



TALOGIP

TRADITIONAL LEADERSHIP AND LOCAL
GOVERNMENT INTERFACE PROGRAM

Lessons Learned No. 4

TABLE OF CONTENTS

PAGE

Traditional Leadership and Local Governance Interface Programme	1
Introducing the basic terminology	2
The role of traditional leadership in local governance	3
Lessons learnt	3
1. Acceptance of traditional councils	3
2. Participation in municipal councils	4
Conclusion	4
Acknowledgements	5
About Afesis-corplan	5



There are different opinions regarding the origins and the modern role of traditional leaders and the institution of traditional leadership as a whole. Two distinct perspectives come from two schools of thought and tend to dominate the debate. The two schools are that of democratic pragmatism, and that of organic democracy.

The democratic pragmatists define democracy and human rights from a liberal tradition and prioritise the rights of the individual human being to choice and freedom. Underpinning this definition is usually a reference to the Constitution whose core theme is realisation of democracy and protection of human rights. Traditional leadership therefore, gets scrutinised against its compatibility with democratic governance.

Sithole and Mbele (2008) cited in George (2010) note that the core arguments made by the democratic pragmatists are:

- Traditional leadership as a system that allows for inheritance of leadership is incompatible with democracy;
- Traditional leadership should be becoming extinct, but it continues to thrive, because the local government institution's changes in rural areas are lagging behind. The reason for this paradox is that government support for traditional leadership is in contradiction with local democracy; and
- Despite the cultural relativism of those who support traditional leadership, the objectives and rational principles of democracy demand that the state ensures access to democracy as a commodity to which all people are entitled.

In brief, the proponents of the democratic pragmatism school of thought believe that traditional leadership should not be sustained in a political democracy, as it contradicts the core values of freedom of choice.

Then there is a school of organic democracy. Proponents of this see traditional leadership as a different, effective and grassroots democracy, which is not necessarily a 'compromise or contradiction of democracy' (George, 2010:4). Their view is that traditional leadership can exist in a more legitimate setting of modern democracy that supports development and good governance. The organic democrats see traditional leadership as a system of governance that fulfils diverse developments and governance needs of the people.

Scholars from this school of thought generally argue that:

- Despite the abuse of power and the manipulation of traditional leaders by the apartheid regime, traditional leadership as a form of governance predates this and has persisted over the governance practice based on state democracy in Africa. There has never been a time since European colonialism when traditional leadership disappeared. Instead of it being disestablished as proposed by the democratic pragmatists, it needs to be carefully analysed. This would ensure that through this new revolution, the institution of traditional leadership can

emerge stronger and remain appropriate to work effectively with the three spheres of government to improve the lives of the people. The location of traditional leadership within communities both physically and culturally serves a specific unique purpose that people need. This is over and above the often paternalistically expressed view on the efficiency in many rural communities – a gap that traditional leaders are seen to bridge.

- Traditional leadership should perhaps be seen as an alternative form of democracy that places less emphasis on how governance comes into being, but more emphasis on the rationalisation of justice based on cultural-moral principles, and expressed human feeling, all of which will be under vigorous negotiation on a case-by-case social-issue basis. Traditional leadership requires a facilitatory democracy more focused on issues than rigid governance processes (Sithole and Mbele, 2008:11).

In summary, the proponents of organic democracy do not argue against the need to democratise traditional leadership, but contest the basic assumption that traditional leadership is fundamentally undemocratic in the first instance.

The reality according to a study done by the ministry of Cooperative Governance and Traditional Affairs (Cogta) is that over 14 million South Africans reside in rural areas and are still under the command of traditional leadership. These rural residents are loyal to this institution, want it, and believe that it is vital in ensuring the development of their areas and the advancement of their culture and traditions.

For the past three years, Afesis-corplan (supported by the Raith Foundation), has been working with a few traditional councils in the Eastern Cape to assist them to better understand and enhance their role in local governance working closely with local municipalities. Captured in this brief, are some of the lessons the organisation is deriving from this project. The aim is to develop a series of briefs and to share the lessons as we draw and reflect on them.

INTRODUCING THE BASIC TERMINOLOGY

The Traditional Leadership and Governance Framework Act, 2003 (TLGFA) defines traditional leadership as “the customary institutions or customary system or procedures of governance, recognised, utilised, or practiced by traditional communities”. Chapter 1 of the same Act gives a detailed definition of a number of terms including the following:

Kingship refers to a position held by a King or Queen. *Senior traditional leadership* refers to a position held by a senior traditional leader; while a “*senior traditional leader*” refers to a traditional leader of a specific traditional authority who exercises authority over a number of headmen or headwomen in accordance with customary law, or within whose area of jurisdiction a number of headmen or headwomen exercise authority. A *traditional leader* is defined as any person who in terms of customary law of the traditional community concerned, holds a traditional leadership position and is recognised in terms of the Act.



THE ROLE OF TRADITIONAL LEADERSHIP IN LOCAL GOVERNANCE

Chapter 12 of the Constitution specifically acknowledges the institution of traditional leadership, its place and role in the system of democratic governance. Amongst other things, the TLGFA aimed at recognising traditional councils at a local level in an attempt to align traditional rule and traditional councils more strongly with the principles of democracy (and to hopefully remove some of the negative sentiments associated with traditional rule and traditional councils).

