

**TRADITIONAL LEADERS AND AU/NEPAD:
FOUR PERSPECTIVES**

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Traditional Leadership in the Age of Democracy

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Presented at the Eastern and Southern Africa

Sub-regional Workshop Preparatory Meeting to ADF IV,

Lusaka, Zambia

Monday 24 November 2003

Introduction (overview of democracy and traditional rule)

It is an honour for me to share with you my observations and understandings regarding the current relationship between democracy and traditional governance in South Africa, and I believe in other parts of Africa as well. As we review governance issues in Africa, I firmly believe that the INSTITUTIONS OF TRADITIONAL LEADERSHIP should form part of the review mechanisms. Many people see traditional governance and democratic rule as opposites, and as such two systems on a collision course. Modern day Western type democracy is perceived to be progressive and desirable, whilst the opposite holds true for traditional African leadership. Today, I would like to suggest to you that these time honoured systems of traditional governance have a great deal to contribute to African democracies and that they are complimentary rather than competing. Let me share with our story.

Overview of Bafokeng history

I represent the Bafokeng-Bakwena, a Sotho-Tswana ethnic, numbering 300 000. We are based in the North West province of South Africa and occupy 2000 square km of privately owned land. We can trace our lineage back more than 800 years. As people and as a community, we have persevered throughout South Africa's turbulent history with vision and purpose, constantly fighting to retain our cultural autonomy and our territorial integrity. This is as true today as it was one hundred years ago.

In the traditional system of communal land tenure, people had rights to land by virtue of the fact that they occupied it. But the arrival of white settlers and colonial officials in the early 19th century, the concept of land ownership was redefined. It was no longer sufficient *just* to live on the land, you had to purchase it. Kgosi Mokgatle, my great, great, great great grandfather, was a practical man, and he saw the wisdom in this. But the challenge was, how could the Bafokeng buy their land? In those days, black people could not own land. So the Bafokeng had to figure out not only how to get the money to buy the land, but also whom to trust to hold the title to the land on their behalf. To solve the first problem, Kgosi Mokgatle began sending men on foot to work

in the newly discovered diamond fields in Kimberly, some 200 miles away. Bafokeng people who had cattle also contributed to the kitty. This kitty was eventually used to buy the land the Bafokeng considered theirs. To solve the second problem – whom to entrust with the title deeds – the Bafokeng looked to European missionaries, in the person of Reverend Penzhorn from the Hermannsburg Lutheran Mission from Germany. And so the land was held in title by the Good Reverend Penzhorn, who faithfully held it in trust for the Bafokeng, until the law preventing blacks from owning land was repealed in 1913, and the title was given back to the Bafokeng.

Unbeknownst to Kgosi Mokgatle was the fact that there were valuable mineral resources beneath the land he had purchased. It was only in 1925 when a German geologist, Dr. Hans Merensky, came to the Bafokeng area and discovered platinum along what is now known as the Bushveld complex. This discovery ushered in a whole new set of challenges, as well as opportunities, for the Bafokeng.

Under the apartheid period, beginning in 1948, the South African government created ethnic “homelands” within South Africa, in which black people assumed “**independence**”. The Bafokeng territory reluctantly became part of one such “homeland”, called Bophuthatswana.

The struggle to retain our land and our mineral rights had started all over again, because as small as the Bafokeng group is numerically, it was in a position to contribute significantly to the coffers of the homeland government. So this was a period when we fought not only with the government, but also with one of the concessionaires to retain our rights. In short, the homeland government presumed to negotiate the Bafokeng’s share of royalties from the mines operating on our land. A bitter and famous 15-year legal battle against this same company rested on questions “who are the owners of the land?” The mines argued that because we fell within the homeland’s boundaries, the homeland regime was the trustee of our land. The case ended in 1999 with a settlement that gave the Bafokeng an increased share of platinum royalties as well as significant amount of shares in the company and a seat on the board.

Since the end of apartheid in 1994, we’ve seen some significant changes in the ability of black people to participate in the mainstream economy. As far as mining is concerned, the Bafokeng have been working with the current government to help formulate policies that take into account our longstanding ownership of our land and its minerals, and our efforts to use the proceeds from those minerals to develop the area and improve the lives of our people.

