over the past two hundred years.

Can so many millions of people who believe in the importance of these institutions be wrong? Is it not elitist of us to suggest that they simply haven't seen the light [of Western democracy]? Doesn't that attitude put us in the category of the missionaries and colonialists whose arrogance and presumptions we love to vilify? I'm not opposed to modernizing and democratizing and equalizing our societies, but if we ignore our traditional institutions in the process, we do so at our own peril.

Part II: Some Cautionary Notes

I would like to spend a few minutes reflecting on some of the objectives that drew us all here to consider the issue of "governance in a progressing Africa". It's easy to rally around calls for greater participation in policy-making, a better quality of life for our peoples, and sustainable relief from poverty, famine, and conflict.

What's troubling is the extent to which we seem to assume that models borrowed from Western industrialized countries are the best, or even the only, route to the progress we seek.

What I want to suggest is that we tackle the challenge of promoting participation, greater prosperity, and basic human security in Africa by thinking outside the box, challenging our assumptions, and embracing the possibility that Africa need not simply consume the "Washington consensus" of economic reforms that exacerbate the disparity between rich and poor as they open up new markets for foreign consumer goods; or the "democratic reconstruction model" that has failed so spectacularly to bring enduring democracy to post-conflict situations around the globe; or the orthodoxy of universal human rights that often seems to sacrifice the interests of the community for the benefit of the individual. If there's any substance to the idea of an African Renaissance, it must be based on the simple principle that we must be true to Africa in our ideas, our policies, our reforms, and our actions.

The "issues paper" that was distributed to set the agenda for this session talks about "changes and compromises" underway to bring democracy to Africans, how to make "traditional rulers partners in development," and "integrating chiefs into the institutional structures of modern government". It doesn't take much to read between the lines and see the underlying assumption here. It goes something like this: if Africa wants to catch up with the rest of the world (meaning the post-industrial Western world) economically and politically, then we must try harder to do what they do, think what they think, even look how they look. Since community-based identities and allegiance to traditional leaders has persisted- against expectation - we need to find a way to "integrate" these anachronistic entities, help them to change and compromise, and make sure they don't get in the way of development. Certainly, my own Government has been criticized for conceding way too much authority to leaders like me, concessions that pose a "danger that could seriously upset the bid to achieve authentic and durable democratization" (Marais 2001:305). Well, if that sentiment sums up our agenda here today, then I have to say that I represent a very different point of view. First of all, I will repeat what I said a minute ago.

It is not only elitist but also misguided to assume that politicians, academics, and other élites know what's better for African communities than the communities themselves do. Rather than looking for ways to "inoculate" traditional leaders in the new political system (Marais 2001:305), shouldn't we be exploring actual local practices to find out what's working and how we can support it? I believe I know what is good and bad about the Bafokeng system of governance in the context of a modern democratic state. But my opinion alone isn't the whole story. It is for this reason that the Bafokeng have undertaken an ambitious agenda of socio-economic and political baseline studies to get an accurate understanding of how our people feel about the various forms of representation available to them, what their economic status is, and what they desire in terms of a development agenda. I invite you to visit our website and take a look at the findings (www.bafokeng.com).

I have a second objection to this unspoken assumption that chiefs are little more than a throwback to the past who must be managed, and ideally, neutralized. For some reason, traditional leaders like myself are often perceived to be exclusively concerned with issues of ethnic politics and cultural heritage – rainmakers who sit under trees talking to other old men—when in fact we represent a great deal more than that. Maybe the term “traditional leader” is misleading. We are rooted in—but not bound by – tradition. I am the Kgosi of the Bafokeng Nation, but am also a South African citizen, voter, and taxpayer. I have opinions on national politics, currency fluctuations, World Cup soccer, and the war on terrorism. I am an architect interested in contemporary design; and I am a businessman overseeing a large minerals-based corporation that competes on a global stage.

My identity, concerns, and viewpoints are drawn from the entire range of my experiences, interests, and roles. I am not unique in this respect, and this is where the assumption that traditional leaders are political and economic fossils is unfounded. In a similar way, the people living in traditionally governed communities are not only locally- but also nationally- and globally-minded people, who offer unique and important viewpoints on many matters of the day. Anything that an elected official can do, so can a traditional leader, sometimes better! Being true to Africa, then, is taking Africans as they are, together with our long-standing values and indigenous institutions. As I pointed out using the example of Rwanda and gacaca, we shouldn't be looking to inoculate these values and institutions, but rather to acknowledge, celebrate, and even export the best of what is unique to our continent.

The Bafokeng people view NEPAD as one of the most significant and promising ways to do just that. Our own strategic development plan, called Vision 2020, echoes NEPAD's principal objectives in many ways, including economic sustainability, human development, and redressing the unequal relationship between our community and the wider economic context. In addition to these objectives, though, I want to point out that as a community, we exemplify certain of the principles that NEPAD is hoping to entrench throughout the continent. These include “African ownership and leadership, as well as broad and deep participation by all sectors of society,” and “anchoring the development of Africa on its resources and resourcefulness of its people.” As long-time owners (and defenders!) of our land, as effective stewards of our natural resources, including its minerals, and as active members of a community that is always seeking new ways to ensure maximum participation, we are doing our best to live up to these wider goals, to be true to Africa in our own way.

Finally, let me say that the issue of traditional authorities vis a vis the State is not a trivial one. As traditional leaders and members of traditionally-governed communities, we are not opponents of the national government, but rather its constituents, ready to participate in the wider national debate. What's needed is a mindset in which traditional structures are viewed as valuable partners, rather than as competitors or opponents, in the formation of African democracies. But the sad reality is that many African governments have refused to support and partner with traditional structures, and have instead, through policy and rhetoric, sought to degrade these institutions. An important exception in our

context is the Memorandum of Understanding that the Bafokeng community signed with local government authorities last year. The MOU objective of this agreement was to forge cooperation between traditional government and local government in all matters of mutual interest, and most particularly on development projects.

Although this agreement garnered national attention and stands as a model for the rest of South Africa, I must point out that it has not lived up to its promise yet. I haven't devoted any time here to a discussion of the land issue, but clearly this is at the heart of much of the tension between traditional authorities and the state. Ownership of the land, communal land rights, mineral rights, and land allocation are just some of the sensitive issues that often pit the state against traditional authorities. Again, these questions need to be explored and negotiated in their particular contexts, with reference to their particular histories, without assuming that a single policy model can or should apply to all traditionally-governed areas.

In closing, let me say that if the world is comprised of rule makers and rule followers, then I believe that African leaders have been following the rules established by others for far too long. We have the ability and the resources to establish and pursue our own versions of participatory governance, responsible and accountable leadership, and prosperous communities that can grow and develop according to standards set by Africans, not by the Western world. If we want to be true to Africa, we should be eclectic, embracing the tenets of democracy and weaving them together with the indigenous institutions that Africans respect and believe in.

In most cases, there is not such a big gap between our local forms of governance and principles such as participation and accountability. Viewed as full and creative partners in Africa's progress, traditional communities offer and represent a great deal that is inspiring and progressive and worthy of emulation. Let us not overlook or discount those things out of a misguided deference to Western political theorists. A great deal of African democracy is already in place – whether or not it goes by that name—and we should seek it out, protect it, and promote it with pride and determination.

THANK YOU.

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