



## GRASSROOTS GOVERNANCE? CHIEFS IN AFRICA AND THE AFRO-CARIBBEAN

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## TRADITIONAL LEADERSHIP AND RURAL LOCAL GOVERNMENT IN BOTSWANA

CHAPTER 9

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Cattle kraal behind the *kgotla*. This cattle kraal was used by chiefs to impound stray cattle. Chiefs would be buried below this ground. In this unusual case, a number of above ground grave markers can be seen in the kraal. The *kgotla* is the gathering place for all the adult citizens of the chieftaincy. It is a direct democracy local government structure (2002, photo by D. Ray).

## TRADITIONAL LEADERSHIP AND INSTITUTION OF CHIEFTAINSHIP DURING PRE-COLONIAL AND COLONIAL PERIODS

Chieftainship is one of the oldest institutions of traditional leadership in Africa. It has enjoyed the glory, powers, and prestige of pre-colonial times, has survived through the vicissitudes of colonial times, and has reconciled to the new political system of the post-independence period in which the status, powers, and functions of traditional leaders have been gradually reduced. The traditional leaders (chiefs) during the pre-colonial period enjoyed unlimited and undefined powers over their tribe. Each tribe owned a given piece of land which was controlled by its chief. The chief was the custodian of tribal land and allocated it to tribesmen for ploughing or residential purposes. The villages were divided into several wards, each headed by a headman. The chief settled disputes, pronounced on tribal customs and traditions, and ruled on matters concerning the tribe in consultation with its members.

During the early period of colonial rule, the colonial government exercised minimal control over local administration at tribal level. The chiefs were allowed maximum independence in their tribal rule and in maintaining law and order. The Order-in-Council of 1891 authorized the British High Commissioner (stationed in Cape Town at that time) to appoint administrative and judicial staff in the Bechuanaland protectorate. A proclamation was issued during that year providing for appointment of a Resident Commissioner and Assistant Commissioners in districts. These were given jurisdiction as Resident Magistrates but the jurisdiction of their courts was limited to exclude all cases in which Africans were concerned, unless such cases were in the interest of good order or the prevention of violence.

In 1899, when the Hut Tax was introduced, the chiefs were appointed as local tax collecting officers and they received up to 10 per cent of the proceeds. In 1920, the Native Council (renamed the African Advisory Council in 1940) was constituted by an administrative order to serve as an advisory body on African interests to the Resident Commissioner. The Native Fund (abolished and replaced by Tribal Treasuries in 1938) was officially constituted by a proclamation in 1919. An annual levy of three shillings (after 1925, five shillings) per tax payer was paid into this fund which was to be used for development of African education, medical care, eradication of cattle diseases, the fencing of tribal areas, etc. In 1934, the Native Administration Proclamation was issued which formally recognized the tribal chiefs and their authority. The proclamation did not materially alter the traditional institution but simply formalized it. The chiefs opposed

it, as an attempt to codify their authority was perceived by them as a limitation of their erstwhile sovereignty and unlimited authority. The Native Tribunal Proclamation of 1934 regulated the judicial powers of chiefs and subordinate headmen and formalized the tribal court system and jurisdiction. This was also met with opposition from the chiefs. In 1938, the Treasury Proclamation established the tribal treasuries into which local taxes and levies were to be paid. The chiefs were now to be paid a fixed stipend, and a percentage of tax collected was to be paid into the treasuries. These tribal treasuries were to be administered by the chiefs in consultation with their tribal councils and were to provide for the financing of education and agricultural activities in tribal areas. Two new proclamations were issued in 1943, which replaced the above mentioned proclamations of 1934. The *kgotla* (village assembly) was acknowledged as the advisory council of the chief without the formal composition by the Native Administration Proclamation of 1943. This proclamation broadened the local government functions of native authorities by granting them powers to make rules on matters relating to preservation of law and order and provision of local services, as well as the levying of fees for such services. The Native Courts Proclamation of 1943 restructured the tribal courts system in accordance with tribal law and custom.

