

**SYMPOSIUM ON TRADITIONAL LEADERSHIP
AND LOCAL GOVERNMENT**

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I. Preface

The Gaborone symposium was in many ways the first of its kind, bringing together some fifty traditional leaders, mayors and senior local and central government officials from twelve African countries. Equally striking were some of the conclusions which emphasised the concept of partnership in local government by all stakeholders and foresaw an active role for traditional leadership in development and service delivery, social change and transformation and governance, as well as with regard to its more well-known functions in areas of land and customary judicial functions.

The symposium was held against the background of growing interest throughout Africa in the role traditional leaders could play in the modern, pluralistic state. Discussions benefited from an earlier Commonwealth Local Government Forum (CLGF) research report on the subject as well as a number of key background papers. Emphasis throughout the discussions was on practical policies and identification of best practices, with a view to seeing what tangible lessons could be learnt by all the stakeholders present - chiefs, councillors and government officials. The symposium conclusions accordingly provide a valuable set of practical recommendations for follow-up action at local government level. Special thanks are due to the Botswana Association of Local Authorities, Gaborone City Council and Mayor Bagwasi, the Ministry of Local Government, Lands and Housing and to the House of Chiefs, especially Kgosi Seepapitso IV, for hosting the event, as well as to the sponsors for enabling it to take place. Warm appreciation is also recorded for the able work of the key resource persons, Professor Don Ray, who edited this report in collaboration with Professor K. Sharma and Mr. I. May-Parker.

Carl Wright

*CLGF Director
October, 1997*

II. Introduction

Traditional leaders, mayors and senior local and central government officials from across Africa met in Gaborone, 23-26 September to discuss issues relating to local governance. Countries attending included Botswana, the Gambia, Ghana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Uganda, Zambia and Zimbabwe, as well as experts from Canada and the United Kingdom. One of the experts, Mr. I.I. May-Parker, presented a paper on Sierra Leone which had not been represented owing to its current suspension from Commonwealth membership.

The symposium represented a follow-up to a CLGF research study on traditional leadership in Africa, undertaken in 1994 and 1995 with support from the Federation of Canadian Municipalities, the report of which had been presented to the 1995 Commonwealth Roundtable on Democratisation and Decentralisation, held in Harare. Discussion at the symposium focused on the role of traditional leaders in Africa and the identification of appropriate good practice policy. Participants were able to visit the Botswana House of Chiefs, where they were hosted by Kgosi Seepapitso IV, who discussed the role and operations of the House, and to visit the kgotla (traditional meeting place) at Ramotswa where the Bamalete paramount chief explained certain aspects of traditional local governance. The participants were thus able to benefit from these aspects of the Botswana experience.

The symposium was organised by the Commonwealth Local Government Forum (CLGF), in association with the International Union of Local Authorities Africa Section (IULA-AS), the Botswana Association of Local Authorities (BALA) and the Botswana Ministry of Local Government, Lands and Housing. Sponsorship was provided by the Commonwealth Secretariat, the Municipal Development Programme (MDP/PDM) and the Federation of Canadian Municipalities (FCM).

The symposium was opened on September 24 by the address of the Hon. K.G. Kgoroba, Minister of Commerce and Industry. After welcoming the symposium participants, he discussed the past work of the CLGF on local government in general as well as the roots of the specific theme of local government and traditional authority. He noted that traditional leaders had long made important contributions to local government and that these had implications for Botswana's ability to compete successfully in the global village. In light of the significant contributions of CLGF to these themes, he was pleased to announce that the Botswana cabinet would soon be considering their application to join CLGF. This news was received with great enthusiasm by all present. A vote of thanks to the Minister was moved by Nana Akuoko Sarpong.

The Mayor of Gaborone and President of BALA, His Worship B. Bagwasi, officially welcomed all present to the city of Gaborone. He was sure that this would be a fruitful symposium and looked forward to taking part in the various sessions with his colleagues from Commonwealth Africa, other members of the Commonwealth and elsewhere.

The Chairperson of the Commonwealth Local Government Forum, His Worship the Mayor of Kampala Mr. Christopher R.M. Iga, then welcomed all present to the

symposium. He noted this was the eleventh major Commonwealth regional symposium or roundtable organised by CLGF in the less than three years since its founding. The importance that CLGF attached to local government in Commonwealth Africa could be seen from the fact that six of the eleven roundtables and symposiums have been held in Commonwealth Africa, with a further one on education and training in local government that will be held in early 1998. Additionally a CLGF capacity-building resource centre will be opened in Harare. Such a dynamic pace of work was only possible through the collaboration of such partners as the IULA-AS, the MDP, members of the Commonwealth and its Secretariat, the FCM and others. Traditional leadership has been an important topic not only in Commonwealth Africa but in other member countries ranging from Canada to Australia. Thus this symposium with its examination of local government and traditional leadership has significance in many parts of the world. Furthermore the overall work of the CLGF will have been enhanced by the call of President Rawlings of Ghana for the October, 1997 Commonwealth Heads of Government meeting in Edinburgh to add the topic of democratic, decentralised local government good practice to their list of topics. The Director of CLGF, Mr. Carl Wright, then assured the participants that the CLGF would renew and increase its efforts to serve its Commonwealth members' needs by developing and implementing more local government capacity-building programmes, projects and networking.

The symposium then elected the following officers:

Chairperson:

Mr. E. Molale Deputy Permanent Secretary, Ministry of Local Government, Lands and Housing (Botswana)

Vice-Chairpersons:

Mr. M. Bamfo, Presiding Member, Kwahu South District Assembly (Ghana)

Mr. C.M. Nyasulu, Senior Local Government Officer, Ministry of Local Government and Sports (Malawi)

Kgosi S.V. Suping, Chairperson, Council of Traditional Leaders (South Africa)

Mr. D.A. Matongo, Under Secretary, Ministry of Local Government and Housing (Zimbabwe)

The following rapporteurs were appointed:

Prof. K. Sharma, Prof. D. Ray and Mr. I. May-Parker, who also prepared background papers for the symposium. Further assistance was provided by Dr. Victor Ayeni and Ms. Sandra Pepera (Commonwealth Secretariat) and Professor P.S. Reddy (University of Durban-Westville).

The symposium was closed following remarks by Mr. E. Molale, Deputy Permanent Secretary, ministry of Local Government, Lands and Housing (Botswana) and Councillor A.B. Masalila, outgoing President of BALA.

III. Symposium Conclusions and Recommendations

The symposium summarised its conclusions and recommendations in the following manner:

Broad Principles

The symposium:

drew attention to the recognition given by the Heads of Government of Commonwealth Africa at their Roundtable in Botswana in February 1997 that "effective, elected local government was an important foundation of democracy";

concluded that there should be a constitutional and administrative framework which ensured the partnership of all stakeholders in local governance;

considered that the role of traditional leadership should be recognised and, where appropriate, incorporated into the constitutional framework of each state;

confirmed that traditional leaders and local government should be active partners in development initiatives.

Development and Service Delivery

The symposium:

agreed that development should be pursued through a bottom-up approach which involved all stakeholders at each level of decision-making, planning, and implementation, and which made use of open and accountable forums as appropriate;

in this regard, wished to draw attention to the need to harness the knowledge indigenous to the communities to be served, so as to preserve and develop that knowledge and actively apply it to ensure conservation and environmental equilibrium;

decided that the raising of public awareness in these matters, and the promotion of civic and community education in ways accessible to all members of the community, was the responsibility of all local and community leaders;

recognised that community ownership and an adequate resource base were critical factors in promoting the success of development initiatives, and therefore recommended the promotion of fiscal decentralisation with accountability and transparency within the framework of national fiscal policies;

agreed that co-operation between traditional leaders and local development agencies would enhance the potential for the effective delivery of development services to local communities;

agreed that to achieve the above, in those areas where people accept traditional leadership the political legitimacy of traditional leaders should be added to those of local government.¹

Partnership for social change and transformation

The symposium:

recognising the need for traditional leadership structures to evolve and change as their communities and states also evolve and change, affirmed that traditional leaders require capacity-building support - both in terms of training and infrastructural assistance - in order to be able to work constructively with local governments towards facilitating change and social transformation at the local level;

recognised that the value of traditional leadership was contained in its contribution as a unifying force and as a base for strengthening national identity and culture which, allowing for the rich diversity of our communities, should be harnessed for the education and welfare of present and future generations;

agreed that the collaboration between traditional leaders and local governments should be such that it enhanced social and cultural stability, actively promoted the welfare of women and children within the community, and worked towards the elimination of all practices which are abhorrent and detrimental to the health and welfare of any member of the community.

Participation in Governance

The symposium:

decided that the value of the participation of traditional leaders in local governance was contained in the legitimacy and continuity offered by the structures of traditional leadership and its ability to mobilise the population behind development initiatives;

in order to promote just and honest government, concluded that the principles of transparency and accountability should be pursued by traditional leaders and local government administrations;

¹ See the 1995 Harare Commonwealth Roundtable on Democratisation and Decentralisation for Senior Policy Makers in Local Government, co-organised by the CLGF, IULA-AS and the FCM, as well as the 1997 Ray paper contained in this present report.

agreed that serving traditional leaders should be discouraged from involvement in partisan politics at any level, and recommended that there should be a time-bar between abdication and participation in partisan politics;

suggested that the representation of traditional leaders in local government structures should be achieved either by statutory provision or in an open and transparent way, through the appropriate and relevant houses or groupings of traditional leaders in the community involved;

suggested traditional leaders should serve in an advisory and consultative capacity on an ex-officio basis;

agreed that at all levels of a state's administration - local, provincial/regional and national - there should be an open-door relationship between government structures and institutions of traditional leadership, as well as regular exchanges between associations of local government and traditional leaders' organisations.

Land and Judicial Functions

The symposium:

while recognising the diversity of land tenure structures in Commonwealth Africa, agreed that there was a critical need to establish transparent and accountable systems of land management that allow for the sustainable use of land as a local and national resource and which safeguard the rights of the communities which live and invest in any given area;

concluded that in many instances the exercise of customary judicial functions by traditional leaders offered easy access to arbitration in a timely manner (as do other formal and informal systems of arbitration within our communities), but recognised that the extent of their jurisdiction with rights of appeal to the regular court system at the appropriate level should be clearly defined, and that these judicial functions must take place within the framework of national and international provisions for the protection of civil, human, and people's rights.

Follow-up Action

The symposium:

agreed that each participant should carry the conclusions/ recommendations of this symposium back to their member states, disseminate them within the appropriate institutions, monitor progress towards their implementation, and continue the exchange and dialogue begun at this symposium;

requested that the Board of the CLGF consider the agreed conclusions of the symposium and bring them to the attention of the Edinburgh Commonwealth Heads of Government Meeting;

requested that the Commonwealth Secretariat and CLGF take note of the symposium's conclusions in the development of capacity-building programmes for the promotion of good local governance in Commonwealth Africa;

requested that support be given to the creation of a traditional leaders applied research network² as a resource to facilitate the exchange of experience and build sub-regional, African and other Commonwealth links of association between traditional leaders and other local government practitioners, and furthermore that this should relate closely to the planned CLGF Local Government Information Centre in Harare;

in this regard, considered that there should be further examination of the mechanisms and institutions by which traditional leaders and states' government can interact;

noted with appreciation that the forthcoming Commonwealth Heads of Government Meeting (CHOGM) in Edinburgh, 24-27 October, would be considering issues related to democratisation, decentralisation and local government good practice. The symposium expressed the hope that the Edinburgh CHOGM would endorse the recognition already given to local government by the Commonwealth African Heads of State and Government at their Roundtable in Botswana, and acknowledge the role of the Commonwealth Secretariat and the CLGF in the promotion of the same;

welcomed the CLGF proposal for a Commonwealth Local Government Good Practice Scheme designed to facilitate technical partnerships between local authorities in Commonwealth countries, and expressed the hope that the CHOGM would formally endorse the proposal and that member states should ensure that the Scheme was provided with the necessary resources.