Section 3 of the TLGFA gives the Premier power to influence the establishment of a traditional council, and acknowledges a position for traditional leadership, not only within local government, but at the provincial and national level as well.

Traditional councils are composed of 60 percent members appointed by the royal house and 40 percent democratically elected by the traditional community (civil society is still trying to fight to increase the quota for democratically elected members). Furthermore, at least a third of members of the traditional councils must be women.

The Municipal Structures Act provides for the participation of recognised traditional leaders in municipal councils. In so participating, they are bound by the Code of Conduct for Councillors, but do not have voting rights and do not become councillors. Section 81 of the Municipal Structures Act provides for 20 percent representation of traditional leaders in municipal council meetings, where there are active and recognised traditional leaders in the municipal area. Section 5 of the TLGFA further provides for partnerships to be entered into between municipalities and traditional councils.

So, in relation to their participation in municipal councils (as gazetted by the MEC), traditional leaders may participate in proceedings of the relevant Councils to express a view on matters directly affecting the area of the traditional authority. Traditional leaders participate in their own capacity as representatives of their traditional communities. The municipality may not adopt any by-laws affecting a traditional community unless its traditional leaders have been consulted.

LESSONS LEARNT

1. ACCEPTANCE OF TRADITIONAL COUNCILS

In areas where the system of traditional rule was running smoothly with a community accepted and trusted team of advisers to the traditional leader, the introduction of traditional councils (the 60/40 split) seems to have brought dissent and confusion. While these communities abide by the legislative requirements and have elected traditional councils, practically, they still view and give due regard to the old order of advisers and then the chief. This in some areas brews tension between the two structures and a tug of war within the community that divides it along allegiance to each of the structures. These poses a threat around development priorities as one structure tends to sabotage initiatives introduced or led by the other.



A smooth transition is necessary, which would appreciate systems that already work well, where they work effectively well. There potentially lies danger in a reformative process that essentially *'throws the bath water with the baby'*. Whilst it is crucial to bring necessary reforms to the system and institution of traditional leadership, there appears to be evidence of a need for government to *negotiate the curve* slowly in certain places, as opposed to a *sharp u-turn*. This might call for allowance of a phased-in approach in certain places, or some kind of a step-by-step process.

2. PARTICIPATION IN MUNICIPAL COUNCILS

There remains disparities in the manner in which traditional leaders sitting in municipal councils are treated. Currently, there is no specific regulation or guidelines on this matter. Resource allocation remains a key bone of contention between what is provided for municipal councillors and traditional leaders. In some municipalities, traditional leaders are duly acknowledged, their opinions and views solicited and welcomed, and in most instances these are the municipalities who would also offer laptops and cell phones to traditional leaders along with those given to councillors to assist them in effectively executing their roles and duties in council. Yet, in the same district municipality, some municipalities treat traditional leaders as unwelcome guests in council, they generally go on for months without so much as being given an opportunity to participate and give input in council deliberations.

This results in serious discontent and unhappiness amongst traditional leaders and has resulted in a lack of trust of the intent of government to include traditional leaders in local governance. While one understands that within municipal councils, there exists the two schools of thought narrated above and depending on which school of thought the most influential and powerful politicians in council fall, treatment of traditional leaders will take one form or the other. It would appear as though there is a need to introduce some regulatory framework to better clarify how municipalities are to facilitate and support the effective participation of traditional leaders in municipal councils so that traditional leaders were not subjected to the mercy of the views of the strongest voices in council.

CONCLUSION

It is clear that there continues to be a great need to clearly define the role traditional leaders are to play in local governance and government's role in facilitating and supporting the institution of traditional leadership in playing this role effectively. Afesis-corplan's project takes its cue from Section 4 of the TLGFA which states that:

'traditional councils should support the municipality in the identification of the needs of the community; facilitating the involvement of the traditional community in the development or amendment of the IDP of the municipality in which the community resides and participating in the development programmes of the municipality.'

The aim is to understand models in which traditional councils use to deliver on this mandate, what works, what could be done better, and to lift and share best practices as we go along. The aim is not to enter into the debate of whether there is a role for traditional leaders in a democracy or not. Our understanding is that the work we are doing and the lessons we are deriving from our work will assist South Africa to somehow answer this question over time. In the course of our work therefore, we pause and reflect on some of the striking lessons that we are stumbling upon, reflect and share them as they come. This for us is a small contribution that our work can make into this national debate as it continues.

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ABOUT AFESIS-CORPLAN

Afesis-corplan is a progressive, non-governmental organisation that has contributed to community-driven development and good local governance in the Eastern Cape since 1985. Registered as a Section 21 Company in 1992, Afesis-coplan's current area of focus is to contribute to the emergence of an active citizenry and good local governance in South Africa. The organisation conducts its work under four key programmatic areas; i.e. local governance, access to land for sustainable human settlements, local economic development and knowledge management. Afesis-corplan sees itself as a learning organisation and continuously reflects on the work that it is doing to derive and share lessons that it is learning. To learn more about Afesis-corplan and its work visit www.afesis.org.za

"Learning organisations are organisations where people continually expand their capacity to create the results they truly desire, where new and expansive patterns of thinking are nurtured, where collaborative aspiration is set free, and where people are continually learning to see the whole together." Peter Senge (1990:3)

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