In 1956, the Tribal Councils and District Councils were introduced. The chiefs headed these councils and the membership consisted of some members nominated by the chairmen and some elected by *kgotla*. These councils undertook limited local government functions during that period (1956–66). As pointed out by Vosloo et al., local government in the rural (tribal) areas of the then Bechuanaland Protectorate under British rule can be divided into three phases. The first phase could be termed parallel rule. It showed the maximum regard for the customary authority of the chiefs, and it restricted intervention to such measures as were necessary to satisfy the more simple requirements of local rule such as the collection of tax or the preservation of order. The second phase (i.e., between 1934 and 1957) could be called indirect rule as chiefs retained a powerful position as sole native authorities of their respective tribal areas. The implementation of the system of local councils from 1957 represents the third phase. This phase, which lasted until 1966, was a continuation of the indirect rule system of rural local government, but displayed some elements of democratization as the rule was of the chief-in-council. During all these phases, the traditional tribal authorities were utilized as rural local government. After independence in 1966 a new system of representative local government was introduced.

## TRADITIONAL INSTITUTION OF CHIEFTAINSHIP IN POST-INDEPENDENCE PUBLIC ADMINISTRATION

The chieftainship was retained in Botswana after independence, and the chieftainship law provided the legal cornerstone for the recognition and functioning of the office of chieftainship at different levels of tribal rule. The President of the Republic was given the authority for the recognition, appointment, deposition, and suspension of chiefs (the authority was later vested in the minister). A chief exercises traditional authority, after consultation with the tribe, to determine the question of tribal membership. Identification of membership was significant when one had to get some rights or privileges belonging to the tribe, such as allocation of land. The chief arranges tribal ceremonies, assists in checking crime, promotes the welfare of his tribe, convenes and presides over *kgotla* meetings. It is significant to note that in Botswana the law requires every chief to carry out instructions given to him by the minister. Any chief who fails to comply with any direction given to him by the minister is liable to be suspended or deposed. The chiefs are paid salaries as fixed by the minister by order published in the Gazette. Different rates may be fixed in respect of different chiefs. The minister is also authorized to make regulations for the better carrying out of the provisions of the Chieftainship Act, including general conditions of service and the procedure for taking disciplinary action. Provisions of the Chieftainship Act, which give enormous authority to the minister, establish complete supremacy of the central government over these traditional leaders in Botswana. As compared to the colonial period, their subordination to the central government clearly increased after independence and their status was considerably humbled further when the Chieftainship Act Amendment of 1987 authorized the minister of Local Government instead of the president to deal with matters related to the chiefs.

The relationship between the traditional leaders and the central government has been a mixture of cordiality and conflict in Botswana. On the one hand Botswana's ruling party, the Botswana Democratic Party of Sir Seretse Khama has relied on the support of traditional leaders during the colonial and post-independence period. (Seretse Khama was himself a chief of one of the biggest tribes who relinquished his chieftainship and became a leader of the independence movement). On the other hand, due to the gradual reduction of their authority, the dissatisfaction of some chiefs has manifested itself in conflicts of different kinds with the ruling party and the central government. One of the prominent chiefs, Gaseitsiwe of the Bangwaketse tribe resigned his chieftainship after independence, joined an opposition party (Botswana

National Front) got elected to the Parliament on the ticket of that opposition party, and became a significant political leader of opposition in his own right. In order to ensure that they are not driven into the opposition, the ruling party in the government has apparently handled the traditional institution of chieftainship in such a way that the chiefs are formally retained, but do not possess significant powers. The central government has by and large been able to pursue this policy successfully over a period of time. In some cases, however, conflicts have erupted, particularly when the egos of a chief and the minister responsible have clashed. Conflicts have also arisen when a chief has not been co-operative, or the minister responsible has not been able to handle his relationship with a chief with due respect and consideration for the tribal custom. The case of suspension of a chief (Seepapitso of the Bangwaketse) in 1994 by the former minister of Local Government, Lands and Housing illustrates the type of conflict that has soured the relationship between the traditional and modern political leadership. The minister suspended the chief on grounds of lack of co-operation, deriving his authority from the act. The chief and his tribe complained, however, on the grounds that the minister's action was not in keeping with the traditions and there was no consultation with the tribe before the minister took the action for suspension of the chief. The chief challenged the minister's decision in the High Court for suspending him and appointing his son as acting paramount chief. The High Court upheld the minister's decision for suspension of the chief, but held that the appointment of his son (Leema Gaseitsiwe) as the acting paramount chief of Bangwaketse was unlawful since the statute did not authorize it. (Justice Julian Nganunu held that the appointment of a person to the position of acting paramount chief could not be made before the prior designation of the tribe.)