² See the following overview of the Ray paper.

IV. Commonwealth Experiences in Decentralised Governance

The paper by Dr. Victor Ayeni (MTSD, Commonwealth Secretariat) focused on the decentralised governance experiences of Commonwealth African countries. There are lessons that can be drawn for present and future decentralisation as a process of redistribution of power from the centre to the periphery. Four types of decentralisation can be identified, namely, political, economic, administrative and fiscal.

The focus in this presentation was on political decentralisation. When African countries became independent they introduced very centralised systems of government, in some cases in concert with military rule. By the 1980's there was a shift in the role of the state as the type of governance was reviewed. In addition, there were several push factors which contributed towards a shift between decentralisation and good governance which were beyond the Commonwealth African network namely, international trends and developments and globalisation. However the Harare Declaration, the work of the Commonwealth Secretariat and the establishment of CLGF assisted most Commonwealth African countries in this regard.

After discussing the main features of this trend which included the reduction of the state sector, decentralisation of government, increased citizen participation, the demise of apartheid and the beginning of a reappraisal of traditional leaders, a variety of strategies for implementing political decentralisation, including traditional leaders, were considered.

V. Overview Papers

A. *Professor K. Sharma*

Professor Keshav C. Sharma presented an overview paper on "Mechanisms for Involvement of Traditional Leaders in the Promotion of Good Governance". He highlighted the main findings and observations of the Research Study Report of Commonwealth Local Government Forum produced in 1995 on "TRADITIONAL LEADERSHIP IN AFRICA" and presented a thorough overview of the position of traditional leaders in the context of constitutional and legal provision; role in land allocation, land tenure and dispute settlement; role in development and service delivery; and role in social and cultural change. He also covered such important aspects as those concerned with relations of traditional leaders with central government, local government, and community based organisation.

B. *Overview of Ray's Paper*

Professor Donald I. Ray presented an overview paper on "Traditional Leadership and Local Government: Some Policy Questions for Consideration". In his presentation he first discussed certain aspects of the structures of traditional leadership institutions within the Ghanaian state, such as the National House of Chiefs, the Regional Houses of Chiefs and the Traditional Councils, as well as government bodies in charge of co-ordinating with chiefs, such as the Presidential Adviser on Chieftaincy Matters and the Chieftaincy Division. Then he turned to the main argument of his paper that the political legitimacy of traditional leaders should be added to the legitimacy of local government in order to expand the capability of local government in its efforts to promote development and democratisation.

Traditional leadership and the contemporary state make different appeals to people on the question of legitimacy (or the reasons why people obey authority). He noted that within the Commonwealth democracy incorporates diversity, difference and plurality. Thus differences in the bases of legitimacy of democratic contemporary government and traditional leadership do not mean that these are incompatible. The two main bases of legitimacy for democratic government, including local government, are appeals to democracy (including elections where all adult citizens vote) and constitutional-legal roots created during the colonial and independence periods. Traditional leaders draw much of their legitimacy from two roots which are pre-colonial and sacred in nature.

If one important problem is how to increase the capacity of local government in promoting development and democratisation, one strategy might be to increase people's acceptance of local government structures and policies. One way of implementing this, if people accept traditional leadership, would be to add the legitimacy of traditional leadership to that of local government. The desired outcome would be more development as people put more effort into local government. How could this linkage be accomplished?

A large number of options on how to accomplish this were considered, from which Commonwealth members can choose. One set of options focused on different types of involvement of traditional leadership in local government (i.e. formal government structures). These ranged from reserving seats to joint committees of local government and chiefs. Another set of options examined local governance (i.e. both formal and unofficial structures and processes). The creation of networks of traditional leaders, officials and researchers (such as the Traditional Authority Applied Research Network - TAARN) was also suggested as being needed.

C. Discussion on Prof. Sharma's and Prof. Ray's Papers

It was observed that generally the people still recognise traditional leaders as their head and it would be in the interest of the people and the country to incorporate the traditional leaders into all forms of government. The point was made that while the peoples of the world were recognising the status of traditional leaders some African politicians were critical of the system of traditional leadership. Governments were requested to encourage those traditional leaders who were developmentally orientated to play a part in the development of society.

Divergent views were expressed on the status of traditional leaders in local or national councils. While there are Houses of Chiefs it was suggested that there is the need for comparative studies of their roles and functions so that a best practice policy could be developed. It was further suggested that there is the need to constantly compare our systems in Africa with those of the United Kingdom, Canada and other developed countries.

On the whole, the discussions reveal to a certain extent a general consensus of the role of traditional leaders. It was stressed that traditional leaders, and local and central governments need to develop respect and appreciation for each other and look into the ways and means for promoting co-operation in the contemporary system of government.

VI. Country Presentations

Twelve Commonwealth African countries made presentations to the symposium. These were: Botswana, Gambia, Ghana, Lesotho, Malawi, Mozambique, Namibia, Sierra Leone, South Africa, Swaziland, Zambia, and Zimbabwe. Together these presentations form an important contribution to understanding the current practices of local government interactions with traditional leadership throughout much of Commonwealth Africa.

A. First Session, 24th September, 1997: Botswana, Gambia, Ghana and Lesotho

The first session, chaired by Mr. Matongo (Zimbabwe) consisted of presentations by Botswana, Gambia, Ghana and Lesotho.

Botswana

The Botswana government saw chieftaincy to be a unifying force in forging and maintaining national identity. If there were any differences between chiefs and government, this was rather one of the degree of recognition by government as to what functions chiefs would be allowed by government to carry out. Since independence, there has been a shift of power from the chiefs to government, including local government. Parliament is now elected. Rural administration is now carried out by the Land Board, District Councils, District Development Committees and Village Development Committees rather than by the chiefs. Some chiefs saw this as evidence of an erosion of their power base and the lowering of their prestige. Government, however, saw these changes as having been made necessary by the rapidly growing complexity of government which demanded a government more sophisticated than that provided by the chiefs. Chiefs, government believed, are the convergence point of citizen discussions which have been vital to the democratic process. A number of problems remained, most especially that concerned with the processes by which a democratic government could properly recognise and incorporate chiefs into the democratic framework. Chiefs continued to perceive that their power was being eroded by government. Chiefs wanted a greater share of government's resources. Overall much has been achieved, especially with regard to the justice system and the House of Chiefs.

Gambia

Gambia first discussed the role of traditional rulers during the colonial period. Chiefs became part of the colonial power's strategy of indirect rule. Chiefs were expected to maintain order and raise taxes. Since independence there has been a desire to have a more democratic type of local government which included chiefs as well. The new constitution proposed to do this by having democratically elected local councils which would have more autonomy. New electoral mechanisms will apply to chiefs. Chiefs are the partners of government.

Ghana

In Ghana, chiefs have long been central to Ghanaian society. The Ghanaian constitutions provide evidence of this continuing trend. Even the most radical constitution did not abolish chieftaincy. The most recent (1992) constitution guarantees the institution of chieftaincy. It also spells out the details of the National and Regional Houses of Chiefs. Today there is a general consensus that chieftaincy must be integrated somehow into local government but Ghanaians are not agreed on the extent of this process. The structures and functions of the National House of Chiefs, the Regional Houses of Chiefs and the local-level Traditional Councils were discussed. Most of the revenue from royalties generated from lands controlled by chiefs went to the central and local government, i.e. the District Assemblies. Chiefs participated as appointed members in Regional Co-ordinating Councils and District Assemblies. The government recently announced that 30% of the seats it allocated to each District Assembly would be reserved for chiefs. Chiefs continued to assist in the mobilisation of the people because chiefs continued to have relevance for the people.

Lesotho

The structure and history of chieftainship in Lesotho was outlined. This structure was maintained in large measure during the colonial and independence periods. Chieftaincy became the main form of rural local government throughout these periods. In fact, district councils were suspended and then abolished between 1966 and 1986, leaving only the chieftaincy structures and the newly-created Village Development Councils, which mainly advised the chiefs on land allocation, and other-level development councils. Since the return to democracy following the 1986-1993 military dictatorship, local government has been undergoing extensive planning and changes. New legislation was now being considered as the mechanism to re-establish local authorities not dependent on the chiefs but as of the date of the symposium this had not yet been enacted. Recently, significant co-operation between the chiefs and a variety of local bodies has resulted in the protection of the environment in the form of Range Management and Village Grazing Associations. One key issue that remained to be resolved is how to reconcile traditional governance and democratic governance, or at least narrow the gap between the two.

Discussion

Much of the discussion following these four country presentations focused on the role of traditional leaders in land allocation. It was noted that chiefs no longer played a key role in this matter in Botswana. In at least one part of South Africa, traditional leaders continued to allocate land. This was also part of the Ghanaian practice which was subject to approval by the government-run land commission.

B. Second Session, 24th September, 1997: Malawi, Namibia and Sierra Leone

Three country papers were presented in this session: Malawi, Namibia and Sierra Leone.

Malawi

The Malawi paper outlined the set-up of central, and local government and of traditional authorities, and discussed the role of traditional leaders in local government. It was pointed out that traditional leaders were not only linked to the administrative and development machinery of the country but they also carried out customary functions related to culture, dispensing justice through customary courts, allocating customary land, organising traditional rituals, etc. Traditional leaders also served as change agents. For instance, it was not uncommon to hear of chiefs disseminating messages related to environment, family planning, child immunization, hygiene, HIV/AIDS awareness, etc. Training traditional leaders and organising exchange visits were emphasized as significant needs for capacity building. It was pointed out that the government councils in Malawi had remained suspended since December, 1995 pending new elections, but that traditional leaders had continued to play a role in the Village Development Committees, Area Development Committees, and the District Development Committees which have helped fill this temporary vacuum.

Namibia

The Namibia paper outlined the current institutional structures and arrangements of traditional leadership in relationship to the central government, Regional Councils and Local Authority Councils. Traditional leadership was to provide advice and support to the central and local governments. The duties of the Council of Traditional Leaders and traditional leaders were still being developed, as was cooperation between them and local government. Namibia called for the establishment of African regional networks and forums for traditional leaders.

Sierra Leone

The Sierra Leone paper covered the position and authority of traditional leaders before and after colonial rule. It identified the role of traditional leaders since independence indicating that traditional leaders were Chairmen of their Chiefdom Committees, and unofficial members of the District Councils. Traditional leaders have a role in national government through the paramount chief representing each of the twelve districts in the State Parliament.