Challenges facing traditional leaders in South Africa today

Many have praised South Africa’s attempts to accommodate traditional forms of governance within our broader democratic system. The South African Constitution protects (quote) “the institution, status, and role of traditional leadership” (unquote). However, customary law, traditional governance, hereditary rule, and communal land tenure are a source of much debate and

tension in our country today. Let me mention three pieces of recent legislation to make my point.

The White Paper on Traditional Leadership and Governance seeks to clarify the role that traditional leaders should play in (quote) “deepening and enriching democratic governance at a local level” (unquote). This policy has the potential to redefine and restructure traditional functions of hereditary leaders, in ways alien to traditional customs.

Secondly, the Communal Land Rights Bill currently making its way through Parliament attempts to resolve land tenure problems in South Africa’s rural areas. This bill also has the potential to create confusion and room for exploitation in areas where land rights are a complex and sensitive issue. I do acknowledge that coming from a history of segregation, these two pieces of legislation attempt to bring some form of uniformity to the institution.

Thirdly, the Mineral Rights Bill passed in 2002 threatened to dispossess traditional communities of the resources they have spent centuries defending. The final version of the Bill acknowledges the rights of certain communities, including ours, to control their own mineral rights, but only after a contentious period of debate and negotiation.

The Bafokeng Nation: a traditional community for the 21st century.

Today, the mines that operate on our land constitute the principal source of revenue for our community. We have been able to build extensive basic infrastructure throughout our twenty-nine villages. This includes 400kms of tarred primary roads together with necessary storm water drainage system have been constructed at the cost of R290 million; 100km of paved secondary internal roads at the cost of R70m are complete; gravel roads to the extent of 1400 kms at the cost of R160 million. Within the Bafokeng area 700 000 meters of water reticulation pipe-lines including 14 reservoirs and pump stations have been built at the cost of over R300 million. Up to date 33 Primary Schools, 7 Middle Schools, 13 Early Learning Centres and 5 High Schools to the total tune of approximately R170 million have been built. Plans to upgrade all schools in the area are on the drawing board, including the construction of a world-class school of excellence by 2006. The Bafokeng also boasts a world-class multipurpose Sporting Complex which was built at the cost of R120 million. I am proud to say that our stadium forms part of the South African FIFA 2010 soccer bid.

Our corporate civic building built in 1978 has recently been revamped at a cost of R70m, and boast over 11 000 squared meters of office space. This is our administrative head quarters. By building on our strengths, and using our resources wisely, we hope to make our local economy self-sustaining by the year 2020. We are keenly aware that our mineral resources are finite, and that we must diversify our local economy, improve our education system, and engage in aggressive research and development if we are to meet our long-term objectives. We don’t see any contradiction in the notion that, in order to

move forward as a traditionally governed community, we have to modernize, corporatize, and internationalise.

We also know that to reach our goals, we have to work in concert with the national government and local municipalities. To this end, we have signed the first Memorandum of Understanding on social and economic development between a traditional community and a local municipality in January of this year. The signing was witnessed by both our president, deputy president, including a number of cabinet ministers as well as premiers and mayors. Unfortunately, this agreement has not yet provided effective ways for us to pursue sustainable development in partnership with local government. Instead, we experience duplication of roles, lack of communication, and uncoordinated attempts to develop the region. These are some of the challenges we face.

Conclusion

In a country of 40 million people, 18 million South Africans live under traditional authorities. Every traditionally governed community is different, and faces its own unique challenges, but I would say that the thing we all have in common is our adherence to certain basic human principles, such as respect, a sense of community, and a sense of commitment to one's neighbours as well as to oneself. It is around these principles that our system developed, and it is always changing to meet the needs of the times. The Bafokeng have been ruled according to Tswana laws for many generations, and they continue to be so today. "Democracy" is not a new or revolutionary concept to the Bafokeng. The difference between our system and that of elected representatives is that individuals in our community can always speak on their own behalf. It is worth wondering whether elected officials are always best at representing our ideas and concerns. I know that for I'm glad to be speaking to you today in my own voice, rather than through the comments of a government official.