Although the government in Botswana retained the institution of chieftainship after independence, it was transformed considerably. There was a steep decline in the authority of the traditional leaders after independence when the new institutions like District Councils and Land Boards were given many of the powers and functions earlier exercised by the chiefs. The exclusive and prestigious authority for allocation of tribal land was given to the newly constituted Land Boards. Chiefs enjoyed a central position in the councils of the pre-independence period, but after independence the District Councils were to be controlled by councillors elected every five years on the principle of universal adult franchise. The District Councils were given the authority to handle *matimela* (stray cattle), which was earlier the responsibility of Tribal Administration. The District Commissioner's office assumed a dominant position after independence with regard to the operation of tribal administration, in

so far as he was made responsible for reviewing the cases tried in the customary courts. The dependence of chiefs on the District Administration increased further as the tribal administration's financial administration was handled by the District Commissioner's office. Not only did the tribal administration not have a vote; the District Administration was made responsible for controlling transport and even stationary needs by tribal administration.

Taking note of these developments in this institution of chieftainship should not mean that the government of Botswana has been against this institution. On the positive side, one should take note of a number of positive steps taken by the government for strengthening this institution. For instance, the government has, in principle, accepted to review the conditions of service of Tribal Administration; the cadre is going to be integrated in to the Local Government Service Management; the number of customary courts has increased over a period of time; and the ministry has undertaken a needs assessment of Tribal Administration staff. The creation of a House of Chiefs by the constitution was a significant recognition and mark of respect for chieftainship, although the house does not have any significant powers. The chiefs have felt that the government does not take this house seriously, as follow-up action on its resolutions remains outstanding. While the members of the House of Chiefs might be correct to a certain extent, they also need to have a clearer understanding of the constitutional position, purpose, powers, and functions of this house. The chiefs have to understand that this house is different from a second house of parliament, like the House of Lords in Great Britain or the Senate in the United States. The House of Chiefs was established primarily for giving the chiefs a forum where they could articulate their views relating to this traditional institution's operation. A minister could consult the house for its opinion. The house is also entitled to discuss any matter it considers to be in interest of the tribe and tribal organizations. It needs to be noted that the National Assembly is not obliged to accept the recommendations or opinion of the House of Chiefs. The National Assembly might like to take note of the views of this house if it considers it is politically expedient to do so, or if it considers these to be in keeping with the national interest.





Botswana countryside: gamepark protected area outside Garbarone (photo by D. Ray).

## TRADITIONAL LEADERSHIP AND RURAL LOCAL GOVERNMENT

The institution of chieftainship manned by traditional leaders is one of the four main organizations considered to be pillars of public administration machinery at local (district) level in Botswana. All the four organizations: District Administration, District Council, Land Board, and Tribal Administration have their significance, roles, jurisdiction, authority, responsibilities, and limitations. Rural local government in Botswana operates with close co-operation, communication, and coordination among these organizations.

## TRADITIONAL LEADERS AND POPULARLY ELECTED RURAL LOCAL GOVERNMENT

Representative local government in African countries such as Botswana, as we understand it today, comprising of democratically elected councillors on the principle of universal adult franchise, was introduced only after independence. Local government here has evolved out of tribal administration, which performed limited local government functions before independence. The local government in Botswana grew under tribal administration during the colonial period with the introduction, in 1956, of tribal councils under the chairmanship of the chiefs of major tribes. These Tribal Councils included members nominated by the chiefs, members elected by *kgotla* (Village Assembly), and the chairmen and other nominated members of the lower level district councils within the tribal area. The District Councils within the tribal area constituted the second and lower tier of local government and were subordinate to Tribal Councils. These District Councils were composed of subordinate tribal authorities as chairmen; some nominated members, and some elected at the *kgotla*. This pattern of local government continued up to the time of independence, when the government decided to introduce the present pattern of District and Town Councils controlled by elected representatives of the people with a view to strengthen democracy.