The paper described the way paramount chiefs were elected from members of the ruling houses, indicating that both men and women could be elected as paramount chief in the southern and eastern provinces, while women are not allowed to hold the position of paramount chieftaincy in the Northern Province. The paper stressed that although chiefs are elected for life they could be dethroned by the government if the quality of their services to their people were such that they lacked the respect and confidence of the people.

The paper described recent measures by the democratically elected government to address local government reforms after its election in 1996, and the guarantee given by

the head of state to the first parliament for the future of the position of paramount chiefs under its jurisdiction.

Discussion

The discussion was centered around the question as to whether the traditional leaders should be hereditary or elected. The participants noted that there must be room for cultural differences in this regard.

C. Third Session, 25th September, 1997: Mozambique, South Africa, Swaziland, Zambia and Zimbabwe

Five country papers were presented in this session: Mozambique, South Africa, Swaziland, Zambia and Zimbabwe.

Mozambique

Mozambique's country paper reminded the symposium that Mozambique was still new to the Commonwealth and viewed its participation in this symposium as a learning experience. The historical situation with regard to traditional leaders and local government in Mozambique was described, beginning with the colonial period during which the colonial government integrated traditional chiefs into the local administration of the rural and sub-urban areas. This situation meant that traditional leaders were not representative of their local communities. The post-independence government had begun to build a new administrative structure integrating local traditional leaders.

In 1990 Mozambique inaugurated a new multi-party constitution, and in 1991 the government initiated a series of studies on the reform of local administration, leading to the establishment of local councils with administrative and financial autonomy. The government has looked at ways to re-establish the traditional authority system. The main question posed has been whether Mozambique should adopt formal or non-formal traditional authorities, but the objective has been to build traditional authorities which would be representative of the local communities.

With regard to the formal local government structure, the government of Mozambique has created three municipalities, twenty-three cities and ten towns. The first municipal elections under the new constitution have been scheduled to take place in 1988.

South Africa

South Africa's country paper noted that the new post-apartheid constitution marked a new dawn for South Africa. One of the most important questions associated with the restructuring and transformation of South Africa concerned the role and place of traditional leadership. Traditional leadership had survived the vicissitudes of both the colonial and apartheid eras, and was now looking to play a new role in South Africa's new democratic dispensation.

The Interim Constitution of 1993 recognised and protected traditional leadership, giving traditional leaders ex officio membership of local authorities in order to decrease the possibility of conflict between the two over developmental efforts. At the provincial level, the houses of traditional leaders functioned in an advisory capacity. Any laws on traditional authorities and customs had to be passed by the Speaker of the Provincial Assembly to the House of Traditional Leaders prior to passage through the legislature. If the house opposed the legislation, the bill could not be passed within a given time frame. At the national level, the Interim Constitution created a Council of Traditional Leaders. Thus at the provincial and national levels structures and institutions were in place to enable traditional leaders to advise and participate in the law-making processes. However, it was Kgosi Suping's view that the new final constitution has no "protection" of traditional leaders and institutions, and does not allow for the co-option of traditional leaders onto local government bodies.

The paper concluded that a pressing problem was to define the role of traditional leaders in the nation's developmental efforts. Should they be mere recipients of policies and plans devised elsewhere, or should they be actively involved in public service delivery? The presenter suggested that there were no easy answers. The constitution required co-operation at all levels, and it was his opinion that traditional leaders should be active agents of social change, involved in development efforts from planning to implementation. In this regard, the symposium was reminded that access to land was pivotal to all facets of development, and traditional leaders are generally custodians and trustees of tribal land. Local government bodies and traditional leaders should be equal partners.

Swaziland

The Swaziland country paper began with a brief overview of the country's political history since independence. Swaziland's present governmental structure has three tiers: the national/central government, regional structures known as "tinkundla", and local government.

The term "local government" in Swaziland applied to the administration of urban areas, but at the community level chiefs were recognised as exercising local government functions. There was, however, confusion over the legal frameworks governing these systems: urban centres were covered by local government laws, but Swazi nation lands were governed by customary law. It has been assumed that Swazi national areas can participate at the national level through the system of election to tinkundla and on up to the national legislature. The historical roots of this dual system evolved in the colonial era when there were two different governments - British colonial and Swazi traditional - covering the urban and rural areas respectively.

The Swazi Administration Act was a conglomeration of a number of administrative laws applying to the traditional sector, but this led to neglect of the rural and traditional areas because of weak administrative structures and a poor resource base. The rural areas relied on the urban centre's surplus resources for the development of health and education

services, which did lead to an increase in self-help initiatives in the rural areas. Planning and resource allocation was now administered by central government through the public service rather than through the national assembly or local government structures, but rural areas have continued to be disadvantaged. The increasing problem of rural-urban migration in Swaziland led to the Ministry of Housing seeking ways to solve the problem of unequal resource allocation through decentralisation which would bring the financial, administrative and planning issues closer to the communities needing to be served.

Any final framework for consultation and liaison would retain the position and influence of the chiefs in the area of land allocation and planning. Public participation was to be encouraged and the role of local government in Swazi national areas to be clearly defined. The role of traditional leadership was to be protected and enshrined in the new constitutional provisions. The challenge for Swaziland was to explore modes of integrating the traditional and modern leaderships into one comprehensive system, which would replace the present duality.

Zambia

Zambia was divided into nine provinces, sixty-five districts and two-hundred and eighty-six chiefdoms. The Ministry of Local Government and Housing (MLGH) supervised the operations of the chiefs (traditional leaders). The role of central government vis a vis the traditional leaders had not been properly co-ordinated in the colonial era, and that attempts have been made to rectify this since independence in 1964. However, tensions in the relationship have persisted due to the traditional leaders' perceptions of marginalisation.

With regard to the relationship between traditional leaders and local government, as elsewhere in Africa traditional leaders in Zambia were used in the colonial era as part of the local government administration. After independence, chiefs were removed from local government. An act in 1980 enabled traditional leaders to elect themselves onto district councils. This was amended in 1991 to exclude traditional leaders, and back again in the Local Government Act of 1995 to allow the representation of traditional leaders on district councils. The 1996 constitution reintroduced at the national level a House of Chiefs composed of three traditional leaders from each of the nine provinces in the country, a total of twenty-seven. With reference to land administration, urban land was administered by the Land Commission, whereas at the district level applications had to be made to traditional leaders who would recommend or otherwise the purchase for confirmation by the District Council.

Currently, two draft policy documents were under consideration which would affect the relationship between traditional leaders and local government. These are: a national policy on decentralisation; and a national policy on chiefs. The latter looks specifically at the mechanisms for collaboration between central government and traditional leaders through the mechanism of local government administrations.

Zimbabwe

The Zimbabwe country presentation began with an overview of the situation at independence which consisted of parallel institutions of "government" and "traditional authorities" under the African Affairs Act. The Council of Chiefs and Provincial Assemblies Act allowed for the creation of the former to play an advisory role to the Government. However, there was no direct part played by traditional leaders in local government. Shortly after independence in 1982, these acts were repealed and replaced with the Chiefs and Headman Act and the Communal Land Act. Within this reformed structure the kraal head was abolished by law, although in some areas in Zimbabwe this role was still being carried out in the traditional manner. The presenter described a system of traditional leadership institutions at both ward and council levels, with the responsibilities of the traditional leaders prescribed by law. However, it was incumbent upon the traditional leaders to forward to the Ministry of Local Government, any matters of local interest raised by or within their communities.

Apart from the Chiefs and Headman Act, other pieces of legislation provided for the operational functioning of traditional leaders. For example, the Rural District Councils Act allowed for the appointment of three traditional leaders to each rural district council. Traditional leaders were also given a role in rural land allocation by the Communal Land Act. In the area of social and child welfare, the speaker described the Zunde scheme which had grown from an initiative by traditional leaders to provide for the young, the elderly and the infirm.

In the post-independence period, the need has emerged for the harmonisation of elective or democratic institutions with the traditional institutions in Zimbabwe. The review of communal and resettlement area legislation has led to the restoration of some legislated authority to traditional leaders so that they can be effective at the critical village/grassroots level. Other mechanisms by which this harmonisation might be achieved could be the bi-ennial conferences between the Association of Rural Development Councils and the Council of Chiefs, and through greater applied research and networking.

Discussion

During the discussion the observation was made that it hardly seemed practical for central governments to attempt to limit the scope of traditional leadership to the areas of custom and traditional practices, yet this was indeed what he gleaned from the various country presentations they were attempting to do.

Referring to this observation, a participant described how traditional leaders in his country had found ways to raise and discuss any issue that affected their communities, for example, by placing them in the context of the exercise of their traditional role of guardianship of the welfare and peace of their people. Further, he felt that the question of harmonising the two systems - traditional leadership and the elective local government structures - was a sensitive one requiring political compromises. In this regard, he felt that the one issue that needed to be raised was that of capacity-building for traditional

leaders and within traditional institutions in order to enable them to cope with their new roles in facilitating change and transformation. Another participant supported the intervention and informed the symposium that Section 85 of the Botswanan constitution allows chiefs to discuss any matter and to call Ministers to assist them in their deliberations.

Another participant picking up the issue of harmonisation, also illustrated how the traditional judicial system has been integrated into the modern judicial structure in Ghana. He explained that a person who felt aggrieved by his/her treatment at the traditional court could appeal in the first instance to the judicial committee of the relevant Regional House of Chiefs, then to the judicial committee of the National House of Chiefs, and finally to the Supreme Court of Ghana which was the court of last resort. Other observations included the negative impact participation in partisan politics can have on the ability of traditional institutions to carry out their unifying role and a suggestion that there should be a closer focus on the increasingly widespread formation of "houses of chiefs", and the roles these institutions can and might play in the present political dispensations.

The South African participants were asked to clarify the policy dialogue on the constitutional requirement for legislation on the role and functions of traditional leaders. Responding, it was noted that under Article 212.2 of the Constitution, the national assembly may legislate on the role and functions of traditional leaders, but that the provision seemed to be doing exactly what an earlier participant had observed in terms of legislation acting to limit what chiefs could do.

Swaziland was asked to clarify whether the push for decentralisation was a government initiative, as opposed to one being carried forward by a lone ministry. In response, it was explained that the intention to decentralise was shared by the whole government, but that the Ministry of Housing has been forced to take a lead role in terms of motivating and encouraging particular initiatives that would respond to particular resource pressures. However, the point was made that it was not unusual for there to be a gap between the spoken commitment to decentralisation and the practical implementation of a policy of decentralisation.

VII. Final Plenary

The Final Plenary considered and adopted the Symposium Conclusions and Recommendations and undertook an evaluation of the proceedings, individual evaluation questionnaires having been distributed to all participants.

The Symposium was declared closed following an address given by Mr. E. Molale (Botswana). Votes of thanks were delivered by Nana Akuoko Sarpong (Ghana) and Mr. A.D. Matongo (Zimbabwe).