The question, then, is how do we combine our local, time-honoured ways, with newer national systems and structures? I would ask your support in shaping sensible, context-specific formulas for governance that speak to local realities even as they strive to transform and transcend the autocratic and oppressive systems of the past, rather than parrot the systems and discourses we import from the West.

It is in forums like this, and among people like you that we, as leaders, thinkers and planners, can compare and contrast our experiences from throughout the African continent. I'm hopeful that together we can not only envision, but also implement, the changes necessary to put our societies on the path to truly African forms of participatory governance.

Mbeki wants chiefs represented in AU

PRESIDENT Thabo Mbeki said yesterday that he planned to lobby the African Union (AU) to set up a continent-wide house of traditional leaders, who were overlooked during its establishment.

The move signals a fundamental shift in the African National Congress (ANC)-led government's approach towards the institutions of traditional leadership and their role.

It was widely believed that the ANC was hostile towards traditional leadership and probably planned to phase out the institution. Congress of Traditional Leaders of SA (Contralesa) president Chief Patekile Holomisa welcomed the move, saying cabinet has finally come to terms with the political reality in Africa.

He said although people appreciated democracy, they still expected it to accommodate their traditional leadership.

"They have now truly endorsed the president's African Renaissance concept by (agreeing) to work with traditional institutions of African leadership, which hold the foundation of people's existence," he said.

Government undertook to refer the proposal for the setting up of a continent-wide house of traditional leaders to the AU chairman, Mozambican President Joaquim Chissano.

This would be in line with Mbeki's undertaking not to tamper with the powers of traditional leaders, promising even to amend the constitution to appease them.

Government said if discussions on the White Paper and Framework Bill on functions of traditional leaders pointed "to the need to amend the constitution, this would be considered".

Contralesa had rejected several such drafts that planned to make elected community leaders politically and administratively stronger than the chiefs.

Mbeki has even undertaken personally to "facilitate the provision of better infrastructure for the efficient functioning" of the house of traditional leadership.

Cabinet has also undertaken to devise mechanisms to involve the house of traditional leadership in the creation of programmes for rural development and the Expanded Public Works Programme.

Mbeki has also promised to have regular briefings with the traditional leaders.

Source: Business Day (2003-10-09)

Nepad needs Africa's cultural custodians

IN SPITE of wishes to the contrary, colonialism in Africa failed to completely destroy traditional institutions, even though it managed to discredit them in the eyes of some.

Postcolonial governments of Africa have generally failed their people, particularly rural citizens, partly because of their inability to give recognition to indigenous systems of governance and the African way of life. They preoccupied themselves with filling the shoes of their former colonial masters in government, in the industrial and commercial sectors of the economy, and even in their social and cultural lifestyles.

While colonial and apartheid governments gave heavy subsidies to their white farming communities, which provided food for the countries, some of their successors-in-title contented themselves with grabbing the farms and made no meaningful efforts to give support to the general farming populace.

No money was made available to assist African subsistence farmers to become viable commercial farmers through the provision of appropriate seed and fertilisers, suitable implements, construction and maintenance of rural roads and irrigation dams, as well as inoculation of animals and provision of feed in times of drought and other disasters.

In some of the African states communal land tenure systems were converted into freehold, with disastrous consequences for rural communities. Many of those who held title deeds trekked to the cities and, upon arrival, either sold their allotments or used the deeds as collateral. Family members lost their rights to lands that had been in their families for generations.

The exclusion of traditional leaders from policy- and lawmaking structures such as parliaments, local legislatures and courts of law resulted in the formulation of policies and the enactment and interpretation of laws that weakened and undermined traditions and cultures that had bound people together.

But the rural countryside remains the beacon of hope for the revival of what is good in Africa. Relative peace, stability and respect for law and human life continue to be the defining features of rural African life styles.

The New Partnership for Africa's Development (Nepad) and the African Union (AU) are the vehicles on which the success of the African renaissance depends. The founding documents of both, unfortunately, are a perpetuation of what we find in the majority of the African states. They promote the same systems of governance that have failed and hardly make reference to the role traditional institutions can play in promoting its ideals.

If Nepad is meant to fight for the eradication of poverty and the upliftment of the socioeconomic conditions of the masses, its protagonists must take it to the rural areas. This time traditional leaders and their structures must be taken on board. Their special status in African life must be used to enhance the legitimacy of development projects.