District Councils have been given responsibilities mainly for administration of primary education, primary health services, construction and maintenance of rural roads, water supply, community development, and social welfare. Although the administrative capacities of councils for the performance of these functions have

improved gradually, these remain considerably limited. Besides other measures for developing administrative capacities, the local authorities need to develop harmonious and co-operative relationships with other district and local level institutions, including the traditional institution of chieftainship. As the traditional leaders lost so much of their authority to these modern institutions of local government, their resentment during the first few years of independence was understandable. The present relationship between the traditional leaders and the District Councils does not display serious conflicts but it has to be based on a positive, forward looking, and co-operative team spirit for rural development administration in the future.

## TRADITIONAL LEADERS AND LAND BOARDS

Land Boards, which were established as statutory bodies in Botswana in 1970 through the Tribal Land Act, took away the exclusive authority of chiefs for allocation of tribal land. These newly created bodies in Botswana, once created, held the tribal land in trust and started allocating it for residential, commercial, agricultural, industrial, or general development purposes. In the initial period of their establishment, these Land Boards included the chiefs as members along with some members elected by *kgotla*, some nominated by the minister of Local Government Lands and Housing, and some ex officio members of government ministries. During this period, the chiefs had to share their traditional authority of land allocation with the other Land Board members. After some years of their operation, the chiefs were removed from the membership of Land Boards.

Land is an important resource in rural development administration hence its allocation assumes significance. Land Boards have a significant role to play in the process of land allocation and district level development planning. As land becomes scarce in the future, Land Boards will assume greater importance for handling the exercise with foresight, rationality, and integrity. Co-operation of traditional leaders who have undertaken this task in the past could facilitate the smooth functioning of Land Boards. The Land Boards in the initial years of their creation were faced with the problem of lack of co-operation of traditional leaders as many of these were frustrated at the loss of their authority. Chiefs in some cases continued to allocate land without reference to Land Boards. Due to the absence of written records, the newly created Land Boards had to rely on the information only the traditional leaders possessed. They were handicapped when that information was not readily made

available. The newly created Land Boards had limited staff and facilities. Defiance of Land Board decisions, unauthorized allocation, or extension was not uncommon. During the last few years the situation in these respects has improved considerably. The Land Boards now have better facilities, and the public is better informed about their authority and new procedures for land allocation. The Land Boards are still faced with some problems like lack of authority for enforcing their decisions, control and supervision of subordinate Land Boards, and harmonious relations with various government organizations. Relationship of Land Boards with the traditional leaders does not display serious conflicts now, although in some cases the relationship has not been very cordial. The traditional leaders have by and large reconciled to the changed situation. The Land Boards will, however, continue to need the co-operation of chiefs and village headmen. Treatment of chiefs with respect and dignity could help in getting their co-operation.

## TRADITIONAL LEADERS AND DISTRICT COMMISSIONERS

The District Commissioner's office was established during the colonial period. The powers and the status of colonial district commissioners were firmly established in the system of public administration. During that period, the district commissioners enjoyed enormous prestige and considerable delegated authority as representatives of colonial government. After independence, the role and responsibilities of district commissioners changed drastically. During the colonial period, the district commissioner was primarily concerned with the maintenance of law and order and performance of magisterial functions, whereas after independence rural development became one of his primary responsibilities. The District Commissioner's office plays a central role in district level development planning and coordination of rural development. The District Development Committee (DDC), which is one of the significant organizations at the district level for coordination of rural development activities and district level development plans, is headed by the District Commissioner. The DDC is a forum for communication for all the district level organizations involved in rural development. Chiefs participate in this forum as equal partners along with the district administration, district council, and district level officers of different ministries. District level rural development requires active participation and co-operation of traditional leaders, who can help in articulating the felt needs of local population and get their co-operation in the implementation of development programs.