VIII. Appendices

Appendix 1 - Programme

Tuesday 23 September

Arrival

18.00 - 20.00 Registration (at hotel)

Wednesday 24 September

08.00 - 10.00 Official Opening

10.00 - 10.30 Break

10.30 - 11.30 Commonwealth Experiences in Decentralised Governance, Dr. V. Ayeni, Commonwealth Secretariat

11.30 - 13.00 Overview Presentations :

1. Prof. K. Sharma, University of Botswana: "Mechanisms for Involvement of Traditional Leaders

in the Promotion of Good Governance"

2. Prof. D. Ray, University of Calgary: "Traditional Leadership and Local Government: Some Policy Questions for Consideration"

13.00 - 13.30 Lunch

14.30 - 16.00 Country Presentations

16.00 - 16:30 Break

16.30 - 17.30 Country Presentations (continued)

Evening Reception

Thursday 25 September

08.30 - 10.00 Country Presentations (continued)

10.00 - 10.30 Break

10.30 - 12.00 Identification of Best Practice Policy (symposium divides into 3 parallel groups)

12.00 - 13.30 Lunch

13.30 - 18.00 Study Visit, Gaborone

Friday 26 September

08.30 - 10.00 Arrangements for dissemination and informing interested stakeholders (groups) 10.00 - 12.30 Report-back to plenary

13.00 - 14.00 Lunch

16.00 - 17:30 Final plenary to consider policy recommendations; Evaluation and closure

Saturday 27 September

Departure

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Appendix 3

Speech by the Honourable Minister of Commerce and Industry (Botswana), Mr. K.G. Kgoroba, at the Official Opening of the Symposium on Traditional Leadership and Local Government, held at Gaborone Sun as from 23rd - 26th September, 1997

Master of Ceremonies,
Honourable Ministers,
Your Worship the Mayor,
Your Excellencies,
Commonwealth Local Government Forum Chairperson,
His Worship the Mayor of Kampala, Mr. Christopher R.M. Iga,
Director of Commonwealth Local Government Forum, Mr. Carl Wright,
Secretary General, International Union of Local Authorities (Africa Section), Mr. Katiza,
Director of Municipal Development Programme, Dr. E. Chiviya,
President and Secretary General of Botswana Association of Local Authorities,
Delegates and Resource Persons for the Symposium,
Distinguished Guests,
Ladies and Gentlemen,

I am greatly honoured to have been invited to officially open this Symposium on Traditional Leadership and Local Government organised by the Commonwealth Local Government Forum in association with the Federation of Canadian Municipalities, Municipal Development Programme of the World Bank, International Union of Local Authorities (IULA) (Africa Section), and co-hosted by the Government of Botswana.

It also gives me great pleasure to welcome you all here to this symposium. We in Botswana have been closely associated with the Commonwealth Local Government Forum since its formation in 1995. I am informed that the Forum was established on an interim basis in 1994. In June, 1995 a Commonwealth Roundtable on Democratisation and Decentralisation was held in Harare, attended by representatives from all Commonwealth countries in Africa. At that meeting it was agreed that a call for recognition of the role of the CLGF be made to the heads of government meeting in Auckland the same year. The CLGF was thus formally recognised.

In September, 1995, the Forum was inaugurated at its first general meeting in the Hague. That inaugural meeting agreed on the promotion of democratic local government whose emphasis is on the adherence to the principles of democratisation and decentralisation.

The main aims of the Forum are:

- I) To encourage the development of democracy at the local level with emphasis on a commitment to the rule of law, independence of the judiciary and on just and honest government.
- II) To exchange experience among practitioners through sharing the practise of good

governance, know-how, promotion and strengthening of participatory democracy as well as empowerment of citizens and their councils.

CLGF is therefore an important Commonwealth institution for promoting good local governance as well as improving the function and structures of local government institutions among member states.

I have noted with pleasure, that the CLGF will shortly be starting a regional capacity-building programme for the SADC region, including the establishment of a local government information centre in Harare in collaboration with the International Union of Local Authorities - Africa Section, and the Municipal Development Programme of the World Bank. A number of other initiatives are also planned in the region, from which Botswana hopes to benefit in her capacity as a member of the Commonwealth, even though she has not officially joined the CLGF. A proposal is however being made to Cabinet that Botswana should become a fully fledged member of the Forum.

My government has been actively associated with the activities of the Commonwealth Local Government Forum. Botswana was represented at the above mentioned Commonwealth Roundtable on Democratisation and Decentralisation, organised by the CGLF in Harare in June, 1995 in association with the Government of Zimbabwe. This Roundtable was attended by senior policy makers from throughout Africa, including 11 Ministers of local government.

The Harare Roundtable noted with interest a CLGF research report on the role of traditional leaders, undertaken in 1994-95. This report had examined the role of traditional leaders in Africa in respect of constitutional and legal provisions, land allocation, dispute settlement, development and service delivery, social and cultural change and relations with central, local government and community-based organisations. Prof. K. Sharma of the University of Botswana has been a member of the research group and also a key resource person at the present symposium, together with Prof. D. Ray of the University of Calgary, Canada and Mr. I. May-Parker, Director, Institute of Public Administration and Management, Freetown.

The present symposium, which brings together senior local government and central government policy makers and traditional leaders from a large number of African countries - Botswana, Gambia, Ghana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe - is a direct follow-up of the 1995 report and discussions at the Harare Roundtable. Botswana has been chosen as a venue, not least because of its interesting experience with the role of traditional leaders, which participants at the symposium will examine in some detail.

Democracy is not a new concept to modern day Botswana. Traditional leaders have been at the core of democratising our society. Traditional leaders preside over matters of concern and interest that affect their tribes in a kgotla (traditional gathering place at the chief's place). Freedom of speech at such fora has led to the nurturing of the spirit of genuine consultation on issues of interest to the nation. Such participatory approach to

issues of mutual concern has evolved over time and has become the cornerstone of our development planning process which is based on bottom-up planning through consultation.

Traditional leaders also have a role to play in the judiciary through customary courts. Our laws recognise these courts which are presided over by the chiefs and are seen as a quick, transparent and inexpensive way of delivering justice. Currently customary courts try about 75% of the criminal and civil cases in the country and this is indicative of the trust that the nation and government have bestowed on the chiefs.

Traditional leaders are a symbol of status and it has always been a prestige for the nation to pride itself on their allegiance to their chiefs. This has contributed significantly to nation building and unity. More so that such chiefs have always had blood relations with each other. Inter-tribal hostilities do not arise because of this and the fact that such traditional and cultural ties have grown with intermarriages, shared resources, as well as homogeneity of these groups. Chiefs have thus been instrumental in encouraging peaceful co-existence and tolerance.

My government therefore recognises the role played by traditional leaders in our society. Traditional leaders continue to make a significant contribution in the process of governance in this country. We welcome this opportunity of sharing our experiences regarding the operation of traditional institutions with our colleagues from other African countries. It will be for our mutual benefit to explore ways and means by which all government and non-governmental agencies can work together for harmonious development of our societies.

The world has come to be referred to as a global village. Development of our societies has to be therefore based on competitiveness amongst the various members of this village. Each and everyone of us must bear in mind the fact that as we strive for development, by transforming our natural resources into goods and services, it must be based on comparative advantage with the least cost-best quality concept in mind. It should also be based on the concept of social and economic stability.

It is therefore worth noting that development cannot thrive in the absence of good governance. This is also true at the local level. Local authorities have to assist the central government by creating an enabling environment for investment promotion and employment creation. They have to utilise the comparative advantage concept by making those factors of production that they have as a bargaining chip to attract investors. In Botswana we have for the past thirty years been emphasising on infrastructure provision. We now feel it is time that local authorities start promoting investment as well. This effort has up to now, been left to the central government. Such a process will however thrive only where there is security of tenure to boost investor confidence as well as assurance on protection of assets. Such investor confidence is itself manifest in the principle of good governance. The role of traditional leaders becomes even more obvious. I therefore take this opportunity to encourage local authorities to vigorously pursue this with a view to ensuring a better future to their populace.

Ladies and gentlemen, it is hoped that the symposium will result in a valuable exchange of experiences and point to common policies regarding best practices. I understand it will also discuss mechanisms for on-going dialogue between key stakeholders and the establishment of appropriate networks to facilitate continuous exchange of information. I look forward to learning the results of your deliberations.

Next month Commonwealth heads of government meet in Edinburgh. I note with interest that the meeting is likely to debate issues related to democratisation, decentralisation and local government good practice. In February the heads of governments of Commonwealth (Africa) had met in Gaborone, chaired by my own head of state, His Excellency the President Sir Ketumile Masire. At that meeting these heads of state formally "recognised and affirmed that effective, elected local government was an important foundation for democracy".

There is therefore much support already for the processes of democratisation and decentralisation in Commonwealth countries. I understand that the Commonwealth Local Government Forum will be submitting a memorandum to the forthcoming Commonwealth Heads of Government meeting, setting out a number of proposals for action, including one for a new Commonwealth local government good practice scheme. My own government will examine the Commonwealth Local Government Forum proposals, as well as any specific points raised at this meeting with interest and give them the support they deserve as necessary.

Ladies and gentlemen, I wish you very fruitful deliberations. It is now my honour and pleasure to declare your symposium open.

Pula! Pula! Pula!

Appendix 4

Opening Remarks by Mayor Christopher R.M. Iga, CLGF Chairperson

Hon. Minister of Commerce and Industry of Botswana,
Your Worship the Mayor of Gaborone,
Distinguished Chiefs and Traditional Leaders,
Dear Colleagues,
Ladies and Gentlemen.

This is the 11th major regional symposium or roundtable which the Commonwealth Local Government Forum, CLGF, has organised since it was first established in 1994/95, a record, which I am sure you will agree is a testimony to the dynamism which this new organisation has developed.

Of the 11 symposia or roundtables, no less than 6 have been held in Africa, a reflection of the importance which the CLGF attaches to local government on our continent. Indeed, I am pleased to announce that a further regional symposium, dealing with education and training in local government, is planned to be held early next year.

I am pleased that this event is a collaborative venture between, in particular, the International Union of Local Authorities-Africa Section, IULA-AS, and the Municipal Development Programme, MDP. It is no co-incidence, moreover that it has been timed to take place immediately before the IULA-AS 6th Regional Conference in Mafeking, which many participants here will also attend.

Our collaboration is currently being further deepened with the imminent start of a CLGF regional local government capacity-building programme. This will be run by a full time project coordinator and be run out of Harare, in close cooperation with IULA-AS and MDP; indeed the project will be located in the local MDP office in Harare. At the heart of the project will be a focus on local government good practice and the establishment, over a period of 15 months, of a local government information centre for the SADC region. This follows an expert's meeting which the CLGF held in Harare earlier which successfully prepared a work programme and strategy for the proposed centre.

This symposium owes its origin to an earlier CLGF research report on the role of traditional leaders, undertaken in 1994-95, copies of which I understand have been made available to participants. This report had examined the role of traditional leaders in Africa in respect of constitutional and legal provisions, land allocation, dispute settlement, development and service delivery, social and cultural change and relations with central, local government and community-based organisations. I am pleased that two of the authors of that report, Prof. K. Sharma of the University of Botswana and Mr. I. May-Parker, Director, Institute of Public Administration and Management, Freetown are here with us.

At the high-level CLGF Roundtable on Democratisation and Decentralisation held in Harare in June 1995, participants expressed considerable interest in the CLGF research report on traditional leaders and encouraged the CLGF to undertake suitable follow-up action. This has been possible thanks to the co-sponsorship of this event by the Commonwealth Secretariat, the Federation of Canadian Municipalities, the MDP and the PDM of West Africa. I would like to take this opportunity to record our warm appreciation for their generous support.

