

Traditional Leaders and Development: Recognition and The Road Ahead

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Summary

There has for many years been legal recognition of Traditional Leaders in South African laws, such as the Black Administration Act 38 of 1927 and regulations and proclamations issued in terms of other legislation. Recently legal recognition was confirmed in the Constitution of the Republic of South Africa Act 108 of 1996.

Additional recognition of Traditional Leaders and the institution of Traditional Leadership is found in the various provincial legislation providing for Provincial Houses of Traditional Leaders and the establishment and functioning of the National Council of Traditional Leaders.

Yet the institution of Traditional Leadership has over the past few years given rise to much controversy. There are those who argue that the institution is outdated and others who regard Traditional Leaders as custodians of customary values and the only leaders who are truly responsible for the well being of communities historically and religiously entrusted to them.

Traditional leaders fulfil a variety of functions in rural society, including that of presiding officer in customary courts, mediator of disputes, advisor in agricultural and family matters, guardian of young, old, infirm and abandoned. They perform legislative, executive and judicial functions according to the wish of the majority of the members of the tribe.

It became apparent, that de facto Traditional Authorities are the only existing form of local government in rural areas in South Africa. It seems unlikely that, in the foreseeable future, it will be financially, politically or practically possible to replace this form of rural government with a comprehensive and sustainable alternative.

The future role of Traditional Leadership in the development process is significant in that in addition to the recognition afforded by the Constitution and other legislation, the development law, unfolding in modern day South Africa under a new

development paradigm, distinctly provides for Traditional Leaders to play a significant role in rural development and development planning at local government level in rural areas.

The role and function of the Traditional Leaders of South Africa in the rural development process unfolds as the Integrated planning process comes into operation as envisaged in section 10 of the Local Government Transition Act 209 of 1993 read with the principles contained in the Development Facilitation Act 67 of 1995.

The development principles and the regulations prescribing the process of formulating land development objectives, provides for an inclusive process in which all role players and stakeholders are to be involved. In practice this means that communities, community organizations and institutions, as concerned role players in civil society, are also the concerned and key role players in the development planning and development process at local level. No plan and development strategy will therefore meet the prescribed legal requirements of acceptable development planning standards, if the rural communities and their leaders are not directly and actively involved.

Much of the confusion and conflict between Traditional Leadership and Customary Law Councilors on the one hand and elected Local Government Councilors on the other, arose as a result of a misunderstanding of the valuable support role which Traditional Leaders can play in the development process. The difference in the nature and scope of the tasks of elected and traditional community leaders provide a rich multi-facet basis on which a successful local governance system can be developed within the context of the current constitutional-legal framework in South Africa.

In many other countries in Africa it was only realized after repeated failures of rural development experiments, that Traditional Leaders and Traditional Authorities constitute a most valuable asset in the rural development process.