The District Commissioner has to give leadership to and develop team spirit among all the actors in rural development. Co-operation and mutual understanding between the chiefs and the district commissioner assumes significance in this respect.

The actual contribution of chiefs in these respects leaves much to be desired. The relationship between the district commissioner and the chiefs has not always been cordial. Conflicts have surfaced from time to time. Some chiefs have often complained for not being treated with proper respect and dignity by the district commissioners. In many cases personality factor has influenced the relationship between the district commissioner and traditional leaders. Different individuals with different personalities, approach, style, and attitude have developed different kinds of relationships. If chiefs are treated with dignity and respect by public servants, their relationship could be cordial and the morale of chiefs could be raised for getting their effective participation in the combined teamwork for rural and national development. In the development of team spirit, the district commissioner who has been given responsibility for coordination of district level rural development activities has a special role. He has to be gentle, respectful, considerate, and co-operative with the chiefs. Both have to be responsible, responsive, and sensitive to public aspirations and expectations. Both have to try to develop partnership between the people and the government. Both have to be sensitive to the political environment, cultural values, and social norms. Both the organizations have to try to encourage people's participation in the formulation and implementation of district level development plans, which have so far remained a *top-down* exercise undertaken by bureaucrats. District Commissioners have undergone considerable change since independence and development administration has become their primary function, but in the future the district commissioners will be expected to display increased commitment to the task of rural development and greater sensitivity to the plight of the poor masses. They will need greater support from the traditional leaders in their task.

## CONCLUSION

Although the powers, functions, and status of traditional leaders have declined over a period of time, chieftainship remains a significant institution in its public administration and the set-up of its local government administration in Botswana.

Tribal Administration is recognized in Botswana as one of the four pillars of rural local government and administration, the other three being District Councils, Land Boards, and District Administration. The tribesmen in the rural areas have considerable respect for their traditional leaders. The chiefs could use this respect for facilitating the work of central and local government organizations, particularly in educating, guiding, informing, and advising the people in their areas on matters contributing to tribal welfare and development. The chiefs serve their community by maintaining the best customs and traditions, arranging tribal ceremonies, serving as spokesmen of their tribes on issues of customary nature, presiding over *kgotla* meetings, (where matters of interest to the community are discussed), helping in the prevention of offences within their tribal boundaries, and encouraging rural development by co-operating with other governmental and non-governmental organizations. Traditional leaders and forums like *kgotla* could be used more effectively for facilitating the consultation process in formulation and implementation of public policies, district level development plans, and programs and projects for rural development. Chiefs could give leadership in mobilizing public opinion in various development activities and in encouraging people's participation in development programs undertaken by different government organizations. They could be instrumental in initiating social change by striking a healthy balance between tradition and modernity. By remaining informed, they could disseminate information about activities of organizations like District Development Committees. Grassroots organizations like Village Development Committees need their support in self-help activities. In countries like Botswana, the significance of chiefs in imparting justice on customary lines is evident from the fact that they handle approximately 80 per cent of all criminal and civil cases in the country. The customary courts are popular with the people in rural areas, as they are easily accessible, cheap, fast, and comprehensible. The contribution of chiefs in this regard could continue to remain significant. The central government needs to display greater sensitivity to the expectations of traditional leaders. The facilities need to be backed by vigorous training in the form of workshops and seminars for different categories of chiefs from highest to the lowest levels in the field of law (particularly customary law), public administration, public relations, development policies, and development administration. Democratic and representative rural local government in Botswana will be strengthened with the co-operation and partnership of traditional leaders.

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## REFERENCE

- Vosloo, J. B., D. A. Kotze, and W. J. O. Jeppe. 1974. *Local Government in Southern Africa*. Pretoria: Academia. (Heavy reliance on this for information related to the growth of traditional institution of chieftainship in Botswana during the colonial period is gratefully acknowledged.)