I would also wish to record the CLGF's warm appreciation of the decision of the Botswana Government and the Botswana Association of Local Authorities to host the event, and to thank them for their logistical support and hospitality. It is appropriate that Botswana is hosting the symposium, given its rich experience with integrating the role of traditional leaders into its national life. I am sure we will learn much this week from our Botswana hosts.

I am sure that our discussions this week will result in useful exchanges and help to map new approaches and best practice policies. In particular they will provide an opportunity to discover innovative mechanisms for dialogue between key stakeholders in local government. Indeed, although our focus here is on Africa, I know that the role of traditional leaders and indigenous people is one undergoing review in many Commonwealth countries - in the Pacific, in the Caribbean, in Asia and even in countries like Australia and Canada which have significant aboriginal populations.

My one regret is that we do not have representatives from two countries which have much experience with traditional leaders - Nigeria and Sierra Leone: thus at a CLGF-organised seminar held in Freetown last year, paramount chiefs, local government leaders, parliamentarians and other key stakeholders were able to meet freely and agree on a strategy for the future of local government in Sierra Leone, a strategy which foresaw a continuing important role for the traditional leaders of that country.

The brutal military coup of this May has put an end to democracy and free debate in Sierra Leone and has been strongly condemned by the CLGF, which, together with its members in Ghana and elsewhere, had been poised to provide significant support to revive local government in that country. Similarly, the continued military rule and denial of democracy in Nigeria has prevented us linking up with our Nigerian colleagues. In accordance with the decisions of the Commonwealth Ministerial Action Group, CMAG, CLGF membership in the two countries remains suspended. It is our fervent hope that democratic rule and respect for basic human rights will be restored in Nigeria and Sierra Leone, including at the level of local government.

It is highly significant that when Heads of Government of Commonwealth Africa met here in Botswana in February, they re-affirmed their commitment to the Commonwealth Harare Declaration and the rule of law. Local government - in Africa and elsewhere - was moreover delighted that Heads of Government gave clear recognition to the role of local government when they, and I quote "recognized that effective, elected local government was an important foundation for democracy".

It is the hope of the CLGF that when Heads of Government from all over the Commonwealth meet together in Edinburgh next month, they will endorse what their African colleagues have already said. We are also delighted that President Rawlings of Ghana has given a strong lead in calling for discussion of democratisation, decentralisation and local government good practice in Edinburgh. I hope it is a lead which all countries represented here will follow. The CLGF itself will be holding meetings in Edinburgh and it is our hope that our presence there will service to ensure support for the Rawlings initiative.

In conclusion, I wish you a productive and interesting week and many fruitful discussions which I hope to share with you!

Appendix 5

Speech by the Outgoing BALA President Cllr. A.B. Masalila at the Occasion of Officially Closing the Symposium on Traditional Leadership and Local Government held at Gaborone Sun Hotel as from 23 - 26 September, 1997

Master of Ceremonies,
Honourable Ministers,
Your Worship the Mayor,
Your Excellencies,
Commonwealth Local Government Forum,
Chairperson,
His Worship Mayor of Kampala, Mr. Christopher R.M. Iga,
Director of Commonwealth Local Government Forum, Mr. Carl Wright,
Secretary General, International Union of Local Authorities (Africa Section), Mr. Katiza,
President and Secretary General of Botswana Association of Local Authorities,
Delegates and Resource Persons for the Symposium,
Distinguished Guests,
Ladies and Gentlemen,

Mr. Chairman, I consider it a singular honour that I have been requested to officially close this august symposium.

I respond to this request in humility and with profound gratitude. I would now like to thank the Honourable Minister of Commerce and Industries, K.G. Kgoroba, for his most important speech, which he made at the opening of this momentous conference.

Mr. Chairman, of course, the success of this conference as any other conference is usually dependent on the amount of energy put into organising it.

In that respect allow me, to pay tribute to the Commonwealth Local Government Forum (CLGF).

As you well know this symposium is the brain child of the CLGF and for that reason I want to congratulate CLGF. I am sure the chairperson of CLGF, Hon. Iga, would accept our gratitude on behalf of CLGF.

I would also wish to thank Mr. Carl Wright, the CLGF Director, who early this year tabled a proposal to the Botswana Government, that Botswana should host the symposium.

I am positive that the Deputy Secretary will convey to the Botswana Government our heart-felt thanks for readily accepting that challenge of hosting a symposium of this magnitude.

I would be failing if I did not thank the delegates to this symposium. Most if not all came from far to attend, and their attendance has contributed handsomely to the success of the symposium.

I hope in their busy schedules, they had found time to see a bit of our capital city of Gaborone.

Ladies and Gentlemen, I am sure every one of you will agree with me that, indeed it was an excellent idea to bring all the institutions together, to discuss the subject of traditional leadership and local government.

The discussions were lively and clearly punctuated with examples born of practical experience. Furthermore, we heard the recommendations from the various groups during the report back session.

All have had a common element: that in good local governance the concept of democratisation and decentralisation can be realised.

In view of that, I would like to suggest and urge one and all, that, regular dialogue between the chieftainship as an institution and other local institutions like councils and land boards where appropriate should be introduced and where they exist should be continued. I am sure that would bring about good local governance that we all aspire for. You have all seen the conducive environment under which the discussions took place. That is a clear demonstration that sharing of information for purposes of promoting educational, cultural, social and economic prosperity is something that all of us wish for and it must therefore be accordingly nurtured.

All have been said, Ladies and Gentlemen, I am sure now all of the delegates wish to return home to their respective countries and pilot the concept of traditional leadership involvement in all spheres of their local and national development. I wish them luck in their endeavour.

Mr. Chairman, I wish everyone a pleasant journey back to their homes. With those few remarks allow me, Mr. Chairman, to officially declare this symposium officially closed. Thank you.

Pula Pula Pula

Appendix 6

"Mechanisms for Involvement of Traditional Leaders in the Promotion of Good Governance"

By Professor Keshav C. Sharma
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1. Introduction

Chieftainship, as one of the oldest traditional institutions in Africa has enjoyed the glory, powers and prestige of the pre-colonial times, has survived through the vicissitudes of the colonial period, and has reconciled to the new political system of the post-independence period which has gradually reduced the functions, powers and status of this institution. The history of chieftainship in Africa from the pre-colonial period to the present has been a story of gradually declining powers, authority and functions. Nonetheless the traditional leaders have maintained important cultural, social and juridical functions at local and village levels in many countries.

With the advent of major political and administrative changes in many African countries, often involving the establishment of new, more democratic and decentralised forms of government entailing greater local government, the potential role of traditional leaders and the positive contribution which they could make in support of national development objectives has come under scrutiny.

In response to this new interest, the Commonwealth Local Government Forum, in collaboration with the Federation of Canadian Municipalities, undertook a research study in 1994-95 on the role of traditional leaders, examining the experience of five African countries - Botswana, Kenya, Sierra Leone, South Africa and Zimbabwe. The research study recognised the significance of traditional leadership during the pre-colonial and colonial periods, pointed out how this institution had undergone changes in different African countries, and outlined its possible role in the functioning of modern governments. The findings of this study were discussed by the "Commonwealth Roundtable on Democratization and Decentralization for Senior Policy Makers" organised by CLGF with IULA-AS and FCM at Harare in 1995. The Roundtable recommended that the role of traditional leadership be further discussed in a forum such as this one along with the traditional leaders and senior central and local government policy makers. This paper outlines for further consideration, some points related to mechanisms for involvement of traditional leaders in the promotion of good governance.³

³ The members of this Research Group were drawn from Local and Central Government as well as academic and training institutions in Africa: Professor K.C. Sharma, Department of Political and

2. Constitutional and Legal Provision

2.1 Formal recognition of the traditional institution of chieftainship, but adapting it to the changed political, social and economic environment, could encourage active involvement and participation of traditional leaders in the system of governance of the country.

2.2 Advisory bodies like the House of Chiefs could serve as instruments of recognition and honour for the traditional leaders and encourage their participation in matters related to safeguarding and promoting local traditions and customs. The effectiveness of such advisory bodies will, however, depend upon the seriousness attached to these by the country's political executive and national parliament as well as a clear understanding of the constitutional and legal provisions by the traditional authorities themselves.

2.3 Involving traditional leaders in local government through election, nomination or ex-officio status could be one way of ensuring that they play a due role in local issues.

2.4 Some of the primary responsibilities of traditional leaders could include providing leadership in maintaining best customs and traditions, presiding over customary courts, arranging tribal ceremonies, serving as spokesmen of their tribes on issues of customary nature, presiding over meeting of village community where matters of interest to the community are discussed, prevention of offences within their boundaries, and encouraging rural development by co-operating with other government and non-government organisations.

2.5 The traditional leaders have a particularly significant role to play in imparting justice on customary lines. This is evident from the fact that they handle a large number of criminal and civil cases (In Botswana, 80% of all criminal and civil cases are handled by customary courts). The people in rural areas find the proceedings of customary courts simpler, cheaper and comprehensible.

2.6 The traditional leaders have largely reconciled to their diminished powers but they do want and deserve to be treated with respect and dignity by the central and local government.

3. Land Allocation, Land Tenure and Dispute Settlement

3.1 In the past, traditional leadership has had responsibility for deciding where their people live, grow crops, and graze their stock, hunt and undertake ritual practices. Land was accordingly owned on a communal basis, being held in trust by the traditional

Administrative Studies, University of Botswana; Mr. J.O. Kayila, Principal Government Training Institute, Kenya; Mr. I.I. May-Parker, Director, Institute of Public Administration and Management, Sierra Leone; Mr. T. Botha, Chairperson, Commission on Provincial Government and then Director-General, Provincial Government, Eastern Cape, South Africa; and Mr. T.M. Mhangami, Town Clerk, Municipality of Masvingo, Zimbabwe. Mr. C. Wright, Director CLGF served as Rapporteur. The research report was finalised at the Institute for Local Governance and Development, Cape Town, South Africa. This presentation draws on that report and highlights its main findings, observations and recommendations.

leadership. They accordingly also held responsibility for settlement of disputes in these areas. This system was however frequently subjected to change under colonial times and post-independence and sometimes involved total removal of the powers of land allocation and land tenure and its control by special agencies of central government. Nonetheless, traditional leadership continues to maintain considerable influence in different African countries on matters relating to justice and land in traditional cultures.

3.2 Where the allocation of land is no longer the responsibility of traditional leadership (as in Botswana where customary land is allocated by the newly created bodies, known as Land Boards, consisting of some member recommended through election in kgotla (Village Assembly) and some appointed by the Minister of Local Government, Lands & Housing), there should, nonetheless, be close consultation between the responsible agencies and traditional leadership on such matters as: land allocation and land use management; settling of land disputes; settlement of people; identification of projects and their location; respect for sacred places and where these may be directly affected, prior consultation in order to ensure that, as deemed necessary by the traditional leadership, the appropriate ritual ceremonies can be carried out.

4. Development and Service Delivery

4.1 In order that development planning could be closer to the felt needs and aspirations of the people, it is expected to be a "bottom-up" instead of "top-down" exercise, and have the support of the local population. For ensuring this, traditional leadership can mobilise local opinion in favour of, and participation in, development plans, programmes and projects for development.