In my experience, people tend to be more willing to impart their indigenous knowledge and support when they are dealing with people who enjoy the support and respect of their traditional leaders. Environmental degradation can be halted if traditional leaders are empowered to enforce the tried and tested ways of environmental protection.

The wars that rage in many African states have increasingly taken on a tribal complexion. These wars are instigated by politicians who parade themselves as modernist leaders. Traditional leaders as custodians of tribal ways of life can be used under the auspices of Nepad and the AU to help combat this scourge.

Nepad and AU structures, such as the Pan African Parliament and the various commissions, should provide for the participation of traditional leaders, which should not be along party political lines. Countries should have similar arrangements.

Let us, therefore, make this a truly African century in which the continent's cultural custodians play their part as understood and expected by their people. **Holomisa (A! Dilizintaba) is an ANC MP and president of the Congress of Traditional Leaders of SA. He writes in his personal capacity.**

Source: Business Day (2003-10-15)

**COMMUNIQUE OF THE
1ST CONFERENCE OF AFRICAN TRADITIONAL LEADERS
HELD ON
2ND – 4TH AUGUST 2003
AT
THE PREMPEH ASSEMBLY HALL
KUMASI, GHANA**

We the Traditional Leaders of Ghana, Togo, South Africa and Nigeria assembled in Kumasi, Ghana from the 2nd to the 4th August 2003 do hereby resolve as follows:

1. Inform our respective governments on the aims and objectives of the forum as enshrined in this communiqué
2. Evolve a strategy aimed at committing our respective governments to devise a system of governance that involves and enhances the role of traditional leadership, and all spheres of development.
3. Sensitize our respective peoples and governments to work towards a continental association of traditional leadership willing and able to be part of the processes of conflict resolution and achieving good governance in Africa as well as economic development within the institutional framework of the African Union (AU) and possibly the New Partnership for Africa's Development (NEPAD).
4. Begin a process of self-assessment as a first step towards cleaning our houses and enhancing the image of Traditional governance.
5. Take back home a commitment to lobby our respective governments to put in place laws that give back to our brothers and sisters in the diaspora the right to citizenship in the land from which their forebears were forcibly removed.
6. Encourage the formation of regional groupings of African conference of Traditional Leaders under the guidance of the participants present at this conference.
7. Initiate within the shortest possible time, action towards the formation of a Continental Union of African Traditional Leaders with the objectives of:
 - a. Create a common platform for the leaders to interact and express their views on socio-political matters affecting continent of Africa

- b. Giving wise counsel and assisting our political leaders to promote good governance in the member states to enhance peace, unity, stability and equitable development.
 - c. Serving as a ready stand-by team to mediate in internal conflicts that flare up in member's states of the African Union.
 - d. Initiating action to seek the over-all development of Africa within the framework of NEPAD and joining the fight against HIV Aids menace.
 - e. Promoting human rights, rule of law, good governance and internal African democracy of the respective member states of the African Union.
 - f. Promoting the cause of women towards genders equity.
 - g. Strengthening traditional governance institutions and giving it the capacity to undertake internal reforms, customary law review and codifying the customary laws of Africa
 - h. Initiating, collective action to preserve, protect and promote the histories, culture, tangible an intangible heritage of our societies
 - i. Initiating action to protect the environment and to advise on the inequitable exploitation of the natural resources to the detriment of Africa
 - j. Adopting and periodically reviewing strategies that will promote the realization of the goals of the Union of African Traditional Leaders, the African Union and other regional groups of Africa
8. To give our total commitment to the realization of these goals and ideals, we seek to mobilize resources internally, from member states and governments of African and from the African Union and other regional and internal bodies.
9. We hereby authorize formation of a technical committee to develop a strategy of action and to promote the ideals, objectives and decisions of the conference contained in this communiqué.

In witness of our adoption of this communiqué. We, the Leaders of the delegation set our hands this 4th Day of August 2003.

INKOSI MB MZIMELA
LEADER OF THE SOUTH AFRICAN DELEGATION AND CHAIRPERSON
OF THE NATIONAL HOUSE OF TRADITIONAL LEADERS, SOUTH AFRICA.