4.2 Community-based development centred on self-help can build on traditions of communal provision of services by mobilising local resources.

4.3 Traditional leadership could articulate the needs and priorities of the communities which they represent. Traditional leaders could serve as an effective two-way channel of communication between the government and the people.

4.4 Combined with modern knowledge, traditional leadership can help to ensure conservation and environmental equilibrium.

4.5 Traditional leadership can assist in civic education and community education programmes, for example in respect of primary health care.

5. Social and Cultural Change

5.1 African society, even in rural areas, is undergoing major transformation, both positive and negative, on account of varied social and cultural influences. This is illustrated by the universal acceptance of the money economy, the growing role of the mass media and the changing role of women and young people. Traditional leadership, working with local

authorities, can serve to enhance the positive aspects of change and minimise its detrimental effects.

5.2 Traditional leaders could help to explain and, where feasible manage change and introduction of new concepts with their communities. 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 the activities of organisations like District Development Committees and Village Development Committees, which need their support in self-help activities.

5.3 They can seek to maintain family and community bonds in rural areas with a view to promoting social cohesion and counteracting juvenile delinquency and crime.

5.4 Advice can be provided to local authorities in urban areas in giving support to particular ethnic and tribal communities originating from their areas. This could aim at restoring traditional values so as to help counteract such problems as street children and exploitation of child labour.

6. Relation with Central and Local Government

6.1 Relations of traditional leaders with central and local government have varied considerably over time as well as between different countries. Thus in some countries traditional leadership maintains considerable autonomy whereas in others it is highly regulated, and subordinated to central government, even to the extent of the government determining rates of remuneration of individual traditional leaders.

6.2 The continuing respect shown by local people towards traditional leadership can be used to educate, guide, inform and advise the local communities on issues relating to welfare, education and development.

6.3 The credibility accorded to traditional leadership provides an encouragement for more effective consultation and dialogue between it, central and other forms of local government.

6.4 Traditional leadership can assist local administration by providing leadership in maintaining best customs and traditions, arranging local or tribal ceremonies, representing their people on issues of customary nature, presiding over meetings where matters of interest to the community are discussed, prevention of offenses and encouraging rural development by co-operating with governmental and NGO's.

7. Relation with Civic and Community Based Organisations

7.1 Both the institutions of traditional leaders and civic associations can be said to have an organic link with rural communities. They both enjoy support within the communities, but this support varies from area to area. Their functions should be seen as being

complimentary rather than conflictual. Both could solicit each other's support and cooperation.

7.2 Involvement of traditional leaders in community development activities, NGOs and organisations like Village Development Committees could be mutually rewarding. The traditional leaders could be more effective instruments of service to the community through these forums of civic, community based or non-governmental organisations. On the other hand, these organisations could enlist people's participation and mobilise the local community through the support and involvement of traditional leaders.

8. Training, Conditions of Service, and Facilities

8.1 Traditional leaders, along with councillors and local authority staff need to be provided with the necessary skills and training in the form of workshops and seminars for different categories from highest to the lowest levels in the field of law, public administration, public relations, development policies, and development administration so that they could play their role more effectively.

8.2 Improved conditions of service, remuneration and facilities such as transport, offices, office equipment are essential for enhanced morale and participation of traditional leaders. The Central Government needs to display greater sensitivity to the expectations of traditional leaders for adequate logistical facilities.

Appendix 7

"Traditional Leadership and Local Government: Some Policy Questions for Consideration"

by

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"... traditional leadership is afforded considerable credibility and functions in many local communities and that with the creation of appropriate mechanisms for their involvement, such leadership can assist in the realisation of developmental goals."
(Programme of Action adopted at the 1995 Harare Commonwealth Roundtable on Democratisation and Decentralisation for Senior Policy Makers in Local Government, co-organised by the Commonwealth Local Government Forum - CLGF, the International Union of Local Authorities (Africa Section) - IULA-AS and the Federation of Canadian Municipalities - FCM)

Part I - Adding the Legitimacy of Traditional Leadership to Local Government's Development and Democratisation Initiatives

The political legitimacy of traditional leadership should be added to that of local government in order to expand the capabilities of local government's efforts in promoting development and democratisation.

What is the basis of legitimacy for traditional leadership, otherwise known as traditional authority or chieftaincy? A discussion of this question is basic to our understanding of how traditional leadership relates (or should relate) to local government in Commonwealth African states. Could it be that what is termed "traditional leadership" or "traditional authority" refers to structures and processes of politics that in some ways and to some extent are rooted in different bases of political legitimacy that pre-date the contemporary state? The policy implications for the government of Commonwealth African member states on the involvement of traditional leaders in local government are considered in this paper. Traditional leadership or authority and the contemporary state have differing roots of political legitimation.[†] Before this is considered, several points concerning the concept of political legitimacy need to be made.

Figure 1: Legitimacy

LEGITIMACY =

Reasons
Why
People
Obey
Authority

First, when we think about political legitimacy we need to be quite clear that we are discussing the reasons that people are expected to obey political authority, especially that of government. As Foucault (1980),² Connolly (1987),³ Baynes (1993)⁴ and others have noted, political legitimacy is an important mechanism for the state to obtain the compliance of its citizens (or subjects) with the laws (or other wishes) of the state. Force can be used by a state (or government) to compel obedience or compliance from its people, be they citizens or subjects, but in the long run this is often an expensive strategy for the state, one that may leave it crumbling in the dust. As Foucault (1980) has noted, the modern state relies much more on strategies to convince its people that they should willingly obey its laws. Therefore he suggests certain lines of argument or knowledge are encouraged by the state and others are not to be encouraged, indeed they may be suppressed. This is not to suggest that there is any necessary sinister or negative motivation contained within the essence of all governments. Indeed there is much common sense experience contained within this consideration of what strategies governments use in order to achieve what in Canada we would call "peace, order and good government." For example, it does not seem possible for any level of government (local or national or any combination thereof) to compel drivers to obey traffic regulations through the use of force. Imagine what would happen if local governments had to station a police officer at every traffic light/robot? There simply are not enough police in any country to do this. Rather, traffic regulations are in large measure enforced by government adopting a strategy of educating people on how to behave as drivers, pedestrians etc. and thus their coming to agree that they will behave (most of the time) in the ways deemed desirable by the state. In short, the legitimacy of the state is created by the agreement of people to rule and be ruled in certain ways under certain conditions.

When political legitimacy breaks down, riots, revolts and revolutions begin. Thus it would seem, at least in utilitarian terms, that the best interests of government and people would be best served if the political legitimacy of governments, including local government, could be expanded so as to create the pre-conditions for democratic development. Indeed, as the Commonwealth has repeatedly stressed,⁵ all policies of Commonwealth members should be examined within a framework of democratic values.

Such a political culture must be concerned with creating and enhancing the structures, processes and values that promote both people and the various communities to which they see themselves belonging. The question of to which communities people see themselves belonging is a key question and one to which this argument will return.

Crucial to the whole discussion of democratic political legitimacy is that people have the ability to give or withdraw their consent to be governed and that governments and other governing and decision-making structures⁶ honour the decisions of the people.

Agreement with this does not necessarily bind us to one universal application of democratic political legitimacy, to one particular set of structures or even processes. For example, while there is now broad agreement within the Commonwealth that multi-party elections at the level of national, central or federal government are usually one of the expressions of democratic political legitimacy, these views are not shared by all democratic Commonwealth countries. Some members such as Canada and Ghana have opted for non-party elections for local government on either an informal basis (e.g. Canada) or on a formal basis (e.g. Ghana). Others such as the U.K. and South Africa have accepted multi-party local government elections. Such differences in political culture and the expression of political legitimacy are, in large measure then, differences of the history and cultural context of each of these countries rather than any corruption of some mythical "one-true" expression of democracy. Thus while we can agree on a core set of criteria by which the presence or absence of democracy can be determined (e.g. government legitimately elected, etc.) there can be historical and cultural variations in how that democracy, including political legitimacy, is expressed and experienced.

We would agree that democracy incorporates and accepts (indeed perhaps depends upon) diversity, difference and plurality. This is, I think, a key point to recognize in this present analysis of traditional leadership and local government because traditional leadership/traditional authority and the contemporary state now have different bases of legitimacy. These differences could be, and have been, interpreted as proof that traditional leadership/authority is totally incompatible with contemporary democratic government. If such an argument were extended to local government, then the participation of traditional leadership in democratic local government could be seen as being undesirable. Such an argument, in my view, does not take into account the complexity and specific cultural context of a number of Commonwealth countries, not all of whom are in Africa. In short, any discussion of the desirability and possibility of the participation of traditional leadership/authority in democratic local government and governance has first to examine these different bases of legitimacy.

Legitimacy can be based on different arguments (or logics) and these can vary over time,⁷ between and within cultural and historical contexts. So for example, the legitimacy of the contemporary (or post-colonial) state in Africa derives primarily from two sources, both of which are secular: democracy and constitutional legality.⁸

Such constitutional legality can derive from the post-colonial or colonial period in degrees that vary from state to state. In one sense, the contemporary African states are the successors to the colonial states created by the European imperialist powers of the nineteenth and twentieth centuries, just as the United States and Canada can be seen as post-colonial states to Great Britain's colonies in North America. The post-colonial state inherited and has to deal in one way or another with a considerable amount of constitutional and legislative instruments from the colonial state period.⁹ In this sense, at

least in the initial period of independence, the post-colonial state is usually the successor to the colonial state, and much of the latter's legislative and constitutional framework continues to influence that of the former (i.e. post-colonial state) in either positive or negative ways. Thus the post-colonial state demands obedience to those aspects of the colonial laws and constitutional framework that it deems acceptable¹⁰ because these are seen to be acceptable or legitimate in legal and/or constitutional terms. In short, whatever evaluation of the colonial state the post-colonial state might have, it may continue to accept a particular law or constitutional measure or principle on its own legal merit.

Legality, thus, may be the legitimacy basis of the continued usage of a colonial measure, even if the colonial state period as a whole has reduced or no legitimacy in the eyes of the post-colonial state and its citizens because of the lack of democracy that imperial or colonial rule means.¹¹

Figure 2
Bases of Legitimacy for the Democratic State and Traditional Leadership

Basis of Legitimacy	Type of Political Organisation	
	State (including local government)	Traditional Leadership/ Authority
1. Democracy (including elections where all adult citizens vote)	X	
2. Constitutional-legal roots (post-colonial and/or colonial)	X	
3. Pre-colonial roots of "custom" (history, indigenous culture, including those aspects of pre-colonial constitutions and laws surviving into the present)		X
4. Religious/divine/sacred*		X

**Obvious exceptions to this typology would be religious-based states such as declared Islamic or Christian states.*

The post-colonial state also uses the legal system to legitimate its behavior. Appeals by government are made to the citizenry to be "law-abiding" but the post-colonial state usually can appeal to "democracy" as its primary legitimation. This is based on the assumption that the post-colonial state represents itself as the democratic result of the

nationalist struggle for independence. Thus in this democratic way, the post-colonial state is separate from the essentially undemocratic past of the colonial state. Sometimes military coups and governments have shrunk the "democratic" legitimacy of the post-colonial state to only that of independence or post-colonialism. However, where the democratic content of the post-colonial state has been preserved or re-invented, the state is able to base its claims to legitimacy on having its government "duly" elected by their people. All of these democratic claims by the post-colonial states are ultimately rooted in the concept and practice that the citizens really do have the ability to select and to change their governmental leaders through elections held at specified intervals. So to expand on a point made earlier, while this particular conception is now widely held throughout much of the world and certainly nearly all of the Commonwealth members as being the core meaning of democracy, there is considerable debate on how to put democracy into practice. Should the times between elections be fixed (e.g. every three or four years) or flexible (e.g. no more than five years apart)? Which governmental leaders should be elected: executive?, legislative?, judicial?, administrative?, or military? There are considerable differences amongst the democracies on these basic questions of democratic legitimation. Should traditional leaders be added to this list of categories of government leaders¹² who might be elected in order to ensure their legitimacy in the contemporary democratic state including local government?

A significant part of the answer to this question lies within the nature of the legitimacy of traditional authority. The bases of the claims to political legitimacy by traditional leadership in the era of the post-colonial democratic state are in very large measure (if not entirely) different from those of the state itself and potentially can be added to the legitimacy "pool" of the contemporary state: this is a point that was and/or has not been lost on a number of colonial and post-colonial states.

Traditional leaders have two distinct claims to political legitimacy in the contemporary era. First, traditional leaders can claim to be the carriers of political authority and legitimacy that is derived from the pre-colonial period. Traditional leaders occupy structures supported by official and unofficial constitutions and laws that, while they may have been changed in varying degrees by the colonial and post-colonial states, still retain a core of customary legitimacy that predates the imposition of colonialism. In other words, traditional leaders have a special historical claim to pre-colonial roots - i.e. the first period of African independence before it was lost to colonialism (primarily during the 1800's). Traditional leaders can point to the antiquity of their particular office and make the argument that since it was founded (either directly or indirectly through an office that was pre-colonial) in the pre-colonial period, their particular traditional authority represents those indigenous, truly African values and authority that existed before the changes imposed by the colonial system began to take effect.¹³

Another distinct claim to legitimacy by traditional leaders in the post-colonial democratic state is that based on religion. To be a traditional leader is to have one's authority, one's power legitimated by links to the divine, whether the sacred be a god, a spirit or the ancestors. For a traditional leader to function that office must maintain and demonstrate its links to the divine. In all of Africa, the divine basis of legitimacy pre-dates the

imposition of colonialism. This timing thereby reinforces the other distinct basis of legitimacy for traditional leaders. In much of Africa, these religious beliefs were established before the introduction of Islam and Christianity, but in some cases these later religions have been added to, or superseded, the earlier religious beliefs. If one distinguishes between states in which a religion is present as a system of belief and one in which the state has formally adopted the religion as part of its legitimacy, then there are few states in Africa which have state religions and thus the differences in the bases of legitimacy which were argued above hold. It should be added that the absence or presence of any religion does not detract from the ability of a state to be democratic.

The historical and religious legitimacy claims¹⁴ can be interpreted as contributing to the view that traditional authority and leadership has deep roots in indigenous culture. Traditional leaders thus may be seen as the "fathers" and "mothers" of the people. Traditional leaders may be recognized, as they are in Ghana, as very significant transmitters of culture by their peoples, themselves and by the state.

If the legitimacy is not seen as a zero-sum, winner-take-all situation, then the different bases of legitimacy that the state and traditional leaders have need not be an obstacle to the achievement of development and democratisation by local and central/national governments of Commonwealth African member states. Where there is little co-operation, little co-ordination and little recognition of the differing bases of legitimacy between the local government of the state and the traditional leaders, local government itself will carry out its policies and projects as best it can, often without all of the desired or even necessary resources. However, if there is a strategy of adding the legitimacy resources that traditional leaders have to those of the state's local government, then it should be possible to mobilize more quickly the compliance, co-operation and other resources of those people who are both citizens of the state and subjects¹⁵ of the traditional leader with local government. The issue here is not whether people accept the legitimacy of local government but rather how the addition of legitimacy resources from traditional leaders may increase the compliance and enthusiasm of people, thereby increasing the capacity of local government in promoting development as well as increasing the cultural fit of democratic local government structures amongst the peoples of Commonwealth African member states.

Part II - Some Options for Traditional Leadership in Local Government and Local Governance

What role(s) should traditional leadership play in the local governments of the democratic African states of the Commonwealth? The answer has varied over time, from state to state, and even now is debated with considerable vigour in a country such as South Africa. During the period of British colonialism that preceded the Commonwealth, the colonial power often devolved much of the functions of local government to traditional leaders. After independence most, sometimes nearly all (or even all) of the local government functions were transferred to the local government structures newly created by the post-colonial states. However, there has been a growing interest by a number of African states in how traditional leaders might best make contributions to development,

democratisation, human rights and the environment.¹⁶ The Commonwealth, and especially the Commonwealth Local Government Forum (CLGF) has played a key role in focusing policy consideration onto the relationship between local government and traditional leadership. The 1992 "Commonwealth Workshop on Developing Effective Strategies and Management for Local Government in Africa," held in Zimbabwe, discussed this question. The CLGF, in conjunction with the International Union of Local Authorities (Africa Section) (IULA-AS), and with the sponsorship of the Federation of Canadian Municipalities (FCM), organised a series of research workshops on this topic that culminated in a research report.¹⁷ The issue was again debated at the Harare 1995 "Commonwealth Roundtable on Democratisation and Decentralisation for Senior Policy Makers Local Government" which was again organised by the CLGF, IULA-AS and FCM. In the resulting Programme of Action, endorsed by the Ministers and Deputy Ministers of Local Government, as well as senior local government leaders and officials from Botswana, The Gambia, Ghana, Kenya, Lesotho, Malawi, Mauritius, Namibia, Nigeria, Seychelles, Sierra Leone, South Africa, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe (as well as observers from Cameroon and Mozambique), recognized that:

"... traditional leadership is afforded considerable credibility and functions in many local communities and that with the creation of appropriate mechanisms for their involvement, such leadership can assist in the realisation of developmental goals."

Figure 3:

From Problem to Possible Solutions

PROBLEM

How to increase the capacity of local government in promoting government

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ONE STRATEGY

Increase people's acceptance of local government structures and policies

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HOW?

If people accept traditional leadership, add the legitimacy of tradition to that of local government

Figure 4:

Legitimacy Strategies for Promoting Development

at the Local Government Level

(Locality to Regional/Provincial Sub-Levels)

Option 1: Little Co-operation, Little Co-ordination

State	//	Traditional Leadership	=	Less Development
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Legitimacy // Legitimacy

Option 2: Integrated, Co-ordination, Co-operation

State + Traditional Leadership Legitimacy = MORE DEVELOPMENT

The Roundtable went on to request the CLGF organise a follow-up meeting on this topic.¹⁸ This has now resulted in this 1997 Botswana symposium, organised by the CLGF, under the direction of Mr. C. Wright with the local assistance of Professor K.C. Sharma, Department of Political and Administrative Studies, University of Botswana, as well as the Botswana Government, most notably the Ministry of Local Government, Lands and Housing, and the Botswana Association of Local Authorities.

Given the Roundtable's considered judgment that traditional leadership had "considerable credibility" (or what I have termed political "legitimacy") and that it "functions in many local communities" in Africa, what are some practical strategies for mobilising this legitimacy (or credibility) of traditional leadership in aid of the development and democratisation efforts of local government?

First, it is useful to distinguish between government and governance. Government can be considered to be composed of those formal constitutionally and legislatively designated structures, processes and political culture (including legitimacy) of the state. Governance could be considered to be comprised of government plus those political activities and culture (including legitimacy) which may be technically outside the formal legislative and constitutional activities of the state but which have effects on the activities of formal government. Such effects might be felt in the realms of development projects or the political culture of democracy. Governance, thus, could be said to include both the formal activities of the state as well as those unofficial activities and attitudes of the people living within the state. In short, we could talk of governance as the governing style of a country. These distinctions apply to all levels of governing in the state, including that of local government. We could see this distinction as actually expanding the field in which traditional leadership could play a role with regard to local government. Let us then consider some options within this now-expanded range of possibilities, options that reflect in nearly all cases the experiences of Commonwealth African member states. This listing of options is not designed to be complete, but is rather designed to stimulate discussion.

The first set of listed options focuses on those that involve traditional leaders with local government. Traditional leaders might be involved in the legislative or executive functions of local government. Reserved seats for traditional leaders in such executive or legislature might be apportioned on the basis of several mechanisms. Local, regional, provincial or national government might appoint the traditional leaders to these local government bodies. Such positions could be filled by elections in traditional leadership forums such as the local equivalent of traditional councils, regional houses of chiefs,

provincial houses of traditional leaders, national house of chiefs or national council of traditional leaders. Another selection method could be to have the traditional leaders elected to the reserved seats during the regular local government elections. Variations and combinations of the above selection techniques are, of course, also possible. A second general possibility with regard to traditional leadership participation in the legislative and executive bodies of local government might be for individual traditional leaders to run as ordinary individual candidates in the regular local government elections. A third option in this regard would be to have traditional leaders take over these executive and legislative bodies of local government for their areas. The first two options of this set (i.e. reserved seats and traditional leader as individual candidate) represent two different versions of traditional leaders contributing their legitimacy to local government. The third option is likely to be strongly opposed on practical administrative grounds, but especially on the basis of arguments for democracy, given the emergence of the democratic state which demands that all levels of its government conform to the core value of universally-elected governments. This question needs to be debated more extensively but it may be undesirable for the interests of traditional leaders since such an option might well create a backlash against traditional leaders, including calls for the abolishment of traditional leadership.

Figure 5
Government and Governance
General Level

Government =	formal activities and political culture (including legitimacy) as designated by the constitution and legislation
Governance =	government and unofficial political activities and culture (including legitimacy) not originally endorsed or rooted in the state

Local
Government
Level

Local Government =	formal activities and political culture (including legitimacy) at the level of local government as designated by the constitution and legislation
Local Governance =	local government and local unofficial political activities and culture (including legitimacy) not originally endorsed or rooted in the state

Figure 6: Options
How to Add Traditional Leadership
Legitimacy to Local Government

1. Legislative/Executive Bodies
 - (a) Reserved seat
 - (i) Appointment
 - (ii) Elected by fellow traditional leaders
 - (iii) Regular elections
 - (iv) Variation of the above
2. Administrative, Supervisory Bodies
 - (a) Reserved seats
3. Advisory Bodies
 - (a) Joint committees of local government and traditional leaders

B. Local Governance

1. Informal involvement
2. More formalised involvement
3. Mobilisation of customary values
4. Traditional leader-organised development
5. Mobilise customary values in and of civic education and elections
6. Traditional discussion meetings
7. Resolve customary disputes (resort where necessary to joint traditional-state bodies such as houses of chiefs)
8. Creation of networks of traditional leaders, officials and researchers such as the Traditional Authority Applied Research Network (TAARN)

Traditional leaders could be allocated seats for administrative or supervisory functions of local government. This is the case in Ghana for a number of regional bodies such as the regional commissions, committee and council for lands, prisons, police and regional co-ordination.¹⁹

Traditional leaders could also serve on advisory bodies of local government such as joint committees of local government - traditional leaders that focus on specific policies. Such policy areas could include (or have included) the environment (e.g. sacred groves, forests, rivers, etc.), health (e.g. child vaccination campaigns), social practice (e.g. funerals, etc.), gender (e.g. the role of queen mothers and other female chiefs - or even male chiefs - in dealing with gender questions, women and development, or gender roles),²⁰ fund-raising for education, health and other development projects,²¹ etc. Local government could establish new citizen participation bodies that focus on traditional leaders or else expand existing ones to include traditional leaders.

There are of course quite a range of possibilities in terms of the second option, the involvement of traditional leaders in local governance. Traditional leaders could be involved informally in individual development programmes, policies and projects organized by local government, communities and non-governmental organisations. Where appropriate, this participation could be more formalised. Customary values could be mobilised by traditional leaders in support of development as in Zimbabwean reforestation. Traditional leaders themselves could organise development projects.

Traditional leaders could mobilise customary values to endorse, and participate in, civic education programmes in support of democratic values and citizen participation in elections for local and other levels of government. Traditional leaders could organise meetings of their subjects, as with the kgotlas in Botswana, to discuss local government and other development projects and policies.

There needs to be active (and where necessary pre-emptive) measures by traditional leaders to resolve customary disputes in their own individual customary jurisdictions so as to maintain social, economic, political and customary justice as well as local community peace, order and good government, all of the above being necessary for development activities to take place in their localities. However, where and when customary disputes in one traditional leadership jurisdiction cannot or have not been

solved to the satisfaction of all involved, or involve more than one traditional leadership jurisdiction, then traditional leadership conflict resolution mechanisms of the state such as traditional councils at the sub-district/district level or regional houses of chiefs and provincial houses of traditional leaders at the regional/provincial level or even the national house of chiefs or national council of traditional leaders at the national level need to be in place and have the operational capability (e.g. judicial committees of the houses of chiefs), the constitutional and legal authority to operate, the political will to act, the legal and administrative support of the local, regional and national governments to enforce legitimate decisions as well as the necessary resources of staff, transportation, communication and other funding necessary to carry out their responsibilities.

Finally, the creation of traditional leadership networks for traditional leaders, officials and researchers needs to be further explored and supported. For example, the purpose of the Traditional Authority Applied Research Network (TAARN)²² is to bring together traditional leaders, government and non-government policy practitioners and researchers in order to discuss and research policy questions involving traditional authority so as to produce improved policy results. It is hoped that the Commonwealth Local Government Forum in cooperation with the relevant agencies, governments, traditional leaders and researchers will continue these explorations and follow-up actions.

The relationship between traditional leaders and local, regional and national government is interactive: traditional leaders can legitimate the state by acting on behalf of the state objectives of development and democratisation, while the state sets the terms of traditional leaders' legitimacy in the contemporary era and also by providing new frameworks and resources within which traditional leadership can operate.

1 Certainly there are echoes of Weber's argument that authority can be divided into three types: traditional, charismatic and modern/rational/bureaucratic.

2 Foucault, Michel. 1980. *Power/Knowledge: Selected Interviews and Other Writings 1972-1977*. (Edited by Colin Gordon) New York: Pantheon Books.

3 Connolly, William E. 1987. Pp. 279-280 in David Miller (ed.) *Blackwell Encyclopaedia of Political Thought*. Oxford and New York: Basil Blackwell.

4 Baynes, Kenneth. 1993. Pp. 533-534 "Legitimacy" in Joel Krieger et al (eds.) *The Oxford Companion to Politics of the World*. Oxford and New York: Oxford University Press.

5 See for example the Commonwealth Local Government Forum documents.

6 We are considering the presence of these democratic values within national and local government as well as a variety of other structures including traditional authorities and such civil society organisations as religious organisations and community associations.

7 See for example Baynes (1993) or Connolly (1987).

8 Arguably, there are religious and monarchical state exceptions, but overall this pattern would seem to be present.

9 See Ray (1996) for an elaboration of this argument. The degree to which the post-colonial state accepts this inheritance is another question. Ray, Donald I. 1996(a). Pp. 181-202. "Divided Sovereignty: Traditional Authority and the State in Ghana" in E.A.B. van Rouveroy and D.I. Ray (eds.) The New Relevance of Traditional Authorities to Africa's Future, Special Double Issue of the *Journal of Legal Pluralism*, No. 37-38.

10 For example, the written constitution of Canada was initially derived, in large measure, from the *British North America Act of 1867* which was passed by the British parliament.

11 By definition, since colonial rule means government by an external force, the wishes of the people are not necessarily (or even usually) followed by the imposed government.

12 The question of whether chiefs belong to the state or civil society needs to be addressed with respect to what is meant by "government leaders".

13 The historic cultural and religious claims to legitimacy by traditional leaders in the era of democratic, post-colonial states are subject to the overriding principle of consent of the people to these claims. If people do not agree to be bound by these claims, there seems little that traditional leaders (or the state) can or should do to demand that they be honoured in special ways.

14 In turn, these claims may provide the basis for traditional leaders to make legalistic claims to legitimacy within the post-colonial state, as also sometimes happened during the colonial period.

15 Of course, this strategy will only apply to people who believe in the legitimacy of the traditional leader.

16 See, for example, the 1994 "Conference on the Contribution of Traditional Authority to Development, Democracy, Human Rights and Environmental Protection: Strategies for Africa" held in Accra and Kumasi, Ghana. For an analysis of this conference, see Donald I. Ray and E.A.B. van Rouveroy (1996) "The New Relevance of Traditional Authorities in Africa" pp. 1-38 in E.A.B. van Rouveroy and D.I. Ray (eds.) The New Relevance of Traditional Authorities to Africa's Future, Special Issue No. 37-38 of the *Journal of Legal Pluralism*.

17 Pelonomi Venson (ed.) (1995). *Traditional Leadership in Africa: A Research Report on Traditional Systems of Administration and their Role in the Promotion of Good*

Governance. London and Cape Town: Commonwealth Local Government Forum and the Institute for Local Governance and Development.

18 Commonwealth Local Government Forum. 1995. *Commonwealth Roundtable on Democratisation and Decentralisation for Senior Policy Makers in Local Government, Harare, 27-29 June 1995*. London: Commonwealth Local Government Forum, p. 31.

19 These seats, as well as those for such national bodies as the Council of State (which advises the President), the Lands Commission and the Judicial Council are all mandated in the Fourth Republic's 1992 Constitution. See Ray 1996(a) as well as the 1994 unpublished paper of Mr. F.K. Drah (Department of Political Science, University of Ghana) to the 1994 Traditional Authority Conference, as well as the February, 1993 speech by the President of the National House of Chiefs, Ghana (Odeneho Oduro Numapau II), "Maiden Speech by the President of the National House of Chiefs, Odeneho Oduro Numapau II at Its Meeting in Kumasi on Thursday the 18th of February, 1993," p. 1. See also Nana Akuoka Sarpon, "Paper on Traditional Leadership and Local Government" presented to the CLGF symposium in Gaborone.

20 The question of gender and traditional leaders need serious and extensive discussion if proper progress is to be made on this very important but usually neglected topic.

21 See Appendix 2 for some indication of the involvement of some traditional leaders with development.

22 One part of TAARN will consist of a website on the internet. Part of this website will appear "under construction" on the internet in November. The full, pilot website will be launched in January, 1998. For further details, contact Prof. D. Ray by e-mail at <ray@ucalgary.ca> or Prof. D. Ray, Department of Political Science, The University of Calgary, Calgary, Alberta, T2N 1N4, Canada; fax (403) 282-4773.

It is important to note that TAARN will also be accessible by letter, fax, phone, etc. and, where possible, make the various documents also available in printed-paper form. TAARN will be based and operated in Africa with cooperation from elsewhere.

The important contribution that Ms. Laura Dunham, my research assistant, has made to the graphic design and production of the website, this paper and this monograph is gratefully acknowledged.

Appendix 8

Discussion Groups - Points for Consideration

(Thursday, September 25, 10.30 - 12.00 hours and Friday, September 26th, 8.30 - 10.00 hours)

In the context of the overview papers and country reports presented, each group is asked to draw up best practice policy recommendations, taking the following points as an outline (please refer as necessary also to CLGF research report):

1. Development and service delivery
What strategies should be pursued to ensure that development is "bottom-up," has the support of the local population, ensures conservation and environmental equilibrium and promotes civic education and community education?
2. Social and cultural change
How can traditional leadership work with local and central government in facilitating change and social transformation while ensuring social cohesion and respect for cultural values?
3. Participation in governance
Is there a value in traditional leaders participating in governance and if so, why, and should this entail formal institutional arrangements?
4. Dispute settlement and juridical functions
What policies are necessary to encourage close collaboration between traditional leaders and local government and other responsible agencies on such matters as dispute settlement (e.g. land allocation and land tenure, settlement of land disputes, settlement of people, identification of local projects and their location) and exercise of juridical/customary functions?
5. Dissemination and follow-up action
What action should be taken to allow dissemination of the symposium findings and what follow-up activities would be appropriate?

Findings will be reported in summary form to the plenary session scheduled Friday, 10.00 - 12.30.

IX. Commonwealth Local Government Forum

Aims and activities

The objects for which the Forum is established are:

To encourage the development of democracy at local level in the spirit of the commitment made by Commonwealth Heads of Government at their meetings in Harare and Cyprus, in 1991 and 1993, to democracy, fundamental human rights, the rule of law, the independence of the judiciary and just and honest government;

To exchange experience among practitioners through sharing the practice of good governance with countries and institutions embarking on the path to democracy, through the pooling of professional and administrative know-how, promotion of participatory democracy, the empowerment of citizens and their councils and the strengthening of the democratic process;

To strengthen the practice and institutions of local democracy;

To assist capacity-building;

To organise and participate in congresses, seminars, conferences and training courses;

To publish, distribute and sell any reports, bulletins, handbooks and other publications as the Forum may deem appropriate;

To exchange information and opinion with other organisations and to act as a liaison body, to co-operate with, to act as agents for, or to provide services to any international or other body not conducted for private profit, whether or not established in the United Kingdom, having objects similar, in whole or in part, to those of the Forum, and to contribute to the work of any such body and to make available in the United Kingdom and elsewhere the results of the work of any such bodies.

In pursuit of these activities, the Forum ensures that due emphasis is given to the promotion of equal rights and the role of women in development. Where appropriate, there is liaison with community based and non-governmental organisations.

The Forum obtains sponsorship through its member organisations, the Commonwealth Secretariat and other Commonwealth institutions, bilateral and multilateral donor agencies and interested trusts and foundations.

At their 1995 Meeting in Auckland, Commonwealth Heads of Government formally welcomed the establishment of the CLGF as an important Commonwealth institution for strengthening action among Commonwealth member states on local government structures.

Membership

The Forum's members include national local government associations, individual municipalities and ministries of local government and other governmental institutions in Commonwealth countries. It also welcomes associate membership by other organisations promoting local democracy in the Commonwealth, professional employers' associations, local government trade unions, and training and research institutions including university departments.

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